ANNEXURE

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE TA.264/87 W.P. No. 1881/75 OF .....

NAME OF THE PARTIES R.C. ~~Kh~~ Kathuria

.....Applicant

Versus

V.O.I. & Ors .....Respondent

Part A,B & C

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13			

CERTIFICATE

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

All ready ~~Pritious~~ Bedecant Files.

Dated 16-3-12

Counter Signed.....

Section Officer / In charge

Signature of the Dealing Assistant

आदेश पत्रक
ORDER SHEET

अपील / निर्देश आवेदन रजिस्टर में सं०

No. in Reference Application / Appeal Register

T.A. 264/87

W.P. 1881/75 Lko.

करण
Tribunal

R.C. Kathuria 2 ors.

Vs.

Secretary Railway Board and others.

द्वारा बनाम प्रत्यर्थी

Vs. Respondent

क्रम संख्या रीख aber of date	संक्षिप्त आदेश, निर्देश देते हुए, यदि आवश्यक हो Brief order, mentioning reference, if necessary	पालन कैसे करने How co date

Office report.

Writ petition No. 1881/75 has been received on transfer from High Court, Lko.

Counter and Rejander has been filed. Petition is admitted and Petition is pending for hearing.

Notices issued to both parties fixing 7-7-87 by regd post.

No undelivered regd cover has been returned back till today.

Srivastava

3/7/87

(3)

आदेश पत्रक
ORDER SHEET

अपील / निर्देश आवेदन रजिस्टर में सं०

No. in Reference Application / Appeal Register

TA - 264/87

रण
ibunal

बनाम

प्रत्यर्थी

Vs.

Respondent

संख्या of te	संक्षिप्त आदेश, निर्देश देते हुए, यदि आवश्यक हो Brief order, mentioning reference, if necessary	पालन कैसे हुआ करने की How complied date of com
87	Hon. D.S. Misra - Am. Hon. G.S. Sharma - Jm Sri A.V. Srivastava for the respondent is present and requests for time to file objection against the impleadment. He is allowed to do so within two weeks. As this is an old case no further adjournment shall be allowed. The case is adjourned to 4/11/87 for final hearing. Am. Jm.	
17	Hon A. John - AM Hon G.S. Sharma JM On the request of applicants counsel, the case is adjourned to 15/12/87 AM JM	

(कृ०पृ०उ०)

क्रम संख्या तारीख Number of and date	संक्षिप्त आदेश, निर्देश देते हुए, यदि आवश्यक हो Brief order, mentioning reference, if necessary
2/87	DR As the Hon'ble bench is n available today, the case is adj to 16/2/88 as prayed. DR(
6.2.88	DR Counsel for the applicant is allowed time for filing rejoinder by 7.3.88. DR
7.3.88	DR Rejoinder in implementation applica has been filed today, but no coun affidavit ~~has yet~~ to the effect ha yet been filed. Put up on 8.4.88 In the meantime counter if any ma be filed. DR
8.4.88	DR Counter and rejoinder affida having been filed, list hope co for hearing on 8.7.88 DR

(5)

(14)

8/7/88

Hon. D.S. Misra - Am.
Hon. G.S. Sharma - Jm

On the request of applicant's counsel, the case is adjourned to 28/7/88 for hearing. It is a very old case. No further adjournment shall be allowed.

Am.

Jm.

(15) 28.7.88 No sitting adj. to 27.10.88 for hearing.

(16) 27.10.88. No Sitting Adj to 8.12.88

8.12.88. No Sitting Adjn to 27.1.89. [illegible]

~~27.1.89 Hon. D.S. Mishra - Jm.~~

(6) T.A. 264-87

13

27.1.89 Hon. G.S. Sharma J.M.
Hon. K.J. Raman - A.M.

None is present for the applicant. On the request received from the respondent's counsel Sri A.V. Srivastava, the case is adjourned to 1.3.89 for hearing.

A.M. J.M.

14 1.3.89 No Sitting Adjs to 17.5.89 for hearing. Sri A.V. Srivastava Counsel for respondents ~~[illegible]~~ files objection against impledment application and Supplementary Reply also.

15

17.5.89 No Sitting Adjs to 30.8.89 for hearing with T.A. 266-87 T.

16 30.8.89. Hon G.S.S./ K. Obayya.

Due to lawyers strike Case is adjourned to 8.11.89 before DR(J) for fixing a date for hearing alongwith TA 266/87.

Boc.

(7)

TA 264/87

A/c

(17)

. 89. DR

On the request of the Parties Counsel let this case be put up before court for hearing on 8-2-90

DR

2-90 No sitting. Adjn. to 15-3-90 for hearing alongwith 266/87

C.C.
B.O.

15.3.90 No sitting. Adjn to 19.4.90 for hearing.

19.4.90 Hon'ble K. Nath, VC/ Hon K. J. Raman, AM

On the adjournment application of Sri A.V. Srivastava Counsel for the ~~applica~~ respondents case is adjn to 17.7.90 for hearing alongwith TA. 266/87.

AM

VC

(9)

T.A. 264/87

21

17/7/90

Hon Justice K. Rath, VC.
Hon K. Obayya, AM.

Heard the learned counsel for the parties. Th
is an application for impleadment of "R.D.S.O. Class
Officers Association through its President or any oth
office bearer" supported by an affidavit of Shri B.L.S
as Vice President as a petitioner in this case. The
application is opposed and it is pointed out in the
objections that the Associations' Bye-laws do not cont
a provision to enable Associations to file any judic
proceeding; but that is more important from the p
of view of Procedure ~~is~~ prescribed for the Tribu
that under Rule 4(5)(b) the application on
behalf of the Association must be joined by at
one of the affected persons as the petitioner. Th
is nothing in the application for impleadmen
show that Shri B.L. Sharma is one of the petiti
in this case. The learned counsel for the peti
says that the Hon'ble Supreme Court has al
the application of the Association to be interv
in the case before the Hon'ble Supreme Cour
Intervener is not the same thing as ~~the~~ a pe
Moreover, the powers of the Hon'ble Supreme Co
are not controlled by special statute like the
Administrative Tribunals Act, 1985 and ~~which~~
from the Constitution of India. The learned Counsel
the petitioner says that a very large numbe
officials who are not parties to this litigati
likely to be benefitted by the ultimate re
this case but the attitude of the Departm
been to give actual relief only to those
who are successful petitioners. We suppose
Department is aware that persons placed in th
same position have to be given relief on parity o
do not think that in a proper case the Departme
would hesitate in doing so. The application f
impleadment is accordingly rejected. Shri A.
says that the record is awaited which will be nec
the purpose of hearing of the case. The case will be
for hearing on 7/8/90 as agreed by the counsel for the
It is hoped that no further adjournment will be so
A copy of the order may be given to the Counsel for t
respondents.

(10)

22 7.8.90 Hon K. Nath, VC
Hon. K. J. Raman, AM

Not reached adj to 17.10.90 for hearing.

Amit
Bac

23 17.10.90 No sitting adjn to 17.1.91 for hearing.

Amit
17.10.90

24 17-1-91 No sitting. Adjourned to 13-3-91 for hearing.

Sub

OR

Recd.
Amt Recd Dn. NONIL/90
from the office on 13.3.91 at 1.00PM and placed on record.

Amit
13.3.91

25 13.3.91 Hon. Mr. Justice U.C. Srivastava
Hon Mr. A.B. Garthi, AM

On the request received on the behalf of the learned counsel for the applicant. Case is adjn to 10-7-91 for hearing

AM

VC

26 10-7-91 Hon. D.K. Agrawal J.M
Hon. K. Obuleswa A.M

On the request of counsels for the parties, case is adjourned to 25/9/91 for hearing.

B.O.C

T.A. 264/87

35

Date
5.2.93

Hon'ble Mr. K. Obayya A.M
Hon'ble Mr. S.N. Prasad, J.M

None for the applicant. The learned counsel for respondents has sought adjournment on the ground of illness. List this case for hearing on 26.3.93.

A.M.

J.M.

36 Date
26.3.93

Hon'ble Mr. S.N. Prasad, J.M

The case is adjourned to 6.4.9[illegible] for hearing.

J.M.

37 6.4.93 Hon Mr S.N. Prasad/JM

List on 20.5.93

JM

20.5.93

38 No sitting of D.B. adjourned to

~~25.6.93.~~
22.7.93.

(14)

39 22.9.93

Due to Strike of lawyers Case is adjourn to 17.9.93

OR SFH

40 17.9.93 Case is adj to 8.10.93

15/9

41 8.10.93 Adjourn to 19.11.93

OR S.F.H.

7/10

OR SFH 16/11

42 19-11-93. Hon.Mr.S.N.Prasad,J.M.
Hon.Mr.V.K.Seth, A.M.

Shri A.V.Srivastava, learned counsel for the respondents is present. He informs the Court that the counsel for the applicant Dr.Gyan Prakash is no more alive. Issue notice to the applicant for engaging another counsel. List this case on 21-1-94.

A.M. J.M.

OR S.F.H. 20/1

43 21/1/94

Hon. Mr. S.N. Prasad, J.M.
Hon. Mr. V.K. Seth, A.M.

Shri D.C. Srivastava brief holder of Shri A.V. Srivastava Counsel for the respondents has sought adjournment. List this case on 18/2/94 for hearing & disposal.

OR S.F.H. 17/2

A.M. J.M.

(15)

T.A 264/00 I

44 18.2.94

Due to Strike of Adv. adjourn to 25.4.94 & Bae

45 25/4/94

Hon. Mr. S.N. Prasad, J.M.
Hon. Mr. V.K. Seth, A.M.

Shri K.K. Jauhari Counsel for the applicant & Shri A.V. Srivastava Counsel for the respondents are present. Shri Srivastava seeks Adjournment. List this case on 25/7/94 for hearing & disposal

OR
Submitted for hearing
to
25/7

A.M.

J.M.

46
29-7-94

Lawyers abstain from Judicial work adjourn to 8-9-94.

BOC.

OR
Submitted for hearing
to
6/9

47 8/9/94

Hon'ble Mr. D.C. Verma, J.M.
Hon'ble Mr. S. Dayal, A.M.

Present:- Applicant:- Sri K.C. Johari Adv.
Respondents:- Sri A.V. Srivastava, Adv.

OR
Submitted for hearing
to
18/10

Learned Counsels for the parties wants time. Time is allowed. List on 19/10/94 for hearing.

A.M.

J.M.

48 19.10.94 Hon. Mr. Justice B.C. Saksena, V
Hon. Mr. V.K. Seth, AM

List this case before some other Division Bench of Hon V.C is not a member Bch on 22.11.94 for hearing.

Bch
VC

AM

49 22.11.94 List this case for hearing on ~~5.12.94~~ 07.12-94 as requested by the counsel

D.R.

Not before Hon VC

OR
Submitted for hearing
6
6/12

50
7.12.94 No sitting of D.B. adj to 27.1.95

OR
Submitted for hearing
6
25/1

27.1.95 Hon Mr V K Seth, AM
Hon Mr D C Verma, JM

None for the applicant. Shri AV Srivastava, learned counsel for respondents is present.

(17)

TA

27-1-95

Hon Mr V K Seth, AM A/a
Hon Mr D C Verma, JM

Shri K C Jamhari learned counsel for applicant. Shri A V Srinivasan seeks 6 weeks time for seeking instructions from the respondents. Time prayed for is granted.

List for hearing on 10-3-95

JM

AM

52) 10.3.95

No sitting of D.B. case is adjourned to 31.3.95.

BOC.

OR

[illegible] for hearing

(18) T.A. No. 264/87

(53) 31.3.95

Hon'ble Mr. V.K. Seth, A.M
Hon'ble Mr. D.C. Verma J.M

Sri D.V. Srivastava learned counsel for respondent is present. a request has been received by the learned counsel for applicant to adjourn the case list on 28.4.95 for hearing

OR
Submitted for hearing

J.M

A.M

(54) ~~31.5~~
28.4.95

Hon'ble Mr. V.K. Seth, A.M
Hon'ble Mr. D.C. Verma J.M

On the adjournment application of counsel for respondent adj to 31.5.95

OR
Submitted for hearing
30/5

J.M

A.M

(55) 31.5.95

Hon'ble Mr. V.K. Seth, A.M
Hon'ble Mr. D.C. Verma, J.M

Sri Siddharth Verma, learned counsel states that he shall henceforth be appearing on behalf of the respondents union of India and prays for adjournment.

List for hearing on 14-

OR
Submitted for hearing
13/7

J.M.

K.N.

(19)

T.A 2

56) 14.7.95

A/P

No Sitting of D.B. Calfo
to 8.8.95

Bve

OK
Submitted for hrg
L
4/8

57) 08-8-95
D.R.

Shri R.P. Singh. one of the appli-
cant is present. None for
the respondents. Place bef
the Hon'ble Bench on 11-9-
for hearing.

D.R.

58) 11-9-95
D.R.

Sri. R.P. Singh. one of th
applicant is presen
None for the respon-
dents. Place before the
Hon'ble Bench on 26/9/9
for hearing.

D.R.

59) 26.9.95 Lawyers abstain for Judl work
Calfon to 10.10-95

Bve

OK
Submitted for hrg
L
29/9

(60) 10.10.95 Hon Mr V.K Seth, AM
Hon Mr D C Jarmay JM
None for applicant
Last on 18.10-95

OK
Submitted for hrg
16/10

JM

(21) T.A 264/87

61) 18/10/95

Hon. Mr. V.K. Seth, A.M.
Hon. Mr. D.C. Verma, J.M.

None for the Parties.
List tomorrow.
Sri S. Verma who had appeared on the last occasion states that Sh. A.V. Srivastava will be appearing in this case

J.M.

A.M.

62) 19.10.95

Hon. Mr. V.K. Seth, A.M.
Hon. Mr. D.C. Verma, J.M.

None for applicant.
Sri A.V. Srivastava for respondent. Heard.
Judgment Reserved.

JM.

AM.

List before DB (myself & Hon'ble Sri V.K. Seth) for being spoken to, in Jan 96

18/12

OK
[illegible]
10/1

(63)
18-12-95
DR

Place before me for fixing date.
Place before the Hon'ble Bench on 08-1-96 for hearing.

18/12
DR

(22)

(64) 08/2/96
DR

Place before me for fixing date. Appropriate bench is not available. Place before the Hon'ble bench on ~~26-4-96~~ 20-2-96 for hearing. ~~Inform the parties.~~

OR

Submitted for hearing

16/2

DR

65) 20/2/96

Hon. Mr. V.K. Seth, A.M.
Hon. Dr. R.K. Sakena, J.M.

for applicant: Sh. K.C. Johan
for respondents: None

List on 25/3/96 ~~for hearing~~

J.M.

A.M.

OR
Noticeissued today
21-3-96.

(66) 25/3/96
DR.

Concerned Bench is not available. List on 23/5/96 before Hon. Concerned Bench.

DR

OR
Submitted for hearing

21/5 (67) 23.5.96

Due to Jail demand of Sr. J.M. Sulsen Adv. adjourn 04.7.96

(68) 4.7.96

OR
Submitted for hearing

3/7

No sitting of D.M. adjourn 05.8.96

A/12

(74) 28/1/97

Hon'ble Mr. V.K. Seth, Am.
Hon'ble Mr. D.C. Verma, J.M.

The applicant is present in person. Sh. S. Verma has filed Power on behalf of respondents today.

List on 25/2/97

J.M. A.M.

OK
Submitted for hearing
Spoken to.
18/2

(75) 25/2/97

Hon'ble Mr. V.K. Seth, Am.
Hon'ble Mr. D.C. Verma, J.M.

None for the parties.

List on 20/3/97

J.M. A.M.

OK
Submitted for hearing
20/3/97

(76) 20/3/97

Hon'ble Mr. V.K. Seth, Am.
Hon'ble Mr. D.C. Verma, J.M.

Sh. K.C. Jaubari for applicant. Sh. S. Verma for respondents.

List on 16/4/97

J.M. A.M.

OK
Submitted for hearing
8/4/97

(77) 16-4-97

Hon'ble Mr. V.K. Seth, A.M.
Hon'ble Mr. D.C. Verma, J.M.

None for parties.

List on 12-5-97.

J.M. A.M.

(24)

5.8.96

Hon. Mr. V.K. Seth - A.M.
Hon. Mr. D.C. Verma - J.M.

On the request of Counsel
to appl. at adjourn to 23.8.96

J.M. A.M.

(70) 23.8.96

No sitting of D.B. case
adj to 18.10.96.

OK
Submitted for hearing

Bec

15/10

(71) 18.10.96

Hon. Mr. V.K. Seth - A.M.
Hon. Mr. D.C. Verma - J.M.

OK
Submitted for hearing

None responds either at
in pubs hrs. on 11.12.96

J.M. A.M.

(72) 11/12/96

Hon. Mr. V.K. Seth, A.M.
Hon. Mr. D.C. Verma, J.M.

At the request of Sh. A. Srivastava appearing for Sh. S. Verma, Counsel for the respondents, the case is adjourned.

List under the Heading of 'for before the same Bench spoken to' on 3/1/97

J.M. A.M.

OK
Submitted for hearing

(73) 3.1.97

No sitting of D.B. adjourn
29.1.97

22/1

Bec

(14) 12-5-97 (5) (28) TA 264/8

Hon. Mr. V K Seth. AM
Hon Mr. DC Verma JM

Shri V. P. Mishra brief holder for Shri K. C Jain for applicant prays for adjournment.

Last on 27-5-97.

JM

AM

OR

Submitted for hearing

19.5.97

(19) 27.5.97

Lawyer abstain for Dedl. work
Adjn. to 08.7.97

Ber

OR (80) 8.7.97

Submitted for hearing

3/9/97 (81) 11-9-97

No. Srinagar, D. M. adjn.
11.9.97

BOC

Hon. Mr V. K. Seth. AM.
Hon. Mr. DC. Verma, JM

None for applicant.
Shri S Verma for respondents.
Last on 22-10-97 for being spoken to.

JM

AM

OR

Submitted for hearing

7/10/97

(82) 22-10-97

Hon. Mr. V. K. Seth, A.M.
Hon. Mr. D. C. Verma, J.M.

for applicant: Sri K. C. Joshari
for respondents: Sri S. Verma

After hearing both the sides, they are allowed to exchange file pleadings for giving latest chronological position of rules and orders as also relevant rulings dist for orders on 10-12-97.

J.M.

A.M.

(83) 10-12-97
D.R.

None for parties. Appropriate bench is not available. Place before Hon'ble Bench on 07-1-98 for order.

DR

Adj 7-1-98

Lawyers are absent from jud work. Adj to 4-2-98

BOC

T.A. 264/87

(27)

D.A. no 264

A/H

(26) 4-2-98

Hon. Mr. V.K. Seth, A.M.
Hon. Mr. D.C. Verma, J.M.

For applicant: Sri B.N. Pandey, brief holder for Sri K.C. Saxena.
For respondents: Sri S. Verma

OR
Supply C.A. filed by respondents.
9/2/98

Supplementary C.A. has been served and is being filed. The applicant is allowed 2 weeks time for filing of supplementary R.A.

List for orders on 26-3-98.

J.M.

A.M.

(25) 26-3-98

No sitting of D.B. after lunch
Case is adjourned to 1-7-98.

B.O.C

(24) 1-7-98

No sitting of D.B. Case is adjourned to 3-8-98.

OR
Submitted for orders
28/7/98

B.O.C

(23) 3-8-98. No sitting of DB. Adj to 14-10-98

TA No 264/87 (28)

(90) 14/x/98

No sitting of DB case adj to 30-11-98.

BOC

OR

Submitted for orders.

26/11/98

(91) 30-11-98

No sitting of DB case adj to 18-1-99 for being spoken to.

BOC.

(92) 18/1/99

Hon. Mr. D.C. Verma, J.M.
Hon. Mr. A.K. Misra, AM.

Sh. U.P. Misra Proxy counsel for Sh. K.C. Jauhri. Sh. S. Verma for respondents.

Supp. C.A. was filed by the respondent in Feb. 98 with MP No. 231/98 for condone of delay in filing the same MP is allowed & supp. C.A is taken on record. The case has become very old and about one year has passed, but supp R.A has not been filed till date. However, as prayed one week time is allowed to the applicant to file supp. RA

List on 27/1/99 for being spoken to.

AM.

J.M.

(93) 27/1/99

Hon. Mr. D.C. Verma, J.M.
Hon. Mr. A.K. Misra, AM.

None for the applicant. Sh. S. Verma for respondents. R.A to supp C.A has not been filed by the applicant so far. The same be filed by the next date. However in case it is not filed by the next date & decided

T.A. 264/87

(27)

D.A. no 264

A/4

(26) 4-2-98

Hon. Mr. V.K. Seth, A.M.
Hon. Mr. D.C. Verma, J.M.

For applicant: Sri B.N. Pandey, brief holder for Sri K.C. Jaiswari.
For respondents: Sri S. Verma

OR

Supply C.A. filed by respondents.
9/2/98

Supplementary C.A. has been served and is being filed. The applicant is allowed 2 weeks time for filing of supplementary R.A.

List for orders on 26-3-98.

J.M.

A.M.

(27) 26-3-98

No sitting of D.B. after lunch
Case is adjourned to 1-7-98.

B.O.C

(28) 1-7-98.

No sitting of D.B. Case is adjourned to 3-8-98.

OR

Submitted for orders.
28/7/98

B.O.C

(29) 3-8-98. No sitting of DB. Adj to 14-10-98

(94) 15-2-99.

(29) TA.No. 264/87 in WP No 1881/75

Hon'ble Mr. D.C. Verma, J.M.
Hon'ble Mr. A.K. Misra, A.M.

For applicant none.
For respondent Sri S. Verma has been granted general adjournment.
List on 16-3-99 for hearing.

A.M.

J.M.

(95) 16-3-99

Hon'ble Mr. D.C. Verma, J.M.
Hon'ble Mr. A.K. Misra, A.M.

For Applicant : Sri V.P. Misra
brief holder for Sri K.C. Sonkar.
For Respondents : Sri S. Verma.

Supp. CA filed by the respondents on 4-2-99 reply has been served and filed today on behalf of the applicant.

Learned Counsel for applicant seek adjournment on the ground that his senior is busy in High Court and he is unable to come today. The case has not been listed for being spoken to as new bench has been constituted.

List on 25-3-99 for hearing

A.M.

J.M.

(96) 25.3.99

No sitting of D.B.
adj. to 6.4.99.

BOC

(97) 06-4-99

Hon'ble Mr. D.C. Verma, J.M.
Hon'ble Mr. AK Misra, A.M.

Applicant in person.
Sri S. Verma for respondent.
List on 25-5-99 for hearing.

A.M. J.M.

(98) 25-5-99

Hon'ble Mr. D.C. Verma, J.M.
Hon'ble Mr. AK Misra, A.M.

None for applicant.
Sri S. Verma for respondents.
List for hearing on 19-7-99.

A.M. J.M.

(99) 19-07-99

Hon'ble Mr. D.C. Verma, J.M.
Hon'ble Mr. AK Misra, A.M.

None for applicant.
Sri S. Verma for respondents.
List for hearing on 03-8-99.

A.M. J.M.

OR

Supply Reply filed.
23/7/99

TA 264/87

(100) 3-8-91

Hon Mr D C Verma, JM
Hon Mr A K Mishra, AM

Shri P P Mishra BH for Shri KC Jauhari for applicant
Shri S. Verma for respondents.

This case was initially filed in the year 1975 before the Hon High court and later transferred and Registered as TA 264/87. The case is pending since then for decision. learned counsel for applicant seek adjournment. Note sheet shows that none appeared for the applicant on 6-4-91, 25-5-91 and 19-7-91. Priority is being given to this case as it is the oldest case on record. But it appears that the applicant himself is not interested in getting the case decided. However, as the adjournment is being taken, in the interest of justice, adjournment is granted subject to deposit of Rs 200/- as cost. The cost should be deposited with the Registry within one week.

List for hearing on

11-8-91

AM

JM

TA 264/87

(101) 11-8-99.

No setting of DB case adj to 02-9-99 for hearing

BOC

(102) 02.09.99

Due to sad demise of Subhbir Singh Advocate the case is adjourned to 04-11-99 for hearing.

B.O.C.

(103) 04-11-99

Hon'ble Mr D. C. Verma - JM
Hon'ble Mr A. K. Mitra AM

Sri K. C. Jauhari counsel for applicant

Sri S. Verma Counsel for respondent

List for hearing on 09.12.99.

AM.

J.M.

TA 764/87

(104) 9.11.99

Hon Mr D.C. Verma JM
Hon Mr A.K. Misra AM

Here for applicant.
For respondents Sri S. Verma.
List for hearing on 17.1.2000

DM JM

17/01/2000

(105)

Hon'ble Mr D.C. Verma — JM
Hon'ble Mr A.K. Misra — AM

Sri K.C. Jauhari, counsel for applicant.

Sri S. Verma, counsel for respondent

Heard. Order reserved.

JM

DM

(106)

Hon'ble Mr D.C. Verma — JM
Hon'ble Mr A.K. Misra — AM

order pronounced in open court

lodge

TA 264/89

Hon Mr D.C. Verma JM
Hon Mr A K Mishra AM

None for applicant.
For respondent Sri S. Verma.
but for hearing on 17.1.2000.

AM JM

17/01/2000

(105) Hon'ble Mr D.C. Verma - JM
Hon'ble Mr A K Mishra - AM

Sri K. C. Jauhari, Counsel for applicant.
Sri S. Verma, Counsel for respondent
Heard Order reserved.

AM JM

(106) 31/01/2000
Hon'ble Mr D. C. Verma - JM
Hon'ble Mr A K Mishra - AM

order pronounced in open court today

order dt 31-1-2000 prepared on 04-2-2000

AM JM

04/2/2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

LUCKNOW BENCH, LUCKNOW.

Original Application No. of 1998.

T.A.~~R.A./C.C.P~~.No. 264/87 of 1998.
(WP No. 1881/1975)

Date of Decision: 31.1.2000

R.C. Kathuria & others .Applicant

Shri K.C. Jamhoor Advocate for applicant

Versus

Railway Board & ors Respondents

Shri S. Verma Advocate for Respondents

CORAM

HON'BLE MR. D. C. Verma, J.M.

HON'BLE MR. A. K. Mishra, A.M.

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 cerculated to other benches ?

Vice chairman/Member

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

Lucknow this the 31st day of ~~Feb.~~ January 2000.

T.A. No. 264/87

(Writ Petition No. 1881/1975)

HON. MR.D.C.VERMA, MEMBER(J)

HON. MR. A.K. MISRA, MEMBER(A)

1. R.C. Kathuria, aged about 46½ years son of late Shri Khan Chand Kathuria, Qr. No. Spl. IV 29 B, Manaknagar, Lucknow-11.

2. B.S. Bhatnagar aged about 45 years son of Shri Brijmohan Sarup Bhatnagar, Bhairon Pd Road, Chandganj, Kalan, Lucknow.

3. S.L. Bhatia, ARE aged about 46 years son of late L. Hukam Chand Bhatia Qr. No. A-24, Manaknagar, Lucknow 11.

4. B.K. Jain ARE aged 40 years son of Sh. B.K. Jain Qr. No. Spl. IV/13 B, Manaknagar, Lucknow.11.

5. K.S. Parthasaradhi, ARE age 53 years son of Shri K. Prasada Rao, Qr. No. Spl. IV 33, B, Manaknagar, Lucknow-11.

6. S.S. Rajawat age 35 years, AIE, son of late Sri M.S. Rajwat Qr. No. LD 105.B. Manaknagar, Lucknow 11

7. D.S. Gabbi age 50 years son of late Sh. Saudagar Singh Qr. No. IV 22/B, Manaknagar, Lucknow-11.

8. S.R.D. Kapoor ADE age 49 years son of Sri Harparshad Kapoor Qr. No. IV40/B, Manaknagar, Lucknow-11,.

9. L.N. Singh ADE age 40 years son of late Shri Deo Bahadur Singh, Qr. No. Spl. IV 36 B Manaknagar, Lucknow-11.

10. M.L. Pathak, ADE AGE $) YEARS SON OF LATE Sh. Manohar Lal Pathak, Qr. No. Spl IV 32 C, Manaknagar, Lucknow.

11. N. Venkataraman, age 51 years ADE s/o late T.A. Narayanan 41, B Manaknagar, Lucknow-11.

12. M.N. Bashia age 51 years ADE s/o Sh. Narayan Rao Qr. No. Spl. IV 27/A, Manaknagar, Lucknow-11.

13. B.N. Mishra age 53½ years ADE son of late P. Mishra, Qr. No. II B/2 A, Manaknagar, Lucknow.11.

14. B.M. Chopra age 41 years ADE son of Sh. L.C. Chopra Qr. No. IV Spl. 29/D, Manaknagar, Lucknow-11.

15. R.M. Sahore, age 36 years son of Gita Ram Qr. No. IV Spl. 31 C, Manaknagar, Lucknow-11.

16. B.R. Deoraj age 42 years ADE son Shri Rajendra DeorajQr. No. IV 48, D. Manaknagar, Lucknow-11.

17. r.m. Sundaram ADE age 40 years s/o Shri S. Rajagopala Iyer, Qr. No. Spl. IV 30 D, Manaknagar, Lucknow-11.

18. S. Rajgopalan age 42 years, ADE son of late Shri. M.K. Srivastava Iyer Qr. No. IV-41 C Manaknagar, Lucknow-11.

19. A.B. Chatterjee ARE age 41 years son of Shri S.K. Chatterjee Qr. No. IV 42/A, Manaknagar, Lucknow-11.

20. A.B. Chatterjee ARE age 41 years son Shri S.K. Chatterjee Qr. No. IV 42/A, Manaknagar, Lucknow-11.

21. MN. Wanikar ADE AGE $% YEARS SON OF LATE Narayan Qr. No. IV-21/A, Manaknagar, Lucknow-11.

22. Shri Gurdial Singh aged 43 years ADE son of Shri Sharbhajan Singh Qr. No. IV/22, A, Manaknagar, Lucknow.

23. K.N. Ganesa Kumar, ADE age 47 years son of Shri R.N. Kunju Krishna Pillai Qr. No. 31/B Type IV Spl. Manaknagar, Lucknow-11.

24. a.s. Thakur ADE age 43 years son of late Shri P.S. Thakur Qr. No. Spl. IV, 45/A, Manaknagar, Lucknow.

25. N.K. Oza age 35 years ADE son K.M. Oza Qr. No. Type IV Spl. 41 C, Manaknagar, Lucknow-11.

26. R.B. Kanitkar age 40 years ARE son of late B.R. Kanitkar Qr. No. IV 55, Manaknagar, Lucknow-11.?

27. M.P. Mathur age 49 years ARE son of late Shri Rajeshwar Prasad Qr. No. IV Spl. 37/B, Manaknagar, Lucknow-11.

28. Gian Chand ADE age 37 years son of late Sh. Ladli Prasad Qr. No. Type IV, 47, B, Manaknagar, Lucknow-11.

29. Y.D. Shukla ARE age 45 years son of late Sh. Sidh Gopal Shukla Qr. No. LD/10-B, Manaknagar, Lucknow-11.

30. R.P. Singh ADE AGE %(YEARS SON OF Sh. Saligram Singh Qr. No. 44 B-IV Manaknagar, Lucknow-11.

31. v.k. Jaiswal ARE age 37 years son of Shri K.G. Jaiswal Qr. No. IV Spl 41-A, Manaknagar, Lucknow-11.

32. V.K. Natu ARE age 41 years son of Shri M.G. Matu, Qr. No. Spl. IV, 44 C, manaknagar, Lucknow-11.

33. Amri Lal Age 40 years ARE son of Shri M.L. Kalra Qr. No. Spl. IV 45-D, Manaknagar, Lucknow-11.

34. K. Santhanaam ADE age 38 years son of late K.N. Krishna Swamy Qr. No. Spl. IV 38-A, Manaknagar, Lucknow-11.

35. L.A. Chellani ADE AGE $$ YEARS SON OF Shri Assudomal Qr. No. IV 23, Manaknagar, Lucknow-11.

36. K.S. Bhati AIE age 37 years son of Shri Gurcharan Singh Bhati, Qr. No. 56-A, Staff Colony, H.F. New Delhi.

37. M.R.G. nair ALE AGE $) YEARS SON OF Shri P.C. Nambiar Qr. No. IV-45-B, Manaknagar, Lucknow-11.

38. M.D. Mahashabde age 49 years ADE son of Shri Late D.B. Maheshabde, Qr. No. IV Spl. 30-A, Manaknagar, Lucknow.

39. S.B. Mathur age 50 years ADE son of Shri Nawal Behari Mathur Qr. No. Spl. IV 16 B Rafi Ahmad Kidwai Marg, Lucknow.

40. C. Vishwanathan son of Shri V. Gopala Iyear aged about 42 years Qr. No. P 264 B, Jatin Bagchi Road, Calcutta-9.

41. D.C. Gosain age 53 years ADE son of Sh. K.R. Gosain Qr. No. Spl. IV-27, B, Manaknagar, Lucknow-11.

42. Joginder Pal age 49 years AIE son of late Sh. Mehar Chand Bajaj, Quarter No. Spl. IV 34-D, Manaknagar, Lucknow-11.

43. P.S. Marwah age 48 years ARE son of late Sh. S.B. Singh Qr. No. IV Spl. 35 A, Manaknagar, Lucknow-11.

44. K.L. Sehgal aged 51 years ADE son of Shri Hira Nand Sehgal, Qr. No. Spl. IV 34-B, Manaknagar, Lucknow-11.

45. B.K. Saxena aged 47 years ARE son of Late Sh. Harbishan Dayal Vishan Niwas Motinagar, Lucknow.

46. B.N. Roy aged 54 years ADE son of late Shri A.N. Roy Sector A/7/2, Manaknagar, Lucknow-11.

47. K.N. Thirunikanthan ADE AGED %£ YEARS SON OF Shri narain Swami Qr. No. III-65 D, Manaknagar, Lucknow-11.

48. K.K. Maniar aged ARE son of Shri Taranchand Maniar Qr. No. IV Spl. 28 C, Manaknagar, Lucknow-11.

Petitioners/Applicants.

By Advocate Shri K.C. Jauhari.

versus

1. The Railway Board through its Secretary Rail Bhawan, New Delhi.

2. Deputy Director (Pay Commission), Railway Board, Rail Bhawan, New Delhi.

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

4. The Joint Director Finance Cum Administrative Accounts Officer, R.D.S.O. Manaknagar, Lucknow.

Respondents.

By Advocate Shri S. Verma.

O R D E R

BY D.C.VERMA, MEMBER(J)

The applicants have challenged the order by which the special pay of Rs 150/- per month which was being drawn by them as Class II Officer (Technical) was withdrawn by the respondents.

2. This petition was initially filed as Writ Petition No. 1881/1975 before the Lucknow Bench of the Hon. High Court of Judicature, Allahabad. After the Administrative Tribunals Act, 1985 came into force, the aforesaid writ petition was transferred to the Tribunal and the writ petition has been re-numbered as T.A. no. 264/1987.

3. The brief facts of the case are that the applicants were holding Class II Posts in the Research, Design and Standards Organization (in Short R.D.S.O.) on the technical side. The Technical personnel in class II in the R.D.S.O. were being recruited from two sources; (i) by promotion of class III incumbents of the R.D.S.O. and (2) by transfer of the incumbents from the zonal Railways. On recruitment to the technical personnel in class II, either on the basis of promotion or on the basis of transfer from Zonal Railways, the incumbents were getting Rs 150/- per month as special pay. Subsequently, the Railway Administration passed an order to withdraw the payment of special pay to the class II incumbents who were promoted from class III in the R.D.S.O. by order dated 17.9.69 and 7.1.70. Aggrieved bythe aforesaid order, some of the the affected persons filed writ petition No. 973/1969 D.N.V. Challum and others vs. Railway Board through its Secretary, Rail Bhawan, New Delhi. (Copy Annexure-4 to the T.A.) The said writ petition was dismissed by learned Single Judge. The applciants therein filed Special Appeal No. 11/1971 which was heard and the writ petition was allowed and the orders of the Railway Board by which the Special pay was withdrawan or was made not admissible to the Sectional Officers promoted from class III was found violative of Articles 14 and 16 of the Constitution and was quashed vide order dated 2.11.72 (Copy Anneuxre-4 to the T.A.). Another writ petition No. 1114/1973 was filed by R.C. Kathuria and others, as inspite of representations, they were not granted the said special pay even after the order dated 2.11.1972. The writ petition filed by R.C. Kathuria and others was decided on 4.9.74 (Copy Annexure 5 to the O.A.). The relief given by the Hon. High Court vide its order dated 2.11.1972 in the case of D.N.V. Challum (supra) was directed to be given to the applicants of writ petition No. 1114/1973. Accordingly, the

petitioners of writ petition No. 1114/73 were also granted the special pay bythe Department.

4. During the course of arguments, the learned counsel for the respondents informed that R.C. Kathuria and 21 others who are applicants No. 1 to 22 inthe present T.A., were applicant nos. 24 to 47 in the writ petition No. 1114/1973. The submission of the learned counsel for the respondents is that all the applicants were given special pay till implementation of the Third Central Pay Commission. The Third Central Pay Commission 's recommendations were given effect from 1.1.1973, ~~as~~ the Third Central Pay Cammission had recommended that all special pays should be reviewed periodically, Accordingly, the Ministry of Railways, after notifying the revised scales of 1973, reviewed the position and came to conclusion that no special pay is justified for the category of Technical Officers Class II in the R.D.S.O.(whose designations were revised by office order No. 5 of 1970, Anneuxre 3 to the T.A.) whether they are borne on the cadre of R.D.S.O. or brought on deputation from the zonal Railways. The submission of the learned counsel for the respondents further, is that after introduction of the Third Central Pay Commission, the applicants were given option either to opt for the old scale with special pay or to opt for the new scale without special pay. The option was/given to be within three months w.e.f. 28.7.75. As the option was not given by the class II Technical Officers, the special pay was discontinued from 1.10.1975. Consequently, class II Technical Officers filed the present writ petition. The learned counsel for the applicant has submitted that under para 1307 of the Indian Railway Establishment Code, Volume II, special pay was granted to Technical Class II Officers of the R.D.S.O. in consideration of the special arduous nature of duties. This special pay was granted with reference to F.R. 9(25). The learned counsel for the applicant

has submitted that the Third Central Pay Commission had not recommended for stoppage of special pay which was being granted to class II Technical Officers of the R.D.S.O. The Department arbitrarily stopped payment of special pay after the Third Central Pay Commission without issue of any order to the effect that the nature of work performed by Class II Technical Officers of the R.D.S.O. was not arduous in nature after coming into effect of the Third Central Pay Commission. The learned counsel has submitted that without any such order, the payment of special pay could not have been stopped by the respondents.

5. We have heard the learned counsel for the parties at great length.

6. The Third Central Pay Commission had only recommended that all special pays should be reviewed periodically. The special pay which was being granted to the Technical Class II Officers of the R.D.S.O., was in particular not examined by the Third Central Pay Commission. Thus, it was left open to be reviewed periodically. It is not denied that the provision for grant of special pay is as per para 1307 of the Indian Railway Establishment Code. Para 1307 is reproduced below;

> **"1307.(F.R.9(25) Special Pay-** means an addition of the nature of pay, to the emoluments of a post or of a railway servant, granted in consideration of-
> (a) the specially arduous nature of duties; or
> (b) a specific addition to the work or responsibility and includes non-practicing allowance granted to doctors in lieu of private practice."

No other provision for grant of special pay has been brought to our notice. The special pay was thus, being granted to the applicants as Technical Officers Class II under para 1307 (a) for special arduous nature of duties. Once such special pay was granted, it was for the department to examine the nature of work being performed and to pass an order thereafter, whether the nature of duties remained arduous or it has otherwise

changed. In case the nature of duties is not found arduous, an order to that effect may be passed and special pay may be stopped. In the case in hand, there is no such order that the nature of duties which were being performed by Class II Technical Class II Officers of the R.D.S.O., was not of arduous nature. Consequently, the stoppage of the special pay was arbitrary.

7. In view of the discussions made above the order dated 28.7.75 (Anneuxre 13 to the T.A.) that no special pay is admissible in the revised scale of pay tothe applicants, is quashed. The O.A. is allowed accordingly and the respondents are directed to pay to the applicant, the special pay even in the revised scale of pay within a period of three months from the date of communication of this order. Costs easy.

MEMBER(J)

MEMBER(A)

Lucknow; Dated: 31.1.2000

Shakeel/

A/20

CIVIL
SIDE
CRIMINAL

GENERAL INDEX

(*Chapter XLI, Rules* 2, 9 *and* 15)

Nature and number of case .....W.P. No. 1881 - 75

Name of parties.....R. C. Kathuria ra. vs. The Secretary Railway Board

Date of institution .....1-9-75..... Date of decision .....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee: Number of stamps	Court-fee: Value	Date of admission of paper to record	Condition of document	Remarks including date of destructio of paper, if any
1	2	3	4	5	6	7	8	9
					Rs. P.			
	1-	W.P. with Annexure and affidavit	78.		102.00			
	2.	Counter affidavit	10.		2.00			
	3.	Rejoinder affidavit	8.		2.00			
	4-	Counter affidavit of Sr. R. P. Jetley	17.		2.00			
	5-	Rejoinder affidavit of Sr. K.K. Manian	11-		2.00			
	6-	CMA. 7107(W) of 79.	15-		7.00			
	7-	Counter affidavit	56.		2.00			
	8-	CMA. 4799(W) of 75	2-		5.00			
	9-	CMA. 5821(W) of 75 & 5	12-		7.00			

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

Munsarim.

Date.....

Clerk.

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee: Number of stamps	Court-fee: Value	Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
1	2	3	4	5	6	7	8	9
					Rs. P.			
	10	C.M.A. 1175(W) of 76	5		7.00			
	11	C.M.A. 4537(W) of 76	2		5.00			
	12	C.M.A. 652(W) of 79.	6		7.00			
	13	C.M.A. 1235(W) of 80.	1		5.00			
	14	Power	9		25.00			
	15	Supplying C.A.	3		7.00			
	16	C.M.A. 3216(W) of 82.	4		5.00			
	17.	Memo.	1		—			
	18.	Court fee	2		4000.00			
	19.	C.M.A. 2140(W) of 84.	5		7.00			
	20	C.M.A. 5452(W) of 85 for restoration	4		7.00			
	21	Power	1		5.00			
	22.	C.M.A. 14487(W) of 86	19		7.00			

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

Date.....

Munsarim.
Clerk.

PSUP—L. 4 H.C.—1973—15,000.

CIVIL
———SIDE
CRIMINAL

GENERAL INDEX

(*Chapter XLI, Rules* 2, 9 *and* 15)

Nature and number of case ..... Wp. 1881 - 75

Name of parties.....

Date of institution ..... Date of decision .....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
	23	Power	1 -	-	5-00			
	24.	Order Sheet	13 -	-	- -			
	25.	Bench Copy.	1 -	-	-			

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

Date.....

Munsarim.

Clerk.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW) BENCH) LUCKNOW.

Writ Peititon No. 1881 of 1975

6099

R.C. Kathuria & Others . . . . . Petitioners

Versus

The Secretary Railway Board,
Lucknow & Others... .. . . . . Respondents.

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...

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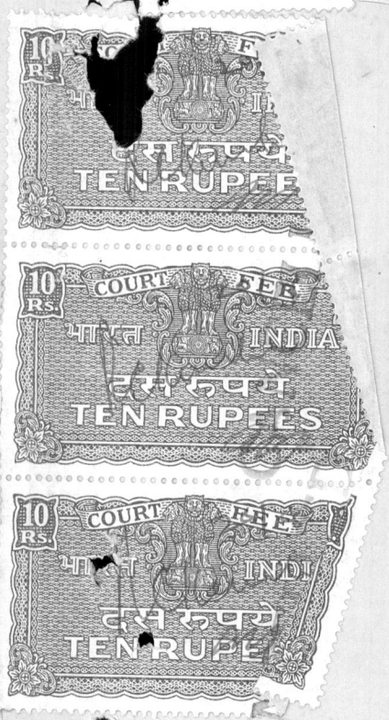
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

Writ Petition No. 1881 of 1975





10 of Rs. 100/
1.9.75

In the matter of Constitution of India

AND

In the matter of Article 226 of the Constitution of Indi

AND

In the matter of

1. R.C. Kathuria, A.D.E., aged 46 ½ years son of late Sh. Kham Chand Kathuria, Qr. No. Spl. IV. 29 B, Manaknagar, Lucknow-11

2. B.S. Bhatnagar aged 45 Years s/o Shri Brijmohan Sarup Bhatnagar, Bhairon Pd. Road, Chandganj, Kalan, Lucknow.

3. S.L. Bhatia, ARE aged 46 years s/o late L. Hukam Cha Bhatia Qr. No. A-24, Manaknagar, Lucknow-11

4. B.K. Jain ARE age 40 years son of Sh. B.K. Jain Qr. No. Spl. IV/13 B, Manaknagar, Lucknow-11

contd.

5. K.S. Parthasaradhi, ADE Age 53 years son of Shri K. Prasada Rao, Qr. No. Spl. IV 33, B, Manaknagar, Lucknow-11.

6. S.S. Rajawat age 35 years, AIE , s/o late Sri M.S.Rajwat Qr. No. LD 105 B. Manaknagar, Lucknow-11.

7. D.S. Gabbi age 50 years s/o late Sh. Saudagar Singh, Qr. No. IV 29/B Manaknagar, Lucknow-11

8. S.R.D.Kapoor ADE age 48 years son of Shri Harparshad Kapoor Qr.No. IV 40/B, Manaknagar,Lucknow-11.

9. L.N.Singh ADE age 40 years s/o Late Shi Deo Bahadur Singh, Qr.No. Spl.IV 35 B Manaknagar,Lucknow-11

10. M.L. Pathak, ADE age 40 years s/o late Sh.Manohar Lal Pathak, Qr. No. Spl. IV 32 C Manaknagar,Lucknow-11.

11. N.Venkataraman, age 51 years, ADE s/o late T.A. Narayanan, 41 B, Manaknagar, Lucknow-11.

12. M.N. Bashia age 51 years, ADE S/o Sh. Narayan Rao Qr.No. Spl. IV 27/A, Manaknagar,Lucknow-11.

13. B.N. Mishra, age 53½ years ADE son late P. Mishra, Qr.No. II B/2 A, Manaknagar, Lucknow-11

14. B.M. Chopra age 41 years, ADE son of Sh.L.C.Chopta Qr. No. IV Spl. 29/D Manaknagar,Lucknow-11

15. R.M. Sahore, age 36 years son of Gita Ram Qr. No. IV Spl. 31 c, Manaknagar,Lucknow-11.

16. B.R. Deoraj Age 42 years ADE son Shri Rajenda Deoraj Qr. No. IV 48 D. Manaknagar,Lucknow-11.

Commissioner for Oaths
Court Allah...

contd...

Hon. S. C. Mathur, J.
Hon. B. Kumar, J.

List has been revised. The case has been called out twice but none has appeared on behalf of the petitioner. No one has appeared on behalf of opposite parties also. No slip has been received from the Counsel appearing on either side. The petition is dismissed in default of appearance on behalf of the parties. The interim order, if any, shall stand discharged.

There would be no order as to costs.

B Kumar
29.4.85

HIGH COURT AT ALLAHABAD
LUCKNOW BENCH

17. R.M. Sundaram ADE age 40 years s/o Shri S. Rajagopala Iyer, Qr. No. Spl. IV 39 D, Manaknagar, Lucknow-11.

18. S. Rajagopalan age 49 years ADE son late Sh.M.K. Srinivasa Iyer, Qr. No. IV-41 C, Manaknagar, Lucknow.11

19. K. Srinivasan age 49 years ADE son late Sri K.S. Ramanaj achary Qr. No. IV .41 B, Manaknagar, Lucknow-11 .

20. A.B. Chatterjee ARE age 41 years son Shri S.K. Chatterjee Qr. No. IV 42/A, Manaknagar, Lucknow-11.

21. M.N. Wanikar ADE Age 43 years son late Narayann Qr. No. IV -21 /A, Manaknagar, Lucknow-11.

22. Shri Gurdial Singh age 48 years ADE son of Shri Sharbhajan Singh Qr. No. IV/22, A, Manaknagar, Lucknow.

23. K.N. Ganesa Kumar, ADE age 47 years son of Shri R.N. Kunju Krishna Pillai Qr. No. 31/B Type IV Spl. Manaknagar, Lucknow-11.

24. A.S. Thakur ADE age 43 years son late Shri P.S. Thakur Qr. No. Spl. IV, 45/A, Manaknagar, Lucknow 11

25. N.K. Oza age 35 years ADE son K.M. Oza Qr. No. Type IV Spl. 41 C. Manaknagar, Lucknow-11

26. R.B. Kanitkar age 40 years ARE ~~age 42 yrs~~ son of Late B.R. Kanitkar Qr. No. IV 55, D, Manaknagar, Lucknow-11

27. M.P. Mathur age 49 years ARE son Late Shri Rajeshwar Prasad Qr. No. IV Spl. 37/B, Manaknagar, Lucknow. 11

contd..

Date
25.9.91

Hon'ble Mr. K. Obayya A.M
Hon'ble Mr. S.N. Prasad. J.M

None for the applicant even in the Revision of the list. Learned Counsel for the Respondent Shri A.B. Srivastav is Present. The case is dismissed in default for want of Prosecution.

J.M. A.M

(RKA)

Before the above order could be signed, the Counsel for the applicant YASH Darth, appeared and prayed that order be recalled, may not be signed as he could not reach the Court, because of his father's illness and he was mentally disturbed. - and requested a date. List for hearing along with connected case on 15/11/91

25/9/91

28. Gian Chand ADE age 37 years son of Late Sh. Ladli Prasad Qr. No. Type IV, 47 B, Manaknagar, Lucknow-11.

29. Y.D. Shukla ARE age 45 years son late Sh. Sidh Gopal Shukla Qr. No. LD/100-B Manaknagar, Lucknow-11

30. R.P. Singh ADE age 39 years son of Sh. Saligram Singh Qr. No. 44 B-IV Manaknagar, Lucknow-11.

31. V.K. Jaiswal ARE age 37 years son Shri K.G. Jaiswal Qr. No. IV. Spl. 41 A, Manaknagar, Lucknow-11

32. V.K. Natu, ARE age 41 years son Shri M.G. Natu, Qr. No. Spl. IV, 44 C, Manaknagar, Lucknow-11.

33. Amri Lal Age 40 year ARE son Shri M.K. Kalra, Qr. No. Spl. IV 45-D- Manaknagar, Lucknow-11.

34. K. Santhanaam ADE age 38 years son of late K.N. Krishna Swamy Qr. No. Spl. IV 38-A, Manaknagar, Lucknow-11

35. L. A. Chellani ADE age 44 years son of Shri Assudamal Qr. No. IV 93, Manaknagar, Lucknow-11.

36. K.S. Bhati AIE age 37 years son of Shri Gurcharan Singh Bhati, Qr. No. 66-A, Staff Colony, H.F. New Delhi.

37. M.R.G. Nair ALE age 40 years son of Shri P.C. Nambiar Qr. No. IV-45-B, Manaknagar, Lucknow- 11

contd.....

38. M.D. Mahashabde age 49 years ADE son of Shri Late D.B. Maheshabde, Qr. No. IV Spl. 35 A, Manaknagar, Lucknow.

39. S.B. Mathur age 50 years ADE son of Shri Nawal Bheari Mathur Qr. No. Spl. IV 16 B Rafi Ahmad Kidwai Marg, Lucknow.

40. C.Vishwanathan son of Shri V. Gopala Iyear, aged about 42 years, Qr. No. P 264 B, Jatin Bagchi Road, Calcutta-29.

41. D.C. Gosain age 53 years ADE s/o Sh. K.R. Gosain Qr. No. Spl. IV- 27, B, Manaknagar, Lucknow-11.

42. Joginder Pal age 49 years AIE son of Late Sh. Mehar Chand Bajaj, Qr. No. Spl. IV 34-D, Manaknagar, Lucknow.11

43. P.S. Marwah age 48 years ARE Son of Late Sh. S.B. Singh Qr. No. IV. Spl. 35 A, Manaknagar, Lucknow-11

44. K.L. Sehgal age 51 years ADE son of Shri Hira Nand Sehgal Qr. No. Spl. IV 34-B, Manaknagar, Lucknow-11

45. B.K. Saxena age 47 years ARE son of Late Sh. Harbishan Dayal Vishan Niwas, Motinagar, Lucknow.

46. B.N. Roy age 54 years ADE son of late Sh. A.N. Roy, Sector A/7/2, Manaknagar, Lucknow-11.

47. K.N. Thirunilkanthan ADE age 35 years son Shri Narain Swami, Qr. No. III-65 D, Manaknagar, Lucknow-11.

contd...

48. K.K. Maniar age ARE son of Shri Taranchand Maniar Qr. No. IV. Spl. 28 C, Manaknagar, Lucknow-11

... Petitioners.

Versus

1. The ~~Secretary, Railway Board~~ Railway Board through its Secretary, Rail Bhawan, New Delhi.

2. Deputy Director (Pay Commission) Railway Board, Rail Bhawan, New Delhi.

3. The Director General Research, Deisgns and Standards Organization, Manaknagar, Lucknow.

4. The Joint Director Finance Cum Administrative Accounts Officer, R.D.S.O. Manaknagar, Lucknow.

..... Respondents.

To

The Hon'ble the Chief Justice and His Companion Judges of the aforesaid Court.

The humble petition of the above named petitioners most respectfully showeth as under:-

1. That the petitioners are holding Class-II posts in the Research, Designs & Standards Organisation, hereinafter referred to as R. D. S. O. for the sake of brevity.

contd....

2. That in the circumstances the petitioners are working on the technical side and are a class by themselves due to the nature of duties performed by them, as compared to the other class-II incumbents working in the R.D.S.O.

3. That the technical personnel in class- II in the R.D.S.O. are being recruited from two sources, namely (1) by promotion of class - III incumbents of the R.D.S.O. and (2) by transfer of incumbents from the zonal Railways. Both the classes of persons, namely, those transferred from Zonal Railways and those promoted from the R.D.S.O. to class II posts perform the same nature of duties.

4. That prior to 1969 the pay scale of group of posts to which the petitioners belong was Rs. 350=900/- plus Rs. 150/- special pay. The Railway administration made a discrimination in this regard and withdrew the payment of special pay to the class=II incumbents who were promoted from Class -III in the R.D.S.O. by order dated 17.9.1969 and 7.1.1970. It was inter-alia provided in the said orders that the special pay of Rs. 150/- per month granted to Class-III staff of the R.D.S.O. on promotion to posts of sectional officers, Liason Engineers, etc. in addition to pay in class II scale would be withdrawn. It may be mentioned here that the petitioners were and are still holding the posts which were formerly designated as Sectional officers, Liaison Engineers etc. These posts have since been redisgnated as Assistant Research Engineer, Assistant Design Engineer, Assistant Liaison Engineer and Assistant Inspecting Engineer. The details of the post held by the petitioners contd.... and the salary drawn by them is mentioned in Annexure I to this petition.

Commissioner for Oath
High Court Allahabad

A true copy of the order dated 17.9.1969 and 7.1.70 withdrawing the special pay are annexed as Annexure I and Annexure 2 to this petition, and a true copy of the order dated 9.4.70 redesignating these posts is annexed as Annexure-3 to this petition.

5. That in view of the invidious discrimination, three persons (1) Sri D.N.V. Chelam, (2) Sri K.N.Ganesh Kumar and (3) Sri K.K. Maniar (petitioners No. 23 and 48 Sri D.N.V. Chelam has since been promoted to Class I) working in Class-II posts in the RDSO who were deprived of the benefit of Special Pay filed writ petition No. 973 of 1969, D.N.V. Chelam and others Vs. Railway Board and others, in this Hon'ble Court, praying for the following reliefs:-

i) To issue a writ of certiorari or a writ direction or order in the nature of certiorari to quash the impugned order continued in Annexure 1.

ii) To issue a writ of mandamus or a writ direction or order in the nature of mandamus directing the opposite parties to refrain from interfering with the petitioners legal right to draw the special pay of Rs. 150/- as part of their pay.

iii) To issue such other writ direction or order including an order as to costs which in the circumstances of the case the honourable Court may deem just and proper.

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In the said writ petition it was inter alia urged that the withdrawal of special pay was invalid for various reasons set out in the writ petition.

6. That a counter affidavit was filed on behalf of the respondents in the writ petition in which it was inter alia asserted that " as stated by the 2nd Pay Commission in their report the Central idea of the special pay is that it is the most satisfactory way of compensating such addition to work or responsibilities or such greater arduousness of duties as is recognizable enough to merit additional remunerations or in some cases of such a permanent nature as to justify placing the post in question in a higher grade. The pay commission also suggested that there should be a periodical review of special pays and also that whenever it is found that a considerable proportion of employees of a particular grade might have to be granted a special pay it should be examined whether a new grade shoudl not be introduced. The question of regulating the scales of pay in RDSO keeping in view the Pay Commission's recommendations quoted above has been engaging the Board's attention for quite some time past. After going through the report submitted by the Committee appointed for this purpose the Board issued their orders as contained in their letter of 17.9.1969 in exercise of the powers vested in them. " It was further averred that " the class III staff

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in R.D.S.O. promoted to class II ~~xxx~~ scales are entitled to normal fixation of pay in class II as admissible to all other staff in terms of para 2018 (b) of Indian Railway Establishment Code Vol. II."

7. That the learned single judge of this Hon'ble Court dismissed the said writ petition by his judgement and order dated 8.1.1971.

8. That feeling aggrieved by the said order a special appeal No. 11 of 1971 was preferred in this Hon'ble Court D.N.V. Chelam Vs. Railway Board and others which was decided on 2. 11. 1972. The division bench inter alia observed that the counter affidavit does not indicate the object of classification nor the reason for withdrawal of the special pay forthe promotees except that what has been detailed in para 20 of the counter affidavit. On general principals the grant of special pay to officers on deputation alone cannot be questioned despite the fact that the officers of both the categories discharge the same duty. Reasonableness or unreasonableness of the classification i.e. of the withdrawal of the Special pay must therefore be judged with reference to what has been pleaded in para 20 of the counter affidavit."

9. That it may be mentioned here that the extract of the averments made in para 20 of the counter affidavit have already been mentioned in para 6 supra.

contd...

The Division Bench inter alia observed that the object of the withdrawal of the special pay is therefore giving effect to the recommendations of the Pay commission namely that where a considerable proportion of employees of a particular grade are granted special pay, a new grade be introduced for that grade. The other principle laid down by the Pay Commission was that there should be a periodical review of special Pays which may justify increasing or decreasing the Special Pay attached to a post.....'
The Special Pay was admissible to all the promotees from class III of R.D.S.O. Consequently all the members of this group of sectional officers were drawing special pay and as per recommendations of the Pay Commission that would be a good ground for introduction of a new grade. In the present case however what the Railway administration did was not to introduce a new grade but laid down rules for the fixation of salary not only of sectional officers who were to be promoted after 1.9.1969 but also of those who had been promoted in the past. The basis of classification is thus not in consonance with the object as can be inferred from para 20 of the counter affidavit." This Hon'ble Court was of the opinion " that the classification by which the special pay was withdrawn or was not admissible to sectional officers promoted from Class III but was admissible to officers of Class II on deputation to R.D.S.O. is unreasonable and is not connected with the object intended to be served." Accordingly the Special Appeal was allowed with the

contd.....

Direction that the impunged orders were violative of provisions of Articles 14 and 16 of the Constituion. A true copy of the said order is annexed as Annexure 4 to this Petition. Accordingly the Special Appeal was allowed and the Writ petition was allowed. The necessary result of the decision of the High Court was that the respondents were to be restrained from withdrawing the special pay which was admissible to the petitioners as part of their pay but for the impunged order.

10. That the petition for leave to Appeal to Supreme Court was filed by the Railway Administration against the decision of the Division Bench The same application having been rejected on merits the Special leave petition was filed in the Supreme Court of India which was rejected summarily by order dated 4.2.1974.

11. That another writ petition No. 1114 of 1973 by 49 persons (petitioners no. 1 to 22, 24 to 48) was filed impuging the validity of the order dated 17.9.1969 and 7.1.70 with the same prayers as those in writ petition no. 973 of 1969, because the Railway Administration was extending the principle of law laid down by this Hon'ble Court only to the 3 persons who had filed the earlier writ petition no. 973 of 1969. The stand of the administration was wholly unjustified as the decision of the Division Bench was a judgement in ram.

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12. That the 2nd Writ Petition No. 1114 of 1973 was allowed by the learned single judge of this Hon'ble Court by a judgement dated 4.9.1974 in view of the decision of the Division Bench. A copy of judgement is annexed as annexure 5.

13. That after the decision of the High Court the respondents were neither paying the arrears of the special pay which had been held admissible to the petitioners nor were they paying special pay for the period after the decision in special Appeal No. 11 of 1971.

14. That in the circumstances the petitioners of Writ Petition No. 973 of 1969 which gave rise to Special Appeal No. 11 of 1971 sent a notice through their duly authorised counsel for the payment of the arrears of Special Pay and for the payment of the Special Pay for the prospective period after the decision in the Special Appeal. It was mentioned in the said notice that failure on the part of the Administration to honour the decision of the High Court would constrain the petitioners in the said Writ Petition to take such action as they may be advised, in the High Court.

15. That by letter dated 27.4.1973 the Secretary Railway Board informed through the counsel of the Petitioner in Writ petition No. 973 of 1969 that orders were under issue to the Director General R.D.S.O., Lucknow, for the payment of Special

contd ....

pay of Rs. 150/- for every current month after the decision in the Special Appeal and that the right of the Petitioners to claim arrears of Special Pay commencing from 1.9.1969 at the rate of Rs. 150/- per month was under active consideration of the authorities. A true copy of the said letter dated 27.4.1973 is annexed as Annexure 6 to this Petition.

16. That thereafter pay slips were issued to the 3 petitioners of writ petition no. 973 of 1969 by which a special pay of Rs. 150/- was also shown admissible in addition to their pay in the time scale of Rs. 350-900.

17. That the 3rd pay commission in para 34 of its recommendations was of the view that they generally suggest a higher scale for the posts which are held on a non tenure basis and where the Special pay has been granted at present in lieu of a higher scale for the post itself.

18. That the Government of India accepting the recommendations of the Pay Commission revised the pay scales of various categories in respect of Class -II posts in the R.D.S.O. The Govt. of India while accepting the recommendations of the Pay Commission revised the time scale of Rs.350-900 to time scale of Rs. 650- 1200. The recommendations were published in the Govt. of India Extra-ordinary Gazetted on 7.12.1973.

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19. That in pursuance of the recommendations accepted by the Govt. of India staff notice in this regard was issue by the R.D.S.O. on 29.1.1974. The effect of the said order was that all persons working in Class-II posts in R.D.S.O. and who were drawing pay in the time scale of Rs. 350-900 were brought on the new time scale of Rs. 650-1200 A true copy of the staff notice dated 29.1.1974 is annexed as Annexure 7 and a true copy of staff notice No. A/ES/PC-III (73) dt. 29.12.73 containing other instruction regarding option as Annexure 8 to the Writ Petition.

20. That the officers and staff covered by the Schedule affixed to the rules relating to revision of pay scales were required to exercise their option by 23.4.74.

21. That it may be mentioned here that although the 2nd and 3rd Pay Commission had suggested that the approach generally shouldbe to give a higher scale of pay to those persons who have so far being paid special pay but no higher scale of pay was fixed for the category to which the petitioners belong.

22. That the Railway Board issued an order dated 17.1.74 regarding regulation of special pay fixation of pay under Railway service (Revised Pay) Rules 1973. It has been mentioned therein that the cases falling in category 3 (to which the petitioners belong) can be decided only after taking into account

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the considerations which led to grant of special pay thex reasons why the commission have not made any recommendations of the pay scales and special pay allowed by the Commission for comparable posts in the same organization/cadrex or elsewhere In the mean time the pay of the individual employee should be fixed in the revised scale with reference to the basic pay only, i.e. excluding special pay. The special Pay at the existing quantum (even where the special basic pay, ~~should be allowed~~ has been expressed as a percentage of the basic pay) should be allowed to be drawn provisionally pending the final review. A true copy of the said order dt. 17.1.74 is annexed as Annexure 9 to this petition.

23. That it may be mentioned here that at the time the said order was issued the petition inthe Supreme Court for Special leave to appeal made by the Railway administration was pending. After the decision of the Supreme Court the petitioners No. 23 and 48 (who were the petitioners in W.P. no. 973 of 1969 which gave rise to the aforesaid special leave petition) were fixed in July 74 in the revised scale of Rs. 650-1200 plus Rs. 150/- special pay as part of their pay, since the railway administration was extending the application of the honourable courts order to these petitioners only. Subsequently, as a consequence of the judgement in W.P. No.1114 of 1973 delivered on 4.9.74 the Railway Board by order dated 16.12.74 extended the application of the principle of law decided by this honourable court to the petitioners of the second

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Writ Petiton who were then fixed in the revised scale of Rs. 650- 1200 plus Rs. 150/- special pay as part of their pay. A true copy of the letter dated 16.12.74 is annexed as Anneuxre No. 10 to this Writ Petition.

24. That it may be pointed out that there were 22 other persons, whose names are mentioned below, who are similarly situated as the petitioners but who had not been able to get the relief of Special pay which the petitioners had got in view of the decision of the Division Bench of this Honourable Court as affirmed by the Supreme Court although the principal of Law decided by the High Court as affirmed by the Supreme Court should have been normally applicable to them. The Administration, however, made a discrimination and had granted special pay to the petitioners because of the decision of the High Court.

Sl.No.	Name of the Person	Designation
1.	Shri K.K. Veghse	ARE
2.	Shri P.M. Mathew	ARE
3.	Shri A.K. Sengupta	ADE
4.	Shri K.R. Sharma	ADE
5.	Shri S.P. Puri	ADE
6.	Shri Om Prakash	ADE
7.	Shri M.Sree Ramulu	ADE
8.	Shri T.V.S.Sastri	ADE
9.	Shri Baltej Singh Sidhu	SDE
10.	Shri Surinder ~~xxx~~ Kumar	ADE
11.	Shri Y.P. Bhatia	ARE
12.	Shri N. Rajamani	AIE
13.	Shri A.M.Sen Sharma	ADE
14.	Shri P.N. Soni	AIE

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15.	Shri S.C. Khan	ADE
16.	Shri S.P. Maini	ARE
17.	Shri J.L. Lakhanpal	ADE
18.	Shri J.P. Singh	ADE
19.	Shri P.C. Srivastava	ARE
20.	Shri Syed Badruddin	ARE
21.	Shri S.C. Rao	ADE
22.	Shri C.L. Ganwar	ARE

These persons have not been fixed in the revised scale of Rs. 650- 1200 in addition to being deprived of the special pay of Rs. 150/- They are drawing their emoluments in the pay scale of Rs. 350-/-900/- even after the revision of the pay scale with effect from 1.1.1973.

25. That rule 6 of the Railway Service (Revised Pay) Rules1973 published in the Gazettee of India Extra ordinary dated 7.12.1973 provides as under:-

(6) EXERCISE OF OPTION

(1) The option under the proviso to rule 5 shall be exercised in writing in the form appended to the second schedule so as to reach the authority mentioned in sub-rule .

(2) Within three months of the date of publication of these rules, or where an existing scale has been revised by any order made subsequent to that date, within three months of the date of such orders, provided that-

(i) In the case of a Railway servant who is, on the date of such publication or, as the case may be, date of such order, out of India, on leave or deputation or foreign

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services or active service, the said option shall be exercised in writing so as to reach the said authority within three months of the date of his taking charge of his post in India and;

(ii) Where a Railway servant is under suspension on the first day of January, 1973 the option may be exercised within three months of the date of his return to his duty if that date is later than the date prescribed in this sub rule.

2. (xxx) The option shall be intimated by the Railway servant.

(a) If he is a non-gazetted Railway servant to the Head of his office,

(b) If he is a gazetted Railway servant to his Accounts Officer.

3. If the intimation regarding option is not received within the time mentioned in sub-rule (1) the Railway servant shall be deemed to have elected to be governed by the revised scales of pay with effect on and from 1st day of January, 1973.

4. The option once exercised shall be final.

26. That the petitioners were asked to exercise their option within 3 months of the date of the order i.e. by 23.4.1974. It was contemplated under the order dated 29.1.1974 that if the person working in the class-II posts do not give their option within 3 months of the date of the issue of the order it will be assumed

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that they have opted for the new scale.

27. That in pursuance of the provisions of the aforesaid rules and the staff notice dated 29.12.1973 and 29.1.1974 the petitioners gave their options for being absorbed in the revised scale which became final by virtue of the provisions of the aforesaid rule 6, The petitioners had given their option in pursuance of the staff notice dated 29.12.73 and 29.1.1974 in which it was mentioned that they are electing for the Revised scale. It was further mentioned that the special pay of Rs. 150/- which was being paid to them in pursuance of the order of the High Court as affirmed by the Supereme Court should also be paid. A true copy of the option form of the petitioner no. 1 is annexed as Annexure 11 to this petition. Identical options were given by the other petitioners.

28. That it may be mentioned here that in view of the decision of the High Court mentioned above, a sum of Rs. 150/- so far being paid as Special pay became part of the pay of the petitioners.

29. That accordingly pay slips were issued to the petitioners showing that they were fixed in the revised scale of Rs. 650-1200 plus Rs. 150/- special pay. One such pay slip issued to the petitioner No.31 is annexed as Annexure 12 to this petition. Similar pay slips were issued to other petitioners showing fixation of pay in the scale of pay Rs. 650-1200 plus Rs. 150/- Special pay.

30. That in view of the provisions of para 2003(21)(a)(ii) of the Indian Railway Establishment

contd..

Code Vol. II, the pay means the amount drawn monthly by a railway servant as the pay and the Special Pay.

31. That in view of what has been stated above the Special pay became part of the pay of the petitioners.

32. That the respondent No. 2 by order dated 28.7.1975 has directed that class-II incumbents including the petitioners will have the option to retain the authorised scale of pay with special pay or the revised scale of pay without special pay. A true copy of the said order dated 28.7.1975 is annexed as Annexure 13 to this petition.

33. That it may be mentioned that the revision in the pay scale in pursuance of the recommendations of the Pay Commission was a general revision and every class II person who was drawing his salary in the scale of Rs. 350-900 became eligible for payment of salary in the scale of Rs. 650 - 1200. The Special pay admissible to the petitioners, for the reasons already set out above and which has been a matter of adjudication of this Hon'ble Court, became a part of the pay. The order of the respondent No. 2 directing inter-alia that an option should be exercised by the petitioners whether they want to retain the scale of Rs.350-900 with special pay of Rs. 150/- or the scale of Rs. 650-1200 without special pay of Rs. 150/- is absolutely unjustified and illegal.

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37-A That the RDSO had sent details regarding various posts in the cadre, and pay and allowances being given to the incumbents working in the RDSO to the Third Central Pay Commission.

37-B That in respect of gazetted cadre the RDSO had against item No. 9 sent particulars of the incumbents. A photostat copy of the relevant information sent by the RDSO to the Third Central Pay Commission is annexed hereto as Annexure-16.

37-C That from a perusal of the aforesaid information submitted by the RDSO, it would be evident that the administration informed the pay Commission that a special pay of Rs. 150/- p.m. was admissible to the Secretary to Director General and never informed the Pay Commission that the posts of Section Officer, Assistant Architect, Asstt. Design Engineer, Asstt. Research Engineer, Asstt. Research Officer, Asstt. Liaison Engineer, and Asstt. Inspecting Engineer also carry a special pay of Rs. 150/- pm in addition to the pay in the scale of Rs. 350-900.

37-D That a meeting was held on 6.4.1979 between the representatives of RDSO Class II Officers' Association and the Administration. A copy of the minutes of the said meeting was supplied to the Hony. Secretary, RDSO Class II Officers Association by the D.G. RDSO on 18.7.79. Relevant extract from the said minutes is annexed hereto as Annexure-17.

37-E That from a perusal of the above minutes it would be clear that the representative of the RDSO Class II Officers Association had, inter alia, submitted that the Third Central Pay Commission had not been advised about the fact that Class II officers, other than the Secretary to Director General, RDSO were also being paid Rs 150/- pm month as special pay.

37-F That it is reiterated that the Third Central Pay Commission was never informed by the Administration about payment of special pay to the following Categories of incumbents in the RDSO: Section Officer, Asstt. Architect, Asstt Design Engineer, Asstt. Research Engineer, Asstt. Research Officer, Asstt Liaison Engineer and Asstt Inspecting Engineer.

37-G That in view of the fact that the Third Central Pay Commission had never been informed about payment of special pay mentioned above no possible recommendations were made regarding it by the Third Central Pay Commission though it had

34. That the petitioners have made representations to the Director General, R.D.S.O. pointing out that the special pay which was being drawn by the petitioners was in pursuance of the decision of the Hon'ble High Court as upheld by the Supreme Court and the respondent have no jurisdiction to deprive the petitioners of the Special pay as it had the effect of being reverted back to the old scale of pay of Rs. 350-900. A true copy of the representations submitted by petitioner no. 1 is annexed as Annexure No. 14 and by petitioner No. 23 as Annexure 15 to this petition.

35. That it may be mentioned here that in pursuance of the letter dated 17.1.1974 the petitioners have not been communicated any decision of the Railway Board in regard to the matter.

36. That the respondents have not taken into consideration the reasons which have led to the grant of special pay while ordering the withdrawal of such special pay.

37. That the reason for the grant of special pay as stated earlier and admitted by the respondents in para 20 of their counter affidavit in the Writ Petition No. 973 of 1969 was due to the nature of the duties performed by the petitioners details of which have already been narrated therein The-re has been no change in the nature of the duties

contd...

being performed by the petitioners and the reason for the grant of special pay still stands.

38. That feeling aggrieved by the impugned order dated 28.7.75 and having no other adequate efficacious and alternative remedy the petitioners ~~beg~~ seek to invoke the writ jurisdiction of this Hon'ble Court inter-alia on the following:-

G R O U N D S

I. Because in view of the provisions of para 2003(21)(a)(ii) of the Indian Railway Establishment Code volume II, pay in the case of the petitioners includes pay and special pay and as such the respondents have no jurisdiction to withdraw the special pay.

III Because the respondents have no jurisdiction to direct the re-revision in the pay scales of the petitioners. There is no scale of pay of Rs. 350- 900 at present as it stands superseded by virtue of the recommendations of the 3rd pay commission as accepted by the Govt. of India and the consequent incorporation of those recommendations in the rules.

III. Because by administrative order the provisions of statutory rule cannot be amended. The effectof the impugned order in recognising the existence of the scale of Rs. 350-900 is to vitiate the provision of revised pay rules.

contd....

IV. Because it is not compentent for the respondent to treat in existence a scale of pay which has since been abolished and revised and ask the petitioners to exercise option to revert to such a scale with the option of availing of the special pay.

V. Because the grant of special pay has to be decided on merits and it cannot be linked with one scale or another.

VI. Because the impugned order is in violation of the provisions of F.R. 23 and rule 5 and 6 of the Railway services (Revised Pay) Rules, 1973.

VII. Because the special pay was being granted to the petitioners in view of the decision of High Court as upheld by the Supreme Court and as such respondents are in utter and want -on contempt of this Hon'ble Court in withdrawing the facility of special pay to the petitioners.

VIII. Because the petitioners have already exercised the pptions which have become final after having been implimented.

P R A Y E R

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

(a) issue a writ, order or direction in the nature of certiorari quashing the impunged order contained in Annexure No. 13 to this Petition.

contd...

(b) issue a writ, order or direction in the nature of mandamus commanding the respondents to desist from interfering with the petitioner's legal right to draw the special pay.

(c) Issue a writ, order or direction in the nature of mandamus commanding the respondents to continue paying the special pay of Rs. 150/- as part of the pay in addition to the pay of the petitioners fixed in the time scale of Rs. 650/- 1200/-

(d) Issue a writ, order or direction in the nature of mandamus commanding the respondents to pay compound interest at the prevailing bank rate on the arrears monthly withheld by the respondents.

(e) Issue such other orders as this Hon'ble Court deems just and proper in the circumstances of the case.

(f) To award costs of the petition to the petitioners.

Advocate
Counsel for the Petitioners

Dtd:Lucknow
~~August~~ September 1st, 1975.

Note:-

Leave of this Hon'ble Court is sought for under chapter XXII, Rule 1 (4) of the Rules of the Court to present this petition before expiry of 14 days notice to the standing counsel as the matter is urgent.

Advocate,
Counsel for the petitioners

Dated: Lucknow
~~August~~ September 1st, 1975.

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

Writ Petition No. of 1975.

R.C. Kathuria & others .... Petitioners

Versus

The Secretary, Railway Board and others. .... Respondents.

ANNEXURE NO. I

Sl. No.	Name, father's name and address & age.	Designation.	Present Pay in Revised Scale of Rs. 650-1200+150/ Spl. Pay.
1.	R.C. Kathuria, aged 46½ years s/o Late Sh. Khan Chand Kathuria, Qr.No. Spl. IV 09, B, Manaknagar. Lucknow-11	ADE	1200/- + 150
2.	B.S. Bhatnagar Aged 45 years s/o Shri Brijmohan Sarup Bhatnagar Bhairon Pd. Road, Chandganj Kalan, Lucknow.	ARE	1120/- + 150/-
3.	S.K. Bhatia aged 46 years S/o Late L. Kukam Chand Bhatia Qr. No. A- 04, Manaknagar, Lucknow-11	ARE	1040/- + 150/-
4.	B.K. Jain age 40 years, son of Shr. B.K. Jain Qr. No. Spl. IV /13 B, Manak-Nagar, Lucknow- 11	ARE	1160/- + 150/-
5.	K.S. Parthasardhi, Age 53 years son of Sh. K. Prasada Rao, Qr. No. Spl. 33 B, Manaknagar, Lucknow-11	ADE	1160/- + 150/-

Commissioner for High Court 20/8/75

contd..

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6. S.S. Rajawat age 35 yrs s/o Late Sri M.S.Rajwat Qr.No. LD 105 B. Manaknagar, Lucknow-11	AIE	960/- + 150/-
7. D.S. Gabbi age 50 years s/o Late Sh.Saudagar Singh, Qr.No. IV 22/B Manaknagar, Lucknow -11	ADE	1080/- + 150/-
8. S.R.D. Kapoor age 48 years s/o Sh. Harparshad Kapoor Qr.No. IV.40/ B, Manaknagar,Lucknow-11	ADE	920/- + 150/-
9. L.N.Singh, Age 40 yrs. S/o Late Sh. Deo Bahadur Singh, Qr.No. Spl.IV 35 B Manaknagar, Lucknow-11	ADE	1200/- + 150/-
10. M.L. Pathak, age 40 years s/o Late Sh.Manohar Lal Pathak, Qr.No. Spl.IV 32 C Manaknagar,Lucknow.1	ADE	1000/- + 150/-
11. N.Venkataraman, age 51 years s/o late T.A. Narayanan, 41 B, Manak-Nagar, Lucknow-11	ADE	1160/- + 150/-
12. M.N. Bashia age 51 years s/o Sh. Narayan Rao, Qr. No. Spl. IV 27/A, Manaknagar, Lucknow-11	ADE	1200/- + 150/-
13. B.N. Mishra, age 53½ yrs. s/o late P. Mishra, Qr. No. II B/2 A Manaknagar, Lucknow-11	ADE	1200/- + 150/-
14. B. M. Chopra age 41 yrs. s/o Sh. L.C. Chopra, Qr. No. IV Spl.29/D Manaknagar, Lucknow-11	ADE	1080/- + 150/-
15. R.M. Sahore, age 36 yrs. s/o Sh. Gita Ram, Qr. No. IV Spl. 31 C, Manaknagar, Lucknow-11	ADE	1000/- + 150/-
16. B.R. Deoraj age 42 yrs. s/o Shri Rajanna Deoraj Qr. No. IV 48 D. Manaknagar, Lucknow-11	ADE	1000/- + 150/-
17. R.M. Sundaram age 40 years s/o Sh. S. Raja-gopala Iyer, Qr.No. Spl. IV 39 D, Manaknagar,Lucknow-11	ADE	1080/- + 150/-

Commissioner for Oath High Court 20/8/25

contd....

18. S. Rajagopalan age 42 Yrs. s/o Late Sh. M.K. Srinivasa Iyer, Qr. No. IV -41 C Manaknagar, Lucknow-11 — ADE — 960/- + 150/-

19. K. Srinivasan age 49 yrs s/o Late Sri K.S. Ramanajachary Qr. No. IV-41 B Manaknagar, Lucknow- 11 — ADE — 1080/- + 150/-

20. A.B. Chatterjee age 41 yrs s/o Sh. S.K. Chatterjee, Qr. No. IV-42/A, Manaknagar, Lucknow-11 — ARE — 1040/- + 150/-

21. M.N. Wanikar Age 43 yrs. s/o Late Narayan, Qr. No. IV- 21/A, Manaknagar, Lucknow-11 — ADE — 1040/- + 150/-

22. Shri Gurdial Singh age 48 years s/o Sh. Sharbhajan Singh Qr. No. IV/22 A, Manaknagar, Lucknow. — ADE — 1080/- + 150/-

23. K.N. Ganesa Kumar, Age 47 years s/o Sh. R.N. Kunju Krishna Pillai Qr. No. 31/B Type IV Spl. Manaknagar, Lucknow-11 — ADE — 1200/- + 150/-

24. A.S. Thakur Age 43 Years s/o late Sh. P.S. Thakur Qr.No. Spl. IV, 45/A, Manaknagar, Lucknow-11 — ADE — 1120/- + 150/-

25. N.K. Oza age 35 years, s/o K.M. Oza Qr. No. Type IV Spl. 41 C. Manaknagar, Lucknow-11 — ADE — 960/- + 150/-

26. R.B. Kanitkar age 40 years s/o Late B.R. Kanitkar Qr. No. IV 55, D, Manaknagar, Lucknow-11 — ARE — 1040/- + 150/-

27. M.P. Mathur age 49 yrs s/o Late Sh. Rajeshwar Prasad Qr. No. IV Spl. 37/B, Manaknagar, Lucknow- 11 — ARE — 1200/- + 150/-

contd...

28. Gian Chand Age 37 years s/o Late Sh. Ladli Prasad Qr. No. Type IV, 47 B, Manaknagar, Lucknow.11	ADE	960/- + 150/-
29. Y.D. Shukla age 45 years s/o Late Sh. Sidh Gopal Shukla Qr. No. LD/102-B Mahaknagar, Lucknow-11	ARE	1200/- + 150/-
30. R.P. Singh age 39 years s/o Sh. Saligram Singh Qr. No. 44 B-IV Manaknagar, Lucknow-11	ADE	1040/- + 150/-
31. V.K. Jaiwal age 37 years s/o Sh. K.G. Jaiswal Qr. No. IV. Spl. 41 A, Manaknagar, Lucknow-11	ARE	1040/- + 150/-
32. V.M. Natu, Age 41 years s/o Sh. M.G. Natu, Qr. No. Spl. IV. 44,C ~~Mahanagar,~~ Manaknagar Lucknow-11	ARE	1120/- + 150/-
33. Amrit Lal age 40 years s/o Sh. M.L. Kalra Qr. No. Spl. IV 45-D- Manaknagar, Lucknow-11	ARE	1000/- + 150/-
34. K. Santhanam age 38 yrs S/o Late K.N. Krishna Swamy Qr. No. Spl. IV 38-A, Manaknagar, Lucknow-11	ADE	1040/- + 150/-
35. L.A. Chellani age 44 years s/o Sh. Assudamal Qr. No. IV.23, Manaknagar, Lucknow-11	ADE	960/- + 150/-
36. K.S. Bhati age 37 years S/o Sh. Gurcharan Singh, Bhati, Qr. No. 26-A, Staff Colony H.F. New Delhi	AIE	1120/- + 150/-
37. M.R.G. Nair age 40 yrs. S/o Sh. P.C. Nambiar, Qr. No. IV-45-B, Manaknagar, Lucknow-11	ALE	810/- + 150/-

Commissioner for O... High Court

सत्यमेव जयते

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contd....

38. M.D. Mahashabde Age 49 yrs. s/o late D.B. Maheshabde, Qr. No. IV spl. 32A, Manaknagar, Lucknow.	ADE	1200/- + 150/-
39. S.B. Mathur age 50 yrs s/o Sh. Nawal Behari Mathur Qr. No. Spl.IV 16 B Rafi Ahmad Kidwai Marg, Lucknow.	ADE	1080/- + 150/-
40. G. Vishwanathan s/o Sh. V. Gopala Iyer, aged about 42 years, Qr. No. P 264 B, Jatin Bagchi Road, Calcutta-29.	ADE	1000/- + 150/-
41. D.C. Gosain age 53 years S/o Sh. K.R.Gosain Qr.No. Spl.IV-27,B, Manaknagar, Lucknow-11	ADE	1200/- + 150/-
42. Joginder Pal age 49 yrs. s/o Late Sh. Mehar Chand Bajaj, Qr. No. Spl. IV 34-D, Manaknagar, Lucknow. 11	AIE	1040/- + 150/-
43. P.S. Marwah age 48 years s/o Late Sh. S.B.Singh, Qr. No. IV. Spl.35 A, Manaknagar, Lucknow-11	ARE	1200/- + 150/-
44. K.L. Sehgal age 51 yrs. S/o Sh. Hira Nand Sehgal Qr. No. Spl. IV 34-B, Manaknagar, Lucknow-11	ADE	1200/- + 150/-
45. B.K. Saxena age 48 years s/o late Sh. Harbishan Dayal Vishan Niwas, Motinagar, Lucknow.	ARE	1080/- + 150/-
46. B.N. Roy age 54 yrs. S/o Late Sh. A.N. Roy, Sector A/7/2, Manaknagar Lucknow-11	ADE	1200/- + 150/-
47. K.N. Thirunilkanthan age 35 yrs. s/o Shri Narain Swami, Qr. No. III-65 D, Manaknagar, Lucknow-11.	ADE	920/- + 150/-
48. K.K. Maniar age 37yrs. S/o Sh. Tarachand Maniar Qr. No IV SPL. 28C, Manak Nagar Lucknow-11	ARE	1000/- + 150/-

xxxxx...

Commissioner for Oaths
High Court Allahabad

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

LUCKNOW BENCH, LUCKNOW.

Writ Petition No. of 1975.

R.C.Kathuria & others ..... Petitioner

Versus

The Secretary, Railway Board
and others. ..... Respondents.

Annexure No. 1 A

Copy of Railway Board New Delhi's letter No. PC-67/SP-1/RDSO-1 dated 17-9-1969 addressed to the Director General, R.D.S.O. Lucknow.

Sub : Grant of Special pay to posts in RDSO - Review of.

-.-.-.-.-.-

Reference Board's letter of even number dated 12.1.68. The Board have carefully considered the report of the Committee regarding the continuance of special pay or otherwise granted to various posts in R.D.S.O. and have decided as under :

1) Special pay granted to the posts/categories shown in the Annexure to this letter should continue.

2) Special pay of Rs. 150/- P.M. granted to Cl. III Staff of the RDSO on promotion to posts of Sectional Officers, Liaison Engineers, etc., in addition to pay in Class II Scale, should be withdrawn.
The pay of Class III staff of the RDSO promoted as Sectional Officers, liaison Engineers etc. should be fixed by adding Rs. 100/- to the existing pay in Class III post if that gives a stage in Class II scale; otherwise, at the stage next above.

Commissioner for O... High Court 20/8/75

Kathuria

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Class II Officers of the Railways seconded to RDSO, as Sectional Officers should be granted a special pay of Rs. 100/- per month and if such officers are posted as Assistant Directors, they should continue to be granted a special pay of Rs. 150/- p.m. as hithertofore.

In case of posts of Asstt. Inspecting Officers ~~of~~ or Asstt. Inspecting Engineers (Class II) the grant of Speical pay to officers appointed to these posts will be regulated on the same basis as enunciated above in the case of sectional Officers etc.

3) Special pay granted to the Town Engineer and the Assistant Controller of Stores should be withdrawn.

4) A special pay of Rs. ~~₹~~200/- p.m. (~~Two hundred) p.m.~~ should also be granted to the Senior Inspecting Engineer, Bhopal.

5) Special pay at 15% of pay subject to a minimum of Rs. 30/- p.m. and a maximum of Rs. 75/- p.m. should be granted to onlythose Chief Technical Assistants/ Junior Technical Assistants who are in the same scale of pay in their parent cadre on their Railways, as the one on which they come to RDSO. Persons in the lower grade selected to posts of Chief Technical Assistant or Junior Technical Assistant in higher grade ~~post~~ in RDSO should get only the pay of the higher grade. in RDSO as admissible under the normal rules and no special pay,

2. This has the sanction of the President and takes effect from 1st September, 1969.

Please acknowledge receipt.

Sd/-
(B.D.Vatsalya)
Deputy Director, Establishment
Railway Board.

DA: As above.

-.-

Commissioner for ... High Court ... 20(01)

ANNEXURE

3.

23

Sl.No.	Designation of the Post.	Amount of Sp. Pay Rs.
1.	Sr. Inspecting Engineer.	200
2.	Inspecting Engineer	150
3.	Asstt. Inspecting Engineer (Inspection Cell).	150 (Upto 31.12.68 only).
4.	Secretary to Director Genl. (So long as the post is operated in Class II scale)	150
5.	Dynomo-Meter Car Officer	150
6.	Oscillograph Car Officer	150
7.	Chief Technical Asstt.	15% of pay subject to a minimum of Rs. 30/- per month and a maximum of Rs.75/-p.m. only to the persons selected to those posts who are in the same scale in their parent cadre on Railway, as that applicable to posts in RDSO to which they are appointed. Persons in lower grade on Rlys who are selected to higher grade posts in RDSO should be given the pay admissible in higher grade posts in RDSO under the normal rules, but no special pay.
8.	Head Telephone Operator in As Rs. 130-300	10% of pay subject to a minimum of Rs. 15/- p.m.
9.	Telephone Operators in As Rs. 110-180.	-- do --
10.	Typists for verityper in As Rs. 110-180.	Rs. 20/-
11.	Steno-typists	Rs. 30/-
12.	Assistant (Two)	Rs. 50/-
13.	P.A. to Director General	Rs. 50/-
14.	Supervisor of Stenos	Rs. 50/-
15.	Sr. Accountants and Jr. Accountants.	15% of pay.

True copy

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

LUCKNOW BENCH, LUCKNOW.

Writ Petition No. of 1975.

R.C. Kathuria & others ..... Petitioner

Versus

The Secretary, Railway Board
and others. ..... Respondents.

Annexure No. 2

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS.
(RAILWAY BOARD)

No. PC-67/SP-I/RDSO-1 New Delhi dated 7.1.1970.

The Director General,
Research, Designs & Standards Organisation,
Alambagh, Lucknow.

Sub: Grant of Special Pay to posts in
R.D.S.O. - Review of
.....

Reference your letter No. A/ES/SPL-P dated 4.10.1969

The various points raised therein are clarified seriatim

as under :-

I - Special pay of Rs. 150/- p.m. granted to Sectional Officers, Liaison Engineers, etc. who were promoted as such prior to 1.9.1969 also stands withdrawn.

(a) The pay of such of the Sectional Officers, Liaison Engineers etc. as were regularly promoted to those posts prior to 1.9.1969 and whose special pay is withdrawn from 1.9.1969 should be fixed by adding Rs. 150/- to the pay admissible in Class II scale as on 1.9.1969, if that gives a stage pay in Class II scale. If that does not give a stage pay in class II Scale, the pay should be fixed at the stage next below and the difference between the pay plus special pay previously drawn and the pay so fixed being treated as personal pay to be absorbed in future increments, provided the maximum of the Class II scale not being exceeded. The date of their next increment will be the same as was due, if this fixation had not been done.

x x x x

Sd./ B.D.Vatsalya
Dy. Director Establishment (P & A)
Railway Board.

Copy to all concerned.

True Copy

Commissioner for Oath
High Court
24/10/75

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

WRIT PETITION NO. of 1975

R.C. Kathuria & ~~another~~s. . . . . Petitioners.

Versus

The Secy. Railway Board& ~~another~~s. . . . . Respondents.

ANNEXURE NO. 3

Government of India
Ministry of Railway,
Research, Designs & Standards Organization.

OFFICE ORDER NO. 5 of 1970

The designations of the following posts in the Research, Design and Standards Orgnization have been revised as indicated below:-

Present designation	Revised Designation.	Abreviation
a) Sectional Officer, (in the Design Wings other than Architectural Directorate.)	Asstt. Design Engineer	A.D.E.
b) Sectional Officer (in the Research Wing)	Asstt. Research Engineer	A.R.E.
c) Sectional Officer, (in the Architectural Directorate)	Asstt. Architect.	A.A.
d) Sectional Officer (in the M&C Dte) or Metallurgical	Asstt. Research Officer(Chemical as the case may be.	A.R.O. (Chem. Or Met as the case may be.)
e) Sr. Inspecting Engineer.	Dy. Director (Inspection)	DD(Insp)
f) Asstt, Inspecting Officer/Inspecting Engineer.	Asstt. Inspecting Engineer.	A.I.E.
g) Oscillograph Car Officer.	Asstt. Director Res. (Oscilliation Trials)	A.D.R. (OT)

contd..

Commissioner for Oaths
High Court Allahabad
26/8/75

Kathuria

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~~g) Oscillograph Car Officer.~~	~~Asstt. Director Res. (Oscillia-tion Trials)~~	~~ADR(OT)~~
h) Dynameter Car Officer.	Asstt. Director Research (Dyna-meter Trials)	ADR(DT)
i) Sectional Officer (P)	Asstt. Documenta-tion Officer.	A.D.O.
j) Liaison Engineer.	Asstt. Liaison Engineer.	A.L.E.

2. For the sake of uniformity, it has further been decided that all class II Technical Officer of RDSO who are not approved by DPC for appointment as Asstt. Directors in Sr. Scale will hereafter be redesignated as Asstt. Design Engineer/Asstt. Research Engineers/Asstt. Architects as the case may be.

3. The revised designations will take immediate effect. (Auth: Railway Bd's letter No. ERBI/70/44/6 dt. 17.3.70).

File No. E/G/DGN/O
Alambagh, Lucknow.

Dated: 9.4.70

Sd/ A. Sukumaran
For Director General.

DISTRIBUTION

As usual.
The Secretary, Railway Board, New Delhi.



T.C.

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

Writ Petition No. of 1975.

R.C.Kathuria & others ..... Petitioner

Versus

The Secretary, Railway Board
and others. ..... Respondents

Annexure No.4

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

.....

Special Appeal No. 11 of 1971.

Arising out from:

Writ Petition No. 973 of 1969.

1. D.N.V. Challum, and others ..... Appellants-Petitioners.

Versus

The Railway Board through its Secretary, Rail Bhavan.
New Delhi and others ..... Respondents-Opp. Parties.

Petition under Article 226 of the Constitution of India.

Dated Lucknow : 2.11.1972.

For appellant - Sri B.C. Saxena.

For respondent No.2 : Sri N. Banerji.

Special Appeal No. 11 of 1971.

Hon'ble D.S.Mathur, A.C.J.

Hon'ble Om Prakash Trivedi, J.

(Delivered by Hon'ble D.S.Mathur, C.J.)

This is a special appeal by D.N.V. Chellum and two others against the order of the learned single judge dismissing their writ petition challenging the withdrawal of special pay under order dated September 17, 1969, as contained in Annexure-3 to the writ petition.

Commissioner for Oath
High Court

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The material facts of the case are that the petitioners originally held Class III post in the Research Design and Standards Organization of the Railways, to be referred hereinafter as R.D.S.O., and they were promoted to the post of Sectional Officers placed in Class II. They drew salary in the time scale of Rs. 350 -25-500-590-EB-30-30-800-EB-830-35-900 with a special pay of Rs. 150/-. The time scale of Class III was Rs. 450-25-575 without any special pay. The prescribed scale of pay and also the special pay were the same as 'authorised pay-scale' introduced under Railway Services (Authorised Pay) Rules, 1960 introduced from July 1, 1959.

There are two sources of recruitment to Class II posts in R.D.S.O., one is by promotion from Class III (1) and the other is by officers of the Railways coming on deputation to work as Sectional Officers. (2) Such officers on deputation drew their salary in Class II scale and in addition drew a special pay of Rs. 150/-. It may here be mentioned that the time-scale of pay of Class II and Class III posts in the Railways is the same as in R.D.S.O. However, under Annexure-3 special pay was disallowed to Sectional Officers promoted or to be promoted from Class III. The special pay of class II officers of the Railways coming on deputation to R.D.S.O. was, however, reduced to Rs. 100/- which was, in addition, to the salary to which they were entitled under the Class II time scale of pay.

Commissioner for Oaths
High Court Allahabad
26/10/87

The validity of the order Annexure-3 is challenged on two grounds, firstly, that for so long as the Conditions of Service Rules were not amended under Article 309 of the Constitution, the revised order could not be given effect to even if it had the approval of the

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President or the President had also taken such a decision. The second ground of attack is that there is discrimination between the two kinds of Class II officers (Sectional Officers) which violates Article 14 and 16 of the Constitution.

There can be no controversy in that promotees from the same department and officers coming on deputation from other departments can be placed in different categories and there can be distinct scales of pay for the holders of posts belonging to these categories. It is, however, necessary that there should not only be some classification, but the classification must be reasonable and correlated to the object of such classification. In the instant case, the material point is whether on the basis of the above classification special pay could be disallowed to the promotees, while it could be granted to officers on deputation.

Reasonableness of the classification is always dependant upon the object or the purpose which such classification has to serve. The classification must, therefore, be correlated to the nexus or object. If not so correlated or if the classification is not in consonance with the object for which the classification was made, it shall be unreasonable or arbitrary and must be struck down.

Commissioner for Oath
High Court Allahabad

In Service matters relating to Salary one has to consider the effect on a government servant belonging to either of the categories not only what he would draw after introduction of the revised pay-scale or rules, but what effect it shall have in the end. If it is found

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that the classification was accompanied with conferring additional benefits on promotees, even though the object is not fully achieved, it would not be a case where it can be said that the classification was in any way unreasonable. For example, if after the introduction of new rules or new scales of pay a promotee becomes entitled to a higher salary or the new scale of pay is beneficial to him, in that he would at the time of retirement or promotion to the higher grade draw a higher salary than to what he would have been entitled had there been no change, it would be no case of discrimination if officers coming on deputation are allowed a different scale of pay or the old scale of pay with a special pay. See: Unikat Sankunni Menon V. The State of Rajasthan (AIR-1968-Supreme Court-81).

The Railway Administration appears to have realised the hardship of the sectional officers of the R.D.S.O. by the introduction of the new rule withdrawing the special pay. Consequently, it was provided in Annexure-3 itself that the salary of the promotee sectional officers shall be fixed by adding Rs. 100/- to the existing pay in Class III post. This instruction was further modified under Annexure-5 to the rejoinder affidavit by laying down that in case of sectional officers promoted before 1.9.1969 the salary shall be fixed by adding Rs. 150/- to the pay admissible in Class II scale as on 1.9.1969, though if the pay could not be fixed at any particular stage in the time-scale of Class II, the differences shall be treated as personal pay to be adjusted in future increments.

Commissioner for Oaths
High Court

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5.

Annexure-5 makes it clear that the Railway Administration had in mind not to cause any injustice to the existing promotees of the R.D.S.O., but it failed to take notice of the fact that many, if not all, could be deprived of a part of the emoluments, which they could have drawn had the special pay not been withdrawn. The time-scale for the Class II was maintained at the old scale and the maximum of Rs. 900/- was not raised to Rs. 1000/- or Rs. 1050/-. In case the maximum was raised to Rs. 1000/- there could be no cause for the promotees to allege discrimination. They would then have got a special pay of Rs. 100/- like other officers coming on deputation to R.D.S.O. though in the form of salary. They would have naturally, at some stage suffered a loss of Rs. 50/- on account of the reduction of the special pay from Rs. 150/- to Rs. 100/-. On this aspect of the matter we need not make any comments and it shall be for the Railway Administration to take a decision what shall be the proper and fair.

Counter-affidavit does not indicate the object of classification, nor the reason for withdrawal of the special pay for the promotees, except for what has been detailed in para 20 of the counter affidavit. On general principles the grant of special pay to officers on deputation alone cannot be questioned despite the fact that the officers of both the categories discharge the same duty. Reasonableness or unreasonableness of the classification, that is, of the withdrawal of the special pay must, therefore, be judged with reference to what has been pleaded in para 20 of the counter-affidavit. The compendium of Rulings, as reproduced in this Paragraph, suggests that "as stated by Second Pay Commission in their Repor

Commissioner for ... High Court ... 20/9/95

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idea of the special pay is that it is the most satisfactory way of compensating such addition to work or responsibility of such greater arduousness of duties, as is recognisable enough to merit additional remuneration, or in some cases of such a permanent nature as to justify placing the post in question in a higher grade". The suggestion of the Pay Commission in this respect was that there should be a periodical review of special pay and also that whenever it was found that a considerable proportion of employees of a particular grade had to be granted a special pay, it should be examined whether a new grade should not be introduced. It was then mentioned that "the question of regulating the scales of pay in R.D.S.O. keeping in view the Pay Commission's recommendations, quoted above, has been engaging the Board's attention for quite some time past. After going through the Report submitted by the Committee appointed for this purpose, the Board issued their orders as contained in their letter of 17.9.1969 in exercise of the powers vested in them as per the Code provisions referred to above."

The object of the withdrawal of the special pay is, therefore, giving effect to the recommendations of the Pay Commission, namely, that where a considerable proportion of employees of a particular grade are granted special pay, a new grade be introduced for that grade. The other principle laid down by the Pay Commission was that there should be a periodical review of special pays, which may justify increasing or decreasing the special pay attached to a post. On this latter aspect we need not make any comments.

Commissioner for Oaths
High Court Allahabad

A/75

7.

The special pay was admissible to all the promotees from Class III of R.D.S.O. Consequently, all the members of this group of Sectional Officers were drawing a special pay and as per the recommendations of the Pay Commission that would be a good ground for introduction of new grade. In the present case, however, what the Railway Administration did was not to introduce a new grade, but laid down rules for the fixation of salary not only of sectional officers who were to be promoted after 1.9.1969, but also of those who had been promoted in the past. The basis of classification is thus not in consonance with the object, as can be inferred from paragraph 20 of the counter-affidavit.

At this place it may be noted, though at the risk of repetition, that as a result of the instructions contained in Annexure-5 no immediate injustice would have been done to the promotee sectional officers, but one of the petitioners has reached the maximum of the time scale. There can be many others who are drawing the maximum of the time-scale. In their case the deprivation of special pay will amount to reduction of emoluments, even though they are doing the same work as officers on deputation.

Special pay or a new time-scale is sanctioned or introduced keeping in mind the arduous work done by that group of government servants. When special pay had not been withdrawn for officers on deputation, it cannot be said that importance of work of sectional officers had in any way decreased. Consequently, when the promotee sectional officers are doing the same arduous work, their scale of pay, whether with or without special pay, cannot overlook the nature of work done

Commissioner for High Court 2010

A/73

by them. The implied object of a new time-scale of pay or grant of special pay is to give additional benefits to government servants doing specialised or arduous work. Once the importance of the work is realised, a similar benefit must be given to all doing such job. It cannot be granted to one set of government servants, namely, officers on deputation and not to those promoted from the same department.

We are thus of the opinion that the classification by which the special pay was withdrawn or was not admissible to sectional officers promoted from Class III but was admissible to officers of Class II on deputation to R.D.S.O., is unreasonable and is not connected with the object intended to be served. Annexure-3 of the writ petition, as clarified by Annexure-5 of the rejoinder affidavit, therefore, deserves to be quashed being violative of Articles 14 and 16 of the Constitution.

The Special Appeal is hereby allowed and the writ petition of D.N.V. Chellum and others is allowed. It is further ordered that Annexure-3 to the writ petition read with Annexure-5 to the rejoinder-affidavit, are violative of Articles 14 and 16 of the Constitution and are, therefore, quashed. Let a writ be issued accordingly. Costs easy as not pressed.

Sd./ D.S. Mathur
sd./ Omprakash Trivedi.

2.11.1972.

.....

True Copy.

Commissioner for Oaths
High Court Allahabad
20/8/75

S Chaturvedi

S Chaturvedi

A/74

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW BENCH) LUCKNOW.
WRIT PETITION NO. OF 1975

R.C. Kathuria & ~~a~~others. .... Petitioners

Versus

The Secy. Railway Board, & Others.... Respondents.

Annexure No. 5

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH LUCKNOW.
Writ Petition No. 1114 of 1973.
Petition under Article 226 of the
Constitution of India.

A.S. Thakur & Others.... .... Petitioner

Vs.

The Railway Board and others.... Respondent.

Lucknow dated: 4.9.74.

Hon'ble Gulati.J.

The petitioners are Class II Officers in the Research Design & Standards Organization, Manak Nagar, Lucknow, in the Ministry of Railways. They are working in various departments of the said Organization. Until in 1969 they were getting their normal pay plus special allowance of Rs. 150/- per month. In 1969 the Railway Board withdrew the special allowance. Some of the officers belonging to the said organisation filed a writ petition which was dismissed but a special appeal against the

Commissioner for Oaths
High Court

A/75

aforesaid order was allowed and the order of the Railway Board withdrawing the special allowance was quashed as being discriminatory. The petitioners made several represe-ntations to the effect that special allowance in their cases should also be restored because the Railway Board's order withdrawing the special allowance had been quashed by the High Court. Theyk however, have not been granting any relief their representations have been ignored. They have accordingly approached this Court under Article 226 of the Constitution.

Learned Counsel for the parties are agreed that the case of the petitioners is completely covered by the decision of this Court in D.N.V. Chellum and others Vs. The Railway Board through its Secretary (Special Appeal No. 11 of 1971, decided on 2.11.1972) and the petitioners are entitled to the relief they have claimed.

Annx IV

The petition is according allowed. The respondents are directed to grant to the petitioners the reliefs to whcih they are entitled in accordance with the decision of this Court in the aforesaid Special Appeal.

The petitioners are entitled to the costs.

Sd/ R.L. Gulati.
4.9.74 .

True copy.

Commissioner for Oaths
High Court
20/01/75

Present A/1 to 22
24 to 47 were party to this S.A.

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

WRIT PETITION NO. OF 1975

R.C. Kathuria and others. . . . . Petitioners

Versus

The Secy. Railway Board & others. . . Respondents.

ANNEXURE NO. 6

(COPY)

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

NO. E(P&A)I-73/SP-1/RDSO/2/Pt. New Delhi-1, Dated:27.4.~~73~~ 1973.

To

Shri B.C. Saksena,
Advocate,
407 Dr. Baij Nath Road,
New Hyderabad,
Lucknow.

Dear Sir,

Sub:- Writ Petition No. 973 of 1969 and special Appeal No. 11 of 1971 in the High Court, Lucknow.

.....

With reference to your Notice dated 11.4.1973 addressed to the Secretary, Railway Board and others regarding grant of Special Pay to certain class II Officers in RDSO, I am directed to inform you that orders are under issue to the Director General, Research Designs and Standards Organization, Lucknow for the payment of the Special Pay of Rs. 150/- for every current month~~s~~ after the decision in the Special Appeal and that the right of the petitioners to claim the

Commissioner ... High Court

20/8/75

contd..

A/77

arrears of Special Pay commencing from 1.9.1969 at the rate of Rs. 150/- p.m. is under active consideration of the competent authorities. In the circumstances, you are requested to desist from moving the court of Law in the matter.

Yours faithfully,

Sd/ R.S. Bharal
For Secretary, Railway Board.

DA NIL;

T.C.



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

LUCKNOW BENCH, LUCKNOW.

Writ Petition No. of 1975.

R.C.Kathuria & others ..... Petitioner

Versus

The Secretary, Railway Board
and others. ..... Respondents.

Annexure No.7

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

Manak Nagar, Lucknow-11

No. A/ES/PC-III(73)(Schedules) Dated 29.1.1974.

Staff Notice

Sub: Railway Services (Revised Pay) Rules 1973 - Schedules for revised scales of pay in respect of RDSO office (Part II).

.....

The revised scales of pay in respect of certain categories of posts of this Organisation were contained in the Extra Ordinary Gazette dated 7.12.1973, a copy of which had been circulated to all concerned under Staff Notice number A/ES/PC-III(73) dated 29th December, 1973. The staff concerned were required to exercise option for the revised scales of pay by 6.3.1974.

2. Under Board's letter No. PC-III/73/PS/Schedule/RDSO dated 24th January, 1974, the revised scales in respect of certain additional categories of Class II, Class III and Class IV posts have been notified. Copy of the Schedule issued by the Board is attached.

3. The Officers/staff covered by the Schedule are required to exercise their options by 23-4-1974.

... contd.

Commissioner for Oaths
High Court Allahabad
20/8/75

A/79

4. The other instructions as contained in the Staff Notice No. A/ES/PC-III(73) dated 29.12.1974 will apply equally in this case also.

DA: One Schedule &
Option Forms.

Sd./ (M.P.Srivastava)
For Director General.

Distribution.

As per list attached.



..... contd.

T.C.

A/20

3.

RESEARCH DESIGNS & STANDARDS ORGANISATION

PART II.

Designation.	Present authorised scale of pay.	Revised scale of pay.	Remarks.
1.	2.	3.	4.
CLASS II POSTS			
All posts on the present standard Class II scale other than Assistant Accounts Officer and those notified in the First Schedule.	350-25-500-30-590-EB-30-800-EB-30-830-35-900.	650-30-740-35-810-EB-35-880-40-1000-EB-40-1200.	
Assistant Accounts Officer.	350-25-500-30-590-EB-30-800-EB-30-830-35-900	840-40-1000-EB-40-1200.	

True Copy

A/81

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

Writ Petition No. of 1975

R.C. Kathuria & others. . . . . Petitioners

Versus

The Secy. Railway Board & ~~an~~others. . . . . Respondent

Annexure 8

MOST ~~URGENT~~ IMMEDIATE

GOVERNMENT OF INDIA: MINISTRY OF RAILWAYS
RESEARCH DESIGNS & STANDARDS ORGANIZATION.

Manak Nagar
Lucknow- 226011

No. A/ES/PC-III (73) 29th December, 1973

STAFF NOTICE

Sub:- Implementation of the recommentations of the Third Pay Commission.

.....

In ~~pursuance~~ Consequence of the recommendations of the Third Pay Commission, the Board have issued the rules called 'The Railway services (Revised ~~Pya~~ Pay) Rules, 1973 vide notification contained in the Extra-ordinary Gazettee dated 7.12.1973, a copy of which is attached. The rules so notified are not applicable to a few categories of staff as indicated in para 2 of the Gazettee.

2. Such of the staff as are covered by the rules referred to in para-1 above, particularlythose occupying posts in respect of which the revised scales of pay have been issued under the said notification, are required to exercise an option in terms of para 6 of the aforesaid notification by 6.3.1974. The important points relating to exercise of option by the staff concerned are reproduced below:-

contd...

"6. Exercise of Option: (1) The option under the proviso to rule 5 shall be exercised in writing in ther form apended to the second schedule so as to reach the authority mentioned in sub-rule (2) within three months of the date of publication of these rules, i.e. by 6.3.1974, or where an existing scale has been revised by any order made subsequent to that date, within three months of the date of such order:-

Provided that-

(i) in the case of a Railway servant who is, on the date of such publication or, as the case may be, date of such order, out of India on leave deputation or foreign service or active service, the said option shall be exercised in writing so as to reach the said authority within three months of the date of his taking charge of his post in India; and

(ii) Where a Railway servant is under suspension on the 1st day of January 1973, the option may be exercised within three months of the date of his return to his duty if that date is later than the date prescribed in this sub-rule.

(2) The option shall be intimated by the Railway servant-

(a) if he is a non-gazetted Railway servant, to the Head of his office:

(b) if he is a gazetted Railway servant, to his Accounts Officer.

(3) If the intimation regarding option is not received within the time mentioned in sub-rule (1), the Railway servant shall be

contd....

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deemed to have elected to be governed by the revised scales of Pay with effect on and from the 1st day of January, 1973.

(4) The option once exercised shall be final"

Also salient features of the Revised Scales of pay indicated in Appendix to this note. Barring the gazettee notification of which only a limited number of copies are being supplied to different directorates/ wings/units, adequate number of copies of this notice are being circulated amongst different directorates etc., so as to give the matter the widest possible publicity to enable the officers and staff to exercise their option within the period prescribed for the purpose. The officers and staff should ensure that they have received acknowledgements for the option tendered by them from the Branches responsible for their establishment work. In respect of such of the employees as are covered by para - 6 (i) & (ii) of the Notification, the establishment branches concerned shall ensure that the form of option is received by the individuals in time so that complications of serious consequence do not occur. The option forms for the purpose may be obtained from the Section officers/Incharges concerned.

2.1. Adequate number of copies of the option are being sent out to different RDSO Branches in Lucknow and those headquarters outside Lucknow. They should send in the acknowledgements therefore with a view to avoiding any error or omission.

2.2. In the case of mobile /field units of the Research

contd.

Directorate, the formof option should be sent out to Officers/ staff by SO (Research) who may be aware of their movement, under advice to the Administration Branch.

3. On receipt of these option forms duly filled in, further action as necessary, will be taken. It may please be noted that the fixation of pay and drawal of arrears/ pay will depend upon the expediency with which the option is exercised.

4. The Hindi version of this staff notice will be issued separately. The controlling officers/branch officers/ section officers/Incharges should explain the requirements of these rules to the staff under them particularly to those belonging to the categories of artisan staff and those in class IV service.

Sd/
N.Nilakanta Sarma
Dy.Director General

Encl: 1. One copy of Extraordinary Gazettee dated 7.12.1973

2. One copy of Appendix

3. ___ spare copies of the notice.

4. ____ option forms.

DISTIBUTION

TO ALL CONCERNED.

Commissioner for Oaths High Court 20/8/13

T.C.

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

LUCKNOW BENCH, LUCKNOW.

Writ Petition No. of 1975.

R.C.Kathuria & others ..... Petitioner

Versus

The Secretary, Railway Board
and others. ..... Respondents.

Annexure No.9

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

No. A/ES/Exp(73) Manak Nagar, Lucknow-11
Dated: 31- 1- 1974.

Sub: Regulation of Special pay - Fixation of pay under Railway Services (Revised Pay) Rules , 1973.

.....

A copy of the Board's letter No. PC III/74/SP/1 dt. 17.1.74 of the above subject is enclosed for information & guidance.

Sd./

DA: As above. (B.R. Sharma)
Section Officer/Admn.

DD/Estt.)
SO/E-I)
SO/E-II)15 copies
SO/E-III) each.
SO/E-IV)
TEN - 5 copies.
AAO -10 copies
Copy for Pay Commission file.

-.

Copy of Railway Board's letter No. PC III/74/SP/1 dt. 17.1.1974 addressed to the DG, RDSO, Lucknow and others.

.....

Sub: Regulation of special pay - Fixation of pay under Railway Services (Revised Pay) Rules, 1973.

....

The Third Pay Commission have in their Report given the following treatment to the posts carrying special pay :-

Commissioner for Oaths
High Court Allahabad

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2.

(i) Higher scale has been recommended in lieu of the existing scale and the special pay.

(ii) Special pay has been specifically recommended to be continue along with the revised scale.

(iii) No recommendation has been made.

2. In so far as the cases falling in category (i) are concerned, the pay will be fixed in the revised scale in accordance with the Railway Services (Revised Pay) Rules, 1973 as the term 'existing emoluments' defined in these rules includes such special pay. In cases falling under category (ii), pay will be fixed on the basis of existing emoluments excluding special pay. The special pay over the revised scales based on recommendations of the Pay Commission will be admissible in addition.

3, The cases failling under category (iii) can be decided only after taking into account the consideration which led to the grant of special pay, the reasons why the Commission have not made any recommendation and the pay scales and special pay allowed by the Commission for comparable posts in the same organisation/cadre or elsewhere. In the meantime the pay of the individual employee should be fixed in the revised scale with reference to the basic pay only i.e. excluding special pay. The special pay at the existing quantum (even where the spl. pay has been expressed as a percentage of basic pay) should be allowed to be drawn provisionally pending the final review contemplated above.

4. Please acknowledge receipt.

Sd./

(G.D. Sud)

.....

True Copy

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

LUCKNOW BENCH, LUCKNOW.

Writ Petition No. of 1975.

R.C.Kathuria & others ..... Petitioner

Versus

The Secretary, Railway Board and others. ..... Respondents.

Annexure No.10

IMMEDIATE.

GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAY (RAIL MANTRALAYA)
RAILWAY BOARD

No. E(P&A)I-73/SP-1/RDSO-3 New Delhi, dated 16.12.1974.

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

Sub: Writ-Petition No. 1114 of 1973 and Stay application No. 3469(20) of 1973 - Shri A.S. Thakur and 48 others Vs. Railway Board & others in connection with Special Pay to class II (Tech) Officers of R.D.S.O.

Ref: Your letter No. E/RSP/Lit(H.C.) dated 22.11.1974.

The Board desire that expeditious arrangements should be made to pay to the petitioners in the case above as well, the special pay of Rs. 150/- for every current month after the decision of the High Court in Special appeal; i.e., from the same date as was done on an earlier occasion in the case of Shri Chellum and others vide Board's letter No. E(P&A)I-73/SP-1/RDSO-2 Pt. dated 27-4-1973 addressed to Director General, R.D.S.O.

2. As regards the claim of the Petitioners for the arrears of the special pay commencing from 1-9-1969, the matter is under active consideration of the Board and a further communication in this regard will be follow shortly.

DA: Nil.

Sd/-
(Mangal Pershad)
Deputy Director, Establishment (P&A)
Railway Board.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

WRIT PETITION NO. of 1975

R.C. Kthuria & another. . . . . Petitioners.

Versus

The Secy. Railway Board, & another... Respondents.

ANNEXURE NO. II

To

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

Sir,

Sub:- Railway Services (Revised Pay) Rules 1973- Schedules for revised scales of Pay in respect of RDSO officers (Part II).

Ref: Staff Notice No. A/ES/PC-III(73) Schedules dated 29.1.1974.

.....

The Schedules enclosed alongwith the said notice indicates the revised Class II scale of Pay as Rs. 650-1200 corresponding to the present authorised scale of pay of Rs. 350-900. Special pay has neither been included in the authorised scale nor in the revised scale of pay.



2. In terms of judgement and order of the Lucknow Bench of the Allahabad High Court in S.A. No. 11/1971 which has since been upheld by the Supreme Court vide its decision in S-L.P. (Civil) No. 3160/73 on 4.2.1974, my present scale of pay in the Authorised scale in class II is Rs. 350-900 + SpecialPay of Rs. 150/- and the corresponding scale in the revised

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scale should be Rs. 650-1200 + Special Pay of Rs. 150/- or alternatively a higher scale of pay.

3. It will, therefore, be seen that neither my present authorised scale nor my revised scale appear in the Schedules.

4. As directed in the above said staff notice, I am, however, exercising my option to elect the revised time scale of Pay of Rs. 650-1200 as shown in the Schedule in lieu of my present time scale of pay of Rs. 350-900. The Special pay of Rs. 150/- in terms of the decision of the Supreme Court be paid to me in addition to the revised time scale and as a part of the revised scale of pay. The option form duly filled in and signed by me is enclosed herewith for drawing my pay in the revised scale.

Yours faithfully,

Sd/ 16.2.74
(R.C. Kathuria)
Asstt. Design Engineer (W)-V

Encl: One form

R Kathuria

Commissioner for High Court 25/8/77

contd.....

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Government of India
Ministry of Railways

Research , Design and Standards Organisation.

FORM OF OPTION

(See Rule 6 (I)

(1) I R.C. Kathuria S/o Shri Khan Chand Kathuria hereby elect the revised scale(s) with effect from 1st January, 1973 subject to the note below:-

Note:

The special pay of Rs. 150/- per mensum, in terms of the judgement & order of the Allahabad High Court, Lucknow Bench, in S.A. No. 11 of 1971 as upheld by the Supreme Court vide its decision on SLP (Civil) No. 3660 /73 be paid to me in addition to the revised scale & as a part of the revised scale of pay.

Signature = Sd/
Name (R.C. Kathuria)

Designation: Asstt. Design Engineer.

Date: 16.2.74

Station Lucknow.

Office in which employed-
Wagon Dee, RDSO, Lucknow. 11

R Kathuria

T.C.
R Kathuria

Commissioner
High Court

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

WRIT PETITION NO. OF 1975

R.C. Kathuria & others. .... Petitioners

Versus

The Secy. Railway Board and others.... Respondents.

ANNEXURE NO. 12

RESEARCH DESIGNS & STANDARDS ORGANIZATION

FINANCE & ACCOUNTS BRANCH

Final Pay Slip

No. F/EG/P/631/VKJ Dated: 19.4.75

Pay and allowances of Shri V.K. Jaiswal, ARE/EE should be drawn at the monthly rates shown below from the dates specified:-

Nature of Pay	1.1.73	22.2.73	3.3.73	4.6.73	1.7.73	1.8.73
Substantive Pay	Rs. 575/-	-	575/-	-	575/-	575/-
Officiating Pay	Rs. 345/-	-	345/-	-	345/-	345/-
Special Pay	Rs. 150/-	-	150/-	-	150/-	150/-
Deputation abroad/ personal Pay.						
Dual Charge allowance						
Joining time Pay						
Leave Salary	Rs. -	1070/-	-	1070/-	-	-
Dearness Allowance	-	-	-	-	-	54/-
Interim Relief	-	-	-	-	-	-
City Comp. Allowance	Rs. 50/-	50/-	50/-	50/-	50/-	50/-
TOTAL	Rs.1120/- A	1120/- B	1120/- C	1120/- D	1120/- E	1174/- F

CONTD...

6

Nature of Pay		19.9.73	1.10.73	22.10.73	28.10.73	1.2.74	1.4.74	1.6.74
Substantive Pay	Rs.	575/-	575/-	--	575/-	575/-	575/-	575/-
Officiating Pay	Rs.	385/-	385/-	--	385/-	385/-	385/-	425/-
Special Pay	Rs.	150/-	150/-	--	150/-	150/-	150/-	150/-
Deputation abroad/ Personal Pay.								
Dual Charge allowance.								
Joining time Pay								
Leave Salary				1110/-				
Dearness Allowance	Rs.	54/-	81/-	81/-	81/-	135/-	135/- 27/-	135/- 27/-
Interim Relief.								
City Comp. Allowance	Rs.	50/-	50/-	50/-	50/-	50/-	50/-	50/-
TOTAL	Rs.	1214/-	~~1241~~ 1241 /-	1241/-	~~1041~~ 1241/-	1295/-	1322/-	1362/-

G H I J K L M

contd.....3



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Nature of Pay	10.6.74	23.6.74	1.7.74	1.9.74
Substantive Pay Rs.		575/-	575/-	575/-
Officiating Pay Rs.		425/-	425/-	~~425/-~~ 465/-
Special Pay Rs.		150/-	150/-	150Rs-
Deputation Abroad/ Personal Pay				
Dual Charges Allowance				
Joining time Pay.	~~Rs. 1150/-~~			
Leave Salary	Rs. ~~1150~~/- 1150/-			
Dearness Allowance.	Rs. 135/- 27/-	135/- 27/-	135/- ~~27/-~~ 81/-	135/- ~~27/-~~ 108/-
Interim Relief.				
City Comp. Allowance.	Rs. 50/-	50/-	50/-	50/-
TOTAL.	Rs. 1362/-	1362/-	1416/- ~~1362/-~~	1483/-
	N	O	P	Q

The charges is voted

The Offg. Cl. II Scale of Pay 650-1200-+150/- /S. Pay in which increment accrused on 19th Sept. every year in the absence of instructions to the contrary may be drawn till the stage of Rs. 1040/- is arrvied at. Subject to crossing EB

Note: 1. Deductions fund subscriptions and recoveries of Govt dues as per rules shouldbe effected unless other wise stated.

2. This payslip is in continuation supersession/modification of the payslip of even no. dated 10.2.75

contd....

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3. This payslip is current upto.

Deputy Director (Estt.)RDSO/LKO Jt Sd/
For ~~Jt~~ Director Finance-cum-Admn.
Officer A/cs. RDSO,Lko.

Copy forwarded for information to:

1. Section Officer E-III.

2. Shri V.K. Jaiswal,
A.R.E./~~EE~~ EL
R.D.S.O.Lucknow.

Sd/
for Jt. Director Finance-cum-Admn.
Officer =A/cs,RDSO,LKO.

Certified

TRUE COPY

Certified

Commissioner for Oaths
High Court
20/8/76

A/95

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLD.

LUCKNOW BENCH, LUCKNOW.

Writ Petition No. of 1975.

R.C.Kathuria & others..... Petitioner

Versus

The Secretary, Railway Board
and others. ..... Respondents.

ANNEXURE No.13

Research Designs & Standards Organization

Manak Nagar, Lucknow-11

No. A/ES/PC-III(73)(Sch.) Dated : 8-8-1975.

STAFF NOTICE

Sub:- Railway Services(Revised Pay) Rules, 1973 - Schedules of Revised Scales of Pay.

.....

A copy of the Board's letter No. PC-III/73/PSI/2 of 28.7.75 on the above subject is enclosed for information and guidance.

2. Copy of the Board's letter ibid is being supplied individually to Directors/Addl. Directors and Joint Directors. Additional copies are being supplied to the Section-in-charges with the request that the staff notice may be given wide publicity amongst the officers below the rank of Joint Directors intheir respective Directorates/Wings.

DA:Copy of letter.

Sd./ (M.P.Srivastava)
for Director-General.

Distribution

Directors, Addl. Directors, Jt. Directors, All Directorates, Establishment Branches, RDSO Class II Officers' Association, Offices located at outstations.

True Copy

A/76

Govt. of India (Bharat Sarkar)
Ministry of Railways (Rail Mantralaya)
(RAILWAY BOARD)

No. PCIII/73/PS 1/2 New Delhi dated 28.7.1975.

Sub: Railway Services (Revised Pay) Rules, 1973-Schedules for Revised Scales of Pay.

A schedule showing the revised scales of pay applicable to the categories of Assistant Design Engineer, Assistant Research Engineer, Assistant Inspecting Engineer and Assistant Liaison Engineer formerly designated as Sectional Officers, w.e.f. 1.1.1973 is enclosed.

No special pay is admissible in the revised scale of pay to the officers holding the above mentioned posts. The officers will have an option to retain the authorised scale of pay with special pay or the revised scale of pay without special pay, and they can exercise their option within a period of three months from the date of issue of this letter. Further, while bringing the officers on revised scale of pay w.e.f. 1.1.1973, the normal fixation rule regarding special pay will apply. However, the excess of existing emoluments i.e. basic pay, dearness pay, dearness allowance and interim relief at the rates in force on 31.12.1972 and special pay in the authorised scale of pay over the pay admissible in the revised scale, if any, will be protected in terms of the instructions contained in Board's letter No. PCIII/74/ROP-1/23 dated 18.6.1974.

Hindi version of this will issue separately.

DA: As above

Sd./ Radhey Shiam
Dy. Director, Pay Commission,
Railway Board.

..... contd.

Commissioner for Oath
High Court
20/01/75

A/97

3.

RESEARCH DESIGNS AND STANDARDS ORGANIZATION.

Designation of Post	Authorised scale of pay.	Revised scale of pay	Remarks.
1	2	3	4
Assistant Design Engineer Assistant Research Engineer Assistant Inspecting Engineer Assistant Liaison Engineer (Formerly designated as Sectional Officers)	350-25-500-30-590-EB-30-800-EB-830-35-900- plus a special pay of Rs. 150/- per month.	650-30-740-35-810-EB-35-880-40-1000-EB-40-1200/-	

Commissioner for Oath
High Court
20/01/97

True Copy.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

WRIT PETITION NO. Of 1975

R.C. Kathuria .and ~~an~~others. . . . . Petitioners

Versus

The Secy. Railway Board & ~~an~~others.... Respondents.

ANNEXURE NO. 14

To

Dated 6.8.1975.

The Director General,
R.D.S.O.
Lucknow.11

Sir,

Sub:- Railway services (Revised Pay) Rules 1973
Schedule for Revised Scales of Pay.

Ref:- Dy. Director, Pay Commission Railway Board's letter No. PCIII/73/PSI/2 dated 28.7.75.

.....

With reference to the above I have to state as follows:-

1. i) That before the issue of the above quoted letter the schedule for revised scales of pay had already been circulated vide DG/RDSO's letter No. A/ES/PC-III(73) (Schedules) dated 28.1.74.

ii) That a reference to the schedule enclosed with the circular of 29.1.74 would reveal that it was applicable to all posts on the present standard Cl.II scale other than Assistant Accounts Officer and those notified in the first schedule.

iii) That it may be stated here that the Railway Board vide their letters No. PC-67/SP-1/RDSO-1 dt. 17.9.69 and 7.1.1970 had withdrawn the special pay attached to the Cl.II

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technical posts of the R.D.SO. and hence at the time of issue of the above schedule, the scale of pay was only the standard Cl. II in Rs. 350-900 (AS).

iv) That according to the above referred schedule the authorised scale of pay of Rs. 350-900 applicable to the posts against column 1 of the schedule was equated to Rs. 650-1200 in the revised scale of pay.

v) That with respect to the admissibility of the special pay in the revised scale, Railway Board issued directions contained in their letter No. PC-III/74/SP-1 dated 17.1.74 according to which the special pay was allowed to be paid to the incumbent provisionally in the revised scale pending final review.

vi) That I opted for the revised scale as per schedule announced on 29.1.74 with the condition that special Pay be also paid in terms of Board's letter of 17.1.1974, which was also in accordance with the judgement and order of the Hon'ble High Court in Writ Petition No. 1114 of 73.

vii) That it may be stated here that on the judgement in special Appeal No. 11 of 1971 ~~with~~ the Railway Board had preferred special leave to appeal in the Hon'ble Supreme Court of India which was rejected on 4.2.74.

viii) That it appears that pending instruction from the Railway Board, no action was taken on our option and hence our pay was not fixed in the revised scale.

ix) That thereafter by order dt. 16.12.74 as

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contained in letter No. E (P & A) I- 73 /SP-1/RDSO-3, the Railway Board reviewed the position with respect to the spl. Pay and ordered that the special pay be paid immediately for every current month in respect of the petitioners in writ petition No. 1114 of 73.

x) That in pursuance of the above orders I was then fixed in the revised scale of pay of Rs. 650-1200 and the Spl. pay of Rs. 150/- allowed to me as per final pay slip issued by DG/RDSO.

xi) That it may be stated here that similar option was given by a large number of officers who were not petitioners in the Writ petition No. 1114 of 1973.

xii) That in their case the pay has not been fixed so far in the revised scale in pursuance of the Board's order of 16.12.74 the applicability of which was restricted to the 49 petitioners in Writ Petition No. 1114 of 73.

xiii) That restricting the applicability of the order dated 16.12.74 to the 49 petitioners only without extending it to the remaining class II officers clearly established that, I was fixed in the revised scale since I was covered by the schedule issued on 29.1.74 and Special Pay allowed keeping in view the Court's order in Writ Petition No. 1114 of 1973.

xiv) That it would be evident from above that the option exprcised by me was accepted, implemented and hnce incapable of being revoked in terms of Fundamental Rule 23 (2019 I.R. Establishment code Vol.II) which states that "Option once exercised is final".

XV) That the above contention is supported by Rule No. 6 of Rly. Services (Revised Pay) Rule 1973.

2. ~~xv)~~ In view ~~of~~ what has been stated above the schedule enclosed with the Railway Board's letter No.

A/10

PC-III/73/PS-1/2 dated 28.7.75 cannot be extended to me. I, therefore, request and expect that no action with respect to the withdrawal of the Special Pay or refixation be conceived now in my case.

3. I understand some action in respect of withdrawal of Special Pay in my case is already in contemplation. I, therefore, request that a reply in confirmation of my contention be communicated to me very early, but not later than 14th August, '75 failing which I shall be driven to the need of seeking other constitutional remedial measures.

Yours faithfully,
Sd—
(R. C. Kathuria)

Copy to JDF. RDSO/Lucknow for information and necessary action.

R Kathuria

T. C.
R Kathuria

....



IN THE HON'BLE HIGH COURT OF JUDICAUTRE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

.....

WRIT PETITION NO. OF 1975

R.C. Kathuria and anothers..... Petitioners

Versus

The Secy. Railway Board & anothers.. Respondents.

ANNEXURE NO. 15

To
The Director General,
RDSO, LUCKNOW-11

Sub:- Railway Services (Revised Pay)Rules 1973- Schedules for Revised Scales of Pay.

Ref:-Dy. Director, Pay Commission, Rly. Board,'s Letter No. PCIII/73/PS-1/2 dt. 28.7.1975.

.....

With reference to the above , I have to state as follows:-

1. That on 2.11.1972 the Lucknow Bench of the Allahabad High Court, vide their judgement in S.A. No. 11 of 1971, inter-alia, directed the Railway Board to refrain from interfering with my legal right to draw special pay of Rs. 150/- as part of my pay.

2. That in terms of the above direction, the Railway Board, vide their letter No. E(P&A)1-73/SP-1/RDSO/2/Pt. dated 27.4.1973 ordered the payment of Rs. 150/- p.m. to me for every current month from the date of the above decision which order was implimented by DG/RDSO in May,1973.

3. That the schedule for the Revised Scale of pay was circulated vide DG/RDSO's letter No. A/ES/Pc-III

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(73) Schedules dated 29.1.74.

4. That the Dy. Director, Railway Board videhis letter No. PC-III/74/SP-1 dated 17.1.1974, directed DG,RDSO that Spl. pay at the existing quantum should be allowed to be drawn provisionally in the Revised scale pending final review.

5. That vide their decision in S.L.P.(Civil) No. 3160/73, the Supreme court upheld the above said judgement of the High Court on 4.2.74.

6. That on 15.2.74 under rule (6) of the Railway ~~Serivdes~~ Services (Revised Pay)Rules 1973 I opoted for the revised scale as per the Schedule announced on 29.1.74 with the condition that in terms of the judgement, the spl. pay of Rs. 150/- be also continued to be paid to me, in addition to the Revised Time Scale and as a part of the Revised scale of Pay.

7. That in pursuance of the exercising of the above option and in terms of the directions contained in Dy. Director, Rly. Board's letter referred to in para 4 above, my pay was refixed from the Authorised Scale of Rs. 350-900 + Spl. pay of Rs. 150/- to the revised scale of Rs. 650-1200 + Spl.Pay of Rs. 150/- as have been indicated in the receipt of the option and the pay slip No. F/EG/P/631/234/KNG dated 9.7.74 respectively.

8. That a similar judgement as mentioned in para 1 above was also obtained by another batch of 49 officers on 4.9.74 in whose cases also fixation of pay similar to that of mine was done in the

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Revised Scale after they had exercised their options.

9. That similar options were understood to have been given by another batch of officers who were not covered by the court judgement and in all these cases their pays have still not been fixed in the Revised Scale.

10. That restricting the applicability of the direction contained in Railway Board's letter referred to in para 2 above for granting spl. Pay in both Authorised as well as Revised Scales, only to those whose cases are covered by the judgement, categorically establishes, the fact that the the spl. pay was allowed to me in terms of the courts directive.

11. That it would be evident from the above that the option exercised by me has been accepted and implemented and is, therefore, in capable of being revoked in terms of Rule 6 of the Railway Services (Revised Pay) Rules 1973. which inter-alia, states that "Option once exercised shall be final."

12. That the above said contention is also upheld by Rule 2019 (FR 23) of Establishment code Vol.II under the provise of which I am eligible to retain my existing scale of pay of Rs. 650-1200+Spl. Pay of Rs. 150/- which I have been drawing forthe past 31 months.

2. In view of what has been stated above, the schedule enclosed with the Railway Board's letter No. PC-III 73/PS-1/2 dated 28.7.75 cannot be extended to me. I, therefore, request and expect that no action with

Commissioner for Oath
High Court Ala
20/8/78

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respect to the withdrawal of special pay or refixation be conceived now in my case.

3. I understand that some action in respect of the withdrawal of spl. pay in my case is already in contemplation. I, therefore, request that a reply in confirmation of my contention be communicated to me very early, but not later that 14th August, 1975, failing which I have to submit that I shall be constrained to seek other constitutional remedial measures.

Yours faithfully,

(K.N. Ganesa Kumar)
ADE(B&S)II

Lucknow:
6.8.75

Copy to JDF/RDSO/Lucknow for information and necessary action.

Lucknow.
6.8.75

Yours faithfully,

(K.N.Ganesa Kumar)
ADE (B&S) -II

T.C.

Commissioner for Oaths
High Court
20/8/75

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

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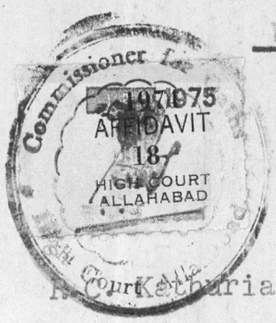
WRIT PETITION NO. of 1975



R.C. Kathuria & others. . . . . Petitioner

Versus

The Secretary, Railway Board
and others. ..... Respondents.





208 B.21
3.7.75

AFFIDAVIT

I, R.C. Kathuria, aged about 46½ years, son of late Shri Khem Chand Kathuria at present residing at Type 4 Spl/ 29-B Manaknagar, Lucknow-11 do hereby solemnly affirm and state as follows:-

1. That the deponent is the petitioner in the Writ Petition and is fully acquanted with the facts deposed to hereunder.

2. That the contents of paragraphs 1 to 37 of the Writ Petition are true to his own knowledge.

3. That the deponent has compared Annexure 1 to 15 with its original and certifies them to be true copy thereof.



R.C. Kathuria

DEPONENT

Dated: Lucknow
August 20, 1975.

I, the above named, deponent, do hereby verify that the contents of paragraphs 1, 2 and 3 of this affidavit are true to my own knowledge. No part of it

contd...

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is false and nothing material has been concealed, so help me God.

Dated: Lucknow.
August 20, 1975.

R.C. Kathuria
DEPONENT.

I identify the deponent who has signed before me.

J.P. Srivastava
Clerk to Sri R.N. Trivedi,
Advocate.

Solemnly affirmed before me on 20-8-1975 at 7.30 ~~a.m.~~/p.m. by R.C. Kathuria the deponent who is identified by Sri J.P. Srivastava, clerk to Sri R.N. Trivedi, Advocate, High Court Allahabad, Lucknow Bench.

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

20/8/75

(Ambika Narain)
Oath Commissioner,
High Court Allahabad
Lucknow Bench.
No 868-75
Date 20-8-75

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

W.P. No 1881 - 75

A/138

R.C. Kathuria . . . . Petitioner

vs

Railway Board & Ors . . . . Opposite

The Counter affidavit is being filed herewith.

Abdul Bailee
C/o
Mr Srivastava
Advocate

In the Hon'ble High Court of Judicature at Allahabad

(Lucknow Bench) Lucknow.

Civil Misc. Application No. (w) of 1975

In re

W.P. No 1881 of 1975

1974 1975
AFFIDAVIT
51
HIGH COURT
ALLAHABAD

High Court ALLAHABAD OATHS COMMISSIONER

R.C.Kathuria and 47 others .. .. Applicants

In re:

R.C.Kathuria and 47 others ... ... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi and others ... ... Opposite-Parties

COURT FEE 1 Rc. भारत INDIA एक रुपया ONE RUPEE

COURT FEE 1 Rc. भारत INDIA एक रुपया ONE RUPEE

COUNTER AFFIDAVIT TO THE AFFIDAVIT ACCOMPANYING THE APPLICATION FOR INTERIM RELIEF.

I, R.P.Jaitley, aged about 45 years, son of Sri Sardari Lal Jaitley, Section Officer, Research Designs and Standards Organisation Lucknow, solemnly affirm as under :-

COMMISSIONER FOR OATHS High Court ALLAHABAD

1. That the deponent who is Sectional Officer, Establishment I, Research Designs and Standards Organisation, Lucknow.

2. That the contents of paragraph 1 of the affidavit need no comments.

3. That the contents of para 2 of the affidavit need no comments.

4. That with reference to the contents of paragraph 3 of

the affidavit it is submitted that at the time of admission of the Writ Petition the Bench admitting the Writ Petition was not inclined to grant the interim relief, the petitioner got the same dismissed as not pressed.

5. That with reference to the contents of paragraph 4 of of the affidavit it is submitted that the petitioners after the dismissal of the first application for interim relief under the circumstances stated above have taken shelter behind Annexure No.2 to the affidavit accompanying the application for interim relief in order to get an opportunity to file yet another stay application.

6. That in view of what has been stated above the contents of paragraph 5 of the affidavit in which the facts have not been correctly stated require no further reply.

7. That the contents of paragraph 6 of the affidavit which are related to contents of paragraph 5 of the affidavit accompanying the stay application do not give correct facts. As a matter of fact on receipt of revised scale of pay, the Railway Board issued schedule vide their letter No.PCIII/73/PS/Sch./RDSO dated 24.1.1974 (Annexure No.7) for all Class II Officers on the Indian Railways. As per this schedule the 'Authorised' scale was shown as Rs.350-900 and the revised scale as Rs.650-1200. At that time there was no Special Pay attached with the 'authorised scale'. The Special Pay was being paid vide Railway Board's letter No. PCIII/74/SP/1 dated 17.1.1974 a copy of which is being

COMMISSIONER FOR OATHS
High Court, ALLAHABAD

Annexed as Annexure A1. This payment was provisional till the finaladation of such like cases. As a result of High Courts judgment referred to in the Writ Petition and the Special pay was restored and this necessitated correction so far as 'Authorised Scale' was concerned and keeping in view this restoration, the Railway Board issued a fresh schedule vide their letter No.P.C.III/73/PS-1/2 dated 28.7.1975 a copy of which has been annexed as Annexure No.13 to the Writ Petition. In this schedule special pay has been shown along with the 'Authorised Scale' and not in the'Revised Scale'. In view of this all the officers had got full 3 months time to exercise their option afresh indicating whether they would like to retain the authorised scale or come over to Revised Scale, but no option has so far been received from the petitioners and as such the petitioners were to be fixed in the Revised Scale of pay viz. Rs.650-1200 and are thus not entitled to the Special Pay of Rs.150/ p.m. which is not attached to the Revised Scale.

8. That with reference to the contents of para 7 of the affidavit it is submitted that no reply in respect of the said judgment given in Special appeal is needed but it is submitted that the special pay's demand is not correct. As a matter of fact keeping in view the judgment referred to in this paragraph, the Railway Board, vide their letter No.E(P & A) I-73/SP-1/RDSO -3 dated 28.5.1975, a copy of which is being annexed herewith as Annexure A-2 have modified their orders contained in their letters No.PC-67/SP-1/RDSO-1 dated 17.9.1969 and 7.1.1970 in so far as they relate to the regulation of pay and special pay admissible to the incumbents of Class II posts of Sectional Officers,

COMMISSIONER FOR OATHS High Court ALLAHABAD

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Liaison Engineers etc. (since re-designated as ADEs, AREs, ALEs etc.) in R.D.S.O. Accordingly, the entitlement of pay and special pay of class III staff of R.D.S.O. appointed as Sectional Officer as well as Officers drafted from Railways for these posts in the 'Authorised scales of pay' will be regulated in terms of the orders in force prior to 1.9.1969.

From these orders it will be seen that the special pay has been restored only in the 'Authorised' scale of pay". It is further added that the petitioners have been given an opportunity to exercise their option vide Railway Board's order dated 28.7.1975, a copy of which is annexed as Annexure 13 to the Writ Petition, either to retain the Authorised scale of pay plus special pay or to opt for the Revised scale of pay without special pay. In case such an option would have been exercised the total emoluments which they were drawing on 31st December 1972 was to be protected in terms of Railway Board's letter quoted above e.g. calculation in respect of one of the petitioners is being annexed herewith as Annexure A-3. It will thus be observed that there is no drop in the emoluments on 1.1.1973.

9. That the contents of paragraph 8 of the affidavit as framed are denied. In view of what has been stated in paragraph 8 above the petitioners are not entitled to special pay of Rs.150/- p.m. in Revised scales of pay and the petitioners application for interim relief is liable to be rejected.

10. That the deponent is advised to state that the application for interim relief has become infructuous in view of the position explained above and in any case the

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petitioners have no right to claim special pay of Rs.150/- p.m. in the revised scale of pay and that too by means of the present writ petition and as such the application for interim relief is liable to be dismissed.

Deponent

Dated Lucknow
12-11-1975.

I, the abovenamed deponent do hereby verify that the contents of paragraphs 1 ——— of this affidavit are true to my own knowledge, those of paragraphs 2 to 8 are true to my own knowledge from perusal of records and of paragraphs 9 , 10 are believed to be true. No part of it is false and nothing material has been concealed in it, so help me God.

Deponent

Dated Lucknow
12-11-1975.

I identify the deponent who has signed before me.

(Abdul Bari Khan)
Clerk to Sri U.C.Srivastava, Advocate

Solemnly affirmed before me on 12-11-75
at 7-30 a.m./p.m. by Sri R.P.Jaitley
the deponent who is identified by
Sri A.B.Khan Clerk to Sri U.C.Srivastava
Advocate High Court Allahabad.
I have satisfied myself by examining the
deponent that he understands the contents
of this affidavit which have been read
over and explained by me.

M. N. VERMA

OATH COMMISSIONER
High Court, Allahabad,
Lucknow Bench
No. 925 of 75
Date 12-11-75

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In the Hon'ble High Court of Judicature at Allahabad

(Lucknow Bench) Lucknow.

Writ Petition No.1881 of 1975.

R.C.Kathuria and 47 others Petitioners

Versus

Railway Board through its Secretary and others.. Opp.Parties

Annexure A-1

Copy of Railway Board's letter No PC.III/74/SP/1dated 17.1.1974 addressed to DG/RDSO/Lucknow and copy to others

Sub:- Regulation of Special pay - Fixation of pay under Railway Services (Revised Pay) Rules, 1973.

The Third Pay Commission have in their Report given the following treatment to the posts carrying special pay :-

(i) Higher scale has been recommended in lieu of the existing scale and the special pay,

(ii) Special pay has been specifically recommended to be continued along with the revised scale,

(iii) No recommendation has been made.

2. In so far as the cases falling in category (i) are concerned, the pay will be fixed in the revised scale in accordance with the Railway Services (Revised Pay) Rules, 1973 as the term existing emoluments defined in these rules includes such special pay. In cases falling under category (ii), pay will be fixed on the basis of existing emoluments excluding special pay. The special pay over the revised scales based on recommendations of the Pay Commission will be admissible in addition.

COMMISSIONER FOR OATHS
High Court, ALLAHABAD

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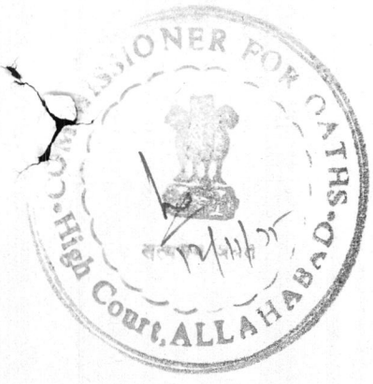
3. The cases falling under category (iii) can be decided only after taking into account the consideration which led to the grant of special pay, the reasons why the Commission have not made any recommendation and the pay scales and special pay allowed by the Commission for comparable posts in the same organisation/cadre or elsewhere. In the meantime the pay of the individual employee should be fixed in the revised scale with reference to the basic pay only i.e. excluding special pay. The special pay at the existing quantum (even where the special pay has been expressed as a percentage of basic pay) should be allowed to be drawn provisionally pending the final review contemplated above.

4. Please acknowledge receipt.

...



A/11a D

In the Hon'ble High Court of Judicature at Allahabad

(Lucknow Bench) Lucknow.

Writ Petition No.1881 of 1975

R.C.Kathuri and 47 others — Petitioners

Versus

Railway Board through its Secretary and others.. Opp.Parties

Annexure A-2.

Government of India (Bharat Sarkar)
Ministry of Railway (Rail Mantralaya)
Railway Board

No.E(P&A)I-73/SP-1/RDSO-3 — New Delhi, dated 28.5.75.

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

Sub:- Arrears of special pay arising out of the judgment and order of Lucknow Bench of Allahabad High Court in S.A.No.11 of 1971 and the decision in S.L.P. (Civil) No.3160/73 dated 4.2.74 of Supreme Court of India -- Restoration of Special pay to class II (Technical) Officers of R.D.S.O.

.....

In the light of and keeping in view certain observations contained in two judgments of the Allahabad High Court, in special appeal No.11 of 1971 and Civil Writ Petition No.1114 of 1974, the Railway Board have carefully re-examined the decisions communicated in their letters No.PC-67/SP-1/RDSO-1 dated 17.9.1969 and 7.1.1970 in so far as they relate to the regulation of pay and special pay admissible to the incumbents of the class II posts of Sectional Officers, Liaison Engineers etc. in the R.D.S.O. and have decided with the approval of the President that the decisions contained in para 1 (2) of their letter dated 17.9.69 and the related clarificatory orders contained in their letter dated 7.1.1970, referred to above, should be treated as cancelled with retrospective effect from 1.9.69.

COMMISSIONER FOR OATHS
High Court, ALLAHABAD.

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Accordingly, the entitlement of pay and special pay of Class III staff of RDSO appointed as Sectional Officers, Liaison Engineers etc. as well as Officers drafted from the Railways for these posts in the 'authorised' scales of pay will be ~~regularly~~ regulated in terms of the orders in force prior to 1.9.69. Expeditious action may accordingly be taken ~~therefore~~ prior to regulate the entitlements of these officers in the 'authorised' scales of pay and arrears paid to them ~~and~~ after making necessary adjustments.

Sd/-C.D.Sud
Deputy Director Pay Commission,
Railway Board,
New Delhi, dated 28.5.1975

No.E(P & A)I-73/SP-1/RDSO-3

Copy to Chief Auditor, Northern Railway, New Delhi.

Sd.Ill.
For Financial Commissioner, Railways

Note :- The Sectional Officers, referred to in paras 1 and 2 above has since been redesignated as Assistant Design Engineer/ Assistant Research Engineer/Assistant Inspecting Engineer/ Assistant Liaison Engineer etc.

--

COMMISSIONER FOR OATHS
High Court, ALLAHABAD
12/11/75

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In the Hon'ble High Court of Judicature at Allahabad

(Lucknow Bench) Lucknow.

Writ Petition No.1881 of 1975

R.C.Kathuria and 47 others ... ... Petitioners

Versus

Railway Board through its Secretary & others .. Opp.Parties

Annexure A-3

PAY PARTICULARS OF SHRI V.K.JAISWAL, ASSISTANT RESEARCH ENGINEER

	AUTHORISED SCALE (Rs.350-900 + 150/-Special Pay)		REVISED SCALE (Rs.650-1200)
As on 1.1.73	Rs.680.00		Rs.920.00
Dearness Pay	Rs.120.00	Personal Pay	Rs. 90.00
Dearness Allowance	Rs. 60.00		
Special Pay	Rs.150.00		
Total	Rs.1010.00		Rs.1010.00

COMMISSIONER FOR OATHS
High Court, ALLAHABAD
12/11/75

A/HP

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

11-12-75
Issued

~~Petition No. 1881 of 1975~~

W.P. No. 1881 of 1975

R. C. Kathuria + ors. — Petitioners

Vs.

Railway Board + ors — Respdts.

I am filing herewith the Rejoinder affidavit in the above noted case.

Dated 9.12.75
Lucknow.

Advocate
C/o Sri R. N. Trivedi Advocate

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW



REJOINDER-AFFIDAVIT

In

Civil Misc. Application No. (W) of 1975

R.C. Kathuria and 47 others ... . Applicants

In Re:

Writ Petition No. 1881 of 1975

R.C. Kathuria and 47 others ... . Petitioners

Versus

Railway Board and others ... . Respondents.

Rejoinder-Affidavit in reply to the Counter-Affidavit of Sri R.P. Jaitley to the Application for Interim Relief

I, M.P. Mathur, aged about 49 years, son of late Shri Rajeshwar Prasad, Resident of Quarter No.IV Spl.37/B, Manaknagar, Lucknow-11, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is petitioner No. 27 in the aforesaid writ petition and is conversant with full facts being deposed to hereunder. The deponent has also been authorised by other petitioners to file this Rejoinder-Affidavit.

2. That the deponent has read the Counter-Affidavit filed by Sri R.P. Jaitley to the Affidavit accompanying the application for interim relief. The deponent has fully understood the contents thereof.

3. That the contents of paragraphs 1 to 3 of the Counter-Affidavit need no comments.

4. That the contents of paragraph 4 of the Counter-Affidavit are denied. It is incorrect to suggest that the application for stay was not pressed because the Division Bench was not inclined to grant the interim relief. As a matter of fact, the Administration itself decided not to cut the Special Pay from the month of August, 1975 and as such there was no cause for grievance so far as the petitioners were concerned. In the circumstances, the application being premature was got dismissed. It may be further stated that in spite of there being no stay order, Special Pay was allowed to the petitioners for the months of August and September, 1975.

5. That the contents of paragraph 5 of the Counter-Affidavit are denied for the reasons stated above.

6. That the contents of paragraph 6 of the Counter-Affidavit are denied and those of paragraph 5 of the Affidavit accompanying the application for interim relief are reiterated as correct.

7. That with respect to contents of paragraph 7 of the Counter-Affidavit, it is stated that at the time

of the issue of Board's letter dated 17.1.1974, contained in Annexure 'A1' to the Counter-Affidavit, no Special Pay was being paid to the Class II incumbents of the Research Designs and Standards Organisation by the Railway Administration except the 3 petitioners in Writ Petition No. 973 of 1969 and as such it is incorrect to say that the Special Pay was being paid to all the petitioners as per instructions contained in Annexure 'A18 to the Counter-Affidavit. Subsequently, when Writ Petition No. 1114 of 1973 was allowed, 49 petitioners of the said Writ Petition were also allowed the Special Pay. The Railway Board did not take any decision for the grant of Special Pay to the aforesaid persons but was compelled to obey the orders of the Hon'ble High Court of Judicature at Allahabad, upheld by the Supreme Court. It may be further pointed out that persons similarly situated were not extended the benefit of the Special Pay. If the Railway Board had chosen to give the Special Pay to all persons, there was no justification for withholding the Special Pay of persons mentioned in paragraph 24 of the Writ Petition. It is denied that the petitioners have not exercised any option so far. As would appear from a perusal of paragraph 27 of the writ petition, the petitioners had given their option opting for the revised scales of pay and further mentioning that the Special Pay of Rs. 150/- which was being paid to them in pursuance of the orders of the Hon'ble High Court be also paid to them. It may be further stated that on 28.7.1975, the petitioners were in the revised scale of pay and not in the authorised scale of pay.

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8. That with respect to contents of paragraph 8 of the Counter-Affidavit, it is reiterated that the petitioners have already exercised their option for the revised scale, as per schedule dated 24.1.1974, which became final due to the provisions of Rule 6 of Railway Services (Revised Pay) Rules, 1973. Accordingly the petitioners were fixed in the revised scale and their arrears were also settled (and, therefore, the Board's letter dated 28.5.1975 (Annexure A-1 to the Counter-Affidavit) has no effect on those who have already been brought to the revised scale and not drawing pay in the scale of Rs. 350-900 (authorised scale) plus Special Pay of Rs. 150/- as stated therein and that the impugned order dated 28.7.1975 (Annexure 13 to the Writ Petition) cannot be extended in application to them. In view of what has been stated above, the question of re-option by the petitioners to the re-revised scales cannot be revoked.) The calculations filed as Annexure A-3 to the Counter-Affidavit are in consistent with the final pay slip issued by the Railway Administration to Sri Jaiswal, already filed as Annexure-12 to the Writ Petition. It will be seen from the final pay slip (Annexure-12 to the writ petition) that the emoluments, in the revised scale, of Sri Jaiswal as on 1.1.1973 are as follows :-

Substantive pay	...	Rs. 575.00
Officiating pay	...	Rs. 345.00
Special Pay	...	Rs. 150.00
Total :		Rs. 1070.00

Thus even after a grant of personal pay of Rs. 90.00, as indicated in Annexure A-3 to the Counter-Affidavit, the

petitioner will suffer a loss of Rs. 60.00 per month as on 1.1.1973. It is further stated that in service matters relating to salary one has to consider the effect on a government servant not only what he would draw after introduction of the revised scale but what effect it shall have in the end. The particulars filed as Annexure A-3 to the Counter-Affidavit are incomplete in this respect as it shows the position as on 1.1.1973 and that too inaccurately. The net effect on Sri Jaiswal with regard to the pay as Shri Jaiswal has been getting vis-a-vis the pay which he would have drawn if he would have opted authorised scale and the pay Railway Administration contemplates to pay, are given in Annexure-IV to this Rejoinder-Affidavit, in subsequent period after 1.1.1973. It will be seen from a perusal of Annexure-IV that the actual losses that would accrue to Sri Jaiswal by the introduction of the revised scale, as contemplated now, are given below :-

Position as on	Actual Reducation in pay	Accumulated Losses based on col. 2
1	2	3
1.1.1973	Rs. 60.00 per month	Rs. 540.00
19.9.1973	Rs. 100.00 per month	Rs. 1340.00
1.6.1974	Rs. 140.00 per month	Rs. 1760.00
1.9.1974	Rs. 150.00 per month	Rs. 3560.00
1.9.1975	Rs. 150.00 per month	

In addition to the above, it will also be seen from a perusal of Annexure-IV that the maximum emoluments which would be drawn by Sri Jaiswal in the authorised scale

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are Rs. 1230.00 per month as against Rs. 1200.00 per month in the re-revised scale, thereby defeating the very purpose for which the Third Pay Commission was appointed by the Union Government. According to the Gazetted Rules all the railway servants expected a minimum gain of Rs. 15.00 and a maximum of Rs. 50.00 per month, calculated on the basis of 5 per cent of the basic pay. The application of the orders contained in Annexure-13 to the Writ Petition is, therefore, causing undue hardship to the petitioners. (In view of the fact that the application of the orders contained in Annexure-13 to the writ petition is causing undue hardships to the petitioners, the provisions of Rule 12 of the Railway Services (Revised Pay) Rules, 1973 are attracted.)

9. That the contents of paragraph 9 of the Counter-Affidavit are denied. The petitioners are entitled to continue to receive Rs. 150.00 per month as Special Pay, in addition to the revised scale of pay and other allowances.

10. That in view of what has been stated in the preceding paragraphs, the contents of paragraph 10 of the Counter-Affidavit are denied.

Dated Lucknow:

December 9, 1975.

Deponent

Verification

I, the above named deponent, do verify that the contents of paragraphs 1 to 7, 8 (except the bracketed portions), first sentence of para. 9 and para. 10 of this affidavit are true to my own knowledge and those of bracket portions of paragraph 8 and second sentence of para. 9 of this affidavit are believed to be true by me. No part of it is false and nothing material has been concealed. So help me God.

Dated Lucknow:
December 9th, 1975.

Deponent

I identify the above named deponent, who has signed before me.

Advocate

Solemnly affirmed before me on 9.12.75
at 9.40 A.M./P.M. by Sri M.P. Mathur
the deponent who is identified by
Sri J.P. Srivastava
Clerk to Sri [illegible]
Advocate, High Court, Allahabad.

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

V. K. PANDEY
Oath Commissioner
High Court, Allahabad
Lucknow Bench
No. 1397-75
Date 9.12.75

T ALLAHABAD

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... Petitioners

... Respondents.

APPLICATION

uld have received under various circumstanges.

Pay which would have been received if continued in authorised scale of Rs. 350-900 + 150 Special Pay Basic+Special Pay+ Dearness allowance/Interim Relief = Total	Anticipated reduction in pay due to adoption of revised scale Rs. per month Col 6 - Col 3	cumulative loss based on Col.7
5	7	8
680+150+180=1010	-	-
710+150+180=1040	30	-
740+150+180=1070	60	240
770+150+180=1100	60	420
800+150+180=1130	50	1140
830+150+180=1160	40	1740
865+150+180=1195	35	2220
900+150+180=1230	30	2640

IN THE HON'BLE HIGH COURT OF JUDICA
SITTING AT LUCKNOW

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Writ Petition No. 188

R.C. Kathuria and others ... ...

Versus

Union of India and others ... ...

ANNEXURE "I

TO REJOINDER AFFIDAVIT IN T

Statement of pay received by Shri V.K. Jaiswal and pay whi

Position as on	Actual pay received in revised scale of Rs.650-1200+ 150 Special Pay Basic+Spl.Pay = Total	Pay the Railway contemplates to pay in revised scale of Rs.650-1200 (as per Annexure A-3) Basic+Personal Pay = Total	Actual reduction in pay as contemplated by Railway Administration Rs. per month Col 2 - Col 3
1	2	3	4
1.1.1973	920+150=1070	920+90=1010	60
19.9.73	960+150=1110	960+50=1010	100
1.6.1974	1000+150=1150	1000+10=1010	140
1.9.1974	1040+150=1190	1040 =1040	150
1.9.1975	1080+150=1230	1080 =1080	150
1.9.1976		1120 =1120	
1.9.1977		1160 =1160	
1.9.1978		1200 =1200	

True copy

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

Lucknow Bench, Lucknow

Writ Petition No.1881 of 1975

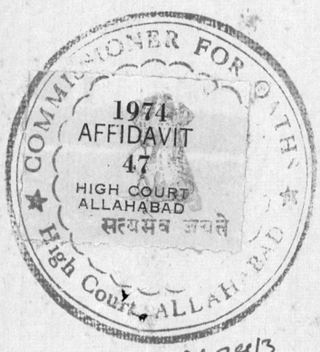


R.C. Kathuria and 47 others ... Petitioners

Versus

Railway Board through its Secretary,
Rail Bhawan, New Delhi and others

... Opposite Parties



COUNTER AFFIDAVIT ON BEHALF OF
OPPOSITE PARTIES

I, Ram Parkash Jetley, aged about 45 years, son of Shri Sardari Lal Jetley, Section Officer, Establishment-I in Research Design and Standards Organisation, Lucknow, solemnly affirm as under :-

1. That the deponent who is Section Officer, Establishment-I in Research, Design and Standards Organisation, Lucknow is conversant with the facts deposed hereunto.

2. That the contents of paragraph 1 of the writ petition require no reply.

3. That with reference to the contents of paragraph 2 of the writ petition it is submitted that the petitioners are working in the Technical Wings of Research, Designs and Standards Organisation and

~~Standards Organisation~~ and belong to Class II Service. Of these petitioners, the petitioners Nos. 6, 8, 26, 28, 35, 37 and 40 are working in Class II on adhoc basis.

4. That the contents of paragraph 3 of the writ petition as framed are denied. The Class II (Technical) posts in Research, Designs and Standard Organisation are filled by promotion from amongst eligible Class III (Technical) staff of the respective departments of this Organisation viz. Civil Engineering, Mechanical, Engineering, Electric Engineering, 'Signal & Telecommunication' and Instrumentation Engineering and Architectural Engineering, failing which by transfer of Class II Officers from zonal railways. The Officers transferred from Railways are appointed as Class II Officers on tenure basis in Research Design and Standards Organisation. However, the position given in the last sentence of this para of the writ petition is not denied.

COMMISSIONER FOR OATHS
सत्यमेव जयते
High Court, ALLAHABAD

5. That the allegation made in paragraph 4 of the writ petition to the effect that the Railway Administration made a discrimination in this regard and wit-hdrew the payment of special pay to the Class II incumbents who were promoted from Class III in the Research, Design and Standards Organisation by order dated 17.9.69 and 7.1.70 is denied. It is also denied that petitioners Nos. 3,6,8,20, 25, 31, 33, 35 37 a-nd 47 were holding Class II posts on 1.9.69, formerly designated as Sectional Officers, Liaison Engineers etc. As a matter of fact the special pay of Rs.150/- shown against the officers listed in Annexure No.1 to the writ petit-ion is provisional.

6. That the content-s of paragraph 5 of the writ

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petition are not denied except that there was no invidious discrimination in withdrawing the special pay. It is incorrect that the so-called impugned order is contained in Annexure I to the writ petition.

7. That the contents of paragraph 6 of the writ petition needs no comments.

8. That the contents of paragraph 7 of the writ petition do not give a complete picture hence denied. The learned Judge has held as under :-

> "... To sum up, the President had the power to withdraw the special pay. The withdrawal has not brought about any discrimination."

9. That the contents of paragraph 8 of the writ petition require no reply.

10. That the contents of paragraph 9 of the writ pet-ition require no reply.

11. That the contents of paragraph 10 of the writ petition need no reply.

12. That the contents of paragraph 11 of the writ petition are not denied except that the special pay was restored to 3 persons who had filed the writ petition No. 973 of 1969 and the matter with regard to the grant of special pay to others was under the consideration of Railway Board separately. The action of the Railway Administration was quite justifiable.

13. That the contents of paragraph 12 of the writ petition need no reply.

14. That the contents of paragraph 13 of the writ petition are denied. The Railway Board vide their letter No. E(P&A)I-73/SP-1/RDSO-3 dated 28.5.75 have modified their orders contained in their letters No. PC-67/SP-1/RDSO-1 dated 17.9.69 and 7.1.70 in so far as they relate to the regulation of pay and special pay admissible to the incumbents of Class II posts of Sectional Officers, Liaison Engineers etc. in RDSO. Accordingly, the entitlement of pay and special pay of class III staff of RDSO appointed as Sectional Officers, Liaison Engineers, etc. as well as Officers drafted from the Railways for these posts in the 'Authorised' scales of pay will be regulated in terms of the orders in force prior to 1.9.69. In consequence of Railway Board's above decision the pay of Class II Officers has since been re-fixed. A copy of the letter dated 28.5.75 is being annexed herewith as ANNEXURE NO. A-1.

15. That with reference to the contents of paragraph 14 of the writ petition the position as stated in reply to paragraph 13 of the writ petition is reiterated.

16. That in view of what has been stated in reply to paragraph 13 of the writ petition the contents of paragraph 15 of the writ petition require no reply.

17. That the contents of paragraph 16 of the writ petition require no reply.

18. That the contents of paragraph 17 of the writ petition being irrelevant are denied. The petit ioners were not being paid special pay in lieu of the highe r scale for the post itself.

19. That wit h reference to the contents of paragraph 18 of the writ petition it is submitted that the revised scale issued through Government of India Extra Ordinary Gazette on 07.12.73 pertains to Class II posts of Section Officers (Ministerial Cadre) so far as RDSO is concerned.

20. That the contents of paragraphs 19 and 20 of the writ petition as framed are denied. In the Staff Notice issued on 29.1.74, a copy of which is Annexure 7 to the writ petition, the revised scales in respect of certain additional categories of Class II and non-gazetted staff of RDSO were circulated and such of the officers and staff as were covered by the schedule were required to exercise their option by 23.4.74.

21. That with reference to the contents of paragraph 21 of the writ petition it is submitted that the Third Pay Commission have, however, observed as under :-

> "We are of the view that the devise of special pay should be used as sparingly as possible. Thus our approach generally has been to suggest a higher scale of pay for posts which are held on a non-tenure basis and where the special pay has been granted at present in lieu of a higher scale for the

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post itself... "

No higher scale of pay was allotted to the category to which the petitioners belong.

22. That the contents of paragraph 22 of the writ petition are not denied.

23. That with reference to the contents of paragraph 23 of the writ petition it is submitted that :-

(a) the pay of petitioner No. 23 was fixed in the revised scale of pay on the basis of his option for the revised scale of pay. The petitioner was advised vide DG/RDSO's letter No. A/EP-999 dated 4.6.74 that the grant of special pay in addition to the revised Class II standard scale of pay was provisions-1 in terms of Railway Board's letter No.PC/III/74/SP/1 dated 17.1.74, a copy of which is Annexure 9 to the writ petition. As regards fixation of pay of petitioner No.48, it was also made in similar circumstances. A copy of letter dated 4.6.74 is being annexed herewith as ANNEXURE NO.A-2.

(b) As per Board's orders contained in their letter of 16.12.74, a copy of which is Annexure 10 to the writ petition, the special pay of Rs. 150/- for every current month after the decision of the High Court in the special appeal from the same date as was done in the case of Shri D.N.V. Chellum was paid to the petitioners in the writ Petition No.1114 of 1973.

24. That the contents of paragraph 24 of the writ petition as framed are denied. The Officers mentioned in paragraph 24 of the writ petition are not similarly situated as the petitioners in Special Appeal No.11 of 1971 and Writ Petition No. 1114 of 1973. The officers at Nos. 4-11, 13-16, 18-20 and 22 are officiating on adhoc basis in class II and their promotions were made after 1.9.69. Officers at Nos. 3,17 and 21 have also been promoted on regular basis in Class II after 1.9.69. The contents of sub para of para 24 of the writ petition as framed are also denied. The officers mentioned at Serial Nos. 1,4 and 16 have not opted for revised scale of pay. The Officers at Nos. 2,12, 17, 18, 19 and 21 have since been fixed in the revised scale and are drawing their salary accordingly. They were allowed special pay @ Rs. 150/- p.m. in the Authorised scale of pay in terms of Railway Board's letter No. E(P&A)I-73/SP-1/ RDSO-3 dated 28.5.75, a copy of which has already been annexed as Annexure A-1. In case of Officers mentioned at Nos. 3-5, 11, 13-15, 20 and 22, the pay was required to be fixed on the basis of their pay in the revised scale in class III. This could not be done due to late receipt of pay scales. The fixation of pay in Class II was done immediately after fixing of their pay in Class III. As they were promoted after 1.1.73, they are not eligible for special pay in the revised scale in terms of Railway Board&s letter No. PC.III/73/PS.1/2 dated 28.7.75, a copy of which is Annexure No. 13 to the writ petition.

25. That the contents of paragraph 25 of the writ petition being mat-ter of record require no reply.

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26. That with reference to the contents of para 26 of the writ petition it is denied that the petitioners were specifically asked to exercise their option. As has already been explained in reply to paragraphs 19 and 20 of the writ petition, the options were called for from only those staff who were covered by the schedule and such staff were required to exercise their option by 23.4.74.

27. That the contents of paragraph 27 of the writ petition as framed are denied. As a matter of fact as a result of receipt of revised scales of pay, the Railway Board issued schedule vide their letter No.PC. III.73/PS/Sch./RDSO dated 24.1.74, a copy of which is Annexure 7 to the writ petition, for class II Officers in RDSO. As per this schedule the authorised scale was shown as Rs. 350-900 and the revised scale as Rs. 650-1200. At that time there was no special pay attached to the authorised scale. The special pay was being paid vide Railway Board's letter No. PC.III.74/ SP/1 dated 17.1.74, a copy of which is Annexure 9 to the writ petition, and this payment was provisional till the finalisation of such like cases. As a result of court's judgment special pay was restored and this necessitated correction so far as the authorised scale was concerned and keeping in view this restoration, the Railway Board issued a fresh schedule vide their letter No.P.C.III.74/SP-1/2 dated 28.7.75 attached to the Annexure 13 to the writ petition. In this schedule special pay has been shown along with the 'authorised scale' and not in the 'revised scale'. The Railway Board have also given option to these officers to retain the authorised scale of pay if they like to get special pay. In view of

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of this, all these officers had got full 3 months time to exercise their option afresh indicating whether they would like to retain the authorised scale or come to revised scale.

That only petitioners Nos. 1 to 9, 12 to 28, 30, 31, 33 to 39, 41, 46 and 48 had submitted option identical to the one filed as Annexure 11 to the writ petition, in reference to the Staff Notice dated 29.1.74 While petitioners Nos. 10, 11, 29, 32 and 47 did not submit their option, petitioner No.40 submitted his option without making mention of drawal of special pay of Rs. 150/- p.m. together with Class II Revised Scale of Pay.

That in view of the position stated above all the petitioners were required to submit fresh option for retaining the authorised scale of pay (Rs.350-900) with special pay of Rs.150/- or revised scale of Rs. 650-1200 without special pay.

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High Court ALLAHABAD
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28. That with reference to the contents of paragraph 28 of the writ petition it is denied that the special pay has become part of the pay of the pet-itioners.

29. That the contents of paragraph 29 of the writ petition as framed are denied. The petitioners were allowed to draw special pay @ Rs. 150/- p.m. in the authorised scale in terms of letter No. E(P&A/I.73/SP.I/RDSO.3 dated 28.5.75, a copy of which has already been annexed as Annexure A-1. They were allowed to draw special pay @ Rs.150/- p.m. provisionally in terms of

letter No. PC.III.74/SP/1 dated 17.1.1974. The special pay was indicated separately, in the pay slip. The final decision in the matter was taken vide letter No. PC.III.73/PS-1/2 dated 28.7.75, a copy of which has been annexed as Annexure 13 to the writ petition.

30. That the contents of paragraphs 30 and 31 of the writ petition as framed are denied. The rules quoted only define t he pay, but it does not say that the special pay becomes part of the pay of petitioners. It is, therefore, denied that the special pay has become part of the pay of the petitioners.

31. That the contents of paragraph 32 of the writ petition are not denied.

32. That with reference to the contents of paragraph 33 of the writ petition it is denied that the special pay has become a part of pay. It is also denied that the order of respondant No. 2 giving option to the staff for retaining the 'authorised scale' (Rs.350-900) with special pay of Rs. 150/- or the 'revised scale' of Rs. 650-1200 without spe cial pay is junjustified and illegal.

33. That with reference to the contents of paragraph 34 of the writ petition it is submitted that the representation submitted by petitioners 1 and 23 were being examined in order to take a decision thereon but before a decision could be taken and conveyed to them, the petitioners filed the writ petition in this Hon'ble Court.

34. That the contents of paragraphs 35, 36 and 37 of the writ petition as framed are denied. In pursuance of the decisions of the Government as contained in Board's letter No. PC.III/73/SP/1 dated 17.1.74, the special pay of the petitioners has been specifically reviewed taking into account all relevant factors and the decision of Ministry was communicated vide letter No. PC.III/73/PS-1/2 dated 28.7.75, according to which no special pay is admissible to the officers who opt for the revised scale of pay. The petitioners, however, have been given an option to retain the authorised scale of pay with special pay or the revised scale of pay without special pay and they could exercise their option within a period of three months from 28.7.75.

35. That the contents of paragraph 38 of the writ petition as framed are denied. The Railway Board's orders of 28.7.75, Annexure 13 to the writ petition, containes the revised scale of pay for the posts of ADEs, AREs, AIEs and ALEs effective from 1.1.73. No special pay is admissible in the revised scale of pay. However, the special pay is admissible in the authorised scale of pay. In these orders it has been further provided that while bringing the officers on revised scale of pay with effect from 1.1.73, the normal fixation rule regarding special pay will apply. However, the excess of existing emoluments i.e. basic pay, dearness pay, dearness allowance and interim relief at the rates in force on 31.12.72 and special pay in the authorised scale of pay over the pay admissible in the revised scale, if any, will be protected. Thus no injustice has been done to the petitioners and there is no cause for grievance.

COMMISSIONER FOR OATHS
High Court, ALLAHABAD
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ADDITIONAL PLEAS

36. That the deponent is advised to state that none of the grounds taken in the writ petition are tenable consequently the writ petition is liable to be dismissed.

37. That the deponent is advised to state that the provisions of Rule 2003(21)(a)(II) of the Indian Railway Establishment Code Vol. II is not applicable as for special pay which has been claimed by the petitioners. The special pay could not and did not become part of the pay as has been alleged by the petitioners.

38. That the deponent is advised to state that the opposite parties have full jurisdiction to ~~give~~ direction revision in the pay scales as not only of the pe-t-itioners but also of the entire staff and the allegation to the effect that the scale of pay stands superseded by the Third Pay Commission, the relevant part of which have as not been quoted by the petitioners is incorrect and denied.

39. That the deponent is advised to state that the petitioners have got no locus standii to maintain the writ petition and the money claim which has been made by them cannot be the subject matter of writ petition under Article 226 of the Constitution of India.

40. That the depon

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the plea which has been taken by the petitioners that some statutory rule is being amended and that too by a statutory order is not correct, and it is not competent to the respondents to ask the petitioners to exercise option which has not been correctly stated in the writ petition.

41. That the deponent is advised to state that order dated 28.7.75 contained in Annexure 13 to the writ petition are not violative of the provision of FR. 23 and rule 5 and 6 of the Railway Services (Revised Pay) Rules, 1973. The revision which has been made after the decision of the Supreme Court and the contention to the effect that the same is illegal, is denied.

Dated :Lucknow

24.3 ,1976.

DEPONENT

I the abovenamed deponent do hereby verify that the contents of paragraphs 1 _____ are true to my own knowledge, those of paragraphs 2 to 35 _____ are true to my own knowledge from perusal of records, those of the contents of paragraphs _____ are believed by me to be true from information received and those of the contents of paragraphs 36 to 41 are true to my legal advice. No part of it is false and nothing has been concealed, so help me God.

Dated:Lucknow

24.3.,1976.

DEPONENT

I identify the deponent who has signed this affidavit.

Advocate, High Court, Lucknow.

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(Annexure No.A-1) 14

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

Lucknow Bench, Lucknow

Writ Petition No.1881 of 1975

R.C.Kathuria & 47 others ... Petitioners

Versus

Railway Board through its Secretary,

Rail Bhawan, New Delhi & others

...Opposite Parties

Government of India (Bharat Sarkar)
Ministry of Railways (Rail Mantralaya)
Railway Board

No. E(P&A)I-73/SP-I/RDSO-3 New Delhi, dated 28.5.75

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

Sub: Arrears of special pay arising out of the judgment and order of Lucknow Bench of Allahabad High Court in S.A. No.11 of 1971 and the decision in S.L.P. (Civil) No.3160/73 dated 4.2.74 of Supreme Court of India - Restoration of Special pay to Class II (Technical) Officers of R.D.S.O.

.....

In the light of and keeping in view certain observations contained in two judgments of the Allahabad High Court, in Special Appeal No. 11 of 1971 and Civil Writ Petition No. 1114 of 1973, the Railway Board have carefully re-examined the decisions communicated in their letters No. PC-67/SP-1/RDSO-1 dated 17.9.69 and 7.1.70, in so far as they relate to the regulation of pay and special pay admissible to the incumbents of Class II posts of Sectional Officers, Liaison Engineers etc. in the R.D.S.O. and have

decided with the a pproval of the President that the decisions contained in para 1(2) of their letter dated 17.9.69 and the related clarificatory orders contained in their letter dated 7.1.70, referred to above, should be treated as cancelled with retrospective effect from 1.9.69.

Accordingly, the entitlement of pay and special pay and Class III staff of RDSO appointed as Sectional Officers, Liaison Engineers etc. as well as Officers drafted from the Railways for these posts in the 'authorised' scales of pay will be regulated in terms of the orders in force prior to 1.9.69. Expeditious action may accordingly be taken to regulate the entitlements of these officers in the 'authorised' scales of pay and arrears paid to them after making necessary adjustment.

Sd/- G.D. Sud
Deputy Director Pay Commission,
Railway Board

No.E(P&A)I-73/SP-1/RDSO-3 New Delhi, dated 28.5.75.

Copy to Chief Audtor, Northern Railway, New Delhi

Sd/-Illegible
For Financial Commissioner, Railways

Copy to :- E(RE/I, F(E) Spl.(with two spares)

Note : The Sectional Officers, referred to in paras 1&2 above has since been redesignated as Assistant Design Engineer/Assistant Research Engineer/Assistant Inspecting Enginer/Assistant Liaison Engineer etc.

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(Annexure No. A-2) 16

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow
Writ Petition No.1881 of 1975

R.C. Kathuria & 47 others ... Petitioners

Versus

Railway Board through its Secretary,
Rail Bhawan, New Delhi & others ... Opposite Parties

....

RESEARCH DESIGNS AND STANDARDS ORGANISATION

Manak Nagar, Lucknow-11
No.A/EP-999 Dated 4.6.74

Sub: Fixation of pay of Sh. K.N. Ganesa Kumar, ADE(B&S) in revised scale.

Ref: JDF's note No. F/EG/P/631/234/KNG dt. 20.5.74

The revised Class II Standard scale of pay for all posts has been circulated under this office staff Notice No. A/G/ES/PC-III(73)/Schedules dated 29.1.74 and the Class II Technical Post of RDSO are not excluded from the standard class II Scale.

As regards grant of special pay in addition to the revised class II standard scale of pay, attention is invited to Railway Board's letter No. PC.III/74/SP/1 dated 17.1.74 according to which the special pay at the existing quantum (even where the special pay has been expressed as a percentage of basic pay) should be allowed to be drawn provisionally pending final review as contemplated in Board's letter of 17.1.74 referred to above. Shri K.N. Ganesakumar is

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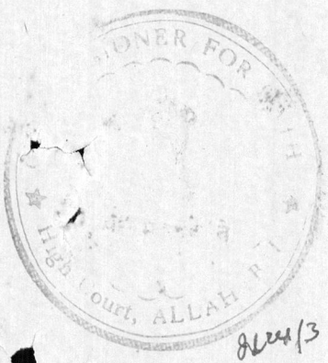
already being paid special pay of Rs. 150/- per mensum in terms of pay slip No. F/EG/P/631/234/KNG dated 26.3.74. His case appears to be covered by the Railway Board's letter of 17.1.74. It is further opined that the cases of three officers to whom the special pay has been restored have already been dealt with in isolation and their cases can be decided separately even now.

Sd/-
(R.P. Jetley)
for Director General

DA: Nil.

JDF, RDSO/Lucknow

Copy to Shri K.N. Ganesa Kumar, ADE(B&S), RDSO/Lucknow.



A/1915 A5/1 5/1

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW





REJOINDER-AFFIDAVIT

In Re:

Writ Petition No. 1881 of 1976

R.C. Kathuria and others ... . Petitioners

Versus

The Railway Board, through its Secretary and others ... ... Respondents.

Rejoinder-Affidavit in reply to the Counter-Affidavit filed on behalf of Respondents



I, K.K. Maniar, aged about 39 years, son of Sri Tara Chand Maniar, Resident of Qr. No. IV Spl. 28 C, Manaknagar, Lucknow-11, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is Petitioner No. 48 in the aforesaid Writ Petition and is conversant with full facts of the case. He has been authorised by ~~xxxx~~ other petitioners to file this Rejoinder-Affidavit.

2. That the deponent has read the counter-affidavit filed by Sri Ram Prakash Jetley on behalf of respondents and has fully understood the contents thereof.

3. That the contents of paragraphs 1 to 4 of the counter-affidavit need no comments.

4. That with respect to contents of paragraph 5 of the counter-affidavit, it is stated that reference may be made to the judgment of this Hon'ble Court in Special Appeal No.11 of 1971, annexed as Annexure-4 to the Writ Petition. The relevant paragraph of the said judgment is quoted below :-

> " We are thus of the opinion that the classification by which the special pay was withdrawn or was not admissible to Sectional Officers promoted from Class III but was admissible to officers of Class II on deputation to R.D.S.O., is unreasonable and is not connected with the object intended to be served. Annexure-3 of the Writ Petition, as clarified by Annexure-5 of the rejoinder-affidavit, therefore, deserve to be quashed being violative of Articles 14 and 16 of the Constitution. "

It is further stated that the assertions made in paragraph 4 of the Writ Petition were with respect to the impugned letter of 28.7.1975 and not as on 1.9.1969 as mentioned in paragraph 5 of the counter-affidavit. The contents of paragraph 4 of the Writ Petition are reiterated as correct.

5. That with respect to contents of paragraph 6 of the counter-affidavit, it is stated that there was

invidious discrimination in withdrawing the special pay so far the petitioners are concerned. The assertion that the impugned order is contained in Annexure-1 is a typographical error, which is regretted. The impugned order is contained in Annexure '1-A' to the writ petition.

6. That the contents of paragraph 7 of the counter-affidavit need no comments.

7. That with respect to contents of paragraph 8 of the counter-affidavit, it is stated that the judgment of the Division Bench has already been annexed as Annexure-4 to the Writ Petition, to which reference will be invited at the time of hearing.

8. That the contents of paragraphs 9 to 11 of the counter-affidavit need no comments.

9. That with respect to contents of paragraph 12 of the counter-affidavit, it is stated that the special pay was restored only to three officers. Other officers, similarly situated, made representations to the Railway Administration for restoration of special pay to them. In the absence of any reply from the Railway Administration, 49 petitions were compelled to file Writ Petition No. 1114 of 1973. The Writ Petition was allowed by the learned Single Judge of this Hon'ble Court by judgment dated 4.9.1974. Subsequently, the Railway Administration issued instructions vide their

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letter dated 16.12.1974 to restore special pay only to 49 petitioners, leaving another group of 22 officers, who were similarly placed. These officers were compelled by the Railway Administration to file another Writ Petition No. 296 of 1975. In the circumstances, the stand of the Railway Administration was wholly unjustified.

10. That the contents of paragraph 13 of the counter-affidavit need no reply.

11. That with respect to contents of paragraphs 14 to 16 of the counter-affidavit, it is stated that the respondents have not taken into account the contents of paragraphs 14 and 15 of the Writ Petition, from a perusal of which it would be evident that the period referred was prior to the issue of the notice to the Railway Board and their reply dated 27.4.1973.

12. That the contents of paragraph 17 of the counter-affidavit need no ~~xx~~ reply.

13. That the contents of paragraph 18 of the counter-affidavit are denied and those of paragraph 17 of the Writ Petition are reiterated. The petitioners are being paid special pay in lieu of the higher scale for the post itself.

14. That with respect to contents of paragraph 19 of the counter-affidavit, it is stated that in the note contained in Annexure "A-2", it is specifically

mentioned that "the revised class II standard scale of pay for all posts has been circulated under this Office Staff Notice No. A/G/ES/PC-III(73)/Schedules dated 29.1.1974 and the class II technical posts of R.D.S.O. are not excluded from the standard class II scale".

15. That with respect to contents of paragraph 20 of the counter-affidavit, it is stated that the revised scales of pay were applicable to all the class II posts in the R.D.S.O. and class II technical posts of R.D.S.O. were not excluded.

16. That with respect to contents of paragraph 21 of the counter-affidavit, it is stated that the pay Commission recommended the revised scale of Rs. 650-1200 for the standard class II scale of Rs. 350-900 in the authorised scale. The petitioners were getting a special pay of Rs. 150/- per month in addition to their pay in the authorised scale of Rs. 350-900 and hence they were entitled to a scale of Rs. 650-1200 plus the special pay in the revised scale or a higher scale of pay in lieu thereof.

17. That the contents of paragraph 22 of the counter-affidavit need no comments.

18. That with respect to contents of paragraph 23 of the counter-affidavit, it is stated that the examples quoted by the respondents establish that the Schedule filed as Annexure-7 was applicable to technical officers to which the petitioners quoted therein belonged. It may be further stated that the Third Pay Commission

itself has recommended that a higher scale should be given to persons belonging to the category of petitioners before the special pay was withdrawn. It is further stated that the decision of this Hon'ble Court is quite clear on the issue of discrimination. It is further stated here that even after the revision of pay scales in pursuance of the recommendations of the Pay Commission, the incumbents, who are seconded by Railways to the R.D.S.O. are being paid the revised scale of pay of Rs. 650-1200 plus the special pay of Rs. 150/-. The names of some of the incumbents who have been seconded by the Railways to the R.D.S.O. and who are getting their pay in the revised scale of Rs. 650-1200 and are getting a special pay of Rs. 150/- per month are given below :-

(1) Sri I.P. Girdhani, Assistant Director (T.I.)
(2) Sri R.K. Moorthy, Assistant Director (T.I.)
(3) Sri O.P. Srivastava, Assistant Director(L.U.B.)
(4) Sri Bhupinder Singh, Assistant Director(Met.)
(5) Sri M.K. Singhal, Assistant Director (N.D.T.)

It is stated that this action of the respondents is violative of Article 16 of the Constitution.

19. That the contents of paragraph 24 of the counter-affidavit are denied and those of paragraph 24 of the writ petition are reiterated. It is further stated that there is absolutely no justification for classification of the incumbents of class II posts in the R.D.S.O. in the manner sought to be done in the said paragraph. There is absolutely no justification for withholding the special pay so far as the petitioners are concerned.

20. That the contents of paragraph 25 of the counter-affidavit need no comments.

21. That with respect to contents of paragraph 26 of the counter-affidavit, it is stated that the respondents are taking a very anomalous stand. On one hand they have asked for options from persons belonging to the category of the petitioners and on receipt of the options they have accepted it, and on the other hand, it is said that it is not applicable to the petitioners. It is submitted that there is a gross misunderstanding of the note contained in Annexure "A-2". The said note itself mentions that it applies to all class II technical staff of R.D.S.O.

22. That with respect to contents of paragraph 27 of the counter-affidavit, it is stated that in view of the coming into force of the Railway Services (Revised Pay) Rules, 1973, the pay scale of Rs. 350-900 ceased to exist and as such the Railway Board had no authority or jurisdiction to ask for the option afresh for the payment of salary in the scale of Rs. 350-900 plus the special pay. The said decision is in gross violation of the Railway Services (Revised Pay) Rules, 1973.

23. That the contents of paragraph 28 of the counter-affidavit are denied and those of paragraph 28 of the writ petition are reiterated.

24. That the contents of paragraph 29 of the counter-affidavit are denied and those of paragraph 29 of the writ petition are reiterated. The petitioners were entitled to the special pay of Rs. 150/- per month, not provisionally but as a matter of right.

25. That the contents of paragraph 30 of the counter-affidavit are denied and those of paragraphs 30 and 31 of the writ petition are reiterated. It is stated that the special pay has become part of the pay of the petitioners.

26. That the contents of paragraph 31 of the counter-affidavit need no comments.

27. That the contents of paragraph 32 of the counter-affidavit are denied and those of paragraph 33 of the writ petition are reiterated.

28. That with respect to contents of paragraph 33 of the counter-affidavit, it is stated that the representation made by the petitioners has not been disposed of. In any case, the fate of the representation could be no different than the stand taken by the respondents in their counter-affidavit.

29. That the contents of paragraph 34 of the counter-affidavit are denied and those of paragraphs 35 to 37 of the writ petition are reiterated. It is stated that the petitioners are entitled to the special

pay of Rs. 150/- per month over and above the pay scale of Rs. 650-1200.

30. That the contents of paragraph 35 of the counter-affidavit are denied and those of paragraph 38 of the writ petition are reiterated. In view of the coming into force of the Railway Services (Revised Pay) Rules, 1973, there is no question of reverting back to the authorised scale of pay.

31. That the contents of paragraphs 36 and 37 of the counter-affidavit are denied.

32. That with respect to contents of paragraph 38 of the counter-affidavit, it is stated that the respondents have no jurisdiction to override the provisions of the rules which have been made in exercise of powers conferred by Article 309 of the Constitution and in derogation of the decision of this Hon'ble Court mentioned in the writ petition.

33. That with respect to contents of paragraph 39 of the counter-affidavit, it is stated that the petitioners' claim that the respondents are acting in violation of the statutory rules, is correct and as such the relief sought by the petitioners is maintainable.

34. That the contents of paragraph 40 of the counter-affidavit are denied.

35. That the contents of paragraph 41 of the counter-affidavit are denied. It is stated that the impugned order is not only violative of the Railway Services (Revised Pay) Rules, 1973 and F.R. 23 but also violative of Article 16 of the Constitution and is in gross and wanton disregard of the decision of this Hon'ble Court.

36. That for want of certain information, which was relevant for the preparation of this Rejoinder-Affidavit, this Rejoinder-Affidavit could not be filed within the time stipulated by this Hon'ble Court.

37. That in the circumstances, some delay has occurred in filing this Rejoinder-Affidavit, which is bonafide.

38. That it is expedient in the interest of justice to condone the delay in filing this Rejoinder-Affidavit.

Dated Lucknow:
August 19, 1976.

Deponent

Verification

I, the above named deponent, do verify that the contents of paragraphs 1 to 4, second sentence of paragraph 5, paragraphs 6 to 8, 9 (except last sentence), 10 to 17, 18 (except last sentence), 19 to 21, 23 to 27, first sentence of paragraph 28, paragraph 29, first

sentence of paragraph 30, paragraphs 31, 34, first sentence of paragraph 35, paragraphs 36 and 37 of this Affidavit are true to my own knowledge and those of first sentence of paragraph 5, last sentence of paragraph 9, last sentence of paragraph 18, paragraph 22, second sentence of paragraph 28, second sentence of paragraph 30, paragraphs 32, 33, second sentence of paragraph 35 and paragraph 38 of this Affidavit are believed to be true by me. No part of it is false and nothing material has been concealed. So help me God.

Dated Lucknow:
August 19., 1976.

K Kumaran
Deponent

I identify the above named deponent, who has signed before me.

G.P. Srivastava
Clerk to Sri R.N. Trivedi
Advocate

Solemnly affirmed before me on 19.8.76.
at 9.10 A.M./~~P.M.~~ by Sri K.K. Kumar
the deponent who is identified by
Sri J.P. Srivastava
Clerk to Sri R.N.T.
Advocate, High Court, Allahabad.

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

B.K. Pandey
Oath Commissioner
High Court, Allahabad
Lucknow Bench
No. 881-76
Date 19.8.76

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Civil Misc. Appl.No. 7107 (W) of 1979

R.C.Kathuria and others ... Applicants

In re:

Writ Petition No.1881 of 1975

R.C.Kathuria and others ... Petitioners

versus

Railway Board & Others ... Respondents

Application for Amendment of Writ Petition

The applicants, above named, respectfully submit as under:

1. That the applicants/petitioners were not aware of certain material facts, which had come to his knowledge only recently.

2. That the said facts are material and have important bearing on the questions involved in the writ petition.

8/11/79

Hon. Sri C. Mathur, J

List with previous papers.

14-11-79

Hon. H.S. J.

The application is allowed. Let the amendment be incorporated within three days. Three weeks' time is allowed to file additional counter-affidavit in view of the amendment of the petition. The petitioner will have two weeks thereafter to file a rejoinder-affidavit.

21.11.79

3. That in the circumstances it is expedient that the petitioners may be permitted to amend the writ petition in the manner set forth hereinafter:

4. That the following paragraphs may be permitted to be added, after paragraph 37, as paragraphs 37-A to 37- :

"37-A. That the R.D.S.O. had sent details regarding various posts in the cadre, and pay and allowances being given to the incumbents working in the R.D.S.O. to the Third Central Pay Commission.

"37-B. That in respect of gazetted cadre the R.D.S.O. had against item No.9 sent particulars of the incumbents. A photostat copy of the relevant information sent by the R.D.S.O. to the Third Central Pay Commission is annexed hereto as Annexure 16.

"37-C. That from a perusal of the aforesaid information submitted by the R.D.S.O, it would be evident that the administration informed the Pay Commission that a special pay of Rs.150/- p.m. was admissible to the Secretary to Director General and never informed the Pay Commission that the posts of Section Officer, Assistant Architect, Assistant Design Engineer, Assistant Research Engineer, Assistant Research Officer, Assistant Liaison Engineer, and Assistant Inspecting Engineer also carry

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a special pay of Rs.150/- per month in addition to the pay in the scale of Rs.350-900.

37-D. That a meeting was held on 6.4.1979 between the representatives of R.D.S.O. Class II officers Association and the Administration. A copy of the Minutes of the said meeting was supplied to the Hony. Secretary, R.D.S.O. Class II Officers Association by the Director General, R.D.S.O. on 18.7.79. Relevant extract from the said Minutes is annexed hereto as Annexure 17.

37-E. That from a perusal of the above minutes it would be clear that the representative of the RDSO Class II Officers Association had, inter alia, submitted that the Third Central Pay Commission had not been advised about the fact Class II officers, other than the Secretary to Director General, R.D.S.O. were also being paid Rs.150/- per month as special pay.

37-F. That it is reiterated that the Third Central Pay Commission was never informed by the Administration about payment of special pay to the following categories of incumbents in the R.D.S.O: Section Officer, Assistant Architect, Asstt. Design Engineer, Asstt. Research Engineer, Asstt. Research Engineer, Assistant Liaison Engineer, Inspecting

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37-G. That in view of the fact that the Third Central Pay Commission had never been informed about payment of special pay mentioned above no positive recommendations were made regarding it by the Third Pay Commission though it had generally been stated that wherever special pay was being paid its justification may be considered and either higher scales should be given or special pay should be continued.

37-H. That it is evident that the Administration had not given the relevant information to the Third Pay Commission, which has resulted in the anamoly."

Wherefore it is most respectfully prayed that the petitioners may be permitted to amend their writ petition in the manner set forth hereinabove.

Advocate
Counsel for Applicants

Dated: Lucknow
November 12, 1979.

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Civil Misc. Appl.No.____ (W) of 1979





1=13 M 14/11

R.C.Kathuria & others ... Applicants

In re:

Writ Petition No. 1881 of 1975

R.C.Kathuria and others ... Petitioners

versus

Railway Board & others ... Respondents



K.L.Sehgal

AFFIDAVIT

in

Application for Amendment of Writ Petition

I, K.L.Sehgal, aged about 55 years, son of Shri Hira Nand Sehgal, resident of 4-7/ Nagar, Lucknow, do hereby solemnly affirm as under:

1.

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the aforesaid writ petition and as such he is fully conversant with the facts deposed to hereinafter.

2. That the petitioners were not aware of certain material facts, which had come to their knowledge only recently.

3. That the said facts are material and have important bearing on the questions involved in the above writ petition.

4. That in the circumstances it is expedient that the petitioners may be permitted to amend the writ petition in the manner set forth hereinafter.

5. That the R.D.S.O. had sent details regarding various posts in the cadre, and pay and allowances being given to the incumbents working in the R.D.S.O. to the Third Central Pay Commission.

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K.L. Sehgal

6. That in respect of gazetted cadre the R.D.S.O. had against item No.9 sent particulars of the incumbents. A photostat copy of the relevant information sent by the R.D.S.O. to the Third Central Pay Commission is annexed hereto as Annexure 16.

7. That from a perusal of the aforesaid information submitted by the R.D.S.O. it would be evident that the administration informed the Pay Commission that a special pay of Rs.150/- per month was admissible to the Secretary to Director General and never informed the Pay

Commission that the posts of Section Officer, Assistant Architect, Assistant Design Engineer, Assistant Research Engineer, Assistant Research Officer, Assistant Liaison Engineer, and Assistant Inspecting Engineer also carry a special pay of Rs.150/- per month in addition to the pay in the scale of Rs.350-900.

8. That a meeting was held on 6.4.1979 between the representatives of R.D.S.O. Class II Officers Association and the Administration. A copy of the said minutes of the meeting was supplied to the Hony. Secretary, R.D.S.O. Class II Officers Association by the Director General, R.D.S.O. on 18.7.1979. Relevant extract from the said Minutes is annexed hereto as Annexure 17.

9. That from a perusal of the above minutes it would be clear that the representative of the RDSO Class II Officers Association had, inter alia, submitted that the Third Central P y Commission had not been advised about the fact that class II Officers, other than the Secretary to Director General, RDSO were also being paid Rs.150/- per month as special pay.

10. That it is reiterated that the Third Central Pay Commission was never informed by the Administration about payment of special pay to the following categories of incumbents in the R.D.S.O.: Section Officer, Assistant Architect, Assistant Design Engineer, Assistant Research Engineer, Assistant

Assistant Research Officer, Assistant Liaison Engineer and Assistant Inspecting Engineer.

11. That in view of the fact that the Third Central Pay Commission had never been informed about payment of special pay mentioned above no positive recommendations were made regarding it by the Third Pay Commission though it had generally been stated that wherever special pay was being paid its justification may be considered and either higher scales should be given or special pay should be continued.

12. That it is evident that the Administration had not given the relevant information to the Third Pay Commission, which has resulted in the anomaly.

DEPONENT

Dated: Lucknow
November ,1979

Verifications

I, the above named deponent, do hereby verify that the contents of paragraphs 1, 2 are true to my knowledge, the contents of paragraphs 4 to 10 and 11 are true to the knowledge derived from records and the contents of paragraphs 3, 4 and 12 are believed by me to be true. No part of this affidavit is

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false and nothing material has been concealed. So help me God.

K. L. Sehgal

DEPONENT

Dated: Lucknow

November 8 ,1979.

I identify the deponent who has signed before me

Mahd. Naim
C/o Sri R.N. Trivedi

Solemnly affirmed before me on 8-11-79 at 9.15 am/~~pm~~ by Shri K.L. Sehgal, who is identified by Shri Mohd. Naim clerk to Sri R.N. Trivedi, Advocate, High Court, 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.

K.C.

No. 854/25
Date 8/11/79

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No.1881 of 1975

R.C.Kathuria & others ... Petitioners

versus

Railway Board & others ... Respondents

Annexure 16

K.L.Sehgal

8/10

RESEARCH DESIGNS AND STANDARDS ORGANIZATION

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Sanctioned Strength as on 1.4.1971

(A) GAZETTED CADRE

S. No.	Grade	No. of Posts Permanent	No. of Posts Temporary	REMARKS
1	2	3	4	5
1.	Rs 3000 (Fixed) Director General	1	0	
2.	Rs 1800-100-2,000-125-2,250 (A.S.) Director	4	3	Spl. Pay Rs250/- p.m.
3.	Rs 1,300-100-2,000(A.S.) Addl. Director	2	1	one post in 'S&T' Dte. carries Spl. Pay @ Rs250/-p.m.
4.	Rs1,300-60-1,600 (A.S.) Dy. Director General	0	1	Spl. Pay Rs200/- p.m.
	Jt. Director	11	12	-do-
5.	Rs700-40-1,100-50/2-1,250 (A.S.) Deputy Director	16	49	-do- (one post in Arch. Dte. does not carry Spl. Pay)
6.	Rs700-40-1,100-50/2-1,300 (A.S.) Deputy Director	3	2	(All posts in 'M&C' Dte.) Spl. Pay @ Rs200/- p.m.
	Chemist & Mettalurgist	2	0	Without Spl. Pay
7.	Rs700-40-1,100,50/2-1,250 (A.S.) Assistant Director	19	70	Spl. Pay @ Rs150/- p.m. (Except one post in Arch. Dte.)
	Town Engineer	0	1	Without Spl. Pay.
	Sr. Inspecting Officer	0	2	Spl. Pay @ Rs150/- p.m.
	Total:-	58	141	P. T. O.

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Gazetted Cadre(Contd.)

1	2	3	4	5
	B/F. -	58	141	
8.	Rs400-400-450-30-600-35-670 EB 35-950 (A.S.)			
	Scientific Officer(Psy.)	0	1	
9.	Rs350-25-500-30-590 EB 30-800-EB-30-830-35-900(A.S.)			
	Secretary to Director Genl.	1	0	Spl. Pay @ 150/-p.m.
	Section Officer	8	4	
	Asstt. Architect	1	2	
	Asstt. Design Engineer	11	6	
	Asstt. Research Engineer	0	11	
	Asstt. Research Officer	2	0	
	Asstt. Liaison Engineer	0	2	
	Asstt. Inspecting Engineer	1	23	one pt. and one Ty. posts in Motive Power (II)Wing carry Spl. Pay @ Rs 100/-p.m.
	Asstt. Controller of Stores	1	0	
	Jr. Scientific Officer(Psy.)	0	3	
	Total:-	83	192	

True copy

Attested

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No.1881 of 1975

R.C.Kathuria & others ... Petitioners

versus

Railway Board & others ... Respondents

Annexure 17

Government of India, Ministry of Railways

Research Design & Standards Organisation

Our Reference No. A/R/Office
Cl.II, III & IV Lucknow Dated 18.7.79

The Honorary Secretary.

1. RDSO Class II Officer Association
2. Office Coluncil, RDSO Lucknow (2 copies

Dear Sir,

Sub: Minutes of the Meetings held by Addl. Director (Pay Commission), Railway Board separately with RDSO Class II, III and IV Associations at RDSO/Lucknow on 6.4.79

A copy of the Minutes of the meeting held by Additional Director (Pay Commission), Railway Board with your Association on 6.4.79 at RDSO Lucknow is enclosed for information.

Yours faithfully,

Sd/-
(A.D.Ghoshal) 18.7.79
for Director General

DA: Copy of the Minutes.

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As directed by M.E. Shri I.K.Rasgotra, Additional Director Pay Commission and Shri G.S.Thirumalai, Joint Director, Finance (BC) visited R.D.S.O. on 6.4.79 to discuss with the RDSO Class II Officers' Association the question regarding the scale of pay to be allotted to RDSO Class II Officers in the context of the withdrawl of the special pay applicable to them earlier. During the course of the visit some other items also came up for discussion, not only with the class II Officers Association, but also with the Class III and IV Staff Associations. Shri Jagjit Singh, Deputy Director General, RDSO also joined in the discussions.

Addl. DPC

2. Discussion with the Class II Officers' Association

i) The representatives of the Class II Officers Association led by Shri C.D.Dixit explained heir case for allotment of higher scale of pay than the one already sanctioned. They said that as a result of their succeeding in the writ petition filed in the Allahabad High Court, and the subsequent decision of the Supreme Court not to entertain any appeal from the Railway Board against the High Court Orders, the orders of the Railway Board withdrawing the special pay of Rs.150/- p.m. applicable to them in the pre-revised scales of pay were cancelled. However, their eligibility to the special pay was not specifically advised to the 3rd pay commission with the result that the scale of pay allotted to them namely Rs.650-1200 is not commensurate with the position enjoyed by them in the pre-revised scales of pay including the eligibility for special pay. They therefore requested that early decision should be taken on their request to sanction higher scale of pay taking into account the allotment of special pay enjoyed by them earlier.

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They were advised that their points of view would be considered and early decision would be communicated.

RDSO/ERB-I

ii) The RDSO Class II Officers also raised the question of eligibility of non-graduate technical class II Officers for promotion to Senior Scale as Deputy Directors. They once again requested that the cases of these officers should be viewed sympathetically and even if they are not to be made eligible for promotion to senior scale they should be provided some relief in the form of Selection Grade so that they do not stagnate.

In this context, RDSO were advised to send a list of such officers with service particulars to enable the matter being examined.

iii) They also requested that the question of promotion of RDSO Officers to Junior Administrative Grade should be considered early, and a decision arrived at.

They were advised that the matter is already being examined.

x x x x x x x x

True extract

8/11

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

Counter Affidavit to the Application for Amendment to Writ Petition

In re:

Writ Petition No. 1881 of 1975.

R.C.Kathuria and others... ... .Petitioners

Versus

Railway Board and others.. ... .Oppo. Parties.

I, P.R.RAO, aged about 58 years, son of Shri Late P.Rama Murthy resident of Manak Nagar, Lucknow. do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the Jt. Director (ESM) I R.D.S.O., Manak Nagar, Lucknow-11 and is fully conversant with the facts deposed to hereunder.

2. That the contents of paras 37-A and 37-B of the amendment application to the writ petition are not disputed.

Contd. ..2

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3. That the contents of para 37-C of the amendment application to the writ petition are not denied but it is submitted that the special pay of Rs 150/- P.M., previously being paid to the vari-ous categories of Class II (Technical) officers in Research Designs & Standards Organisation was withdrawn with effect from 1.9.1969 under the orders of the Railway Board communicated vide their letter NO. PC67/SP.1/RDSO dated 17.9.69. As such the element of special pay in the pre-revised scale of pay to various categories of Class II(Technical) posts(Viz. Assistant Design Engineers, Assistant Research Engineers, Assistant Inspecting Engineers and Assistant Liaison Engineers etc.) appearing at item 9 of Appendix 16 to the application for amendment to the writ petition was not shown in view of the fact that the special pay of Rs 150/- in respect of these categories of posts was withdrawn under the orders of the Railway Board, referred to above. The Special Pay of Rs 150/-P.M referred to above, in respect of Class II(Te... Officers of Research Desig...

COMMISSIONER FOR OATH ... High Court, ALLAHABAD

tion was restored with retrospective effect keeping in view certain observations contained in the judgements of the A-llahabad High Court dated 2.11.1972 and 4.9.1974 in a Special Appeal No. 11 of 1971 and Civil Writ Petition No. 1114 of 1973 vide Railway Board's letter No. E(P&S)1-73/SP-1/ RDSO/-3 dated 23.5.75 which is Annexure No. A-1 to the writ petition.

4. That the contents of para 37-D of the amendment application are not denied.

5. That in reply to the contents of paras 37-E, 37-F, 37-G and 37-H of the amendment application, it is submitted that the contents thereof are not correct in as much that the ~~[illegible]~~ Third Pay Commission was advised of the fact that the Class II officers of Research Designs & Standards Organisation were in receipt of Special Pay of Rs 150/- P.M. in the pre-revised scale of pay, prior to 1.1.1973 as stated in para 2 of Railway Board's letter No. PC III/79/PS-I/2(RDSO) dated 9.11.1979, a copy whereof is Annexure A-4 hereto. This fact was also

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advised to the Research Designs & Standards Organisation Class II officers' Association as desired by the Board through a seperate communication vide Director General, Research Designs & Standards Organisation's letter No.A/Assocn/OC/2 dated 28.11.79 which is Annexure A-5 hereto. The letters dated 29.4.74, 5.4.71, 22.7.71, 21.11.71, 26.10.71, 14.12.71, 24.1.72, 1.2.72, 7.12.72 and 22.12.72 exchanged with the Pay Commission office by the Railway Board, Research Designs & Standards Organisation and the Class II Officer's Association(R.D.S.O) are Annexures A-3 and A-6 to A-14, respectively, hereto.

Dated: Lucknow the,
March 7th, 1980.

DEPONENT

Verification

I, the deponent named above do hereby verify that the contents of paragraph 1 is true to my own knowledge while those of paragraphs 2 to 5 are believed to be true on the basis of the information derived from perusal of office records. No part of it is false and nothing material has been concealed. So help Me God.

Dated: Lucknow the,
March 7th, 1980.

DEPONENT

I identify the deponent who has signed before me.

(Niranker Prasad)
clerk to Sri B.L.S hukla, Advocate

Solemnly affirmed before me on 7.3.80

at 8.00 a.m./p.m. by Shri [illegible], the deponent, who is identified by Shri Nirankar Prasad, clerk to Shri B.L.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 to him.

Oath Commissioner
High Court, Allahabad
Lucknow Bench
No. 335-80
Date 7.3.80

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

Writ Petition No. 1881 of 1976

R.S.Kathuria and others.... ....Petitioners

Versus

Railway Board and others... ....Oppo.Parties

ANNEXURE NO. A-3

(Copy)

No.A/ES/PC-III(73) Dt. 29.4.1974

The Secretary(Pay Commission),
Railway Board,
New-Delhi.

Sub: Revised Scales of pay-review of special pay in the context of.

Ref: Railway Board's letter No.PCIII/SP/2 74
dated 4.3.1974.

As desired in the letter under reference, three separate statements giving the requisite information are sent herewith. The information furnished has been examined by Jt. Director(Finance)RDSO, and his comments wherever ~~xxxxxx~~ given have been incorporated in column 10 against the respective items.

2. In this connection, it may be pointed out that there are certain posts in RDSO, gazetted and non-gazetted, which do not at present carry any special pay, but all the same, it is considered justified to attach special pay to these posts. Particulars of such posts, alongwith
cation or reference to

submitted to the Board, are given in the form of foot-notes in respective statements.

3. Special attention is also invited to the case of Cl. II technical officers of RDSO vide item 4 of statement III. Although these officers were not actually drawing any special pay as on 1.1.1973, they are legally to be deemed as having been eligible for special pay on that date in terms of High Court's judgement upheld by the Supreme Court. The question of restoration of Special Pay to all such officers is still under consideration by the Board, whose instructions in the matter are awaited. For the future, Jt. Director(Finance)/RDSO has suggested tha-t a grade commensurate with the charge of the post and without any special pay attached, may be considered for these officers. This would also be in line with the pay commission's recommendation contained in para 34 on page 79 of Volume I of their report.

DA: 1) 3 statments in 10 sheets
2) Copy of 6 letters in 14 sheets. sd/-

(M.N.Prasad)
For Director General.

True Copy

Enclosure to Annexure A -3

STATEMENT INDICATING THE CASES WHERE NO RECOMMENDATION BY THE THIRD PAY COMMISSION ON POSTS CARRYING SPECIAL PAY IN R.D.S.O.

Particulars of posts to which special pay is attached			A/ scale of pay of the post	Amount/rate of special pay.
1			2	3
Cl.II(Tech) Officers	Pt.	Ty.		
Asstt. Design Engineer	11	15	Pay scale applicable to Cl.II officers in RDSO	Rs 150/-£ (in case of ACOs Rs 100/- vide Bd's letter No. E66RB3/40/RB I dt. 1.8.66
Asstt. Res. Engineer	-	10		
Asstt. Res. Officer	2	-		
Asstt. Liaison Engineer	-	2		
Asstt. Inspect. Engineer	1	7		
A.C.O.S	1	-		
	15	34		
		= 49		

Whether Spl pay forms part of the scale of pay	Period for which spl. pay is current	Ref. to Rly Bd's letter No. & date under which spl pay has been sanctioned.
4	5	6
Spl. pay earlier sanctioned by the Rly. Bd. was withdrawn wef 1.9.69 vide Bd's letter No. PC.67/SP.1/RDSO.1 dt. 17.9.69. Subsequently Board's orders referred to above, have been quashed by the Allahabad High Court (Lucknow Bench) Lucknow in 1973. Special leave petition filed by RDSO, as desired by the Rly.Board vide their letter No.E(P&A)173/SP.1/RDSO-2 dated 9.10.73, has also been dismissed by the Hon'ble Supreme Court of India on 4.2.74		Pt. 1 Sec. 1 of the Schedule of Authorised Scale of pay.

Note: FOR BALANCE FROM COL. 7 TO 11 CONTD. 2

PLEASE SEE NEXT PAGE

ENCL. TO ANNEXURE A-3

7	8	9
Availabale with R.B. (Ref.RB letter No. PC67/SP.I/RDSO -I dated 17.2.1968	Rs.650-1200 for all posts on the present standard Cl. II scale other than AAO & those notified in the Ist Schedule & Rs.840-1200 for AAO allotted vide Bd's letter No.PC-III/73/ PS/Cchedules/RDSO dated 24.1.1974.	Recommended for consider-ation by the Rly.Bd. in the light of Judg-ement of the Supreme Court of India on the petition for spl. leave in connection with spl.pay to Cl.II officers of RDSO which has been dismissed.

10	11
It would be disirable to fix a grade commensurate with the charge of the post and no spl. pay need be attached. In this connection vide para 34(P79) Vol I of Pay Commission Report	This includes 5 work charged posts charge-able to MTP & others. This includes one AIE (W/C) for ISR work, excludes 16 AIEs of I&L Wing of Wagon Dte.

N.B: 1) The gazetted posts of Joint Directors, Dy. Directors, Asstt. Directors and Asstt. Architect. (Cl.II) in the Architectural Dte. & of All Addl. Directors in RDSO do not carry spl. pay.

Vide DO letter No.A/ES/AP-PC dt. 11.12.73 from DG/ RDSO to MS/RB, it has been recommended that the Addl.Dir. of RDSO, should be granted spl.pay on the same scale as applicable to similar categories of posts in the Board's office.
Vide RDSO's letter No.EI/S/ORG/5(Spl.pay) dt. 3.5.73 forwarded under DG's DO letter No.EI/S/ORG/ 5(Spl.Pay) dt. 3.5.73 to EC/RB, it was recommended that special pay be granted to all the officers of the Architectural Directorate of RDSO, on a scale similar to the one being applied to their counterparts working in other Directorates of this organisation.
2) At present, the 16 posts of AIEs in the Wagon (I&L) Wing do not carry spl. pay with the Standard Cl.II scales of pay applicable to them, as these posts were not carrying spl.pay at the time of their transfer alongwith the Inspection work from Rly.Bd. to RDSO, vide Board's letter No.E67-79/RBI dt. 31.1.68. Subsequently in ref.to Board's order contained in their letters No.ERBI70/44/1 dt. 6.2.71, ERBI71/39/5 dt.10.5.72, and No.PC/67/SP.1/ dt.RDSO-1/ dt.17.9.69, the Board were approached with the request to agree to the payment of spl. pay to Cl. II officers drawn from the Zonal Rly.s for manning the posts of AIEs in other directora-tes of RDSO, or as ADE s, ARE s, AIE s, through RDSO's letter NO.E/RSP dt. 13.10.72 followed by several official /DO reminders.

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

Writ Petition No. 1881 of 1975.

R.S.Kathuria and others.....Petitioners

Versus

Railway Board and others.....Oppo. Parties.

Annexure A-4

Copy of Railway Board's letter No. PCIII/PS-1/2(RDSO) dated 9.11.1979 addressed to DG/RDSO.

Sub: Special Pay to Class II(Tech) officers in R.D.S.O.

Ref: RDSO Class II Officers Association's letter No. RDSO OA-II/3 dated 28.8.79 addressed to ME.

The points raised in the aforesaid communication of the Association have been examined and the position is indicated below.

2. The Third pay Commission were advised of the fact of the Class II officers of the RDSO are in receipt of the special pay of Rs.150/- p.m prior to 1.1.73. Besides, Class II officers of RDSO had also presented a Memorandum to the Pay Commission Highlighting inter alia the special pay of Rs 150/- P.M admissible to them.

3. As regards the second point raised in the Association(s) communication to the ME, the position is that the third Pay Commission had, in para 34, Chapter 7 Vol.1 of their report, generally discussed the nature of the special pay vis-a-vis the scales of pay. As regards Class II officers of RDSO the standard Class II pay scale of Rs.660-1200 was allowed to

them. The special pay of Rs. 150/- p.m was not allowed to them in the revised pay structure as per the policy ~~xx~~ decision taken by this Ministry, in consultation with the Ministry of Finance, that Class III staff on promotion to class II would be eligible only to the benefit of pay fixation in class II without the additional benefit of special pay. It is not possible to allot to the Class II officers of RDSO a pay scale higher than the standard Class II scale having regard to the fact that the Third Pay Commission did not recommend any superior scale for them in replacement of pre-revised class II scale plus specia-l pay of Rs-150/-p.m. despite the fact that the pay commission were aware of the element of the special pay in this case. Apart from this basic position, the case for restoration of the spedial pay of Rs. 150/- pm. to class II officers of RDSO is subjudice.

4. The Association of Class II officers of the RDSO may be advised suitably of the foregoing position.

True Copy

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW

C.M.Application No. (W) of 1979

In re:

Writ Petition No.1881 of 1975

R.C.Kathuria and others.....Petitioners

Versus

Railway Board and others.....Oppo. Parties

ANNEXURE NO. A-5

(Copy)

No. A/Assocn/OC-II Dt: 28.11.79.

The Hony. Secretary,
R.D.S.O. Class II Officers Association,
Lucknow.

Sub: Special pay to class II(Technical) officers in RDSO.

Ref: RDSO Class II officers Association's letter No. RDSO/ OA-II/3 dt.28.8.79 addressed to ME.

The points raised in the aforesaid communication of the Association have been examined by the Board and the position is indicated below for information of the association:-

The Third pay commission were advised of the fact of the class II officers of the RDSO are in receipt of the special pay of Rs. 150/- p.m prior to 1.1.73. Besides, class II officers of RDSO had also presented a Memorandum to the pay commission highlighting inter-alia the special pay of Rs-150/- p.m. admissible to them.

As regards the second point raised in the

Association's communication in the ME, the position is that the third pay commission had in para 34, chapter 7 Vol.1 of their report, generally discussed the nature of the special pay vis-a-vis the scales of pay. As regards class II officers of RDSO the standard class II pay scale of Rs.650-1200 was allowed to them. The special pay structure as per the policy decision taken by this Ministry, in consulation with the Ministry of Finance, that class III staff on promotion to class II would be eligible only to the benefit of pay fixation in class II without the additional benefit of special pay. It is not possible to allot to the class II officers of RDSO a pay scale higher than the standard class II scale having regard to the fact that the third pay commission did not recommend any superior scale for them in replacement of the pre_revised class II scale plus special pay of Rs.150/- p.m. despite the fact that the pay commission were aware of the element of the special pay in this case. Apart from this basic position, the case for restoration of the special pay of Rs.150/- p.m. to class II officers of RDSO in subjudice.

Yours faithfully,

sd/-

DA :Nil.

(A.D.Ghoshal)
For Director General.

True Copy

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

C.M.Application No. (W) of 1979.

In re:

Writ petition No. 1881 of 1979.

R.C.Kathuria.....Petitioner

Versus

Railway Board and others.....Oppo. Parties

ANNEXURE A-6

(copy)

D.O.No.15(E)/PC-III/71 Dated: 5.4.1971

R.MAHADEVAN
DIRECTOR

GOVERNMENT OF INDIA
PAY COMMISSION
VIGYAN BHAWAN ANNEXE

My dear Madhav,

1. We have received a memorandum from the RDSO Class II Officers' Association which has brought out the following points concerning their promotional avenues and conditions of service.

(i) It has been stated that previously RDSO Class II Officers were considered for permanent promotion to Class I against Zonal Railway posts along with their

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

C.M.Application No. (W) of 1979.

In re:

Writ petition No. 1881 of 1979.

R.C.Kathuria.....Petitioner

Versus

Railway Board and others.....Oppo. Parties

ANNEXURE A-6

(copy)

D.O.No.15(E)/PC-III/71 Dated: 5.4.1971

R.MAHADEVAN
DIRECTOR

GOVERNMENT OF INDIA
PAY COMMISSION
VIGYAN BHAWAN ANNEXE

My dear Madhav,

1. We have received a memorandum from the RDSO Class II Officers' Association which has brought out the following points concerning their promotional avenues and conditions of service.

(i) It has been stated that previously RDSO Class II Officers were considered for permanent promotion to Class I against Zonal Railway posts along with their counter-parts on the Zonal Railways. A revised system has, however, been introduced from 12.8.67 whereby the RDSO Officers' promotional avenues have been restricted to 20% of the posts of Assistant Directors, Senior Scale(Rs.700-1250) and they have been deprived of the promotional avenue to zonal Railway Class I Posts. It has been contended that this is a retrograde step which has affected

adversely the promotional prospects of RDSO Class II officers.

(ii) It has been suggested that in anticipation of the introduction of the new procedure all promotions to Class I ~~RDSO~~ RDSO officers had been stopped even from 1962 and the revised procedure also was not given effect to till 1969.

(iii) A third~~xxx~~ objection is that under the new rules, an RDSO Class II officer can be promoted to AAssistant Director(Senior Scale) only subject to his possessing a Degree in Engg. or equivalent and 5 years service in the grade. On the other hand, in the case of Zonal Railway Class II Officers who can also be appointed against the same post, the minimum qualification of an Engg. Degree has not been insisted upon. This is condidered to discriminatory. It has also been ~~x~~ pointed out that the minimum qualification of Engg. Degree was not a condition of eligibility under the previous procedure . Nor is there such a condition even now for promotion of Class II Zonal Railway Officers to Class I Junior Scale.

(iv) It has been contended that the promotion quota has been arbitrrily reduced from 33.1/3% to 20%. Even this ~~xx~~ reduced quota has not been implemented in full despite the availability of suitable persons. It is argued that there should be no objection to raising the quota to 33.1/3% as any shortfall in the availability of suitable candidates could always be made good by transfer from the Zonal Railways and other means.

(v) It has been complained that the weightage of service upto a maximum of 5 years which was previously admissible under the old rules on promotion to Junior Scale Class I posts has been withdrawn in respect of promotion to Assistand Director(Senior scale post). The question of interse seniority of RDSO and Railway officers would become relevant when further avenue of promotion from the Assistant Director Grade is prescribed. It has been pleaded that the reservation of quota from RDSO officers should have been extended all the way up.

(vi) Another complaint is that while Class II Officers from Railways with over 5 years service on posting to RDSO are being designated as Assistant Directors, the RDSO Class II officers continue to be designated as Sectional Officers.

(vii) Another sore point with the Association is that previously RDSO Officers on permanent promotion to Class I against Zonal Railway posts were eligible for special pay attached to RDSO posts. Under the new dispensation, it has been stated that this concession has been withdrawn for Class II RDSO Officers while working in the posts of Assistant Director(Class I) and Assistant Design Engineer/Assistant Research Engineer/Assistant Architect. The following position has been indicated:-

Post in RDSO	For zonal Rly Officers	For RDSO promotee officers
Dy. Director	700-1250 plus Rs200/-S.P.	Rs.700-1250 plus Rs.200/-S.P
Asstt. Director	a) 700-1250 plus Rs150/- S.P(for sr, scale officers posted from Railways)	Rs.700-1250 with no spl.pay
	b) 400-950 plus Rs 150/- S.P. (for junior scale officers/ tempy. Asstt. officers wth minimum 3 yrs service posted from Zonal Rl	

Asstt. Design. Engineer/Asstt. Research Engineer/ Asstt. Architect	350-900 plus Rs.100/- S.P.(for class II officers posted from Zonal Railway)	Rs.350-900 with no Special Pay.

It has been argued that this is discriminatory and is also anomalous in that while there is no difference in the case of posting to a Deputy Director's post invidious distinction is sought to be made in the grade of Assistant Director and below.

In this connection it is observed that in the Railway Board Section Officers on promotion as Asstt. Directors draw pay in the grade of Rs.900-1250 and on promotion as Dy. Director draw a special pay of Rs.200/- in addition to this grade pay of Rs.900-1250. The position in the RDSO is different. Is there any reason for this difference in procedure?

2. Yet another grievance is that RDSO Class II Officers not possessing minimum Engg. Degree Qualification can opt for transfer to a Zonal Railway with chances of promotion to junior Scale Class I and can thereafter be posted to RDSO as Assistant Director thus circumventing the condition of minimum qualification.

3. We would like to know the factual position in regard to the points made above. Your specific comments on each of the above points would also be appreciated.

In particular, the commission would like to know the considerations which weighed with the Railway Board in introducing the revised procedure and whether any changed are contemplated in view of the various representations made by the RDSO officers Association

to the Railway Board.

4. It may also be clarified whether any Special Pay is given when posts of Joint Director/Director in the RDSO are held by Zonal Railway Officers and RDSO promotees. If so, the rates of Special Pay admissible in each case, may please be indicated. It is not also clear whether there is any direct recruitment at intermediate level of Graduate Engineers to Technical Supervisory posts in Class III in the same manner as in the Zonal Railways. If so, the details of the arrangement may be intimated.

An early reply is requested.

Yours sincerely,

sd/- R.Mahadevan

Shri T.V.Madhav,
Jt. Director (Pay Commission),
Railway Board,
New Delhi.

True Copy



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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

C.M.Application No. (W) of 1979

In re:

Writ Petition No. 1881 of 1979.

R.C.Kathuria and others.....Petitioners

Versus

Railway Board and others.....Oppo. Parties

ANNEXURE A-7

(COPY)

T.V.Madhav,
Joint Director
Pay Commission

D.O.NO.PC-71/4/PS/RDSO/Class II/officers/18
Dated: 22.7.71

My dear Mahadevan,

Please refer to your D.O.letter No.15(8)/PC-TII/71 dt. 5.4.71 regarding promotional avenues and conditions of service of Class II officers in RDSO's office. I enclose a note containing parawise remarks on the various points raised therein.

2. As regards the point relating to direct recruitment to Technical supervisory posts in the RDSO, details in this regard are being obtained from that office and the same will be furnished on receipt.

Yours sincerely,

sd/- T.V.Madhav

Shri R.Mahadevan,
Director Pay Commission,
Vigyan Bhawan,
New Delhi.

True Copy

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Parawise comments on the points raised in D.O. No.15(8)PC-TII/71 dated 5.4.71 from Shri R.Mahadevan, Director, Pay Commission, Government of India, regarding avenues of promotion etc., of R.D.S.O. Class II officers.

.....

Paras (i) to (ii)

The avenues of promotion for the Class II officers of the R.D.S.O. prior to 1966 consisted in their being considered for promotion to Class I on the Railways against the promotion quota of 33 1/3% of the vacancies along with other Railway Class II officers. In such selections it was found the quota for a small organisation like the R.D.S.O., as per the roaster maintained for the purpose did not accrue within a reasonable period of time. With a view, therefore, to improve the avenues of promotion for these technical officers in the R.D.S.O., the Board decided in 1966 that a certain percentage of posts of Assistant Directors in the R.D.S.O. should be reserved for being filled by promotion of these class II officers and on promotion, they were to draw pay in the Authorised/Senior Scale of Rs.700-1250. In order to fix the percentage of posts of Asstt. Director that was to be reserved for the officers of the R.D.S.O the Board appointed a Committee of three Joint Director to examine and report.

The joint Directors' Committee recommended that the percentage for promotion of Class II R.D.S.O. officers to the rank of Assistant Director should be fixed at 20. They also stated that the minimum technical/educational qualification for promotion as

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Assistant Director should be graduateship in engineering or its equivalent. A minimum ~~xxxxxxxxxx~~ continuous service of five years in class II, for such promotions was also recommended. While making these suggestions, the Committee kept in view (i) the need to maintain a high standard of technical proficiency (ii) the qualifications and length of service of the existing Class II officers of the R.D.S.O. and (iii) the set up in other comparable scientific and research organisations etc. The recommendations of the Committee were accepted by the D.G., R.D.S.O. and the Board also approved of the same.

Consequent on this decision, recruitment rules for the posts of Asstt. Director were framed in consultation with the U.P.S.C. prescribing the minimum educational qualifications and other conditions as approved by the Board. These recruitment rules were notified on 12.8.67. Subsequently the DPC was constituted including a Member of the UPSC. Selections were held and promotion of six officers was ordered w.e.f. 24.4.69.

It is factually incorrect to say that promotions of Class II technical officers of R.D.S.O. to Class I on the Railways was kept pending from 1962 in view of the general question of their promotion being under examina-tion as in terms of the Roster maintained for allocation of the 33.1/3% quota of vacancies in Class I no class I post beca-me available for being filled by R.D.S.O. Class II officers.

Para(iii)

In November 1967, the Di... requested that the speci... ing educational

officers to Class I posts in the R.D.S.O. may not be applied in the case of those Class II officers who had been promoted on a regular basis to Class II cadre before 12.8.67 the date on which the recruitment rules were notified. This was examined by the Board in detail who decided that the rules for promotion to Class I made after that date, irrespective of the dates on which the officers concerned might have been promoted to class II. It was accordingly clarified to the R.D.S.O. that the staff who did not fulfil the qualifications will not be eligible for consideration even though they were promoted to Class II services as a regular measure prior to 12.8.67. The question of relaxation of the minimum educational qualifications was again reviewed by the Board in 1968 at the time of considering selection of eligible Class II officers of R.D.S.O. to Class I against the 20% quota reserved for them. It was again decided by the Board that no relaxation of the minimum eligibility conditions as already laid down, should be made. Based upon 20% reservation, it was observed that six Class II officers in the Mechanical Department were to be empanelled for promotion to Class I as Assistant Directors, four in the Civil Engineering Deptt., and two in the Signalling & Telecommunication Deptt. It was also observed that in each of the Departments the required number of candidates who were fully qualified were not available based on four times the number of vacancies for purposes of selection. It was, therefore, decided to hold selection for filling up of only half the number of vacancies in these departments, viz., three in the Mechanical Department, two in the Civil Engineering Department

Assistant Director should be graduateship in engineering or its equivalent. A minimum continuous service of five years in class II, for such promotions was also recommended. While making these suggestions, the Committee kept in view (i) the need to maintain a high standard of technical proficiency (ii) the qualifications and length of service of the existing Class II officers of the R.D.S.O. and (iii) the set up in other comparable scientific and research organisations etc. The recommendations of the Committee were accepted by the D.G., R.D.S.O. and the Board also approved of the same.

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It is factually incorrect to say that promotions of Class II technical officers of R.D.S.O. to Class I on the Railways was kept pending from 1962 in view of the general question of their promotion being under examination as in terms of the Roster maintained for allocation of the 33.1/3% quota of vacancies in Class I, no class I post became available for being filled up by R.D.S.O. Class II officers.

Para(iii)

In November 1967, the Director General, R.D.S.O. requested that the special eligibility condition regarding educational qualification for promotion of class II

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and one in the S&T Department. The intention was to hold selections for the balance of the vacancies, after some time, which would give the officers who did not already possess the requisite educational qualifications, an opportunity to qualify themselves and become eligible. As already stated, promotion of six officers in the Mechanical, Civil and S&T Deptts. was ordered w.e.f. 24.4.69, based upon the selections held in 1969. Arrangements are already in progress for holding selection for filling up of the remaining number of vacancies earmarked for Class II officers of R.D.S.O. in these departments.

It may be added in this connection that Class II technical officers who are debarred from promotion on account of their not possessing a Degree in Engineering are considered for transfer in Class II to the Railways of their choice with protection of seniority in respect of their non-promotions sercice in Class II in R.D.S.O. so that they can advance in the Railways cadre.

Para (iv) & (v)

The question of raising the percentage of vacancies in the grade of Assistant Directors, reserved for Class II officers of R.D.S.O. and giving them weightage of service in class II for seniority in Class I was considered by the Boa rd in 1969 upon the representations received from Class II officers of R.D.S.O. Since due to the non-availability of requisite number of officerss possessing the prescribed qualifications, even the prescribed quota of 20% has not been filled in each department, it was felt that there was no justification for considering any revision of

the percentage already laid down. As regards weightage of service in Class II for seniority in Class I, the matter is already under consideration.

Para (vi)

Posts of Assistant Directors in Research, Designs and Standards Organisation are operated in Class II or class I(JS/SS), depending upon the quality and quantum of work attached to a particular post, and are filled by transfer of officers working in the corresponding grades on the Railways and also by posting of officers belonging to the cadre of R.D.S.O. Prior to the introduction of the scheme providing for 20% of the posts of Assistant Directors in Class I in each Engineering Department of R.D.S.O. being reserved to be filled by promotion of Class II officers of R.D.S.O. posts of Assistant Directors in Class II were filled by posting of Class II officers of R.D.S.O. also, who were designated as Assistant Directors when so appointed. With the introduction of the new scheme, however, it has become necessary to differentiate between R.D.S.O. officers who are promoted as Assistant Directors in Class I against the 20% quota of vacancies reserved for them, and other R.D.S.O officers who have not been so promoted. In view of this, only such R.D.S.O. officers who have been approved for promotion as Assistant Directors in Class I are designated as Assistant Directors, while others are designated as Assistant Design Engineer, Assistant Research Engineers, etc.

Para(vii)

Prior to 1967 both Railway Officers and R.D.S.O. officers when appointed against the posts

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of Sectional Officers, Asstt. Directors etc., were allowed a special pay of Rs.150/- without any discrimination. In 1967, Board appointed a Committee to review in detail the admissibility of the special pay attached to various posts in R.D.S.O. The recommendations of the Committee were carefully considered by the Board and it was decided that the special pay of Rs.150/- PM granted to Class III staff of R.D.S.O. on promotion to posts of sectional officers, Liaison Engineers etc., in addition to the pay in Class II scale should be withdrawn and that such special pay should be given only in the case of Class II officers of the Railways seconded to R.D.S.O. It was, however, decided that the pay of Class III staff of the R.D.S.O. promoted as Sectional Officers, Liaison Engineers,etc., should be fixed by adding Rs.100/- to the existing pay if that gave a stage in Class II scale otherwise at the stage next above. The special pay in the case of Railway Officers was continued as this was in the nature of deputation allowance. It was felt that there was no justification for grant of special pay to R.D.S.O. staff on promotion to Class II. The need to give them suitable incentive on promotion to Class II was however recognised, and accordingly the provision for fixation their pay in Class II, providding for an increase of Rs.100/- over their pay in Class III was made. As already explained, prior to 1966, Class II officers of R.D.S.O. were not eligible to be considered for class I posts in the R.D.S.O. With effect from 1966, however, they were provided an avenue of promotion as Asstt. Directors in Class I in the scale of Rs.700-1250 without any special pay. The posts of

Asstt. Directors were earlier being operated in class II when held by the R.D.S.O. officers and not in class I as at present. It may also be mentioned that before the introduction of the new scheme of promotion for R.D.S.O. officers, they could be considered for promotion to Class I on the Railways only against the quota reserved for the smaller organisations like the R.D.S.O., I.C.F. etc., as per the roster maintained for the purpose, and their chances for promotion used to occur after long intervals of time. Their chances of promotion have, therefore, actually improved after the introduction of the new scheme. All posts of Deputy Directors and above in the R.D.S.O. are being filled by the transfer of officers from the Zonal Railways or by promotion of Railway Officers already working in the R.D.S.O. as Asstt. Directors. As regards the Board's office, it may bementioned that Railway Board functions as one of the Ministries of the Government of India and as such the duties performed by the officers appointed in Board's office as Asstt. Directors and Deputy Directors analogous to Under Secretaries and above are not analogous with the duties performed by the officers posted in the R.D.S.O.

As regards the grant of option to the Class II officers of the R.D.S.O. for transfer to the Zonal Railways, this was introduced by the Board upon the representations received from the Class II officers of R.D.S.O. themselves. Such option has so far been excercised by one officer belonging to the S&T Department who has been transferred to Southern Railway at his own request. It is open to Class II offi-

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cers of the R.B.S.O. who are debarred for promotion as Asstt. Directors in the R.D.S.O. on account of their not possessing a Degree qualification to seek a transfer in Class II on the Railways, where they can be considered for promotion to Class I.

The posts of Joint Directors and Directors are filled in the R.D.S.O. by transfer of J.A.Gr./ I.A.Gr./S.A.Gr Offieers from the Railways. A special pay of Rs. 200/- P.M. is granted to officers posted as joint Directors while a special pay of Rs. 250/- is granted to officers posted as Directors.

True Copy

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

C.M.Application No. of 1980

in re:

Writ petition No. 1881 of 1979

R.C.Kathuria and others.....Petitioners

Versus

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

Annexure No. A-8

Copy of DG/RDSO/Lucknow's letter No.A/Assen/OC-II dt. 24.11.71 to the Secy.(Pay Commission), Rly. Board, New Delhi.

.....

Sub: Interview granted to the representative of RDSO Class II Officers' Association by the Central Pay Commission on 22.10.71.

The Class II officers' Association, in R.D.S.O. Lucknow which is a recognised Association, submitted a memorandum dated 9.7.70 direct to the Pay Commission. The Commission, under their letter No.1(4)-PC/T.VI/71 of 13.10.71 called two of the representatives of the above Association for discussion with them on 22.10.71 in their office at New Delhi. After the discussion, the said Association addressed another letter to the Pay Commission, a copy of which, in duplicate, has been endorsed to this office with a request to forward one copy to the Board.

2. In view of this, a copy of the letter No. RDSO/OA/PC/3 dated 29.10.71 together with its enclosure, is sent herewith for information and necessary action.

D.A. As above

sd/- B.R.Sharma
For Director General

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-2-

2d

Enclosue to DG/RDSO's letter No.A/Assen/OC-II dated 24.11.71 addressed to the Secy.(Pay Com.), Railway Board, New Delhi.

....

COPY

R.D.S.O.(MIN. OF RLYS.) CLASS II OFFICER'S ASSOCIATION

Ref: RDSO/OA/PC/3 Lucknow, dt; 29.10.1971

The Chairman/Member-Secretary,
Central Pay Commission,
Vigyan Bhavan Annexe,
Maulana Azad Marg,
New Delhi.

Sir,

Sub: Interview granted to the representatives of RDSO Class II Officers' Association on 22.10.71.

Ref: 1. Our Memorandum dated 9th July, 1970.

2. Your letter No.1(4)-PC/T.VI/71 dated 13.10.71.

3. Discussion between the office bearers of the Association and the Hon. Members of the Commission on 22.10.71.

We convey our gratitude to you and the other members of the Commission for granting us the opportunity for discussing the service conditions of Class II officers of RDSO and also for giving a patient and sympathetic hearing on 22.10.71.

2. During the discussions it became apparent that the Railway Board have furnished to the Pay Commission their clarifications on the points raised in our Memorandum. Some such clarifications offered by the Board, which incidentally came to our notice during the discussions, are not in consonance with facts and, therefore, could mislead the Commission into

wrong conclusions. The Association, therefore, considers that there is an urgent necessity to bring such points on record and to apprise the Hon. Members of the Commission about the factual position relating to such erroneous information furnished by the Board. These have been detailed in the enclosed Annexure 'A'.

~~there are compelling reasons for the Association to believe that the incorrect statements made by the Railway Board might mislead the Hon. Members of the Commission. There might also be some other misconceptions on the part of the Commission due to incorrect statements in respect of other points, which could not be discussed due to lack of time during the interview. It is, therefore, very humbly requested that the Association may kindly be given one more hearing so that atleast these important points which were enumerated in Annexures 'E' and 'E/1' to their memorandum could be discussed.~~

3. Judging from the factual position given in Annexure 'A' there are compelling reasons for the Association to believe that the incorrect statements made by the Railway Board might mislead the Hon. Members of the Commission. There might also be some other misconceptions on the part of the Commission due to incorrect statements in respect of other points, which could not be discussed due to lack of time during the interview. It is, therefore, very humbly requested that the Association may kindly be given one more hearing so that atleast these important points which were enumerated in Annexures 'E' and 'E/1' to their memorandum could be discussed.

4. Due to the very short time which was available for discussions, a number of points of special concern to our category of officers could not be touched upon or explained. Such points are now being explained briefly in seperate Annexures, as detailed below for the kind consideration of the Commission:-

(i) Abolition of Class II Ga... and its merger with Class ...

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common class of Gazetted officers(Explained vide paragraphs 15.1 to 15.4 in part V of our Memorandum).

(ii) Rules for avenue of promotion, extent of promotion quota, crierian for regular and officiating promotions and promotion against short term ad-hoc vacancies: Discriminatory aspects in RDSO vis-a-vis position on Railways(Explained in Annexure 'D').

(iii) Grant of Special Pay: Discriminatory aspects in respect of RDSO cadre promotee officers vis-a-vis zonal Railway's officers performing same duties in identical posts in RDSO(Explained in A-nnexure (C').

(iv) Criterian for determination of seniority/ inter-se seniority between RDSO cadre officers and zonal Railway officers holding inter-changeable identical posts(Explained in Annexure 'D').

5. Officers of the RDSO cadre are the most unfortunate class of officers who have got absolutely no avenue of promotion. The vast avenue of promotion which does exist and rightly belongs to these officers has been denied to them so as to serve the interests of the officers of the zonal Railways who occupy these posts on tenure. All appeals made by the Association during the past 3 years against the above injustice done to them(Reg: Annexures 'C', 'C/1', 'E' and 'E/1' of our Memorandum), have fallen on deaf ears, simply because RDSO cadre officers are small in number, already isolated into a separate

class from the main-stream of the Railways as well as the Railway Board. The Association, therefore, pleads to the Hon. Members of the Commission to grant justice to them by including suitable recommendations in their report which will certainly go a long way in improving the service conditions of RDSO officers. As a preliminary measure, in view of the reasons mentioned above and also particularly in view of the erroneous information which the Railway Board appears to have furnished to the Commission, it is very humbly requested that one more hearing may be granted to the representatives of the Association to enable them to explain the factual position relating to their long-outstanding grievances.

Thanking you,

Yours faithfully,

Encl: Annexures 'A', 'B', 'C' and 'D' in 3 copies.

sd/- K.Santhanam
Secretary

Copies forwarded for inf. and n.a. to the DG/RDSO/Lko. He is requested to kindly forward the spare copy enclosed to the Rly Bd. for information and necessary action.

True Copy

Annexure 'C'

Grant of Special Pay- Discriminatory aspects in regard to RDSO cadre promotee officers vis-a-vis zonal Railway officers performing same duties in identical posts.

1. Position:

The special pay payable to RDSO Class II officers is not the same as that given to the Rly. officers performing same duties in identical posts.

Explanation:

A Rly. Class III official on promotion to Cl.II is fixed in Class II pay scale giving the fixation benefits under normal rules. When such a person is posted in RDSO, he is given in addition, a special pay of Rs. 100/-. In the case of promotion of an RDSO Class III official to Class II, an addition of Rs.100/- to his class III pay is made and he is fixed in the next stage in Class II grade. Because of the merger of Rs.100/- in the basic salary, the RDSO Class II officers get a maximum of Rs.900/- in Rs.350-900 grade, whereas a corresponding Railway Officer posted in RDSO would get a maximum of Rs. 1000/-(i.e. Rs.900 plus Rs.100 as special pay).

b) RDSO Cl.II officers promoted to the post of Asstt. Directors in Senior Scale are given no special pay whereas senior scale officers posted from zonal Railways as Asstt. Directors are given Rs.150/- per month as special pay for performing same duties in identical posts. Even after taking into account the element of Rs.100/- merged in the basic salary of Class II officers, the loss would still be there and would vary at present from Rs.50/-

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(difference of special pay of Asstt. Directors' post and Class II post) to Rs. 150/- depending upon whether the officer was promoted to senior scale before reaching the maximum or after reaching the maximum of Rs.900/- of Class II pay scale.

c) Rs.200/- is payable as special pay to an RDSO promotee or to a Rly. officer when working as Dy. Director in RDSO.

Note: Positions (b) and (c) above are anomalous and indicate absence of any principle for grant of special pay.

2. At present Sr. Architectural Asstts. in the Architectural Department of RDSO are not given any benifit of special pay either in fixation of basic pay or separately, when promoted to Class II posts of Assistant Architect. This is a discrimination followed in case of Arch. Dte. even though the responsibilities of the Class II post in Arch. Dte. are comparable and equally arduous.

Remedy:1, Special pay rules, i.e. quantum and the mode of regulation must be similar for RDSO promotee officers and for Rly. officers performing same duties in identical posts in RDSO.

Remedy:2. The special pay should be made admissible to Architectural Department also on the same lines as in the other Directorates so that this discrimination is eliminated.

True Copy.

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

C.M.Application No. of 1979

In re:

Writ Petition No. 1881 of 1975.

R.C.Kathuria and others.....Petitioners

Versus

Railway Board and others.....Oppo. Parties

Annexure No. A-9

COPY

D.O.No. 15(2)/PC-TII/70

R. Mahadevan
Director

GOVERNMENT OF INDIA
PAY COMMISSION
VIGYAN BHAVAN ANNEXE

New Delhi 26.10.1971

My dear Madhav,

Please refer to your D.O.No. PC-71/RS/RDSO/Class II Officers/18 dated 22.7.71 regarding the Class II Officers in RDSO Office. The following further points require clarification:-

i) It has been stated that the quota for a small organisation like the RDSO as per roster maintained for the purpose did not accrue within a reasonable period of time. Thus, no Class I post became available for being filled up by RDSO Class II Officers from 1962 to 1969. It is not clear whether a separate roster was maintained for the RDSO in the same way as for each Zonal Railwy or whether some of the samaller organisations like the R.D.S.O. and the

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Production units were clubbed together for the purpose of a quota. It is also not clear whether for the purpose of promotion to Class I each Railway is treated as a separate unit or the total number of vacancies xxx expected to arise in a particular year is worked out and allotted to each Railway in a certain proportion based on the Class II strength. The exact modus operandi followed may please be explained for the information for the Commission

ii) It has been stated that minimum technical/ educational qualification for promotion to Asstt. Director was insisted upon with a view to maintain a high standard of technicall proficiency. This would imply that even the Zonal Railway Officers deputed to hold the post of Asstt. Director should possess this qualification. While the Class I Officers would, no doubt, satisfy this condition, it may be that Class II Officers transferred to R.D.S.O. as Assistant Directors may not fulfil this requirement. If so, it would constitute a grievance for the RDSO officers.

iii) It has been stated in your letter that Class II Technical Officers who are debarred from promotion on account of their not possessing a degree in Engineering are considered for transfer in Class II to the Railways of their choice with protection of seniority in respect of their Class II service in RDSO. Accordingly to the RDSO Officers and penalising the qualified ones.

L Association This would be putting a premium on unqualified RDSO class II Officers.

iv) As regards Special Pay, it is argued that if the Allowance given to the Zonal Railway Officers is treated as Special Pay, then in all fairness it

should be extended to RDSO Officers also. On the other hand, if it is treated as Deputation Allowance it would not be correct as no deputation allowance is admissible in the case of transfer of railway employees within the Indian Railways. As regards the fixation of pay in Class II providing for an increase of Rs.100/- over the pay in Class III the the Associations have pointed out that they would still be at a disadvantage as compared to Railway Officers of similar status as in their case they could draw the maximumm of the scale (i.e.Rs.350-900) plus special pay of Rs. 100/- whereas the RDSO Class II Officers officers holding the post of Assistant Director would be restricted to Rs.900/- only. Apart from this , it is not clear why there should be this differential treatment when there is no such thing in the case of Deputy Director. It is also not clear how there can be three levels of officers holding the post of Assistant Director (senior scale officer, junior scale/temporary officer and Class II officer(.

v) If any decision has been taken on the weightage of service in Class II for seniority in Class I for RDSO officers, this may be intimated.

vi) As regards the question of designation, it has been stated that RDSO Officers who have not been approved for promotion as Assistant Directors in Class I are designated as Assistant Design Engineer, Assistant Research Engineer etc. It, however, appears that Class II Zonal Railway Officers are designated as Assistant Directors irrespective of whether

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they have been approved for promotion to Class I or not. The grounds for this differentiation are not clear.

An early reply is requested.

Yoirs sincerely,

sd/-R.Mahadevan

Shri T.V.Madhav,
Jt. Director(Pay Commission Cell),
Railway Board,
New Delhi.

True Copy.



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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

C.M-Application No. of 1979

In re:

Writ Petition No. 1881 of 1975

R.C.Kathuria and others.....Petitioners

Versus

Railway Board and others.....Oppo. Parties

Annexure A-10

COPY

T.V.Madhav,
Jt.Director,
Pay Commission.

D.O.No. PC-71/PEXDSO Cl.II
Officers/18 Dated: 14th Dec. 1971.

My dear Mahadevan,

Please refer to your D.O. letter No.15(8)/PC-TII/70 dated 26.10.71. I enclose a note containing clarifications on the further points detailed in your d.o. communication under reference.

Yours sincerely,

sd/- T-V-Madhav

Encl: As above

Shri R.Mahadevan,
Director,
Pay Commission,
Vigyan Bhawan Annexe,
New Delhi.

True Copy

Note on the points raised in the Pay Commission's D.O.Letter No.15(2)/PC-TII/70 dated 26-10-1971.

(i) Operation of the roster of permanent vacancies in Class I in so far as the R.D.S.O. is concerned.

The quota of permanent vacancies in the class I services which could be earmarked for promotion of Class II Technical Officers of the RDSO, was being calculated separately. The permanent vacancies to be filled up in the Class I services are distributed on the basis of a roster and this roster and this distribution, in turn, is determined on a pro-rata basis with reference to the distribution of permanent Class I strength amongst the various railway units. For the purpose of considering officers for permanent appointment against these posts, each Raidway unit is the unit of seniority.

(ii) Possession of a graduate qualification by Railway Officers posted in RDSO.

By and large Railway Officers who are drafted to the RDSO, possess gradmate qualifications irrespective of whether they are officers directly recruited to Class I or officers promoted to Class I either from the Class II Grade or from the unclassified tempora-ry officers' grade. However, only Railway officers, who have a special aptitude for the type of work done in the RDSO, are brought in as Asstt. Directors, even though they may not have graduate qualifications. But, at the same time, such officers while working on the Open Line Railways or Production Units, acquire adequate practical knowledge and ~~theoritical knowledge~~

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theoritical knowledge required for discharging their duties effectively in RDSO, ~~on the other hand, do~~ Class II Technical Officers of the RDSO, on the other hand, do not possess the type of experience which Technical Officers on the Railways have. It is for this reason that it was considered essential for Class II Technical Officers of the RDSO to possess a graduate qualification before they can be considered for promotion as Assistant Directors in the senior scale.

(iii) Transfer of Class II Technical Officers of RDSO, who do not possess graduate qualification to the Zonal Railways

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The decision to consider the transfer of Class II Technical Officers of the RDSO, who are debarred from promotion to Senior Scale on account of their not possessing graduate qualification, was taken in the context of the introduction of a new requirement in this regard. It will not be correct to say that this decision puts a premium on unqualified RDSO Class II officers and penalising the qualified officers. As already stated, the Railway Board's decision was taken in a particular context and even though the Class II officers of the RDSO were extended an opportunity to seek transfer to the Open Line Railways, only two officers made requests for transfer to the Railways. In one case, the officer has already been given a post of his choice and in the second, the matter is under consideration. The point that arises from this is that the Class II Technical Officers themselves are not keen to go to the Zonal Railways where they will have to work under different

conditions and establish their credentials before they are considered for further promotion. The general question as to whether RDSO officers should be duputed to the Railways to acquire requisite experience on the Open Line/Production Units, also came up for consideration in a particular case and it was held tha-t as the duties and responsibilities of officers on the Open Line Railways/Production Units are vastly different from those of an organisation like the RDSO, it would be difficult to send officers of the RDSO to the Railways without affecting efficiency.

(iv) Treatment of special Pay.

The decision in regard to the withdrawal of special pay being paid to RDSO staff was taken on the basis of a detailed inquiry by a committee of officers. However, simultaneously, with the withdrawal of special pay, certain protections were extended to existing employees withim the framework of the rules. Thus, an officer working in the Class II scale of Rs.350-900, cannot obviously be given pay exceeding the maximum of that scale, particularly in the context of the decision that the specialpay, which was hitherto being given to officers in that scale, was withdrawn. Even the decision to allow fixation of pay in Class II by adding Rs.100/- over the Class III pay, is not normally permissible under any of the existing rules. This fixation itself was a special dispensation. The RDSO Class II Technical Officers cannot compare themselves with the Railway Officers. The grant of special pay to Railway Officers drafted to the RDSO, is on the same analogy as the cases of officers drafted from the Railways to the Railway Board. In the cases of officers

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drafted to other Ministries of the Central Sectt. also, the grant of such special pay has been recognised as justifiable. In so far as Dy. Directors are concerned the salary structure in the RDSO is broadly comparable to the Rly. Board Sectt. where the Sectt. Service Officers working as Assistant Directors in the scale Rs.900-1250, get a special pay of Rs.200/- p.m. on promotion as Dy. Directors. In so far as the question of posts of Asstt. Directors being operated in the Senior/Jr. Scale and Class II is concerned, the decision to fill up these posts in that manner is solely intended to provide administrative flexibility.

(v) Seniority of RDSO officers promoted as Asstt. Directors in the Sr. Scale Class I.

As the RDSO officers promoted as Asstt. Directors in the Sr. Scale do not form part of any of the recognised Class I Services, there is no question of determining their seniority in the respective services. However, for the purpose of promotion from the grade of Asstt. Directors to the grade of Dy. Directors, as and when it becomes necessary to make such promotions, it has been decided that the RDSO Officers will be given a notional siniority position vis-a-vis other Class I officers drafted from the Railways to the RDSO. It has further been decided that this notional seniority should be by the grant of weithtage of five years from the date of occurrance of permanent vacancies of Asstt. Directors against which the RDSO officers are confirmed on completion of probation or from the date of their promotion as ASSTT. Directors, whichever

is later.

(vi) Designation of Class II officers drafted to the RDSO.

Class II Officers from the Zonal Railways are drafted to the RDSO both as Assistant Directors and Asstt. Design Engineers, etc. The latter category of posts are in Class II only and when a Railway Officer is brought in-to the RDSO against vacancies in these Class II posts, they get a special pay of Rs.100/- p.m. When such officers are brought into the RDSO against vacancies of Assistant Directors they get a special pay of Rs.150/- p.m. Although these officers work against Class I posts of Assistant Directors, their status as railway servants does not change and they continue to be Class II officers. The designation of these Class II officers on their appointment to the RDSO, therefore, depends on the type of vacancies against which they are appointed.

True Copy

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

Writ Petition No. 1881 of 1975

R.C.Kathuria and others.....Petitioners

Versus

Railway Board
~~Union of India~~ and others.....Oppo. Parties.

Annexure A-11
COPY

D.O.NO.F.15(2)/PC/T.II/71

R.Mahadevan
Director

Government of India
Pay Commission
Vigyan Bhavan Annexe

New Delhi, 24th Jan., 1972.

My dear Madhav,

Kindly refer to the information furnished by you vide your D.O.No.RC-71/PS/RDSO/Class II/Officers/18 dated 22.7.71 regarding promotional avenues and conditions of service of Class II officers in RDSO's office. The Class II officers of RDSO had come for oral evidence on 22.7.71 and subsequently have sent another representation No.RAS/OA/PC/3 dated 29.10.71 (Copy enclosed) in which they have raised new points. It is requested that the comments on the various points raised therein may kindly be furnished.

With best wishes,

Yours sincerely,

sd/- R.Mahadevan

Shri T.V.Madhav,
Jt. Director,
Pay Commission,
Railway Board,
New Delhi.

True Copy

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

Writ Petition No. 1881 of 1975

R.C.Kathuria and others.....Petitioners

Versus

Railway Board
~~Union of India~~ and others.....Oppo. Parties

Annexure A-12

(Copy)

T.V.Madhav,
Jt. Director,
Pay Commission

D.O.NO.PC-71/PS/RDSO Cl.II Officers/12 Dated:1.2.1972

My dear Mahadevan,

Ref: Your D.O.No.F.15(8)/PC-TII dt. 2.1.72

You may recall my conversation with you yesterday regarding the issue of Class II officers of R.D.S.O.

2. In your D.O. communication No.15(8)/PC-TII/71 dt. 5.4.71 you had detailed points made out in a membrandum from the R.D.S.O. Class II Officers' A-ssociation concerning their promotional avenues and conditions of service. A detailed reply was issued vide my d.o. of even ~~xx~~ number dated 12.7.71. A further communication from you listing further points vide your d.o. of same number dated 26.10.71 was also replied to after detailed examination by the concerned branch. The reply is contained in my d.o. of even number dated 14.12.71.

3. Your present communication referred toabove encloses a Memorandum from the Secretary of the R.D.S.O. Class II Officers' Association which covers the grounds

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already traversed in the previous Memorandum regarding which factual position has been furnished in previous replies. There is reference to certain discussions with the Pay Commission in course of which it appears that clarifications given d.o. communications referred to were made available to this Association. While in some cases the substance of the clarifications given has been incorporated in Annexure 'A', in other cases these have not been correctly indicated. Basically the present Memorandum is a reiteration of the RDSO Class II Officers' Association's point of view.

Yours sincerely,

sd/- T.V. Madhav

Shri R. Mahadevan
Director
Pay Commission
Vigyan Bhavan Annexe
New Delhi.

True Copy

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

Writ Petition No. 1881 of 1975

R.C.Kathuria and others.....Petitioners

Versus

Railway Board and others..... Oppo. Parties

Annexure A-13

(COPY)

D.O.NO.15(8)/PC-TII/70

U.C.Pandey,
Dy.Secretary,
Pay Commission

Government of India
Pay Commission
Vigyan Bhavan Annexe

New Delhi, Dated: 7.12.1972

Dear Shri Madhav,

On 6th December, 1972, we received a telegram from RDSO Class II Officers Association that the Allahabad High Court has decided in their favour in regard to their demand of a special pay of Rs.150/- per month which was being allowed to them until 1967. We shall be grateful if you kindly apprise us of the full details of this case along with a copy of the Allahabad High Court immediately.

Yours sincerely,

sd/- U.C.Pandey

Shri T.V.Madhav,
Joint Director,
Railway Board, New Delhi.

True Copy

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

Writ Petition No. 1881 of 1975

R.C.Kathuria and others.....Petitioner

Versus

Railway Board and others.....Oppo. Parties

Annexure A-14

(COPY)

T.V.Madhav
Jt. Director,
Pay Commission,

D.O.No.PC-71/PS/RDSO
Class II Officers/18 Dated: 22.12.72

My dear Pandey,

Please refer to your d.o. letter No.15(8)/PC.T. II/70 dated 7.12.72 regarding Class II officers of R.D.S.O., I am enclosing a copy of the judgement delivered by Allahabad High Court, which gives the details of the case.

Yours sincerely,

DA: As above sd/- T.V.Madhav

Shri U.C.Pandey,
Dy. Secretary, Pay Commission,
Vigyan Bhavan Annexe,
New Delhi.

Contd. Annexure

(COPY)

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

Lucknow Bench, Lucknow.

Special Appeal No. 11 of 1971

Arising out from:

Writ Petitition No. ~~11~~ 973 of ~~1971~~ 1969

1. D.N.V.Chellum, and others.....Appellants-Petitioners.

Versus

The Railway Board through its Secretary, Rail Bhavan, New Delhi and others.....Respondents-Opposite-Parties.

Petition under Article 226 of theConstitution of India.

Date Lucknow:- 2.11.1972.

For appellant:- Sri B.C.Saxena.

For respondent No.2:- Shri N.Banerji.

Spedial Appeal No.11 of 1971.

Hon'ble D.S.Mathur, A.C.J.

Hon'ble Om Prakash Trivedi, J.

(Delivered by Hon'ble D.S.Mathur, C.J.)

This is a special appeal by D.N.V.Chellum and two others against the order of the learned Single Judge dismissing their Writ Petition challenging the withdrawal of Special Pay under order dated September 17, 1969, as contained in Annexure-3 to the Writ Petition.

The material facts of the case are that the petitioner originally held Class III post in the Research, Designs and Standards Organisation of

the Railways, to be referred herein-after as R.D.S.O., and they were were promoted to the post of Sectional Officer placed in Class II. They drew salary in the time scale of Rs.350-25-500-30-590-EB-30-800-EB-830-35-900 with a special pay of Rs.150/-. The time scale of Class III was Rs 450-25-575 without any special pay. The prescribed scale of pay and also the special pay were the same as "authorised pay-scale" introduced under Railway Services(Authorised Pay) Rules, 1960 introduced from July 1, 1959.

There are two sources of recruitment to Class II posts in R.D.S.O., one is by promotion from ClassIII and the other is by officers of the Railways comming on deputation to work as Sectional Officers. Such officers on deputation drew their salary in Class II scale and in addition drew a special pay of Rs.150/-. It may be mentioned that the time-scale of pay of Class II and Class III posts in the Railways is the same as in R.D.S.O. However, under Annexure-3 special pay was allowed to Sectional Officers promoted or to be promoted from Class III. The special pay of Class II officers of the Railways coming on deputation to R.D.S.O. was, however, reduced to Rs.100/- which was, in addition, to the salary to which they were entitled under the Class II time Scale of pay.

The va-lidity of the order Annexure-3 is challenged on two grounds, firstly, that for so long as the Conditions of service Rules were not amended under Article 309 of the Constitution, the revised order could not be given effect to even if it has the

approval of the President or the President had also taken such a decision. The second ground of attack is that there is discrimination between the two kinds of Class II officers (Sectional Officers) which violated Article 14 and 16 of the Constitution.

There can be no controversy in that promotees from the same department and officers coming on deputation from other departments can be placed in different categories and there can be distinct scales of pay for the holders of posts belonging to these categories. It is, however, necessary that there should not only be some classification, but the classification must be reasonable and correlated to the object of such classification. In the instant case, the material pay could be disallowed to the promotees, while it could be granted to officers on deputation.

Reasonableness of the classification is always dependant upon the object or the purpose which such classification has to serve. The classification must, therefore, be correlated to the nexus or object. If not so correalated or if the classification is not consonance with the object for which the classification was made, it shall be unreasonable of arbitrary and must be struck down.

In service matters relating to salary one has to consider the effect on agovernment servant belonging to either of the categories not only what he would draw after intrduction of the revised pay scales or rules, but what effect it shall have in the end. If it is found that the classification was

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accompanied with conferring additional benefits on promotees, even though the object is not fully achieved, it would not be a case where it can be said that the classification was in any way unreasonable.

For example, if after the introduction of new rules or new scales of pay a promotee becomes entitled to a higher salary or the new scale of pay is beneficial to him, in that he would at the time of retirement or promotion to the higher graded draw a higher salary than to what he would have been entitled had there been no change, it would be no case of discrimination if officers coming on deputation are allowed a different scale of pay or the old scale of pay with a special pay. See: Unikat Sankunni Menon V. The State of Rajasthan (AIR-1968-Supreme Court-21)

The Rly. Administration appears to have realised the hardship of the sectional officers of the R.D.S.O. by the introduction of the new rule withdrawing the special pay. Consequently, it was provided in Annexure-3 itself that the Salary of the promotee sectional officers shall be fixed by adding Rs.100/- to the existing pay in class III post. This instruction was further modified under Annexure-5 to the rejoinder Affidavit by laying down that in case of sectional officers promoted before 1.9.69 the salary shall be fixed by adding Rs.150/- to the pay admissible in Class II scale as on 1.9.1969, though if the pay could not be fixed at any particular stage in the time scale of class II, the difference shall be treated as personal pay to be adjusted in future increments.

Annexure-5 makes it clear that the Railway Administration had in mind not to cause any injustice to the existing promitees of the RDSO, but it failed to take notice of the fact that many, if not all could be deprived of a part of the emoluments, which they could have drawn had the special pay not been withdrawan. The time-scale for the Class II was ~~xxxx

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as reproduced in this paragraph, suggests that " as stated by in second Pay Commission in their Report, the central idea of the special pay is that it is the most satisfactory way of compensating such addition to work or responsibility of such greater arduousness of duties, as is recognisable ~~of such greater arduousness~~ enough to merit additional remuneration, or in some cases of such a permanent nature as to justify placing the post in question in a higher grade". The suggestion of the Pay Commission in this respect was that there should be a periodical review of special pay and also that whenever it was found that a considerable prepartion of employees of a particular grade had to be granted a special pay, it should be examined whether a new grade should not be introduced. It was then mentioned that " the question of regulating the scales of pay in R.D.S.O. keeping inview the Pay Commission's recommendations, quoted above has been enga-ing the Board's attention for quite some-time past. After going through the Report submitted the committee appointed for this purpose, the Board issued their orders as contained in their letter of 17.9.69 in exercise of the powers as ~~contained~~ vested in ~~their letter of 17.9.69 in~~ them as per the Code provisions referred to above".

The object of the withdrawal of the special pay is, therefore, giving effect to the recommendations of the pay commission, namely that where a considerable proportion of employees of a particular grade are granted special pay, a new grade be introcuced for that grade. The other principles laid down by the Pay ~~Commission~~

Commission was that there shoudd be a periodical review of special pays, which may justify increasing or decreasing the special pay attached to a post. On this latter aspect we need not make any comments.

The special pay was admissible to all the promotees from Class IIIof R.D.S.O. Consequently, all the members of this group of sectional officers were drawing a special pay and as per the recommendations of the Pay Commission tha-t would be a good ground for introduction of a new grade. In thepresent case, however, what the Railway Administration did was not to introduce a new grade, but laid down rules for the fixation of salary not only of sectional officers who were to be promoted after 1.8.69, but also of those who had been promoted in the post. The basis of classification is thus not in consonance with the object, as can be inferred from paragraph 20 of the counter affidavit.

At this place it may be noted, though at the risk of repetition, that as a result of the instructions contained in Annexure-5 no immediate injustice would have been done to the promotee sectional officers, but one of the petitioners has reached the maximum of the time-scale. There can be many others who were drawing the maximum of the time-scale. In their case the deprivation of special pay will amount to reduction of emoluments, even though they are doing the same work as officers on deputation,

Special pay or a new time-scale is
or introduced keeping in mind the
by that group of Govt. serv
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cannot be said that importance of work of Sectional Officers had in any way decreased. Consequently, when the promotee sectional officers are doing the same arduous work, their scale of pay, whether with or without special pay cannot overlook the nature of work done by them. The implied object of a new time-scale of pay or grant of special pay is to give additional benefits to government servants doing specialised or adduous work. Once the importance of the work is realised, a similar benefit must be given to all doing such job. It cannot be granted to one set of government servants, namely officers on deputation and not to those promoted from the same department.

We are thus of the opinion that the classification by which the special pay was withdrawn or was not admissible to sectional Officers promoted from Class III but was admissible to officers of Class II on deputation to R.D.S.O. is unreasonable and is not connected with the object intended to be served. Annexure-3 of the writ petition, as clarified by Annexure-5 of the rejoinder affidavit, therefore, deserves to be quashed being violative of Articles 14 and 16 of the Constitution.

The special Appeal is hereby allowed, and the writ petition of D.N.V.Chellum and others is allowed. It is further ordered that Annexure -3 to the writ petition, read with Annexure 5 to the rejoinder affidavit, are violative of Articles 14 and 16 of the Constitution and are, therefore, quashed. Let a writ be issued accordingly. Costs easy as not pressed.

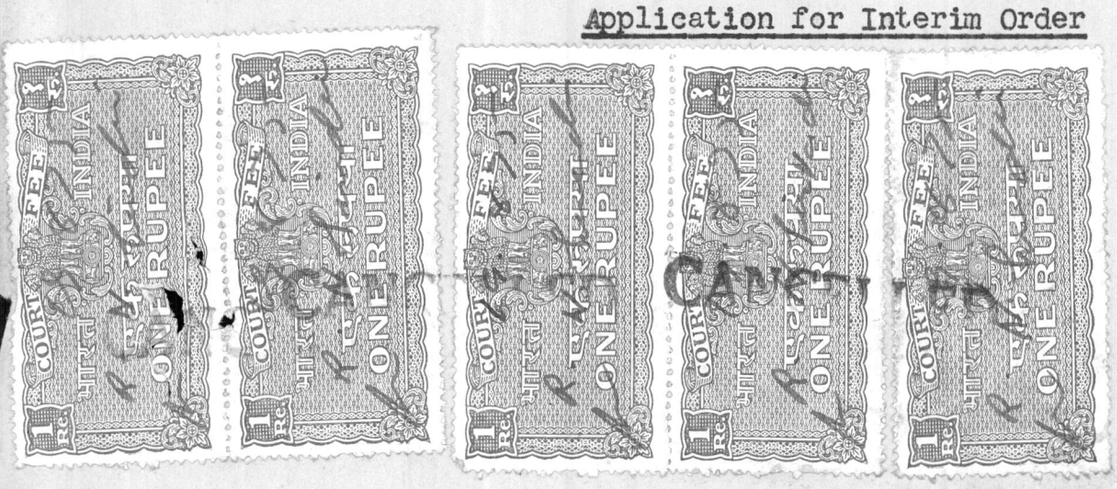
sd/-D.S.Mathur
sd/Om Prakash Trivedi
2.11.1972.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

C.M. APPLICATION NO. 4799(W) OF 1975

Application for Interim Order



R.C. KATHURIA & ANOTHERS . . . . . APPLICANTS

Inre:

WRIT PETITION NO. OF 1975

R.C. Kathura and others. . . . . Petitioners.

Versus

The Secretary, Railway Board and others. . .

... Respondents.

.....

The above named applicants beg to submit as under:-

1. That the petitioners have this day preferred the aforesaid writ petition before this Hon'ble Court impugning the validity of the order of respondents dated 28.7.75 contained in Annexure No. 13 to the Writ Petition.

2. That the petitioners would suffer irreparable

contd.....

loss if the special pay admissible to them is withdrawn in pursuance of the impugned order or if they are asked to exercise their option in pursuance of the order.

WHEREFORE it is respectfully prayed that this Hon'ble Court may be pleased to direct the respondents to continue paying the sum of Rs. 150/- as special pay in addition to the pay fixed in the time scale of pay of Rs. 650- 1200 and direct that the petitioners may not be asked to exercise their options in pursuance of the impugned order and pass such other orders as are deemed just and proper in the circumstances of the case.

ADVOCATE
Counsel for the Petitioner

Dated: Lucknow
August, 1975.

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABA

SITTING AT LUCKNOW

Civil Misc. Application No. 5821 (W) of 1975



R.C. Kathuria and 47 others .... APPLICA

In Re:

Writ Petition No. 188 of 1975

R.C. Kathuria and 47 others ... . Petitione

Versus

1. Railway Board, through its Secretary, Rail Bhawan, New Delhi.

2. Deputy Director (Pay Commission), Railway Board, Rail Bhawan, New Delhi.

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

4. The Joint Director Finance-cum-Administrative Accounts Officer, Research Designs and Standards Organisation, Manaknagar, Lucknow.

..... Respondents.

Application for Interim Relief

The above named applicants most respectfully begs to state as under :-

1. That the aforesaid writ petition was filed by the petitioners impugning the decision of the Railway

Presented today by
Shri R. N. Trivedi
an advocate of this Court
Hon: R. L. Gulati, J.

Put up with record tomorrow.

28.10.75.

~~Recd Date~~
Recd dep
28/10/75

Hon. P. Prakash, J.

Sri Umesh Chandra Srivastava, appearing on behalf of the respondents, gives an undertaking that in case the writ petition is allowed, the respondents shall pay ~~to~~ the petitioners the Special Pay of Rs. 150/- p.m. as from the date it falls due. In view of the

~~11-12-1975~~

-2-

above undertaking it is not necessary to direct the respondents to pay to the petitioners the special pay during the pendency of the writ petition.

11-12-1975.

Board not to pay Special Pay admissible to the petitioners in the revised scale of pay, which was admitted on 1.9.1975.

2. That at the time of admission of the writ petition, an application for stay was moved, as the Railway Administration was contemplating to withdraw the Special Pay admissible to the petitioners from the month of August, 1975, as would be evident from a perusal of Pay Particulars of petitioner No. 31, Sri V.K. Jaiswal, which is annexed as Annexure-I to the Affidavit accompanying this application.

3. That, however, before disposal of the said application for stay, the Railway Administration by a Supplementary Bill allowed the Special Pay to be paid to the petitioners, as would be evident from a perusal of the Pay Particulars of Sri V.K. Jaiswal, petitioner No. 31, which is annexed as Annexure-II to the Affidavit accompanying this application.

4. That in the circumstances, the application for stay had become infructuous and the petitioners prayed that the same may be dismissed as not pressed. Accordingly the said application for stay was dismissed as not pressed.

5. That the Railway Administration is again contemplating to withdraw the Special Pay admissible to the petitioners from the month of October, 1975, payable on 1st November, 1975, as would be evident from a perusal of Pay Particulars of Sri V.K.Jaiswal

petitioner No. 31 which is annexed as Annexure-III to the Affidavit accompanying this application.

6. That it may be pointed out here that the Special Pay was restored in view of the decision of the Hon'ble High Court of Judicature at Allahabad in Special Appeal No. 11 of 1971—D.N.V. Chelam versus Railway Board and others and writ petition No. 1114 of 1973, which was upheld by the Supreme Court, as would appear from a perusal of paragraphs 5 to 12 of the writ petition. In the circumstances, the petitioners are entitled to the Special Pay.

7. That for the reasons disclosed in the writ petition and the accompanying Affidavit, it is expedient in the interest of justice that the respondents may be directed to continue paying the sum of Rs. 150/- as Special Pay to each of the petitioners, in addition to the pay and other allowances already fixed.

WHEREFORE, it is most respectfully prayed that this Hon'ble Court may be pleased to direct the respondents to continue paying the sum of Rs. 150/- as Special Pay to each of the petitioners in addition to the pay and other allowances already fixed, pending disposal of the writ petition, and pass such other orders as are deemed just and proper in the circumstances of the case.

Dated Lucknow:
October 27, 1975.

Advocate,
Counsel for the Petitioners.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW



AFFIDAVIT

In

Civil Misc. Application No. (W) of 1975

R.C. Kathuria and 47 others ... . Applicants

In Re:

Writ Petition No. 1881 of 1975

R.C. Kathuria and 47 others ... . Petitioners

Versus

Railway Board and others ... . Respondents.

I, M.P. Mathur, aged about 49 years, son of late Shri Rajeshwar Prasad, Resident of Quarter No. IV Spl.37/B, Manaknagar, Lucknow-11, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is petitioner No. 27 in the aforesaid writ petition and is conversant with full facts being deposed to hereunder. The deponent has also been authorised by the other petitioners to file this Affidavit.

2. That the aforesaid writ petition was filed by the petitioners impugning the decision of the Railway Board not to pay Special Pay admissible to the petitioners in the revised scale of pay, which was admitted on 1.9.1975.

3. That at the time of admission of the writ petition, an application for stay was moved, as the Railway Administration was contemplating to withdraw the Special Pay admissible to the petitioners from the month of August, 1975, as would be evident from a perusal of Pay Particulars of Sri V.K. Jaiswal, petitioner No. 31, which is annexed in original as Annexure-I to this Affidavit.

4. That, however, before disposal of the said application for stay, the Railway Administration by a Supplementary Bill allowed the Special Pay to be paid to the petitioners, as would be evident from a perusal of the Pay Particulars of Sri V.K. Jaiswal, petitioner No. 31, which is annexed in original as Annexure-II to this Affidavit.

5. That in the circumstances, the application for stay had become infructuous and the petitioners prayed that the same may be dismissed as not pressed. Accordingly the said application for stay was dismissed as not pressed.

Commissioner for Oaths
High Court Allahabad
27-11-75

6. That the Railway Administration is again contemplating to withdraw the Special Pay admissible to the petitioners from the month of October, 1975, payable on 1st November, 1975, as would be evident from a perusal of Pay Particulars of Sri V.K. Jaiswal, petitioner No. 31, which is annexed in original as Annexure-III to this Affidavit.

7. That it may be pointed out here that the Special Pay was restored in view of the decision of the Hon'ble High Court of Judicature at Allahabad in Special Appeal No. 11 of 1971—D.N.V. Chelam versus Railway Board and others and writ petition No. 1114 of 1973, which was upheld by the Supreme Court, as would appear from a perusal of paragraphs 5 to 12 of the writ petition. In the circumstances, the petitioners are entitled to the Special Pay.

8. That for the reasons disclosed in the writ petition and the accompanying Affidavit, it is expedient in the interest of justice that the respondents may be directed to continue paying the sum of Rs. 150/- as Special Pay to each of the petitioners, in addition to the pay and other allowances already fixed.

9. That Annexures-I to III to this Affidavit are the original Pay Particulars issued to Sri V.K. Jaiswal, petitioner No. 31.

Dated Lucknow:
October 26, 1975.

Depone

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Verification

I, the above named deponent, do verify that the contents of paragraphs 1 to 7 and 9 of this Affidavit are true to my own knowledge and those of paragraph 8 of this Affidavit are believed to be true by me. No part of it is false and nothing material has been concealed. So help me God.

Dated Lucknow:
October 26, 1975.

Deponent

I identify the above named deponent, who has signed before me.

G.P. Srivastava
C/o Sri R.N. Trivedi

Advocate

Solemnly affirmed before me on 27.10.75.....
at 9.00..A.M./P.M. by Sri M.P. Mathur.....
the deponent who is identified by
Sri G.P. Srivastava.....
Clerk to Sri R.N. Trivedi
Advocate, High Court, Allahabad.

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

Oath Commissioner,
High Court Allahabad
Lucknow Bench.
No. 1630/75
Date. 27.10.75

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No. of 1975

R.C. Kathuria and 47 others ... . Retitioners.

Versus

Railway Board and others ... . Respondents.

ANNEXURE "I"

to the Affidavit filed in support of Stay Application

—

Commissioner for Oaths
High Court Allahabad

27.10.75

RESEARCH DESIGNS & STANDARDS ORGANISATION

LUCKNOW-1.

Pay particulars of Shri V.K. Jaiswal ARE/Elec. for the month of August, 1975 for his personal record.

	Rs.	P.
Subs. pay	575	00
Offg. Pay	465	00
Spl Pay	—	
Dearness Allowance	135	00
Addl. D.A.	108	00
Interim Relief	—	
C.C.A./Leave Salary	50	00
House Rent Allowance	—	
Travelling Allowance	—	
Total:	1333	00

Deductions

Income Tax	65	00
Union Surcharge.	6	00
S.R.P.F.	87	00
Addl.P.F.	—	
S.R.P.F. Insurance.	—	
PLI/NDF	—	
Electric Charges	25	72
Water charges	—	
Cost of Lamp	—	
Fan Hire Charges	—	
House Rent	50	33
Garrage charges.	—	
Water charges	4	50
Lawn Charges	6	00
A.D.A. Deposit Sc/o	54	00
M.C.Adv.		
House Building Adv.		
Staff Car/Station Wagon/Bus charges		
Telephone charges		
R.D.S.O.Officers Club/RTRC Rec. Club.		
R.B.C.T. & C.S. Ltd.,New Delhi		
E.R.Em.Coop.In.Soc./Calcutta/C.Rly.Emp.Coop Bank Ltd.,B.B.		
S.C.Rly.Emp.Co.Credit Society/Secunderabad		
S.E. Rly.Emp.Coop.Urban Bank Ltd.		
Jackson Coop.Bank Ltd./W.Rly./N.E.Rly.Emp. Coop.Banking Soc Ltd.,GKP.		
Total Deduction Rs.	298	55
Net payable Rs.	1034	45

Net amount payable to self in cash at RDSO/Lko.CRJ/DGP/TIN/Cal/NZP/Perambur/Delhi/MKA/Burnpur/Varanasi/Bhopal/Jhansi/Bharatpur/Bombay through a crossed cheque/P.N.B.,Alambagh,Lucknow/P.N.B. HZG.,Lko./SBI,HZG.,Lko.,S.B.I.Charbagh,Lko/Ald.Bank Ltd.,HZG, Lko/United Commercial Bank Ltd.,HZG,Lko/C.B./Lko/AMV/S.B.I./CRJ., Bank of India Ltd.

knd/

Signature of Assistant.

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No. of 1975

R.C. Kathuria and 47 others ... ...Petitioners.

Versus

Railway Board and others ... ...Respondents.

ANNEXURE "II"

to the Affidavit filed in support of Stay Application

Commissioner for Oaths
High Court, Allahabad

27.10.75

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RESEARCH DESIGNS & STANDARDS ORGANISATION

LUCKNOW

Pay particulars of Shri V. K. Jaiswal, ARE/EL for the month of Aug '75, 1969 for his personal record.

	Rs. P.
Subs. Pay.	
Offg. Pay.	
Spl. Pay.	150.00
Dearness Allowance.	
House Rent Allowance.	
Travelling Allowance.	
Leave Salary/CCA.	
Total :-	150.00

DEDUCTIONS

Income Tax. ...	12.00
SRPF ...	
Addl. P.F. ...	
SRPF Advance. ...	
PLI/NDF ...	
UPPT ...	
House Rent ...	
Water Charges ...	
Lawn Charges ...	
Elec. Charges ...	
Advance of Pay ...	
RTRC Rec. Club. ...	
RBCTS, NDLS ...	
M.C. Advance ...	
Staff Car/Station Wagon Charges ...	
Telephone Charges ...	
E.Rly.Emp.Coop.Ins.Soc./Calcutta ...	
SE Rly.Emp.Coop.Urban Bank Ltd. ...	
Cost of lamp/Diet Charges ...	
Jackson Coop. Bank Ltd./W.Rly. ...	
Total deductions :-	12.00

NET PAYABLE :- Rs. 138.00

Commissioner for Oaths
Hon. Court Allahabad
सत्यमेव जयते

27-10-75

Net amount payable to self in cash at R.D.S.O./Lucknow/CRJ/DGP/TTN/Cal/MZP/Perambur/Delhi/Varanasi/Bhopal through a crossed cheque/P.N.B, AMV, LKO/P.N.B, HZG., LKO/ S.B.I, HZG., LKO, S.B.I. Charbagh, LKO/ Alld.Bank Ltd., HZG., LKO/ United Commercial Bank Ltd., HZG., LKO/ Central Bank Ltd., LKO, S.B.I./CRJ, Bank of Baroda, LKO. Union Bank of India, HZG/LKO.

Signature of Assistant.

Sharma
27.11.69.

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No. of 1975

R.C. Kathuria and 47 others ... .Petitioners

Versus

Railway Board and others ... ...Respondents.

ANNEXURE "III"

to the Affidavit filed in support of Stay Application.

Commissioner for Oaths
High Court, Allahabad

27-10-75

RESEARCH DESIGNS & STANDARDS ORGANISATION
LUCKNOW-1.

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Pay particulars of Shri V.K. Jaiswal DRE/EL for the month of Oct., 1975 for his personal record.

	Rs.	P.
Subs. pay	575	00
Offg. Pay	505	00
Spl Pay		
Dearness Allowance	135	00
Addl. D.A.	208	00
Interim Relief		
C.C.A./Leave Salary	50	00
House Rent Allowance		
Travelling Allowance		
Total:	1473	00

Deductions

Income Tax	65	00
Union Surcharge.	6	00
S.R.P.F.	90	00
Addl.P.F.		
S.R.P.F. Advance.		
PLI/NDF		
Electric Charges		
Fuel charges	25	72
Cost of Lamp		
Fan Hire Charges		
House Rent	50	33
Garrage charges.		
Water charges	4	50
Lawn Charges	6	00
A.D.A.	104	00
M.C.Adv.		
House Building Adv. NRF	41	00
Staff Car/Station Wagon/Bus charges		
Telephone charges		
R.D.S.O.Officers Club/RTRC Rec. Club.		
R.B.C.T. & C.S. Ltd.,New Delhi		
E.R.Em.Coop.In.Soc./Calcutta/C.Rly.Emp.Coop Bank Ltd.,B.B.		
S.C.Rly.Emp.Co.Credit Society/Secunderabad		
S.E.Rly.Emp.Coop.Urban Bank Ltd.		
Jackson Coop.Bank Ltd./W.Rly./N.E.Rly.Emp. Coop.Banking Soc Ltd.,GKP.		
Total Deduction Rs.	392	55
Net payable Rs.	1080	45

Net amount payable to self in cash at RDSO/Lko/CRJ/DGP/TIN/Cal/MZP/Perambur/Delhi/MKA/Burnpur/Varanasi/Bhopal/Jhansi/Bharatpur/Bombay through a crossed cheque/P.N.B.,Alambagh,Lucknow/P.N.B. HZG.,Lko./SBI,HZG,Lko.,S.B.I.Charbagh,Lko/Ald.Bank Ltd.,HZG, Lko/United Commercial Bank Ltd.,HZG,Lko/C.B./Lko/AMV/S.B.I./CRJ., Bank of India Ltd.

knd/

Signature of Assistant.

Commissioner for Oaths High Court Allahabad 27-10-75

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Civil Misc. Application No. 1175 (W) of 1976

R.C. Kathuria and 47 others ... . APPLICANTS

In Re:

Writ Petition No. 1881 of 1975

R.C. Kathuria and 47 others ... . Petitioners.

Versus

Railway Board and others ... . Respondents.

Application for early hearing of Writ Petition

The above named applicants/petitioners most respectfully beg to state as under :-

1. That the aforesaid Writ Petition has been filed against the action of the respondents deducting Rs. 150/- per month which was admissible to the petitioners as Special Pay.

2. That an application for interim relief was move in the aforesaid Writ Petition, in which the respondents averred that in case the Writ Petition succeeds, the petitioners would be entitled to the Special Pay.

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3. That the petitioners are suffering economic hardship, besides substantial and irreparable loss, due to the reduction in the monthly emoluments.

4. That if the entire amount of arrears are ultimately given to the petitioners on the Writ Petition being allowed, it would result in further and unnecessary legal complications.

5. That in the circumstances, it is expedient in the interest of justice that the aforesaid Writ Petition may be directed to be listed at a very early date for disposal.

WHEREFORE, it is most respectfully prayed that this Hon'ble Court may be pleased to direct that the aforesaid Writ Petition may be listed for disposal at a very early date, and pass such other orders as are deemed just and proper in the circumstances of the case.

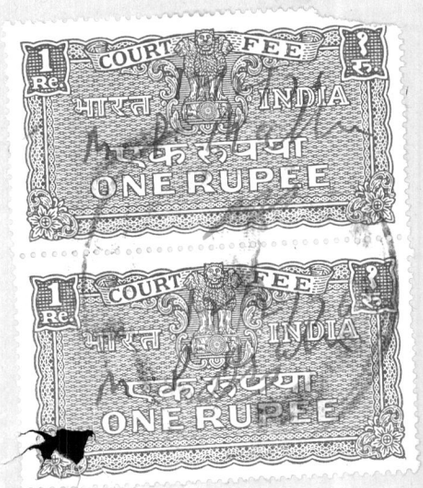
Dated Lucknow:
January , 1976.
Feb. 12, 1976

Advocate,
Counsel for the Petitioners.

3 A/542

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW



AFFIDAVIT

In

Civil Misc. Application No. (W) of 1976

R.C. Kathuria and 47 others ... . Applicants.

In Re:

Writ Petition No. 1881 of 1975

R.C. Kathuria and 47 others ... . Petitioners.

Versus

Railway Board and others ... . Respondents.

I, M.P. Mathur, aged about 49 years, son of late Shri Rajeshwar Prasad, Resident of Quarter No.IV Spl.37/B, Manaknagar, Lucknow-11, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is petitioner No. 27 in the aforesaid Writ Petition and is conversant with full facts being deposed to hereunder. The deponent has also been authorised by other petitioners to file this Affidavit.

4 A/253

2. That the aforesaid Writ Petition has been filed against the action of the respondents deducting Rs. 150/- per month which was admissible to the petitioners as Special Pay.

3. That an application for interim relief was moved in the aforesaid Writ Petition, in which the respondents averred that in case the Writ Petition succeeds, the petitioners would be entitled to the Special Pay.

4. That the petitioners are suffering economic hardships, besides substantial and irreparable loss, due to the reduction in the monthly emoluments.

5. That if the entire amount of arrears are ultimately given to the petitioners on the Writ Petition being allowed, it would result in further and unnecessary legal complications.

6. That in the circumstances, it is expedient in the interest of justice that the aforesaid Writ Petition may be directed to be listed at a very early date for disposal.

Dated Lucknow:

~~January , 1976~~

11. 2. 76

Deponent

5

A/244

Verification

I, the above named deponent, do verify that the contents of paragraphs 1 to 4 of this affidavit are true to my own knowledge and those of paragraphs 5 and 6 of this affidavit are believed to be true by me. No part of it is false and nothing material has been concealed. So help me God.

Dated Lucknow:
~~January~~ , 1976.
Feb. 11, 1976

Deponent

I identify the above named deponent, who has signed before me.

J. P. Srivastava
C/o Sri R. N. Tripathi.
Advocate

Solemnly affirmed before me on 11.2.76.....
at 9.00 A.M./~~P.M.~~ by Sri ..M. P. Mathur.....
the deponent who is identified by
Sri ..J. P. Srivastava.....
Clerk to Sri ..R. N. Tripathi.....
Advocate, High Court, Allahabad.

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

V. K. PANDEY
Oath Commissioner
High Court, Allahabad
Lucknow Bench
No. — 76
Date 11. 2. 76

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Civil Misc. Application No. 4537(W) of 1976



R.C. Kathuria and 47 others ..... APPLICANTS.

In Re:

Writ Petition No. 1881 of 1975

R.C. Kathuria and 47 others ... . Petitioners.

Versus

The Railway Board, through its Secretary and others ... ... Respondents.

Application for Condonation of Delay in filing the Rejoinder-Affidavit to the Counter-Affidavit filed on behalf of the Respondents

The above named applicants most respectfully beg to state as under : -

1. That for want of certain information, which was relevant for the preparation of the Rejoinder-Affidavit in reply to the Counter-Affidavit filed on behalf of the Respondents, the Rejoinder-Affidavit

could not be filed within the time stipulated by this Hon'ble Court.

2. That in the circumstances, some delay has occurred in filing the Rejoinder-Affidavit, which is bonafide.

3. That it is expedient in the interest of justice to condone the delay in filing the Rejoinder-Affidavit.

WHEREFORE, it is most respectfully prayed that this Hon'ble Court may be pleased to condone the delay in filing the Rejoinder-Affidavit in reply to the Counter-Affidavit filed by Sri Ram Prakash Jetley on behalf of the respondents, and to direct that the accompanying Rejoinder-Affidavit may be taken on record.

Dated Lucknow:
August 31st, 1976.

Advocate,
Counsel for the Applicants.

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

SITTING AT LUCKNOW.

Civil Misc. Application No. 652 (W) of 1979.



R. C. Kathuria and 47 others ... ... APPLICANTS.

In Re:

Writ Petition No: 1881 of 1975.

R. C. Kathuria and 47 others ... ... Petitioners.

Versus.

1. Railway Board, through its Secretary, Rail Bhawan, New Delhi.
2. Deputy Director (Pay Commission), Railway Board, Rail Bhawan, New Delhi.
3. The Director General, Research, Designs and Standards Organisation, Manak-Nagar, Lucknow.
4. The Joint Director Finance-cum-Administrative Accounts Officer, Research Designs and Standards Organisation, Manak-Nagar, Lucknow.

... ... Respondents.

APPLICATION TO DEFER THE WRIT-PETITION FOR SIX MONTHS.

The above named applicants most respectfully beg to state as under : -

1. That in the aforesaid writ-petition, the petitioners have impugned the validity of the order of respondents, dated 28-7-1975, withholding the payment of special pay of Rs. 150/-, as part of the pay. Other ancillary reliefs have, also, been saught.

2. That the matter has been considered, in a meeting, in which the representatives of the Railway Administration and those of the Officer's Association had discussed the matter on 15-12-1978. It may be stated, here, that the petitioners are Members of the said Officer's Association. The Member, Engineering, representing the Railway Administration, had informed the Officer's Association, at the said meeting, that this question would be examined, as early as possible, and the decision would be communicated.

3. That it is expected that a satisfactory solution would be found by the Railway Administration, in pursuance of the meeting held on 15-12-1978.

4. That such a decision is expected to take about six months' time, as the approval of the Ministries of Railways and Finance of the Government of India, has to be obtained.

5. That in the circumstances, it is expedient that the hearing of the aforesaid writ-petition may be deferred for a period of six months.

WHEREFORE, it is most respectfully prayed

that this Hon'ble Court may be pleased to defer the hearing of the aforesaid writ-petition for a period of six months and pass such other orders as are deemed just and proper in the circumstances of the case.

ADVOCATE,

Counsel for the Petitioners-Applicants.

Dated , Lucknow :

January 30/31 , 1979.

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

SITTING AT LUCKNOW.

1979 AFFIDAVIT 11 HIGH COURT ALLAHABAD

High Court, Allahabad

AFFIDAVIT

In

Civil Misc. Application No: (W) of 1979.

R. C. Kathuria and 47 others ... ... Applicants.

In Re:

Writ Petition No: 1881 of 1975.

R. C. Kathuria and 47 others ... ... Petitioners.

Versus.

Railway Board and 3 others ... ... Respondents.

AFFIDAVIT IN SUPPORT OF THE APPLICATION TO DEFER THE WRIT-PETITION FOR SIX MONTHS.

I, R. P. Singh, aged about 42 years, son of Sri Saligram Singh, Resident of Quarter No. B-97/3, Manak-Nagar, Lucknow-11, the deponent, do hereby solemnly affirm and state on oath as under : -

1. That the deponent is the petitioner No. 30 in the aforesaid writ-petition and is conversant with full facts being deposed to hereunder. The deponent has also been authorised by the other petitioners to file this

Affidavit.

2. That in the aforesaid writ-petition, the petitioners have impugned the validity of the order of respondents, dated 28-7-1975, withholding the payment of special pay of Rs. 150/-, as part of the pay. Other ancillary reliefs have, also, been saught.

3. That the matter has been considered, in a meeting, in which the representatives of the Railway Administration and those of the Officer's Association had discussed the matter on 15-12-1978. It may be stated, here, that the petitioners are Members of the said Officer's Association. The Member, Engineering, representing the Railway Administration, had informed the Officer's Association, at the said meeting, that this question would be examined, as early as possible, and the decision would be communicated.

4. That it is expected that a satisfactory solution would be found by the Railway Administration, in pursuance of the meeting held on 15-12-1978.

5. That such a decision is expected to take about six months' time, as the approval of the Ministries of Railways and Finance of the Government of India, has to be obtained.

6. That in the circumstances, it is expedient that the hearing of the aforesaid writ-petition may be deferred for a period of six months.

Dated, Lucknow :
January 30, 1979.

DEPONENT.

Commissioner for Oaths
High Court Allahabad
31/1/79

Verification.

I, the deponent, above named, do hereby verify that the contents of paragraphs 1 to 3 of this affidavit are true to my own knowledge and those of paragraphs 4 to 6 of this affidavit are believed to be true. No part of it is false and nothing material has been concealed. So help me God.

Dated , Lucknow :
January 30 , 1979.

DEPONENT.

Identification.

I, after perusal of records produced by the deponent, who claims himself R. P. Singh, verify that he is the person who has signed this affidavit.

ADVOCATE,
Counsel for the Petitioners.

SOLEMNLY AFFIRMED before me on 30/1/79..... at 7.30..... A.M./P.M. by Sri R. P. Singh, the deponent, who is identified by Sri ....., Clerk to Sri ....., Advocate High Court, Lucknow Bench, Lucknow.

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

30/1/79

30/1/79
Oath Commissioner
High Court, Allahabad
Lucknow Bench
No. 111/274
Date 30/1/79

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

C.M.Application No. 1235 of 1980.

In re:

Writ Petition No. 1881 of 1975.

R.C.Kathuria and others... ... ...Petitionrs

Versus

Railway Board and others.. ... ...Oppo. Parties

Application for Condonation of delay in filing Counter Affi-davit to Application for Amendment

The humble petition of the opposite parties respectfully showeth:-

1. That in the above noted case the counter affi-davit to the amendment application to the writ petition could not be filed within the time allowed by this Hon'ble court as the matter had to be referred to the Railway Board and draft of the counter affi-davit had also to be approved by them.

2. That the delay in the circumstances is not deliberate and is excusable. The hearing of the case has not taken place as yet.

Wherefore, it is respectfully prayed that the delay in filing the counter affi-davit be condoned and the same be brought on record.

Dated:Lucknow the,
March , 1980.

Counsel for the Oppo. Parties

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

CIVIL / CRIMINAL SIDE WP No. 1881 of 1967.5

R C Kathuria — Appellant / Applicant

versus

Secy Railway Board — Respondent / Opposite-party

To The Administrative Sub Judge Judge of the District of Delhi

No. 14560/WP, dated Allahabad / Lucknow, the 15 of 12 1967.

WHEREAS in the case noted above the High Court has passed an order, a copy of which is enclosed, you are requested to comply with the said order and to have the notice herewith enclosed served on the party to whom it is addressed according to law. The copy of the notice annexed thereto may be delivered to the party concerned along with the copies enclosed herewith and the original with the necessary endorsement thereon returned to this Court on or before the 2nd day of Feb 1967.

By order of the Court,

Deputy Registrar.

Enclosures:

(1) Copy of the order.

(2) Notice with copy of notice attached. Two in duplicate

(3) Copies of application and affidavit.

PSUP L 15 H.C.—1968—HCJ Form no. 29, Part III—16,000.

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

CIVIL ~~CRIMINAL~~ SIDE Wp. No. 1881 of 1967 5 A/255

R. C. Kathuria — Appellant / Applicant

versus

Secretary Railway Board — Respondent / Opposite-party

9403

Munsarim, Distt. Judge's Court Lucknow 19/12/67

To

The Distt Judge of the District of Lucknow

No. 4599/WP, dated ~~Allahabad~~ Lucknow, the of 15/12 1967.

~~WHEREAS~~ In the case noted above ~~the High Court has passed~~ an order, ~~a copy of which is enclosed~~, you are requested to comply with the said order and to have the notice herewith enclosed served on the party to whom it is addressed according to law. The copy of the notice annexed thereto may be delivered to the party concerned along with the copies enclosed herewith and the original with the necessary endorsement thereon returned to this Court on or before the 2nd day of Feb 1968

By order of the Court,

MUNSARIM DISTT. JUDGE'S COURT LUCKNOW 1/2/68

Deputy Registrar.

Enclosures:

(1) Copy of the order.

(2) Notice with copy of notice attached. Two in duplicate

(3) Copies of application and affidavit.

PSUP L 15 H.C.—1968—HCJ Form no. 29, Part III—16,000.

P.C.C. Form no. 38, Part I

Notice to ~~Counsel~~ Party of date fixed for hearing

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH), LUCKNOW

No. 1881-75

R.C. Kathuria *Appellant;*

versus

Secy Railway Board *Respondent.*

Sri Joint Director

~~Sarvasri~~ Finance Cum } ~~Counsel for Appellant.~~

Sri Administrative Accounts Officer

Sarvasri R.D.S.O. Manaknagar } ~~Counsel for Respondent.~~

Take notice that the hearing of the above named case has been fixed for 2.2 1978

LUCKNOW:

Dated 13/12, 19

Deputy Registrar.

PSUP—A.P. 4 H.C.—1975. 2642—25,000 (E)

आप के [illegible] के न्यायधीश हो गये हैं [illegible] आप अपने मुकदमे [illegible] किसी अधिवक्ता

Service Sufficient / Insufficient

Addl. District Judge
Officer-in-charge, Central Nazarat
LUCKNOW.
18/1/78

श्री मानजी
ता. १७.१.७८
को समय लगभग २.१०.
वेत्र स्थान आफीस नवाईट
गवर्नर एडीमेट्रिटिव
आर. डी. एस. ओ०

Recd the copy of
JDF/RDSO/440
Received
17/1/78

निदेशक/वित्त अ० अ० मा० ... Office of the Joint Director/Finance
17 JAN 1978

ऐकाउंट आफीस आलम बाग गाजर बंद के किसी क्लर्क
को एक किला नोटिस देकर रसीद स्वीकार करा
लिया रिपोर्ट पेश है। अनुकूल
१७.१.७८

Served through office
Submitted as per P.S. report
18.1.78

Solemnly affirmed before me
In my office by
Process Server. 3.51 Pm

Sd/- Bhaskar Lal

18/1/78

R.C.C. Form no. 38, Part I

Notice to Counsel of date fixed for hearing

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH), LUCKNOW

W.P. No. 1891-75

R.C. Kathuria ——— *Appellant;*

versus

Secy Railway ——— *Respondent.*

~~Sri~~ Director General
Sarvasri R.D.S.O } ~~Counsel~~ for ~~Appellant~~.

~~Sri~~ Manaknagar
~~Sarvasri~~ Lucknow } ~~Counsel~~ for ~~Respondent~~.

Take notice that the hearing of the above named case has been fixed for 2.2 1978

LUCKNOW :

Dated 16/12 19 77

Deputy Registrar.

PSUP—A.P. 4 H.C.—1975. 2642—25,000 (E)

(12)

५४

7489

20/12

Service Sufficient / Insufficient

Addl. District Judge
Officer-in-charge, Central Nazarat
LUCKNOW
18-1-78

Recd. Notice
17.1.78

श्री मानजी.

ता: 17.1.78 को समय लगभग रबजे खान आफिस डायरेक्टर जनरल आर. डी. एस. ओ० मानक नगर गाकर के रसीद किर्क को एक किता नोटिस देकर रसीद तहरीर करा लिया रिपोर्ट पेश है

Served through office
Submitted as per P.S. report
18-1-78

Solemnly affirmed before me
in my office by
Process Server 3.50 P.M.

18/1/78

B 6/1

ब अदालत श्रीमान In The Hon'ble High Court of Judicature at Allahabad (Lucknow) Bench) महोदय

बादी मुद्दई

वकालतनामा

1 Rc. COURT FEE भारत INDIA एक रुपया ONE RUPEE

1 Rc. COURT FEE भारत INDIA एक रुपया ONE RUPEE

1 Rc. COURT FEE भारत INDIA एक रुपया ONE RUPEE

1 Rc. COURT FEE भारत INDIA एक रुपया ONE RUPEE



Writ Petition No of 1975

R. C. Kathuria & others

बादी (मुद्दई)

54 B.5

1.9.75

बनाम

The Secretary Railway Board & others

प्रतिवादी (मुद्दाअलेह)

A 258

ने मुकद्दमा सन १९ पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Sri R. N. Trivedi Advocate

D-19 Vikrampuri Lucknow एडवोकेट महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं हस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा वा इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रूपया जमा करें या हमारी या विपक्षी (फरीकसानी) का दाखिल किया रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको स्वीकार है और होगी इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे

हस्ताक्षर R. C. Kathuria (R. C. KATHURIA)

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 1 महीना 9 सन् १९75 ई०

Accepted

STOCKIST
R, K. Srivastava
Stamp Vendar High Court
R/O 44, Tazikhnaa, Lucknow

नाम फरीकेन
नं० मुकद्दमा
नाम अदालत

A/259

14/2

B. S. BHATNAGAR

S. L. BHATIA

B. K. Jain

K. S. PARTHASARADHI

S. S. RAJAWAT

D. S. GABBI

S. R. D. KAPOOR.

L. N. SINGH

M. L. PATHAK.

N. VENKATARAMAN.

M. N. BASHIAH.

B. N. MISHRA

B. M. CHOPRA.

R. M. SAHORE

B. R. DEORAJ

R. M. SUNDARAM.

S. RAJAGOPALAN.

K. SRINIVASAN.

A. B. CHATTERJEE.

M. N. WANIKAR

GURDIAL SINGH

A/260

14/3

K. N. GANESA KUMAR

A. S. THAKUR

N. K. OZA

R. B. KANITKAR

M. P. MATHUR

GIAN CHAND

Y. D. SHUKLA

R. P. SINGH

V. K. JAISWAL

V. M. NATU

AMRIT LAL

K. SANTHANAM

L. A. CHELLANI

K. S. BHATI

M. R. G. NAIR

~~V. V. SATYANARAYANA~~

M. D. MAHASHABDE

S. B. MATHUR

G. VISWANATHAN

(D. C. GOSAIN)

JOGINDER PAL.

P. S. Marwah.

K.L. SEHGAL .....

B.K. SAXENA.

B. N. ROY

K. N. Thiruneelakanthan

K. K. MANIAR.

Accepted

1.9.75

In the High Court of Judicature at Allahabad

Lucknow Bench Lucknow

A/262

W.P. No 1881 of 1975 1057

R. C. Kathuria — — — Petitioner

vs

Dy. D. (Pay commission)
Railway Board and — — — opp Parties

— The powers on behalf opp.
Parties are being filed herewith.

Umesh Chandra Srivastava
Advocate
Counsel for opp Parties

6.1.76

ब अदालत श्रीमान हाई कोर्ट आफ जूडीकेचर, इलाहाबाद, लखनऊ शाखा महोदय

बादी मुद्दई के०सी०कथूरिया तथा अन्य का **वकालतनामा**

प्रतिवादी (मुद्दाअलेह) डिप्टी डायरैक्टर (पै कमीश्न) रेलवे बोर्ड

14/5

1057

A/263





के०सी० कथूरिया तथा अन्य बादी (मुद्दई)

बनाम

डिप्टी डायरैक्टर प्रतिवादी (मुद्दाअलेह)
(पै कमीश्न) रेलवे बोर्ड

ने मुकद्दमा 1881 सन १९75 पेशी की ता० 21 अक्तूबर १९75 ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री यू०सी० श्रीवास्तव

एडवोकेट महोदय
वकील

नाम फरीकेन .....
नं० मुकद्दमा .....
नाम अदालत .....

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं हस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा वा इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रूपया जमा करें या हमारी या विपक्षी (फरीकसानी) का दाखिल किया रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको स्वीकार है और होगी इसलिए लख दिया कि प्रमाण रहे ओर समय पर काम आवे

राधे श्याम

हस्ताक्षर ~~डिप्टी डायरैक्टर, रेलवे बोर्ड~~

साक्षी (गवाह) Tilak Raj Bahkar Section officer Rly Board साक्षी (गवाह) H. S. Choudhary Assistant Rly Board

दिनांक 21 महीना अक्टूबर सन् १९७५ ई०

Accepted
Advocate

STOCKIST
R, K. Srivastava
Stamp Vendar High Court
R/O 44, Tazikhnaa, Lucknow

ब अदालत श्रीमान हाई कोर्ट आफ जुडीकेचर, इलाहाबाद महोदय

लखनऊ शाखा

वादी मुद्दई के0सी0 कथूरिया तथा अन्य का

प्रतिवादी (मुद्दाअलेह) सैक्रटरी, रेलवे बोर्ड

वकालतनामा



के0सी0 कथूरिया तथा अन्य वादी (मुद्दई)

बनाम

सैक्रटरी, रेलवे बोर्ड प्रतिवादी (मुद्दाअलेह)

ने मुकद्दमा 1881 सन १९75 पेशी की ता० 21 अक्तूबर १९ 75 ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री यू0सी0 श्रीवास्तव एडवोकेट महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा वा इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रूपया जमा करें या हमारी या विपक्षी (फरीकसानी) का दाखिल किया रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको स्वीकार है और होगी इसलिए लख दिया कि प्रमाण रहे ओर समय पर काम आवे

नाम फरीकैन ..... नं० मुकद्दमा ..... नाम अदालत .....

Accepted
29.11.75

हस्ताक्षर ① सैक्रटरी, रेलवे बोर्ड

साक्षी (गवाह) Tilak Raj Babbar Section Officer Rly Board साक्षी (गवाह) H.S. Choudhary Assistant Railway Board

दिनांक 21 महीना अक्टूबर सन् १९७५ ई०

STOCKIST
R. K. Srivastava
Stamp Vendar High Court
R/O 44, Tazikhnaa, Lucknow

ब अदालत श्रीमान हाई कोर्ट [illegible] महोदय

वादी मुद्दई
प्रतिवादी (मुद्दाअलेह) का



वकालतनामा

A 265

B 4
1058
B 8/2

4 Rs. COURT FEE ४ रु. भारत INDIA चार रुपये FOUR RUPEES

1 Rs. COURT FEE १ रु. भारत INDIA एक रुपया ONE RUPEE

2 C.F. = Rs 5/-
3/1/76

श्री आर॰ सी॰ कथूरिया और अन्य वादी (मुद्दई)

बनाम

सेक्रेटरी, रेलवे बोर्ड और महा निदेशक, अनुसंधान अभिकल्प और मानक संगठन, मानक नगर, लखनऊ प्रतिवादी (मुद्दाअलेह)

न मुकद्दमा 1881 सन १९ 75 पेशी की ता॰ 12-11- १९ 75 ई॰

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री यू॰ सी॰ श्रीवास्तव एडवोकेट महोदय वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा वा इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे

नाम फरीकेन .....
नं॰ मुकद्दमा .....
नाम अदालत .....

Accepted
Advocate

(4) (3)

हस्ताक्षर

Jt. Director (F) Cum-Admn.
Officer Accounts,
RDSO / Lucknow.

(टी॰ वी॰ जोसफ)
महा निदेशक, अ०अ०मा०सं०, लखनऊ-11

साक्षी (गवाह) (1) 23/9/75 SO(E-I) RDSO, LKO.

साक्षी (गवाह) (2) V.B. Kaneshalakar 23/9/75 UDC/RDSO/LKO

Director General
Ministry of Railways
Research, Designs & Standards Organization

दिनांक महीना सन् १९ ई॰

STOKIST
R. K. Srivastava
Stamp Vendar High Court
R/O 44. Tazikhana, Lucknow.

ब अदालत हाई कोर्ट इलाहाबाद, लखनऊ बेंच, लखनऊ

लखनऊ

वकालतनामा

अपीलान्ट

का

रेस्पानडेन्ट सचिव, रेलवे बोर्ड



के०सी०कथूरिया तथा अन्य

वादी (मुद्दई)

बनाम

सचिव, रेलवे बोर्ड

प्रतिवादी (मुद्दाअलेह)

नं० मुकद्दमा 1881 सन् १९ 75 पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री के० बी० सिन्हा

श्री बी० एल० शुक्ल एडवोकेट महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा वा इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावे या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी। इसलिए यह वकालत-नामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

नाम अदालत.....
नं० मुकदमा.....
नाम फरीकेन.....

हस्ताक्षर

(बी० मोहन्ती)
सचिव, रेलवे बोर्ड

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 6 महीना 2 सन् १९78 ई०

आलोक प्रिन्टिंग प्रेस, कृष्ण निकुन्ज, बारूदखाना, लखनऊ।

14/9

ब अदालत श्रीमान Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow. महोदय

वादी मुद्दई _____ का

प्रतिवादी (मुद्दाअलेह) महा निदेशक, अ.अ.मा.सं. (आर.डी.एस.ओ.)

वकालतनामा

432

5 Rs. COURT FEE 5 रु. भारत INDIA पाँच रुपये FIVE RUPEES



SL 2-2-20

WP.No 296 of 75

के.के. वर्गीस तथा 21 अन्य वादी (मुद्दई)

बनाम

प्रतिवादी (मुद्दाअलेह)

महा निदेशक, अनुसंधान अभिकल्प और मानक संगठन

ने मुकद्दमा 296 सन १९75 पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री बी.एल.शुक्ल

एडवोकेट महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं हस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा वा इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रूपया जमा करें या हमारी या विपक्षी (फरीकसानी) का दाखिल किया रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको स्वीकार है और होगी इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे

नाम फरीकैन ..... नं० मुकद्दमा ..... नाम अदालत .....

हस्ताक्षर (के.ए.जैकब)

महा निदेशक, अ.अ.मा.सं.

साक्षी (गवाह) Lt. Ramakrishna साक्षी (गवाह) [signature]

accepted

दिनांक 6/14 महीना 2 सन् 1978 ई०

Stockist :—R. B. Srivastava (Munna)
Stamp Vendar Civil Court
Kundri Rakabganj, Lucknow-4

श्रीमान ज्वाइंट रजिस्ट्रार

हाई कोर्ट इलाहाबाद लखनऊ बेंच

लखनऊ

A/267

(793)

4.10.80.

W.P. No 1881 of 75

आर-सी कथूरिया —— पिटीशनर

बनाम

रेलवे बोर्ड आदि —— अपोजिटपार्टी

श्रीमान जी

उपरोक्त मुकदमा में सेपली मेंट्री इल्लामा

दाखिल करता हूँ जो अन्दर मियाद है

24/10/80

4.10.80

[signature]

c/o Sri B.L. Shukla

Advocate

15/1

A 12/1

n the Hon'ble High Court of Judicature at Allahabad,
~~xxxx~~ (Lucknow Bench), Lucknow.

A/268

Supplimentary Counter Affidavit

In re:

Writ Petition No. 1881 of 1975.

R.C.Kathuria.... ....Petitioner

Versus

Railway Board and others... ....Oppo.Parties.

Supplimentary Counter Affidavit on behalf of Opposite Parties.

I, P.R.Rao, aged about 55 years, son of Late Shri P.Rama Murthy, resident of Manaknagar, Lucknow-226011, do hereby solemnly affirm on oath and state as under:-

1. That the deponent is the Deputy Director in the Research Designs & Standards Organisation, Lucknow-11 and is fully conversant with the facts deposed to herein.

2. That on the last hearing of the case on 25th of September, 1980 the Union of India was granted time to file a supplimentary affidavit to indicate whether the question of grant of special

15-1-2

A/259

pay to Class II officers of the Research Designs & Standards Organisation was considered in terms of para 3 of Annexure-9 to the writ petition.

3. That in reply the respondents have already filed a copy of the letter from the Railway Board No.PC III/79/PS-1/2(RDSO) dated 9.11.79 to show that the Government considered the question of grant of special pay to class II officers of Research Designs & Standards Organisation. Keeping in mind the recommendations of the Pay Commission it was decided that it was not possible to allot class II officers of the Research Designs & Standards Organisation a pay scale higher than the Standard Class II scale having regard to the fact that the 3rd Pay Commission did not recommend any Superior scale to them in replacement of the pre-revised Class II scale plus special pay of Rs. 150/- P.M. despite the fact that the Pay Commission were aware of the element of special pay in this case. A copy of the aforesaid letter dated 9.11.79 is Annexure A-4, to the counter affidavit dated 7th March, 1980.

COMMISSIONER FOR OATHS
HIGH COURT
ALLAHABAD

31/10

4. That the Association of class II officers of Research Designs & Standards Organisation were informed of the decision.

Dated: Lucknow the,
October 3, 1980. DEPONENT.

V E R I F I C A T I O N.

I, the deponent above named do hereby verify that the contents of para 1 of this affidavit are true to my own knowledge and those of paras 2 to 4 are believed to be true on the basis of the information derived from perusal of office records. No part of it is false and nothing material has been concealed. So help me God.

Dated: Lucknow the,
October 3, 1980. DEPONENT.

I identify the deponent who has signed in my presence.

(Nirankar Prasad)
Clerk, to Shri B.L.Shukla, Advocate.

Solemnly affirmed before me on 3.9.80 at 5.00 a.m./p.m. by Shri P.R.Rao, the deponent who is identified by Shri Nirankar Prasad, clerk to Shri B.L.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 to him.

h Commissioner
h Court, Allahabad
Lucknow Bench
839 - Rs
3.10.80

16/1

In the Hon'ble High Court of Judicature at Allahabad

Sitting at Lucknow

Civil Misc. Appl.No. 3216 (W) of 1982

A/271



R.C.Kathuria & 47 others ... Applicants

In re:

Writ Petition No.1881 of 1975

R.C.Kathuria & 47 others ... Petitioners

versus

The Railway Board through its Secretary & others ... Respondents

The petitioners/applicants, above named, respectfully submit as under:

1. That the aforesaid writ petition has been filed by 48 persons.

2. That the petitioners are advised to state that all the petitioners are obliged to pay separate court fee.

3. That, however, after filing the above writ petition some petitioners have retired and at present only 41 petitioners, as per list annexed as Annexure 'A' are interested in the decision of the aforesaid writ petition.

16/2

A/272

Wherefore it is most respectfully prayed that only 41 petitioners may be permitted to remit the remaining court of Rs.4,000/- in the aforesaid writ petition.

Advocate
Counsel for Petitioners

Dated: Lucknow

March ~~5~~ April 5 1982

16/3

In the Hon'ble High Court of Judicature at Allahabad

Sitting at Lucknow

A/273

Writ Petition No. 1881 of 1975

R.C.Kathuria and others ... Petitioners

versus

The Railway Board, through its Secretary & others ... Respondents

Annexure 'A'

Name Of petitioners	Petitioner No.
1. Sri R.C.Kathuria	1
2. Sri B.S Bhatnagar	2
3. Sri S.L.Bhatia	3
4. Sri S.S.Rajawat	6
5. Sri S.R.D.Kapoor	8
6. Sri D.S.Gabbi	7
7. Sri L.N.Singh	9
8, Sri M.L.Pathak	10
9. Sri N.Venkatraman	11
10.Sri M.N.Bashia	12
11.Sri B.N.Misra	13
12. Sri B.M.Chopra	14
13. Sri R.N.Sahore	15
14. Sri B.R.Deoraj	16
15. Sri R.M.Sundaram	17
16. Sri S.Rajgopalan	18
17. Sri A.B.Chatterjee	20
18. Sri M.N.Wanikar	21
19. Sri Gurdial Singh	22
20. Sri K.N.Ganesakumar	23
21. Sri N.K.Oja	25
22. Sri R.B.Kanitkar	26
23. Sri M.P.Mathur	27
24. Sri Gianchand	28

25.	Sri Y.D.Shukla	29
26.	Sri R.P.Singh	30
27.	Sri V.K.Jaiswal	31
28.	Sri V.M.Natu	32
29.	Sri Amrit Lal	33
30.	Sri K.Santhanam	34
31.	Sri L.A.Chilani	35
32.	Shri M.R.G.Nair	37
33.	Sri M.D.Mahashabal	38
34.	Sri S.B.Mathur	39
35.	Sri G.Vishwanathan	40
36.	Sri Joginder Pal	42
37.	Sri P.S.Maswt	43
38.	Sri K.L.Sehgal	44
39.	Sri B.K.Saxena	45
40.	Sri B.N.Roy	46
41.	Sri K.K.Maniar	48

A/274

Sitting at Lucknow

Civil Misc. Appl.No. 3216 (W) of 1982

R.C.Kathuria & 47 others ... Applicants

In re:

Writ Petition No.1881 of 1975

R.C.Kathuria & 47 others ... Petitioners

versus

The Railway Board through its Secretary & others ... Respondents

The petitioners/applicants, above named, respectfully submit as under:

1. That the aforesaid writ petition has been filed by 48 persons.

2. That the petitioners are advised to state that all the petitioners are obliged to pay separate court fee.

3. That, however, after filing the above writ petition some petitioners have retired and at present only 41 petitioners, as per list annexed as Annexure 'A' are interested in the decision of the aforesaid writ petition.

A/275

Wherefore it is most respectfully prayed that only 41 petitioners may be permitted to remit the remaining court of Rs.4,000/- in the aforesaid writ petition.

Advocate
Counsel for Petitioners

Dated: Lucknow

March 1982

A/276

Sitting at Lucknow

Writ Petition No. 1881 of 1975

R.C.Kathuria and others ... Petitioners

versus

The Railway Board, through its Secretary & others ... Respondents

Annexure 'A'

Name Of petitioners	Petitioner No.
1. Sri R.C.Kathuria	1
2. Sri B.S Bhatnagar	2
3. Sri S.L.Bhatia	3
4. Sri S.S.Rajawat	6
5. Sri S.R.D.Kapoor	8
6. Sri D.S.Gabbi	7
7. Sri L.N.Singh	9
8, Sri M.L.Pathak	10
9. Sri N.Venkatraman	11
10.Sri M.N.Bashia	12
11.Sri B.N.Misra	13
12. Sri B.M.Chopra	14
13. Sri R.N.Sahore	15
14. Sri B.R.Deoraj	16
15. Sri R.M.Sundaram	17
16. Sri S.Rajgopalan	18
17. Sri A.B.Chatterjee	20
18. Sri M.N.Wanikar	21
19. Sri Gurdial Singh	22
20. Sri K.N.Ganesakumar	23
21. Sri N.K.Oja	25
22. Sri R.B.Kanitkar	26
23. Sri M.P.Mathur	27
24. Sri Gianchand	28

25. Sri Y.D.Shukla 29

26. Sri R.P.Singh 30

27. Sri V.K.Jaiswal 31

28. Sri V.N.Natu 32

29. Sri Amrit Lal 33

30. Sri K.Santhanam 34

31. Sri L.A.Chilani 35

32. Shri M.R.G.Nair 37

33. Sri M.D.Mahashabal 38

34. Sri S.B.Mathur 39

35. Sri G.Vishwanathan 40

36. Sri Joginder Pal 42

37. Sri P.S.Maswt 43

38. Sri K.L.Sehgal 44

39. Sri B.K.Saxena 45

40. Sri B.N.Roy 46

41. Sri K.K.Maniar 48

Filed Dt. 20.1.83

(16)

17/1

Memo

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

A/278

W.P. Civil No 1881 of 1975

R.C. KATHURIA & Others ..... Petitioner,

versus

The Secretary, Railway Board & Others ..... Opposite-Parties.

REGISTRAR,

I AM appearing as the Senior Central Government Standing Counsel, on behalf of ~~Applicant~~/~~Respondent~~/Opposite parties 1 to 4

Date d. 20-1-1983

Diwan Singh Randhawa
Senior Central Government
Standing Counsel.

Diwan Singh Randhawa
Senior Standing Counsel,
Central Government,
Allahabad High Court,
(Lucknow Bench)
LUCKNOW.

18/

1000 Rs.



A/279

In The Hon'ble High Court of Judicature at Allahabad

Sitting at Lucknow

Writ Petition No. 1981 of 1975

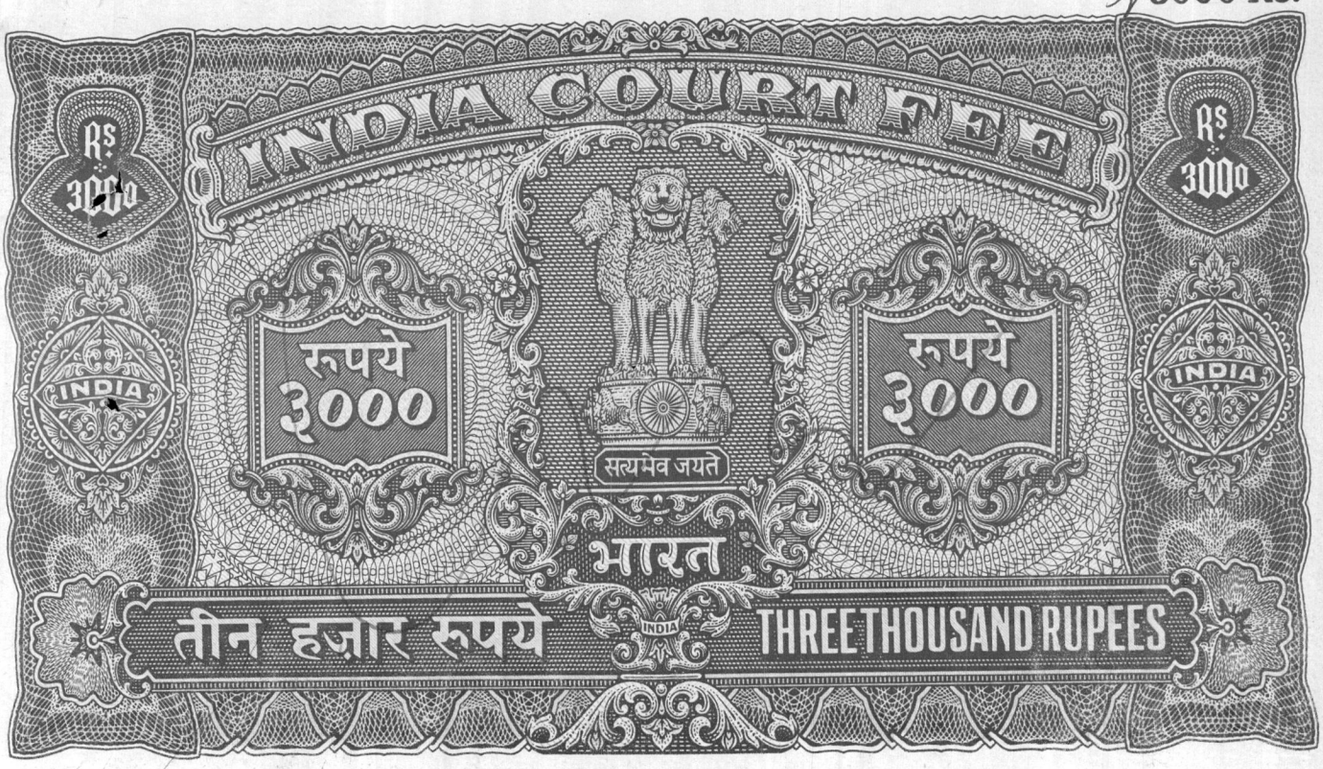
R.C. Kathuria & others .... Petitioners

Versus

The Railway Board through
its Secratary & others ... Respondents

Advocate
Council for Petitioners

16/ 3000 Rs.



A
288

In The Hon'ble High Court of Judicature at Allahabad

Sitting at Lucknow

Writ Petition No. 1031 of 1975

R.C. Kathuria & others .... Petitioners

Versus

The Railway Board through
its Secratary & others ... Respondents

Advocate
Council for Petitioners

19/1

A/281

In the Hon'ble High Court of Judicature at Allahabad

Sitting at Lucknow

2140(W)

Civil Misc. Appl. No._____(W) of 1984



1= NS 57
NS
17/2/84

R.C. Kathuria & others ... Applicants

In reg:

Writ Petition No. 1881 of 1975

R.C. Kathuria & others ... Petitioners

versus

Railway Board & others ... Respondents

25/2

Application to fix a date for hearing

The above named applicants, most respectfully beg to state as under:-

1. That the aforesaid Writ-petition relating to the Special Pay of a large number of officers was filed in the year 1975. The Writ-petition is pending since then.

2. That quite a few officers have already retired from service and from the amount of Provident Fund payable to them, a sum of Rs.5000 to Rs. 6000/- has been deducted.

Received copies.

(D S RAI DELHI)
Senior Standing Counsel
Central Govt.
17-2-84

ADM Regs.

List before Hon. the Senior Judge as early as possible along with an office report regarding progress of the case.

17.2.84

19/2

Wherefore it is respectfully prayed that the aforesaid Writ-petition be directed for hearing in the last weak of February.

Advocate
Counsel for the petitioners/
Applicants.

Dated: Lucknow

February 15, 1984

17

19/3

In the Hon'ble High Court of Judicature at Allahabad

Sitting at Lucknow

A/283

Civil Misc. Appl. No._____(W) of 1984

1984
AFFIDAVIT
5
HIGH COURT
ALLAHABAD

285

R.C. Kathuria & others ... Applicants

In reg:

Writ Petition No. 1881 of 1975

R.C. Kathuria & others ... Petitioners

versus

Railway Board & others ... Respondents

AFFIDAVIT

in

Application for fixing a date for hearing

I, R.P. Singh, aged 48 years, son of Shri Saligram Singh, resident of Manak Nagar, Lucknow-226011, do hereby solemnly affirm on oath and state as under:-

1. That the deponent is petitioner No. 30 in the above referred Writ Petition and is fully conversant with the facts deposed to hereinafter.

2. That the aforesaid Writ Petition relating to the Special Pay of a large number of officers was filed in the year 1975. The Writ ~~Petition~~ Petition is pending since then.

3. That quite a few officers have already retired from service and from the amount of Provident Fund payable to them, a sum of Rs. 5000/- to Rs. 6000/- has been deducted.

DEPONENT

Dated: Lucknow
February 17, 1984

Verification

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

DEPONENT

Dated: Lucknow
February 17, 1984

19

I identify the deponent

who has signed before me

Chabo Bling Kumar

C/o Sri R N Trivedi
Advocate

Solemnly affirmed before me on 17-2-84

at 9.15 am/~~pm~~ by Shri R.P. Singh

who is identified by Shri ~~R.N. Trivedi~~ C.B. Kumar C/o Sri R N Trivedi Advocate

Advocate, High Court, 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.

COMMISSIONER FOR OATHS
High Court ALLAHABAD
17/2

~~Santosh Kr. Srivastava~~
OATH COMMISSIONER
High Court, Allahabad
Lucknow Sec'ch.
No. 51285
Date 17-2-84

In the Hon'ble High Court of Judicature at Allahabad

Sitting at Lucknow

Civil Misc. Appl. No._____(W) of 1984

R.C. Kathuria & others ... Applicants

In reg:

Writ Petition No. 1881 of 1975

R.C. Kathuria & others ... Petitioners

versus

Railway Board & others ... Respondents

Application to fix a date for hearing

The above named applicants, most respectfully beg to state as under:-

1. That the aforesaid Writ-petition relating to the Special Pay of a large number of officers was filed in the year 1976. The Writ-petition is pending since then.

2. That quite a few officers have already retired from service and from the amount of Provident Fund payable to them, a sum of Rs.5000 to Rs. 6000/- has been deducted.

Wherefore it is respectfully prayed that the aforesaid Writ-petition be directed for hearing in the last week of February.

Advocate
Counsel for the petitioners/
Applicants.

Dated: Lucknow
February 15, 1984

In the Hon'ble High Court of Judicature at Allahabad

Sitting at Lucknow

Civil Misc. Appl. No._____(W) of 1984

R.C. Kathuria & others ... Applicants

In reg:

Writ Petition No. 1881 of 1975

R.C. Kathuria & others ... Petitioners

versus

Railway Board & others. ... Respondents

AFFIDAVIT

in

Application for fixing a date for hearing

I, R.P. Singh, aged 48 years, son of Shri Saligram Singh, resident of Manak Nagar, Lucknow-226011, do hereby solemnly affirm on oath and state as under:-

1. That the deponent is petitioner No. 30 in the above referred Writ Petition and is fully conversant with the facts deposed to hereinafter.

2. That the aforesaid Writ Petition relating to the Special Pay of a large number of officers was filed in the year 1975. The Writ Petition is pending since then.

3. That quite a few officers have already retired from service and from the amount of Provident Fund payable to them, a sum of Rs. 5000/- to Rs. 6000/- has been deducted.

DEPONENT

Dated: Lucknow
February 15, 1984

Verification

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

DEPONENT

Dated: Lucknow
February 16, 1984

I identify the deponent
who has signed before me

Solemnly affirmed before me on _____
at _____am/pm by Shri R.P. Singh

who is identified by Shri

Advocate, High Court, 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.

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

C.M.An.No. 5452 (W) of 85.

—



R.C. Kathuria ----Applicant/
Petitioner.

In re:

Writ Pet.No. 1881 of 1975.

R.C.Kathuria ----Petitioner.

Versus

Secretary Railway Board ----Respondent.

—

Application for restoration.

For the facts and circumstances stated in the accompanying affidavit, it is respectfully prayed in the interests of justice that this Hon'ble Court may be pleased to restore the petition which has been dismissed in default to its original number and pass such orders as are deemed fit and proper in the circumstances of thecase.

Lucknow, dated,
30.4.85

Advocate,
Counsel for the petitioner.

Hon'ble D. N. Jha, J.
Hon'ble K. N. Goyal, J.

List with the record before the Division Bench of Hon'ble S. C. Mathur, J. and Hon'ble Brijesh Kumar, J. on 6th May, 1985.

2-5-85

MHS/

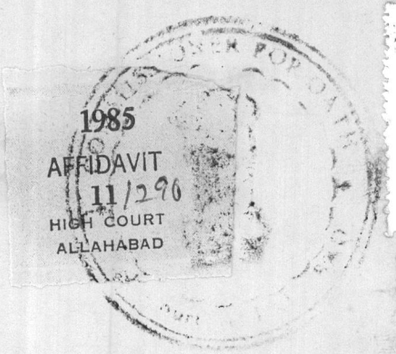
Hon. S. C. Mathur J.
Hon. B. Kumar J.

Cause shown is sufficient. The application is accordingly allowed. The order dated 29.4.85 dismissing the writ petition in default is hereby setaside. The writ-petition is restored to its original number.

16.X.85

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

A/287





R.C.Kathuria ...Applicant-Petitioner.

In re:

Writ Pet.No. 1881 of 1975.

R.C.Kathuria ----Petitioner.

Versus

Secretary Railway Board ----Respondent.

—

Affidavit.

In re:

Application for restoration.

—

I, V.K. JAISWAL aged about 47 years, son of K.G. JAISWAL, r/o Sector B-2/1, Manaknagar, Lucknow do hereby solemnly affirm and state on oath as under:-



1. That the deponent is the petitioner and is fully conversant with the facts stated hereinafter.

2. That the abovementioned case was listed on today (29.4.85) before a Division Bench of this Hon'ble Court consisting of Hon'ble Mr.Justice S.C.Mathur and Hon'ble Mr.Justice Brijesh Kumar.

3. That the counsel for the petitioner was arguing a matter all day in Court No.6.

4. That the abovementioned Hon'ble Bench was pleased to dismiss the abovementioned petition in default as no one appeared for the petitioner when the case was called out.

5. That on the same day when it came to the knowledge of the petitioner about the dismissal of the petition, the Junior Advocate Mrs. T.Punwani, to Shri R.N.Trivedi, Senior Advocate and counsel for the petitioner approached the Hon'ble Court for restoration of the petition but the application for restoration was not accepted as the power of the Junior Advocate was not on the record and the Senior Counsel is not able to sign application by virtue of the fact that he is a Senior Advocate.

6. That in the circumstances, the petition could not be restored on the same day.

7. That the petitioner will suffer irreparable loss and hardship if the petition is not restored to its original number.

Lucknow, dated,
30.4.85

Deponent.

I, the deponent abovenamed verif

2/4

A/289

That the contents of paras 1 to 7 of this affidavit are true to my own knowledge and no part of it is false and nothing material has been concealed so help me God.

Deponent.

Lucknow, dated,
25.5.85

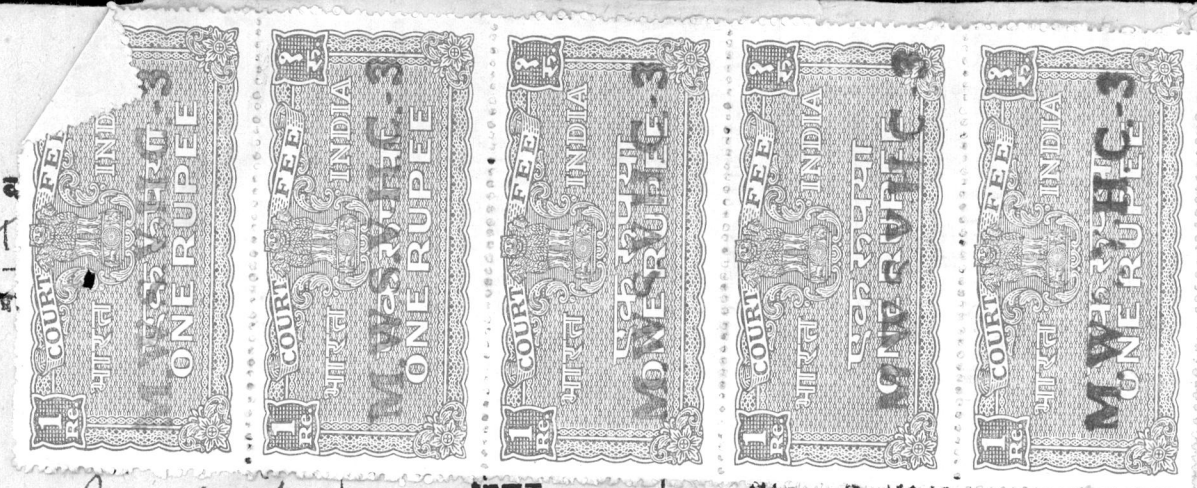
I identify the deponent who has signed before me.

Advocate.

Solemnly affirmed before me on 25.5.85 at 9.20 A.M./P.M. by V.K. Jaiswal the deponent who is identified by T. Pandey Shri ~~Clerk to Shri~~ Advocate High Court Allahabad.

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

Meera Pandey
OATH COMMISSIONER
High Court, Lucknow Bench
No. V/289/85
Date 25-5-85



टिकट

वादी (अपीलान्ट)

R.C. Kathuria
VC

Secretary, Railway Bd.

बनाम

प्रतिवादी (रेस्पाडेन्ट)

W.P. नं० मुकद्दमा 1881 सन् 1975 पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री _____

Mrs. T. PUNJANI वकील महोदय एडवोकेट

नाम अदालत — — — —
मुकदमा नं० — — — —
नाम फरीकेन — — — बनाम — —

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

Punjani

हस्ताक्षर _____ (C.D. DIXIT)

साक्षी (गवाह) _____ साक्षी (गवाह) _____ (V.K. JAISWAL)

दिनांक _____ महीना _____ सन् १९ ई०

स्वीकृत

एडवोकेट

17-11-86

S/B

MPS

22/1

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

Civil Misc. Application No. 14,487 (W) of 1986

Writ Petition No. 1881 of 1975 (S.B.) (C.G. Group)

A/291

5 Rs. COURT FEE 4/5 INDIA FIVE RUPEES

B.L. Srivastava 4.11.86

R.D.S.O. Class II Officers Association having its Registered Office at Manak Nagar, Lucknow, through its President or any other office bearers.

..... Applicant

In re:

R.C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others ..... Opposite Parties

Not relates to MS Group

15693

Application for impleadment

For the facts and reasons stated in the accompanying affidavit it is respectfully prayed that this Hon'ble Court may graciously be pleased to implead the applicant as one of the petitioners.

13.1.87

N Bajpai

(Naresh Bajpai)

Advocate

Counsel for the Applicant

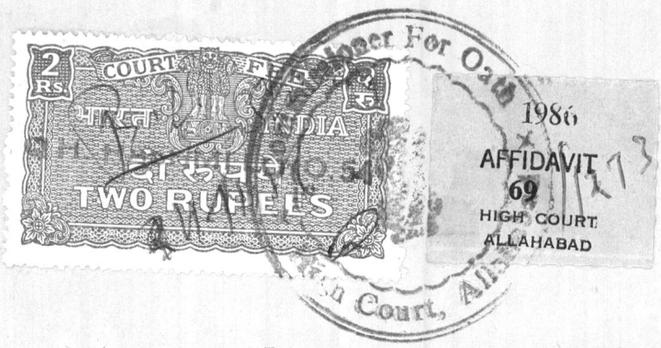
Lucknow:
4-XI-86
5

In The Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Civil Misc. Application No. of 1986

Writ Petition No. 1881 of 1975



R.D.S.O. Class II Officers Association having its registered office at Manak Nagar, Lucknow through its President or any other office bearers.

.... Applicant

In re:

R.C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others

..... Opposite Parties

Affidavit in support of accompanying application for impleadment.

I, B.L. Sharma, aged about 53 years, son of Sri R.J.L. Sharma, resident of Qr. No. C-124/1, Manak Nagar, Lucknow-11, do hereby solemnly affirm and state on oath as under:-



1. That the deponent is the Vice President of above named Association/Applicant, as such is fully conversant with the facts and circumstances of the matter subjudice in this Hon'ble Court.

2. That the deponent ~~[illegible]~~ is persona grata in the capacity of Vice President for the purposes of swearing the present affidavit.

3. That the petitioners preferred the above noted writ petition in the year 1975 since then the petition is pending in this Hon'ble Court.

4. That RDSO Class II Officers Association is the recognised association by Railway Board, the opposite party No. 1 vide their letter No. E65RB3/96/RBI dated 7th July 1966 and looks after the interest and welfare of all RDSO promotee officers in various grades. All the petitioners were/are also the members of the Association.

5. That during the pendency of the writ petition two petitioners S/S L.A. Chellani and Srinivasan have died and opposite parties have deducted a sum of about Rupees Five Thousands equivalent to Special pay paid from 1.1.73 to October '75 from the payment made to widows and families towards settlement dues. The widows and families are suffering irrepairable loss of interest reduced family pension etc. are unable to defend effectively.

6. That during the pendency of the Writ Petition 20 petitioners had retired and settled in their own home towns and similar amount as mentioned in para 5 had been deducted from their retirement dues and also suffering irrepairable loss of interest and receiving the reduced pension and also not able to defend effectively.

---- 3

7. That the remaining petitioners have been promoted to higher grades and are interested to the extent of arrears, interest on arrears and pay fixation in higher grade. They along with other promotee officers are already drawing special pay of Rs.200/- p.m. in Senior Scale applicable from 1.1.73 for arduous nature of work as per the decision of this Hon'ble Court in Writ Petition No. 484 of 1975 and interim order (Annexure I & II) issued by the Hon'ble Supreme Court in Civil Appeal No. 50/81 arising out of Railway Board's appeal against this Hon'ble Court's judgement.

8. That the work in RDSO is not only of arduous nature but also requires long spells of tours for High Speed viability, Track Monitoring, Metro Projects and other trials, and many officers could not become party to the case being away but later felt that once the case is decided, it will be equally applicable to them. This was also reflected in Railway Board's letter (Annexure-III) in which they have asked Railways to act as model employer and reference was made to Hon'ble Supreme Court's various judgements in the said letter.

Commissioner For Oath
High Court, Allahabad
4.11.86

9. That there have been no selection for Class II in many disciplines between 1971 to 1984 and several officers worked on ad-hoc basis for short or long periods and are also eligible for similar benefits. Many of the officers after 1975 have worked and retired in Class II grades on adhoc basis without deriving the benefit of special pay and other terminal benefits.

----4.

10. That a large number of persons have now been regularised from 1983-85 and are eligible for all these benefits.

11. That all the serving officers of Class II mentioned in the foregoing paras have to give an option within three months with effect from 1.10.86 to accept the scales as per the recommendation of IV Pay Commission and the Govt.'s orders thereon.

12. That when such option was exercised subject to applicability of the decision in this Writ Petition, the same was returned by the opposite party No.2 with the stipulation that only the unconditional options will be acceptable. A sample copies at Annexures IV & V.

13. That option was once exercised is final and binding and even if no option is given, all the Class II Officers shall deem to have opted for new grades from 1.1.86. In such an eventuality all the officers will suffer irrepairable loss.

14. That if all such officers had to approach this Hon'ble Court with impleadment it would be deludge with petitions of similar nature.

15. That under similar conditions, the RDSO Class II Officers Association, the applicant, was allowed to intervene in Civil Appeal No. 50/81 arising out of judgement of this Hon'ble Court in Writ Petition No. 484/75 on similar subject of special pay of Rs.200/- p.m. to promotee Senior Scale Officers and the interim

---5

orders passed were applicable to the petitioners and the intervenors i.e. the members of the Association/ Applicant. Annexures II, VI & VII.

16. That the matter subjudice is in the nature of public interest litigation and is not of individualistic angle Indian moulds, nature hence the necessity of the present application is felt by the applicant.

17. That it is expedient in the interest of justice to implead the applicant as petitioners in above noted Writ Petition.

18. That the petitioners while preferring the above noted Writ Petition did not pause upon the interest of the applicant/Association and its other members.

19. That in case the applicant is not impleaded in the present Writ Petition as petitioner, great misearriage of justice may occur to the applicant/its members.

Deponent

Lucknow:
Dated: 4-XI-86

4.11.86

22/7

I, the above named deponent, do hereby verify that contents of paragraphs 1 to 17 of this affidavit are true to my own knowledge and those of paragraphs 18 & 19 of this affidavit are believed to be true. No part of it is false and nothing material has been concealed. So help me God.

A 297

Lucknow

Dated: 4-XI-86

Deponent

I , identify the deponent who has signed before me.

Advocate

Solemnly affirmed before me on 4.11.86 at 9.30 A.M./~~P.M.~~ by Shri B.L. Sharma the deponent who is identified by Sri Naresh Chand Bajpai Adv Advocate , High Court, Allahabad.

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

Commissioner For Oath High Court, Allahabad

Km. P. B. JAISWAL
Advocate
Oath Commissioner
Allahabad High Court
Lucknow Bench Lucknow
No. 8/1375 Date 29/11/86

Annexure-I

R.D.S.O. Class II Officers Association having its Registered Office at ..Manaknagar..... .....Lucknow, through its president

..... Applicant

In re ;

R. C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others .....

..... Opposite parties.

18035

Item No. 10 Section XI-A

RECORD OF PROCEEDINGS OF THE SUPREME COURT

CIVIL MISC. PETITION NO. 20845 OF 1984

(Application for intervention)

Civil Appeal No. of 19

(Letter from the High Court for extension of time)

(Office report dated

Union of India & Ors.

Versus

G. Chakrapani & Ors.,

26.4.84

CORAM:

Hon'ble Mr. Justice Amarendra Nath Sen

(In Chambers)

For the applicant:- Mr. K.M. K. Nair, Adv.

For the Opposite Party:- M.G. Chandra, Adv.
Ms. A. Subhashini, Adv.

Upon perusinng the papers and hearing Counsel His Lordship allowed the petition / made the following order:-

(R.P. Dua)
Court Master.

Annexure-II

1438

R.D.S.O. Class II Officers Association having its Registered Office at .Manaknagar..... ..... Lucknow through its president

..... Applicant

In re;

R.C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary

Rail Bhawan, New Delhi & others .....

.... Opposite parties

Item No. 44 Court No. 1

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Civil Miscellaneous Petition No. 20846/84 (CA. No. 50/81)

Union of India & Ors.

PETITIONERS/APPELLANTS

VERSUS

G. Chakrapani & Ors.
(For directions)

RESPONDENTS

Date: 17.9.1984 : This matter was called on for hearing today.

CORAM:

Hon'ble the Chief Justice
Hon'ble Mr. Justice : E.S. Venkataramiah
Hon'ble Mr. Justice : A Varadarajan

For the Petitioners/Appellants: Mr. Anil Dev Singh, Sr. Adv.
Mr. R.N. Poddar, Adv.

For the Respondents: Mr. K.M.K. Nair, Adv.

UPON HEARING Counsel the Court made the following

ORDER

Commissioner for Oath High Court, Pb

-2-

Annexure-II (contd.)

All persons who, according to the rules and regulations governing the conditions of their service, are entitled to the payment of special pay of Rs.200/-, will be paid that amount in pursuance of the order of the High Court. This payment will, however, be subject to adjustment in the light of the final decision of this appeal. The stay order is modified in these terms.

Sd/-

(R.N. Verma)
Court Master

T.C.



Annexure-III

R.D.S.O. Class II Officers Association having its Registered Office at ...Manaknagar..... ..... Lucknow through its president.

..... Applicant

In re;

R. C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others .....

..... Opposite parties.

Copy of Railway Board's letter No. E(G)72LL2-76 dt. 6.3.74 addressed to the General Manager, All Indian Railways, CLW, DLW & ICF and the Director General, RDSO, Lucknow.

Sub: Procedure for filling application for special leave to appeal to the Supreme Court.

Reference Railway Board's letter No. E(G)72LL2-76 dated 22.11.1972 wherein detailed instructions were issued about filling applications for special leave to appeal to the Supreme Court. The instructions inter-alia provide that the sanction of the Board is necessary before any appeal is filed in the Supreme Court.

2. In a recent railway case before the Supreme Court, Shri Krishan Iyer J., while making the observation that "It is not right for a welfare State like ours to be janus-faced and while formulating the humanist project of legal aid to the poor contest the claims of poor employees under it, pleading limitation and the like", has also quoted the following observations made by him earlier in a case in the High Court of Kerala

> "The State, under our Constitution, undertakes economic activities in the vast and widening public sector and inevitably gets involved in disputes with private individuals. But it must be remembered that the State is no ordinary party trying to win a case against one of its own citizens by hook or by crook: for the State's interest is to meet honest claims, vindicate substantial defence and never to score a technical point or overreach a weaker party to avoid a just liability or secure an unfair advantage; simply because legal devices provde such

an opportunity. The State is a virtuous litigent and looks with unconcern on immoral forensic successes so that if on the merits the case is weak, Government shows a willingness to settle the dispute regardless of prestige and other lesser motivations which move private parties to fight in court. The layout on litigation costs and executive time by the State and its agencies is so staggering these days because of the large amount of litigation in which it is involved that a positive and wholesome policy of cutting back on the volume of law suits by the twin methods of not being tempted into forensic show-downs where a reasonable adjustment is feasible and ever offering to extinguish a pending proceeding on just terms, giving the legal mentors of Govt. some initiative and authority in this behalf. I am not indulging in any judicial homily but only echoing the dynamic national policy on State litigation evolved at a conference of Law Ministers of India way back in 1957. This second appeal strikes me as an instance of disregard of that policy."

3. These observations are brought to your notice so that railway administrations not only do not indulge in fruitless litigations which tend to spoil their image but invariably take their prior sanction wherever such sanction is necessary under the existing instructions.

Receipt of this letter may please be acknowledged.

T.C.

Annexure-IV

R.D.S.O. Class II Officers Association having its Registered Office at ..Manaknagar..... ..... Lucknow through its president

..... Applicant

In re;

R.C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others .....

..... Opposite parties.

Government of India Ministry of Transport
Department of Railways

Research Designs & Standards anisation
Manak Nagar, Lucknow

THE SECOND SCHEDULE FORM OF OPTION (SEE RULE 6(1)

i) I S. N. Sinha hereby elect the revised scale with effect from 1st January, 1986.

ii) I _____ hereby elect to continue on the existing scale of pay of my substantive/officiating post mentioned below until

* the date of my next increment

the date of my subsequent increment raising my pay to Rs._____

I vacate or cease to draw pay in the existing scale.

Existing scale Rs. 650-1200

The existing grade of Rs.650-1200 is subjected to grant of special pay of Rs.150/- as to be decided by Writ petition No. 1881 of 1975 filed by RDSO Class II promotee Officers. The special pay will be automatically raised to Rs.300/- p.m. as recommended by the Pay Commission.

Signature:

Name: S.N. SINHA

Designation: ADE/Tele

Office in which: RDSO/LKO. employed.

Date: 7.10.1986
Station: LKO.

Annexure-IV (contd.)

* To be scored out if not applicable.

ACKNOWLEDGEMENT

Received from Shri S.N. SINHA S/o Sri C. Pd. SINHA Designation: ADE/Tele. Office/Station : RDSO/LKO an option:

* i) electing the revised scales of pay for all the posts from 1st January, 1986.

*ii) electing to continue on the existing scale of pay of his substattive/officiating post mentioned below until the date of his next increment.

The date of his subsequent increment raising his pay to Rs.___

He vacates or ceases to draw pay in the existing scale.

Existing scale: Rs.650-1200

Signature _____

Designation _____

Date:

Office in which employed _____

Station:

---

*To be scored out if not applicable.

T.C. Bishane

Commissioner For Oaths High Court, Allahabad

4-11-86

Annexure-V

R.D.S.O. Class II Officers Association having its Registered Office at ..Manaknagar..... ..... Lucknww through its president ..... +Applicant

In re ;

R. C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others .... Opposite parties.

Research Designs and Standards Organisation
Manak Nagar, Lucknow-11

No. EII/PC-IV/86 Dated: 15.10.86

The option forms of the following Cl.II Officers of S&T Dte. are returned herewith with the remarks that only unconditional options are to be accepted:

1. Shri J.N. Prasher, ADE/Sig.
2. " P.N. Baranwal, ADE/Sig./MS
3. " K.C. Galhoriya, DDS/Sig/Doc.
4. " O.P. Agarwal, ADE/Tele/Wireless.
5. " R.K. Chopra, ADE/Tele/Wireless
6. " S.N. Sinha, ADE/Tele.

Sd/-
(Basant Kumar)
Section Officer/EII

S.O./S&T

RDSO/Lucknow.

T.C.

Commissioner For Oath
14.11.86
Court, Allahabad

Annexure-VI

R.D.S.O. Class II Officers Association having its Registered Office at ..Manaknagar..... ..... Lucknow through its president

..... Applicant

In re :

R.C. Kathuria & 47 Others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others .....

..... Opposite parties.

52822
Section XI

No. 26 Court No. 1

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CMP No. 20846/84 (In CA No. 50/81) OF 198

Union of India & Ors. PETITIONERS

Versus

G. Chakrapani & Ors. RESPONDENTS

(For clarification & CMP No. 403/85)

Date: 29.4.85 : This petition was called on for hearing today.

CORAM:

Hon'ble The Chief Justice
Hon'ble Mr. Justice: Amarendra Nath Sen
Hon'ble Mr. Justice

For the Petitioners: Mr. Gobind Das, Sr. Adv.
Mr. R.N. Poddar, Adv.

For the Respondents: Mr. K.M.K. Nair, Adv.

Commissioner For Oath
High Court, Allahabad
4.11.86

Annexure-VI (Contd.)

A/207

UPON hearing counsel the Court made the following

ORDER

Such of the employees who will retire hereafter, will give a Bank Guarantee on the date of retirement, before their dues by way of provident fund or gratuity are paid to them. The Bank Guarantee is intended to cover their liability for the special pay paid to them in the event that they fail in this appeal. The sum of Rs. 200/- payable by way of special pay will be payable to all persons with effect from the date of the sanction of the special pay.

The C.M.P. will stand disposed of in terms of the order.

Sd/-

(R.N. Verma)
Court Master.

T.C.



Annexure-VII

R.D.S.O. Class II Officers Association having its Registered Office at ...Manaknagar..... ..... Lucknow through its president .....Applicant

In re ;

R.C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others .... Opposite parties.

Item No. 6 Court No. 1 129870 Section XI

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Civil Miscellaneous Petition No. 12986/86(In C.A.No. 50/81) of 198

Union of India PETITIONERS/APPELLANTS

VERSUS

G. Chakrapani & Ors. (For directions) RESPONDENTS

Date: 1.9.1986 : This matter was called on for hearing today.

CORAM:

Hon'ble Mr. Justice : The Chief Justice
Hon'ble Mr. Justice : Ranganath Misra
Hon'ble Mr. Justice :

For the Petitioners/Appellants: Mr. Dalveer Bhandari, Ms. S. Relan, Ms. A. Subhashini, Advs.

For the Respondents: Mr. K.M.K. Nair, Adv.

-2-

Annexure-VII (contd.)

UPON hearing counsel the Court made the following:

ORDER

The arrears of special pay shall be paid to all Officers in confirmity with the order made by this Court on 29.4.85 on C.M.P. and such payment shall be made to interveners provided they are similarly situated. Such payment shall be made within six weeks from today.

sd/-

(JAGAN NATH SHARMA)
Court Master.

T.C.



5 RS. COURT FEE 4 रु.
भारत INDIA
पाँच रुपये
FIVE RUPEES

B. L. Sharma
4/11/86

23

व अदालत श्रीमान् महोदय

[वादी] अपीलान्ट

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

श्री

वकालतनामा

[रेस्पाडेन्ट]

Civil Misc. Application No. of 1986

In B.L. Sharma & S.S. Rajawat, vice president & president, R.D.S.O. Cl. II. Officers Association, Lko

In R.C. Lothuria & 47 others.

टिकट

वादी (अपीलान्ट)

A/310

Railway Board through its secretary, Rail Bhawan & others.

बनाम

प्रतिबादी (रेस्पाडेट)

न० मुकदमा W.P. No. 1881 of सन् 1975 पेशी की ता० १९८६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Naresh Bajpai, Advocate.

वकील महोदय एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हुं और लिखे देता हुं इस मुकद्दमा में वकील महोदय स्ववं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करै या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील मिगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हकारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें–वकील महोदय द्वारा की गयी वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ भेरे खिलाफ फैसला हो जाता है उसकी जिम्भेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

नाम अदालत
मुकदमा नं०
नाम फरीकेन
बनाम

हस्ताक्षर (S.S. Rajawat)

B.L. Sharma
24/X (B.L. Sharma)
(Ph. 53074)

साक्षी (गवाह) | साक्षी (गवाह) |

दिनांक 24 महीना x सन् १९८६ ई०

स्वीकृत accepted.

Bajpai
24.x.86 Advocate

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

Civil Misc. Application No. ....(W) of 1986

Writ Petition No. 1881 of 1975

A/311

R.D.S.O. Class II Officers Association having its Registered Office at .Manak.Nagar, Lucknow, through its president or any other office bearers.

..... Applicant

In re;

R.C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others .....

..... Opposite parties.

Application for impleadment

For the facts and reasons stated in the accompanying affidavit it is respectfully prayed that this Hon'ble Court may graciously be pleased to implead the applicant as one of the petitioners.

(Naresh Bajpai)

Advocate

Counsel for the Applicant

Lucknow:

4 .10.86

A/3/2

In The Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow

Civil Misc. Application No. of 1986

Writ Petition No. 1881 of 1975

R.D.S.O. Class II Officers Association having its registered office at Manak Nagar, Lucknow through its President or any other office bearers.

..... Applicant

In re ;

R. C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others

..... Opposite parties.

Affidavit in support of accompanying application for impleadment.

I, B.L. Sharma, aged about 53 years, son of Sri R.J.L. Sharma, resident of Qr. No. C-124/1, Manaknagar Lucknow-11, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the Vice President of above named Association/Applicant, as such is fully conversant with the facts and circumstances of the matter subjudice in this Hon'ble Court.
2. That the deponent ********** is persona grata in the capacity of Vice President for the purposes of swearing the present affidavit.

A/318

3. That the petitioners preferred the above noted writ petition in the year 1975 since then the petition is pending this Hon'ble Court.

4. That RDSO Class II Officers Association is the recognised association by Railway Board, the opposite party No. 1 vide their letter No. E65RB3/96/RBI dated 7th July 1966 and looks after the interest and welfare of all RDSO promotee officers in various grades. All the petitioners were/are also the members of the Association.

5. That during the pendency of the writ Petition two petitioners S/S L.A. Chellani and Srinivasan have died and opposite parties have deducted a sum of about Rupees Five Thousands equivalent to Special pay paid from 1.1.73 to October '75 from the payment made to widows and families towards settlement dues. The widows and families are suffering irrepairable loss of interest reduced family pension etc. are unable to defend effectively.

6. That during the pendency of the Writ Petition 20 petitioners had retired and settled in their own home towns and similar amount as mentioned in para 5 had been deducted from their retirement dues and also suffering irrepairable loss of interest and receiving the reduced pension and also not able to defend effectively.

A/314

7. That the remaining petitioners have been promoted to higher grades and are interested to the extent of arrears, interest on arrears and pay fixation in higher grade. They along with other promotee officers are already drawing special pay of Rs.200/- p.m. in Senior Scale applicable from 1.1.73 for arduous nature of work as per the decision of this Hon'ble Court in Writ Petition No. 484 of 1975 and interim order (Annexure I & II) issued by the Hon'ble Supreme Court in Civil Appeal No. 50/81 arising out of Railway Board's appeal against this Hon'ble Court's judgement.

8. That the work in RDSO is not only of arduous nature but also requires long spells of tours for High Speed viability, Track Monitoring, Metro Projects and other trials, and many officers could not become party to the case being away but later felt that once the case is decided, it will be equally applicable to them. This was also reflected in Railway Board's letter (Annexure-III) in which they have asked Railways to act as model employer and reference was/to Hon'ble Supreme Court's /made various judgements in the said letter.

9. That there have been no selection for Class II in many disciplines between 1971 to 1984 and several officers worked on ad-hoc basis for short or long periods and are also eligible for similar benefits. Many of the officers after 1975 have worked and retired in Class II grades on adhoc basis without deriving the benefit of special pay and other terminal benefits.

10. That a large number of persons have now been regularised from 1983-85 and are eligible for all these benefits.

11. That all the serving officers of Class II mentioned in the foregoing paras have to give an option within three months with effect from 1.10.86 to accept New scales as per the recommendation of IV Pay Commission and the Govt.'s orders thereon.

12. That when such option was exercised subject to applicability of the decision in this Writ Petition, the same was returned by the opposite party No.2 with the stipulation that only the unconditional options will be acceptable. A sample copies at Annexures IV & V.

13. That option was once exercised is final and binding and even if no option is given, all the Class II Officers shall deem to have opted for new grades from 1.1.86. In such an eventuality all the officers will suffer irrepairable loss.

14. That if all such officers had to approach this Hon'ble Court with impleadment it would be deludge with petitions of similar nature.

15. That under similar conditions, the RDSO Class II Officers Association, the applicant, was allowed to intervence in Civil Appeal No. 50/81 arising out of judgement of this Hon'ble Court in Writ Petition No. 484/75 on similar subject of special pay of Rs.200/- p.m. to promotee Senior Scale officers and the interim

A/316

orders passed were applicable to the petitioners and the intervenors i.e. the members of the Association/ Applicant. Annexures II, VI & VII.

16. That the matter subjudice is in the nature of public interest litigation and is not of individualistic angle Indian moulds, nature hence the necessity of the present application is felt by the applicant.

17. That it is expedient in the interest of justice to implead the applicant as petitioners in above noted Writ Petition.

18. That the petitioners while preferring the above noted writ petition did not pause upon the interest of the applicant/Association and its other members.

19. That in case the applicant is not impleaded in the present Writ Petition as petitioner great miscarriage of justice may occur to the applicant/its members.

Lucknow:

Dated: -10-86.

Deponent.

A/317

I, the above named deponent, do hereby verify that contents of paragraphs 1 to 17 of this affidavit are true to my own knowledge and those of paragraphs 18 & 19 of this affidavit are believed to be true. No part of it is false and nothing material has been concealed. So help me God.

Lucknow

Dated: -10-1986

Deponent.

I, identify the deponent who has signed before me.

Advocate.

Solemnly affirmed before me on ..... at ..... A.M./P.M. by Shri ..... the deponent who is identified by Sri ..... Advocate, High Court, Allahabad.

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

Annexure-I

A/318

R.D.S.O. Class II Officers Association having its Registered Office at .Manaknagar..... .....Lucknow, through its president

..... Applicant

In re ;

R.C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others .....

..... Opposite parties.

18035

Item No. 10 Section XI-A

RECORD OF PROCEEDINGS OF THE SUPREME COURT

CIVIL MISC. PETITION NO. 20845 OF 1984

(Application for intervention)

Civil Appeal No. of 19

(Letter from the High Court for extension of time)

(Office report dated

Union of India & Ors.

Versus

G. Chakrapani & Ors.,

26.4.84

CORAM:

Hon'ble Mr. Justice Amarendra Nath Sen

(In Chambers)

For the applicant:- Mr. K.M. K. Nair, Adv.

For the Opposite Party:- M.G. Chandra, Adv.
Ms. A. Subhashini, Adv.

Upon perusinng the papers and hearing Counsel His Lordship allowed the petition / made the following order:-

(R.P. Dua)
Court Master.

Annexure-II

1438

R.D.S.O. Class II Officers Association having its Registered Office at ..Manakmagar..... ..... Lucknow through its president ..... Applicant

In re;

R.C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others .... Opposite parties

Item No. 44 Court No. 1

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Civil Miscellaneous Petition No. 20846/84 (CA. No. 50/81)

Union of India & Ors.

PETITIONERS/APPELLANTS

VERSUS

G. Chakrapani & Ors.
(For directions) RESPONDENTS

Date: 17.9.1984 : This matter was called on for hearing today.

CORAM:

Hon'ble the Chief Justice
Hon'ble Mr. Justice : E.S. Venkataramiah
Hon'ble Mr. Justice : A Varadarajan

For the Petitioners/Appellants: Mr. Anil Dev Singh, Sr. Adv.
Mr. R.N. Poddar, Adv.

For the Respondents: Mr. K.M.K. Nair, Adv.

UPON HEARING Counsel the Court made the following

ORDER

Annexure-II (contd.)

A/320

All persons who, according to the rules and regulations governing the conditions of their service, are entitled to the payment of special pay of Rs.200/-, will be paid that amount in pursuance of the order of the High Court. This payment will, however, be subject to adjustment in the light of the final decision of this appeal. The stay order is modified in these terms.

Sd/-

(R.N. Verma)
Court Master

Annexure-III

A/321

R.D.S.O. Class II Officers Association having its Registered Office at ..Manaknagar..... ..... Lucknow through its president.

..... Applicant

In re;

R. C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others .....

..... Opposite parties.

Copy of Railway Board's letter No. E(G)72LL2-76 dt. 6.3.74 addressed to the General Manager, All Indian Railways, CLW, DLW & ICF and the Director General, RDSO, Lucknow.

Sub: Procedure for filling application for special leave to appeal to the Supreme Court.

Reference Railway Board's letter No. E(G)72LL2-76 dated 22.11.1972 wherein detailed instructions were issued about filling applications for special leave to appeal to the Supreme Court. The instructions inter-alia provide that the sanction of the Board is necessary before any appeal is filed in the Supreme Court.

2. In a recent railway case before the Supreme Court, Shri Krishan Iyer J., while making the observation that "It is not right for a welfare State like ours to be janus-faced and while formulating the humanist project of legal aid to the poor contest the claims of poor employees under it, pleading limitation and the like", has also quoted the following observations made by him earlier in a case in the High Court of Kerala

> "The State, under our Constitution, undertakes economic activities in the vast and widening public sector and inevitably gets involved in disputes with private individuals. But it must be remembered that the State is no ordinary party trying to win a case against one of its own citizens by hook or by crook: for the State's interest is to meet honest claims, vindicate substantial defence and never to score a technical point or overreach a weaker party to avoid a just liability or secure an unfair advantage, ~~simply~~ because legal devices provde such

Annexure-III (contd.) A/32

an opportunity. The State is a virtuous litigent and looks with unconcern on immoral forensic successes so that if on the merits the case is weak, Government shows a willingness to settle the dispute regardless of prestige and other lesser motivations which move private parties to fight in court. The layout on litigation costs and executive time by the State and its agencies is so staggering these days because of the large amount of litigation in which it is involved that a positive and wholesome policy of cutting back on the volume of law suits by the twin methods of not being tempted into forensic show-downs where a reasonable adjustment is feasible and ever offering to extinguish a pending proceeding on just terms, giving the legal mentors of Govt. some initiative and authority in this behalf. I am not indulging in any judicial homily but only echoing the dynamic national policy on State litigation evolved at a conference of Law Ministers of India way back in 1957. This second appeal strikes me as an instance of disregard of that policy."

3. These observations are brought to your notice so that railway administrations not only do not indulge in fruitless litigations which tend to spoil their image but invariably take their prior sanction wherever such sanction is necessary under the existing instructions.

Receipt of this letter may please be acknowledged.

Annexure-IV

A/23

R.D.S.O. Class II Officers Association having its Registered Office at ...Manaknagar.... ..... Lucknow through its president

..... Applicant

In re;

R.C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others .....

..... Opposite parties.

Government of India Ministry of Transport
Department of Railways

Research Designs & Standards Organisation
Manak Nagar, Lucknow

THE SECOND SCHEDULE FORM OF OPTION (SEE RULE 6(1)

i) I S. N. Sinha hereby elect the revised scale with effect from 1st January, 1986.

ii) I _____ hereby elect to continue on the existing scale of pay of my substantive/officiating post mentioned below until

* the date of my next increment

the date of my subsequent increment raising my pay to Rs._____

I vacate or cease to draw pay in the existing scale.

Existing scale Rs. 650-1200

The existing grade of Rs.650-1200 is subjected to grant of special pay of Rs.150/- as to be decided by Writ petition No. 1881 of 1975 filed by RDSO Class II promotee Officers. The special pay will be automatically raised to Rs.300/- p.m. as recommended by the Pay Commission.

Signature:

Name: S.N. SINHA

Designation: ADE/Tele

Office in which employed: RDSO/LKO.

Date: 7.10.1986
Station: LKO.

A/33

Annexure-IV (contd.)

* To be scored out if not applicable.

ACKNOWLEDGEMENT

Received from Shri S.N. SINHA S/o Sri R.C. Pd. SINHA Designation: ADE/Tele. Office/Station : RDSO/LKO an option:

* i) electing the revised scales of pay for all the posts from 1st January, 1986.

*ii) electing to continue on the existing scale of pay of his substattive/officiating post mentioned below until the date of his next increment.

The date of his subsequent increment raising his pay to Rs.__

He vacates or ceases to draw pay in the existing scale.

Existing scale: Rs.650-1200

Signature _____

Designation _____

Date:

Office in which employed_____

Station:

---

*To be scored out if not applicable.

Annexure-V

R.D.S.O. Class II Officers Association having its Registered Office at ..Manaknagar..... ..... Lucknow through its president

..... +Applicant

In re ;

R. C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary

Rail Bhawan, New Delhi & others .....

..... Opposite parties.

Research Designs and Standards Organisation
Manak Nagar, Lucknow-11

No. EII/PC-IV/86 Dated: 15.10.86

The option forms of the following Cl. II Officers of S&T Dte. are returned herewith with the remarks that only unconditional options are to be accepted:

1. Shri J.N. Prasher, ADE/Sig.
2. " P.N. Baranwal, ADE/Sig./MS
3. " K.C. Galhoriya, DDS/Sig/Doc.
4. " O.P. Agarwal, ADE/Tele/Wireless.
5. " R.K. Chopra, ADE/Tele/Wireless
6. " S.N. Sinha, ADE/Tele.

Sd/-
(Basant Kumar)
Section Officer/EII

S.O./S&T

RDSO/Lucknow.

Annexure-VI

R.D.S.O. Class II Officers Association having its Registered Office at ..Manaknagar..... ..... Lucknow through its president

..... Applicant

In re :

R.C. Kathuria & 47 Others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others .....

..... Opposite parties.

52822

No. 26 Court No. 1 Section XI

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CMP No. 20846/84 (In CA No. 50/81) OF 198

Union of India & Ors. PETITIONERS

Versus

G. Chakrapani & Ors. RESPONDENTS

(For clarification & CMP No. 403/85)

Date: 29.4.85 : This petition was called on for hearing today.

CORAM:

Hon'ble The Chief Justice
Hon'ble Mr. Justice: Amarendra Nath Sen
Hon'ble Mr. Justice

For the Petitioners: Mr. Gobind Das, Sr. Adv.
Mr. R.N. Poddar, Adv.

For the Respondents: Mr. K.M.K. Nair, Adv.

Annexure-VI (Contd.) A/37

UPON hearing counsel the Court made the following

ORDER

Such of the employees who will retire hereafter, will give a Bank Guarantee on the date of retirement, before their dues by way of provident fund or gratuity are paid to them. The Bank Guarantee is intended to cover their liability for the special pay paid to them in the event that they fail in this appeal. The sum of Rs. 200/- payable by way of special pay will be payable to all persons with effect from the date of the sanction of the special pay.

The C.M.P. will stand disposed of in terms of the order.

Sd/-

(R.N. Verma)
Court Master.

Annexure-VII

R.D.S.O. Class II Officers Association having its Registered Office at ...Manaknagar..... ..... Lucknow through its president .....Applicant

In re ;

R.C. Kathuria & 47 others ..... Petitioners

Versus

Railway Board through its Secretary Rail Bhawan, New Delhi & others .... Opposite parties.

129870

Item No. 6 Court No. 1 Section XI

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Civil Miscellaneous Petition No. 12986/86(In C.A.No. 50/81) of 198

Union of India PETITIONERS/APPELLANTS

VERSUS

G. Chakrapani & Ors. (For directions) RESPONDENTS

Date: 1.9.1986 : This matter was called on for hearing today.

CORAM:

Hon'ble Mr. Justice : The Chief Justice
Hon'ble Mr. Justice : Ranganath Misra
Hon'ble Mr. Justice :

For the Petitioners/Appellants: Mr. Dalveer Bhandari, Ms. S. Relan, Ms. A. Subhashini, Advs.

For the Respondents: Mr.K.M.K. Nair, Adv.

Annexure-VII (contd.)

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UPON hearing counsel the Court made the following:

ORDER

The arrears of special pay shall be paid to all Officers in confirmity with the order made by this Court on 29.4.85 on C.M.P. and such payment shall be made to interveners provided they are similarly situated. Such payment shall be made within six weeks from today.

sd/-

(JAGAN NATH SHARMA)
Court Master.

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~~A 1811~~

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 1881 of 1975.

R.L. Kaithuria vs. Secy. Railway Board.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
21/9/75	Hon. R.L. Gulati J Hon. Prem Prakash J Admit. Issue notice. C.M. An no. 4799(W)-75 for stay Stay applic. Not pressed, Rejected	PB. 20 PB
	Regd. covers etc in W.P. filed. 6/9/75	
8.9.75	12-11-75 fixed for attendance and filing C.A	
	Notice issued to opp. parties 1 to 4 through Regd post. 9/9/75	

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
28.10.75	C.M.An. no. 5821(W)-75 for interim relief. Hon' R.L. Gulati, J. Put up with record tomorrow. Sd. R.L. Gulati 28.10.75	
.10.75	C.M.An 5821(W) 75 for orders Hon. T.S. Misra J. Learned counsel representing opposite parties nos. 1 & 2 prays for and is allowed fifteen days time to file a counter-affidavit. The rejoinder-affidavit may be filed within a week thereafter this application shall be put up for orders immediately on the expiry of that period. 29.X.1975	
29.10.75	21.11.75 forwarded in C.M.An 5821(W) of 75 for disposal.	C.M.An After 20.11

Shown in s... [illegible] ... No. 15 [illegible]

PSUP—A.P. 5 H.C.—1975. 2643. 25,000 (E). H.C.J, Form no. 1, Part III.

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

WP No. 18811 of 1975.

vs.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
21.11.75	CMAn 5821(W)75 for orders Hon. Jha, J. Adjourned as the power of Sri R.N. Trivedi exists on the record Bo 21/11	
	11-12-75 fixed in CMAn 5821(W)75 for orders	CMAn After 20-11-75 [illegible]
11.12.75	C.M.An. 5821(W)-75 for orders:- for applicant - Sri R.N. Trivedi for ops - Sri [illegible] Srivastava } Present Hon. Ram Prakash J. order on application	

JR/[illegible]

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
	Service report in Pet.	
	O. P. 1 to 4:- Represented through Sri Wingar Chandra Srivastava, Advocate, Power filed, submitted.	
3-3-76	C.M. An no. 1175 (W)-76 for early hearing	
	18.3.76 fixed in CM An 1175 (W)-76	
	Owing to the Leave of Sri U. C. Srivastava Readjustment of Cause List adjourned from 18-3-76 18/3/76	
	25.3.76 fixed in CM An 1175 (W)-76 for order	
25.3.76	CM An 1175 (W) 76 for orders For applnt Sri Rotiwala For opp Sri U C Srivastava / Pet Jen Tr[illegible]	
	Heard Counsel. Let mit Petition No. 1881 of 1975 be listed for hearing early. Counter affidavit is being filed today. Place it on record. Rejoinder affidavit, if any, be filed within 10 days.	

PSUP—A.P. 5 H.C.—1975. 2643. 25,000 (E). H.C.J, Form no. 1, Part III.

25-3-76

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

WP No. 1881 of 1975

vs.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
25.3.76	Counter Affidavit on behalf of the Opposite parties has been filed in the Court Petition. [illegible] Place on record [illegible] 25.3.76	
6.4.76	J.R. Seen service report dated 1.1.76. Opp-parties nos. 1 to 4 are represented through their Counsel. Office to proceed. [illegible]	[illegible] after [illegible] SR/SR 28.3.76
		Early. Court order dt. 25.3.76
14.12.77	2.2.78 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]	NO for Be of W.P. Sir [illegible] date Appn, R.A. KB 24/8
	H.S. to O.P. to 4 through D. J. Ilee & Adv. Delhi [illegible] 14/12	

Power of [illegible] D.L. [illegible] [illegible] filed

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned	
1	2	3	
	Service Report in filing power for OPs 1 to 4: Pawnagi B.L. Shukla Standing Counsel Central Govt. filed May agree to proceed [signature] 10/4/78		
	Yes. [signature] JR. [signature] 19/4/78. B/c		
9.5.78	12.5.78 fixed for hearing		[illegible]
16.5.78	Writ for hearing:- Hon. P.P., J Hon. Sc.M., J		

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

_____ No. _____ of 197

_____ vs. _____

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Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
	Hon: Prem Prakash J Hon. S.C. Mathur J Shri ~~A.D. Tewari~~ R.N. Trivedi states that the R.D.S.O pay scale have been revised and that he will inform the court in a day or two whether or not the petition shall be pressed. List on 19th may 1978. 16.5.78	
19-5-78	Write for hearing. Hon: P.P.J. Hon: K.S.V.J. Sri B.D. Shukla has not come to the Court today. The case stands over. Ks 19.5.78	

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned	
1	2	3	
9-1-79	Wrt for hearing Hon H.S.J Hon S.C Mathur J S.O. [illegible]		
12-1-79	Wrt for hearing Hon H.S.J Hon S.C Mathur J S.O [illegible]		
17-1-79	Wrt for hearing Hon H.S.J Hon S.C Mathur J S.O [illegible]		
22-1-79	Wrt for h Hon UCSJ ~~Hon Goyal J~~ Lay before a Bench of which I am not a member [illegible] 22/1/79 Hon Mr Goyal J I agree		

PSUP—A. P.—1 Uchcha Nyayalaya 466—1976. 50,000 (E), H.C.J, Form no. 1, Part III.

[illegible]

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

_____ No. _____ of 197

_____ vs. _____

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
5.2.79.	Writ for hearing. Hon. C.J. Hon Goyal, J.	
9.2.79.	Writ for hearing. Hon H.S.S. Hon Mathur J. Sri R. N. Trivedi learned counsel for the petitioners has stated that the matter is being considered by the authorities and it may be possible that the petitioners may get the relief out of the Court. He has prayed that the case be listed after summer vacations. List the case after summer vacations. 9-2-79 HHS/_	

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned	
1	2	3	
9-7-79	Wait for hearing Hon. H.S.G Hon. M.S.G S. D. PV		
2.7.79	Wait for hearing. Hon. H.S.J. Hon. M.S.J. S. D. PV		
10.9.	Wait for hearing. Hon. Mishra J. Hon. Varma J. No sitting on account of the sad demise of Sri Jai Prakash. BVC 9/10/79		

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 1881 of 1975

vs.

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Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
11-10-79	Writ for hearing. Hon. Mishra J. Hon. Varma J. At the request of the learned counsel for the petitioner, list it on 19-10-1979 sd/ KS 11.10.1979	
19-10-79	Writ for hearing. Hon. Mishra J. Hon. Varma J. S.O. 19.10.79	
29-10-79	Writ for hearing. Hon. Mishra J. Hon. Varma J. S.O. 29.10.79	

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
6.11.79	Writ for hearing Dr Goyal Dr Mathur Stand out at the illness slip of Sri B.L. Shukla 6.11.79	
1-79	Writ for hearing. Hon. Misra J. Hon. Varma J. S.V. 12.1.79	
	C.M.An. 7107(W) 179 for Amendment Hon'ble S.C. Mathur, J. ~~List with Provisions~~ List with Previous papers. Sd/- S. C. Mathur J. 12.11.79	

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

24/6

No. _____ of 197

vs.

Date	Note of progress of proceedings and routine order	Dated of which case is adjourned
1	2	3
21.11.79	Cmm 7107 (W)-79 [illegible]	
	Hon HSJ	
	Allowed	
	M	
7-2-80	Writ for hearing.	
	Hon. Misra J.	Dy
	Hon Varma J.	
18-2-80	Writ for hearing	
	Hon. Misra J	
	Hon Varma J	
	Motion left. Adjourn	
	[illegible]	
28-2-80	Writ for hearing.	18-2-80
	Hon. H.S.J.	
	Hon. Mathur J.	
	S.O.	
	M	
25-3-80	Writ for hearing.	
	Hon. Misra J.	
	Hon. Varma J.	
	S.O.	
	BOC	
	25/3/80	

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned	
1	2	3	
18.8.80	writ for hearing Hon. Misra J. Hon. Verma J. K.S. 18.8.80		
25.8.80	writ for hearing Hon. Misra J. Hon. Mathur J. S.O. 25.8.80		
.8.80	writ for hearing Hon. Misra J. Hon. Verma J. List after 15 days. K.S. 2.9.1980.		
22.9.80	writ for hearing Hon. R.M. Sahai J. Hon. Mathur J. Put up tomorrow 22.9.80	Refer 17.9.80	
23/9/80	Hon'ble Sahai J. Hon'ble Mathur J.		

PSUP—A.P.—65 Uchh Nyayalya.—2737—1976—50,000 (E).

Put up tomorrow
22/9/80

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 1081 1975

vs.

Date	Note of progress of proceedings and routine ordrs	Date to which case is adjourned
1	2	3
25.9.80	Hon RM Sahai J. Hon S.C. Mathur J. For orders see the order of date passed in W.P. no 1078 of 77. 126 [signature]	
22.10.80	Writ for hearing Hon. Misra J. Hon. Mathur J. S.O. [signature] 22.10.80	
3-11-80	For hearing Hon. Misra J. Hon. Varma J S.O. [signature] 3.11.80	
28.11.80	[illegible] Hon T. S. M. J. Hon Mathur J. [signature] 28/11/80	

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
11-11-80	Wrt for hearing Hon Y. N. J Hon K. C. A. J S.O. [illegible] 11.11.80	
	28. 11. 80 for B/c	
	14-4. ~~17-3~~-81 fixed for hearing	Bail M/B Hon Sharma Ucs
81	Wrt for hearing Hon. C. J. Hon. H. S. J. S.O.	
10	8-7-81 fixed for hearing	M/B Hon S Hon Ucs
28-9-81	28.9.81, fixed for hearing Hon. Verma, J. Hon. Sharma, J	
23.10.81	Hon [illegible] Hon S C [illegible] J	

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHA[illegible]

No. of 198

vs.

Date	Note of progress of proceedings and routine orde[illegible]	Dated of which case is adjourned
1	2	3
5-11-81	Hon. K. N. Goyal J. Hon. R. C. Deo Sharma J. No time left. Adjourned B.O. etc. 5/11/81 B. S.	
16.11.1981	Hon. K. N. Goyal, J. Hon. R. C. Deo Sharma, J. No time left. Adjourned B.O. etc. 16-11-81 B. S.	
20-11-81	Hon Goyal, J. Hon Sharma, J. No time left. Adjourned B.O. etc. 20/11/81 B. S.	
7-12-81	Hon. K S V J. Hon. S A J. 7.12.81	
11.12.81	Hon K S V J Hon S A J So 11/12/81	

Date	Note progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
17.12.81	Hon KSVJ Hon SAJ Comm 17.12.81	
17.3.82	17.3.82 Fixed for hearing Hon KSVJ Hon SAJ Comm 17.3.82	
23.3.82	Wrt Wr Hon KSVJ Hon SAJ Comm 23/3/82	
29/3/82	Hon K.S.N.J. Hon S.S.A.J. Comm 29.3.82	
5.4.82	Wrt Wr Hon KSVJ Hon SAJ List for hearing in the next week, if possible Hon KS 5.4.82	

. P. 7 Uch. Nyalaya—22-2-80—(3891)—1980—30,000 (E).

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 1881 of 1985.

vs.

Date	Note of progress of proceedings and routineorders	Dated of which case is adjourned
1	2	3
16.4.82	Writ for hearing Hon. R.C.D.S. J. Hon. S.S.A. J. Comp 16.4.82	Yet.
22.4.82	Writ for hearing Hon. K.S.V. J. Hon. S.S.A. J. Adjourned at the request of S. R. N. 22.4.1982	
28.4.82	Writ for hearing Hon. R.C. Deo Sharma J. Hon. S.S.A. J. S.O. at the request of Sri R.N. Trivedi for a week. 28.4.1982 Cny	

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned	
1	2	3	
14.5.82	Fixed for hearing.		NB Hon Jhad Hon UCS J
	Hon Sharma J. Hon S.S.A. J.		
	Adjourned for 10 days as prayed by Sri R M Tamuli		
	[signature] 14-5-1982		
~~[illegible]~~ 13/10/82	Fixed for hearing.		[illegible]
	HOUL KSVJ. HOUL KNMJ.		
	On the request of Sri B.L. Sinha this case be listed after two weeks.		
	[signature] 13.10.82		
13.1.82	Fixed for hearing		[illegible]
	HOUL KSVJ HOUL KNMJ		
	[signature] 13/1/83		

PSUP—A.P. 30 Uch Nyalaya—25-1-82—(3516)—1982—50,000 (E)

20/1/83

HOUL ~~[illegible]~~ KSVJ
HOUL ~~[illegible]~~ KNMJ [signature] 20.1.83

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. _____ of 198 .

vs.

Date	Note of progress of proceedings and routineorders	Dated of which case is adjourned
1	2	3
14/2/23	Fixed for hearing HOU KSV2 HOU KNM2 S. O.	B/c [illegible]
~~18~~ ~~21~~ 21/2/23	Fixed for hearing HOU KSV2 HOU KNM2 [illegible] 21.2.23	
20/2/23	Wm for [illegible] Hh KSV3 Hh KNM3 [illegible] 20/2/23	
	Fixed for hearing	B/c

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	Cop. An. 2140(W) 84 for Early hearing	
	fixed in Cop. An 2140(W) 84 for orders	Tied Hon. S.J.
	fixed for hearing	NB Hon. Shah Hon. [illegible]
12384	Fixed writ for hearing Hon K N G S Hon K N M S	
3.8	Fixed for hearing Hon. K.N.G.J. Hon. K.N.M.J.	
	Stand out at the request of Sri R N Trivedi [illegible] 26-3-84	
	Fixed writ for hearing Hon K N G S Hon K N M S	

P. 30 Uch Nyalaya—25-1-82—(3516)—1982—50,000 (E)

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

_____ No. _____ of 198

_____ vs. _____

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
9.4.84.	[illegible] Hon KSJ. Hon KNMJ. The learned counsel for the parties are agreed that this case may come up on 26th of April, 1984. Let it be done. KS 9.4.1984	
26-4-84	fixed for hearing NOIKNGT Hon SSAJ	Bench By Court N/B Hon. DN. Jha. J Hon UCS J
18-5-84 ~~21-5-84~~	fixed for hearing Hon KWMJ Hon. KWMJ	Bench N/B Hon DN. Jha. J Hon. UCS J

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
25.7.84	fixed for hearing Hon KNGJ Hon SCMJ	Bre MB Hon. DN. Shah Hon UCS.
31.7.84	Writ for hearing Hon KNGJ Hon SCMJ	
6.8.84	Writ for hearing Hon KNHJ Hon SSAJ	
	Stand out on the request made on behalf of learned counsel Sri R.N. Trivedi. Dt/- 6-8-84	
3.85	fixed for hearing Hon K Hath J. Hon P. Dayal J	Bre MB Hon. DN. Shah Hon. UCS
	Sri R.N. Trivedi learned [illegible]sel for the petitioner has [illegible]e out of station on [illegible]ount of the death of his [illegible]d mother. The case will [illegible] and out today as requested [illegible] his behalf.	Before [illegible]

ayalya—13-4-83—173—1983—50,000 (E)

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

WP No. 1881 of 1985

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
27385	Hon K Nath J Hon P Dayal J S O Boc C 27/3/85	
3.4.85	Hon K Nath J Hon P. Dayal J S O Boc C 3/4/85	
10-4-85	Hon. K. Nath J. Hon. P. Dayal J. No time left Adjourned Boc BW 10/4/85	
17/4/85	Hon Sem J Hon Bkum J S O Boc C 17/4/85	

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
29.4.85	Hon. S C M J Hon B K S Dismissed in default of appearance on behalf of parties. Stay - if any, ~~vacated~~ discharged. B K S 29/4/85	
	CM An. 5452(W) 85 for Restoration ~~Hon. D.N. Sha, J.~~ ~~Hon. K.N. Goyal, J.~~ List with the record before the Division Bench of Hon. S.C. Mathur, J and Hon Brijesh Kumar, J. on 6th May, 1985. ~~s.d.~~ D.N. Sha ~~s.d.~~ K.N. Goyal 2-5-85	
6-5-85	fixed in CM. An. 5452 (W) 85 for orders	Tied Hon S.C. Mathur, J Hon. B. Kumar, J Byel
	Hon'ble S C M J Hon'ble B Kumar, J No sitting - 8.5. Byel 6/5/85	

PSUP—A. P. 1 Uchh Nyayalya.—13-4-83—173—1983—50,000 (E).

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24/13

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

WP No. 1001 of 1985

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
1-10-85	fixed in Sr. Au 5452(W)85 for orders Hon. S.C.M.J. Hon. B.K.J. Bach not sitting adjourned 1/10/85	Tiw Hon. S.C.Mathur J. Hon. B. Kumar J.
16-10-85	Hon. S.C.M.J. Hon. B. Kumar J. Order dated 29-4-85 set aside and W.P. restored to its original number. 16/10/85	

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
4-11-85	fixed for hearing HOSS Br [illegible] S.O. [illegible] 4.11.85	B/C N/B Hon. Dr. [illegible] Hon. [illegible]
5-11-86	CM App No 14487 cus 86 Hon' G. B. Singh J List it along with previous paper in the week coming 17-11-86. Sd. G. B. Singh 5/11/86	
13-1-87	fixed for hearing with CM App 14487 cus 86 Hon K. Nath, J. Hon. B. L. L, J.	B/C
21-1-87	Hon K. Nath, J Hon B. L. Loomba, J	

PSUP—A. P. 1 Uchh Nyayalya.—13-4-83—173—1983——50,000 (E).

3. That further during the pendency of the writ petition, more than 20 petitioners had retired and settled in their own home towns and similar amount as aforesaid had been deducted from their retirement dues and also suffering irrepairable loss of interest and receiving the reduced pension and also not able to de-fend effectively.

4. That the remaining petitioners have been promoted to higher grades and are interested to the extent of arrears, interest on arrears and pay fixation in higher grade. They along with other promotee officer are already drawing special pay of Rs.200/- p.m. in Senior Scale applicable from 1.1.73 for arduous nature of work as per the decision of this Hon'ble Court in Writ Petition No. 484 of 1975 and interim order (Annexure I & II) issued by the Hon'ble Supreme Court in Civil Appeal No. 59/81 arising out of Railway Board's appeal against this Hon'ble Court's judgment.

5. That the work in RDSO is not only of arduous nature but also requires long spells of tours for High Speed Viability, Track Monitoring, Metro Projects and other trials, and many officers could not become party to the case being away but later felt that once the case is decided, it will be equally applicable to them. This was also reflected in Railway Board's letter (Annexure-III) in which they have asked Railways to Act as model employer and reference was made to Hon'ble

Supreme Court's various judgments in the said letter.

6. That there have been no selection for Class II in many disciplines between 1971 to 1984 and several officers worked on ad-hoc basis for short or long periods and are also eligible for similar benefits. Many of the officers after 1975 have worked and retired in Class II grades on adhoc basis without deriving the benefit of special pay and other terminal benefits.

7. That a large number of persons have now been regularised from 1983-85 and are eligible for all these benefits.

8. That all the serving officers of Class II mentioned in the foregoing paras have to give an option within three months with effect from 1.10.86 to accept New Scales as per the recommendation of IV Pay Commission and the Government's orders thereon.

9. That when such option was exercised subject to applicability of the decision in this writ petition, the same was returned by the opposite party no. 2 with the stipulation that only the unconditional options will be acceptable. ~~A sample copies at Annexures IV & V~~.

10. That option was once exercised is final and binding and even if no option is given, all the Class II Officers shall deem to have opted for new grades from 1.1.86. In such an eventuality all the officers will suffer irrepairable loss.

11. That if all such officers had to approach this Hon'ble Court with impleadment it would be deludge with petitions of similar nature.

12. That under similar conditions, the RDSO Class II Officers Association, the applicant, was allowed to intervence in Civil Appeal No. 50/81 arising out of judgment of this Hon'ble Court in writ petition No. 484/75 on similar subject of special pay Rs.200/- p.m. to promotee Senior Scale Officers and the interim orders passed were applicable to the petitioners and the intervenors i.e. the members of the Association/Applicant. Annexures II, VI & VII of the earlier impleadment application

13. That the matter subjudice is in the nature of public interest litigation and is not of individualistic angle Indian moulds, nature, hence the necessity of the present application is felt by the applicant. The R.D.S.O. Class II Officers Association applicant no.2 is the recognised association by Railway Board, the opposite party no.1 vide their letter No. E65RB3/96/RBI dated 7th July, 1966 and looks after the interest and welfare of all RDSO

promotee officers in various grades. All the petitioners were/are ~~also the~~ members of the Association.

14. That the Association/Applicant No. 2 therefore through its President made an application in Lucknow Bench on 5.11.86 ~~for~~ (C.M. Impleadment No. 14487 of 1986) for impleadment supported by ~~officials~~ an affidavit of one B.L. Sharma, its Vice President, which came up for hearing before Hon'ble K. Nath, Vice Chairman and K. ~~Upadhya~~ Bhayya, ~~Assistant Manager~~ Administrative Member on 17.7.1990, who by oversight, not noticing that Rule 4 had not yet come into being, in fact Tribunal itself was not yet constituted, when the application was made and that all the petitioners were members of Association-Applicant No.2 and their counsel on their behalf supported the said application, rejected it by its order of the date 11.7.90.

15. That consequently the executive Committee of the Association, Applicant No. 2, has passed a resolution on 22.7.90, that in order to pro-tect priviliges & prospects of the members of the Association, this application for review and impleadment be made for impleadment of the Association (applicant no.2) as a writ petitioner, if necessary, by reviewing the order dt. 17.7.1990 under Section 22(3)(f) of the Act.

PRAYER

It is, therefore, most respectfully prayed that the applicant no.2, R.D.S.O. Class II Officers

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Association be impleaded as petitioner in the writ petition.

Note: (1) The ~~appointment~~ affidavit dt.4.11.86 of Shri B.L. Sharma filed in support of the earlier impleadment application dt. 5.11.86, be read in support of this application.

(2) A fresh Vakalatnama on behalf of the applicants is being filed herewith this application.

(YASHARTH)
Advocate

Dt. 3/8/90

Counsel for the petitioner.

अभिभाषक पत्र (वकालतनामा)

Central Administrative Tribunal

~~हाई-कोर्ट आफ जूडीकेचर~~ इलाहाबाद

TA 264 सन् १९८7

R. C. Kathuria & others — वादी प्रतिवादी
अपीलान्ट

बनाम

Railway Board & others — वादी प्रतिवादी
रेस्पान्डेन्ट

हम (1) N. Koza, C 146/2, R.D.S.O. Colony, Lucknow
(2) R.D.S.O. Class II Officers' Association, Manak Nagar Lucknow
(3) R.B. Kanitkar (4) Amrit Lal Kalra R.D.S.O. Colony, Lucknow

उपरोक्त प्रकरण में हम अपनी ओर के पक्ष समर्थ हेतु

डा० ज्ञान प्रकाश एवं यशार्थ

एडवोकेट हाईकोर्ट

३४ ए, लाल बहादुर शास्त्री मार्ग, इलाहाबाद

एडवोकेट की निश्चत शुल्क (मेहनताना) नियत करके अपना अभिभावक (वकील) नियुक्त करते हैं और यह स्वीकार करते हैं कि उक्त सज्जन हमारी ओर से वाद-पत्र (अर्जीदावा), प्रतिवाद-पत्र (बयान तहरीर), वाद स्वीकार पत्र, विवाद पत्र पुनरवलोकन एवं पुननिर्णय प्रार्थना-पत्र (दरख्वास्त) शापथ्यिक कथन (हलफनामा), प्रवर्तन पत्र (दरख्वास्त इजराय), मजूबात अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना एवं पत्रादि लेखादि की प्रतिलिपियाँ अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र आवश्यकतानुसार शापथ्यिक पुष्टिकरण करें और आवश्यक सवाल जवाब करें और लेखादि की प्रतिलिपियाँ एवं हमारे प्राप्या-धन को अपने हस्ताक्षरी पाबती देकर प्राप्त करें, हमारी ओर से किसी की मध्य पत्र तथा साक्षी (गवाह) मानें और उससे सम्बन्धित प्रार्थना पत्र प्रस्तुत करें तथा उनका समर्थन करें तथा तसदीक करें वाद पत्र उठावें छोड़े अथवा समझौता करें तथा सुलहनामा दाखिल करें तथा उनका समर्थन करें तथा उसके सम्बन्ध में प्रार्थना-पत्र दाखिल करके उसका समर्थन करें अर्थात् प्रकरण से सम्बन्ध रखने वाली कुल कार्यवाही डिग्री के भर पाई होने के समय तक स्वतः अथवा संयुक्त करें। आवश्यकता होने पर किसी अन्य वकील महोदय को वकील करें।

उक्त सभी कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भाँति हमको सर्वथा स्वीकार होगी। अगर निश्चित शुल्क अथवा किसी अन्य रकम का कोई भी अंश किसी समय भी हमारी ओर पावना रहे, तो उन्हें अधिकार होगा कि वह हमें कोई नोटिस दिये बिना ही हमारी ओर से मुकदमें की पैरवी न करें। वैसी दशा में उनका हमारे प्रति कोई उत्तरदायित्व न होगा। यदि वे किसी अन्य कार्य में व्यस्त रहने के कारण मेरे मुकदमें की समय पर पैरवी न कर सकें और मुकदमा एकतरफा फैसला हो जाय तो भी उनकी उत्तरदयित्व न होगा।

अतएव यह अभिभाषक-पत्र लिख कर दिया और अपने पास इसकी एक प्रति रख लिया जिससे कि समय

हस्ताक्षर (R.B. Kanitkar) C-149/3, R.D.S.O. Colony Lucknow-11 (U.P.)

हस्ताक्षर (N. K. OZA) C-146/2, RDSO COLONY LUCKNOW-11 (UP)

हस्ताक्षर (AMRIT LAL KALRA) C-153/3 R.D.S.O. COLONY LUCKNOW-226011, UP

Assistant Research Engineer Track
Research Designs Organisation
Ministry of Transport, Deptt of Railway
Manak Nagar

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, ALLAHABAD

A/36)

C.M.Application No. of 1987

Union of India and others .. Applicants
(Opp. Parties 1 to 4)

Impleadment application No. (W) of 1986

In re:

Transfer application No.264 of 1987 (T)

R.C.Kathuria & others .. Applicants

Vs.

Railway Board through its Secretary .. Respondents
Rail Bhavan, New Delhi & others

Application for dismissal of Impleadment Application filed by Sh.B.L.Sharma, Vice President, RDSO Class-II Officers Association, Lucknow.

The applicants above named respectfully submit as under:

That in view of the facts and circumstances stated in the accompanying ~~affidavit~~ reply, it is expedient in the interest of justice to dismiss the impleadment application in limine.

Wherefore, it is respectfully prayed that the above mentioned impleadment application may be dismissed in limine.

Recieved copy 3/11/87

3-11-87)

(A.V.Srivastava)
Counsel for Applicants
(Opp. parties 1 to 4)

Allahabad

Dated: 3-11-87.

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, ALLAHABAD

A/362

Reply on behalf of Respondents

to

Impleadment Application No._____of 1986

In re:

Regn. No.264 of 1987 (T)

R.C.Kathuria and others .. Applicants

Vs.

Railway Board through its Secretary, Rail Bhavan, New Delhi and others. .. Respondents

I, S.Bhatia, aged about 53 years, son of late Shri U.C.Bhatia, presently posted as Deputy Director/Estt-I in the office of Research, Designs and Standards Organisation, Ministry of Railways, Lucknow most respectfully showeth as under:

1. That I am presently posted as Deputy Director/ Estt-I in the office of Research, Designs and Standards Organisation, Ministry of Railways, Lucknow and have been duly authorised on behalf of the respondent Nos. 1 to 4 for filing the instant application. I have carefuly perused the relevant records relating to the instant case and have also gone through the petition filed by Sh.B.L.Sharma, Vice President, RDSO Class II Officers Association, Lucknow and

(S. BHATIA)
Dy. Director (Estt -I)
R.D.S.O. (Min. of Rys)
Manak Nagar, Lucknow-226011

thus I am fully acquainted with the facts and circumstances of the case deposed below:

2. That the Ministry of Railways(Railway Board) New Delhi vide their letter No.E65RB3/96/RBI dt. 7-7-1966(copy annexed as Annexure A-1) have recognised the RDSO Class II Officers Association subject to certain conditions which include that the Association should supply the rules of the Association and amendments thereto if any regularly through the Director General, RDSO, Lucknow.

3. That the RDSO Class-II Officers Association has framed the BYE-LAWS and submitted to RDSO Administration(copy of the BYE-LAWS is annexed as Annexure A-2).

4. That from the BYE LAWS of the Association, it may be observed that there is no provision to file a suit or an impleadment application in any of the Courts/Tribunals by its office bearers viz. President/Vice President/Secretary on behalf of the Association. Moreover, the Association is authorised to deal all matters concerning the service of the members of the Association, but not to implead in any suit/application in a Court/Tribunal.

5. That out of the 48 Petitioners, 26, are still in service in the Organisation and Shri B.L.Sharma is not the Petitioner in Writ

(S. BHATIA)
By. Director (Estt - I)
R D S O (Min. of Rlys)
Manak Nagar, Lucknow-226011

Petition No.1881 of 1975.

6. That the instant petition is not only devoid of any merit but also no good grounds have been put forth by the petitioner for his impleadment in the instant case. This besides the Association is not legally entitled to plead cases on behalf of the petitioners, and as such the instant impleadment application is liable to be dismissed in limine.

Lucknow
Dt. 12-9-87

Deponent
उप निदेशक स्थापना - I
अनुसंधान अभिकल्प और मानक संगठन,
रेल मंत्रालय, लखनऊ - 226011

VERIFICATION

I, the above named Deponent do hereby verify that the contents of para 1 of this Affidavit are true to my knowledge and the contents of paras 2 to 5 are true to my knowledge based on office records and the contents of para 6 of the affidavit are believed by me to be true on the basis of legal advice. No part of this ~~affidavit~~ is false and nothing material has been concealed. So help me God.

Dated: 12-9-87.

Deponent
उप निदेशक स्थापना - I
अनुसंधान अभिकल्प और मानक संगठन,
रेल मंत्रालय, लखनऊ - 226011

GOVERNMENT OF INDIA

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

LUCKNOW
JUL 1966
3558

Annexure A-1

नई दिल्ली-१, तिथि १९

No. E65RB3/96/RBI.

New Delhi-1, dated 7-7-1966

The Director General,
Research Designs & Standards Organisation,
LUCKNOW.

(Please see S.No. 1)

Sub: RDSO Class II Officers Association.

-.-.-

Δ S.No. 11

Reference your letter No.A/ASSCN/Oc-II dated 3/6-6-1966. The Government of India are pleased to accord recognition to the RDSO Class II Officers Association subject to the following conditions:-

i) All matters concerning the service which the Association represents should be submitted through the Director General, RDSO, who will also receive deputation, if any, of the Association.

ii) The Government of India will, when they consider it desirable, consult the Association in any particular matter concerning the welfare of the Service which the Association represents. No gurantee can, however, be given that the Association will be consulted on any particular matter and the fact that the Government of India have accorded recognition to the Association does not mean that the Association has been granted the status of an advisory body or that it will have the right to be consulted on all Service matters.

iii) The instructions regarding the recognition by the Central Government ofService Associations of gazetted officers contained in Chapter XXXVI of the Indian Railway Establishment Manual will apply to the Association.

iv) The Railway Board should be supplied regularly through the Director General, RDSO with copies of the rules of the Association and amendments thereto and the annual statements of its accounts when published as also an annual list of its members.

v) Any change in the official address of the Association should be intimated to the Railway Board through the Director General, RDSO.

(P.C. Mathew)
Secretary, Railway Board.

DG (T)
JDF (T) 11/7
12/7
A/3
11/7/66

Copy to E(L) Branch with a spare.

CERTIFIED AS TRUE COPY

(S. BHATIA)
Dy. Director (Estt. II)
R.D.S.O. (Min. of Rys.)
Manak Nagar, Lucknow-226011

1/2

Annexure A-2

A/3

BYE - LAWS
OF
THE R.D.S.O. CLASS II OFFICERS' ASSOCATION.

1. NAME

This Association shall called the R.D.S.O. Class II Officers' Association. The Headquarters of the Association will be at Lucknow.

2. OBJECTS

The Association is a non-political body and its objects are :-

2.1 To promote the general welfare of its members.

2.2 To protect the rights, privileges and prospects of its members by constitutional methods.

2.3 To foster the spirit of unity and comradeship among its members.

2.4 To exchange ideas on matters of common interest.

3. MEMBERSHIP

All officers belonging to the Class II service, whether permanent or officiating, borne on the cadre of R.D.S.O. shall be eligible for membership of the Association.

4. FEES AND SUBSCRIPTION

4.1 An annual subscription of Rs.12/- shall be payable by each member on or before the 30th day of April every year by either in one or four equal instalments, from the time of his joining the Association.

4.2 For the purpose of this rule, the financial year of the Association shall be from 1st April to 31st March.

"4.4 A fee of rupee one towards admission has to be paid by RDSO Class II Officers who wish to become member of the above Association."

5. MANAGEMENT

5.1 The supreme authority of the Association shall vest in a General Body which shall consist of all the members of the Association.

5.2 Subject to ultimate control by the General Body, the business of the Association including the control of its finances, shall be conducted by an Executive Committee consisting of a President, Secretary, Treasurer and 4 other members of the Association, preferably one from every Directorate normally not represented by an office-bearer excluding the President.

5.3 At its annual General Meeting, the General Body shall elect, from amongst its members, a President, other office bearers and members of the Executive Committee, who shall hold office for one year but will be eleigible for re-election for one or more subsequent terms.

(S. BHATIA)
By Director (Estt. - I)
R.D.S.O. (Min. of Rlys)
Manak Nagar, Lucknow-226011

....2

5.4 The General Body shall normally meet once a year in April and at each such meeting a minimum of 30% of the total members will form the quorum. 20 days' clear notice shall be given for a meeting of the General Body and the agenda for the meeting will be circulated with such notice.

5.5 The election of the Executive Committee shall take place in the following manner:-

i) Nomination for the Executive Committee including the office bearers will be called 30 days in advance of the annual meeting of the General Body and should be received by the Secretary before 15 days of the meeting being held.

ii) Every nominee shall be proposed by one member and seconded by another member in writing. Nominees shall have to signify in writing their willingness to accept the nominations made in their favour.

iii) The Secretary shall read out the names in General Body meeting and the election of office bearers and other members of the Exeuctive Committee, will be made by the members present at the General Body meeting by raising hands.

5.6 Meetings of the Executive Committee shall be called by the Secretary ordinarily once a month or oftener as the business of the Association may demand.

5.7 Four members of the Executive Committee shall form a quorum irrespective of whether those present are office bearers or others.

5.8 The President or in his absence, one of the members to be elected by the Executive Committee members present, shall preside at all Committee meetings. The President of the meeting shall have a casting vote.

5.9 The Executive Committee shall have the power to appoint sub-committees consisting of members of the Association for any special work as and when necessary.

5.10 The Executive Committee or any sub-committee appointed by the Executive Committee may invite, at any of their respective meetings, any person not necessarily a member of the Association for consultations only.

5.11 The President shall have the power to fill any vacancy which may occur in the Executive Committee due to a member resigning, proceeding on leave, being transferred out of R.D.S.O. or due to any other cause, pending the next general election.

5.12 The Executive Committee shall have the power to nominate an interim President or Secretary or Treasurer in case a vacancy due to resignation, transfer to a station outside Lucknow or any other cause pending fresh election in the General Body meeting.

6. MEETINGS

6.1 Scheduled meetings of the General Body and the Executive Committee shall be held as outlined in Clause 5.4 and 5.6 above.

6.2 Extraordinary meetings of the General Body shall be held as and when the Executive Committee considers it necessary to call one or on the written request of not less than 25% of the members.

6.3 At least 15 days' notice shall be given to all members when a General Body Meeting is to be convened except in case of an emergency when the Executive Committee may convene the meeting on giving only 10 days' notice.

6.4 Any member wishing to propose a subject for consideration at a meeting of the Executive Committee need not necessarily present himself at the meeting and may do so by a letter to the Secretary who will advise him in due course of the deliberations of the Committee on the subject.

6.5 The proceedings of the meetings of the General Body including extraordinary meetings shall be circulated by the Secretary to all members of the Association within 15 days of the date on which the meeting is held and any comments received from any of the members shall be placed at the next meeting of the General Body or the Executive Committee.

7. FINANCE AND ACCOUNTS

7.1 The funds of the Association shall be held by the Treasurer who may, for the sake of facility and convenience, deposit the money in some local bank to be approved by the Executive Committee. The day-to-day expenditure shall be made by the Secretary on petty items like stationery and postage for which purpose he may be provided with an imprest of Rs.20/- . When he asks for recoupment of this imprest, he will give an account of the expenditure incurred to the President. Expenditure of over Rs.20/- on any one item will require the prior approval of the President and of over Rs.50/- of the Executive Committee.

7.2 The Treasurer shall, in addition to maintaining an up-to-date and clear account of the assets and liabilities of the Association, prepare an annual account of the receipt and expenditure at close of the year, which shall be audited by a member of the Association nominated by the General Body. The Accounts thus finalised shall be placed by the Treasurer at the annual meeting of the General Body.

8. PROCEDURE TO DEAL WITH BAD ELEMENTS

8.1 Any members of the Executive Committee including the President, Secretary or Treasurer may be removed from office by a vote of "No confidence" which will require to be passed at a meeting of the General Body, calling an extraordinary meeting for the purpose if necessary. The quorum for a meeting of the General Body which has/its agenda a motion of 'no confidence' against any of the above 3 office bearers of the Association, shall be 50% of the total number of members and the 'no confidence' resolution will be effective only if it is voted for by at least two thirds of the members present at the meeting. The meeting of the General Body having on its agenda a 'no confidence' against the President shall be presided not by the President but by a Chairman elected by and from amongst the members present at the meeting.

....4

9. GENERAL

9.1 The interpretation of rules and the modus operandi to be adopted with regard to the transaction of any business not fully covered by these rules, shall be vested in the Executive Committee subject to the over riding powers of the General Body.

9.2 The President will have power to postpone decision on any subject, if he feels that the subject is of wide interest and the members present in a particular meeting are not sufficiently representative to take the decision or do not fully represent a group or groups likely to be affected. The postponement will be, in such cases, for a maximum period of not more than one month.

.....

CERTIFIED AS TRUE COPY.

[illegible] 17/10/87

[illegible] of
[illegible]
Janak Nagar, Lucknow-226011

Before the Hon'ble Central Administrative Tribunal

Additional Bench, Allahabad

A/28

Supplementary Reply on behalf of the Respondents.

In

Registration No. 264 of 1987 (T)

(Writ Petition No. 1881 of 1975)

Received copy
Bimla clerk to
Dr. Gyan Prakash
Advocate
28.7.88

District: Lucknow

R.C.Kathuria and 47 others .. Applicants

Vs.

Union of India and others .. Respondents

I, S.Bhatia, aged about 54 years, son of late Shri U.C.Bhatia, presently posted as Deputy Director/ Estt-I in the office of Research, Designs and Standards Organisation, Ministry of Railways, Lucknow most respectfully showeth as under:

1. That I am presently posted as Deputy Director/ Estt-I in the office of Research, Designs and Standards Organisation, Ministry of Railways, Lucknow and have been duly authorised on behalf of the Respondents No. 1 to 4 for filing the instant reply. I have carefully perused the relevant records relating to the instant case and have also gone through the petition, counter affidavit, supplementary application, supplementary reply and thus I am fully acquainted with the facts and circum-

7/7/88

Dy. Director Establishment,
R. D. S. O., Ministry of Railways
Alambagh, LUCKNOW-5

stances of the case deposed below:

2. That in the aforementioned case as per controversy involved due to inadvertence, certain material and relevant facts and documents could not be brought on record by the answering Respondents. The said facts and documents are very relevant in appreciating the controversy involved in the instant petition and as a result of which the answering Respondents crave leave of this Hon'ble Court to bring the same on record by way of filing the instant Supplementary reply. Under the circumstances it is requested that the answering Respondents be permitted to file the same and may be accepted on record.

3. That the recommendations of the Second Central Pay Commission regarding continuance of Special Pay are enclosed herewith and marked as Annexure SRA-I.

4. That the Third Central Pay Commission [illegible] of their Report had recommended that all special pays should be reviewed periodically. Accordingly, the Ministry of Railways, after notification of the Revised Scales, 1973 reviewed the position and came to the conclusion that no special pay is justified for the category of Assistant Officers, Class II in RDSO whether they are borne on the cadre of RDSO or on deputation from the Zonal Railways/Production Units.

Dy. Director Establishment,
R. D. S. O., Ministry of Railways
Alambagh, LUCKNOW-5

A/370

Copy of paras 30 to 39 of Chapter 8 of, III Pay Commission's recommendations are enclosed herewith as SRA-2.

5. That the Ministry of Railways (Railway Board) are fully competent, with the President's approval to review and fix appropriate wages for all categories of railway employees as and when new scales based on a Pay Commission recommendations are notified. This is unavoidable since a lot of rationalisation takes place on each occasion when new scales are adopted by the Government based on recommendations of a Pay Commission.

6. That at the time of formation of RDSO, in view of paucity of suitable and competent personnel, it was necessary to provide additional incentives to attract candidates from open market as well as from the Zonal Railways/Production Units. As, at the beginning of 1969-70, the position had already stabilised and a proper cadre had been formed for Group 'C' staff of Design Assistants and Research Assistants as well as scientific staff of RDSO, it was considered that such incentives which had been initially extended purely as an ad hoc measure was no longer justified and deserves to be withdrawn. This is done taking also into account that progressively more and more assignments which were initially entrusted to Group 'C' employees were being entrusted to Assistant Officers Group 'B' by either upgradation or creation of additional posts. The progressive increases are evident

7/7/88

Dy. Director Establishment,
R. D. S. O., Ministry of Railways,
Alambagh, LUCKNOW-5

A/37

from the statement of chart indicating the sanctioned strength of RDSO, a copy of which is enclosed herewith and marked as Annexure-SRA-3.

It will be seen from the above figures that progressively bulk of the jobs which were performed by the Assistant Officers enjoing Special Pay in sixties were entrusted to higher grade officers. In this matter, the quality and quantum of the work of these officers were re-evaluated and the posts were upgraded which was in keeping with the recommendations of the Pay Commission that wherever a category as a whole is getting Special Pay, it would be more appropriate to upgrade the post to a higher scale than continue the system of special pay. A copy of the details of posts upgraded in RDSO, is enclosed herewith and marked as Annexure-SRA-4.

Moreover, the promotional prospects of Class II officers to Class I posts were improved raising the promotional quota from 20% to 33 1/3%. It is reiterated that as per para 32 of the Counter Affidavit, options were given to the staff either for retaining the Authorised Scale of Rs.350-900 with Spl. Pay of Rs.150/- or Rs.650-1200 without Spl. Pay.

7. That as already stated earlier, adequate opportunities were made available to the Class II officers of RDSO to ventilate their grievances before the III Pay Commission. The very fact

717188

Dy. Director Establishment,
R. D. S. O., Ministry of Railways
Alambagh, LUCKNOW-5

that the RDSO Class II Officers' Association was granted an oral hearing by the IIIrd Pay/Commission's report read with Annexure VII, Vol.IV (copy annexed at SRA-5) wherein the said Association has been specifically listed as one of the Associations which had given oral evidence before the Commission, to allege contrary is entirely misconceived and against record.

/Commission as is evident from para 19, Chapter II, Vol. I of the

8. That the fact that the III Pay Commission had examined the issues raised by RDSO Class II Officers' Association in detail would be evident from paras 21 and 22 of Chapter XXXVI, Vol.II, Part II of the report wherein the Commission had discussed in detail promotion prospects etc. of this categery in RDSO. In the circumstances, it is evident that the III Pay Commission which was fully aware of the pay scales of the Assistant Officers in RDSO, did not consider it necessary to recommend for placement in a higher pay scale or continuation of the special pay to this categery.

9. That the Railway Board, Ministry of Railways, acting with the approval of the President, considered all these issues and decided that the system of special pay to Asstt. Officers Group B in RDSO should be discontinued and in doing so, did not act in any arbitrary or discriminatory manner and any allegations to the contrary are not admitted and

7/7/88

By. Director Establishment,
R. D. S. O., Ministry of Railways
Alambagh, LUCKNOW-5

A/373

are denied.

7/7/88.

Deponent

Dy. Director Establishment,
R. D. S. O., Ministry of Railways
Alambagh, LUCKNOW-5

~~Allahabad~~/Lucknow

Dated: 7. 7. 88

Verification

I, the above-named deponent do hereby verify that the contents of para 1 of this reply ~~xxxxxxxxx~~ are true to my knowledge and the contents of paras 2 to 9 are true to my knowledge based on the available office records. No part of this Affidavit is false and nothing material has been concealed.

7/7/88.

Deponent

Dy. Director Establishment,
R. D. S. O., Ministry of Railways
Alambagh, LUCKNOW-5

Place: Lucknow

Dated: 7-7-88

A. V. Srivastava
Presenting Officer
Indian Railways
Central Administrative Tribunal
Additional Bench at Allahabad

7/7/88

Annexure SRA-1
II pay Commission's recommendations
pages 365-367

CHAPTER XXXII

SPECIAL PAY

4.1 A special pay is an addition, of the nature of pay, to the emoluments of a post or of a Government servant, which is granted in accordance with the provisions of Fundamental Rule 9(25) in consideration of (a) the specially arduous nature of the duties or (b) a specific addition to the work or responsibilities; or (c) the unhealthiness of the locality in which the work is performed. We do not propose to discuss here the additional remuneration granted for service in an unhealthy locality; it has no relation to nature of the duties of ~~xx~~ a post, but serves essentially the purpose of a compensatory allowance.

4.2. There is a widespread belief that whatever the theoretical basis of the system of special pay may be, it is, in practice, largely a system of exercise of official favouritism. From this general belief flow other ~~xxx~~ ideas about special pays; that they serve no public purpose; that they involve avoidable expenditure of public funds; and that they cause much heart-burning among Government servants themselves. Higher the level at which special pay is granted, the more suspect it is; the more disliked. On the other hand, we have also received proposals from employees' organisations for increasing the existing rates of special pay, for ~~xxxxxxxxxx~~ attaching special pays to posts which carry none at present, and for higher basic scales and grade pay plus special pay, where such an arrangement exists.

Dy. Director Establishment,
R. D. S. O., Ministry of Railways
Alambagh, LUCKNOW-5

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4.3. We propose to consider only whether the system of special pay is sound in itself and whether the actual practice generally conforms to the principles governing its grant. It is neither possible for us, nor necessary for this purpose, to go into details of various special pays.

4.4. The total number of posts in different classes, and the number of posts carrying special pay, as intimated by the Ministries concerned, are as follows:-

	No. of posts	No. of posts carrying special pay
Class I	16,391	888
Class II	19,270	721
Class III	5,53,163	12,217
Class IV	6,93,318	730

4.5. An analysis of the available data shows that generally special pays are granted to staff (i) for holding posts in their own grade or class, but carrying additional responsibilities; (ii) on deputation from States to the Centre, from the field duties to the headquarters, or from one Department to another; (iii) when the staff continue to draw their grade pay while holding posts on higher pay scales or posts outside their own line, but carrying higher responsibilities; and (iv) for technical and professional qualifications.

4.6. In the Central Secretariat, officers of and above

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the level of Joint Secretary do not get any special pay; nor do officers of the Central Secretariat Service while employed as Under Secretaries or Deputy Secretaries as they are on scales specifically framed for Deputy and Under Secretary respectively. Indian Administrative Service officers get a special pay of Rs.300 and 200 respectively while holding the posts of Deputy and Under Secretary at the Centre. Officers of Class I Central Services other than the Central Secretariat Service, also get the special pay as Indian Administrative Service Deputy Secretaries and Under Secretaries they exercise the option given to them. Thus, out of 770 officers of and above the rank of Under Secretary in the Central Secretariat, about 180 are in receipt of special pay. Outside the Secretariat hierarchy also, a certain number of appointments at the headquarters, usually held by field officers on deputation for limited tenures, carry special pay. We have not received detailed information regarding the number of such appointments but such information as we have shows that out of 329 Class I and Class II posts in the office of the Railway Board, 68 carry special pay and the corresponding numbers in the Posts & Telegraph Directorate are 112 and 37 respectively. Out of 97 Indian Police/Indian Police Service officers on deputation to the Government of India, 74 are in receipt of special pay. At lower levels, special pays are usually given to Clerks working on machines or Stenotypists, and

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Paftries and Poona operating duplicating machines.

4.7. The central idea of a special pay is that it is the most satisfactory way of compensating such addition to work or responsibilities, or such great arduousness of duties, as is is recognisable enough, to merit additional remuneration but not so considerable, or, in some cases, of such a permanent nature as to justify placing the post in question in a higher grade. In other words, it is, broadly speaking, a flexible system of differentiated remuneration between two grades. In some cases, however, other factors also come in. For instance, in the case of officers of All India Services appointed to posts of Deputy Secretary or Under Secretary, the grant of a special pay is connected partly with the system of special pays in the States (from where the officers are drawn for limited periods). By and large, however, the purpose of a special pay is as stated above. In a considerable proportion of cases in which special pay is now allowed, its withdrawal might necessitate putting the post in question on a higher scale of pay - which may not be less expensive but which may have the effect of putting premium on seniority at the cost of merit or of causing heart-burning among the senior employees. In most States, a Secretary to the Government gets, in addition to his grade pay, a special pay of Rs.250/- but in some States there is a separate scale of pay for posts of Secretary and on the average the latter system works out to be more and not less expensive. Similarly, the fact that

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an Under Secretary or a Deputy Secretary belonging to the Central Secretariat Service would not get special pay as officers drawn from the other services would, has been taken into consideration in fixing the scales of Under Secretary and Deputy Secretary - which means that the scales have been fixed higher and what might have been a special pay has, in effect, become part of the basic pay.

4. 8. However, if a special pay is granted too freely, or the amount of the special pay is large in relation to the scale of pay of the class of employees concerned, the effect may be a distortion of the pay structure - not toning down of its rigidity. The fact that consultation with the Ministry of Finance is necessary before a special pay is sanctioned is a safeguard against possible abuses of the system and we recommend that this safeguard should continue, and not disappear in the process of decentralisation of financial control over establishment matters. Neither the number of posts which carry a special pay, nor the present rates of special pay indicate the system of special pay has been abused. All the same, we would suggest that there should be a periodical review of special pays, and also that whenever it is found that a considerable proportion of employees of a particular grade have to be granted special pay, it should be examined whether a new grade should not be introduced. In some cases we have ourselves recommended that a

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separate scale of pay should replace the existing arrangement of granting a special pay. But on the evidence before us it has not been possible to examine all cases, with a view to determining whether one or the other arrangement would be more satisfactory, and whether the rate of special pay in some cases requires revision.

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Annexure - SRA 2

Third Pay Commission's recommendations A/330

EXTRAC T OF PARAS 30 to 39 of Chapter-8(page 78 of V ol.I)

30. Th-e Fundamental rules define special pay as follows: 'SPECIAL PAY means an addition, of the nature of pay, to the emoluments of a post of of a Government servant granted in consideration of;--

(a) the specially arduous nature of the duties;

or

(b) a pecial addition to the work or responsibility; and includes non-practising allowance granted to doctors in lieu of private practice"

The subject of non-practising allowance admissible to doctors in lieu of private practice has been discussed in another chapter.

31. According to the data funished by the Ministries the number of posts in the Central Government carrying special pays for the different classes of posts is contained in the table below:

Table

	As contained in the second pay commission Report			As on 1.1.1971.		
	Total No.posts	No.of posts carrying Spl.pay	%age of posts carrying spl.pay	Total No.of posts	No.of posts carrying Spl.pay	%age of posts carrying spl pay.
Class-I	10391	888	8.5	34050	1611	4.7
Cl.II	19270	721	3.7	46122	1097	2.4
Cl.III	553163	12217	2.2	1544982	32411	2.1
Cl.IV	693318	730	0.1	1337514	35234	2.6

The above data show that there has been a decline in the proportion of posts in class I and Class II to which special pa have been attached. For Class III the position shows little change, but for Class IV the increase is significant. This is mainly due to the extensive system of special pays employed in the paramilitary forces and in the security forces.

32. The system of special pay is generally accepted as a flexible system of differentiated remuneration between grades and is one of the accepted devices for avoiding cadre fragmentation. The Second pay commission described special pay as" the most satisfactory way of compensating such addition to work or responsibilities, or such greater arduousness of duties as is recognisable enough to merit additional remuneration, but not so considerable, or, in some cases, of such a permanent nature as to justify placing the post in question in a higher grade". According to a study of international

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practive by UN experts, special pay lies in the categoty of those 'additions to pay which are, essentially, recognitions of differences of duties in posts which for reasons of convenience and to avoid excessive fragmentation of cadres, the state has preferred to place in a single group".

33. Some of the all-India Fedarations have a-dvocated that the system o-f special pay s-hould not be conhinued and the posts deserving special pay in terms of the existing critari-a should be pl-aced on higher pay scales. Some Federations have however endo-rsed the presen-t system in respect of posts carrying arduous duties or where the conditions of work are specially difficult or where factor calling for provision of special pay are of a temporary nature. The witnesses have generally beld the system of spcial pay to be satisfactory, but a few have alleged that it leads to dicrimination and favouritism and that it should be granted only on the fulfilment of prescribed criteria and on a rational basis. Most of the official witnesses felt that the system of special pay could not be dispensed with. The heads of those departments which require the service of deputationists in sizable numbers like the intelligence agencies and the various police and security organisations, were keen to retain the system of special pay in order to attract officers of proven ability and integrity from other departments and the State Governments. They also emphasised that filling key posts by officers on deputation had an added advantage in that if the officer did not measure up to the requirements of the job, his services could be replaced at the disposal of his parent Department or State Government.

34. We are of the view that the device of specail pay should be used as sparingly as possible. Thus our approach generally has been to suggest a higher scale of pay for posts which are held on a non-tenure-basis and where the special pay has been granted at present in lieu of a higher scale for the post itself. However, we feel that the device of granting special pay cannot be discarded in the case of posts where persons have to be attracted for a fixed tenure from other cadres and departments. The grant of special pay for compensating genuine and discernible, but not substantial, differences of duties is to be preferred to the fragmentation of cadres, with attendant complication. Once a higher scale of pay as such is sanctioned

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for a post of category of posts in a cadre, and a person is appointed to such a post, it may be difficult to shift him to a posts carrying even a slightly lower scale of pay, as it may be construced as a reduction in rank, attracting the provisions of Article 311 of the Constitution. No such disadvantage attaches to posts carrying special pay which leads to enormous flexibility. This criterion would apply to posts in the Secretariat and at the Headquarters of the departments. In the case of posts at 'headquarters' held on a tenure basis, the officer brought on deputation has to encounter many problems due to the disturbance involved, and some compensation on this account has to be provided also if suitable persons are to be attracted to these posts.

35. We are not recommending any change in the rates of special pay in respect of posts in the Central Secretariat. As regards posts carrying special pay in the headquarters of various departments we find that the existing rates of special pay display marked variations. Demands have been made by the service associations representing the Central Services, Class I that there should be a uniformity in the rate of special pay admissible to the officers of these services while holding posts in the respective headquarters organisations. The total number of posts carrying special pay in all these services are about 550 out of a total cadre strength of more than 5500, representing about 10% of the posts. At present the post of Assistant comptroller and Auditor General and other posts at this level in the office of the Comptroller and Auditor General and those of Joint and Deputy Directors in the Railway Board carry a special pay of Rs.200/- per mensum. The posts of Assistant Director General in the Posts and Telegraphs Board and Assistant Comptroller General of Defence Accounts in the office of the Comptroller General of Defence Accounts carry a special pay of Rs.100/- and Rs.75 per mensem respectively. On the other hand, the officers in the Central Board of Direct taxes and the Central Board of Customs and Excise are given the same amount of special pay as is admissible in the posts of Under Secretary/Deputy Secretary in the Central Secretariat. The posts in the headquarters organisations of the Central Information service do not carry any special pay. We are of the view that the nature of work in the headquarters organisations of these services is broadly comparable to that performed at the levels of Under Secretary and Deputy Secretary in the

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Central secretariat. We accordingly recommend that the posts in the headquarters organisations held by the senior scale officers in these services should carry a special pay of Rs.200 per mensem and those held by the officers in the junior administrative and intermediate administrative grades should carry a special pay of Rs.300/- per mensem.

36. Some of the field posts held by the members of these services in the respective cadres also carry a special pay . While some of these posts are in the offices of Heads of Departments, a few others are those of Deputy Controllers (border/remote areas) in the Defence Accounts Department, Authorised Representatives on income Tax Tribunals,e tc. There is no uniformity in regard to the quantum of special pay in respect of these posts.also. While the posts held by time-scale officers in the Audit and Accounts Service carry special pays ranging between Rs.75/- to Rs.150/- per mensem, those in the Defence Accounts Service Income Tax and Customs and Excise services carry a special pay of Rs.75/- per mensem. in the Postal service it is Rs.75/- to Rs.100/- per mensem. and in the central Information service it is Rs.100/- P.M At the Junior administrative grade level also, while the posts in the Indian Audit a nd Accounts service, Railway Tr-affic and Postal services carry a special pay of Rs.200/- p er mensem. those i-n the Income Tax and Customs and Central excise services have special pays of Rs.150/- per mensem In our view it should be possible to rationalise the present rates of special pay both in regard to the level at which special pay should be admissible as also the quantum of special pay at each of these levels. We accordingly recommend that the field posts to which special pay is attached should if held bya senior scale officer, in these services carry a uniform special pay of Rs.100/- per mensem and those held by the Junior administrative and interme-diate administr-ative grade officers should barry a special pay of R-s.200/- P.M.

37. In the Technical and Scientific departments also, the grant of special pay for posts at headquarters should be adjudged on the basis of the same criteria as applicable to posts in the headquarters of non-technical departments and special pay granted where it is justified on merits. By and large, t he rates of special pay attached to the posts at comparable levels should be uniform in diffe-rent departments.

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38. We have also allowed the system o-f special pay to be continued in the intelligence agencies and police and security organisations in view of the sp-ecial requirements of these organisations but the existing rates have been rationalised to a large extent to reduce disparities. In some cases, we have recommended that special pays be atta-ched to certain categories of p-olice posts in order to ensure uniformity of pay s-cales between t-he variou-s pol-ice organ-isati-ons. Howev-er where any special pay or special allow-ance was found to be gen-erally admissible to a certain category of personnel, e.g armed efficien cy pay in the a rmed police and special allowance in the Central Industrial security Force we have recommended abolition o f this addition to pay and have taken it i nto account in suggesting the revised scales of pay them-selve-s.

39. For class I II and Class IV posts generall y, ou r attempt has bee-n to reduce the prov-ision of spec-ial pay as far as possible consiste-nt with our gen-eral approach although in certain cases like Cashiers, Key-punch Operators Etc the existing arrangements which are more advantageous have been continued Special pays have also been continued in a number of Class IV posts where unskilled workers are employed on certain difficult or unpleasant duties or on specially hazardous jobs.

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ANNEXURE RA-3

Statement showing Sanctioned strength of R.D.S.O. (GAZETTED CADRE)

S.No.	Category	As on 1.1.68	1.1.73	1.9.87	REMARKS
1.	Director General	1	1	1	
2.	Sr.Admn.Officers(Level-I)	6	7	20	
3.	-do-(Level-II)	3	4	1	
4.	Jr.Administrative Officers	20	26	90	
5.	Sr.scale officers	137	169	121	(2) posts are being operated in Class-II &
6.	Jr.Scale Officers	-	2	2	

	GROUP-'B' (Class-II)		
1. Asst.Architect	-	4	-
2. Asst.Design Engineer	31	19	47
3. Asst.Res.Officer	0	2	11
4. Asst.Res.Engineer	0	11	24
5. Asst.Liaison Engineer	2	2	1
6. Asst.Engineer(Constn)	1	1	3
7. Asst.Inspn.Engineer	3	21	23
8. Jr.Sc.Officer(PSY)	-	2	7
9. Asst.Doc.Officer (Class-II)- Total.	-	-	2
	37	62	118
Sr.Scale posts available for Class-II officers	27	34	40

(a) In terms of RDSO(Class-I & II)Recruitment and promotion Rules 1967, the posts of Asst.Director and Deputy Director in Class-I will be filled by promotion of(20% of the posts)Class-II officers and remaining 80% posts by Class-I officers of Zonal Railways.

(b) In terms of Revised Recruitment and Pr[illegible] Rules notified on 22.12.83, the percentage of promotion has been increased from 20% to 33 1/3 for Class-II officers and the remaining 66 2/3 for Class-I officers of Zonal Railways.

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Annx SRA-4

Details of posts upgraded in RDSO

Posts Upgraded	ref. to Rly.Bd.'s letter No. & dt.
A. FROM GROUP 'B' (CLASS II) TO GROUP 'A' (CLASS-I)	
1) SO(E.II) as Asstt Director level DDE.II	No.ERBI 74/41/37 dt. 16.8.74
2) ACOS as DCOS	No.ERBI 74/41/35 dt. 12.8.74 & 2.4.76
3) SO(Hindi) as OSD(Hindi) (for a period upto 28.2.82)	No.ERBI 81/41/15 dt. 27.7.81
4) ARO(C&M) as DD/Chem	No.80E(GC)12-7 (C&M) dt. 10.4.81
5) ARO(Met./EDDT) as DD/Met.	No. -do-
6) Asstt.Arch as DD/Arch	No.80E(GC)12-3 dt. 13.3.81
7) Asstt.Arch. as DD/Arch	-do-
8) Asstt.Arch. as DD/Arch	-do-

B. POSTS UPGRADED FROM GROUP 'C' (CLASS-III) TO GROUP 'B' (CL.-II)

Bd.'s letter No. & Dt.	Distribution of posts in RDSO								
	CE	ME	EE	'S&T'	ARCH	M&C	TR	Doc.	ACC
a) No.PC.III75/PS-2/ UPG.I dt. 25.7.78 - 10 posts	2	1	1	2	1	1 + 1√		√1(ACOS)	
√ Floating posts									
b) No.PC.III/80/PS/UPG/ 1 dt. 30.1.1981	5ω	4	3	4	1ω	-	1	1	1
- 20 posts.	7	5	4	6	2	1 +1√	1	1 +1√	1

√Floating Cadre posts (Total= 2)

ωOut of 6 posts allotted to Civil Engg. Deptt. 1 post has been given to Arch.Dte. purely as a temporary measure.

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Annexure - SRA-5

EXTRACT OF PARA 19 of CHAPTER 2(Vol.I)Page-9.

19. The discussions with unions, Associations a-nd federations of Central Government Employee-s continued till the end of December, 1971. In all, we ~~find~~ had discussions with more than 400 unions/associations /federations of Government employees and most of the All India labour unions. Discussions with some of the unions representing employees of the Union Territory of Goa were held during our visit there and with those of Pondicherry and Andaman and Nicobar Islands at Delhi during May, 1972. A complete list of the unions, associations, etc., which tendered oral evidence before us is given in Annex-VII.

MINISTRY OF RAILWAYS

(P.T.O)

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R. D. S. O. Class II Officers' Association.

All India Railwaymen's Federation,
New Delhi.

National Federation of Indian Railwaymen,
New Delhi.

Indian Railway Loco Mechanical Staff Association,
Delhi.

South Eastern Railway Travelling Inspectors of
Accounts Association,
Calcutta.

All India Railway Junior Supervisors' Association,
Howrah.

MINISTRY OF SHIPPING AND TRANSPORT

All India Central Government Lighthouses and
Lightships Staff Federation,
Quilon (Kerala).

All India Lighthouse Workshop Staff Association,
Calcutta.

The Government Pre-Sea-going Training Ship Employees
Association,
Calcutta.

Lighthouse Engineers' Association,
Calcutta.

Merchant Navy Training Officers' Association,
Bombay.

The Academic Staff Association,
Training Ship 'Dufferin',
Bombay.

Government of India Marine Surveyors' Association,
Bombay.

The Central Services (Roads) Class I Direct Recruits
Association,
New Delhi.

Shri N. S. Ramaswami,
Chief Engineer (Bridges), Road Wing,
New Delhi.

Class I Officers (Direct Recruits) Association,
Roads Wing,
New Delhi.

MINISTRY OF STEEL AND MINES

Geological Survey of India Employees Association,
Hyderabad.

Indian Bureau of Mines Scientific Officers' Association,
Nagpur.

Technical Officers' Association,
Geological Survey of India,
Calcutta.

Geological Survey of India Scientific Officers' Association,
Hyderabad.

Association of Geophysicists,
Geological Survey of India and
Airborne Mineral Survey and Exploration,
New Delhi.

MINISTRY OF TOURISM & CIVIL AVIATION

India Meteorological Department (Non-Gazetted)
Staff Union,
New Delhi.

Air Traffic Controllers' Guild,
Calcutta.

Air Traffic Controllers' Guild,
Madras.

India Meteorological Department Gazetted Officers'
Association,
New Delhi.

Civil Aviation Department Communicators Guild,
New Delhi.

Civil Aviation Department Gazetted Officers' Association,
New Delhi.

India Meteorological Workshops' Union,
New Delhi.

Association of Tourist Officers of the
Government of India,
New Delhi.

Avionic Engineers' Guild,
New Delhi.

Civil Aviation Department Employees Union.
New Delhi.

MINISTRY OF WORKS AND HOUSING

Government of India Press Clerks' Union.

Clerks' Association,
Government of India Press,
Simla.

C.P.W.D. (Subordinate) Stenographers' Association,
New Delhi.

Architectural Draftsmen Association,
C. P. W. D.,
New Delhi.

Drawing Staff Association,
Town and Country Planning Organisation,
New Delhi.

Engineering Drawing Staff Association,
C. P. W. D.,
New Delhi.

C. P. W. D. Non-Gazetted Office Staff Association,
Northern Zone,
New Delhi.

Non-Technical Class I and II Officers' Association
(Subordinate Offices), Government of India
Printing and Stationery Department,
Calcutta.

Town and Country Planners' Association,
New Delhi.

All India Official Architects Association,
New Delhi.

C. P. W. D. Architects Association,
New Delhi.

Central Engineering Service/Central Electrical Engineering
Service Class II Direct Recruits' Association,
C. P. W. D.,
New Delhi.

National Federation of India
Printing and Stationery Department Employees,
New Delhi.

Rajkiya Press Mazdoor Sangh,
Government of India Press,
Aligarh.

National Federation of India Press Workers,
New Delhi.

Government of India Press Workers' Union,
Coimbatore.

Central Engineering Services Class I
Direct Recruits Association,
C. P. W. D.,
New Delhi.

C.P.W.D. Engineers Association,
New Delhi.

DEPARTMENT OF ATOMIC ENERGY

Non-Gazetted Staff Association,
Bhabha Atomic Research Station,
Bombay.

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By. Director Establishment,
R. D. S. O., Ministry of
Alambagh, L

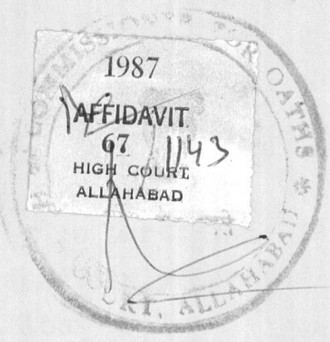
17/7/81

2 Rs. COURT FEE २ रु. भारत INDIA दो रुपये TWO RUPEES

1987 AFFIDAVIT 67 1143 HIGH COURT ALLAHABAD

COMMISSIONER FOR OATHS HIGH COURT, ALLAHABAD





IN THE CENTRAL ADMINSTRATIVE TRIBUNAL, ALLAHABAD BENCH.

..*.*.*.

REJOINDER AFFIDAVIT
IN
T.Case No.264 of 1987
IN
Civil Misc.Writ No.1881 of 1975(T)
(Connected with T.CASE No. 266 OF 1987
Writ No. 1078 of 1977)(T)

R.C.Kathuria and others ---------- Applicants

Versus

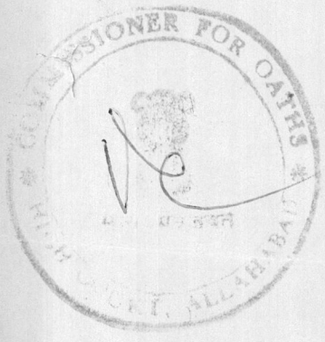
Railway Board and others ---------- Respondents.

Rerd Copy
Av Sonal
15/12/87

Affidavit of S.S.Rajawat a/a
48 years son of Late Mr.M.S.Rajawat,
r/o IV Spl.37 Manak Nagar, Lucknow 226017

deponent.

COMMISSIONER FOR OATHS HIGH COURT, ALLAHABAD



I, S.S.Rajawat, deponent abovenamed do solemnly affirm and state on oath as follows:-

1. That the deponent is President of the RDSO Class II Officers Association-applicant for impleadment and is acquainted with the facts deposed to below.

2. That the deponent has read the so called reply under the signature of Sri S.S.Bhatia dated 12.10.1987 on behalf of the respondents to the Association's impleadment application and has understood its contents.

3. That reply is not an affidavit ~~sowrn~~ sworn or otherwise solemnly affirmed and therefore, may be ignored.

4. That paras 1 and 2 of the aforesaid reply need no reply.

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5. That in reply to para 3, it is submitted that Annexure A-2 to the said reply are the current rules and bye-laws of the Association.

6. That para 4 is not admitted. The object 2.2 of the said bye laws authorises the Association " to protect the rights, privileges and prospects of the members by Constitution alone thods" seeking redress of fundamental rights is in harrent within the aforesaid object. Besides true copies of the Association's letter dated September 24, 1965 to the Railway Board and its reply dated 21.7.1966 by the RDSO to the President of the applicant's association are filed herewith as Annexures RA-1 and RA-2 to this affidavit. which are themselves explainatary.

RLD Misra
Advocate
OATH COMMISSIONER
67/1143
Date
29.11.1987
Hon'ble

7. That in a connected matter as already stated in para 15 of the affidavit dated 4.11.1986 accompanying the impleadment application the applicant's association were permitted to intervene by the Supreme Court in Civil Appeal No. 50 of 1981.

8. That para 6 is denied. The applicant-association is legally entitled to plead the case and in any event by virtue of aforesaid precedent the applicant is entitled to intervene and to be impleaded in the above noted cases.

COMMISSIONER FOR OATHS HIGH COURT ALLAHABAD

I, S.S. Rajawat, deponent abovenamed do solemnly affirm and state on oath that the contents of paras nos. to 8 of this affidavit are true to my personal knowledge and no part of it is false and nothing material has been concealed.

So help me God.

L.T.I. of S.S. Rajawat

.....

I, Arjun Singh, clerk to Dr. Gyan Prakash, Advocate High Court, Allahabad, declre that the person making this affidavit and alleging himself to be Sri S.S. Rajawat has satisfied me from the papers in his possession that the same person.

Solemnly affirmed before me this 29th day of November 1987 at 12.30 PM by the deponent identified by the aforesaid clerk.

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

OATH COMMISSIONER

Annexure R.A.I

R.D.S.O. CLASS II OFFICERS ASSOCIATION.

Alambagh,
Lucknow-5
September 24, 196[illegible]

No. 1.

To

The Secretary,
Railway Board,
Rail Bhavan,
New Delhi.

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

Sir,

Sub:- R.D.S.O. Class II Officers Association - Recognition of.

...

It is brought to your kind notice that an Association of Class II Officers borne on the cadre of Research, Designs & Standards Organisation has been formed on 2nd September 1965 under the name of 'R.D.S.O. Class II Offficers Association' with the following objects:-

1. To promote the general welfare of its members.
2. To protect the rights, privileges and prospects of its members by constitutional methods.
3. To foster the spirit of unity and comradeship among its members.
4. To exchange ideas on matters of common interest.

This Association has been formed on the same lines as existing on different Zonal Railways. With the growth of R.D.S.O., the strength of Class II Officers has increased and the present strength is about fifty (50). This cadre is also likely to increase in strength in the near future due to expansion in the activities of R.D.S.O., Class II Officers borne in the cadre of R.D.S.O. is quite sizable and it is evident that these officers are entrusted with high degree of responsibility in the execution of day to day work of R.D.S.O. The members of the Association have pledged to give their whole hearted

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support for the efficient functioning of R.D.S.O. and the country as a whole.

Five copies of the Bye-laws as passed by the members assembled during the meeting held on 2nd September 1965 are enclosed for information.

It is requested that the recognition for the above named Association may please be granted and communication sent to the undersigned at an early date so that the Association can function on a prope recognised basis.

Yours faithfully,

G Chakrapani

(G. Chakrapani)

PRESIDENT.

Encl. Five.

RFD MISC

67/1143

29.11.19

Annexure R.A.2

भारत सरकार
रेल मंत्रालय

अनुसंधान अभिकल्प और मानक संगठन

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS

Research, Designs & Standards Organisation

तार का पता :—"शोधमानक"

Telegraphic Address :—"RAILSTAND"

लखनऊ-5, तिथि _____ 19

LUCKNOW-5, Dated _____ 19

21 JUL 1966

No. A/ASSCN/OC-II

The President,
Class II Officers Association,
Alambagh, Lucknow.

Sub:- R.D.S.O. Class II Officers Association.

Ref:- Your application No. 1 of 24.9.65.

The Railway Board in their letter No.E65RB3/96/RBI dated 7.7.66 have approved of the recognition to the RDSO Class II Officers Association subject to the following conditions:-

i) All matters concerning the service which the Association represents should be submitted through the Director General , RDSO, who will also receive deputation, if any, of the Association.

ii) The Government of India will, when they consider it desirable, consult the Association in any matter particular matter concerning the welfare of the service which the association represents. NO gurantee can, however, be given that the Association will be consulted on any particular matter and the fact that the Government of India have acccorded recognition to the Association does not mean that the Association has been granted the status of an advisory body or that it will have the right to be consulted on all service matters.

iii) The instruction regarding the recognition by the Central Government of service Associations of gazetted Officers contained in Chapter XXXVI of the Indian Railway Establishment Manual will apply tothe Association.

iv) The Railway Board should be suplied regularly through the Director General, RDSO with

P.t.o.

copies ~~of~~ rule of the Association and amendments thereto and the annual statements of its accounts when published as also an annual list of its members.

v) Any change in the official address of the Association should be intimated to the Railway Board through the Director General , RDSO

DA/nil

20.7.66

(A.D. GHOSHAL)
for Director General

Fixed 26-3-98

Central Administrative Tribunal
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Date of Filing 4-2-98
Date of Receipt by Post

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH,LUCKNOW

Dy. Registrar

M.P.No. 231 OF 1998

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UNION OF INDIA AND OTHERS .....APPLICANTS/
RESPONDENTS

In:

T.A.No.264 OF 1987

R.C.KATHOORIA AND OTHERS .....APPLICANTS

VERSUS

UNION OF INDIA AND OTHERS .....RESPONDENTS

Fixed 26.03.1998

APPLICATION FOR CONDONATION OF DELAY
IN SUPPLEMENTARY COUNTER REPLY

This application on behalf of applicants/respondents most respectfully showeth as under :-

1. That due to reasons beyond control of the respondents, the supplementary counter reply, as directed by this Hon'ble Tribunal vide order dated 22.10.1997, could not be filed within the time prescribed

2. That the delay in filing supplementary counter reply was unintentional, and was only due to the reason that the learned counsel for the respondents had met a major accident and was confined to bed for almost three months.

WHEREFORE, it is most respectfully prayed that in the interest of justice, this Hon'ble Tribunal may kindly be pleased to condone the delay in filing supplementary counter reply and the same which accompanies this application may be taken on record.

Sverma

(SIDDHARTH VERMA)
ADVOCATE,
COUNSEL FOR RESPONDENTS.

Lucknow, Dated :
Jamuary ,1998.

Central Administrative Tribunal
Lucknow Bench
Date of Filing
Date of Receipt by Post
Dy. Registrar

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH,LUCKNOW

T.A.No.264 OF 1987

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R.C.KATHOORIA AND OTHER .....APPLICANTS

VERSUS

UNION OF INDIA AND OTHERS .....RESPONDENTS

SUPPLEMENTARY COUNTER REPLY
ON BEHALF OF RESPONDENTS

I, **SANJEEV JAISWAL**, presently posted as Deputy Director, Establishment-I, Research Designs & Standards Organisation [Government of India - Ministry of Railways], Manak Nagar, Lucknow - 226011, most solemnly state as under :-

1. That the undersigned is presently posted as Deputy Director, Establishment-I, Research Designs & Standards Organisation [Government of India - Ministry of Railways], Manak Nagar, Lucknow - 226011, and is competent and duly authorised to file Supplementary Counter Reply on their behalf. The undersigned is well conversant with the facts stated hereunder.

2. That on 22.10.1997, this Hon'ble Tribunal was pleased to direct the respondents to file a Supplementary Counter Reply, answering the querries raised by this Hon'ble Tribunal alongwith the latest developements in respect of replacement of "Special Pay Scheme" with that of "Tenure Allowance Scheme".

3. That this Hon'ble Tribunal had made one specific query as to what posts were being held by the applicants No.3, 4, 8, 20, 25, 31, 33, 37 and 47, if not Class II. In reply thereto, a chart showing the dates of promotion of these

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applicants from Group 'C' to Group 'B' posts on adhoc as well as on regular basis, are being given in ANNEXURE No.SR-1 to this Supplementary Counter Reply. The annexed chart will show that at the time of stoppage of "Special Pay" with effect from 01.09.1969, which was earlier admissible to the Group 'B' posts under the pay scales recommended by the Second Pay Commission, none but one of the applicants No.3, 4, 8, 20, 25, 31, 33, 37 and 47 was ever paid any "Special Pay" as all of them except one were given promotion from Group 'C' to Group 'B' posts, either on adhoc or regular basis after the relevant date, i.e., 01.09.1969

4. That "Special Pay" at the rate of Rs.150.00 per month was being paid to Class II/ Group 'B' Officers in the Research Designs & Standards Organisation [Government of India - Ministry of Railways], Lucknow (hereinafter referred as R.D.S.O.), upto 31.08.1969. Thereafter, vide Schedule appended to the Railway Board's letter No.PC-67/SP-1 dated 17.09.1969, this "Special Pay" was stopped with effect from 01.09.1969.

5. That the affected Class II/Group 'B' Officers of the R.D.S.O. had approached the Hon'ble High Court and later, Hon'ble Supreme Court, and the Hon'ble Courts had ordered restoration of their "Special Pay". The said judgements were implemented through the Railway Board's letter No.E(P&A)1-73/SP-1/RDSO-3 dated 16.12.1974.

6. That the Railway Board, vide their letter No.PCIII/73/PSI/2 dated 28.07.1975 sent a revised Schedule vide which, posts earlier designated as "Sectional Officers", now redesignated as ADE/ARE/AIE/ALE, notwithstanding sources of their posting, i.e., either by promotion from Group 'C' to Group 'B' from amongst the eligible R.D.S.O. staff or brought from other organised Group 'B' Railway Services from Zonal Railways/Establishments/Production Units, were not to be paid any "Special Pay" in the revised pay scales consequent to the revision of pay scales based on the implementation of the Third Central Pay Commission. However, the concerned staff was given an option either to remain in the pre Third Central Pay Commission pay scales plus "Special Pay" of Rs.150.00 per month, or to opt for the revised pay scales (also referred as RS) recommeded by the Third Central Pay Commission (abbreviated as III-CPC) without any "Special Pay" with full protection of their total emoluments which were being received by them in the pre-revised pay scales, with a provision that if no option to remain in the pre-revised scales is specifically exercised by the staff concerned, their pay would be fixed in the revised pay scales based on the recommendations of the Third Pay Commission.

7. That as none of the concerned Class II/Group 'B' officers exercised their options to remain in pre-revised pay scales alongwith the "Special Pay"; their

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were fixed in the revised pay scales based on the recommendations of the Third Pay Commission.

8. That it is pertinent to mention that the recommendations of the Second Central Pay Commission and the Third Central Pay Commission in respect of the "Special Pay" have already been annexed as SRA-1 and SRA-2 to the Supplementary Reply on behalf of the Respondents dated 07.07.1988, which was signed and verified by Shri S.Bhatia, the then Deputy Director, Establishment-I, Research Designs & Standards Organisation [Government of India - Ministry of Railways], Lucknow, and is available on the record of this Hon'ble Tribunal. It is also to be mentioned that the Third Central Pay Commission had recommended that all "Special Pays" should be reviewed periodically. Accordingly, the Ministry of Railways, after notofication of the Revised Scales, 1973, reviewed the position and came to the conclusion that no "Special Pay" is justified for the category of Assistant Officers, Class II in the R.D.S.O. whether they are borne on the cadre of R.D.S.O. or brought on deputation from the organised Class II (Group 'B') Railway Services from the Zonal Railways/ Establishments/Production Units.

9. That at the time of formation of the R.D.S.O., in view of the non-availability of suitable and competent personnel, it was found necessary to provide additional incentives to attract candidates from open market as well as from the Zonal Railways/Establishments/Production Units to come to the R.D.S.O., which justified "Special Pay" at the relevant time. However, as at the begining of 1969-70, the position had already stabilized and a proper cadre had been formed for Group 'C' staff of Design Assistants and Research Assistants as well as scientific staff of R.D.S.O., it was considered that such incentives which had been initially extended purely on an ad hoc measure was no longer justified and deserved to be withdrawn. In this regard, the respondents crave leave of this Hon'ble Tribunal to refer the relevant paragraphs of the Suppementary Counter Reply dated 07.07.1988 and the annexures appended thereto.

10. That as it had already been stated, since the "Special Pay" which was earlier admissible to the Class II/Group 'B' officers of the R.D.S.O., had been stopped with effect from 01.09.1969 for all categories, i.e., the promotee officers from the eligible Class III/Group 'C' staff as well as the officers brought from the organised Group 'B' Railway Services from the Zonal Railways/ Establishments/Production Units; and even under the revised pay scales implemented on the basis of recommendations of the Third Central Pay Commission there is no provision for "Special Pay" for these two categories, it can not be said that any discrimination is meted out to officers promoted to Class II/Group 'B' officers vis-a-vis the officers brought from the outside. In this context, the judgement of the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow in Writ Petition No.484 of 1976: G.Chakrapani &

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others Vs. Union of India & others and that of the Hon'ble Supreme Court in Civil Appeal No.50 of 1981: Union of India & others Vs. G.Chakrapani & others, which have been heavily relied upon by the applicants/petitioners in the present case, are distinguishable on facts, as Writ Petition No.484 of 1976 (supra) was filed by the promotee officers belonging to Class I/Group 'A' officers of the R.D.S.O. where the officers brought from the organised Railway Services from the Zonal Railways/Establishments/Production Units were made entitled for "Special Pay" (even under the revised pay scales recommended by the respective Central Pay Commissions) whereas, the petitioners were not allowed any "Special Pay" while the posts were interchangeable and there was no distinction so far as nature of duties and responsibilities attached with the posts which were under reference in those cases.

11. That in terms of the Railway Board's letter No.PC-III/76/MS/Misc/ Court Case.(RDSO) dated 23.10.1989 [which was based on Department of Personnel & Training O.M.No.4/7/87-Estt.(Pay-II) dated 01.03.1989], the then existing scheme of "Special Pay" was discontinued and instead, a new scheme of "Tenure Allowance" has been introduced in respect of Joint Directors on the following terms and conditions -

I The officers of Organised Group 'A' Railway Services posted in RDSO as Joint Directors will be subject to a prescribed tenure on the expiry of which, they will be reverted to field posts like in Zonal Railways/Production Units/Construction Units/Construction Organisations.

ii During the tenure, they will be paid "Tenure Allowance" at the rate of 15% of their grade pay subject to a ceiling of Rs.500/- per month for Joint Directors whether in Junior Administrative Grade or Selection Grade.

iii Their grade pay plus the above "Tenure Allowance" will be further subject to a ceiling of Rs.5850/-

iv The "Tenure Allowance" will not be paid beyond the normal tenure of four years for Joint Directors in Junior Administrative Grade and five years for Joint Directors in Selection Grade except in the cases where an extension of tenure has been ordered in the interest of Administration; and

v No allowance will be admissible to Officers of these services posted in S.A.G. and above grades in the Research Designs & Standards Organisation.

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12. That as regards Deputy Directors, the scheme of "Tenure Allowance", replacing the scheme of "Special Pay" was introduced with effect from 26.07.1995 in terms of the Railway Board's letter No.PC-IV/94/12/1 dated 26.07.1995, only after the case pending before the Hon'ble Supreme Court, i.e., Civil Appeal No.50 of 1981: Union of India & others Vs. G.Chakrapani & others, was finally decided. The terms and conditions governing scheme of "Tenure Allowance" to the Deputy Directors in the R.D.S.O. are as under -

1(I) Officers of the Organised Group 'A' Railway services posted in RDSO as Deputy Directors will be subjected to prescribed tenure, on the expiry of which, they will be reverted to field posts on the Zonal Railways/Production Units/Construction Organisations.

ii. During the tenure, they will be paid "Tenure Allowance" of Rs.400/- per month.

iii. Their grade pay plus "Tenure Allowance" will be subject to a ceiling of Rs.4500/-. If the grade pay plus "Tenure Allowance" of an officer posted as Deputy Director exceeds Rs.4500/-, it will be limited to the prescribed ceiling as above by suitably adjusting the "Tenure Allowance".

iv. The allowance will not be paid beyond the normal tenure of 3 years for Deputy Directors.

2. Group 'B' Officers of Zonal Railways, officiating in Senior Scale on ad hoc basis, when posted to RDSO in Senior Scale may be given a Deputation Allowance of Rs.300/- per month subject to a ceiling of Rs.4500/- (Grade Pay + Deputation Allowance). On absorption to Group 'A', they may be given the "Tenure Allowance" of Rs.400/- p.m. subject to the other conditions enumerated above.

13. That from the submissions made thereinabove, it is evident that the case of the applicants, who are promotee Group 'B' officers of the R.D.S.O., is quite different from that of the petitioners in the case of Writ Petition No.484 of 1976 and the consequent Civil Appeal No.51 of 1981, where the "Special Pay" was admissible to the officers brought to Group 'A' posts from the Organised Group 'A' Railway Services from the Zonal Railways/Production Units/Construction Organisation whereas, there was no provisions of "Special Pay" to the promotee Group 'A' officers of the R.D.S.O. In the present case, notwithstanding the source from which an officer is posted to a Group 'B' post, no special pay was

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admissible to all categories. Moreover, the scheme of "Special Pay" has ceased to exist, and is replaced by a scheme of "Tenure Allowance".

14. That in view of the submissions made hereinabove, and the counter reply, supplementary counter reply already on record, the undersigned is advised to state that the present application is devoid of merit and is liable to be dismissed with costs.

(SANJEEV JAISWAL)
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रेल मंत्रालय, लखनऊ – 226011

Lucknow, Dated :
~~January~~ Feb 3rd ,1998.

VERIFICATION

I, **SANJEEV JAISWAL**, presently posted as Deputy Director, Establishment-I, Research Designs & Standards Organisation [Government of India - Ministry of Railways], Manak Nagar, Lucknow - 226011, do hereby verify that the contents of paragraph 1 of this supplementary counter reply are true to my personal knowledge and those of paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 are based on record and the same are believed to be true. The contents of paragraph 14 are based on legal advice and the same are believed to be true.

(SANJEEV JAISWAL)
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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH,LUCKNOW

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VERSUS

UNION OF INDIA AND OTHERS .....RESPONDENTS

ANNEXURE No.SR-1

The dates of promotion of applicants at Serial No.3, 4, 8, 20, 25, 31, 33, 37 and 47 of the above mentioned case, to Group 'B' posts, as could be verified from the classified list, are given as under :-

S.No.	Name Sarva Shri	Designation	Promotion date as adhoc	Promotion date as regular
1.	S.L.Bhatia	CRA/Civil	16.02.1970	30.03.1979
2.	B.K.Jain	CRA/Civil	-	29.07.1967
3.	S.R.D.Kapoor	CDA/S & T	07.05.1973	30.03.1979
4.	A.B.Chatterji	CRA/Mech.	27.10.1970	14.11.1972
5.	N.K.Oza	CRA/Civil	-	05.05.1979
6.	V.K.Jaiswal	CRA/Instt.	19.09.1969	30.03.1979
7.	Amrit Lal	CRA/Civil	-	14.01.1972
8.	M.R.G.Nair	CDA/Mech.	21.02.1973	30.03.1979
9.	K.N.Thirun-eelakantan	CRA/Mech.	-	30.12.1972

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रेल मंत्रालय, लखनऊ - 226011

The above mentioned case was last listed for "Being spoken to" on 29.01.1997, when the Tribunal adjourned it for 25.02.1997 in order to enable the respondents to give replies to the specific questions mentioned above. A/407

You are, therefore, requested to send your replies to the questions mentioned above well before next date of hearing, i.e., 25.02.1997, so that a brief note may be prepared and submitted in Tribunal in addition to oral arguments.

This is for your information and necessary action.

Sd/-

(SIDDHARTH VERMA)
RAILWAY ADVOCATE.

#9608240080.

Before the Central Administrative Tribunal at

Lucknow.

T.A. No. 264 of 1987.

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AFFIDAVIT
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DISTT. COURT
U. P.

R.C. Kathuria & others .... Applicants

Versus

Union of India & others .... Opp.Parties.

Reply to Supplementary Counter-Affidavit.

I, S.B. Mathur, aged about 73 years, son of Shri Nawal Behari Mathur, resident of 29, Amir Nagar, Lucknow, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is one of the applicants and he is fully conversant with thefacts of the Case. He has gone through the contents of the Affidavit filed by Sri Sanjeev Jaiswal and Sri S.B. Mathur has understood them well .

2. That the contents of para-1 of Sri Sanjeev Jaiswal affidavit need no reply except notice of the facts that the matter in question is of the period when Sri Jaiswal was not in the Establishment Section of R.D.S.O.,Lucknow.

3. That the contents of para-2 is a matter of record, which need no reply.

4. That the contents of para-3 are denied. The respondents' reply has no relevance to the question asked by the Hon'ble Tribunal. The question is about class-status of the applicants. It is reiterated that the ten of the applicants and the rest of the petitioners were class II officers in August 1975 when the petition was submitted. No claim was made that the petitioners were Class II officers on 1.9.1969.

5. That the contents of para-4 need no reply.

6. That the contents of para-5 are denied. The Court's orders were flouted in letter and sprit as shown below:

In compliance of para-1 of Letter No. E(P &A 1-73/SP-1/RDSO-3, dated 16.12.1974, the payment of the Special Pay was commenced but as a mere show of compliance of Court's order; payment stopped after September, 1975 and the total amount paid upto 1975 was withheld from death-cum-retirement gratuity (DCRG) on attaining the age of superanuation An amount varying upto Rs.5000.00 in individual cases of the 49 applicants in this case was withheld for which no details were provided. The money is withheld for last 24-1/2 years, although the applicants were agreeable to furnish a Bank Guarantee to the satis--faction of the Railway Administration till the case was decided by the Court. Another plea taken by the Railway Administration was that the matter was subjudice (this writ petition filed in August 1975).

Para-3 of the letter states "The claim of the petitioners' for arrears of Special Pay commencing from 1.9.1969, the matter is under active consideration of the Board and a further communication will follow". In fact, the same reply was given to Advocate Sri B.C.Saxena who pleaded the case for his clients in writ petition 973 of 1968, Railway Board's reply dt. 24.7.1973 is at Annexure-6 of this writ petition, hence this petition. Till August 1975 no communication was received.

7. In reply to the contents of para-6 to the effect that ADE/ARE/AIE/ALE" were not to be paid any 'Special Pay' in the revised Pay-Scale is wrong and is denied.

That the Railway Board's letter No. PC/III/73/PS1/2 dated 28.7.1975 was issued after a "specific review taking into account all relevant factors" and that the specific review was necessitated as per Board's own interpretation of the report of III Pay Commission These clarification were brought out in paragraphs 21 and 22 of the counter-affidavit dated 24th March, 1976 filed by Sri R.P. Jetly in reply to paras 21 and 22 of the petition. The letter giving out Railway Board's interpretationof the report of the Commission regarding "Special Pay" as made out by the Railway Board and the decision to conduct a "final review" to seek answers of certain doubts about the recommendations, were communicated vide letter No.PC/III/74/SP/1 dated 17.1.1974. The existence of the letter dt.17.1.

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1974 which is annexure-9 to the writ petition is concealed in Sri Jaiswal's narration of events preceding the issue of Railway Board's letter dated 28.7.1975., the validity of which was under challenge.

That the procedure and convention regarding finding answers of anomalies in the Central Pay Commission's report had been and still practised is to discuss with the representatives of staff association/Unions and thrash out the points where the views of the employer and employees differ. In the case of RDSO Officers' Association, however, Railway Board departed from the convention and adopted a different procedure. No 'review' of any type was necessary and the matter should have been placed before the anomaly committee or revealed in sub para-3 of para-1 of letter dated 17.1.1974, so as to start a chain of litigation and shelve the payment for undefinite number of years. RDSO Class-II Officer's Association would have interacted and given their interpretation of the Commissions and Recommendation. Departure from the established practise smacks of sinister design in the wake of Supreme Court's affirmation dated 4.2.1974 of Lucknow Bench of Allahabad High Court's Judgement dated 2.11.1972 by which Special Pay Rs.150/- per month was allowed but the judgment was not implemented as stated in reply to para-5. Had the procedure and convention of placing the matter before the anomaly committee been followed, the following reasoning on behalf of RDSO ClassII

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Officers would have answered all doubts raised in Railway Board's letter No.PC-III/74/SP/1 dated 17.1.1974 (Annexure 9 of the writ petition), in the following manner:-

Para-1 Subpara-3 — No recommendation is made:

Q. Why recommendation made for others for comparable posts in the same Organisa-tion/Cadre or elesewhere and not for RDSO Class-II Officers.

A. i) The case regarding special pay was sub-judice since 15.10.1969 and closed on 4.2.1974. The verdict of the Supreme Court was in favour of Special Pay Rs.150/- p.m. for Class II Officers. The Commission could not have fore seen this verdict and the Commission was wound-up in December 1973 i.e. before 4.2.1974. Further more Commissi-on could not have made any recommenda-tion during its tenure as it may have caused contempt of court.

The Central III Pay Commission clearly enunciated the principle to determine the new higher pay scale in lieu of Special Pay as laid down in para-34 of Chapter VIII, Vol. I of the report which is annexure-16 of the writ petition. This was also within the comprehension of the respondents and in quoted in para 21 of counter-affidavit dated 24th March 1976 to deny special pay to the applicant.

The conditions laid down for eligibility for a new higher pay scale are: 1 The posts

should be held on a non-tenure basis. This condition is strictly met by the applicants as they hold no lien on zonal railways/production units/establishments.

ii) "The Special Pay has been granted at Present"

This condition is statisfied as the special pay Rs.150/- p.m. had been granted by virtue of Supreme Court's affirmation dated 4.2.1974.

The applicants were fully entitled to a new higher pay scale or in the ~~natur~~alternative to continuation of special pay w.e.f. 1.1.1973 by virtue of clause 34, as all conditions for Special Pay too were met with.

That a 'review' should have preceded a 'final review' and specific review' is a foregone conclusion. All the reviews were carried out uni-laterally, although the issue was bilateral as it pertained to the emoluments of RDSO Class II Officers.

As per Administrative Law, rules of natural justice should have been followed in conducting all reviews which were in the nature of probes. The order issued under Railway Boards' letter No.PC/III/74/SP/1 dated 28.7.1975 convening 'no special is admissible in the revised scale of pay to the officers (meaning thereby ADE/ARE/AIE/ALE) was void ab initio, hence ultra vires for the following reasons:-

a) The applicants or RDSO Class-II Officers Association was not given the names of the contact person/secretary of the review panel or committee, venue, date and time for review/final review.

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b) The material for consideration and evidence relied upon for review including the arguments called in the affidavit dated 7.7.1998 against granting special pay, were not given, to the Association to enable the Association to prepare defence.

Thus no opportunity was given for being heard at predecisional stage.

c) The order dated 28.7.1975 was not speaking order:

d) As a result of the order dated 28.7.1975, the special pay Rs.150/- pm. was also stopped w.e.f. 1.1.1973 till retirement.

e) Before implementation of the order for stopping the special pay w.e.f. 1.1.1973 no show cause notice was given.

Thus there was no post decisional hearing too The decision not to pay involved civil consequences of grave nature in the following manner:-

- loss of Rs.150/- p.m. w.e.f. 1.1.1973 till retirement which was 9-1/2 years in the case of this senior deponent.
- Deduction of Rs.5000/- nearly from Death-cum-retirement Gratuity (DCRG) and still withheld by the respondents inspite of efforts to get the amount released. The details are given in reply to para-5 of the Sri Sanjeev Agarwal's affidavit.
- The most devastating effect of non-compliance of rules of natural justice and non-compliance of High Court's Judgment was that the appli

-cants were fprced into litigation with the Railway Administration to secure their rights that not only continued in service period but penetrated deep into the post-retirement life too of a surviving few already affiicted with heart disease, diabetes etc. and therefore unable to pursue the court case. The applicants on retirement mostly belonging to other States and have settled in their home-town, hence the difficulty in keeping report with their advocate in Lucknow.

As for the cumulative effice of Rs.5000/- withheld by the Railway Administration, there could be no accrual of the monthly interest or comulative interest on deposits, When the money is needed most for the up-keep of a frail body and the need for financial security is utmost, it was denied by an act of the Administration. Although the courts have done a-lot to upheld the rights of senior citizens as enshrined in Article 41 of the Indian Constitution and Article 25. i) of U.D.H.R. Wilful disobedience of Administrative Law that rules of natural justice must be followed, mak makes a mockery of the Constitutional provisio

8. In reply to para-7, the concerned class-II Officers in this writ petition exercised option in favour of revised pay scale Rs.650/- -1200/- plus Rs.150/ P.M. as per Railway Board's order communicated vide

letter No.E (P & A)-1-73/SP-1/RDSO-3 dated 16.12.74 (Annexure 10 of the writ petition) This is already stated in reply to para-5 of the affidavit . It is absured on the part of the defendantsto refer to the old pay scale in this context.

9. That the contents of para-8 are denied. That the III Central Pay Commission had recommended that " all 'Special Pays' should be reviewed period--ically" is unsupported by reference to the relevant volume, chapter and Paragraph of the report of the III Pay Commission, therefore,this plea is not acceptable as the basis for review/ final review by Railway Board.

Extract of Para-34, of Chapter VIII of Vol I of the report of III Central Pay Commission per--taining to Special Pay are annexure-16 . The Authenticity of the statement attributed to the III Pay Commission is doubtful, because the emphasis of the III Pay Commission lay on determining an alternative to special pay; Once the Special Pay was determined in the case of posts held non-tenure basis, as in the case of RDSO Class II Officers, there could be no relevance of 'periodic' review, as such a 'review' would be futile. The applicabili--ty of this principle that all 'Special Pay' should be reviewed periodically in the case of applicants are therefore questioned.

Even if it is proved that the principle is applicable in the case of RDSO Class-II Officers

Commencement of payment in the pay scale Rs.650-1200 (AS), although provisional marked the onset of the 'Period' and not the end, which may come after many years of operation so as to qualify to be termed as period & and fulfil the condition 'periodically mentioned in the alleged recommendation; therefore, the 'review'/final review based on this ground was im-mature and misconceived and therefore not acdept--ted.

Since 1969, the respondents unsuccessfully tried to deny special pay to RDSO Class-II Officers and lost the cases in WP Allhabad High Court, Lucknow Bench, in Writ Petition No. 973 of 1969, and SLP (Civil) No. 3160 of 1970, writ petition No.1114 of 1973 in the same High Court, W.P. No. 1078 of 1977/ CAT (T) 266 of 1987. Furthe-r more, the respondents had opportunities to appear as official-witness of the Ministry of Railways and place their views about abolition of Special Pay of RDSO Class-II Officers before the III Central Pay Commission. Having failed to ~~comply~~ conform the Central Pay Commissions, the Railway Board took detour and ~~committee took upon themselves~~, with the approval of the President, under took departmental reviews.

The affidavit of Sri Bhatia dated 8.8.1988 contained arguments that the III Pay Commission did not consider it necessary to recommend for placement in a higher pay scale or continuation of special pay to RDSO Class II Officers me ntioned in Railway Board's letter d ated 28.7.1975. It was therefore the material for consideration and evidence relied upon by the Railway Board for

review/final review and should have been communicated to RDSO Class-II Officers Association to prepare their defence, in pre-decisional hearing i.e. immediately after the issue of letter No. PC/III/73/SP/2 dated 17.1.1974 or atleast before the issue of letter No. PC-III/73/PS1/2 dated 28.7.1975 which communicated stoppage of special pay. Therefore, the affidavit dated 7.7.1988 filed by Sri Bhatia filed after a lapse of 13 years of admission of this writ petition is of no consequence. Departmental Reviews of Special Pay on the heels of publication of the report of the III-Pay Commission which considered the matter in great detail, was a mistake.

10. No comments are offered on the contentsof para-9 at this stage ~~in view~~ as it is a part and parcel of affidavit dt. 7.7.1988 already commented upon in reply to para-8.

11. The validity of the order of the Railway Board was quashed by the order of the Lucknow Bench of the Allahabad High Court as affirmed by Supreme Court. The statement in the first 10 lines runs counter ~~news confer~~ to para-5 of this supplementary counter reply by Sri Jaiswal. The validity of Boards letter dt. 28.7.75 is challenged.

No comments are offered on para-10 in view of the comments on para-6 of the affidavit.

12. Paras 11, 12, and 13 ~~ar~~ require no comments.

Additional ground

13- (A) Because the order No. PC-III/73/PSI/2 dated

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28.7.2975 is ultra-vires.

(B) Because deduction from DCRG on retirement was connected with this petition.

(C) Because suppleme ntary reply on behalf of respondents dt. 7.7.1988 was required to be ~~dealt with.~~ answered.

PRAYER

1. All arrears of special pay w.e.f. 1.6.69 till the date of retirement @ Rs.150.00 with interest may be ordered to be paid, within a specified time limit of one month from the date of order.

2. The amount deducted from DCRG with interest may be ordered to be refunded by the respondent No. 2.

Pr 15/3/99

3. All the prayers from a to f mentioned in the writ petition may be considered.

4. Consideration may be given to the fact that the applicants are aged (Senior Citizen) and it is not possible for them to pursue this case in the court any further on account of the facts that the applicants after retirement have gone to their native places, may suffering from heart disease etc. and a number of them are dead. This case has been with High Court/CAT for the last 24-1/2 years nearly and therefore it is prayed that the case may be given a final hearing at this stage,

Deponent

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Verification.

I, the abovenamed deponent (S.B.Mathur) aged about 73 years, son of Shri Nawal Behari Mathur, r/o 29, Amir Nagar, Lucknow, do hereby verify that the contents of paras 1 to 11 of this reply are ~~xx~~ true to my own knowledge; and contents of paras 12 of the same are believed by me to be true on the basis of records; and contents of paras 13 of the same are believed by me to be true on the basis of legal advice. No partof it is false and nothing material has been concealed. So help me God.

Lucknow:
Dated: 15 1999.

Deponent.

I identify the deponent who has signed before me.

Advocate.

C.A. 62.99
3/15 pm S.B. Mathur
S.V.P. Mishra
Adv

for 15/3/99

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT LUCKNOW.

*****

T.A.No. 264 of 1987.

R.C.Kathuria & others .... Applicants

V e r s u s

Union of India & others ... Opp.Parties.

Annexure 16

III Central Pay Commissions Recommendation
Extract of Par 34 of Chapter VIII of Vol.1

"34. We are of the view that the device of special Pay should be used as sparingly as possible. Thus our approach generally has been to suggest a higher scale of pay for posts which are held on a non-tenure-basis and where the special pay has been granted at prewe in lieu of a higher scale for thepost itself. However, we feel that the device of granting special pay cannot be discarded in the case of posts where persons have to be attracted for a fixed tenure from other cadres and departments.

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BRIEF HISTORY FOR RAILWAY ADVOCATE

Reg: TA No. 264/87 - R.C. Kathoria & Ors Vs.
UOI & Ors.

Special pay of Rs.150/- p.m. which was being paid to Cl.II Officers (Tech.) was withdrawn vide Railway Board's letters dated 17.9.69 and 7.1.70 (Annexure 1A & 2 to WP). Some of the affected Cl.II technical officers went to the Court through WP No. 973/69 which was dismissed by single judge. Against the order of the single judge Special Appeal No. 11/71 was filed in High Court, Lucknow which was allowed by Division Bench vide judgement dated 2.11.72 (Annexure No. 4 to the WP), as a result of which Board's orders quoted above were quashed. Since the judgement in Special Appeal No. 11/71 was implemented by Railway Board only to the petitioners (3 in nos.) the rest of the affected Cl.II(Tech.) officers filed WP No. 1114/73 (SN 1-22, 24-47 of this writ petition) for implementing the benefit of judgement in Special Appeal 11/71 which was allowed vide judgement dated 4.9.74. Railway Board, vide their letter dated 28.5.75 (para-14 , page 4 of counter reply) cancelled their letter dated 17.9.69 and 7.1.70 with retrospective effect (Annexure A-1 and 2 to the WP) and allowed special pay in the authorised scale in terms of the orders in force prior to 1.9.69.

2. In the meantime, as a result of 3rd Pay Commission's recommendations, the revised schedule (Standard) for Cl.II posts were received from the Railway Board vide their letter dated 24.1.74 (Annexure 7 page 49 to the WP). Accordingly,

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all the Cl.II officers including technical officers opted for the revised scale and they were fixed in the standard Cl.II scale of Rs. 650-1200 without any special pay. While submitting their options, the technical officers had, however, indicated that their options to revised scale was without prejudice to their claim for the special pay of Rs.150/- p.m. The Railway Board, vide their letter dated 17.1.74 (Annexure 9 page 56 to the WP) advised that in case where special pay was being paid in the authorised scale but not recommended in the revised scale, the same should be continued to be paid provisionally till a final decision is arrived at. Board, vide their letter dated 16.12.74 (Annexure 10 page 58 to the WP) advised DG/RDSO that the special pay of Rs.150/- p.m. be paid to the petitioners for every current month after the decision of the High Court. Accordingly, special pay of Rs.150/- p.m. was allowed provisionally to the petitioners even in the revised scale.

3. As a result of Court's judgement special pay was restored. This necessitated corrections so far as authorised scale was concerned keeping in view this restoration the Board issued a fresh schedule vide letter dated 28.7.75 (Annexure 13 page 66 to WP). In this schedule special pay was shown alongwith the authorised scale and not in the revised scale. The Board had also given options to be exercised within a period of 3 months w.e.f. 28.7.75 to these officers to retain the authorised scale of pay with special pay or the revised scale without special pay. No fresh

option was received from the Cl.II (Tech.) Officers and, therefore, payment of special pay was discontinued from 1.10.75 (after waiting for 3 months as per Board's letter dated 28.7.75). Consequently, these officers had filed WP No. 1881 of 1975 (TA 264/87).

4. In Board's letter dated 28.7.75 (Anexure 13 page 66 to the WP), it was also provided that while bringing the officers on to revised scale of pay w.e.f. 1.1.73, the normal fixation rule regarding special pay will apply. However, the excess of the existing emoluments, i.e., basic pay, dearness pay, dearness allowance, interim relief at the rates inforce on 31.12.72 and special pay in the authorised scale of pay over the pay admissible in the revised scale, if any, will be protected.

5. Though all these officers were being paid their salaries in the revised scale without special pay, their options as envisaged in Board's letter dated 28.7.75 (Annexure 13 page 66 to the WP) had not been received within a period of 3 months. However, the revised pay scale rule Nos. 5 & 6 provided that if option was not received within the stipulated period, the officers would be deemed to have been opted for the revised scale of pay.

SUPPLEMENTARY

1. In the whole of the WP the applicants have nowhere stated that they are discriminated. As a matter of fact special pay was discontinued to both the transferee as well as promotee Cl.II officers(Tech.)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW.

T.A.No.264 OF 1987

R.C. KATHOORIA AND OTHERS .....APPLICANTS

VERSUS

UNION OF INDIA AND OTHERS .....RESPONDENTS

SUPPLEMENTARY COUNTER REPLY

AGAINST APPLICANTS' REPLY TO SUPPLEMENTARY COUNTER REPLY

FILED ON BEHALF OF RESPONDENTS ON 04.02.1998

I, **SANJEEV JAISWAL,** presently posted as Deputy Director, Establishment-I, Research Designs & Standards Oganisation [Government of India – Ministry of Railways], Manak Nagar, Lucknow-226011, most solemnly state as under –

1. That the undersigned is presently posted as Deputy Director, Establishment-I, Research Designs & Standards Organisation [Government of India – Ministry of Railways], Manak Nagar, Lucknow (hereinafter referred as R.D.S.O.), and is competent and duly authorised by the respondents to file supplementary counter reply against applicants' reply filed on behalf of respondents on 04.02.1998. The undersigned has read and understood the contents of applicants' aforesaid reply, a copy of which received by learned counsel for the respondents on 16.03.1999, and is well conversant with the facts stated hereunder.

25-5-99
(Sanjeev Jaiswal)
Dy. Director/Estt.-I
R.D.S.O. (Min. of Rlys.)
Manak Nagar, Lucknow-11.

2. That the instant supplementary counter reply has been necessitated as the applicants, in their aforementioned reply, have made certain

allegations, and/or have raised issues which have not been made heretobefore. Raply to such allegation and/or issues are necessary for proper adjudication of the above mentioned case.

3. That the contents of paragraph 1 of the reply need no comments from the respondents.

4. That in reply to the contents of paragraph 2 of the reply, it is most respectfully submitted that although, the undersigned was not in office at the relevant period when the matters directly and substantially in issue in the instant case, pertains. Yet, there is continuity of office, and the undersigned was, and is fully competent and authorised to file earlier supplementary counter reply filed on 04.02.1998 and the instant supplementary counter reply on the basis of record, and/or as per instructions received from the appropriate competent authority.

5. That the contents of paragraph 3 of the reply need no comments from the respondents.

6. That the contents of paragraph 4 of the reply are not admitted. In reply, it is most respectfully submitted that the contents of paragraph 3 of the supplementary counter reply (filed on 04.02.1998) was in reply to the specific queries made by this Hon'ble Tribunal. It is once again reiterated that as it could be verified from the Classification List, none, except one of the applicants was promoted to Group 'B' as on 01.09.1969, i.e., the date from which, the payment of "Special Pay" admissible to Group 'B" staff was stopped vide the Schedule appended to the Railway Board's letter No.PC-67/SP-1 dated 17.09.1969.

7. That the contents of paragraph 5 of the reply called for no comments from the respondents.

8. That the contents of paragraph 6 of the reply are not admitted. It is denied that the judgement of the Hon'ble High Court, and/or of the Hon'ble Supreme Court was not complied with. If that was so, the applicants were free to approach the appropriate court to seek suitable remedy under the relevant law within the prescribed period of limitation. In reply thereto, the contents of paragraph 5 of the supplementary counter reply (filed on 04.02.1998) are reiterated. It is, however, not denied that an amount, equal to the "Special Pay" paid to the concerned staff in terms of Railway Board's letter No.E(P&A)1-73/SP-1/RDSO-3 dated 16.12.1974, has been with-held from their D.C.R.G. It is also not denied that the Bank Guarantee (which is valid only for a specified

(Sanjeev Jaiswal)
Dy. Director/Estt-I
R.D.S.O. (Min. of Rlys.)
Manak Nagar Lucknow-11.

period) was not accepted. The rest of the contents of reply, which is not verifiable from the record, are denied for want of knowledge.

9. That the contents of paragraph 7 of the reply, except the facts and material already placed and available on record, are denied. It is most respectfully submitted that the arguments put forth by the applicants in paragraph under reply, being misconceived and/or incorrect, are denied. It is most respectfully submitted that no fact was concealed by the undersigned in the supplementary counter reply filed on 04.02.1998, nor there was any attempt to do so, as the relevant facts (which were existing at the relevant point of time) had already been placed on record by means of counter reply and supplementary counter reply. The supplementary counter reply (filed on 04.02.1998) was filed only in reply to specific quarries made by this Hon'ble Tribunal.

That it is respectfully submitted that adequate opportunity was made available to Class II/Group 'B' officers of the R.D.S.O. to ventilate their grievances before the Third Pay Commission. In this context, it is stated that the R.D.S.O. Class II Officers' Association was granted an oral hearing by the Third Pay Commission as it is evident from Paragraph 19, Chapter 2, Volume-I of their report read with Annexue-VII, Volume-IV wherein, the said Association has been specifically listed as one amongst those Associations who had tendered oral evidence before the Commission. It is also submitted that the Third Pay Commission had examined the issues raised by the R.D.S.O. Class II Officers' Association in detail as is evident from Paragraphs 21 and 22 of Chapter 36, Volume II, Part II of their report wherein, the Commission have discussed the promotional prospects etc. of this category of the R.D.S.O. It can be seen therefrom, that the Third Pay Commission, which was fully aware of the pay scales of the Assistant Officers in R.D.S.O., did not consider it necessary to recommend for their placement in higher pay scale or for continuation of "Special Pay" in their category.

That as regards the final review stated in Railway Board's letter No.PCIII/74/SP/1 dated 17.01.1974, it is respectfully submitted that the same had to be undertaken in the context of those cases where no recommendation had been made for continuance of "Special Pay", keeping in view the considerations which led to grant of "Special Pay" , the reasons as to why the Commission had not made any such recommendation and the pay scale and "Special Pay" allowed by the Commission for comparable posts in the same organisation and elsewhere.

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That it is respectfully submitted further, that the details of the facts and circumstances which led to grant of "Special Pay" of Class II Officers in R.D.S.O., and the changed scenario at the time of implementation of recommendations of the Third Pay Commission in view of which the answering respondents decided not to continue the scheme of "Special Pay" for them, have already been placed on record vide paragraph 6 of the supplementary counter reply filed before this Hon'ble Tribunal on 08.07.1988 and the same are reiterated herein. It is also submitted that the Railway Board – Ministry of Railways, acting with the approval of the President, considered all the facts and circumstances in this matter and decided that the scheme of "Special Pay" to Class II officers of R.D.S.O. should be discontinued and in doing so, did not act in any arbitrary manner. Any allegations to the contrary are specifically and unequivocally denied.

10. That the contents of paragraph 8 of the reply are not admitted. In reply thereto, it is most respectfully submitted that the pay scales for Class II category of officers in the R.D.S.O. (abbreviated as R.S. or "Revised Scale") recommended by the Third Pay Commission (accepted by the Government of India – Ministry of Railways), was one complete package, and no one could be permitted to opt for the same in part while rejecting the other part of it. It is, therefore, most respectfully submitted that the applicants, or their Association could not be permitted to opt for the revised pay scale in Rs.650-1200 (RS) as per recommendations of the Third Pay Commission with Rs.150.00 as "Special Pay" (which was not recommended by the Commission). The only option available before the applicants was, either to accept the Revised Scale of pay in its entirety, or to remain in the pay scale of the Second Pay Commission while drawing "Special Pay". No other option, even if given by the applicants was permissible/admissible. As the applicants had failed to give requisite options, their pay was fixed in the Revised Scale based on the recommendations made by the Third Pay Commission.

11. That the contents of paragraph 9 of the reply, except what has been placed on record, are denied. The arguments put forth by the applicants, being misconceived, are specifically and unequivocally denied. In reply, the contents of paragraph 8 of the supplementary counter reply filed on 04.02.1998 are reiterated. It is most respectfully submitted that so far the judgements of the Hon'ble Courts referred in paragraph under reply are concerned, they pertain to the period when the Authorised Pay scales (i.e., the pay scales recommended by the Second Pay Commission) were effective. Consequent upon the implementation of recommendations made by the Third Pay Commission, the pay structure existing prior to it, was changed substantially. The Third Pay Commission

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(Sanjeev Jaiswal)
Dy. Director/Estt-I
R.D.S.O. (Min. of Rlys.)
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have discussed the issues relating to "Special Pay" vide Paragraphs 30 to 39 in Chapter *, Volume-I (page 78), and made recommendations in three different ways in respect of the posts carrying "Special Pay". In some cases, the Commission had recommended higher pay scales in lieu of existing pay scales along with "Special Pay". In other cases, the Commission had specifically recommended for continuation of "Special Pay" along with Revised Scales whereas, in the remaining cases, no recommendation was made by the Commission as regards grant of "Special Pay", as was the case of applicants. It is worth while to submit that the Third Pay Commission was fully aware of the pay scales of Assistant Officers in R.D.S.O., as is evident from Paragraphs 21 and 22 of Chapter 36, Volume-II, Part II. Yet, the Commission did not consider it necessary to recommend for their placement in a higher pay scale or for continuance of the "Special Pay" in this category. It is further submitted that while issuing Revised Schedule vide their letter No.PCIII/93/PS-1/2 dated 28.07.1975, the Railway Board had permitted option to the concerned staff either to retain their Authorised Scales of pay with "Special Pay", or to opt for the Revised Scale of pay recommended by the Third Pay Commission without any "Special Pay" with full protection of their total emoluments which were being received by them in the pre-revised scales. It was also laid down that if no such option is exercised by the staff concerned, their pay scales shall be fixed in the Revised Scales based on the recommendations of the Third Pay Commission. In this context, it is also submitted that as none of the applicant had exercised the requisite option to retain pre-revised pay scales along with the "Special Pay", applicants' pay was fixed in the Revised Pay scales recommended by the Third Pay Commission.

12. That the contents of paragraph 10 of the reply do not call for any comments from he answering respondents.

13. That the contents of paragraph 11 of the reply, as stated, are not admitted. In reply thereto, it is most respectfully submitted that the judgement of the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench. Lucknow, in Writ Petition No.484 of 1976: G.Chakrapani & others Vs. Union of India & others, and that of the Hon'ble Supreme Court in the consequent Civil Appeal No.50 of 1981: Union of India & others Vs. G. Chakrapani & others, were in respect of different category of officers, and was also on different premises. Therefore, the said judgements are distinguishable on facts.

14. That the contents of paragraph 12 of the reply do not call for any comments from the respondents.

(Sanjeev Jaiswal)
Dy. Director/Estt.-I
R.D.S.O. (Min. of Rlys.)
[illegible] Nagar Lucknow-11.

15. That the additional grounds enumerated in paragraphs 13(A), 13(B) and 13(C) of the reply are not tenable in the eye of law and the same are, therefore, liable to be rejected.

16. That in view of the submissions made in the instant supplementary counter reply and the counter reply and supplementary counter reply already on record, the undersigned is advised to state that the applicants are not entitled for any relief as sought in their reply and elsewhere in the above mentioned case.

Lucknow, Dated :
May 25th, 1999.

(SANJEEV JAISWAL)

(Sanjeev Jaiswal
Dy. Director/Estt-I
R.D.S.O. (Min. of Rlys.,
Manak Nagar Lucknow-11.

VERIFICATION

I, **SANJEEV JAISWAL**, presently posted as Deputy Director, Establishment-I, Research Designs & Standards Organisation [Government of India – Ministry of Railways], Manak Nagar, Lucknow – 226011, do hereby verify that the contents of paragraphs 1, 2 and 4 are true to my personal knowledge and those of paragraphs 3, 5, 6, 7, 8, 9, 10, 12 and 14 are based on record and the same are believed to be true. The contents of paragraphs 13, 15 and 16 are based on legal advice and the same are believed to be true.

Lucknow, Dated :
May 25th, 1999.

(SANJEEV JAISWAL)

(Sanjeev Jaiswal)
Dy. Director/Estt-I
R.D.S.O. (Min. of Rlys.)
Manak Nagar Lucknow-11.

[redacted]

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Before the Central Administrative Tribunal at Lucknow

T.A. No- 264/87

T.A. No. 264 of 1987

R.C. Kathuria & Others ..... Applicant

Versus

Union of India & Others .... Opposite Party

Supplement Reply to Supplementary Counter Reply filed by Respondent on 25.05.1999

I, S.B. Mathur, aged about 73 years, son of Shri Nawal Behari Mathur, resident of 29, Amir Nagar, Lucknow do hereby solemnly affirm and state on oath as under :-

(1) That the deponent is one of the applicant and he is fully conversant with the facts of the case. He has gone through the contents of the Affidavit filed by Shri Sanjeev Jaiswal and the deponent has understood them well.

That the contents of para 1 need no reply.

(3)-i That the so called new issues are nothing but inferences derived from counter affidavit and a series of replies and counter replies - all necessitated because the reasons behind

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Central Administrative Tribunal
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each paragraph of letters No. PCIII/74/SP/1 dated 17.01.1974, No. PC/73/PSI/2 dated 02.08.1975 were not understood, and no opportunity was given to understand the rationale and explain the view point of the applicants to the respondents. The first opportunity denied was when RDSO Officers Association was not invited to attend the meetings of the Committee to thrash out anomalies in III Pay Commission's report, as dictated by procedure and convention, or else, answers would have given by the Association before the un-committed members of the committee for acceptance/rejection.

(3)-ii The Railway Board bypassed the above mentioned process and took a unilateral decision to make a "final review".

(3)-iii That no new issue have been raised and inferences arrived at by counter affidavit etc. led the deponents to the conclusion that : Para 1 of letter No. PC/III/74/SP/1 dated 17.01.1974 is based on a tempered version of para 34 of the Chapter on Special pay. (Please see the extract of the Para 34 at annexure 16 of deponent's reply dated 16.03.1999). Cue was provided by Para 21 of counter affidavit dated 24.03.1976.

OATH COMMISSIONER
M. S. SAXENA
Advocate
Civil Court, Lucknow

(3)-iv It is a tampered version because the <u>precondition</u> for grant of new higher pay scale in lieu of special pay i.e. grant of special pay in the previous scale

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Central Administrative Tribunal
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of pay i.e. in pay scale Rs. 350-900(A.S.) was concealed in sub-para 1 and 2 of para 1 of the letter dated 17.01.1974. No counter arguments have been given to specifically deny the contents of para 7(iii) of reply dated 16.03.1999 in this regard.

(3)-v The foundation of Rly. Board's letter No. PC/III/74/SP/1 dated 17.01.1974 and 'final review' which is based on the para 1 of the letter, is therefore **mala fide.**

(3)-vi That Para 34 of counter affidavit dated 24.03.1976 shows that the scope of 'final review' was enlarged into 'specific review' to include "all relevant factors". This was surreptiously done and this information would not have seen the light of the day, but for this Writ Petition.

(3)-vii That the 'specific review' was open ended, "all relevant factors" taken into consideration were self made, without any check by an independent agency and without any knowledge of the affected party. This action was highly arbitrary. The report of specific review' was not revealed.

OATH COMMISSIONER
M. S. SAXENA
Advocate
Dated
Civil Court, Lucknow

(3)-viii The allegation of concealment of the existence of letter No. PC/III/74/SP/1 dated 17.01.1974 is further argued in reply to para 9(i).

(4) Paragraphs 2, 3, 4 and 5 need no reply.

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(5) Petitioners in reply to para 6 of the counter reply have nothing to add to what has been submitted in para 4 of the reply dated 16.03.1999. Honourable Tribunal may decide whether the querry made by them on 22.10.1997 is fully understood and answered.

(6) Paragraph 7 needs no reply.

(7)-i That the contents of para 8 of the reply are not admitted. The petitioners were justified in again approaching the Hon'ble High Court through this W.P. (now transferred to Hon'ble Tribunal) and complain that the orders of the H.C. in W.P. No. 973 of 1969 and No. 1114 were not being Honoured in letter and sprit as the special pay was commenced but as a mere show of compliance of court's orders; payment stopped after September 1975 and the total amount paid upto 1975 was withheld from D.C.R.G. on retirement after attaining the age of superannuation. The respondents have admitted that the Special pay was withheld from D.C.R.G.

OATH COMMISSIONER
M. S. SAXENA
Advocate
Civil Court, Lucknow

(7)-ii That it is submitted that the Counsel for the petitioners is fully competent to guide the choice of legal remedy and the unsolicited advice is rejected.

(7)-iii The Hon'ble Tribunal is requested to take note how Hon'ble High Court's orders were circumvented, to cause long term monetary harm and mental agony to

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Central Administrative Tribunal
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the petitioner, piqued by the failure of the respondents in the abovementioned court cases and others mentioned in para 9(iv) of the reply by petitioners dated 16.03.1999.

(8)-i That the respondents in para 9(i), in reply to para 7 of the petitioner's reply dated 16.03.1999 have stated the arguments put forth by the applicant in paragraph under reply, being misconceived and/or incorrect are, denied. No arguments are given to prove what has been argued by the petitioners is incorrect or misconceived.

(8)-ii That in reply to para 9(i) it is further reiterated that the narration of events the existence of letter No. PC/III/74/SP/1 dated 17.01.1974 was an important link and formed the basis of letter No. PC/III/73/PSI/2 dated 28.07.1975 in conveying the decision of the Rly. Board that "No special pay is admissible in the revised scale of pay.....". Presentation of the summary of the case ought to have been truthful and it is reiterated that before the narration of para 6 in the supplementary counter reply dated 04.02.1998, ommission of letter dated 17.01.1974 was deliberate and concealed to obfuscate the intent behind certain paragraphs of the letter. The respondants say that 'the relevant facts had already been placed on record by means of counter reply and supplementary

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counter reply"; then the utility of the summary was none else than to distract and prevent the Hon'ble Tribunal from appreciating the realities of the case.

(8)-iii That in reply to para 9(ii) it is not denied that RDSO Class-II Officers Association was granted oral hearing by the Commission and the Association informed the Commission how the the special pay was withdrawn by the Board in 1969 and that a petition had been filed by 3 (three) RDSO Class-II Officers against the Rly. Board. The matter was then sub-judice Allahabad High Court, Lucknow Bench. The Commission was requested to restore the special pay for which the reasons were furnished.

(8)-iv That the subject matter of this W.P. is 'Special Pay' and not 'promotional prospects'. The III Pay Commission, in the opening paragraph 30 of the Chapter VIII of Vol. I, has quoted the definition of special pay as given in Fundamental Rules.

" 'Special pay' means an addition, of the nature of pay, granted in consideration of :

(a) the specially ardouous nature of the duties;

OR

(b) special addition to the work or responsibility;

and includes non practising allowances granted to doctors in lieu of private practices.

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(8)-v That the definition of 'Special pay' as defined in Fundamental Rules was vindicated in the judgements of Supreme Court, High Court and of course the IIIrd Pay Commission which has a Chapter VIII Vol. I, Para 30, devoted to the definition of Special Pay as defined in Fundamental Rules.

(8)-vi That the definition of Spl. Pay is therefore unambiguous. The payment for performing arduous nature of duties and promotional prospects in service are unrelated matters is demonstrated by the fact that the Commission too has treated the subject under different heads. Cue is provided by the Supplimentary counter affidavit in para 9(ii), that paragraphs 21 and 22 of Chapter 36, Vol. II Part II of the Commission's report deals with promotional prospects and para 11 of the same supplimentary counter affidavit the respondents inform that Special Pay is dealt with in paragraphs 30 to 39, Chapter VIII* (*supplied, as missing in print), Volume I (Page 78) of the report.

(8)-vii That it was in this context that the judgement in the Writ Petition No. 484 of 1976 : G. Chakrapani & Others Vs. Union of India and of the Supreme Court in the consequent Civil Appeal No. 50 of 1981: Union of India Vs. G. Chakrapani & Others, was quoted. The definition of Special Pay whether applicable

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to Class-I Officers or Class-II Officers as in the instant case remained unchanged.

(8)-viii That promotional prospects in service are unrelated to special pay and an extraneous matter was introduced by the respondents to confuse the issue of special pay.

(8)-ix That Para 9(iii) is a repetetion of the contents of letter No. PCIII/74/SP/1 dated 17.01.1974 as such a "Mary go round". It was fully explained in para 7 and para 9 of reply dated 16.03.1999 that there was nexus between the awaited judgement of the Supreme Court on the issue whether the Special pay Rs. 150/- p.m. was a part of the pay in pay scale 350-900(A.S.) and the recommendation of pay scale Rs. 650-1200 by the IIIrd Pay Commission. Only the existance of special pay in the authorised scale permitted a new higher pay scale in lieu of special pay or in the alternative special pay with Revised Scale of pay Rs. 650-1200. Supreme Court's judgement in favour of special pay was delivered on 04.02.1974. That RDSO Class-II Officers were eligible for any of the two alternatives and that could not have been laid down by the Commission as it was wound up in December 1973. Under these circumstances the fact remains that NO RECOMMENDATION

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COULD HAVE BEEN MADE FOR CONTINUANCE OF SPECIAL PAY BY THE COMMISSION BEFORE THE AVAILABILITY OF SUPREME COURT'S DECISION.

(8)-x That the conclusion arrived at by the respondents that "no recommendation had been made for continuance of 'special pay' mentioned in para 9(iii) is based on falsehood; therefore letter No. PC III/74/SP/1 dated 17.01.1974 is malafide and liable to be quashed.

(8)-xi That the respondents have not contradicted by argument the point made out in para 9(iv) of supplimentary affidavit dated 16.03.1999 that they failed to convince the Commission to abolish the special pay to RDSO Class-II Officers.

(8)-xii That the Central Pay Commission are constituted periodically, by the Govt. of India to review the pay structure, allowance, special pay etc. of Central Govt. employees. Railway Board's assessment as given out in para 9 of supplementary counter reply dated 04.02.1998 for abolision of special pay which prevailed in 1969-70, including 'the consideration which led to the grant of special pay' and latest stance if any, for strengthening the case for abolision, was the material for consideration before the Commission, through the official witness of the Ministry of Railways when the Commission held office in 1970-73.

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(8)-xiii That the Ministry of Railways or any other Ministry under the Central Government cannot tread over the Central Pay Commission and usurp its functions, more so when the Commission was in operation.

(8)-xiv That "Final Review" based on a tampered version of the report of the Commission, ahead of the judgement of Supreme Court, overriding the Commission injecting extraneous matters, keeping out the affected persons and non inclusion of umpires in the conduct of the review have gone in concluding that "no special pay is justified for the category of Assistant Officers, whether they are borne on the cadre of R.D.S.O. or brought on deputation from the organised Class-II (Group 'B') Railway Services from the Zonal Railways/ Establishments/Production Units".

(8)-xv That no report of the 'final review' was ever issued by the respondents although there was no secret involved to contravene INDIAN EVIDENCE ACT.

(9) That para 10 and para 11 are repetition of arguments made earlier. They are based on arguments that the III Pay Commission did not recommend Special Pay to RDSO Class-II Officers. This argument has been contradicted by earlier arguments. It has been established that there is nexus between special pay scale Rs. 350-900 (A.S.) and pay scale Rs. 650-1200 (R.S.) by virtue of the recommendation in para 34 of the

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report of the IIIrd Pay Commission. - (Annexure-16).

(10) No reply is require against para 12.

(11) Reply to para 13 is given in para 8(vii) above.

(12) Para 12 is noted.

(13) That the reply of para 13 is given in para 8(vii) above.

(14) That the contents of para 14 call for no comments.

(15) That the additional grounds enumerated in paragraphs 13(A), 13(B) and 13(C) of reply dated 16.03.1999 are reiterated.

(16) That prayer for relief as already sought in reply dated 16.03.1999 is once again beseeched.

Lucknow,

Dated : 19 July, 1999

DEPONENT

OATH COMMISSIONER
U. S. SAXENA
Advocate
Civil Court, Lucknow

VERIFICATION

I, the abovenamed deponent, S.B. Mathur, aged about 73 years, son of Shri Nawal Behari Mathur, R/o 29, Amir Nagar, Lucknow, do hereby verify that the contents of paras 1 to 15 of this reply are true to my own knowledge; and

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that the contents of paras 1 6 of the same are believed by me to be true on the basis of legal advice. No part of it is false and nothing material has been concealed. So help me God.

Lucknow

Dated : 19 July, 1999

DEPONENT

OATH COMMISSIONER
M. S. SAXENA
Advocate
Civil Court, Lucknow

I identify the deponent who has signed before me.

ADVOCATE

Solemnly affirmed before me on ... by ...
the deponent is identified by ...
Shri ...
I have satisfied by examining the deponent that he understands the Contents of this Affidavit which has been read out and explained to me. Fee Charged Rs. 2-50

M. S. SAXENA
Advocate
Oath Commissioner
Civil Court, Lucknow



Before Center Administrative Tribunal

...ान ... महोदय

Lucknow

श्री ... का **वकालतनामा**

T. Case No. 264/87

(टिकट) वादी (अपीलान्ट)

R. C. Kothariya ... Applicant

vs. बनाम प्रतिवादी (रेस्पान्डेन्ट)

Union of India & others ... Opp Parties

सन् पेशी की ता० १९ ई०

...में अपनी ओर से श्री K. C. Jauhari Advocate

Ved Prakash Misra Advocate

V. P. Misra Advocate एडवोकेट महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई व सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मै यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ ...ला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं हो... इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर ... आवे।

(S. B. Mathew) (S. S. Rajawat)

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

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दिनांक महीना सन् १९ ई०

नाम अदालत ... मुकद्दमा नं० नाम ... फरीकैन ... बनाम

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BY HAND
COURT MATTER/URGENT

From:-

Siddharth Verma,
Railway Advocate,
C-16, K-Road,
Mahanagar Extension,
Lucknow-226006.

To:-

The Director General,
Research Designs & Standards Organisation
[Government of India-Ministry of Railways],
Manak Nagar,
Lucknow-226011.

Lucknow,Dated:February 05,1997.

Subject:- T.A.No.264/87: R.C.Kathooria & others Vs. Union of India & others; pending before the Central Administrative Tribunal, Lucknow Bench, Lucknow.

Reference:- Your reference No.LC/CC/264/87/RCK.

Dear Sir,

The above mentioned case has recently been entrusted to me. Previously, this case was conducted, and finally argued by Shri A.V. Srivastava, Advocate, who had finally argued this case before the Bench of Hon'ble Mr.V.K.Seth,A.M. and Hon'ble Mr.D.C.Verma, J.M., on 19.10.1995 and judgment was reserved. However, this case has now been released and is being listed for hearing submissions on behalf of respondents/Railway Administration on the questions pur forth by Bench on the following specific points :-

i. What posts applicants No.3,4,8,20,25,31,33 37 and 47 were holding, if not Class II ?

ii. How this (benefit of Special Pay) available to applicants/petitioners of W.P.No.1114/73 and 294/75 can be denied to the present applicants (in T.A.No.264/87)?

iii. How can the two orders dated 17.09.1969 and 07.01.1970 be made 'retrospective' to take away the right accrued to the applicants prior to issue of the two orders ?

iv. If pay of applicants/petitioners of W.P. No.1114/73 and 294/75 were fixed in scale of Rs.650-1200 and in addition given the Special Pay of Rs.150/- per month, how such benefit can be denied to present applicants ?

v. See Annexure XIII - What is Authorised Scale of pay ? Who authorised this and how ?

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