

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE *TA NO. 1703/87* v/s *W.P. NO. 566/85* OF

NAME OF THE PARTIES *Birjigarh Duff Pendey*, Applicant

Versus

U.O. I. Govt., Respondent

Part A.

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CERTIFICATE

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

Re checked

Dated *26-08-11*

Counter Signed.....

[Signature]
Signature of the
Dealing Assistant

[Signature]
Section Officer/In charge

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

D.A./T.A./R.A./C.C.P./ No. 1703-1987

PART - I

G.D. Panday vs. U.O. Author

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DY. Registrat

Supervising Officer
(KULBIR SINGH)

Sonu Lata
Dealing Clerk

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

Sonu Lata
Dealing Clerk

V.K. Mishra

CENTRAL ADMINISTRATIVE TRIBUNAL

(LUCKNOW-BENCH)

LUCKNOW.

CAUS- FILED 1993 (L)

NAME OF PARTIES- APPLICANT'S

VERSUS

RESPONDENT'S.

SCHEDULE & PARTICULAR OF DOCUMENT'S NO. OF PAGES.

Application for Judgment A

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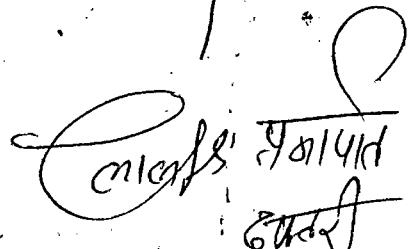
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DATE



12/10/93

(RN)

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 566 of 198

V.T.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
5-2-85	<p>2em SSA, 2em BK, — learned counsel for the petitioner — for interim relief on 25th Feb, 1985.</p> <p>Sd SSA Sd BK 5-2-85 C.M. No 1456 (00) 85</p>	
5-2-85	<p>2em SSA, 2em BK, — Put up along with the w.p.</p> <p>Sd SSA Sd BK 5-2-85</p> <p>95, 2-85 fix for attachment for filing or A.C. in exp. remands. 1456 (00) 85.</p> <p>N.O. to OPND by Dst (2-2-85)</p>	
		Revised notice for service of OPND

Sd/ Dr. P. D. Pathak
Gen. S. P. Shring
B.C.C
12/3/85

(8)

(2)

Mon 28/2/55

Mon 18/2/55

Learned Counsel
for petitioner is
directed to serve
opposite party no. 4 outside
Court. No office will
issue date summons
to the Learned Counsel for
the petitioner so that
the opposite party no. 4
may be served outside
Court. If shall be
indicated in the notice
that this petition shall
be taken up for orders
as regards admission
along with the application
for interim relief
on 25th February

W.D.S.

Blacker

Gordon

5-2-55

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION NO. 1703 of 1987.G

(3)

APPELLANT
APPLICANT

VERSUS

DEFENDANT
RESPONDENT

Se/1 num/ order ardate	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
	<u>Hon' Mr. L.K. Agrawal, J.M.</u>	OR Can be seen recd. from CAT, M.D. on 14.4.89.
1/1/89	This case has been received on transfer from Allahabad. Let notices be issued to the parties. List this case on <u>18-12-89</u> for orders.	Can't be seen No C.R.P.A. file. Date was recd. from CAT, M.D. but it was not affd.
	(sns)	Submitted to [Signature]
	<u>Hon' Mr. Justice Kamleshwar Nath, V.C.</u> <u>Hon' Mr. K. Obayya, A.M.</u>	OR Recd. & guess 8/12/89
18/12/89	Shri V.K. Chaudhary, appears on behalf of the Op.Ps. None is present for the applicant. Notice again be issued by name to the applicant and his counsel as well. by ordinary Post, listing the case for admission on <u>29.1.90</u> .	OR S.P.S. have been recd. on 8/12/89 Hence notice has been issued on 11.12.89 No undelivered reqd. copy has been return back. Submitted for order
	(sns)	OR Recd. & guess 8/12/89
29/1/90	<u>Hon' Justice K. Nath, V.C.</u> <u>Hon' K. Obayya, A.M.</u>	OR Recd. & guess 8/12/89
	<u>On the request of learned Counsel for the applicant list for admission</u>	OR Notices were sent on 29/12/89.
	<u>on 30/2/90.</u>	No undelivered reqd. copy has been return back. Submitted for admission by [Signature]

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OR

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28-11-90

Stndl. Mr. Justice K. Muth. V.
Hndl. Mr. M. M. Singh A.M.

On the request of Counsel
that application case is
adjourned to 10.1.91

H. M. A.M.

OR

16.1.91 - No sitting adj. to 5.4.91.

on 30.3.90

Notices of O.Ps. No 7,
10 & 11 have been returned
back with postal remarks

" 7 SH 4119 no off. exists ref
to 30.3.90 &

9 application not received, return
as unknown ref 30.3.90 and return
posting order

11 application not received
posting order

No answer regd.
Court have been return back
on behalf of other parties

S. P. H.

No C.R.R. filed

19.1.90

314

5.4.91

D. R.

Both the parties
are present today.

Applicant desires
to file Reply-Order
by 22.7.91.

22.7.91

D. R.

Both the parties are
absent today. R. A.
has not been filed
Applicant to file R. A.
by 16.9.91.

7-7-92

No Shif at D-B adj to
S-P 92

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C.A & R.P have
been filed
S.F.H.
7/10/92

IN THE CENTRAL ADMINISTRATIVE TIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. NO. 199 (L)

T.A. NO. 1703 of 1987(L)

Date of Decision 5.8.1992

G.D. Pandey PETITIONER.

Advocate for the Petitioner(s)

VERSUS

Union of India & Cth RESPONDENT.

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice U.C. Srivastava, V.C.

The Hon'ble Mr. K. Obayya, Member (A)

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

Vice-Chairman/Member

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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Transfer Application No. 1703 of 1987(L)

(Writ Petition No. 566 of 1985)

Versus

The Union of India & Others Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. Justice U.C. Srivastava, VC)

This is a transfer application under section 29 of the Administrative Tribunals Act, 1985. The applicant filed a writ petition before the High Court praying that a mandamus be issued commanding the respondents to consider the case of the applicant for promotion in accordance with law and give him promotion as due to him and that they may reconsider the illegal decisions made by them and they set aside the same or alternatively this court, by issue of an order, or direction in the nature of Certiorari quashing the orders of promotions issued in favour of the opposite parties no. 5 onwards and a prohibition may be issued restraining the respondents nos. 1 to 4 from promoting anyone under the graduate quota or from the cadre of Assistant Yard Masters or Traffic Inspectors to the posts of Station Masters under the pay-restructuring policy.

2. The applicant who was awarded minor punishment number of times earlier, ~~The applicant~~ was promoted as Assistant Station Master in the scale of Rs. 425-640/- on 28.6.1982. The next higher grade i.e. 455-700(Rs) was a selection post. The promotion of the applicant

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as station Master in the grade of Rs. 425-700(Rs) was made w.e.f. 1.8.1983, prior to which although he was working in the said grade. It appears from the facts, stated by the parties that it was only a local and adhoc arrangement subject to the availability of the regularly selected candidate. In view of the restructuring the applicant was considered for the post of Assistant Station Master in grade Rs. 455-700/- which was a selection post through modified selection procedure, whose modalities were specifically spelt out by the Railway Board as 'one time dispensation' in order to implement the restructuring quickly and expeditiously. The cadres of Assistant Station Master, Station Master, Traffic Inspectors and Yard Master, which have been brought under the control of Transportation Branch, have been distributed percentage wise, the different cadres of Transportation Branch are divided in several grades, having fixed percentage of posts in each grade, the channel of promotion for the various posts was evolved by the General Manager, Northern Railway, Keeping the operational need of vital Railway system, and prospects of promotion for each category of staff was also provided, and the chart of final promotion was issued on 1.8.1983.

3. According to this chart the categories of Assistant Station Masters, Station Masters, Traffic Inspectors and Section Controllers grade Rs. 455-700(Rs) /470-750(Rs) were classified as 'selection post' and in each category, there was an provision for direct

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recruitment to the extent of 15% vacancies besides 10% reservation for non-ministerial departmental graduates were also made and 75% of vacancies were required to be filled by the rankers through a positive act of selection. The Assistant Station Masters of these two grade were provided further advancement towards the higher grade posts namely, Station Master, Assistant Yard Master, Traffic Inspector and Section Controller etc. The applicant was promoted as Assistant Station Master in grade of As. 425-640 (Rs) i.e., on status promotion, but he expressed his inability to move on transfer due to his domestic problems, which was accepted and under the rule thus, he became disentitled for one promotion according to the respondent, that with the results/others were promoted.

4. The restructuring took place in accordance with the Railway Board's letter dated 29.7.1983. The Railway Board had provided two alternatives for both the categories of Assistant Station Masters and Station Masters. In the first alternative, the cadres of Station Masters and Assistant Station Masters were amalgamated and a fixed percentage was prescribed for each grade of the intermixed cadre; while in the second alternative, both the cadres were provided separate percentage. These two alternatives were provided by the Railway Board, keeping in view the fact that there was no harmony between the different zonal Railways. In some zonal Railways, the cadres were integrated.

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while in others the cadres were separate. The applicant was promoted as Assistant Station Master in the Grade of Rs. 455-700(RS) as mentioned above as the result of restructuring. It has been stated by the respondents that the staff empanelled for various categories namely, Station Master/Assistant Yard Master /Traffic Inspect/Section Controller in grade Rs. 455-700(RS)/470- 750(RS) against 10% Graduate Quota were assigned seniority from the date of joining the categories for which they were earmarked. They were assigned seniority in respective cadres from the date of joining in accordance with the provisions laid down under paragraph 302 of Indian Railway Establishment Manual. The Graduate Quota Staff was not recruited to undergo training for a period of 3 years like Traffic Apprentices recruited from 'open market'. In view of the facts that they have already gained much experience. The Assistant Station Masters who were recruited on and after 1.1.1982 with minimum qualification as graduate, were not to be promoted automatically in the higher grades, and they were to seek advancement alongwith other Assistant Station Masters. The applicant has stated that he was not promoted but it appears from the records that M.S. Usmani and S.S. Singh were empanelled as Station Master in grade Rs. 455-700(RS) against 10% graduate quota, for which the panel was announced on 27.9.1983. They were also empanelled as Assistant Station Master in grade Rs. 455-700(RS), under cadre restructuring. Hence, they had two options before them to seek advancement in the category of A.S.M. or S.M. grade Rs. 455-700(RS), for

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which they were empanelled on 27.9.83 against 10% graduate quota.

5. So far other two persons whose name has were given by the applicant is concerned with other persons, namely, Imtiaz Ahmad, Gopi Singh, S.D. Kharbanda and S.P. Gupta, who were the regular incumbents of grade Rs. 550-750(RS) on 31.7.83/1.8.83, were promoted as Station Superintendent in grade Rs. 700-900(RS) in accordance with the provisions of the Promotional chart, and their case was different from that of the applicant, who was the holding the post of Assistant Station Master earlier as temporary arrangement only. So far as the R.C. Srivastava and J.S. Lali, who were the regular holders of grade Rs. 550-750 on 1.8.1983 in the cadre of Yard Master, were also given advancement as Station Superintendent in grade Rs. 700-900(RS) under cadre restructuring, under which the existing vacancies were swelled up, and they were to be filled through the modified procedure, as has been prescribed in the restructuring, order issued by the Railway Board, copy of which is on the record.

6. The other three persons against them, the applicant made a complaint that Sri Ratnakar Pandey, Parvez Ahmad and Javed Ahmad were also empanelled as Station Master in grade Rs. 455-700(RS) against 10% graduate quota. They were absorbed in the cadre of Station Master in grade Rs. 455-700(RS) after completing the training. The applicant could have been given due to him a particular pay-scale and should have been promoted. In case, he has not refused the promotion for the time being. In view of the above of preceding 6, a

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xxx.. The letter dated 5.7.1982 written by the applicant, is which on the record in which it has been stated that "my family circumstances to not permit me to move on transfer and promotion to R.M.N.R. as R/G S.M. Therefore, I request your honour to please pend it till the expiry of this educational session and oblige."

7. Thus, under the rules, the respondents have admitted that the applicant is entitled for a promotion for after a period one year and in view of the Railway Board circular and relevant rules, he becomes junior to the persons whose were made and promotion can not claim seniority over them. The applicant having lost seniority because of promotion of his juniors for one particular session in which he did not state that they, thereafter, joined promotional post wherever he has been promoted; can not now make a complaint against the promotion of the person who was junior to him and accordingly, so far as the benefit of the earlier appointment on the post of Assistant Station Master is concerned, it was only a type of adhoc and temporary arrangement with a clear stipulation and he will not be entitled to claim benefit for the same. not Consequently, the applicant will be entitled to get any relief which has been prayed by him in the application. Accordingly, the application is dismissed. No order as to the costs.


Member



Vice-Chairman

Lucknow dated 5. 8. 1992.

(RKA)

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In the Hon'ble High Court of Judicature at Allahabad:
Sitting at Lucknow.

Writ Petition No. 56 of 1985

Girija Dutt Pandey.....Petitioner.

Versus

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

I N D E X

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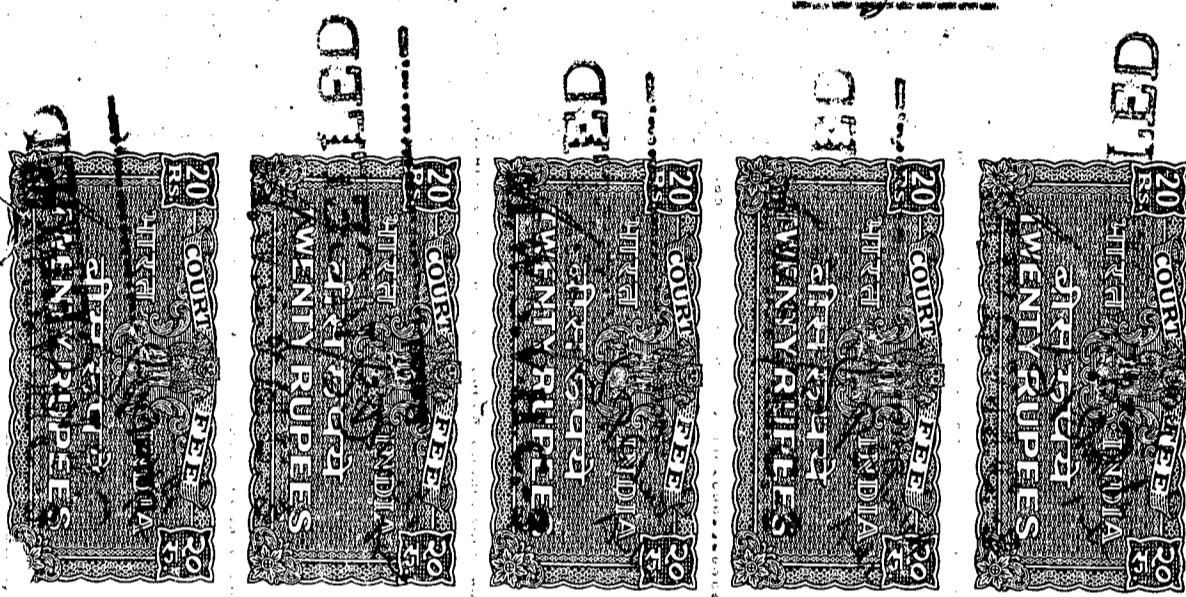
Lucknow dated, }
January 5, 1985. }

S.P. Shukla
(S.P. Shukla)
Advocate,
Counsel for the Petitioner

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

Writ Petition No. 566 of 1985



566
Petitioner

Girija Dutt Pandey, son of Sri Narain Dutt Pandey,
resident of Village Samanabhar, Post Office Dhammaur,
District Sultanpur - Presently working as Assistant
Station Master, Northern Railway, Pratapgarh.

.....Petitioner.

V E R S U S

1. The Union of India, through the Secretary in the
Ministry of Railways, Rail Bhawan, New Delhi.

G. D. Pandey

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To

The Hon'ble the Acting Chief Justice &
his companion Judges of the aforesaid Court;

The humble petition of the petitioner
above named most respectfully sheweth as under:-

1. That the petitioner was selected as a direct recruit to the post of Assistant Station Master, through the Railway Service Commission, in the year 1957 in the then lowest scale in the cadre of Assistant Station Masters.
2. That eversince his joining as Assistant Station Master in the Northern Railway in the year 1957, the petitioner has been discharging his duties with all devotion and sincerity and is there has not been any grievance raised against the petitioner from any quarter regarding his work and conduct, nor any adverse remark has so far been communicated to him in any year, so that the petitioner legitimately presumes that his character is excellent and unblemished.
3. That the petitioner while working as Assistant Station Master, was ordered to officiate as Assistant Station Master in the scale of 455-700 with effect from 10.6.1978 till the aforesaid scale was given to him as a sequel to restructuring of scales in the Railways with effect from 1.8.1983 (effective date).
4. That there are various cadres in the Northern



P. D. Pandey

Railways (like other zones) on the operational and traffic side. The posts of Assistant station Masters form one cadre and similarly the posts of Station Masters, Traffic Inspectors and Yard Masters constitute separate cadres each.

5. That within each cadre, various scales of pay have been prescribed. A direct recruit to the post of Assistant station Master is appointed in the lowest scale, i.e., Rs.330-560. The posts in the higher scales in the cadre of Assistant station Masters are, however, filled by promotion and no direct recruitment to such higher scale is made, except ^{in the case of Railway Traffic Apprentices.} It may, however, be submitted that no direct recruitment is made to the posts in the various scales and pay of Station Master, Yard Masters and Traffic Inspectors, all of which are filled up by promotion according to the prescribed sources.

6. That as on 31.7.1982, the following were the scales of pay in the cadres mentioned below in the Northern Railways:-

(a) Station Masters

Rs.425 - 640/-
Rs.455 - 700/-
Rs.550 - 750/-
Rs.700 - 900/-
Rs.840 - 1040/-.

(b) Assistant Yard Master

Rs.455 - 700
Rs.550 - 750
Rs.700 - 900
Rs.840 - 1040/-.

G. D. Pandey



(c) Traffic Inspectors

Rs.455 - 700/-

Rs.550 - 750/-

Rs.700 - 900/-

Rs.840 - 1040/-

(d) Assistant station Masters

Rs.330 - 560/-

Rs.425 - 640/-

Rs.455 - 700/-

7. That while working in the scale of Rs.425-640/- as an Assistant Station Master, the petitioner was promoted to the post of Station Master in the same scale, by an order dated 28.6.1982, posting him to Rahmat Nagar Railway Station as Rest Giver station Master. The petitioner was at that time posted as is now, as Assistant station Master, Pratapgarh Railway Station. As the petitioner had already got his children admitted in the educational institutions by ^{the} ~~that~~ time, the order was served upon him, he wrote a letter on 5.7.1982 addressed to the opposite-party no.4 stating that as the domestic circumstances did not permit, the petitioner to leave Pratapgarh till the end of educational session, his promotion might be allowed to pend till the end of the educational session. A copy of the petitioner's letter dated 5.7.1982 is Annexure-1 to this petition. However, the opposite-party no.4 treating the aforesaid letter to be a denial of promotion instead of treating the same as a request ~~to~~ ^{for} to allow him to join on the post of Station Master at a later date, pushed him into the category of the prohibition according to



L. D. Pandey

the Service Rules where an employee refusing promotion shall not be considered for promotion again for a period of one year from the date of refusal. Thus, the petitioner continued to work as an Assistant Station Master in the scale of Rs.425-640/- even after 5.7.1982.

8. That under the instructions and concurrence of the Central Government, the Railway Board (opposite party no.2) decided to restructure the different scales of pay in the different categories of posts. A copy of the circular letter bearing no. P.O III/80/ UPG/19, dated 29.7.1983 providing for restructuring for 'C' and 'D' cadre posts is Annexure-2 to this petition. It may be submitted that 'D' cadre posts are the class IV posts carrying a pay upto Rs.290/- per month. The posts carrying pay from Rs.291/- to Rs.899/- are kept in group 'C'. Accordingly, the posts mentioned in para 6 supra are group 'C' posts. The existing and upgraded scales of pay in respect of the various relevant categories have been given in the statement appended with Annexure-2.

9. That as far as relevant for the present purpose, it may be stated that the total number of posts in each category/cadre were kept unmodified. In the restructuring, the upward revision was allowed in the number of posts in each higher scale of each category, as would be evident from the following figures:-



G. D. Pandey

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Designation	Scale	Number of Existing posts	Number of posts as a result of upgradation
	1	2	3
			4
<u>EXISTING DESIGNATION</u>			
Asstt. Station Master:	330-560 425-640 (S) 455-700	344 (35%) 226 (37.5%) 45 (7.5%)	80 (13%) 200 (32.5%) 35 (54.5%)
Total:-		615	615
<u>EXISTING DESIGNATION</u>			
Station Master:	425 - 640 (S) 455 - 700 550 - 750 (S) 700 - 900 840-1040	73(45%) 62(37.5%) 25(10%) 4(7.5%) Nil	Nil (abolished) 21 (13%) 72 (43.5%) 64 (39.5%) 7 (4%)
Total:-		164	164

10. That the scales, before which (S) has been marked, are Selection Grade posts.

11. That as would be evident from Annexure-2, the restructuring of the pay-scales was done in order to bring the employees from their existing scales of pay to the higher scales of pay without any change in the nature of their work or duties. It is also evident that in the restructuring plan, there was no postulation for promotion from one post to the other (e.g., from Assistant Station Master to Station Master). The employees were intended to get the higher scale of pay in their existing posts itself. This is clear from the fact that the total number of posts in a given



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cadre were not changed as a result of restructuring. If there were any intention for pushing forward the employees from one cadre to the other, there ought to have been an increase in higher posts with a corresponding decrease in the lower cadre.

12. That the salient points of restructuring of the scales are as under:-

(a) The relevant date fixed for award of the higher scale was fixed as on 1.8.1982 with the condition that the notional pay shall be fixed as on that date, but the financial benefits would be given with effect from and according to the pay so computed as on 1.8.1983.

(b) The benefit of proforma fixation will be admissible to the persons placed in the vacancies arising directly as a result of the restructuring orders and that the pay of the staff promoted in the normal course to the higher grades during the period from 1.8.1982 to 31.7.1983 will be stepped up in the procedure as prescribed in the normal rules with regard to the pay fixed to a person junior to him, whose pay is fixed under the restructuring order.

(c) As a result of the change in the number of the posts from the category of selection to non-selection and vice-versa, the vacancies arising after 1.8.1983 thereof will be filled



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up by promotion according to the normal procedure for selection/non-selection posts as the case may be. But, however, for award of the new scale of pay as a result of the restructuring to an employee -

(i) if the existing posts have been upgraded to selection posts en block, the normal procedure for selection shall stand stultified as one time exception;

and

(ii) if a part of the strength is brought into the category of the selection posts or the existing number of selection posts is increased, the selection to these selection posts shall be made only by scrutiny of service records and the normal procedure of test/interview etc. shall stand stultified as one time exception for implementing the restructuring of scales.

(d) In cases where a panel has been prepared for filling up some selection posts but remains unoperated, the panel shall stand superseded if such selection posts have come in the category of non-selection posts as a result of restructuring.

(e) Where the promotions/selections have already been finalized and made before 31.7.1983, such promotees shall rank senior in the scale of the promotion to those persons entering that scale as a result of restructuring.

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(f) The upward revision in the scale of pay as a result of the restructuring will not bring about any change in the basic functions, duties and responsibilities attached to the posts as then existed and the same shall continue.

13. That as would be evident from the aforesaid submissions, as a result of the implementation of the pay restructuring decision of the Railway Board, the persons working in the various scales of pay in the respective categories of Assistant Station Masters, Assistant Yard Masters and Station Masters should have been stepped up to the next scale in the same category, to the extent of the oscillation in the number of posts within the same category and their salaries fixed as on 1.8.1982 and 1.8.1983 respectively. But the opposite-parties, instead of implementing the decision in accordance with law, treated the restructuring programme to be ~~next~~ meant for promotion from one post to the other post. The ten per-cent graduate quota in making such promotions has also been allowed. Further-more, like in the case of the petitioner, the normal rules for non-consideration of promotion for one year in case of denial of promotion at an earlier stage, has also been enforced while implementing the restructuring of pay scales schema.

14. That para 123 of the Railway Establishment Manual, initially provided that the Traffic Apprentices will be recruited to fill up a maximum of 25% of annual vacancies for appointment in the categories of Section Controllers/Assistant Station Masters/Assistant

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Yard Masters and Traffic Inspectors in the scale of 250-380 (now 455-700) and they will be eligible for promotion to supervisory posts rising to Rs.450-575 (now 700-900). Subsequently, on the demand of the Union, the Railway administration earmarked 10% out of this 25% for the departmental quota and the rest 15% for direct recruits. It may further be submitted that since the graduation was prescribed as the minimum qualification for Traffic Apprentices, as far as the departmental candidates were concerned, it became to be known as 10% Graduate quota. It may further be submitted that with regard to the posts of Assistant Station Masters, the minimum education/qualification was revised with effect from 1.1.1982 providing the graduation as the minimum qualification for the said post. Therefore, the privilege of graduate quota even for the departmental candidates practically lost all its significance with effect from 1.1.1982.

15. That according to the normal rules, the seniority of the departmental candidates inducted as Traffic Apprentices under the 10% graduate quota could be reckoned only with effect from the date they are absorbed as Assistant Station Masters/ Assistant Yard Masters/Section Controllers or Traffic Inspectors after completing the Apprenticeship training for a period of 3 years (only 9 months for departmental candidates), as prescribed under para 123 of the Railway Establishment Manual, because it is only after the completion of the Apprenticeship training that such graduates are

G. D. Pandey

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absorbed on their respective posts.

16. That in view of the fact that with effect from 1.1.1982, any person joining the post of Assistant Station Master, must be a graduate, all the Assistant Station Masters have to be treated at par and have to be given the next promotion only on their turn in accordance with their respective seniority, without any premium.

17. That there is no provision under the service Regulations of Indian Railways providing for any quota for the graduates for the purpose of promotion from one post to the other post or from one scale to the other higher scale within the same category except what has been provided in para 123 of the Railway Establishment Manual.

18. That the following persons, who were inducted as Traffic Apprentices under the departmental 10% graduate quota and after the completion of their Apprenticeship training, were absorbed as Assistant Station Masters in the scale of 425-640, were eligible to promotion to the scale of 455-700/- in the category of Assistant Station Master on the basis of their seniority. However, in the implementation of the restructuring in the scales in question, these Assistant Station Masters have been promoted from their existing posts of Assistant Station Masters (scale Rs.425-640/-) to the posts of Station Masters (455-700) instead of Assistant station Masters (455-700) and that too not on the basis of their seniority but on the ground that they belong to



G. D. Banerjee

the Graduate quota of 10%. It may be submitted that each of these persons is quite junior to the petitioner, who was running in the scale of Rs.425-640/- on the post of Assistant Station Master with effect from 1977 and was even officiating in the scale of Rs.455-700/- (Assistant Station Master) with effect from 10.6.1978. Accordingly, there was no justification for giving double promotion to these persons (i.e., in respect of the status and scale) over the head of the petitioner. It may further be submitted that in the Circular letter dated 22.9.1983, the Northern Railway authorities specifically provided that no reservation will be made to the direct recruits and the graduate quota while implementing the restructuring:-

1. Sri J.R.Maurya,
2. Sri R.P.Singh,
3. Sri D.K.Khare,
4. Sri G.P.Srivastava,
5. Sri S.J.Singh.

A copy of the promotion order passed in favour of these persons is being filed with this petition and marked as Annexure-3.

19. That Sarvsri M.S.Usmani and S.S.Singh were officiating in the scale of Rs.425-640/- on the posts of Assistant Station Masters and were running under Apprenticeship training in the category of Assistant Station Masters, when the decision for restructuring of scales was enforced. Subsequently, after the

G. D. Pandey



completion of 9 months' training, they were absorbed as Assistant Station Masters in the scale of 455-700, after 1.8.1983. This was quite due to them. However, in the ~~process~~ process of restructuring of the pay scales in question, these two persons were given one more promotion as a sequel thereto and were made Station Masters, in the scale of Rs.455-700/-, with the result that they are now entitled to get their salaries fixed and names mentioned in the gradation list on the posts of Station Masters (455-700) with effect from 1.8.1982, which will result in further benefit to them as compared to other persons of the same category. It may be submitted that these two persons were juniors to the petitioner on the posts of Assistant Station Masters in the scale of 425-640. The petitioner was given the scale of Rs.455-700/- as a sequel to the restructuring with effect from 1.8.1982 (with financial benefits from 1.8.1983) and the aforesaid two persons were given the said scale from the aforesaid date, i.e., 1.8.1982/1.8.1983 under the restructuring programme itself and were kept junior to the petitioner in that scale also. Under the circumstances, if as a further result of restructuring, these two persons were given one more promotion, i.e., in respect of the status, they could be given only after the petitioner and not at his head. Hence, their promotion to the post of Station Master in the scale of Rs.455-700/- at the head of the petitioner is arbitrary and illegal.



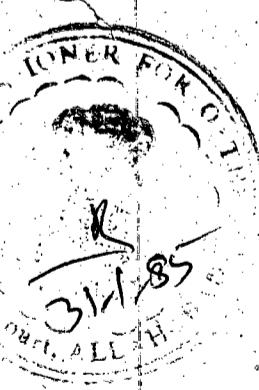
G.D. Bandy

20. That one Sri R.K.Mehta was also working as Assistant Station Master (455-700) since 1976. He was offered promotions to the post of Station Master in the scale of Rs.550-~~700~~^{750/-} Repeatedly but refused. His last refusal was in February, 1983, with the result that he was continuing to work as Assistant Station Master (455-700). Even assuming that the re-structuring was intended to give promotions also, he could have been promoted in the implementation of the re-structuring to the next higher post, i.e., to the post of Station Master's grade 550-750, as there is no post of Assistant Station Master in the scale of Rs.550-750. However, as a result of the restructuring, he was given promotion to the post of Station Master in the scale of Rs.700-900, thus giving him a jump over intervening scale. This was done by ignoring the effect of his refusal for promotion in February, 1983 on the one hand and by basing his placement on his seniority amongst the Assistant Station Masters of the scale of Rs.455-700. If the very same standard were to be adopted, the petitioner was to have been given his placement as Station Master in Grade 550-750 keeping in view the petitioner's seniority. Hence, the treatment given to the petitioner is arbitrary and discriminatory.

21. That the normal channel of promotion vis-a-vis the Assistant Station Masters, ~~xx~~ Yard Masters and Traffic Inspectors is given in Annexure-4 to this petition. This channel of promotion is applicable only in respect of routine promotions. As submitted above, the re-structuring in question, in the

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first place did not ~~not~~ postulate any promotion from one category to the other. Even assuming that it involved the promotion from one category to the other as necessitated by placement, the persons from the categories of Yard Masters and Traffic Inspectors whose duties etc. are altogether different from Assistant Station Masters and Station Masters, could not be given promotions in the categories of Station Masters as a result of the re-structuring, as a re-structuring of scales was equally stipulated in their own categories. But the Railway administration, as a result of re-structuring, promoted the following persons from the post of Traffic Inspector (550-750) to that of Station Master (700-900) instead of promoting them as Traffic Inspectors in the scale of Rs.700-900 itself:-

(1) Imtiaz Ahmed,

(2) Gopi Singh.

Similarly, Sri S.D.Kharbanda and Sri S.P.Gupta, who were working as Traffic Inspectors (455-700) before the re-structuring, could have been placed as Traffic Inspectors (550-750) in the implementation of re-structuring. However, the opposite-parties as a result of and during the re-structuring of scales, promoted them first as Station Masters (550-750), then further promoted them as Station Masters(700-900).

22. That similarly, Sri R.G.Srivastava and Iali working ~~was~~ on the posts of Yard Master (Grade 550-750) before re-structuring, were straight-way promoted as Station Masters in the scale of Rs.700-900, although the next higher scale in their own category.

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of Yard Masters was available in the scale of Rs.700-900 itself.

23. That the net result of inducting these Traffic ~~xxx~~ Apprentices, Yard Masters and Traffic Inspectors into the category of Assistant station Masters/Station Masters resulted into deprivation of the Assistant Station Masters getting their due benefit under the re-structuring scheme to that extent. This has resulted into the deprivation of the petitioner to get the scale of 550-750 in the cadre of Station Masters.

24. That the following persons, who are most juniors to the petitioner as Assistant station Master and are still working in the scale of Rs.425-640, have been sent for Apprenticeship training for the post of Station Masters. They will be completing their training by May, 1985, whereafter they will be absorbed as Station Masters in the scale of Rs.455-700 and would, thus, become seniors to the petitioner. These persons have been sent to the Apprenticeship training under the 10% graduate quota, although according to the provisions of para 123 of the Indian Railways Establishment Manual, the Traffic Apprentices are not to be appointed or absorbed on the post of Station Masters. The selection of these persons under the 10% graduate quota for absorption on any scale of Station Masters is arbitrary, unreasonable and prejudicial to the interest of the petitioner:-

(1) Sri Ratnaker Pandey - Assistant Station Master, Misrauli, District Sultanpur



G. D. Pandey

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(2) Parvez Ahmad - Assistant station Master,
Kashi, District Varanasi.

(3) Zaveid Ahmad - Assistant Station Master/PRG,
District Allahabad.

25. That feeling aggrieved and having no alternative
and efficacious remedy, this humble petition is being
filed to invoke the jurisdiction of this Hon'ble Court
under Article 226 of the Constitution of India, on the
following amongst other -

G_R_O_U_N_D_S

(a) Because, the petitioner, by Annexure-1, did not
refuse his promotion but only prayed for being granted
an extension to allow him to join on promotion and,
therefore, the opposite-party no.4 has erred in law
in treating it to be a refusal and a bar for consi-
deration for promotion for one year.

(b) Because, the petitioner has been illegally
discriminated against, in the treatment for giving a
higher post as a result of re-structuring, though the
persons junior to the petitioner were given such
promotions.

(c) Because, alternatively the Railway Administration's
order for restructuring for pay-scales does not stipu-
late promotion from one scale/post to the other.

(d) Because, the opposite-parties nos. 1 to 4 have
committed manifest errors and illegalities in imple-
menting the policy decision of the restructuring of the
pay-scales and in the process have contravened articles

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14 and 16 of the Constitution of India.

(e) Because, the persons from Assistant yard Masters and Traffic Inspectors etc. could not have been brought into the cadre of station Masters/ Assistant Station Masters for giving them promotions under the pay-restructuring policy.

(f) Because, the Graduate quota rule is not applicable in the pay-x restructuring policy or in any case, in the matter of promotions fr to the post of Station Masters.

P R A Y E R

wherefore, it is most respectfully prayed that this Hon'ble Court may be pleased to:-

(i) Issue a writ, order or direction in the nature of Mandamus commanding the opposite parties nos. 1 to 4 to consider the case of the petitioner for promotion in accordance with law and give him the promotion as due to him under the provisions of the pay-restructuring decision.

(ii) Issue a writ, order or direction in the nature of Mandamus commanding the opposite parties nos.1 to 4 to reconsider the illegal decisions made by them and set aside the same or alternatively this Hon'ble Court, by issue of a writ, order or

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or direction in the nature of certiorari itself quashing the orders of promotions issued in favour of the opposite-parties nos. 5 onwards after summoning the originals from the opposite-parties.

(iii) Issue a writ, order or direction in the nature of Prohibition restraining the opposite-parties nos. 1 to 4 from promoting anyone under the graduate quota or from the cadre of Assistant Yard Masters or Traffic Inspectors to the posts of station masters under the pay-restructuring policy.

(iv) Issue any other writ, order or direction as is deemed fit and proper under the circumstances of the case and allow this petition with costs.

Lucknow dated, }
January , 1985. }

S.P.Shukla
(S.P.Shukla)
Advocate,
Counsel for the Petitioner

Certified that there is no defect in respect of court-fee etc. in this writ petition to the best of my knowledge.

Lucknow dated, }
January , 1985. }

S.P.Shukla
(S.P.Shukla)
Advocate,
Counsel for the Petitioner

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In the Hon'ble High Court of Judicature at Allahabad:
sitting at Lucknow.

writ Petition No. _____ of 1985

Girija Dutt Pandey.....Petitioner.

versus

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

Annexura No.1

Dt. 5.7.82.

To

The D.R.M., LKO, NR.

From,

G.D. Pandey P.B.H. N.R.

Reference: Letter No. 941E/S-1/77/II D. 28.6.82.

Respected Sir,

Most respectfully I wish to state that my family circumstances do not permit me to move on transfer and promotion to R.M. N.R. as R/G S.M.

Therefore I request your honour to please pend it till the expiry of this educational session and oblige.

Yours:-

Sd/- G.D. Pandey
(G.D. Pandey, ASM PBH).



G. D. Pandey

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In the Honourable High Court of Judicature at Allahabad
Sitting at Lucknow

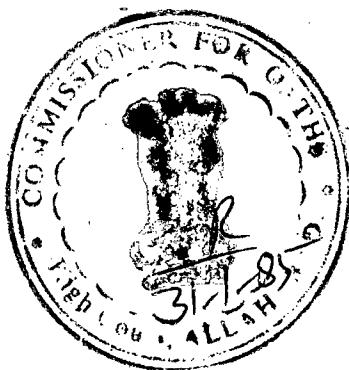
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Writ Petition No. -- of 1985

Gurja Dutt Pandey - - - Petitioner
versus

The Union of India and others, opposite Parties

Annexure No. 2



G. D. Pandey

categories listed out in the Annexure will be adjusted at once upgraded posts; any holders of selection grade not so adjusted will continue to retain such grade as personal to them till the next review. Details of such cases should be reported to the Board by 30th September 1983. The General Managers' powers to sanction selection grades in the categories which are covered by this restructuring are hereby withdrawn.

6. In the case of restructuring of the category of Ward-Keeping staff indicated against item 20 of the Annexure, the restructuring scheme is subject to the condition of direct recruitment of Engineering Diploma holders in the grade of Asst. Store Keepers in scale Rs. 425-700, to the extent of 33 1/3% of the resultant vacancies in grade 425-700 which arise on or after 1-8-83 will have to be earmarked for direct recruitment of Engineering Diploma holders and these posts should be operated in the lower grade till such time direct recruits are available.

6.1. The restructuring in the cadre of Ward-keeping staff of the Stores Department including the revised percentages of distribution and direct recruitment and the conditions prescribed therefor will also apply to posts in the Stationery and Forms Depots while such depots are manned wholly by the Ward-keeping cadre of the Stores Department.

7. The educational qualification for future entrants to the category of Switchmen will be increased to Matric. This category will however continue to be on the avenue of promotion for the category of yard staff as at present.

8. In the category of Finger Print Examiners (item 18 of Annexure) one post in grade Rs. 455-700 from out of the restructured cadre will be pleased in the grade Rs. 700-900 in the headquarters of each Zonal Railway, and will be designated as Chief Fingerprint Examiner. The question whether any additional training/examination should be prescribed, passing of which would be a pre-condition for allotment of this grade, in so far as future entrants are concerned, is separately under Board's consideration and orders in this regard will follow.

9. In the category of ASMs/SMs (vide item 24 of the Annexure) the restructuring proposals are in two separate groups, depending upon whether the existing cadres for SMs/ASMs are separate or combined. The revised percentage prescribed for this category will accordingly be allotted depending upon whether the existing cadre structure is a combined one or a separate one, since different practices are in vogue in the different Zonal Railways.

10. In the category of Yard Masters and Station Masters, the existing provision for 10% of the posts in scale Rs. 700-900 in scale Rs. 840-1040 will continue to be in force.

11. Those categories of posts which were earlier in grades Rs. 218-290 and below, but have now been placed in grade Rs. 225-308 and above will also be treated as belonging to Group 'C' after this restructuring.

12. In all the categories of Group 'C' & 'D' posts covered by this scheme, even though posts in higher scales of pay have been introduced as a result of restructuring, the base

G. D. Banerjee

MOVEMENTS : JULY/AUGUST 1983

RAILWAY BOARD's ORDER

For Implementation Of Cadre Restructuring

No. PC. III/80. UPG/19.

New Delhi, Dated 29-7-1983.

Sub :— Restructuring of certain Group C & D cadres.

Arising out of certain proposals made in the Departmental Council of JCM (Railways) by the Staff side, the Ministry of Railways have decided that Group 'C' & 'D' categories indicated in the Annexure to this letter should be restructured and placed in the scales indicated against each designation in accordance with the percentages indicated therein. Detailed instructions are given below for implementation.

2. This restructuring of the cadres will be with reference to the sanctioned cadre strength as on 1st August 1983. The staff who will be placed in the revised grades in terms of these orders will be eligible to draw pay in higher grades from 1-8-83 with the benefit of proforma fixation from 1-8-82. The benefit of proforma fixation will be admissible only to those staff, who are placed in the vacancies arising directly as a result of these restructuring orders. Pay of the staff who have been promoted in the normal course to higher grades during the period 1-8-82 to 31-7-83 will be stepped up under the normal rules with reference to the pay of their juniors, whose pay is fixed under these orders.

3. The classification of the posts in the categories covered by these orders as 'selection' and 'Non-selection' has been changed in some cases and the revised classification is indicated in column 7 of the Annexure enclosed. In respect of the vacancies in these categories arising after 1st August 1983, promotions to posts in the various grades in terms of revised classification will be made in accordance with the normal procedure for filling in 'selection' and 'non-selection' posts as obtaining at present.

3. 1 The vacancies in the various grades of the posts covered in these categories as existing on 31-7-1983 and those arising in the context of the present cadre-restructuring will be filled in the manner indicated below. However, in a case, where, as a result of this restructuring, an individual railway servant becomes due for promotion to more than one grades calls for selection, then promotion to that grade (s) will be governed by the normal rules for promotion.

i) Group 'D' Posts :

- For vacancies in Group 'D', promotions will be on the basis of the existing procedure.
- Wherever promotions from Group 'D' to Group 'C' is involved, promotions will be on the basis of modified selection procedure as prescribed in para 3. 2 infra.

ii) Group 'C' :

- Where all the posts in an existing grade are being placed in a higher grade, the existing regular incumbents thereof may be allowed the higher grade without sub-

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Statement indicating the restructuring of Group 'C' & 'D' cadre. (Annexure to Rly. Ministry's letter No. PC. 111/80/UPG/19 dated 29-7-1983)

Sl. No.	Category	Existing scale (s) (Rs.)	Revised Designations	Revised scales of pay (Rs.)	% age of posts	Selection or non-selection	Remarks
10	YARD STAFF		Pointsmen				
	Pointsmen		Levermen				
	Levermen	200-250	Shutermen			Non-selection	
	Shutermen	210-270	Cabinmen. II	210-270	35	Selection	
	Cabinmen. II	210-270	Do/Do/Do. I	260-400	65	Selection	
	Cabinmen. I	225-308	Sng. Jamrda	330-480	40	Non-selection	
21	Shg. Jamadar	225-350	Shg. Master. II	330-560	40	Selection	
	Shg. Master	330-480	Shg. Master. I	425-640	20	Selection	
22	Switchman	260-400	Switchman	330-560	—	Selection	
23	Yard Super visor		YARD MASTERS				
	AYM	330-560	AYM	455-700	40	Selection	
	Do/Do	425-640	YM	550-750	40	Non-selection	
	CYM/ADM	455-700	Dy. CYM	700-900	20	Selection	
	YM	550-750	CYM	840-1040	—	Non-selection	
	CYM	700-900					
	CYM	840-1040					

COMBINED CADRE OF STATION MASTERS/ASST. STATION MASTERS.
(Alternative. I)

24	ASMs	330-560	ASMs	330-560	10	Selection
		425-640		425-640	25	Non-Selection
		455-700	SMS	455-700	45	Selection
		425-640		550-750	10	Non-selection
		455-700	SS (NG)	700-900	10	Selection
		550-750	SS (NG)	840-1040	—	Non-selection
	SS (NG)	700-900				(10% of posts in Gr. Ra. 700-900)
	SS (NG)	840-1040				

SEPARATE CADRES OF STATION MASTERS & ASST. STATION MASTERS.
(Alternative. II)

ASMs	330-560	13	Selection	SMS	455-700	13	Selection
	425-640	32.5	Non-selection		550-750	43.5	Non-selection
	455-700	54.5	Selection	SS (NG)	700-900	43.5	Selection
				SS (NG)	840-1040	—	Non-selection
							(10% of posts in Gr. Ra. 700-900)

MOVEMENTS / July-August 1983

G. D. Gandy. / R
31/1/85

In the Honourable High Court of Judicature^A
at Allahabad Sitting at Lucknow³⁸

writ Petition No. -- of 1985

^{1/27}
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³⁸

Gurja Dutt Pandey Petitioner
versus

The Union of India and others .. opposite Parties

Annexure No.3



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NOTICE

The following promotions, transfers and postings are hereby ordered:-

Sl. No.	Names of staff	present post	new designation	Grade and station of posting	Remarks
	S/Snri	Grade & station of posting			

1. S.P. Gupta
Empanelled for the post of SS/700-900 (RS).
Tl/safety/LKO
Gr. 700-900
He is re-titled as safety in Gr. 8 and 900/- against promotion in the Gr. 700-900 post on 1.8.82 against upgraded post.

2. C.D. Kharbenda
Empanelled for the post of SS/700-900 (RS).
Tl/safety/LKO
Gr. 455-700
and under orders of posting as SM/KAH in Gr. 550-750.
Rg/SS/DMW
Gr. 700-900
against upgraded post (vacancy).
On promotion posted as Rg. temporarily subject to final adjustment as per entitlement in April/May/84.

3. R.K. Srivastava Dy.CYM/LKO.
Empanelled for the post of SS/Gr. 700-900 (RS).
Tl/safety/LKO
Gr. 700-900
SS/GGJ
700-900/RG
(vacancy)
Being posted by virtue of appointment.

4. K.N. M-nrotra
Empanelled for the post of SS/Gr. 700-900 (RS).
Sr. ASM/LKO.
Dy. C.Y.M. in
Gr. 700-900.
SS/AJ
700-900
(Vice Snri S.H.Naqvi)
In part supersession of notice of even No. dt. 16.3.84 as per his own request.

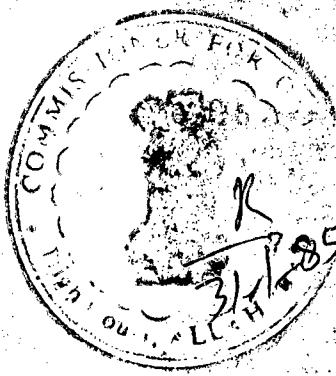
5. D.N. Varshney
Empanelled for the post of SS/Gr. 700-900 (RS).
Rg/SS/SLW
700-900
SS/LLJ
700-900
(Vice Snri Lekhna Lal)
On his own request as per priority. He will join in the 1st week of Dec./84.

6. A.M. Tandon
Empanelled for the post of SS/Gr. 700-900 (RS).
Sr. 1st/LKO.
Pay & Civil in
Gr. 700-900.
Rg/SS/AY
700-900
(Vice Snri S.B.Tandon)
In part supersession of notice of even No. dt. 16.3.84 as per his own request on priority. He will move in last week of Dec./84.

Jitendra Singh SS/PIP
700-900
SS/VYN
700-900
(vacancy)
On administrative grounds with the personal consent of DRM/LKO. He should move immediately making over charge to Sr. most ASM Gr. 455-700 at PIP.

Contd... 2/-

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4. R.P. Singh ASM/BKSA 425-640 SM/MRP H 455-700 Post. d to moorarily
subj. to 455-700
in 455-700
ADM/455-700

5. D.K. Khuray ASM/LKO 425-640 RG/CM/RMNR 455-700 -do- -do-

6. G.P. Srivastava ASM/LKO 425-640 Rg, SM/SLN 455-700 -do- -do-

7. S.J. Singh ASM/LKO 425-640 Rg, SM/BSB 455-700 -do- -do-

(2) The following x SMs Gr. Rs. 425-640/P.R. are restructuring
and planned for the post of ASM/455-700 in the wake
of re-structuring or put to work as SM Gr. Rs. 455-700 (RS)
to moorarily at stations not d against them. Their
utilisation as SM Gr. Rs. 455-700 (RS) is purely temporary
subject to final adjustment. They may be required any
time to accommodate in its interest.

1. D.G. Lal ASM/455-700 SM/NRP 455-700 posted against
x SM/NRP vacency.

2. C.L. Misra ASM/455-700 SM/CM 455-700 -do- -do-

3. H.S. Pd. ASM/455-700 SM/KKA H 455-700 -do- -do-

x SM/BNM

4. Mudd. Islam ASM/455-700 SM/KJA 455-700 posted against
x SM/KJA vacency as per old
req. st.

5. J.N. Singh ASM/455-700 Rg, BKSA 455-700 -do- -do-

x SM/RE/BKSA

6. C.N. Tiwari ASM/455-700 SM/RM 455-700 posted against
x SM/SHNG vacency.

7. G.V. Varma ASM/455-700 SM/NHN 455-700 Vice Spri N.K.
x SM/BCN 03 m.

8. H.P. Shukla ASM/455-700 SM/KVG 455-700 Vice Spri L.N.
x SM/FCP 03 m. own req. st.

9. S. N. Lal (S.) ASM/455-700 Rg, CM/JHN 455-700 Vice vacency.

x Rg, LHN

10. R.D. Tiwari ASM/455-700 SM/LHZ 455-700 -do- -do-

x Rg, LHT

..... 4/-

S. D. Bandy

31.1.85

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In the Hon'ble High court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Writ petition No. 06. 1985

Giraj
Dutta Panday

... Petitioner

Versus

Union of India

... Opp- party.

Annexure No.4

Channel of Promotion Prior to Restructuring.

A.S.M. 330/- 560/-

A.S.M. Rs. 425/- 640/-

A.S.M. 455/- 700/-
(Selection)
by option

S.M. 425- 640
Selection
S.M. 455-700

S.M. 550- 750

T.I. 550-750 ----- 700-900

Y.M. 550-750

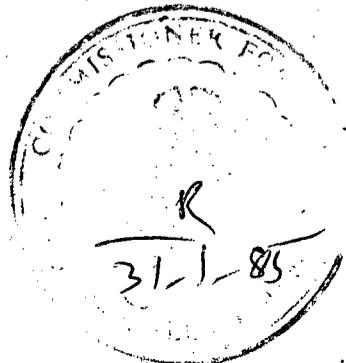
(Selection

S.M. (Station supdt.) 840-1040

T.As. (10% graduate quota)

A.S.M. 455-700 A.Y.M. 455/- 700/- T.I. 455-700 Section Control 470-750/-

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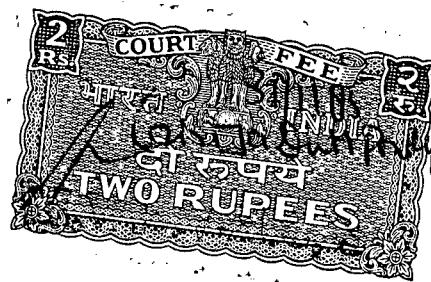
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In the Hon'ble High Court of Judicature at Allahabad:
sitting at Lucknow.

A F F I D A V I T

In re;

Writ Petition No. _____ of 1985



Girija Dutt Pandey.....Petitioner.

versus

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

I, Girija Dutt Pandey, aged about 46 years,
son of Sri Narain Dutt Pandey, resident of village
Samana bhar, Post Office Dhammaur, District Sultanpur -
presently working as Assistant Station Master, Northern
Railway, Pratapgarh, do hereby solemnly affirm and
state as under:-

1. That the deponent is the petitioner himself
and is thus thoroughly conversant with the facts
mentioned in the above-noted writ petition.

2. That the contents of paras 1 to 24 of the
above-noted writ petition are true to deponent's own

G. D. Pandey

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knowledge and those of para 25 are believed by him to be true.

Lucknow dated, }
31-1-85

G. D. Pandey
Deponent

I, the abovenamed deponent, do hereby verify that the contents of paras 1 and 2 of this affidavit are true to my own knowledge; that no part of it is false and that nothing material has been concealed, so help me God.



Lucknow dated, }
31-1-85

G. D. Pandey
Deponent

I identify the deponent who has signed in my presence.

S. K. Tripathi
(S. K. Tripathi)
Clerk to Sri S. P. Shukla,
Advocate.

Solemnly affirmed before me on 31-1-85 at 24/2 A.M./P.M. by Sri Girija Dutt Pandey, the deponent, who is identified by Sri Santosh Kumar Tripathi, Clerk to Sri S. P. Shukla, Advocate, High Court, Allahabad, Lucknow Bench, Lucknow.

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

R.P.S.

76/1/Ro
Date 31-1-85

R.P.S.

ब अदालत श्रीमान

In the Hon'ble High Court of Judicature at Allahabad
Sitting at Lucknow महोदय

वादी (मुद्दे)



वकालतनामा

W.P. No. 185

Girija Dutt Pandey

Petitioner
वादी (मुद्दे)

Union of India & others बनाम

प्रतिवादी (मुद्दालेह)

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

S. P. Shukla

एडवोकेट
महोदय
वकील

अदालत
नाम नं० मुकदमा नं० फरमैन नाम

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और
लिखे देता हूँ इस मुकदमा में वकील महोदय स्वयं अथवा अन्य
वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य
कोई कागज दाखिल करें या लौटावें या हमारी ओर से हिंगरी
जारी करावें और स्पष्ट वसूल करें या सुलहनामा या इकबाल
दावा तथा अपील व निगरानी हमारी ओर से हमारे या उन्ने
हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें
या कोई स्पष्ट जमा करें या हमारी या विपक्ष (परीक्षार्थी) का
दाखिल किया स्पष्ट अपने या हमारे हस्ताक्षर-युवत (दस्तखती)
रसीद से लेवें या पंच नियुक्त करे - वकील महोदय द्वारा की
गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं
यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी
अपने पैरोकार को भोजता रहूगा अगर मुकदमा अदम पैरवी
में एक तरफ़ मेरे खिलाफ़ फैसला हो जाता है उसकी जिम्मे-
दारी मेरी वकील पर न होगी। इसलिए यह वकालतनामा
लिख दिया कि प्रमाण रहे और समय पर काम आवे।

Accepted

S. P. Shukla
A.M.

हस्ताक्षर S. P. Shukla

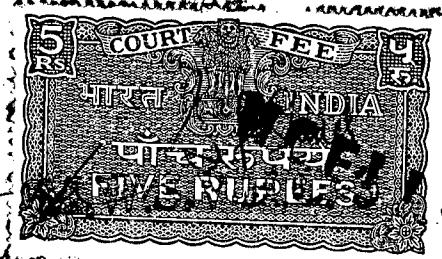
साक्षी (गवाह)..... साक्षी (गवाह).....

दिनांक महीना

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In the Hon'ble High Court of Judicature at Allahabad:
sitting at Lucknow.

Civil Misc. An. No. 1456 (W) of 1985



1 CPS 578M
3/1/85

Girija Dutt Pandey.....Applicant.

In re:

writ Petition No. 566 of 1985

Girija Dutt Pandey.....Petitioner.

versus

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

Application for Interim relief

Wherefore, for the facts and reasons mentioned in the above-noted writ petition filed on date, it is most respectfully prayed that this Hon'ble Court may be pleased to restrain the opposite-parties nos. 1 to 4 from promoting the opposite-parties nos. 10 to 12 to the posts of Station Masters after completing the Apprenticeship training.

An ad-interim relief to the same effect may also kindly be granted.

Lucknow dated,
5-2-1985

S. Q. S. Shukla
Advocate
Counsel for the Applicant

To the Hon'ble High Court of Judicature at Allahabad:
sitting at Lucknow.

21 v.11 yfac-40-70. (v) of 1985

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Writ Petition No. _____ of 1965

Srija Gutt Penday.....Patitipager.

WIR SIND

The Union of India and other provinces opposite-Parties.

Application for Interim relief

therefore, for the facts and reasons mentioned in the above-mentioned writ petition filed on date, it is most respectfully prayed that this Hon'ble Court may be pleased to restrain the opposite-parties nos. 1 to 4 from promoting the opposite-parties nos. 5 to 12 to the posts of Station Masters after completion of the Apprenticeship training.

An ad-interior relief to the same effect may also kindly be granted.

Lucknow dated 1)

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4. That in reply to the contents of paragraph 3 of the petition it is most respectfully submitted that the petitioner was promoted as Assistant Station Master in grade Rs.425-640(RS) on 28.07.1977. The next higer grade in the category of Assistant Station Masters was grade Rs.455-700(RS), which was a selection post. It is further submitted that the promotion of the petitioner in Assistant Station Master grade Rs.455-700 with effect from 1.08.1983 has no relevance with his alleged period of officiation with effect from 10.06.1978 which was only a local and ad hoc arrangement subject to the availability of regularly selected candidates. In fact, but for the officiation in grade Rs.455-700, the petitioner was holding his substantive post of Assistant Station Master grade Rs.425-640(RS) on 31.07.83/1.08.83, i.e., on the crucial date for the purposes of restructuring. Therefore, the petitioner was considered for the post of Assistant Station Master in grade Rs.455-700(RS), which was a selection post through modified selection procedure, whose modalities were specifically spelt out by the Railway Board as 'one time desperation' in order to implement the restructuring quickly and expeditiously.

5. That the contents of paragraph 4 of the petition as stated, are not admitted. It is most respectfully submitted that the cadres of Assistant Station Master, Station Master, Traffic Inspectors and Yard Master, which have been brought under the control of Transportation Branch, have been distributed in 100%. Although, the different cadres of Transportation Branch are divided in several grades having fixed percentage of posts in each grade, the channel of promotion for the various posts was evolved by the General Manager, Northern Railway, keeping the operational need of vital railway system, besides providing the better prospects of promotion for each category of staff. A photostat copy of the chart of the 'Channel of Promotion', which was evolved on 1.08.1983, is being annexed herewith as ANNEXURE No.A-2 to this reply.

That the contents of paragraph 5 of the petition are

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

T.A.No.1703/87(T)
(Writ Petition No.5660/85)

Sri G.D.PandeyPetitioner
Versus
Union of India and othersOpposite Parties

WRITTEN STATEMENT ON BEHALF OF OPPOSITE PARTIES

I, P.N. Tirhatu, son of Sri
presently posted as Ass'tt Personnel Officer in the Office
of the Divisional Railway Manager, Northern Railway,
Lucknow solemnly state as under :-

1. That I am presnetly posted as A.P.O.
in the Office of the Divisional Railway Manager, Northern
Railway, Lucknow and looking after the above mentioned
petition on behalf of the answering opposite parties. I
am duly authorised to file the present reply on behalf of
the opposite parties and read and understood the contents
of the above mentioned petition and well conversant with
the facts stated hereunder.
2. That in reply to the contents of paragraph 1 of the
petition it is respectfully submitted that the petitioner
was appointed as Temporary Assistant Station Master on
28.06.1958 at Rs.80/- in grade Rs.80-170.
3. That the contents of paragraph 2 of the petition as
stated, are denied. It is respectfully submitted that the
petitioner had violated Conduct Rules several times
during his career for which he has also been punished
by the competent authority on many occasions. A list of
punishments awarded to the petitioner during his career
is being annexed herewith as ANNEXURE No.A-1 to this
reply which would undoubtedly show that the record of the
petitioner has not been unblemished.

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Personnel Officer
N. R. Lko.

false, misleading and vague and hence, the same are denied in its entirety. It is respectfully submitted that in fact, according to the provisions contained in the chart of the 'Channel of Promotion' the categories of Assistant Station Masters, Station Masters, Traffic Inspectors and Section Controllers grade Rs.455-700(RS)/ 470-750(RS) were classified as 'selection posts' and in each category, there was an element of direct recruitment to the extent of 15% vacancies besides 10% reservation for non-ministerial departmental graduates. The remaining 75% of vacancies were required to be filled by the rankers through a positive act of selection for all the streams viz. Assistant Station Masters, Station Masters, Traffic Inspectors, Yard Masters and Section Controllers. The feeder posts for each category were specifically mentioned in the 'Channel of Promotion Chart'.

7. That the contents of paragraph 6 of the petition are denied. It is respectfully submitted that the crucial date of implementation of the restructuring was 1.08.1983 and not 1.08.1982. In other words, all the consequential benefits of restructuring were to be reckoned from 1.08.1983 and therefore, the eligibility of the staff was also to be seen from 1.08.1983. The percentage distribution of each cadre as on 31.07.1983, i.e., a day prior to 1.08.1983 was as under :-

Station Master	Grade Rs.425-640(RS)	45.0%	100%
	Grade Rs.455-700(RS)	37.5%	
	Grade Rs.550-750(RS)	15.0%	
	Grade Rs.700-900(RS)	2.5%	
Grade Rs.840-1040(RS) 10% posts of Grade Rs.840-1040(RS) 700-900 (RS)			
Assistant Station Master	Grade Rs.330-560(RS)	55.0%	100%
	Grade Rs.425-640(RS)	37.5%	
	Grade Rs.455-700(RS)	7.5%	
Assistant Yard Master	Grade Rs.330-560(RS)	45.0%	100%
	Grade Rs.425-640(RS)	15.0%	
	Grade Rs.455-700(RS)	25.0%	
	Grade Rs.550-750(RS)	10.0%	
	Grade Rs.700-900(RS)	5.0%	
Grade Rs.840-1040(RS) 10.0% posts of Grade Rs.700-900(RS)			

N. R. Lko.

Traffic Inspector	Grade Rs.455-700(RS)	40.0%	100%
	Grade Rs.550-750(RS)	30.0%	
	Grade Rs.700-900(RS)	30.0%	
Grade Rs.840-1040(RS) 10.0% posts of Grade Rs.700-900(RS)			

The revised percentage of each grade in each cadre were allocated under cadre restructuring, which was made effective from 1.08.1983. The revised percentage was made as under :-

Station Master	Grade Rs.455-700(RS)	13.0%	100%
	Grade Rs.550-750(RS)	43.5%	
	Grade Rs.700-900(RS)	43.5%	
Grade Rs.840-1040(RS) 10.0% posts of Grade Rs.700-900(RS)			
Assistant Station Master	Grade Rs.330-560(RS)	13.0%	100%
	Grade Rs.425-640(RS)	32.5%	
	Grade Rs.455-700(RS)	54.5%	
Yard Master	Grade Rs.455-700(RS)	40.0%	100%
	Grade Rs.550-750(RS)	40.0%	
	Grade Rs.700-900(RS)	20.0%	
Grade Rs.840-1040(RS) 10.0% posts of Grade Rs.700-900(RS)			
Traffic Inspector	Grade Rs.456-700(RS)	24.0%	100%
	Grade Rs.550-750(RS)	23.0%	
	Grade Rs.700-900(RS)	53.0%	
Grade Rs.840-1040(RS) 10.0% posts of Grade Rs.700-900(RS)			

It is further pointed out that Assistant Station Master of grade Rs.425-640(RS) and grade Rs.455-700(RS) were provided further advancement towards the higher grade posts namely, Station Master, Assistant Yard Master Traffic Inspector and Section Controller as evident from the Channel of Promotion Chart annexed as ANNEXURE No.A-2 to this reply. It is also pertinent to indicate here that interchangeability of certain categories were adequately provided in the Channel of Promotion Chart.

8. That in reply to the contents of paragraph 7 of the petition it is respectfully submitted that the petitioner was promoted as Assistant Station Master in grade Rs.425-640(RS) i.e., on status promotion, but since he had shown his inability to move on transfer due to his domestic problems, his refusal was accepted and he was debarred for promotion for a period of one year from the

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Ass'tt Personnel Officer
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date of refusal. It is worth mentioning that the crucial date of effecting the restructuring was 1.08.1983, and the petitioner had tendered his refusal on 14.07.1982, therefore, his debarment for promotion in grade Rs.425-640(RS) was effective till 13.07.1983.

9. That in reply to the contents of paragraph 8 of the petition it is respectfully submitted that a large number of posts in various branches were restructured in accordance with the Railway Board's letter No.PC/III/80/UPG/19 dated 29.07.1983.

10. That in reply to the contents of paragraph 9 of the petition it is respectfully submitted that several categories and cadres were restructured in accordance with the Railway Board's letter No.PC/III/80/UPG/19 dated 29.07.1983. In fact, the Railway Board had provided two alternatives for both the categories of Assistant Station Masters and Station Masters. These alternatives have been given at page 4 of the annexure received with the Railway Board's letter dated 29.07.1983. In the first alternative the cadres of Station Masters and Assistant Station Masters were amalgamated and a fixed percentage was prescribed for each grade of the intermixed cadre; while in the second alternative, both the cadres were provided separate percentage. These two alternatives were provided by the Railway Board keeping in view the fact that there was no harmony between the different Zonal Railways. In other words, in some Zonal Railways, the cadres were integrated, while in others the cadres were separate. In the present case, the second alternative was adopted and was implemented.

Since as a result of restructuring, the posts in higher grades were considerably increased, commensurate number of posts were reduced in lower grades notwithstanding the fact that certain categories were completely abolished keeping the total strength of each cadre unchanged.

11. That the contents of paragraph 10 are admitted only to the extent that the posts of ASMs in grade Rs. 455-700 (RS) and Station Superintendents in grade Rs.700-900(RS) were classified as Selection Posts in the Channel of

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N. R. Lka.

Chart which was in vogue on 1.08.1983 to implement the restructuring.

12. That the contents of paragraph 11 of the petition are misleading and hence, the same are denied. It is submitted that the restructuring was implemented in accordance with the provisions enunciated in the 'Channel of Promotion Chart' which was in vogue on 1.08.1983 i.e. on the crucial date of effecting the restructuring. Since the number of posts in higher grades were increased, the ultimate promotions were bound to be made from the feeder posts as laid down in the 'Channel of Promotion Chart'.

13. That the contents of paragraph 12 of the petition have been craftly manipulated and twisted by the petitioner to suit his own interest in order to present a wrong picture of facts before this Hon'ble Tribunal and therefore, the same are denied. A perusal of the Railway Board's letter dated 29.07.1983 will reveal that the contents of this letter have not been reproduced ad verbum and rather, a distorted picture of various provisions has been brought forth.

14. That the contents of paragraph 13 of the petition are false and misleading and they are categorically denied. It is respectfully submitted that in fact, all the staff working in the lower grades were ~~not~~ to be placed 'en masse' in the next or, subsequent higher grades. The benefit of restructuring was to be extended only to the staff of feeder posts keeping in view the existing vacancies as on 31.07.83 together with the vacancies occurring in the higher grades on 1.08.1983 due to the enhanced percentage in the restructuring.

So far as the question of mode or modalities for filling up the higher grade posts was concerned, the selection or other procedure which was to be followed in accordance with the rules as laid down by the Railway Board in normal course, they were completely dispensed under cadre restructuring. These specifications had come into existence only as a 'one time measure' to implement the restructuring. It is also submitted that this modified procedure was made applicable to 'one grade promotion' only, whereas for 'two grade promotions' the normal rules were to be applied. The 'Channel of Promotion Chart' which was applicable on 1.08.1983 was

was applied. It is incorrect to allege that the 10% Graduate Quota Staff, who were borne on the panel of Station Masters in grade Rs.455-700(RS) on 27.09.1983 through a positive act of selection, were given promotion as Station Masters under cadre restructuring. In fact, the Graduate Quota Staff, who were empanelled as Station Masters on 27.09.1983, were sent on training for passing the pre-requisite promotional course on 26.11.1983, and were posted on the working posts in October, 1984. These staff members were, therefore, assigned seniority as Station Masters in grade Rs.455-700(RS) with effect from the date of joining in terms of paragraph 302 of the Indian Railway Establishment Manual.

The petitioner was promoted as Assistant Station Master in grade Rs.455-700(RS) as a result of restructuring.

It is further submitted that all the staff members working in the lower grades were to be fitted in higher grades 'en masse' only when the existing grade (as on 31.07.1983) was to be replaced by another new scale (effective from 1.08.1983) as in the category of Switchman. The grade of Switchman as on 31.07.1983 was Rs.260-400(RS), which was replaced by a new grade of Rs.330-560 effective from 1.08.1983, as such, all the incumbents were placed in grade Rs.330-560(RS) on 1.08.83 under the cadre restructuring.

It is also submitted that the petitioner was promoted as ~~Assistant~~ Station Master in grade Rs.425-640 (RS) in the year 1982 but he had tendered his unequivocal refusal for promotion on 14.07.82, consequently, he was debarred from promotion in the said cadre for one year. Again, the petitioner was ~~given his~~ due promotion on 14.07.83 as ASM in grade Rs.425-640(RS), which was an on status promotion. The petitioner was subsequently promoted as ASM in grade Rs.455-700(RS) as a result of cadre restructuring. Since all the senior Station Masters could not be adjusted in higher grades, they were ordered to be fitted as Assistant Station Masters in grade Rs.455-700(RS) in compliance of orders of the General Manager (P) vide letter No.757-E/85-V-II(EIB) dated 9.03.1984, a true copy of which is being enclosed as ANNEXURE No.A-3 to this reply.

15. That the contents of paragraph 14 of the petition

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Assist. Personnel Officer
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wholly misconcieved and hence they are denied. It is respectfully submitted that the Scheme of 10% Graduate Quota was introduced on 18.03.1972 by the Railway Board persuant to the decision taken under joint consultative machinery meeting with the Ministry of Railways with a view to provide a limited departmental competitive examination amongst the serving non-ministerial departmental graduates. In other words, it was a talent search process formulated by the Railway Board to provide better avenues of promotion to the serving graduates besides finding the capable supervisors. Since, the minimum qualification for the post of Assistant Station Master was graduation, it does not mean that the provision of limited departmental competitive examination under the nomenclature "10% Graduate Quota" is automatically ceased.

16. That in reply to the contents of paragraph 15 of the petition it is respectfully submitted that the contents of the paragraph under reply are imaginary, vague and baseless and hence, they are denied. It is stated that the staff empanelled for various categories namely, Station Master/Assistant Yard Master/Traffic Inspector/Section Controller in grade Rs.455-700(RS)/470-750(RS) against 10% Graduate Quota were assigned seniority from the date of joining the categories for which they were earmarked. They were assigned seniority in respective cadres from the date of joining in accordance with the provisions laid down under paragraph 302 of IREM. The Graduate Quota Staff was not required to undergo training for a period of 3 years like Traffic Apprentices recruited from 'open market' through the agency of the Railway Service Commission or Railway Selection Board. They were imparted training in accordance with the syllabus drawn vide the General Manager(P) letter No.757-E/102-I(EIB) dated 17.04.1976. A photostat copy of this letter is being annexed herewith as ANNEXURE No.A-4 to this reply.

17. That the contents of paragraph 16 of the petition being baseless, imaginary and vague, are denied. It is respectfully submitted that the Assistant Station Masters who were recruited on and after 1.01.1982 with minimum qualification as graduate, were not to be promoted automatically in the higher grades. Rather, they were to

seek advancement alongwith other Assistant Station Masters of grade Rs.330-560(RS), who were either graduates or non-graduates, keeping the inter-se seniority intact.

18. That in reply to the contents of paragraph 17 of the petition it is respectfully submitted that the scheme of limited departmental examination to the extent of 10% annual vacancies in the categories of Station Master, Assistant Station Master, Yard Master, Traffic Inspector and Section Controller in grade Rs.455-700(RS)/470-750 (RS) for non-ministerial serving garduates of Transportation Branch was introduced from 18.03.1972, persuant to the decision taken under Joint Consultative Machinery with the Ministry of Railways. This scheme, therefore, has a statutory force.

19. That the contents of paragraph 18 of the petition are wholly incorrect and hence, denied. The Traffic Apprentices were recruited through the Railway Service Commission or the Railway Recruitment Board for being posted as Station Masters, Assistant Station Masters, Traffic Inspectors, Yard Masters or Section Controllers in grade Rs.455-700(RS)/470-750(RS) after completion of 3 years' training. These Traffic Apprentices were to be absorbed in grade Rs.455-700(RS)/470-750(RS) to the extent of 15% of vacancies reserved for them in the aforementioned streams. Similarly, the 10% graduate staff who were subjected to a limited departmental competitive examination through a positive act of selection were to be absorbed in the aforementioned categories to the extent of 10% of annual vacancies. The seniority of these candidates was to be regulated in terms of provisions of paragraph 302 IREM i.e. from the date of joining and keeping their inter-se seniority intact amongst each group. The rest of 75% vacancies in the categories of SM/ ASM/YM/TI/SCNL in grade Rs.455-700(RS)/470-750(RS) were allocated for rankers, to be posted after selection. Therefore, 75% rankers, 10% graduate staff, 15% Traffic Apprentices, who had formed a group in a particular stream were to be given advancement according to the requirement of the vacancies as well as the Channel of Promotion Chart.

Sarva Sri J.R.Maurya, R.P.Singh, D.K.Khare, G.P. Srivastava and S.J.Singh et al were empanelled and ear marked as Station Master in grade Rs.455-700(RS) against

Ass'tt Personnel Officer
N. R. I. I. O.

marked as Station Master in grade Rs.455-700(RS) against 10% graduate quota on 27.09.1983. They were imparted the pre-requisite training at the Zonal Training School and after being declared successful in the training, they were absorbed as Station Master grade Rs.455-700(RS) and were assigned seniority in the cadre of Station Master in grade Rs.455-700(RS) from the date of joining. They were further promoted as Station Masters in grade Rs.550-750 (RS)/1600-2660(RPS) in accordance with the revised Channel of Promotion Chart in view of the fact that the 'pro-rata' principle was found to be redundant and unworkable. The petitioner, on the other hand, was empanelled as ASM in grade Rs.455-700(RS) under cadre restructuring on 1.08.1983 by virtue of his seniority position in the cadre of ASM in grade Rs.425-640(RS).

20. That in reply to the contents of paragraph 19 of the petition it is respectfully submitted that Sarva Sri M.S. Usmani and S.S.Singh were empanelled as Station Master in grade Rs.455-700(RS) against 10% graduate quota, for which, the panel was announced on 27.09.1983. They were also empanelled as ASM in grade Rs.455-700(RS), under cadre restructuring. Hence, they had two options before them, i.e. either to seek advancement in the category of ASM or SM in grade Rs.455-700(RS), for which they were empanelled on 27.09.1983 against 10% graduate quota. These persons were given advancement as Station Master and were assigned seniority in accordance with the provisions of paragraph 302 IREM.

21. That in reply to the contents of paragraph 20 of the petition it is respectfully submitted that the crucial date for implementing the restructuring was 1.08.1983. In other words, the eligibility was to be seen as on 1.08.83 Sri R.K.Mehta was first promoted as Station Master in grade Rs.550-750(RS) on 1.08.83 through modified procedure applicable for non-selection post and thereafter he was empanelled as Station Superintendent in grade Rs.700-900(RS) with effect from 1.08.83 under cadre restructuring by following the normal selection procedure

22. That in reply to the contents of paragraph 21 of the petition it is respectfully submitted that the normal Channel of Promotion Chart, which was in vogue on 1.08.83

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N. R. Lko.

was to be followed for the purpose of restructuring in order to fill up the vacancies existing on 31.07.83 and those occurred on 1.08.83. Accordingly, Sarva Sri Imtiaz Ahamad, Gopi Singh, S.D.Kharbanda and S.P.Gupta, who were the regular incumbents of grade Rs.550-750(RS) on 31.07.83/1.08.83, were promoted as Station Superintendent in grade Rs.700-900(RS) in accordance with the provisions of the promotional chart.

23. That in reply to the contents of paragraph 22 of the petition it is submitted that Sarva Sri R.C.Srivastava and J.S.Lali, who were the regular holders of grade Rs.550-750 on 1.08.83 in the cadre of Yard Master, were also given advancement as Station Superintendent in grade Rs.700-900(RS) under cadre restructuring.

24. That in reply to the contents of paragraph 23 of the petition it is respectfully submitted that the promotion orders under cadre restructuring were made in accordance with the Channel of Promotion Chart.

Since the existing vacancies as on 31.07.83 and the vacancies on 1.08.83 swelled due to the reason that the increased percentage of the posts were to be filled through the modified procedure. The feeder post was already specified in the channel of promotion chart. The petitioner was a regular holder of post in grade Rs.425-640(RS) as ASM on 31.07.83/1.08.83, and as such, by virtue of his seniority position, he was empanelled as Assistant Station Master in grade Rs.455-700(RS) from 1.08.83. It is further stated that no person junior to the petitioner has been promoted as Station Master in Grade Rs.550-750(RS) under cadre restructuring.

25. That in reply to the contents of paragraph 24 of the petition it is respectfully submitted that Sarva Sri Ratnakar Pandey, Parvez Ahmad and Javed Ahmad were also empanelled as Station Master in grade Rs.455-700(RS) against 10% graduate quota. They were absorbed in the cadre of Station Master in grade Rs.455-700(RS) after successfully completing the pre-requisite training/course. The empanelment of various staff members as Station Master grade Rs.455-700(RS) against 10% graduate quota,

and their subsequent promotions on the said posts are in no way arbitrary or prejudicial to the interest of the petitioner. The selection against 10% graduate quota was done in accordance with the rules, procedures and methods which were in vogue at that time. It is further submitted that the persons empanelled and promoted against 10% graduate quota were not afforded any benefit of restructuring, rather, they were placed in the cadre of Station Master in grade Rs.455-700(RS) from the date of joining the cadre.

26. That in view of the submissions made in the foregoing paragraphs, the undersigned is advised to state that this petition is devoid of merit and none of the grounds are tenable in the eye of law. The petition is, therefore, liable to be dismissed.

Lucknow, Dated :
November , 1990.

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Asstt Personnel Officer
N. R. Lko.

VERIFICATION

I, P. M. Tiruvala, presently posted as Asstt Personnel Officer in the Office of the Divisional Railway Manager, Northern Railway, Lucknow hereby verify that the contents of paragraph 1 of this reply is true to my personal knowledge and those of paragraphs 2 to 25 are based on the record and the same are believed to be true. The contents of paragraph 26 are based on legal advice and the same is believed to be true. That no part of this reply is false and nothing material has been concealed.

Lucknow, Dated :
November , 1990.

Asstt Personnel Officer
N. R. Lko.

Punishments.

Name

G D Pandey ASY

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Serial No.	Date of occurrence	Nature of offence	PUNISHMENT INFILCTED			Initials of authority
			Nature	From	To	
1.	TG X/SLN-11 24-7-64	For not turning up on duty on 5/12/63 when call hours was served four times	S.O.P	Six months		
2.	TP/842 An/26.5.71 14.9.71	For failing to get the signals lowered a line & thereby causing 14 mts delays to 842 An of CDR On 26.5.71	W.I.T.	Six Months		
3.	48/E/M/PKX/TKR 20.10.71	For not going to PKX while spare at SLN and claiming TA. at SLN and also for misleading the address of TI/SLN and SLN/PKX	Three sets of Pass X. 10/11 Q/	14/9/71		
		An appeal punishment has been reduced to one set by DOS under letter no TP/842 An/26.5.71 Appeal/2830 D 1.1.72				
	Comp/acs/71H.Q/77SSM 3-12-77	For not delivering the cycle to the comp- laintant even on pro- duction of R.R.	Censure 10/12/77 T.C.S/10/20			
	TP/65uP/2011/18 RJ-20/8/18	For causing 1.5 extra detention to 65u at PB-4 station on 20/11/18	Six hours out set 20/11 1708/26/20			

W.D. Personnel Office
R. Lko.

P. 10.

Punishments.

Name

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Serial No.	Date of occurrence	Nature of offence	PUNISHMENT INFECTED			Initials of authority
			Nature	From	To	
TT-27/Detention	1.9.80	For not giving extra detention to CB ECO Box at det. 1.8.80	Stripped Three sets of passes.			
		Failed to attach full stock in L14th and L43rd formed for clearance on 23.7.80	DD 5	1/9/80.		
TP/CR-1/2/Box/1/11/80	9-1-1980	For causing extraordinary detention to CR ECO Box at PBH on 1/11/80 in attaching damage from the train.	SOP three sets of passes	of passes	DD 5	1/12/80.
NO:TP/62/2572/81	9-5-11/81	For causing "detention" to 62 at CIC on 25/9/81 while advanced at PBH.	Conduct DD 5	1/11/81	DD 5	
TP/5AP/16/12/84	Dated 21/11/84	For causing 43 "extra detention" to S AF at PBH on 16/9/84	W.I.T. 1 year	16/9/84	DD 5	1/12/84
TP/1/1 Pusa 84/29/9/84	18/12/84.	53 "extra detention to 1/1 Pusa on 29/9/84 at PHV station as he failed to give L/C from PBH.	3 years	29/9/84	DD 5	1/12/84
NO: TG/4/13/83 - I	31-12-85	Sir G. D. Pandey A.S.M./P.D. is held responsible primarily for refusing to take arrangement for G.D's working and refused to obey the instruction of the DYC HQ/0/LKO.	Dismissed from Service	31-12-85	DD 5/LKO	1/12/85
		On appeal the punishment of dismissal from Service has been reduced to W.I.T. (01) ONE year by ADD RM (OP) LKO.	Reduced to W.I.T one year		DD 5/LKO	1/12/85

Asstt. Personnel Officer
N. R. LKO.

Eye-sight Test.

Name _____

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Date of examination	Examined by	Result
<u>N o TP/5034P/17/11/86</u> 29.1.87	21/11/20 5034P on 17/11/86 out year 36 2220 2222 2122 on 9/12/86 21 1-33" on 10/12/86	2 P. S. C. 2 M DOS/m
		checked for Accident Free Service on 24.9.87
		checked by
<u>N o TP/4P AJAY Juggler E.N. 18095 1-11-87</u> Dt. 11-1-88	Detention to train No. UPAJAY Juggler E.N. 18095 on 1-11-87 at PBH	Censure at 11/1/88 DOS/1240
<u>N o TP/Detention/4/2/88</u> 19-5-88	Detention to trains on 4/2/88 at PBH	Censure G/245 Ansca
<u>N o TP/Detention/4-2-88</u> Detal 23/5/88	Detention to N. Detention on 4-2-88 at 11" 5" O/S PBH	SOP 1 set G/245 AOS/m
<u>TR/L34P - L14P/22</u> 23/5/89	failed to recorded the movement of L34P- L14P on 22-23-5-89	Censure II.5.103 DOS/25
<u>2021 N o TP/66D on 18/7/89</u> Dt 8-11-89	Detention to 66D on 18-7-89 at CIL 35"	SOP one set G/245 DOS/II P.T.O.
	Ass't Personnel Officer N. R. Lko.	

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Annex

GS-2/6/Genl. 30, 41, 42

Eye-sight Test.

Name _____

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Date of examination	Examined by	Result
No. TG-81 B-4/4-29 RB 28/01/90	For failing to ensure the placement of ART well in time + take adequate steps to ensure early restoration work after derailment of up TKD SFL Goods at PBH on 02/6/89. (NIP attached pg)	WIT for three years. Sv DOS 28/01/90 N. R. Lko. W.L. Asstt Personnel Officer N. R. Lko.

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Annex - 3

NORTHERN RAILWAY

Headquarters Office,
Baroda House,
New Delhi.

No: 757E/85-V-II(EIB)

Dated: 9th March 19984.

The Divl.Railway Managers,
Northern Railway,
New Delhi, FZR LKO MB ALD BKN & JU.

Sub: Re-structuring of the cadres of Traffic Staff.

The implications of implementing the re-structuring of the cadres of Station Masters, Yard Staff and Traffic Insp.s have been discussed in a joint informal meeting held in the Chamber of S.D.(IR) on 29th Feb., 1984 with General Secretaries of URMU NRMU. In part supersession of earlier decisions the following decisions are issued.

1. Crucial date for implementing the cadre restructuring of Traffic Staff.

The crucial date for determining the suitability of staff for promotion against the upgraded posts of SMs & Yard staff will be 1.8.1983. In case where there are vigilance cases or any DAR case after 1.8.1983 in the case of SMs/ Yard staff these will not have any effect on their promotion but will be taken into account after they have been promoted against upgraded post.

2. Channel of Promotion

In regard to the implementation of cadre re-structuring in the categories of Transportation Deptt, the existing channel of promotion will be followed.

3. Absorption of Station Masters grade Rs.425-640(RS)on abolition of the grade of Rs. 425-640.

As a result of abolition of the grade of Rs.425-640("S) of Station Masters and the prescribed percentage, there may be some of the station masters grade Rs. 425-640 on some divisions who could not be adjusted as Station Masters grade Rs.455-700(RS). In order to overcome this difficulty temporary adjustments may be made by taking away the commensurate number of posts in grade Rs.455-700 from the category of Asstt. Station Masters and these Station Masters will continue as Station Master in grade Rs.455-700 till they are absorbed as SM within the sanctioned cadre of SMs grade Rs.455-700. The posts of ASMs grade Rs.455-700 will be restored to their original cadre strength progressively.

These Station Masters grade Rs.455-700 thus promoted by adjustment against the posts of ASMs would rank junior to the Station Masters already working in grade Rs.455-700 on 1.8.83 and will perform the duties allotted to them by the administration.

Asstt. Personnel
N. R. Lko.

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a) Promotion an upgraded posts from ASMs/SMs grade Rs.455-.. to the post of Station Supdt. grade Rs.700-900

In the re-structuring of the cadre of Station Masters a large number of posts have been provided in the category of Station Supdt. grade Rs.700-900, and as such it is not possible to fill up all the vacancies in to from the next lower grade i.e. 550-750(RS) as per existing channel of promotion. Hence it has become imperative that Asstt. Station Masters/ Station Masters in grade Rs.455-700 have to be promoted directly as Station Supdt. grade 700-900, on the basis of normal manner i.e. selection. The principle for promotion from SMs/ASMs grade Rs.455-700 to the post of Station Master grade Rs.550-750 already exists i.e. prorata basis. The same principle of old prorata will now be extended for promotion from SMs/ASMs grade 455-700(RS) to Station Supdt. Grade 700-900(RS).

~~The above decision is in part supersession of this office letter No.757E/85-V-II(EIB)dated 11.1.84 addressed to DRM/DLI and copy endorsed to others.~~

b) The Railway Board vide their letter No.E(NG)I-83-PM-28 dated 7.10.83 has laid down that exemption for staff having put in less then two years of service in the relevant lower grade can be considered for promotion to next higher grade consequent upon upgradation provided a competency certificate by a Gazetted Officer of administrative rank of the concerned Deptt. is recorded.

In the present case SMs/ASMs grade Rs. 455-700 are being considered two grades above i.e. 700-900 and as such a reference to Railway Board seeking clarification is being made. Pending decision of the Board it has been decided that the staff who have put in less than two years service in gr.455-700 but are eligible may be called for selection provisionally. However their results should be announced after a decision is received from the Board.

Sd/-
(G. Sankaranaryanan)
for General Manager (P)

U. S. S.
Ass'tt Personnel Officer
N. R. Lka.

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ANNEX-4

19.10.76

Northern Railway,
HEADQUARTERS OFFICE,
B. House, New Delhi.

Re. 757E/102-I(SIB)

Dt. 17 April 1976.

The Principal,
Central Training School,
Chennai.

Subs:- Training programme and syllabus for staff to be promoted as Jr. Transportation Supvrs. & Sec. Controllers against 10% graduate quota.

Ref:- Your DD letter No. 52/P/T/2 dated 21.10.75.

The question of prescribing a syllabus for training of staff selected against 10% Departmental test in Transportation Deptt. was under consideration. The following Scheme of training has been approved by the Chief Operating Supdt.

1. Theoretical Training	3 Months
2. Practical Training as	
(i) Asstt. Station Master	1 "
(ii) Guard/TEC	1 "
(iii) AYM	2 "
(iv) Section Controller	1 "
(v) With Dy CHC Stock/Dy CHC 10 hrs.	15 Days
(vi) With CHC/TEC/TLC	15 days
3. 1 st phase of Theoretical Controller Training - 2 months.	1 month
	Total Duration 12 months.

Mr. Nayan
The above is a Broad pattern of training and the necessary syllabi will be laid down by Principal/ZTS for the two phases of the training in the School.

1. In 1st phase, the various stages of practical training on the various divisions efforts will be made to put them on independent charge in a few posts(as far as possible) which are different from the posts earlier held by the staff.

2. P/SIS may ensure that necessary knowledge on current Comml. topics like "Claims", Marketing & Sales are added up to in the list of subjects to be taught during School Training.

1. Section Controller

(J.K. Thacker)

Copy forwarded for information and necessary action to the Divl. Supdts DLI PZR ALD LKO MB JU & ERN.

ACR Acme Claris EIB.

*JPC

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Ass't Personnel Officer
N. R. Lko.

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Before the Central Administrative Tribunal,

Allahabad Circuit Bench, Lucknow.

Rejoinder Application
in respect of Counter
Reply received on 10-1-91

T.A.No. 1703(T) of 1987

In

Writ Petition No.5660/1985.

G.D.Pandey.....Petitioner

versus.

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

Rejoinder Application reply to the counter Application, as referred to above, is submitted herewith, with the following grounds of Defence and also parawsie comment as detailed below:-

Preliminary Objection

*Filed today
at 4.00 P.M.*
The petitioner above named very humbly submits the contents of this re-joinder application, and states on oath as under:-

v3/2/92 (A)
Subject Rejoinder Application is at the preliminary stage, vehemently opposes the counter reply, which is sworn in the name of one Shri P.N.Tripathi, alleging himself to be an Asstt. Personnel Officer in the office of the Divisional Railway Manager, Lucknow.

G.D.Pandey
The Railway Board through its Notification, has categorically, designated only the senior scale officer to file the ^{Counter} ~~rejoinder~~ in the cases

before the Central Administrative Tribunal. There is no provision in the law that an Asstt. Personnel Officer is the competent authority to file the ~~Counter~~ ^{Counter} ~~Writ~~ in this case. The Asstt. Personnel Officer has not been arrayed as opposite party in the case. Moreover there is no written authorisation on behalf of the Government Respondent Serial No.1 to 4 authorising the Asstt. Personnel Officer to this effect, as contained in O 6 R 15 C.P.C. 1908 is mandatory provision of Law. Reference may be had to Rama Rakha versus Union of India(A.T.C. 1998 P.16)

(B) That in the contents of the counter application, not only the letter of authorisation is missing but there is a glaring mistake in not submitting the specific authority, Government Notification or Authentic grounds for deviating from the statutory provisions granting promotions to the ~~Class~~ three employees, as departmental candidates, on the basis of Rules of Service as contained in the I.R.E.M. which is dependent authority/mandatory direction, relating to the prospects of promotion and departmental examinations.

(C) That in the absence of the clarifications which constitute specific grounds for non-maintainability of the subject counter application, the petitioner's writ petition/T.A. No.1703/87, is likely to be disposed off, without giving any credit to the counter application on these preliminary grounds, however, in order to , to deny the alleged contentions of the counter application, the following aspects are highlighted in the defence of the petitioner's claim in the writ

G. D. Dandu

petition 8 (1988) A.T.C. Allahabad 16 Ram Rakha
versus Union of India.

Parawise Comments:

1. That in reply to para 1 of the counter reply it is submitted that the petitioner does not give credit to the authority of the Asstt. Personnel Officer as named above, the competent authority, to file the counter reply, hence the grounds explained in the counter and the absence of legitimate authorisation, in favour of the Asstt. Personnel Officer, this counter application amounts to violation of the provisions of law, therefore, not maintainable before this Hon'ble Court.
2. That in reply to para 2 of the counter application it is submitted that the petitioner's date of appointment as Assistant Station Master has been mis-quoted. The petitioner, through the agency of Railway Service Commission was appointed as Asstt. Station Master on 11.11.1957 and not on 28.6.58 as contained in the counter reply. The erroneous date of appointment, therefore, mentioned in para 2, ^{of} the counter reply, is wholly misleading and, therefore, from the fact, relating to the date of appointment. Therefore the contents of para 2 of the counter reply are hereby denied ~~xx~~.
- 3.(a) That the contents of para 3 of the counter reply are further rebutted as respondents have relied upon violation of Service Conduct Rule and relative punishment. Vide Annexure A.1 to the

counter. It is categorically stated that the contents of CA_1 are simple, minor penalty which do not standa bar to the petitioner's promotion. Thus the enumerated punishment as conatined in CA_1 are arrayed to lend a coloured and prejudicial phase to the petitioner's claim for his lien promotion. The comtents of para 3 of the counter Application are, in this way rejected as not maintainable, under the provisions of Service Rules.

(b) That it is evident from the contents in CA_1 that the punishment after the year 1984, have also been included upto the year 21.1.1990, which are immaterial and also cannot be related ~~mix~~ back to the rest of retrospective promotion being non-existence at the relavant date and time.

(c) That the prejudice of the respondent is clearly proved against the petitioner when the petitioner was dismissed from service vide order No.T374/13/85-I dated 31.12.1985, forfeiting 28 years of service and this major penalty was hurriedly cancelled but in a ^{free} phase saving device, The respondents had resorted to satisfy themselves by imposing minor penalty viz. WIF for one year and such a step has been taken to defend the conduct of respondents without applying their mind whether such minor penalty can be based while denying the petitioner, the prospects of promotion to the cadre. The petitioner heavily relies upon the decision of the(8) 1988 ATC Chandigarh Page 496 ~~PP~~ ^{Dee} Kumar versus Indian Council of SC, Agriculture Research.

l. D. Pandey

4. In reply to para 4 of counter application the contents of the subject para are denied in so far as the petitioner was temporarily promoted, on adhoc basis from the post of Asstt. Station Master Grade Rs. 425.640 to the next higher grade Asstt. Station Master Rs. 455.700. The petitioner had officiated in the higher grade with effect from 10.6.78 (Alleged to be a local and adhoc arrangement subject to availability of regularly selected candidate). In this way the petitioner continued to officiate in the higher grade Rs. 455.700 w.e.f. 10.6.78 to 1.8.83 when the post of Asstt. Station Master got merged in accordance with the procedure of re-structuring and the petitioner was considered to have been selected in the view of dispensation of the process of selection, by the Railway Board as Policy Matter. In this way the petitioner's promotion in the higher grade of Rs. 425.640 to 455.700 is deemed to have been effected from the retrospective date viz. 10.6.78, and the intervening period w.e.f. 10.6.78 to 31.7.83 gets merged, in view of the modified selection procedure in accordance with which the modalities of the selection procedure were finally dispensed with as one time exception. In this way adhoc period of officiation in the higher grade (from Rs. 425.640 to Rs. 455.700) is automatic~~and~~ and cannot be denied and questioned at this stage. The petitioner ~~is~~ strongly relies on the decision as contained in 6(1988)A.T.C. Page 47 Gur Prasad versus Union of India and others.

5. That in reply to para 5 of the counter application

It is most respectfully submitted that the petitioner fully agrees with the ~~totaliy~~ ^{which} subscribes to the contents of Annexure CA-2 which graphically depicts the channel of promotion available to the Transportation Staff and with the impugned benefits with the promotional prospects. Hence the para needs no comments~~s~~ and it is admitted except that the respondents have not rigidly applied the channel of promotion as contained in CA-2. Therefore the petitioner's prospects of promotion have been ~~evidently~~ denied, for no fault on the part of the petitioner and similarly no notice for ^{with} drawing the benefits of promotion continuity and merger of the adhoc period in denying the seniority and the consequential benefits, have been explained by the respondents.

6. In reply to para 6 of the counter application the petitioner most respectfully submits that the respondents have illegally and without any basis carved out the classification of the selection posts available in the higher categories as ASMs, SMs, T.I.s and Section Controller Grade Rs.455-700, Rs. 470-750 for (The Section Controller) The actual strength of the departmental promotion to the next higher grade was available to the extent of 75% of the existing vacancies which were to be filled by the departmental candidates, and the petitioner was a candidate very much available as well as legible for such promotion but his promotion prospects have been barred by introducing 10% Graduate Quota from the serving employees, without any sanction or provision available in the I.R.E.M. qua any other provisions of Service Rules

l. P. Vaidya

Rules, the change in the policy of promotion to the extent of 10% posts for promotees as available in the service cadre and also against direct appointees by introducing a competitive test in the name and design of Graduate Quota is against the provisions of Service Rules. The introduction of ~~Railway~~ Graduate Quota Scheme has effected in two ways viz. to the extent of 10% towards direct appointment and similarly towards the departmental promotees. Such a change in the departmental promotion to the detriment of the departmental candidates cannot not be maintained as Constitutional Provision except that it smacks of blind patronage and clearly patrimony to a selected few candidates by violating the principle of selection and promotion. The Railway Board through executive orders or administrative instructions cannot deprive the departmental candidates of their due promotion. Such protection and change in the Service Conditions has not been notified through any Gazette Publication before this policy has been brought into effect. The Executive Orders are supplementary instruction cannot over ride the statutory provision and such instructions in the name of Graduate quota has clearly implemented in flagrant violation of the prevalent Service Rules. Hence the provisions as contained in the Graduate Quota Scheme are against the Rules and also liable to be quashed. The Respondents are further required to be put to strict proof with sanction, authority and notification in defence of the alleged Graduate Quota. The petitioner through this petition also challenges the authenticity of the selection in the name of Graduate Quota which was circulated departmentally vide Letter No. 752-E-5/1/D/T dated 8.4.1976 and subsequently thereafter.

Dr. D. B. Dandekar

7. That the contents of para 7 of the counter application are the matters of record and details of initial to provisional grades as available and made effective w.e.f. 1.8.82, for the purposes of proforma fixation and 1.8.83 for the purposes monetary benefit and calculations. The subject para under reply makes no mention of Graduate Quota or any variation of policy in respect of departmental promotions ranging from the initial grade to the ultimate provisional grade similarly Annexure 2 to the counter reply refers to the stages of promotion available to the departmental candidates under the normal channel and also without any specific mention to this Graduate Quota or otherwise system of promotion. The contents of para 7 are admitted to the extent of grade and scale and also the channel of promotion but it is denied that the same has been strictly applied in the case of the petitioner and in the event of such non-compliance the petitioner was compelled to file the writ petition for seeking an alternative remedy through the legal forum. Therefore the replies under para 7 of the counter application is not relevant to the extent it relates to the alleged Graduate Quota.

8. That in reply to para 8 and 9 of counter reply it is most respectfully submitted that the petitioner has secured his promotion in the grade of Rs.455.700 as a result of restructuring w.e.f. 1.8.82 proforma and 1.8.83 actual. In this way the refusal of the petitioner relating to the crucial date 31.7.83 and also in the preceding grade Rs.425.640 is not a matter to be considered at the stage when the petitioner acquired his grade Rs.455.700 as a result of restructuring for proforma fixation w.e.f. 1.8.82

H. D. *Paranjay*

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and for material gains w.e.f.1.8.83 and this issue cannot be raked into at the distant date when the promotion in grade Rs.425.640 stood merged with grade Rs.455.700. It is further stated that Rly. Board Letter No. PC/3/11/80/Upgrading/19 dated 29.7.83 contained the proforma fixation w.e.f.1.8.82, the petitioner therefore, reiterates para 9 of the writ petition.

9. That in reply to para 10 of the counter application it is submitted that Rly. Board's Letter No. PC/111/30/ UPG/19 dated 29.7.83 categorically provided that the proforma fixation to the next higher grade viz. Rs. 425-640 to next grade Rs.455-700 got merged and the benefits as proforma fixation were allowed w.e.f. 1.8.82 and for the purposes of monetary calculation and payment it was fixed as 1.8.83. In the natural corollary and the instructions contained in the said letter of the Rly. Board the petitioner, secured his promotion cadre to Rs.455-700 automatically due the merger of the grade with higher fixation in the grade Rs.455-700 and this cannot be differed by arbitrarily assigning the date from 1.8.83, rest of the contents of the subject para 10 are admitted and need no comment.

10. That in reply para 11 of the counter application, it is submitted that the para does not relate to the petitioner's claim under dispute. Hence no comment are needed on this aspect.

11. That in reply to paras 12 and 13 the petitioner reserves the right to contradict the contents suitably at the time of argument because no controversy or misconception as alleged in the paras, have been incalculated in the petitioner's writ petition. Hence the contents of para 12 and 13 are denied and the contents of para

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are reiterated, on the basis of which the petitioner seeks his departmental promotion in which any other quota/fixation for Graduate Quota etc., are totally misconceived.

12. That in reply to para 14 of ~~14~~ of the counter application the petitioner very humbly submits and concedes to the contents which need no further elaboration but at the same time respondents have erred in ignoring the officiating promotion of the petitioner w.e.f. 10.6.78 and onward till the date of restructuring on 1.8.83. Since the duration of officiating in higher grade viz. Rs.455-700 for a considerable period of more than five years. The right of the petitioner's promotion to the grade of Rs.455-700 have been fully perpetuated and this right cannot be dispensed with as adhoc promotion, because the concept of adhoc promotion relates to a short duration of 3 to 6 months only beyond that the confirmation of the head of the office/G.M. must be obtained. Since the petitioner's adhoc promotion continued in the grade Rs.455-700 and the petitioner had actually shouldered the higher responsibility of the post and was paid salary of the respective grade and post for more than five years. He was to be promoted in the next higher grade Rs. 550-750 raising the petitioner's pay to the next available higher grade after the existing factual grade of Rs.455-700. In this way the respondents have forfeited the right of his officiating grade Rs.455-700, while not allowing only to the grade of Rs.455-700. The policy decision of restructuring by allowing only to the petitioner the grade of Rs.455-700 is based on the analogy of ignoring five year promotion and the benefits of inter grade fixation in the process of restructuring.

h. D. Darby

The petitioner did not ask for two grade promotions but it was simply emphasised that the higher grade officiation which was granted to the petitioner not by usurping anybody's right of promotion but by clear practical and functional officiating benefits with the right of protection of pay and increments relatively. Therefore the petitioner's fixation after the restructuring could have been arrived as by merging officiation period in the grade Rs.455-700 and also by granting the next higher grade promotion in Rs.550-750. The petitioner was very much ready and available to face the process of selection if at all required but the forfeiture of the period of officiation and re-fixation in the grade of Rs.455-700 against the next higher grade available for fixation in grade Rs. 550-750 was denied to him. The sequence of the grade & fix switchman if rightly applied in the case of the petitioner the next higher grade promotion Rs.550-750 is readily available as a consequence of restructuring as admitted in the subject para that the switchman holding grade of Rs. 260-400 were replaced by the new grade Rs.330-560, similarly all the incumbents including the petitioner holding the grade Rs.455-700 automatically get restructured in the grade Rs.550-750. The bone of contention in the petitioner's case has given rise owing to make adjustment/fixation of the petitioner's officiating period in grade of Rs-455-700 w.e.f. 10.6.78 and to 1.8.83 during which the officiation period was validly continued and thus arose no question of reverting the petitioner from the officiating post. Therefore not granting the petitioner the next higher grade from Rs.455-700 to Rs. 550-750 amounts to misinterpretation & denial accrued and acquired benefits meaning thereby

a substantial loss of the higher grade fixation of pay and promotion in the grade of Rs. 550-750 concurrently and prospectively. The contents that petitioner was promoted as Stationmaster grade Rs.425-640 in the year 1982 which was alleged to have been deferred to 14.7.83 as a result of refusal to promotion etc. do not account for the consequential promotion to the higher grade Rs.455-700 w.e.f. 10.6.1978 and the date of restructuring/cadre. It is further stressed that C.A.3 as contained in the Annexure/Order of the G.M.(P) Vide Letter No. 757-E/85-V-II(EIV) dated 9.3.84 does not cope with the eventuality of the intervening period of promotion in the higher grade for long duration of more than 5 years. Under the circumstances of such prolonged promotion the sanction of the G.M.(P) is implied and the period of promotion in the higher grade cannot be implied with as adhoc/furtuous of flating and short duration. Therefore benefit arising out of such prolonged period of officiation cannot be denied while fixing the petitioner's pay in the higher grade as a consequence of the restructuring.

13. That in reply of para 15 of the counter application, it is submitted that the concept of Graduate Quota as introduced on 18.3.1972 by the Rly. Board in order to provide limited departmental competitive examination amongst the serving graduates, in the name and search for talent to provide better avenues to the serving graduates etc. was a misnomer and misconceived strategy hatched by the Board simply in order to extend patronage and promotion to certain protoges or selected few for the purpose of grafting out of the post, promotion to the higher grade and many such person had been chosen to be

h D Pandey

to be granted promotion to higher posts in the name of 10% Graduate quota. This avenue was carved out clandestinely and in order to patronage certain candidate of the consultative transactions held by the departmental candidates and the Union Officials in the name of joint consultative committee to which the Ministry of Railways succumbed to and the 10% Graduate Quota was made ~~out~~ the outcome of such mechanisation. The unique ^{aspect} ~~object~~ of this Graduate Quota and its beneficiaries categorically avoid.

- (a) Divisional Personnel Officer Letter No. 752E.5./1/D/T dated 8.4.76.
- (b) Caption Selection for the post of Section Controller/ AYM/SM/ASM in the revised scale 470-750/455-700.
- (c) Serving Graduates below 33 years of age on 6.4.72.
- (d) Written test on 25.4.76.

In addition and continuation of the letter dated 8.4.76 the next Notification by the Headquarter's Office signed by G.M.(P) NDLs vide Letter No. 757-E/103/E/V dated 19th. January, 1978 with similar contents except that the age of the eligibility was enhanced from 33 years to 35 years keeping other conditions intact. The peculiar feature of such notification was that the benefits of promotion was available to the candidates of both groups of such Graduate Quota Examination(1976)-1978 dated back to 18.3.72 irrespective of consideration whether the appointee was in the cadre of appointment at the relevant date and time or not. The subject Graduate Quota Examination as alleged in para 16 of the C.A. patently attacked the benefits admissible to the departmental candidates in respect of their promotion as well as the direct recruits and ~~assess~~ over and above

h. D. Darby

granted such Graduates the benefits of the seniority with effect from 18.3.72. It would not be out of place to mention that some of such promotees in benign shadow of Graduate Quota with ~~xx~~ the promise of implied seniority benefits to the promoted grade respectively with effect from 18.3.72 ^{were} ~~were not~~ employment itself. To quote some of th specific reference the hon'ble court may be pleased to summon the service records of Shri K.D. Shukla and Shri S.B.Tandon who have been appointed in the Railways as ASM on 4.10.1977 and 3.7.77 respectively and have been promoted to the next higher grade on the basis of the so called graduate quota examination held against the available vacancies and seniority benefits since 18.3.72. The petitioner under the previled of refuting the contents of para 16 and its relevancy with para 302 of I.R.E.M.

14. That in reply to para 17 of the counter application the petitioner most respectfully submits that in view of the joint petition for setting aside such casual benefits in the name of Graduate Quota ,the Rly. Ministry was please to revise the prescribed qualification of the ASM for initial appointment as graduates. Therefore the free will of respondents granting filling to pick up and choose method was carved but already much damage has been caused to the petitioner and the other alike in the name and guise of the graduate quota and the subsequent promotional chances. Such policy decision impugning upon the serving employees departmentalily legible cannot be isolated to suffer their chances of their advancement arbitrarily. Para 302 or any other proviso in the service rules does not come to rescue of the ~~exam~~ anomalies perpetuated against

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against the privileges of the serving departmental employees.

15. That in reply to para 13 and 19 of the Counter Application, it is submitted that the joint consultative machinery and the Ministry of Railways through the agency of Ry. Board have granted unqualified benefits in the name of Graduate Quota illegally and arbitrarily and also against the Service Rules through the Executive Orders and administrative instructions by creating and preserving certain promotion posts to the Graduate Quota Policy, which amount to change in the employment and service conditions for the petitioner without any gazette Notification or statutory amendments to the Service Rules as required under law. Therefore the contents of paras are denied as not maintainable in the eyes of law as the pro-rata distribution of posts demarcating 75% of the vacancy to the rankers and 10% to the graduates in addition to 15% for the traffic apprentices (against 25% direct appointees is pernicious and arbitrary and divesting of vested legal rights to the departmental candidates.) Rest of the paras shall be dealt with at the time of argument.

16. That in reply to para 20 of C. A, it is submitted that 10% Graduate Quota was announced for filling up certain candidates who had neither possessed seniority in the grade nor had been promoted against the 10% Graduate quota in the face of promotees. The formation of graduate quota was done just out of the way and in order to benefit certain candidates out of turn. The promotion in the name of Graduate Quota was made against direct recruitment. The inter-se seniority of the petitioner, therefore, cannot be ignored as the petitioner being a promotee, deserved to be ranked

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senior to the so called Graduate Quota candidates.

The provision under para 302 of the I.R.E.M. Therefore cannot be interpreted against the spirit of the basic requirement which prescribes that the promotee shall rank senior to the direct recruitment under the said Graduate Quota/Policy of Graduate Quota, has been finally scraped since 1982 when the basic qualification for the post of ASM and Guards has been prescribed as Graduate. Therefore para 302 and the relative promotion of the Graduate Quota and Promotees on the basis of one time provision does not entitle the Graduate Quota promotees for the post of ASM in the grade of Rs.455-700. Conclusively the further advancement of the candidates empanelled under 10% Graduate Quota as ASM in grade 455-700, as a result of cadre restructuring cannot be considered for advancement as Station Masters in grade Rs.455-700. In this way para 20 of the C.A. raised a bone of contention towards its maintainability in respect of the seniority of the petitioner. However it may be observed that subsequently thereafter the policy of Graduate Quota has been denounced as it was void ab initio.

17. That in reply of para 21 of the counter application, it is respectfully submitted that the respondents have distorted the petitioner's case while citing the case of Shri R.K. Mehta. Shri R.K. Mehta has never joined as ASM in grade 550-750 on or after 1.8.83 as a result of restructuring. The averment that Shri Mehta was promoted as ASM Grade 550-750 on 1.8.83 under cadre restructuring and there after he was empanelled as Station Superintendent w.e.f. 1.8.83 in the next higher

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grade Rs.700-900 (Ssn. Supdt.). The benefits of twice restructuring and without holding selection for the post of Ssn. Supdt. grade Rs.700-900 evidently presents a contradiction of the statement submitted in para under reference. However the same benefit has been denied to the Petitioner, hence para 21 of the C.A. is not admitted as stated therein.

13. That in reply to para 22 and 23 of the C.A., it is submitted that S/Sri Imtiaz Ahmad, Gopi Singh, S.D.Kharbanda and Shri S.P.Gupta and similarly Shri R.C.Srivastava, J.S.Lali etc. were not the ~~regular~~ holders of the grade as they were granted the higher grade from Rs.455-700 to Rs.550-750 on 1.8.83 as a result of Graduate Quota/R.T.A. Selection but it is peculiar that the aforesaid persons were given the advancement as Ssn. Superintendent w.e.f. 1.3.83 in grade Rs.700-900 which was a selection post. In this way the person enumerated in the preceding para have secured double benefit w.e.f. 1.3.83 in the cadre of Statistic Yard Master/T.I. for which they were not entitled, whereas the petitioner was deprived off his regular promotion for which he was entitled under 75% promotee quota and thus the cause of applicant was defeated illegally. The respondents have wrongly quoted the candidature of Shri Imtiaz Ahmad, Gopi Singh, S.D.Kharbanda, S.P.Gupta, R.C. Srivastava and J.S.Lali, who have been selected against the 10% Graduate Quota and such promotion is basically erroneous without any precedence of antecedents. Therefore the contents of para 22 and 23 are denied and the contents of para 21 and 22 of the writ petition are denied.

14. That in reply to para 24 of the counter affidavit of the respondents it is respectfully submitted that the counter affidavit previously conceded the fact that the respondents have not

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of officiation in the next higher grade from Rs.425.640 to Rs. 455.700 on which the petitioner continued to officiate under clear vacancy and on the basis of his seniority w.e.f. 10.9.78 and has earned his increments in the same grade. Therefore when it comes to the stage of restructuring on 1.3.83, the promotion of the petitioner to the grade Rs.455.700 is automatic and the relevant benefits cannot be denied to the petitioner. while considering him for benefit of re-structuring from the grade Rs.455.700 to grade Rs.550.750. The Rule of continuous officiation at the higher grade provided for the merger of the entire officiating period towards the promotion grade. It is, therefore, wrong to state that the petitioner had no right towards promotion from the deemed grade of officiating as Asst.S.M. in the grade of Rs.455.700 which entitles him to the benefit of cadre re-structuring which was admissible to the petitioner in the grade of Rs.550.750 automatically and further like other incumbents. He should be treated as having been promoted to the post of SM on grade Rs.550.750 which became available under cadre restructuring with effect from 1.3.83. The petitioner has been subjected to suffer the loss of 5 years period in his officiating capacity as AsM in grade Rs.455.700 on the basis of his seniority and suitability. The respondents are required ~~not~~^{to} submit the entire officiating period for which they have paid the difference of officiating pay and regular increments in the grade Rs.455.700 as AsM, moreover no selections were held during the period of petitioner's officiation in the preceding five years period. Therefore the petitioner cannot be denied a retrograde position on the date viz. 1.8.83.

19/9/83
Dated

when the re-structuring was made operative and others similarly placed like the petitioner have got the benefits of regular officiating period. The claim of the petitioner was forfeited interpolating the one time Graduate Quota Scheme and the petitioner was wrongly superceded even in the gradepromotion. Therefore the instances of Graduate Quota Promotees are to the detriment of the petitioner which is being sought by the way of remedy before this Hon'ble Court.

20. That in reply to para 25 of the counter application, it is submitted that but for the impugned scheme of Graduate Quota which was without any precedence been adopted, in order to jeopardised the petitioner's interest, there appears to be a clear violation of the Service Rules in so far as the Scheme of Cadre restructuring was made operative. The respondent have again stated wrongly that the promotees under Graduate quota were not granted benefits of re-structuring. The benefits of re-structuring was universally made applicable to every class of serving employee by granting upgraded pay and promotion, which have not been allowed to the petitioner in so far as it has not been considered in the case of the petitioner that his five years period of officiating in the grade Rs.455-700 very much entitled him to the benefit of restructuring by the doctrine of merger of officiating pay and period into the promotion grade.

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I, Girija Dutt Pandey son of Late Narain ~~Pandey~~ Dutt Pandey resicent of village Sumanaphar (Pura Katra) Post Dhamaur Listt, Sultanpur (UP), the petitioner in the T.A. No. 1703/1987 do hereby certify that the contents of the present re-joinder application ranging from para 1 to 20 are based on facts, records of the proceeding and nothing material has been concealed.

G.D.Pandey

Dated. 13-02-1992

(G.D.Pandey)

Applicant-Petitioner,

Through:-

S.Q.S. Mune

Shri S.P. Shukla,
Advocate, Lucknow.
counsel for petitioner.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW
T.A.No.1703 of 1987(T)

9/1/93
Sri G.D.PandeyApplicant

Versus

Union of India and othersRespondents

To:-

The Deputy Registrar,
Central Administrative Tribunal,
Lucknow Bench,
Lucknow

Subject:- Applicant for issuance of URGENT Certified Copy of the judgment of this Hon'ble Tribunal dated 5.08.1992 in T.A.No.1703 of 1987(T): Sri G.D.Pandey versus Union of India and others.

It is most respectfully submitted as under:-

1. That in the above mentioned case, I am the counsel for the Union of India (Northern Railway), but the certified copy of the judgment of this Hon'ble Tribunal dated 5.08.1992, which ought to have been issued to me, was issued to some other person interested in this case.
2. That Certified Copy of the judgment of this Hon'ble Tribunal dated 5.08.1992 is urgently required by me for perusal and record.

PRAYER

WHEREFORE, it is most respectfully prayed that an URGENT CERTIFIED COPY of this Hon'ble Tribunal dated 5.08.1992 passed in T.A.No.1703/87(T): Sri G.D Pandey versus Union of India and others, be issued to me on payment of necessary charges. For this purpose, Indian Postal Order/s is being enclosed herewith.

504 953 601 = 7/-

Encl: IPO No 4-19-446155-5/-
at 11.2.93 for Rs. 5/-

3 pages
X 2 = 12 Rs.
Lucknow, Dated :
February 11, 1993

S. Verma
(Siddharth Verma)
Advocate,
Counsel for Union of India/
Northern Railway.