

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH AT LUCKNOW

A10

O.A. NO. 11/88 (L)

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Prahlad Narain ..... Applicant.  
Versus  
Union of India & Others ..... Respondents.

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

(By Hon. Mr. J.P. Sharma, J.M)

The applicant retired on 31.1.1986 as Head Clerk, District Controller of Stores, Northern Railway, Charbagh Lucknow, serving under Respondent No.2.

2. The applicant has assailed the order No. 561/E/214/E-II ( dated 24.2.1964). In short the contention of the applicant is that he was selected and ordered for promotion to Clerk Grade-I, but was not so promoted by the respondent No.2 in due course and later on was refused by the General Manager, Northern Railway Baroda House, New Delhi vide the impugned letter.

3. The applicant claimed the following relief:

" In view of the facts mentioned in para 6 above it is, therefore, most humbly prayed that the Hon'ble Court be pleased to quash the order No 561-E/214 (Eiid) dated 24.2.1964 from the General Manager Northern Railway, Baroda House, New Delhi and pass the order to promote the petitioner with retrospective effect i.e. from 3.6.1963, against the 2nd (Twentieth) quota vacancy allowing him with due seniority all future departmental promotional benefits, with full payment of arrears giving due justice to the petitioner who has continuously suffered a recurring short-fall in the form of his salary since 1963 and in the shape of DCRG, commutation, and leave encashment at the time of his retirement on 31.1.1986."

4. The facts are that the petitioner was select

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and appointed as Clerk Grade- II at Charbagh Depot(Store) under respondent.No.2. The next promotional posts was of Clerk Grade- I. In this cadre 10 per cent of the posts were to be filled up by competitive written examination for Departmental Clerks Grade-II and remaining 90 per cent by promotion of Clerks Grade-II. The said examination was held in Feb,1963 and the applicant was declared successful at No.2, out of the three candidates. No.1 and 3 were promoted but the applicant was over-looked and not promoted and he was given assurance that he will be promoted in due course. Subsequently, it was found that there were only two vacancies so, the applicant could not be appointed. The applicant made representation but to <sup>no</sup> avail. The applicant, due to financial and family burden and fear of the departmental authorities being annoyed and no permission to go to the court of law having been granted the petitioner could not obtain shelter of the court. So after retirement again on 10.1.1987, he represented to the Higher Authorities <sup>and no reply was received</sup> and as more than 6 months have passed, so he has filed this application. The respondents filed a short reply on the point of limitation only. The respondent contended that the application is directed against the order passed by the General Manager, Northern Railway on on 24.2.1964. By this order General Manager informed the earlier decision that the applicant could not be promoted against the vacancies arising after 31.12.1963. The copy of both the orders were communicated to the applicant on 2.6.1964 by the District Controller of Stores, which is evident by Annexure-6 of the application.

5. We have heard the learned counsel at length and perused the record. The grievance of the applicant is that, in the year 1964, he was not given due promotion on the

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10 per cent quota reserved for filling up the promotional post to the post of Grade-I of Clerks; to be filled after completion of written examination of departmental candidates Grade-II Clerks in 7.2.1964. The applicant was informed by the letter (Annexure-5) that there was a query whether the applicant could be accommodated in the 30th vacancies falling in 1964. The letter is produced literally:-

"In terms of your letter No. 561E/214 (Eid) of 22.12.1962 a test for anticipated vacancies to be filled in against 10% reserved vacancies was conducted and three clerks of this office were placed on the panel. Two Clerks were promoted immediately on receipt of the result against the two vacancies reserved for the period up to 31.12.1962. Due to non-availability of approved clerks in grade Rs. 110-180 two vacancies of clerks in grade Rs. 130-300 sanctioned for Diesel Shed, Moghalsarai could not be operated and the third man who was to be accommodated against the 30th vacancy could not be promoted so far.

This employee, Sri Prahlad Narain has represented for his posting against 10% vacancies reserved on the basis of competitive examination. Will you please let this office know at a very early date if Sri Prahlad Narain can be accommodated against the 30th-I vacancy falling in 1964."

On 2.7.1964 vide Annexure-6 it has been clearly revealed to the applicant that the applicant was selected in 1963, and so could not be given promotional posts in the vacancies occurring after 1964. Thus, for every purpose the applicant was definitely told that he could not be promoted and so he has to seek remedy for redressing his grievance in the competent court at that time. The mere explanation of by the applicant that he was apprehensive of Departmental victimisation or was awaiting that he may be considered in due course for promotion, would not, by itself make out the ground to go as back as to the year 1964. Under Section 21 any cause of action which had arisen 3 years before the coming into force of the Administrative Tribunal Act, 1985 could not be looked into at all and the jurisdiction of the Tribunal also in that connection is barred. In short, if

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the cause of action has arisen before 1982 then the Tribunal could not look into it, as applicant slept over <sup>his</sup> right for number of years without any rhyme or reason.

6. Section 21 starts with non-obstante clause and there is an injunction on the Tribunal not to entertain the matter in the event. It is not within the limitation as prescribed under Section 21 of the aforesaid Act. The applicant could not <sup>otherwise</sup> show any law or precedent on the subject.

7. The applicant has since retired from service after 25 years and he wants now to upset, everything <sup>per records</sup> in as much as, there were only two vacancies existing in 1963. The promotion given to Nankoo Ram, who was No. 3 <sup>in select list</sup> has to be as the applicant alleged himself at No. 2 struck down and that Nankoo Ram has not been made a party. More over since 1964, there has been an abnormal change in the gradation of Clerks and so that matter now could not be taken again to the pre-judice for others who have been subsequently promoted to even high grades or posts, which were existing as promotional posts in the cadre. The applicant wants to undo what has already been done for all these more than 25 years and that he wants to challenge years after his retirement from service. He has accepted the pensionary benefits and continued to accept the monthly salary without any hesitation or protest.

8. The law on the point of limitation has been expressly laid down in the case of S.S. Rathore Vs State of Madhya Pradesh reported in A.I.R. 1990, Suprem Court at page 10.

"We are of the view that the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six

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months' period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall be taken to have first arisen. We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. Repeated unsuccessfully representations not provided by law are not governed by this principle.

9. Even the letter dated Dec 6, 1988 to G.H. by Dy Controller of States recommending this case does not contain the limitation.  
9. In this circumstance we are of the opinion that

to favourably for the applicant .10

the respondent have successfully made out the case that the present application is not within the limitation and is barred by Section 21 of the Administrative Tribunals Act, 1985 and so the application is dismissed in limine with the costs on the parties.

*Jomane*

JUDICIAL MEMBER

*[Signature]*  
12/4/1990  
ADM MEMBER

Dated: 12.4.1990

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Lucknow-BENCH  
Lucknow

CAUSE TITLE O. A. 11 OF 19 88 (L)  
~~T. A.~~ (T)

Name of parties Prahlad Narain Applicant's.

VERSUS

Union of India D. O. India & others Respondents.

Sl. No. Particular of Documents No. of page

Part - A

Check list.....to.

- ① Order Sheet..... A1 to A9 ✓
- ② Final Judgment Dated 12/04/90..... A10 to A14 ✓
- ③ Petition copy with power..... A15 to A31 ✓
- ④ Annexure..... A32 to A72 ✓
- ⑤ Counter with power Reply..... A73 to A78

Rejoinder with Annexure.....to.

Supplementary counter

Supplementary Rejoinder

⑥ \_\_\_\_\_ Part - B B79 to B142

⑦ \_\_\_\_\_ Part - C C143 to C153

B/c. (1)

Subj. (1)

21-1-94

OA 11/20

AS

24/2/09.

Hon. D. S. Misra, Jm.

Hon. G. S. Sharma, Jm.

The applicant in person is present.

On the request of the learned counsel for respondents the case is adjourned to 3-3-09.

Jm.

Am.

105

3-3-09

No sitting. adjourned to 9.3.09 for admission.

Jish 3/3/09

SR

In compliance of Hon'ble Tribunal's order dt. 23.1.09, no reply on the question of show cause have been filed by the learned counsel for respondents.

Submitted for admission

Jish 8/3/09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

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

AS

APPELLANT  
APPLICANT

Prahlad Marain

VERSUS

DEFENDANT  
RESPONDENT

Union of India & ors

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
8/5/89	<p>Hon' Mr. G.S. Shama , J.M.  <u>Hon' Mr. K.J. Raman, A.M.</u></p> <p>The petitioner is present in person. Shri Arjun Bhargava, learned counsel for the respondents is present, and requests for further time to file written statement. Sufficient time has already been granted to the respondents, but, in the interest of justice, we give this last opportunity to file reply within 2 weeks, failing which the case will proceed ex-parte. In case, the reply is filed, the applicant may file rejoinder, if any, within two weeks thereafter. List for <u>orders</u> on 10-7-89. for <i>h-s</i></p> <p style="text-align: center;">   A.M.   J.M. </p> <p>(sns)</p>	<p><i>IR</i> In compliance of court's order dt 0.5.89, no reply has been filed by the learned counsel for the respondents. Submitted for order</p> <p style="text-align: right;"><i>h</i></p>

OA 11/88

Ad

26/3/90

No hitting adj to 11.4.90,

[Signature]  
26/3/90

OL  
S P A

11/4/90

Hon. Mr. P.S. Habib Mohammad AM.  
Hon. Mr. F.P. Starmer JM

L  
6/4

Put up for orders on  
admission, dommonoc.

[Signature]  
AM.

[Signature]  
11/4/90  
A-M.

SD

CA. 11 of 884

Prabodh Narain vs U. O P

Order Sheet

AP

27.5.88.

Hon. A. J. Jais, AM

Hon. C. S. Rao, JM

~~One month~~ 15 days for CA.

10.7.88 for Adm. ex.

Am  
14/1

10.7.88

1700. Ajay Jais, AM.

Shri Arjun Bhargava filed his vakalatnama on behalf of respondents today. He wants one month time to file reply. He may do so and serve a copy of the same on the applicant <sup>in person</sup>. The applicant is allowed fifteen days time hereafter to file rejoinder if he so likes. The case be listed for final hearing on

~~29.9.88~~  
23.9.88

By

Am.

Am

23.9.88

DR

Both the parties are present. Last opportunity for filing reply is granted by 20.10.88.

DR

11/5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
AT LUCKNOW.

GA 11/1111,

PRAHLAD NARAIN .. .. . APPLICANT.

VERSUS

The Union of India and others ... .. RESPONDENTS

Details of Index:

- 1) A photostat copy of the Railway Board's circular No. PC-60/RTP-3/1, dated 6.7.1961 regarding mode of 10% quota examination. p. 1-2
- 2) Electrostat copy of the Railway Board's letter No. PC-60/RTP -3/1, dated 20.12.1961 regarding the policy of 10% examination. p. 3
- 3) Electrostat copy of the circular No. 561-E/214(Eidd) dated 27.4.1964, regarding result of examination. p. 4-5
- (4) Electrostat copy of order No. E/131 dated 3.5.1963 for applicant's success. p. 6
- (5) Electrostat copy of office letter No. 247-E-PT-XVII dated 7.2.1964, referring applicant's case to the General Manager, Northern Railway, Baroda House, New Delhi. p. 7
- (6) Electrostat copy of the letter No. 561-E/214 dated 24.2.1964 regarding the reply of the General Manager (Personal), Northern Railway, Baroda House, New Delhi. p. 8
- (7) Electrostat copy of the applications along with correspondence and last representation to the Union of India, on 10.1.1987. <sup>of 14.7.64</sup> p. 9-38 PTO

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(2)

(8) Electrostat copy of Government of India, Ministry of Home Affairs, Memorandum No. 5/4/55-SCT-1 dated 4.1.1957 regarding reservation, ~~and~~ <sup>of</sup> schedule caste and schedule tribes candidate. P. 39

(9) Electrostat copy of the letter No. 831(E)/273/(E-IV) dated 1.2.1962, from the General Manager(Personal), Northern Railway, Baroda House, New Delhi, regarding life of the panel. P. 40-41

*Prahlad Narain*  
( PRAHLAD NARAIN )

son of late Shri Shyam Manohar,  
resident of E-2774, Rajajipuram

Dated: April '88. Talkatora Colony, Lucknow, retired  
Head Clerk from the office <sup>of</sup> District  
Controller of Stores, Northern Railway,  
Alambagh, Charbagh, Lucknow.

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FORM -I

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL  
ACT 1985.

Date of Filing

OR

Date of Receipt:

By Post:

Registration No.

11 of 8000

Signature (Registrar).

In the Central Administrative Tribunal Allahabad, at LUCKNOW.

Petition No. of 1988

Prahlad Narain son of late Shri Shyam Manohar, retired  
Head Clerk, District Controller of Stores, Northern Railway,  
Office, Charbagh, Lucknow now residing at E-2774, Rajajipuram  
Colony, Lucknow .. .. . APPLICANT.

Versus

1. The Union of India, through its the General Manager,  
Northern Railway, Baroda House, New Delhi.

2. The Deputy Controller of Stores, Northern Railway,  
Alambagh, Lucknow .. .. . RESPONDENTS.

1. Particulars of the applicant:

A18

(2)

- (i) Name of the Applicant P-RAHLAD NARAIN
- (ii) Name of Father Late Shri Shyam Manohar
- (iii) Designation and office in which employed Head Clerk, District Controller of Stores, Northern Railway, Charbagh Lucknow.
- (iv) Office Address Dy. Controller of Stores, Northern Railway, Alambagh, Lucknow.
- (v) Address for Service of all Notices Prahlad Narain, E/2774, Rajajipuram Colony, Lucknow.

2. Particulars of the respondents:

- (i) Name and designation
  - a) The Union of India, through its the General Manager, Northern Railway Baroda House, New Delhi.
  - b) The Deputy Controller of Stores, Northern Railway Alambagh, Lucknow.
- (ii) Office address of the Respondents.
  - a) The Union of India, through its the General Manager, Northern Railway Baroda House, New Delhi.
  - b) The Deputy Controller of Stores, Northern Railway Alambagh, Lucknow.

PTO

Lucknow in the province of Uttar Pradesh on 10.7.1987 as the concerning authorities have not considered for promotion of the petitioner as Clerk Grade-I, and over six months have passed no reply has been received. The Central Administrative Tribunal came into operation with effect from 1.11.1985 and as such the redressals are within the jurisdiction of the Tribunal in terms of Rules 14 Chapter-3, of the jurisdiction, powers and Authority of the Tribunals.

5. Limitation:

I, Prahlad Narain the petitioner, further declared that the petitioner is within the limitation prescribed in the section 21 of the Central Administration Tribunal Act 1985. The respondent No. 2, has not taken proper decision in the case of the applicant's promotion as Clerk Grade-I, Scale Rs 130-300 ( AS ) and thus the applicant could not avail of opportunities of natural justice in regard the promotion, - seniority and further promotions in higher grades.

6. Facts of the Case:

The facts of the case are as under:-

- (i) That the petitioner having been selected by the Railway Service Commission, Allahabad, was appointed as Clerk Grade-II in the Scale of Rs 110-130 to work in Charbagh Depot (Stores) under the Control of the Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow.

A21

(5)

- (ii) That in Class-III posts, the scale of Rs 110-180 was known as initial (recruitment) grade and the personnels working in this scale were designated as Clerks of Grade-II.
- (iii) That towards channel of promotion, the next higher grade was in the scale of Rs 130-300 and the personnels working in this scale were designated as Clerks grade-I.
- (iv) That prior to 6.7.1961, 20% of the posts in the scale of Rs 130-300 were filled in through direct recruitment and the remaining 80% posts were filled through seniority-cum-suitability tests.
- (v) That on approval of the Government the Railway Board revised the above policy of promotion and ordered that from 6.7.1961, onwards 10% of the posts in the category of Clerks Grade-I, in scale of Rs 130-300 would be filled in by the promotion, through a Competitive (written) examination limited to the departmental clerks of Grade-II and the remaining 90% of the posts would be filled through the promotions of Clerks Grade-II on the usual terms and conditions i.e. on the basis of Seniority-cum-suitability.

ANNEXURE-I

- (vi) That in continuation of their above order in the Annexure-I, the Railway Board further added on 20.12.1961:
  - (a) the Competitive examination for filling up 10% of the posts should be thrown open to all clerks grade-II.

A21

(5)

- (ii) That in Class-III posts, the scale of Rs 110-130 was known as initial (recruitment) grade and the personnels working in this scale were designated as Clerks of Grade-II.
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- (v) That on approval of the Government the Railway Board revised the above policy of promotion and ordered that from 6.7.1961, onwards 10% of the posts in the category of Clerks Grade-I, in scale of Rs 130-300 would be filled in by the promotion, through a Competitive (written) examination limited to the departmental clerks of Grade-II and the remaining 90% of the posts would be filled through the promotions of Clerks Grade-II on the usual terms and conditions i.e. on the basis of seniority-cum-suitability.

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A20

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The facts of the case are as under:-

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A22

(6)

- (b) The 10% posts in the scale of Rs 130-300 should be worked out on the total number of annual anticipated vacancies occurring after 6.7.1961, the date of issue of revised Board's orders.
- (c) The number of employees to be placed on the panel should not normally exceed the number of vacancies reserved against 10% <sup>quota</sup> ~~grade~~ each year. The Railway Administration should hold the competitive examination every year.
- (d) The names of the employees to be placed on the panel should be arranged in the order of merit.

ANNEXURE-II

(vii) That the period involved for such examination and calculation of such 10% vacancies was from 6.7.1961 to 31.12.1962 in the first instance because ~~of the~~ <sup>after</sup> publication of the results of 3 vacancies of 1962, the General Manager, Northern Railway, Baroda House, New Delhi, invited further-  
more vacancies which could have occurred in the year 1963, in the same circular. About the vacancies of 1963, the subordinate offices of the Northern Railway had no prior information and as such the notified vacancies of 1962 were concrete and solid and were no more subject to any anticipation.

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(7)

(viii) That the respondent No. 2 reserved three vacancies upto 31.12.1962, against 10% quota and intimated them to the General Manager(Personal), Northern Railway, Baroda House, New Delhi quite late on 9.1.1963, when there was no ground left for these three reserved vacancies of 1962 being treated as anticipated or not having occurred within the stipulated period.

(ix) That the sc-heduled competitive (Written) examination conducted by the General Manager(Personal) Northern Railway, Baroda House, New Delhi, was held on 10.2.1963, and result thereof published on 27.4.1963. Three personnels of Stores Depot, Almbagh, viz. Shri K.L.Mendiratta, Prahlad Narain, the petitioner, and Shri Nankoo Ram, were placed on the panel of merit No. 1, 2, and 3 respectively and the order for promoting them simultaneously against the vacancies advised by the subordinate offices were also issued.

ANNEXURE-III:

(x) That the tempering the order of merit, Shri Nankoo Ram was promoted first on 3.5.1963, Shri K.L. Mendiratta was promoted next on 3.6.1963 and the applicant who was to be promoted against the 2nd (Twentieth) vacancy by virtue of his merit position was totally ignored. The petitioner was, of course, informed of his success on 3.5.1963 in the examination and till the end of 1963 he was verbally kept assured to be promoted ~~in~~ <sup>in</sup> due course to save the person promoted, against 90% vacancies by virtue of seniority-cum-suitability.

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ANNEXURE -IV :

(xi) That the petitioner grew afraid of the malafide intention of the respondent No.2 and as such ~~the~~ claimed to him on 15.1.1964, for his due ~~f~~ promotion where upon paying no heed to my prayer, the respondent No. 2, referred my case to the General Manager, (Personal), Northern Railway, Baroda House, New Delhi, with the following false statements and irrelevant reasons about my non-promotion:-

(a) the 3rd vacancy being anticipated did not occur.

(b) due to ban on recruitment of initial grade-Clerks two clerks could not be made available and as such the two posts of grade-I clerks sanctioned for Diesel Shed, Moghal Sarai, could not be filled. The vacancies could have been filled from Class-IV staff as this ban did / does not apply for promotion from Class-IV to Class-III.

(c) Tampering of the panel position was canceled and instead of 3,10% vacancies already notified on 9.1.1963 and 27.4.1963 only two vacancies were exhibited and filled.

ANNEXURE-V.

(xii) That the General Manager (Personal) Northern Railway, Baroda House, New Delhi did not investigate as to how the candidate at merit No. 3, was promoted all the first and why promotion of the applicant was involved in dispute and why no action was taken by the opposite party No. 2, well in time to set right the anomaly when he had already known that the third vacancy did not arise. However, the applicant was

refused any promotion against 10% quota reserved vacancies.

ANNEXURE-VI:

(xiii) That the petitioner immediately represented to the General Manager, (Personal) Northern Railway, Baroda House, New Delhi on 14.7.1964, demanding justice and continuously kept praying till at last the present Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow made a thorough enquiry into the petitioner's case and forwarded it to the General Manager (Personal) Northern Rly. Baroda House, New Delhi, for reconsideration, vide his letter No. 247-E dated 6.12.1985. All the administrative lapses and injustice done to the applicant were disclosed but to no avail.

ANNEXURE-VII:

(xiv) That due to financial and family burden, fear of the departmental authorities being annoyed and no permission to go in court of law having been granted, the petitioner could not obtain shelter of the court. However, after his retirement on 31.1.1986 the petitioner tried once more on 10.1.1987 to secure due justice from the Higher Authorities but more than six months have passed and the authorities have failed to <sup>impart</sup> ~~him~~ ~~past~~ due justice to the applicant and hence under sub-clause 1(b) of Clause 21 Chapter-4, "Procedure, his application is within time".

(xv) That in view of the above facts and the following further more orders of the Government and the Railway Board, the extent of injustice done to the applicant is further proved as under:-

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(10)

- (a) That the act of promoting the scheduled caste candidate against the first vacancy is against the orders of Government of India, Ministry of Home Affairs, contained in their memoerandum dated 4.1.1957, because it clearly speaks that where promotions are done through ~~and~~ competitive examination limited to the departmental candidates the principle of quantum of reservation to the extent of 12% for Scheduled caste should be adhrered to. It never permits ~~tem~~pering of the panel position by giving 1st (10th) vacancy) to the scheduled caste candidate who is junior to the applicant in merit position.

ANNEXURE-VIII :

- (b) That the made of promotion against these 10% posts was neither like that of "selection posts" nor like that of non-selection posts and no definite separate orders were issued by the Board regarding percentage of resrvations or abserva-  
nce of the Reservation Roaster.
- (c) That, therefore, the method applied by the different subordinate officers in assigning the posts to the reserved and un-reserved candi-  
dates is not alike and in conformity with any order and as such it is wrong and baseless.
- (d) That the excuse laid down by the respondent No. 2 about creation of the 3rd 10% vacancy is false, because operative-ness of ban on recruit-  
ment, non-availability of two initial grade Clerks, were p-re-knownn fac-ts and as such the 3rd vacancy in the event of any doubt could have not been declared and even if declared it could

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have most conveniently been withdrawn and name of the applicant deleted from the panel, which has not been done, so far

- (e) ~~that~~ <sup>S-heer</sup> injustice has been done as regards life of the panel. In this case, life of this panel was confined to the end of 1963 ( a duration of only eight(8) months ) where as in the normal course it was one year and now it is two years. In the case of promotions against the said 20% quota prior to 6.7.1961, life of the panel allotted was three years from 1959 to 1962. Had this natural justice not been refused to the applicant he could have been promoted against a vacancy arising in 1964 and thereafter.

ANNEXURE-IX :

- (f) Besides this it is also not in keeping with the orders of the Board then prevalent not to hold further examination, not to form further panels and fill-up the 3rd and subsequent 10% quota vacancies by the promotion of grade-II clerks on the basis of seniority-cum-suitability test.
- (g) ~~that~~ The truth is that at that time, promotion from grade-II clerks to grade-I was a matter of about eighteen years. The applicant was the only junior most with five years length of service who had superceded so many of his seniors in the competition and could have got his promotion same 15 years earlier. Therefore, in order to promote some favourite seniors, all the rules and regulations were set aside and future of the applicant spoiled.

A28

(xvi) That the order of the General Manager, Northern Railway, Baroda House, New Delhi, is unjust, improper, illegal, arbitrary, distriminatory and violative of the principles of natural justice.

7. RELIEF (s) sought:

In view of the fac-ts mentioned in para 6 above it is, therefore, most humbly prayed that the Hon'ble Court be pleased to quash the order No. 561-E/214 (Eiid) dated 24.2.1964 from the General Manager Northern Railway, Baroda House, New Delhi and pass the order to promote the petitioner with retrospective effect i.e. from 3.6.1963, against the 2nd (Twentieth) quota vacancy <sup>allowing him with due seniority</sup> with full payment of arrears giving due justice to the petitioner who has continuously suffered a rec-urring short-fall in the form of his salary since 1963 ~~and~~ and in the shape of DCRG, commutation, and leave encashment at the time of his retirement on 31.1.1986.

*Amendment made today msh 20/11/88*

*all future departmental promotional benefits.*

*As per order of the court dated 24-11-88, the regard amendment has been made*

*Sharma 28/11/88*

The above relief is being claimed on the basis of Article 14, 16 and 309 of the Constitution of India and on the grounds of violation of the principles of natural justice and settled prac-tice of the Railway Administra-tion to deviate from the normal rules and regulations.

8. INTERIM RELIEF (if any) NO

9. DETAILS OF REMEDIES EXHAUSTED:

The petitioner dec-lares that he has availed of all the remedies available to him under the relevant service rules etc., details of representations made by the applicant, <sup>etc</sup> as under:-

(a) Representation dated 14.7.1964; made to the General Manager, Northern Rly., Baroda House, New Delhi.

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- (b) Representation of ~~15.9.72~~ made to the Sec-retary Railway Board on 15.9.1972<sup>for</sup> permission to sue in the court.
- (c) Representation made to the Railway Minister on 21.2.1976 through the Member of Parliament.
- (d) Representation made on 23.9.1981 to the General Manager, (Personal), Northern Railway, Baroda House, New Delhi.
- (e) Representation made on 3.7.1984, and 2.12.1985 to the Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow, - applicant's case was referred to the General Manager (Personal) Northern Railway, Baroda House, New Delhi on 6.12.1985, and reminder on 27.1.1987 /but kno avail.
- (f) Representation / appeal made to the Union of India, through ~~its~~ General Manager (Personal), Northern Railway, Baroda House, New Delhi 10.1.1987 with a copy to the Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow.

OUT COME:

More than six months have passed and authority mentioned above ~~xx~~ have not passed any final orders.

- 10. Matter not pending with any other court etc. The petitioner further declares that the matter regarding this application is not pending before any court or any other authorities or any other Bench of the Tribunal.
- 11. Particulars of Bank ~~Draft~~ / Postal order in respect of the application fee: Rs. 50/-

1. Name of the Bank on which drawn
  2. Demand Draft No. OR
    - i) No. of Indian postal order *D.D. 062103*
    - ii) Name of Issuing post office *General Post Office, Hazratganj Lucknow*
  3. Date of issue of the postal order *21.4.1988*
  4. Post office at which payable. *General Post Office, Hazratganj Lucknow.*
12. Details of Index:
- (a) A photostat copy of the Railway Board's circular No. PC-60/RTP-3/1, dated 6.7.1961 regarding mode of 10% quota examination.
  - (b) Elec-trostat copy of the Railway Board's letter No. PC-60/RTP-3/1, dated 20.12.1961 regarding the policy of 10% examination.
  - (c) Electrostate copy of the circular No. 561-E/214(Eiid) dated 27.4.1964 regarding result of examination.
  - (d) Electrostat copy of order No. E/131 dated 3.5.1963 for applicant's success.
  - (e) Electrostat copy of office letter No. 247-E-FT.XVII dated 7.2.1964 referring applicant's case to the General Manager, Northern Railway, Baroda House, New Delhi.
  - (f) Electrostat copy of the letter No. 561-E/214 dated 24.2.1964 regarding the reply of the General Manager (Personal), Northern Railway, Baroda House, New Delhi

A31  
Representation 7/14.7.64

- (g) Electrostat copy of the ~~applications~~ along with ~~the~~ correspondence and last representation to the Union of India, on 10.1.1987.
- (h) Electrostat copy of Government of India, Ministry of Home Affairs, Memorandum No. 5/4/55-SCT-1, dated 4.1.1957 regarding reservation, <sup>and</sup> schedule caste and schedule tribes candidate.
- (i) Electrostat copy of the letter No. 831(E)/273/(E-IV) dated 1.2.1962 from the General Manager, (Personal), Northern Railway, Baroda House, New Delhi, regarding life of the panel.

13. List of Enclosures: Photostate/Electrostat copies of the relevant orders and circulars as mentioned in para 12.

IN VERIFICATION:

I, Prahlad Narain, son of late Shri Shyam Manohar aged about 60 years having retired from the post of Head Clerk on 31.1.1986 from the office of the District Controller of Stores, Northern Railway, Charbagh, Lucknow, under the Control of Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow, resident of E/2774, Rajajipuram Talka-tora Colony, Lucknow, do hereby verify that the contents of paras from 1 to 13 are true to my personal knowledge and belief and that I havenot suppressed any material facts.

*Prahlad Narain*  
Signature of the  
Applicant.

Place: LUCKNOW:

Dated:

The Registrar,  
Central Administrative Tribunal,  
Allahabad at Lucknow.

Sub.—Filling of posts of clerks grade I scale Rs. 130-300.

The Government have accepted the recommendation of the pay commission that there should be no direct recruitment to the posts of Clerks grade I, scale Rs. 130-300 and that a proportion of the vacancies in this grade may be filled on the basis of a competitive examination limited to Clerks grade II. They have, accordingly decided that the posts of Clerks Gr. I should be filled exclusively by promotions of Clerks Gr. II in departments other than the Accounts Department on the Railways and that 10% of the posts in the category of Clerks Gr. I (instead of 20% as laid down in para 14 of Board's letter No. E(S)I-57CPC40, dated 7-3-1957) may be filled on the basis of a competitive (written) examination limited to Clerks Grade II. The Procedure and conditions to be observed for the said examination will be as under :—

- (a) The examination should be held once a year, separately for each of the different seniority units.
- (b) Each employee may be given a maximum of 3 chances. Employees belonging to Scheduled Castes/Scheduled Tribes may, however, be given an additional chance.
- (c) Every employee with at least one year's service may be allowed to take the examination.
- (d) The subjects of the examination, the time allotted and the maximum marks for each paper should be as follows :—

Paper (Subject)	Marks	Time
(i) English (including drafting, Precis writing, Essay, Grammer) Proof correcting and Elementary Tabulation (to test candidates ability in the art of compiling, arranging and presenting data in a tabular form).	100	2 hours
(ii) Departmental knowledge paper (including Office Procedure, rules and regulations etc.)	100	2 hours

- (e) The qualifying marks should be 50% in each written paper.
- (f) The Head of the department concerned should nominate officers for setting the Question Paper and marking Answer books. These officers should get the same honoraria as are admissible to Accounts Officers who deal with the App. II-A Examination.
- (g) The usual rules regarding reservation of vacancies for scheduled Castes/Tribes will apply in filling this quota.

3. The Board have also decided that the remaining 90% of the posts in the category of Clerks Gr. I may be filled by promotion from Clerks Grade II in the scale Rs. 110-180, on the basis of seniority cum-suitability.

4. These orders do not affect the employees, already promoted as Clerks Gr. I against the 20% vacancies reserved for being filled by direct recruitment.

5. 20% of the posts in the category of Clerks Gr. I in the Accounts Department on the railways will continue to be filled by direct recruitment as laid in para 3 of Board's letter No. E (S)I-57CPC40, dated 7-3-1957.

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Attested  
*[Signature]*  
Lal Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone  
LUCKNOW.

*[Signature]*

Annexure 2

( 1255 )

a written departmental examination. The procedure to be followed for such examination and promotion should be as laid down in this office letters No. 831-E/273(Eiv), dated 16-9-1957, 5-12-1959 and 21-5-1960.

3. The vacancies in grade Rs. 130-300 which occurred prior to 6-7-1961 but not yet filled should be filled on the basis of the previous percentages 80% and 20%. Separate instructions will follow for filling up vacancies against 20% quota from the panel of graduate clerks, formed in 1959.

4. Please acknowledge receipt.

Copy of Railway Board's letter No. PC-60/RTP-3/1, dated 20-12-1961 to the General Managers, all Indian Railways, etc.

**Sub.—Filling of posts of clerks, Grade I scale Rs. 130-300.**

In continuation of their letter of even number dated 21-9-1961, the Board have decided that in filling 10% of the posts in the category of Clerks Grade I, the following further instructions may be observed :—

1. The Competitive examination for filling up of 10% of the posts should be thrown open to all Clerks Grade II.
2. The 10 % of the posts in the scale Rs. 130-300 should be worked out on the total number of annual anticipated vacancies occurring after 6-7-1961, the date of issue of the Board's revised orders.
3. The number of employees to be placed on the panel should not normally exceed the number of vacancies reserved against the 10% quota each year. The Railway Administration should hold the competitive examination every year.
4. The names of employees to be placed on the panel should be arranged in the order of merit.

**Serial No. 1456.—Circular No. 5-E/11-II(Eiv), dated 30-1-1962.**

**Sub.—Loan to members of the E.P. Railway Refugees Rehabilitation and House Building Co-operative Society Ltd., for the purchase of plots on the land to be allotted by the Delhi Administration.**

The Railway Board have decided that refundable advance from S.R.P.F. may be allowed by the controlling officer in the case of members of the E.P. Railway Refugees Rehabilitation and House-Building Co-operative Society Ltd., New Delhi for purchase of house sites allotted to the Society by the Delhi Administration. The other terms and conditions of the advance will be the same as applicable to advances admissible for house building purposes to displaced persons vide Railway Board's letter No. F(E)50/ADV-3/2, dated 22-8-1951 as amended from time to time. These orders are incorporated in para. 30 (g) (V) and 30 (h) of Chapter XVI of the Indian Railway Establishment Manual. The above has the sanction of the President.

(Authority:—Railway Board's letter No. F(P)60PF-1/29, dated 27-12-1961).

Attested

Lal Chand Srivastava  
Adm Officer  
LUCKNOW.

Subhadrani

(2)

Annexure 3

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4

NORTHERN RAILWAY.

HEADQUARTERS OFFICE,  
Baroda House, New Delhi.

No.

561E/214 (E.I.I.)

Dated 27 April, 1963.

- The Divisional Superintendent,  
Northern Railway,  
Delhi/Moradabad/Lucknow/Allahabad/Ferozepore/Jodhpur/Bikaner.
- Dy. Chief Mechanical Engineer, Amritsar.
- Works Manager, CB & AMV, Lucknow.
- Works Manager, Jagadhri.
- Works Manager, Jodhpur.
- D.C.O.S., Shakurbasti.
- D.C.O.S., AMV, Lucknow.
- D.C.O.S., Jodhpur.
- S.P.O.-III, Headquarters Office.

Subject.- Filling up posts of clerks in grade Rs.130-300(AS) against 10 % reserved vacancies on the basis of Competitive Examination.

As a result of examination held at various Centres on this Railway on 10.2.1963, the under-noted persons may be promoted to grade Rs.130-300(AS) against 10 % reserved vacancies of clerks grade Rs.130-300(AS) as advised by Divisions and extra-Divisional Offices in different seniority groups.-

Division/ Extra-Divl. Office.	Seniority Unit.	No. of vacancies advised to this Office for the period upto 31.12.1962		Name of clerks to be promoted in merit order within the Unit.	Remarks
		Scheduled Caste	Unreserved		
1	2	3	4	5	6
Allahabad Division.	Establish- ment.	1	1	1.Sh.Babu Ram Tewari (Unreserved)	One vacancy reserved for S/Caste to be carried forward.
	Mechanical	1	1	1.Sh.T.S.Dev Nath (Unreserved) 2.Sh.Hub Lal (S/C)	
	Transporta- tion.	1	-	-	-do-
	Commercial	1	-	-	-do-
Bikaner Division.	Establish- ment.	1	-	-	
	Mechanical	1	1	1.Sh. Rattan Lal Vohra. (U.R)	-do-
Delhi Division.	Establishment	1	1	1.Sh.Suraj Parkash(U.R.)	-do-
	Mechanical	1	1	1.Sh. ... (U.R.)	-do-

Indes Naran

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	2	3	4	5	6
Headquarters Estt. Officers	1	1	1	1. Shri Shyam Sunder Gupta(U/R)	One vacancy reserved for S/Caste to be carried forward
Mechanical	1	-	-	-	-do-
Optg.	1	1	1	1. Shri Romesh Chander Joshi(U/R)	-do-
Claims	1	1	1	1. Shri Dhanpat Rai Rastogi(U/R)	-do-
Claims BSB	✓ 1	2	2	1. Shri Vashisht Narain Shukla(U/R) 2. " P.N. Kapoor. (H/R).	-do-
Refund	1	1	1	1. Shri R.P. Sharma(U/R)	-do-
Rates	1	-	1	1. Shri P. Ramaiiah(S/C)	-do-
Group 'D'	✓ 1	2	2	1. Shri S.P. Malhotra(U/R) 2. " Har Chand Singh(U/R)	-do-
Stores	✓ 1	3	3	1. Shri Ram Prakash Bhasin(U/R) 2. " Nirath Das(U/R) 3. " Balbir Mitter Sharma(U/R)	-do-
Statistical Machine Section.	1	-	-	-	-do-
Statistical Jullundur.	1	-	-	-	-do-
Statistical Delhi.	1	2	2	1. Shri Shyam Sunder Lal(U/R) 2. " Ramesh Raj Gupta(U/R)	-do-
Security.	1	-	1	1. Shri Ramji Lal(S/C)	-do-
Medical	1	-	-	-	-do-

Note.- (U/R) Stands for 'Unreserved'.  
(S/C) stands for 'Scheduled Caste'.

2. The result pertaining to Engineering Groups and General Branch(Headquarters only) will be declared shortly.

3. The examination held on 10.2.1963 was to cater for 10 % vacancies which existed upto 31.12.1962 and also the reserved vacancies which would occur during the period of one year from 1.1.1963 to 31.12.1963. The vacancies upto 31.12.1962, have already been advised by you to this office. Details of vacancies which have occurred from 1.1.1963 to date should be advised to this office early indicating clearly as to how many out of them are reserved against Scheduled Caste quota so that names of eligible persons who have passed in the examination may be intimated. Vacancies which occur hereafter upto 31.12.1963 may also be intimated in due course for similar action.

*Prabhu Narain*

p.t.o.

Annexure 4

A37

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Office order No. E/131

Eastern Railway

As a result of competition examination held on 10-4-51 to fill 12 posts vacant for clerk grade B. 150-00, the following clerk have been declared successful:-

1. Shri K.L. Handwala.
2. Shri Ramdas Rao.
3. Prasad Narain.

Distt. Controller of stores,  
Allahabad, Lucknow.

Copy is to the following for information:-

1. A.C.O./Bechampur.
2. A.C.O./...
3. Particular concerned.

Distt. Controller of stores,  
Allahabad, Lucknow.

Prasad Narain

Attested  
Lal Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone.  
LUCKNOW

Annexure 7

AK90

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9

The General Manager (P),  
Northern Railway,  
Baroda House,  
NEW DELHI.

Through:- Proper Channel.

Sir,

Sub:- Filling up posts of clerk in grade  
Rs.130-300 A.S. against 10% Reserved  
vacancies on the basic of competitive  
examination.

Ref:- Your letter No.561E/214 (Eiid) of  
24-4-1964.

Para-VII of G.M.(P)'s Circular letter No.831E/273  
(E.IV) dated 3-11-'64 lays down as under:-

"If any of the qualified staff are not observed in  
a particular year, their names will be carried forward  
but they will not be required to sit for competitive  
examination again. These promotions will, however,  
depend upon their record of service continuing to be  
satisfactory."

And para-VI of the same letter lays down  
as below:-

"The vacancies will be carried forward from  
year to year and filled according to the roster."

As such it would be within the rules to carry  
forward my name and placed in the waiting list for  
absorption against the 10% vacancies occurring in  
the subsequent years in order of seniority vis-a-vis  
those who may qualify in the subsequent examinations.

I request you to kindly re-consider my case  
in the light of above rulings and pass orders  
whereby I may be promoted against the vacancies  
which are to occur after 31-12-'63, and I having  
been qualified in the competitive examination under  
your office letter No.561E/214(Eiid) of 27-4-'63.

Dated 14-7-'64.

Yours faithfully,

Attested

Prahalad Narain

(Prahalad Narain )  
Clerk

D.C.O.S., Office/N.Rly.,  
Charbagh, Lucknow.

L. S. Chandra Prasad  
Adm Officer  
Chief Engineer Lucknow Zone,  
LUCKNOW.

Prahalad Narain

extract

L declared

26.4.64

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-To

The General Manager (P),  
N.R., NEW DELHI.

Through Proper Channel.

28

Sub: Filling up posts of clerks in Gr. Rs. 130-300 (AS) against 10% reserved vacancies on the basis of competitive examination.

Ref: G.M.(P) N.R. New Delhi Circular letter No. 561E/214/Pt.IV (Eiid) dt. 13.1.67.

Sir,

In this connection I have the honour to refer to your letter Nos. 561E/214 (Eiid) dt. 24.2.64, 24.4.64 and 30.3.66 and to say that in these letters it has not been clarified as to why and under what orders I cannot be promoted when in your circular letter No. 831E/273/E-IV dt. 3.11.61 it has been clearly laid down that a successful candidate shall not be required to appear again at any such subsequent examination and that he would be considered for promotion against any such further vacancy.

I, therefore, once again request that my this appeal be reviewed in light of your circular No. 831E/273/E-IV dt. 3.11.61. I, time and again, lay stress on this point because I think the policy laid down therein has not since been changed. As such I feel that my claim for promotion does also stand due and valid.

Yours faithfully,

*Prahlad Narain*

(Prahlad Narain Srivastava)  
Clerk  
Charbagh Depot, N.Rly.,  
Lucknow.

Dated - 4.2.67

Copy forwarded to Sri N.M. Shah, Dy. C.O.S./N.Rly., New Delhi for favour of his kind perusal and compassionate consideration. In the name of equity and justice, it is most humbly requested that this case may kindly be called for and considered in view of G.M.(P)/N.Rly./New Delhi's circular letter No. 831E/273/EIV Dated 3.11.61. (copy enclosed)  
Encl: One.

Attested

*[Signature]*  
Chief Engineer Lucknow Zone.  
Lucknow

*Prahlad Narain*

(Prahlad Narain Srivastava)

*Prahlad Narain*

A42

11 B

The District Controller Of Stores,  
Northern Railway, Alambagh,  
Lucknow.

Through A . C . O . S,  
Charbagh, Lucknow.

**Subject.** Filling of posts of clerks in grade 200-300(AS) against 10 percent reserved vacancies on the basis of competitive Examination.

**Reference.** Your letter no.247E/Pt.XVII dated 15.3.67.

Sir,  
With reference to the correspondence resting with your above quoted letter, I beg to request you to re-consider my case very kindly in light of your office letter No.247E/Pt.XVII dated 7.2.64 and pass orders for my promotion .

It is, therefore, requested that the decision taken by you pursuant to my interview with your goodself on 19.12.1968 may kindly be intimated to me as early as possibly.

Yours faithfully,

Dated

24.12.1968.

*Prahlad Narain*

*Prahlad Narain*

(Prahlad Narain) Clerk,  
Charbagh Depot,  
Lucknow.

*Attested*

*[Signature]*

*Lal Chand Srivastava*  
Adm Officer  
Chief Engineer Lucknow Zone,  
LUCKNOW.

403

12

G.L. 137  
Genl. 99-2000

NORTHERN RAILWAY

247 E

Dated... 29/1/69 ... 19

To: D Cos. office  
From: Mr. L. K.

To: Shri Prahlad Narain  
90 Asst. Controller of stores  
N. Ry., C.B., Lucknow.

Subject: Filling up the posts of clerks  
under Govt. Scale Rs. 130-300 against  
10% quota

Ref. - your interview with D Cos / Amu  
on 19-12-68 & application  
dated 26-12-68

Your case has been examined by  
D Cos / Alambagh in detail and the files  
ordered to inform you that since the  
temporary sanction of clerks had gone  
under Govt when the result of clerks  
declared suitable for promotion against  
10 percent quota in Rs. 130-300 was  
received, the post could not be filled  
in and therefore no vacancy arose  
against 10 percent quota during the  
period in question hence you had no  
chance of promotion against  
10 percent quota.

Attested  
[Signature]

Chief Engineer Lucknow  
LUCKNOW

[Signature]  
Dist. Controller of Stores  
Alambagh

Prahlad Narain

A44

13

Dated - d 6/9.6.69.

To

Shri M.N.Bery,  
General Manager  
Northern Railway  
Baroda House  
New Delhi

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24

THROUGH PROPER CHANNEL

Sub: Filling up posts of clerks in Gr.130-300(A/s) against 10% reserved vacancies on the basis of competitive examination.

Ref: G.M.(P)/NDLS Circular letter No.561E/214(Eiid) dt.27.4.63.

Sir,

With due respect I beg to state the following lines for your kind perusal and favourable orders -

That in terms of GM(P)/NDLS letter No.561E/214(Eiid) dt. 22.12.62, a competitive test was held on 10.2.63 at various centres of Northern Railway to fill up vacancies against 10% quota upto 31.12.62. As would appear from the letter cited above (extract enclosed) DCOS/Alambagh had advised 3 such vacancies and accordingly only 3 persons including myself were declared successful.

That on the announcement of result two of us were immediately promoted but I was not nor have I so far been given the chance despite my repeated appeals to G.M.(P) New Delhi.

That from the date of result to 31.12.63 I made personal approaches to the Establishment Staff of the DCOS/Alambagh in connection with my promotion and sometimes I was asked if I would like to join at Mughalsarai for which I had given my consent, but to no purpose.

That when the year 1963 was over I had the occasion to feel most restless about my promotion and as such I made an application in black and white to the DCOS/AMV whereupon, vide his letter No.247E/Pt.XVII dated 7.2.64 (copy enclosed), he referred my case to G.M.(P) in the most neglected and ambiguous form.

That from the letter of DCOS/AMV dated 7.2.64, it is crystal clear that after promotion of the two candidates there were still two vacancies and necessary sanction for them was also there. But he did not promote me as two clerks in grade Rs.110-180 were not readily available to fill up vacancies consequent upon my promotion.

That such a ground of withholding my promotion is the most funny and singular because as per general practice in any office or as per establishment code promotions to all the higher posts other than Selection Posts, are always made from lower scales. In my case when vacancies were there and there I was standing eligible for promotion, I should have been rightfully promoted.

That by denying the chance to me not only one moral is evolved but the chance of another qualified is also been seized because instructions contains of G.M.(P) New Delhi letter No.561E/214(Eiid)

Prabhu Narain

7.6.69

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have not been adhered to.

That since 1964 to date I have been in a series of correspondence with the DCOS/AMV and the G.M.(P) but to no avail.

That atleast, when I sought permission for an interview with your goodself who visited the Alambagh Depot near about 7th December, 1968, the present DCOS was pleased to cancel the interview and see my case personally. As I am told he thoroughly investigated into my case. He also did realize that sheer injustice was done to me by not promoting me when the two vacancies were there. He located that the mistake occurred at the end of establishment staff of the Alambagh Depot. But to my utter disappointment I was given a new negative reply with no substantial reason after a fort night.

Under the above circumstances, I most humbly request your honour to look into my case personally and pass orders for my promotion now. I may further stress that the vacancies were there and for no fault of mine, my promotion is so ruthlessly denied.

DA/-As above.

Yours faithfully,

6.6.1969.

*Prahla*  
(PRAHLAD NARAIN) Clerk  
Charbagh Depot, Lucknow

I copy in advance to Sri M.N. Singh, G.M. N.R. for information & necessary action.

II Copy forwarded to Shri Anand Bahadur Lal Srivastava, Chief Personal Officer/NR/New Delhi for favour of information and investigation into the case. It may be pointed out in this connection that on repeated appeals dt. 14.7.64, 24.12.64, 27.4.65, 5.2.66 and 13.6.67 no action has so far been taken. Only vague replies have been communicated to me. (DA-As above)

III Copy forwarded to Shri Gulshan Rai, C.O.S./N.R./Baroda House/New Delhi for favour of his information. It is requested that my case may kindly be looked into personally and my rightful chance given to me. In the event of my case being neglected at this stage, I shall be compelled to request your goodself to allow me to seek redress of my grievances in some other higher channels. (DA-As above)

Attested

*Lal Chand Srivastava*  
Lal Chand Srivastava  
Adm Officer  
Engineer Lucknow Zone.

*Prahla*  
(PRAHLAD NARAIN)

*Prahla Narain*

AY 6 H 15

2nd Reminder  
02-1-1970

Sri M. N. Bery,  
General Manager,  
Northern Railway,  
New Delhi.

lt B2

THROUGH PRIVATE CHANNEL

Subject: Filling up posts of clerks in grade 130-100 (A/S) against 10% reserved vacancies on the basis of Competitive Examination.

Reference: G.O. (P) New Delhi Circular Letter No. 567/216 (P) dated 27.4.63.

Sir,

With reference to my appeal dated 6/9.63 and subsequently reminder dated 6.11.63 on the above subject, I beg to say that more than six months are elapsing from the date of my appeal but no order for my promotion has so far been passed. In this connection I may once again enclose herewith a copy of D.C.O. Alambach's letter No. 247/Sp. VII dated 7.12.62 for your ready reference and stress that the two vacancies for Diesel Shed Foghalmara pertained to the period upto 31.12.62; requisite sanction for the same also existed during that year and the same could have very well been operated by promoting two clerks of grade 110-120, from amongst the then existing strength. The question of temporary, therefore, having gone under bar in 1963 does not arise. On account of this obvious slackness on the part of administration, a petty clerk like myself should not be allowed to suffer.

X Sanction

In the name of justice, I, therefore, most humbly pray your honour with folded hands that my case may kindly be looked into personally and orders for my promotion passed now at a very early date, because being devoid of this chance, I feel to develop some mental set-back which, as I apprehend, may tell very much upon myself and my family.

Encl: One

Yours faithfully,

*Shikri*

(Prabhu Narain Srivastava)  
Clerk, Charbagh Depot, Lucknow.

Copy in advance to Sri M. N. Bery, General Manager, New Delhi, for favour of his information and necessary early action.

Copy forwarded to (1) Sri Brahm Bahadur Lal Srivastava, Chief Personnel Officer, New Delhi, and (2) Sri Gulshan Sai, Controller of Stores, New Delhi, together with a copy of D.C.O. Alambach's letter referred to above, for favour of information and kind examination of the case and favourable early orders.

Encl: as *Attested*

Yours faithfully,

*L. S. Chand Srivastava*  
Adm Officer  
Chief Engineer Lucknow Zone  
LUCKNOW.

(Prabhu Narain Srivastava)  
Clerk, Charbagh Depot, Lucknow.

*Prabhu Narain*

AY  
15-16

3rd Reminder  
10.2.70

To

21

Shri M.N.BERY,  
General Manager,  
Northern Railway,  
Baroda House, New Delhi.

~~46~~

~~श्रीमान प्रोफेसर~~ Through Proper Channel

Subject: Filling up posts of clerks in Grade 130-300 (A/S) against 10% vacancies on the basis of Competitive examination

Reference:- G.M.P./NDLS Circular letter NO.5612/214 (21id) dated 27.4.1963.

Sir,

With reference to my appeal dated 6/9.6.69 and subsequent reminders dated 6.11.69, 2.1.1970, on the above subject, I beg to say that despite my repeated appeals since 1963, no orders for my promotion have so far been passed. I, therefore, most humbly pray your honour to very kindly look into the matter personally and now pass orders for my promotion very early.

Yours faithfully

Attested  
*Lal Chand Srivastava*  
Adm Officer  
Chief Engineer Lucknow Zone,  
LUCKNOW.

*Prahla*  
(Prahla Harain Srivastava)  
Clerk Charbagh Depot, N.R.  
LUCKNOW

Copy in advance to Shri M.N.Bery, General Manager, N.R. New Delhi, for favour of his information and kind orders.

Copy forwarded to (1) Sri Anand Bahadur Lal Srivastava, Chief Personal Officer, N.R. New Delhi and Sri Gulshan Rai Controller of stores, N.R. New Delhi, for favour of their information. It is requested that the matter may kindly be looked into very early and orders communicated to me as early as possible.

*Prahla*  
(Prahla Harain Srivastava)  
Clerk Charbagh Depot, N.R.,  
LUCKNOW.  
*ofc*  
*Prahla Harain*

12

17  
A48

25

The Secretary,  
Railway Board,  
New Delhi.

Reminder

Dated

72.

Through proper channel

Sir,

Reg:- Filling up posts of Clerks in Grade  
Ns. 130-300 (AS) against 10% reserved  
Vacancies on the basis of competitive  
examination.

Ref:- G.M (P) MDS circular letter No.  
561-2/214 (1112) dated 27.4.1963.

\*\*\*

In this connection please refer to my appeal  
dated 25.6.71 and subsequent reminders dated 20.9.71  
No decision has so far been communicated  
to me. It is, therefore requested that my case may  
kindly be looked into very early and orders for my  
promotion passed.

In case my promotion is not deemed to be proper, I  
may kindly be permitted to seek redress in the Court  
law.

Thanking you.

Dated 15/9/ 72.

Yours faithfully,

*Prabhu Narain*

~~Prabhu Narain~~

(PRABHU NARAIN)  
Clerk, Chaurbagh Depot  
Lucknow.

\*\*\*\*

Copy in advance to the Secretary Railway Board,  
Rail House, New Delhi for favour of his personal  
and kind orders.

*Prabhu Narain*

*Attested*  
*Lal Chand Srivastava*

Lal Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone,  
LUCKNOW.

18

17

A49

*[Handwritten signature]*  
19

The Deputy Controller of Stores,  
Northern Railway, Alambagh,  
LUCKNOW

Subject:- Filling up posts of clerks in Grade 130-300  
(AS) against 10% reserved vacancies on the  
basis competitive Examination.

Sir,

With reference to your Notice No.190 E dated  
20.12.1974 on the above subject, I beg to state that  
by virtue of my having passed the subject examination  
on 27.4.1963, as per General Manager New Delhi's letter  
No.561 E/214 (Eid) dated 27.4.1963, (see Extract enclosed  
for ready reference), I already stand qualified for  
promotion.

I, therefore, most humbly request your honour  
kindly to promote me now against the 10% reserved  
vacancies.

Dated. 24.12.1974

Encl. One.

Yours faithfully

*Prahlad Narain*  
(Prahlad Narain )  
Clerk, D.C.O. Office, N.F.  
Charbagh, LUCKNOW.

*Prahlad Narain*

*Attested*  
*[Signature]*

*Lal Chand Srivastava*  
Adm Officer  
Chief Engineer Lucknow Zone,  
LUCKNOW

14

ASO 18  
19

To 1586  
G.L. 19-43/1.87  
Genl. 99-6small  
185

NORTHERN RAILWAY

No. 247E

Dated 9-10-75

From

Dy COS/Arm/Secy

To  
Shri Pralad Narain  
Clery, CS Dept  
Lucknow

Subject: Filling up posts of class in  
Grade Ps 330-560 on basis  
Reference of Competitive examination  
Your representation dated 11.9.75

The General Manager of New Delhi has decided that since you qualified the Competitive examination held in 1963, and were not promoted for one reason or the other the question of grant of exemption from appearing the fresh suitability test after a lapse of 12 years does not arise.

Attested

L. P. Chand Srivastava  
Chief Engineer Lucknow Zone,  
LUCKNOW.  
Adm Officer

For Dy Controller of Arm  
Pralad Narain

AS/

19

20

S.D.SINGH CHAURASIA

15.A.P.Sen Road Lucknow

Dated 21/2/76

7

Respected Pandit Jee ,

The attached application of Sree Prahlad Narain is self explanatory. It is really a petiaole case that a candidate ~~over~~ having passed examination for reserved vacancies of 10% quota in April 1963 should remain hanging upto now inspite of the fact that the third vacancy existed .

I would request you to kindly get it examined fully and order the needful .

With regards.

Ans. Si

Yours sincerely,

*M.P. ofc*

*Prahlad Narain*

*Attested*

*Lal Chand Srivastava*  
Adm Officer  
Chief Engineer Lucknow Zone.  
LUCKNOW.

16

AS2

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21

S.D. Singh Chaurasia

15 A.P. Ben Road,  
Lucknow  
Dated 21.6.1976

Respected Pandit Jee,

On 27.2.76 I had forwarded to you a case of one Shri Prahlad Narain, an employee of Dy. C.O.S. office, N. Rly. Alambagh, Lucknow for your perusal and kind orders. I have gone through his case & feel that great injustice and harrasment have been done to the employee by not promoting him against the reserved existing quota simply because the administration had no other clerks to fill in the lower grade resultant vacancies.

79  
16

However, I am enclosing herewith a history of his case again in net shell along with other relevant papers, keeping both the legal and ethical bounds in view request that he be promoted now with retrospective effect.

Yours sincerely,

*S.D. Singh Chaurasia*  
( S.D. Singh Chaurasia )  
MIP

Shri Manlapati Tripathi,  
Minister of Railways,  
Government of India,  
New Delhi.

*Prahlad Narain*

Attested  
*Lal Chand Srivastava*  
Chief Engineer Lucknow Zone  
Adm Officer  
LUCKNOW.

17

The General Manager (P)  
Northern Railway.  
New Delhi.

Through Proper Channel

Sir,

Sub:- Filling up posts of clerks in grade 130-300 (AS) against 10% reserved vacancies on the basis of competitive examination.

Ref:- 1. Your letter No 561E/214 (Eid) dated 22.12.62.  
2. Your Circular No 561E/214 (Eid) dated 27.4.1963.

In this <sup>to say</sup> connection I may refer to my latest appeal dated 25.12.78. and again beg to say that in terms of your letter No 561E/214 (Eid) dt. 22.12.62. a competitive test was held on 10.2.63. and vide your circular of even No dt. 27.4.63. ( Extract enclosed ) three successful candidates including myself ( Second in the merit ) were advised to be promoted quite in conformity with the number of 3 vacancies shown reserved upto 31.12.62. by DCOS/AMV vide his letter No 190E dt. 9.1.63. Two of them were promoted immediately but I was not and my case was kept hurried till 31.12.63 with ~~falls~~ <sup>kept</sup> false assurance of promotion to me.

However, when I <sup>persued</sup> promoted my case in black and white. It was intimated to you by DCOS/AMV vide his letter No 247E pt xvii dt. 7.2.64. ( Copy enclosed ) that I was not promoted due to non-operation of two posts sanctioned for Diesel Shed, Moghalsarai and the cause of this non-operation of post was, in the first instance, shown as non-availability two approved clerks in grade 110-180. In the second instance after six years, the cause of this very non-operation of the post at Moghalsarai was conveyed as the temporary sanction having gone under ban prior to the announcement of the result on 27.4.63. (copy enclosed). Thus the two different caused of non-operation create doubt. Again with regard to number of vacancies reserved against 10% quota upto 31.12.62. DCOS/AMV letter Nos. 190E dt. 9.1.63. and No 247E pt xvii dt. 7.2.64. contradict each other as much as the former declared 3 vacancies and the latter speaks of the two. This contradiction also seems to be more than enough to betray one's confidence.

Leaving the above facts aside, the existence of the 3rd vacancy during the specified period from July 1961 to 31.12.63. can not be negotiated because non-availability the approved clerks in grade 110-180. and expiry of the temporary as sanction before announcement of the result were pre-known facts and as such they can not tell upon the creation of 3rd vacancy even in the least.

Further, if the 3rd vacancy had not come into being why at all I was informed and allured of my success and promotion by DCOS/AMV vide his letter No E31. dt. 3.5.63. (copy enclosed) why the administrative unit at Alambagh kept silent in rectifying the mistake and removing the anomaly and why I was not informed of the query raised by you in your letter of even No dt. 24.2.64. (copy enclosed).

Thus in view of the above, contradictions and created abnortmal existence of 3rd vacancy during the period in question can not be enveloped. I, Therefore, request your honour kindly to review my case and pass orders of my promotion with retrospective effect in view of instructions contained in printed serial No 5470.

Encs:- 5  
Dated:- 28.12.79.

Yours faithfully

*Prahlad Narain*  
( PRAHLAD NARAIN )  
Senior clerk/CB depot.

Copy in reference to the G.M. (P) N.Rly, New Delhi- for favour of his perusal and orders.

*Prahlad Narain*  
( PRAHLAD NARAIN )  
Senior clerk/CB depot.

AS3

21

22

HS

HS

Attested

*Chand Srivastava*  
Adm Officer  
Chief Engineer Lucknow  
LUCKNOW

18

To

The General Manager CP,  
North Railway  
New Delhi

106 ASY

23

Through Proper Channel

Sub. Filling up posts of clerks in grade B30-500  
(As) against 15% scale revised  
means on the basis of Competitive  
Examination

Refer: My appeal dated 28-12-79.

With reference to above I have to say that  
no decision has so far been made to me  
despite my several requests. Therefore  
I request you to look into my case  
very early and decide my case  
favorably. A copy of my appeal  
of 28-12-79 is attached with for your  
ready reference.

Clerk. cum  
of 28-12-79

Yours faithfully  
Prabhu Mani  
Swabhas (P.O.)

Attested  
Lal Chand Sivastava  
Adm Officer  
Chief Engineer Lucknow Zone  
LUCKNOW.

Prabhu Mani

24

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107  
बो.पुस. 19/G.L. 19

ब.र.न.स. 99 छोटा/Genl. 99 Small.

उत्तर रेलवे/NORTHERN RAILWAY

No 247E

Date 30-3-1901

From

Dy. COS, AMV/UCD

To

Sr. Probled Naram Srdm

ACOS Office / N.Rly

CB - Lucknow

Sub: - Representation from Sr. Probled  
Naram Srdm reg promotion

Ref: your appeal dated 22-12-00  
to GM (P) NDU

In reference to your above,  
Mr GM (P) New Delhi has informed  
that the case has been closed  
and that <sup>the</sup> question of re-examination  
at his level does not arise.

For Dy. COS: 24/3

Northern Railway,  
LUCKNOW.

Probled Naram

Attested

L. P. Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone  
LUCKNOW.

25

156

24

To: The General Manager (P)  
Baroda House, New Delhi.  
Northern Railway

13

Through Proper Channel

Subject: Promotion to Grade 330-560 against 10% reserved vacancies of 1963 as a result of competitive test.

108

Reference: Your Circular letter No. 561E/274 (MID) dated 27.4.1963.

Sir,

In this connection I have to say that in view of the three reserved vacancies having then existed and by virtue of my having passed the competitive test, I have been crying since 1963 for my promotion, but to my utter disappointment, I am now informed vide Dy. C.O.S., Alambagh letter No 247 E dated 30.3.1981 that the case has now been closed and that the question of reexamination does not arise at this stage. I am extremely wondered at the reply being so astray.

However, I again request your good self kindly to decide my case favourably or I may be permitted to seek redress in the court.

793-9-1981

Yours faithfully

Prahlaad Narain  
(Prahlaad Narain)  
A.C.O.S. Office, N.P.  
Charbagh, Lucknow.

Copy in advance to the General Manager (Personal)  
Baroda House, New Delhi, for favour of kind and early action.

Attested  
*[Signature]*  
L.L. Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone  
LUCKNOW.

Prahlaad Narain  
(Prahlaad Narain)  
A.C.O.S. Office, N.P.  
Charbagh, Lucknow.

108

Prahlaad Narain

26

AS7

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जी० एल० 19-ए/ग.ल. 19-A  
जनरल 99 छोटा Genl. 99 Small

उत्तर रेलवे NORTHERN RAILWAY

No 247 E

dt 29-9-81

Lypost/Am

To Shri Bahadur Naran  
Sr Clerk Accounts  
CB - LUs

Encl. - Promotion grade 330-560 (As against-  
10% posts on competitive basis

Ref - Your application dt 23-9-81

In your application quoted above  
address to GMCP's NDLS no fresh  
points has been advised for  
examination hence the same  
cannot be forwarded to GMCP  
NDLS.

Bahadur Naran

(Signature)

Attested

(Signature)  
Lal Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone,  
LUCKNOW.

27

ASG

26

To,

The Deputy Controller of Stores,  
Northern Railway,  
Alambagh,  
LUCKNOW.

10

~~11/11~~

Ref : Your letter No. 247 E dated 29.9.81

Sub: Filling up posts of clerks in grade 130-300(AS) against 10% reserved vacancies on the basis of competitive examination.

Sir,

I beg to say that vide your letter cited above, your goodself did not forward my appeal dated 23.9.1981 to G.M.(P),NDL, advising me that my appeal did not bearing fresh points. Sir, I am awefully surprised to see that my most genuine claim is being turned down and I am compelled to keep mum.

However, I am,once more bringing my case <sup>to</sup> your kind notice and request your goodself to let me know the following points for my satisfaction and consolation:

Firstly your records as well as the circular of G.M.(P) NDLS No.561 E/214 (Rid) dated 27.4.1963 clearly show three vacancies reserved for the period upto 31.12.1962, where as while reffering my case to G.M.(P) NDLS, in line 6th para-I of your letter No.247 E/PT.XVII dt 7.2.64, only two vacancies instead of three thave been shown upto 31.12.1962. Is this not a breach from truth ?

Secondly, the affair regarding the 3 reserved vacancies being anticipated is most unintelligible and beguiling because we anticipate only for a thing which has not occurred and is expected to occur very soon. When the examination was held in Feb.1963 and your last intimation about the existance of 3 vacancies was sent to G.M.(P)NDLS quite late in January 1963, then how the question of anti-cipation can arise in the case which is strictly restric-  
ted upto 31.12.1962.

Lastly, the plea taken in para one of your above quoted letter regarding non-availability of two approved clerks in grade 110-180 and consequent non-operation of two vacancies at Diesel Shed, Mugal Sarai fails to bear a shheid and subscontality in as much as your records

Prabhat Narain

Contd on page.....(2)

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clearly confirm the entry of two new entrants in grade 110-180 in 1963 which could have very well made good the so-called above short coming.

In view of the facts, I request you kindly to consider my case sympathetically and intimate to me as early as possible the decision and reply of my queries.

Dated : 3.7.68

Yours faithfully,

*Prahlad Narain*

( PRAHLAD NARAIN )  
Senior Clerk  
Charbagh, Depot  
Lucknow

JK

*Prahlad Narain*

Attested

*an ad*

L. Chand Sinistava  
Adm Officer  
Chief Engineer Lucknow Zone  
LUCKNOW.

( For personal attention of Dy Cas/Amr/Hko )

To,  
The Dy. Controller of Stores,  
Northern Railway, Alambagh,  
Lucknow.

H/S

Through: Proper Channel.

Sub:- Filling-up posts of Clerks in Grade 130-300(AS) against 10% reserved vacancies on the basis of competitive examination.

Refs:- G.M.(P) Circular letter No. 561E/214(E11d) dated 27.4.1963 and your letter No. 247E/Pt.VII dated 7.2.64.

Sir,

In this connection, I may refer to my appeal dated 3.7.64 and subsequent reminder dated 9.2.65 and once again bring the following facts of my case of promotion for your kind consideration.

That the circular of G.M.(P)/NDLS No. 561E/214(E11d) dated 22.12.62 where under the competitive test was held and the G.M.(P)/NDLS letter of even no. dated 27.4.63 where by the result was announced, mainly stood for the 3 reserved vacancies of 1962. I should have then been promoted alongwith the other two candidates. But it was not done so. Further the reasons for my non absorption as shown in your above cited letter and your letter of even no. dated 29.1.69 are not comprehensible and plausible because the facts of non availability of two lower grade clerks ( 110-180 ) and expiry of the sanction of two posts at Mughal Sarai on its scheduled date were already known to the administration quite well in advance and prior to the sending of an intimation of 3 reserved vacancies of 1962 to Hd.Qrs. at later date i.e. on 9.1.63.

are

Again when I was not to be promoted against my due quota of 1962 and more so even of 1963, then why at all I was informed on 3.5.63 of my success in the test to up-set my mental equilibrium and why no steps were taken to get my name deleted from the list. Thus an omission of circumspection substantiates the existence of the 3rd vacancy and guarantees of my promotion.

However, in view of the above facts and paras 4 to 8 of G.M.(P)/NDLS letter no. 561E/214(E11d) of 27.4.63, I request your goodness kindly to review my case and promote me with retrospective effect as early as possible under intimation to the applicant.

Thanks,

Yours faithfully,  
Prahlaad Narain  
( Prahlaad Narain )  
Head Clerk  
D.C.O.S./CB Office,  
Lucknow.

Dated: August 7, 1985.

Spare copy

Prahlaad Narain

Attested  
L.I. Choudhary  
Chief Engineer Lucknow Zone  
LUCKNOW.

8

REMINDER

To,

The Dy. Controller of Stores,  
N. Railway, Alambagh,  
Lucknow.

HT

Through: Proper Channel.

Sir,

Sub:- To fill-up vacancies against 10% reserved quota in Gr. 130-300.

Ref:- My application dated 7.8.1985.

With reference to this above, I have to say that no action seems to have been taken so far in my case. Since I am due retirement on 31.1.86, I request your goodself kindly to kx look into my case very early and do me justice of which I have been kept deprived so long.

The truth and genuiness of my case has all along been kept envalaped notwithstanding my continuous efforts to exposed them. The error once accured can however be subjected to rectification any movement.

Thanking you in anticipation.

Yours faithfully,

*Prahlad Narain*  
( PRAHLAD NARAIN )  
Hd. Clerk, CB Stores,  
Luoknow.

Dated: 26.8.85.

*Prahlad Narain*

*Attested*  
*and*  
L. P. Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone.  
LUCKNOW.

THROUGH PROPER CHANNEL

To,

The General Manager (P),  
H.R. Baroda House,  
NEW DELHI.

Sub:

Filling up posts of clerks in grade 130-300 (AS)  
against 10% reserved vacancies on the basis of  
competitive examination.

Ref:

G.M.(P) Circular letter No.561 E/214(Eiid) dt 27-4-1963.

Sir,

Most humbly I beg to say that for the last 22 years, I have been striving to achieve my long due promotion but my case has all along been excepting precise and just probe by the authorities. However, being sure that my case has got a moral and legal footing, I am once again laying down my case for kind scrutiny and justice:-

(A) ORDERS OF G.M.(P) CIRCULAR NO.831-E/273/E-IV OF 30-11-1961.

1. For promotion from grade 110-180 to 130-300, 90% posts to be filled on seniority-cum-suitability basis and the rest 10% reserved to be filled through competitive test.
2. Such competitive test to be held every year.
3. Only as many candidates to be placed on the panel as would be advised by the respective units of H.R. to G.M.(P).
4. 10% quota posts would not be filled through Seniority-cum-suitability media.
5. Name of a paneled candidate, who is not absorbed in the particular year would be carried forward.

(B) CASE IN BRIEF :-

Accordingly, in terms of G.M.(P) l.no.561-E/214(Eiid) dated 22-12-1962 a test was held on 10-2-1963 on H.Rly basis. This examination covered two phases—one to fill up vacancies upto 31-12-1962. As against advice of D.C.O.S., Alambag vide his letter No.190-E dated 9-1-1963, only three persons including myself were declared successful by G.M.(P), NDLS in his letter No.561-E-/214(Eiid) dated 27-4-1963 against the reserved quota of 1962. The quota of 1963 went blank. Two persons were promoted but I was given no chance neither against the scheduled quota of 1962 nor that of 1963.

On appeal from my side my case was referred to G.M.(P) vide D.C.O.S., Alambag letter No.247-E/PT-XVII dt 17-2-1964 stating the cause of my non-absorption and recommending for my promotion against a vacancy of 1964. The G.M.(P) was pleased to

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Prabha Narain

(3)

hanging in space and decisions so far taken are based on mere speculation without any enquires and passing final orders.

7. That in support of the legal aspects of my case, I may refer to G.M.(P), NDLs letter no. 561-2/113-PT(R116) of 24-9-1963 to D.C.O.S., Alambag where under the case of my colleague Shri V.D. Ahuja was turned down, because he was not on the roll of N.Rly when he passed a test to fill up vacancies against graduate quota in 1956. He appealed and secured promotion with retrospective effect and is for the present enjoying benefits of the post of an Office Superintendent.

PRAYER :-

I am due retirement on 31-1-1985 and as such I request your honour kindly to promote me with retrospective effect within my service period so that I may be saved from the pecuniary loss evaluating to approximately Rs. 40.00 Thousand and still more important from the loss of physical soundness.

Dated : 2.12.85

Yours faithfully,

Prahlad Narain

Prahlad Narain  
( PRHLAD NARAIN )  
HEAD CLERK  
C.B. DEPOT,  
LUCKNOW.

JK

Attested

*L. Chand Srivastava*

L. Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone  
LUCKNOW.

6

L.S.

(2)

reply negatively vide his letter No.561-E/214(EIId) dated 7-2-1964.

(C) MY GRIEVANCES :-

As given in D.C.O.S., Alambag letter cited above, the 3rd vacancy did not occur because two Railway Service Commission pannelled staff were not available to operate two Senior-clerk grade vacancies sanctioned for Diesel Shed, Moghal Sari and that the said sanction had expired before announcement of the result on 27-4-1963(247-E of 29-1-1969).

(D) ARGUMENTS :

1. That the two posts could be got operated from amongst the staff already working in grade 110-180 as done for operation of two posts of Wardkeepers against the same sanction.
2. That had, as soon as the sanction expired, my case been referred to H.O. Office, some solution would have assuxed by been obtained.
3. That as pointed out by D.C.O.S., Alambag in his letter No. 247-E dated 11/12-3-1964, when 26 promotions had been done, it meant that 0.8% of the 3rd vacancy was in existence which mathematically meant to one unit and confirms the existence of the subject vacancy in 1963.
4. That the presence of sanction for diesel shed, Moghal Sari to allow the two posts go un-operated, not to initiate for any solution on expiry of the sanction and lastly to inform me of my success vide letter No. E/131 dated 3-5-1963 do guarantee the existence of the 3rd vacancy and prove me an open victim of administrative lapses.
5. That as elaborated by Dy.C.O.S., Alambag in his D.O. letter No. 247-E dated 4.2.77... to Shri Deo Raj, A.P.O. (C), H.O. Office New Delhi in reference to his D.O. letter No. 145-E/C-26551/Lo 88 dated 31-1-1977, no further competitive tests were held and 10% vacancies were filled by promotion of staff on Seniority-cum-suitability basis. Obviously this is a violation of The Railway Board's orders because there are no instructions either of the Railway Board or of the G.M. (P), N.Rly to adopt the above policy of seniority-cum-suitability.
6. That as would appear from D.O. letter No. 145-E/C-25751-Lo/RB-988 dated 18-3-1981 from Shri M.M. Malik, A.P.O. Gr-I to Shri M.B. Lal, A.P.O., Stores, Alambag, Lucknow, my case has been

..... (3)

Prabhu Narain

(3)

hanging in space and decisions so far taken are based on mere speculation without any enquires and passing final orders.

7. That in support of the legal aspects of my case, I may refer to G.M.(P), NDLS letter no. 561-2/113-PT(R114) of 24-9-1953 to D.C.O.S., Alambag where under the case of my colleague Shri V.D. Ahuja was turned down, because he was not on the roll<sup>s</sup> of N.Rly when he passed a test to fill up vacancies against graduate quota in 1956. He appealed and secured promotion with retrospective effect and is for the present enjoying benefits of the post of an Office Superintendent.

**PRAYER :-**

I am due retirement on 31-1-1985 and as such I request your honour kindly to promote me with retrospective effect within my service period so that I may be saved from the pecuniary loss evaluating to approximately Rs. 40.00 thousand and still more important from the loss of physical soundness.

Dated : 2.12.85

Yours faithfully,

*Prhlad Narain*

*Prhlad Narain*  
( PRHLAD NARAIN )  
HEAD CLERK  
C.B. DEPT.  
LUCKNOW.

JK

*Attested*

*L. Chand Srivastava*

L. Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone  
LUCKNOW.

NORTHERN RAILWAY

NO: 247 E/  
Dated: December 6, ,85.

The General Manager (P)  
N.Railway, Baroda House,  
New Delhi.

128

Sub:- Filling up posts of Clerks in Grade 130-300 (AS) against 10% Reserved Vacancies on the basis of competitive Examination.

Ref:- D.O.Letter No. 145E/C/-25751-10/RB/SSB dated 18.3.81 from Shri M.M.Malik, APO, Gr. I to Shri M.B.Lal, APO, Stores/AMV Lucknow.

As is quite evident from G.M.(P) circular letter No.561E/214 (Bid) dated 27.4.1963, Shri Prahlad Narain, an employee of CB depot whose appeal is enclosed herewith and which is self-explanatory qualified in the scheduled test against the reserved quota of 1962. Two of his colleagues who also passed the subject test were promoted in 1963 but the employee was given no chance and as such he has been after it so long.

As expressed in DCOS/AMV letter No.247E Pt.XVII dated 7.2.64(copy enclosed), the two posts of Sr. Clerks sanctioned for Diesel Shed Mughasarai could not be operated due to non availability of R.S.C. panelled candidates of Grade 110-180 and the 3rd vacancy did not arise and the employee could not be promoted in 1963 against quota of 1962.

After going through the office records, it is revealed that the arguments as laid down in para D of enclosed appeal of the employee are quite plausible. Orders of GM(P)/NDLS circulated in his letter No. 831E/273/E-IV of 30.11.61 devising a policy for filling up 10% reserved vacancies from 1962 onwards have not been adhered to fully in as much as, when-ever the 10% reserved vacancies came into being, no further competitive examinations were held and neglecting the qualified employee, Shri Prahlad Narain, the subject vacancies were filled through promotion of staff on seniority-cum-suitability basis. This is openly affirmed in a D.O. letter No.247E dated 4.2.77 from Dy.COS/AMV/IKO to Shri Deo Raj, APO/C Baroda

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House New Delhi( copy enclosed). Besides this as apprised in D.O.letter referred to above from Shri Malik x APO/ Hd.Qrs. to Shri Lal A.P.O./Stores/AMV, without any final decision of the Railway Board having been received or achieved, the case of the employee has been brought to closure.

Attested

Cal Chand Srivastava  
Adm. Officer  
Chief Engineer Lucknow  
LUCKNOW

Therefore, in face of the meritorious performance of the employee and also his faultlessness, it is recommended to reconsider his case favourably so as to cover up the administrative divergences and effect the required reconciliation.

Hstkt. & DA/30.3.

Dy. Controller of Stores,  
N.Railway, AMV/IKO.

Copy to :  
Shri Prahlad Narain, Hd.Clerk, CB Depot in reference to his application dated 7.8.85 and his appeal dated 2.12.85.

Dy. Controller of Stores,  
N.Railway, Alambagh, Lucknow.

Prahlad Narain

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AGB

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To,

The Deputy Controller of Stores,  
N.R. Alambagh,  
Lucknow.

Sub: FILLING UP POSTS OF CLERKS IN GRADE 130-300 (AS)  
AGAINST 10% RESERVED VACANCIES ON THE BASIS OF  
COMPETITIVE EXAMINATION.

Ref : Your letter No.247 B dated 6-12-35 addressed  
to G.M. (P) and copy to me.

Sir,

In this connection, I beg to request you kindly  
to intimate to me the decision taken by the Head Quarters  
Office. In case no reply has so far been received, a  
reminder recommending my genuine case may kindly be sent  
and I may be informed. Since the date of your recommen-  
dation, a period of four months has elapsed.

Thanking you for the trouble.

Yours faithfully,

( PRAHLAD NARAIN )  
Retired Head Clerk  
Charbag Depot, Lucknow  
B-2774, Rajajipuram Colony  
LUCKNOW.

Copy to the General Manager (P) in reference to the above  
referred letter of Dy. COS/Alambagh, N.R., Lucknow with the  
request to kindly look into the matter and expedite pass-  
ing favourable orders.

Date : 15.4.86 15.4.86

( PRAHLAD NARAIN )  
Retired Head Clerk  
Charbag Depot, Lucknow

92

Prahlad Narain

Attested

L. Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone  
LUCKNOW.

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To,

The Chairman,  
Railway Board,  
New Delhi.

Sub : FILLING UP POSTS OF CLERKS IN GRADE 130-300 (AS)  
AGAINST 10% RESERVED VACANCIES ON THE BASIS OF  
COMPETITIVE EXAMINATION.

Ref : Railway Board's letter No.F(Rep)II/76 RRB/11-49  
dated 22.1.1977.

Sir,

With due respect I am enclosing herewith a copy of  
By.COS/AMV letter No.247 E dated 6-12-1986 alongwith all the docu-  
ments referred to therein and request your honour kindly to consider  
my case in light of the bare facts and pass order of my promotion  
with retrospective effect.

I now stand retired on 31.1.1986.No decision having  
been received from G.M.(P),NDLs, I seek justice from your end and  
in case I receive no information within a month so, I shall  
presume my case being turned down by your goodself also and feel  
myself permitted by you to seek redress in the Court of Law.

With humble submission.

Dated : 10.12.87

Encls : six sheets

Yours faithfully,

( PRAHLAD NARAIN )  
Retd. Employee from DCOS  
Charbagh, Lucknow

Attested

Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone,  
LUCKNOW

Copy to :

1. G.M.(P),NDLs in reference to By.COS/AMV letter No.247E dt 6.12.85.
2. The Honourable Railway Minister, All Indian Railways, Bhai Bhawan New Delhi with the request to kindly order for a proper enquiry in my case also justice.

DA - 20/12/87

( PRAHLAD NARAIN )  
Retd. Employee from DCOS,  
Charbagh, Lucknow

Prahlad Narain

A68

560A

No. 247E

Dated 27-1-1987

To

The General Manager (P)  
NRLy B. House  
New Delhi

Sub: Filling up posts of clerks in grade  
Rs 130-300 (As) against 10 P  
Reserved vacancies on the basis  
of competitive examination.

Ref: DO Ltr No 1455/K/25751-20/RB  
SSB dated 18-3-81

Your attention is invited to this Office  
letter of even number dated 6.2.81 and  
followed by two reminders and it is  
requested that the case be examined  
and report sent a decision conveyed  
early.

श्री उपायुक्त, नियन्त्रक,  
उत्तर रेलवे आलमबाग  
लखनऊ।

9.2.81  
As

Copy to Mr. Bhabha & Narain Reddy  
1003/CE/LKO

श्री उपायुक्त, नियन्त्रक,  
उत्तर रेलवे आलमबाग  
लखनऊ।

Attested  
Lal Chand Srivastava

Chief Engineer, Lucknow Zone  
LUCKNOW

A69

REMINDER

To,

The Chairman,  
Railway Board,  
NEW DELHI.

Sub : FILLING UP POSTS OF CLERK IN GRADE B.130-300  
(AS) AGAINST 10% RESERVED VACANCIES ON THE BASIS  
OF COMPETITIVE EXAMINATION.

Ref : My appeal dated 10.1.1987.

Sir,

With reference to the above I humbly pray that decision in my case may very kindly be expedited otherwise I will be compelled to seek redress in the court of law. For the last 25 years, no case has been taken to review and reconsider my case despite my repeated continuous prayers.

Dated : 10.7.87.

Yours faithfully,

*P. Narain*  
( PRAHLAD NARAIN )  
EX. HEAD CLERK, CHARBAGH.  
DEPOT. LUCKNOW. (N.R.)

Copy forwarded for information.

1. The General Manager(P), N.R., Baroda House New Delhi.
2. Dy. C.O.S., N.R., Alambagh, Lucknow.

Dated: 10.7.87

*Prahlad Narain*

*P. Narain*  
( PRAHLAD NARAIN )

*Attested*  
*L. Ch. and Srivastava*  
Adm Officer  
Chief Engineer Lucknow Zone,  
LUCKNOW.

Annexure 8

A70

( 1134 )

Copy of Memorandum No. 5/4/55-SCT.I, dated 4-1-1957 from the Government of India Ministry of Home Affairs, New Delhi, to all Ministries of the Government of India etc.

**Sub.—Reservation for members of the Scheduled Castes and Tribes in posts filled on the basis of departmental examinations of a competitive nature.**

As the Ministry of Finance etc., are aware, reservations in the public services are made in favour of members of the Scheduled castes and the Scheduled Tribes in posts which are filled by direct recruitment from the open market, but not in those filled by departmental promotion. The procedure to be followed in making selections against the reserved vacancies filled by the direct recruitment from the open market as well as the vacancies filled by departmental promotion in the case of members of the Scheduled Castes and the Scheduled Tribes has been laid down in this Ministry's Office Memorandum No. 2/11/55-RPS, dated the 7-5-1955. Where promotion is made on the principle of seniority subject to the rejection of the unfit or subject to the passing of departmental tests of qualifying nature, the instructions are that officers belonging to the Scheduled Castes and the Scheduled Tribes should be judged in a sympathetic manner and the standards applied to them need not be unduly high.

2. It has been represented to the Ministry of Home Affairs from time to time that the existing instructions do not ensure adequate representation of the Scheduled Castes and the Scheduled Tribes in the higher grades of the public services. As a result for recruitment to Grade III of the Central Secretariat Service through the limited competitive examination prescribed under the Scheme, an ad-hoc reservation of vacancies, in relaxation of the normal rules, has been agreed to in favour of candidates of the Scheduled castes and the Scheduled Tribes. Similar reservations exist also in certain cadres in the P & T Deptt., which are filled on the basis of competitive examinations and restricted to departmental candidates serving in lower grades. In the interest of securing uniformity of practice and procedure it has now been decided that the principle of reservation should be extended to all grades in all services which are filled by promotion through competitive examinations limited to departmental candidates, and that the quantum of reservation in each case should be the same as has been prescribed for posts filled by direct recruitment through open competitive examinations, viz 12½% for the Scheduled Castes and 5 percent for Scheduled Tribes. As in the case of direct recruitment by examination the appointing authority, the U.P.S.C. or other recruiting authority as the case may be, will have full discretion to appoint or recommend for appointment candidates of the Scheduled Castes and the Scheduled Tribes who may have obtained comparatively low places in the examinations except where such authority considers that the minimum standard necessary for the maintenance of the efficiency of the administration has not been reached. Where candidates are selected in this manner, the appointing authorities, will make necessary arrangements to give them additional training and coaching so that they may come up to the standard of others appointed along with them.

Attested  
 L. Chand Srivastava  
 Adm Officer  
 Chief Engineer Lucknow Zone.  
 LUCKNOW.

Serial No. 1302.—Circular No. 803-E/O/5-II(Eiv), dated 8-9-1961.

**Sub.—Ban on recruitment on Ministerial and Class IV staff in offices.**

A copy of Railway Board letter No. E(G)61EC2-4, dated 18-8-1961 is forwarded for information and guidance. The Board's letter dated 11-10-1960

Prabhu Narain

Annexure 9

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A71

( 1254 )

Serial No. 1455.—Circular No. 831-E/273(Eiv), dated 1-2-1962.

Sub.—Filling of posts of clerks grade Rs. 130-300 (A.S.)

Ref.—Railway Board's letter No. PC-60/RTP-3/1, dated 6-7-1961 circulated vide this office letter No. 831-E/273(Eiv), dated 4-9-1961,

As a result of further directions received from the Railway Board vide their letter No. PC-60/RTP-3/1, dated 20-12-1961 (copy enclosed), the following instructions are issued for promotion of clerks grade Rs. 110-180 (A.S.) to grade Rs. 130-300 (A.S.) which will be in supersession of those contained in this office letter No. 831-E/273(Eiv), dated 30-11-1961.

- (i) For the purpose of promotion of clerks to grade Rs. 130-300 (A.S.) against 10% of vacancies on the basis of competitive (written) examination each office/branch will form a separate unit. Each such unit will be division/office-wise as at present.
- (ii) All clerks in grade Rs. 110-180 (A.S.) in the unit concerned whether they are graduates or non-graduates, or promoted from lower ranks (whether matriculates or not) will be eligible irrespective of the length of service in the grade to sit for the competitive examination for 10% vacancies in the respective unit.
- (iii) The examination will be held once a year for each branch viz., Personnel, Engineering, Transportation, Commercial etc. for the Railway as a whole. Question papers will be set by the Headquarters Office and sent to subordinate offices according to a programme to be prepared by this office. Marking of Answer Books will also be done in the Headquarters Office.
- (iv) The names of those qualifying in the written examination shall be placed on the panel in the order of merit, groupwise.
- (v) A roster should be maintained for filling 10% vacancies by competitive test. First nine vacancies will be filled by staff due promotion, against 90% quota and the 10th vacancy will be filled by a person from the panel mentioned in item (iv) above, subject to his record of service being satisfactory for such promotion.
- (vi) The 10% of the posts in the scale Rs. 130-300 open for competitive test should be worked out on the total number of actual existing and anticipated vacancies during a year occurring after 6-7-1961, the date of issue of the Board's revised orders.
- (vii) The number of employees to be placed on the panel should not normally exceed the number of vacancies reserved against the 10% quota each year.
- (viii) The orders regarding reservation of posts for Scheduled Castes against 10% quota by competitive test vide para. 2 (g) of Railway Board's letter dated 6-7-1961, circulated vide this office letter No. 831-E/273(Eiv), dated 4-9-1961 should be strictly followed.

2. 90% of the posts in the category of clerks grade Rs. 130-300 (A.S.) occurring after 6-7-1961 should be filled by promotion from clerks grade Rs. 110-180 (A.S.) on the basis of seniority-cum-suitability, suitability being adjudged by

Attested

*L. Chand Srivastava*

Adm Officer  
Chief Engineer Lucknow  
LUCKNOW

*Pranlal Kumar*

A72  
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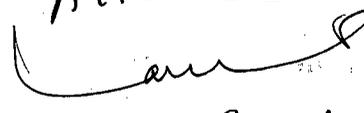
( 1255 )

a written departmental examination. The procedure to be followed for such examination and promotion should be as laid down in this office letters No. 831-E/273(Eiv), dated 16-9-1957, 5-12-1959 and 21-5-1960.

3. The vacancies in grade Rs. 130-300 which occurred prior to 6-7-1961 but not yet filled should be filled on the basis of the previous percentages 80% and 20%. Separate instructions will follow for filling up vacancies against 20% quota from the panel of graduate clerks, formed in 1959.

4. Please acknowledge receipt.

Prabhu Naraini

Attested  
  
Lal Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone  
LUCKNOW.

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In the Central Administrative Tribunal Allahabad  
Circuit Bench Lucknow.

O.A. No. 11 of 1988 (L)

Prahlad Narain

Applicant

Versus

The Union of India and others

Respondents

It is submitted on behalf of the Respondents as under:-

1. That the present application is directed against Order No. 561/E/214(E11) dated 24.2.1964 passed by the General Manager, Northern Railway Baroda House, New Delhi.
2. That vide No. 561E/214 (E11d) dated 24.4.'64, the General Manager, Northern Railway New Delhi re-iterated its earlier decision conveyed through letter dated 24.2.1964 and informed that the applicant cannot be promoted against a vacancy arising after 31.12.1963.
3. That copies of both the above letters were communicated to the applicant under Letter No. 247 E dated June 2-3, 1964 by the District Controller of Stores Alambagh Lucknow as contained in Annexure No. 6 to the application.
4. That the applicant did not challenge this order any where including the Civil Court or High Court. The period of limitation prescribed for a suit to be filed

in Civil Court is 3 years.

*Reply*  
*Filed today*  
*h*  
*SPS*

*C.R.C. Srivastava*  
सहायक कार्मिक अधिकारी (भ)  
Asstt. Personal Officer (Stores)  
उ०रे०, आलमबाग, लखनऊ  
N. Rly. Alambagh, Lucknow



A75

In the court of Central Administrative Tribunal,  
Allahabad

Circuit Bench, Lucknow.

O.A.No. 11 of 1988 (L).

Prahlad Narain .. .. Applicant.

Versus

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

The Applicant begs to submit reply to the application dated 4.9.1988 moved on behalf of the respondents regarding limitation as under:-

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1. That withreference to the contents of para 1 to 7 of the application of the respondents it is stated that the applicant was, no doubt, communicated with the decisions dated 7.2.1964 and 24.2.1964 contained in Annexure No. 6 refusing to accede to the request of the applicant for his promotion against 10% reserved vacancies, but the said decisions are absolutely non-speaking and do not decide the legal question raised by the applicant in his application regarding the application of Rester system under reservation Rules while giving promotion to Shri Nankoo Ram, scheduled caste candidate at merit No. 3, on the overleaf of annexure N. 3 whereas reservation was not at all applicable in non-selection posts filled through written competitive examination as provided in the Railway Board's letter No. E(SCT)/57-C/MI/29 dated 27.4.1959 to the General Managers, All Indian Railways.

Contd..P.2.

*Prahlad Narain*

and persuading the concerned authorities to decide his matter on merit but his case could not be decided till now by them.

6. That the Hon'ble Supreme Court of India, New Delhi <sup>in</sup> and its numerous decisions have been laying stress that the poor litigants should not be deprived of their legitimate claims if they are otherwise fortified on merit .
7. That the plea of limitation raised by the respondents is a technical plea and is not sustainable at all specifically when the applicant has been consistently cheating the Railway authorities to decide his case on merit for which, they have utterly failed.
8. That in view of the above facts the case of the x applicant is a fit case for condoning the delay, if any, otherwise the cause of action actually arose on 10.7.1987 and not on 24.2.1964 and in observance of Rules 20 and sub-rule 1(b) of Rules 21 of Central Administrative Tribunal Act 1985, the applicant's case x is within the proper jurisdiction and limitation.

Lucknow Dated:  
The 8th Sept. 1989.

*Prahlad Narain*  
( Prahlad Narain )  
E/2774, Rajaji Puram,  
Lucknow.

Verification

I, Prahlad Narain c/o late Shri Shyam Manohar aged about 62 years having retired from the post of Head Clerk on 31.1.1986 from the office of the District Controller of Stores, Northern Railway, Charbagh, Lucknow

*Prahlad Narain*

Contd..P.4.

A78

- 4 -

under the Control of Deputy Controller of Stores,  
Northern Railway, Alambagh, Lucknow, resident of E/2774,  
Rajaji Puram, Lucknow, do hereby verify that the  
contents of paras 1 to 8 are correct to my personal  
knowledge and belief and I havenot suppressed any  
material facts.

Signed and verified of this. 8<sup>th</sup>. day of Sept.  
1989 within the court compound, Lucknow.

*Prahlad Narain*  
(Prahlad Narain )  
E/2774-Rajaji Puram,  
Lucknow.

Lucknow Dated:  
The 8<sup>th</sup> Sept. 1989.

*Prahlad Narain*

2. That the question involved for consideration of the Hon'ble Tribunal is a pure question of law and the applicant's case is fully fortified by law on merit and as such the applicant is fully entitled for the relief claimed.
  
3. That ~~this~~ feeling aggrieved with the decisions of the concerned authorities of the department referred to above, the applicant bonafidely further represented his case before the Railway Board vide his application dated 25.6.1971 and subsequent reminders dated 28.9.1971 and 13.11.1971 (page 17 ) where upon the Railway Board vide its D.O. letter No. E(Rep.)/III-76/REB/11-49 dated 22.1.1977 required the General Manager (Personal ) Northern Railway, New Delhi to explain the following four-queries:-
  - (a) when the next pannel to fill up 10% vacancies was framed after 1963.
  - (b) if no panel was framed, then reason thereof.
  - (c) how the vacancies against 10% quota were filled up after 1963.
  - (d) whether the name of Sri Prahlad Narain was ever considered after the year 1963 against one of the 10% vacancies and in which grade he is working now?
  
4. That thereafter, the applicant consistantly wrote numerous letters and several reminders but no final decision could be taken or communicated to the applicant by the Railway Board and ultimately the applicant retired from service on 31.1.1986.
  
5. That the applicant has all along been a vigilant and

*Prahlad Narain*

PRO

and persuading the concerned authorities to decide his matter on merit but his case could not be decided till now by them.

6. That the Hon'ble Supreme Court of India, New Delhi <sup>in</sup> and its numerous decisions have been laying stress that the poor litigants should not be deprived of their legitimate claims if they are otherwise fortified on merit .
7. That the plea of limitation raised by the respondents is a technical plea and is not sustainable at all specifically when the applicant has been consistently cheating the Railway authorities to decide his case on merit for which, they have utterly failed.
8. That in view of the above facts the case of the x applicant is a fit case for condoning the delay, if any, otherwise the cause of action actually arose on 10.7.1987 and not on 24.2.1964 and in observance of Rules 20 and sub-rule 1(b) of Rules 21 of Central Administrative Tribunal Act 1985, the applicant's case x is within the proper jurisdiction and limitation.

Lucknow Dated:  
The 8th Sept. 1989.

*Prahlad Narain*  
( Prahlad Narain )  
E/2774, Rajaji Puram,  
Lucknow.

Verification

I, Prahlad Narain c/o late Shri Shyam Manohar aged about 62 years having retired from the post of Head Clerk on 31.1.1986 from the office of the District Controller of Stores, Northern Railway, Charbagh, Lucknow

*Prahlad Narain*

Contd..P.4.

A78

- 4 -

under the Control of Deputy Controller of Stores,  
Northern Railway, Alambagh, Lucknow, resident of E/2774,  
Rajaji Puram, Lucknow, do hereby verify that the  
contents of paras 1 to 8 are correct to my personal  
knowledge and belief and I havenot suppressed any  
material facts.

Signed and verified of this. 8<sup>th</sup>. day of Sept.  
1989 within the court compound, Lucknow.

*Prahlad Narain*  
(Prahlad Narain )  
E/2774-Rajaji Puram,  
Lucknow.

Lucknow Dated:

The 8<sup>th</sup> Sept. 1989.

*Prahlad Narain*

E/8A

व अदालत श्री मान... *Central Administration Tribunal* महोदय

वादी । मुद्दाई।

वकालत नामा

प्रतिवादी । मुद्दा अलेह।

*Praulad Narain* वादी । मुद्दाई।

बनाम

*Union of India*

प्रतिवादी । मुद्दा अलेह।

OA नं० मुकद्दमा // सन् 1988 पेशी की ता० 19 ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री... *ARJUN BHARGAVA*

एडवोकेट

महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा। इकरार। करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पेशी व जबाबदेही क प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और खया वसूल करें या मुलहनामा या इकबाल दावा तथा अखील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें या मुकद्दमा उठावें या कोई उपया जमा करें या हमारी या विपक्ष । फरीकसानो। का दाखिल किया हुआ उपया अपने या हमारे हस्ताक्षर युक्त । दस्तखती । रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह सब का । वाही हमको सर्वथा स्वीकार हैं और होगी इसलिये यह वकालतनामा दिया कि प्रमाण रहे और समय पर काम आवें।

हस्ताक्षर... *Arjun Bhargava* ...

साक्षी । गवाह। ..... साक्षी । गवाह। ..... *Arjun Bhargava*

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*Accepted*  
*Arjun Bhargava*

नाम अदालत.....  
नं० मु०.....  
नाम फरीकान.....

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
~~Allahabad~~ ALLAHABAD BENCH  
~~23 A, Thornhill Road, Allahabad-211001~~

Gandhi Bhawan (Opp. Residency)  
Lucknow.

No. CAT/1111/

of dated: \_\_\_\_\_

Ashrafud Masain O.A. No. 11/88(L)  
Applicant(s)

Versus

Union of India & ors. Respondent(s)

To (2) Deputy Controller of Stores  
N. Rly, Alambagh, Lucknow.

Please take notice that the applicant above named has presented an application, a copy whereof is enclosed herewith which has been registered in this Tribunal, and the Tribunal has fixed 27<sup>th</sup> day of May 1982

If no, appearance is made on your behalf your pleader or by some one duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 1<sup>st</sup> day of May 1982

*J. S. V. S. S.*

For DEPUTY REGISTRAR (J)

dk

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
~~Circuit~~ ~~ALLAHABAD BENCH~~  
~~23 A, Thornhill Road, Allahabad 211 001.~~

Gandhi Bhawan (Opp. Residency)  
Lucknow.

Lko  
No. CAT/1111/

Dated the \_\_\_198\_\_.

O.A. No. 11/88(L)

Prahlad Narain

APPLICANT (s)

Versus

Union of India & ors.

RESPONDENT (s)

To

1. Union of India  
through General Manager  
N. Rly, Baroda House  
New Delhi.

Please take notice that the applicant above named has presented an application, a copy whereof is enclosed herewith which has been registered in this Tribunal, and the Tribunal has fixed 27th day of May 1988.

If no, appearance is made on your behalf, your pleader or by some one duly authorised to act and plead on your in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 11/5/88 day of \_\_\_\_\_ 1988.

*J. Srinivasan*

For DEPUTY REGISTRAR (Jud)

dk/

In the CENTRAL ADMINISTRATIVE TRIBUNAL

C  
146

Circuit Bench,

Gandhi Bhawan (Opp. Residency)  
Lucknow.

O.A. NO. 11/08 (L)

Prahlad Narain — Applicant

vs.

Union of India & Ors. — Respondents

Order

Honble S. Zaheer Hasan, V.C.,  
Honble Ajay Johri, AM.

Issue notice to respondents  
to show cause as to why this  
petition be not admitted. Put up  
on 27-5-08.

Sd/-

Sd/-

AM

V.C.

Dt. 27-4-08.

Certified True Copy

Deputy Registrar  
Central Administrative Tribunal  
Lucknow Bench,  
Lucknow

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL &  
GENERAL CLERK  
LUGER...  
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No. GAT/1123/ O.A. No 11/100(L) Dated the....1953

Poah Lal Narain ADJUDICATOR

VERSUS

The Union of India & Ors. RESPONDENT(S)

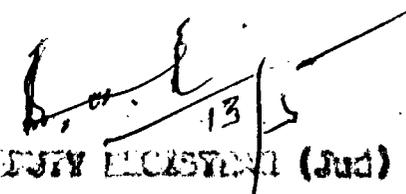
To

1. The Union of India, through the General Manager, Northern Railway, Baroda House, New Delhi
2. The Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow

Please take notice that the applicant above named has presented an application, a copy of which is enclosed herewith which has been registered in this Tribunal, and the Tribunal has fixed 27/5/53 to show cause as to why this petition be not admitted.

If no appearance is made on your behalf, your pleader or by some one duly authorized to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 12/5/53.

  
13/5  
For DEPUTY REGISTRAR (Jud)

Jain

9/L  
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148

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
~~Circuit~~ ~~ALLAHABAD~~ BENCH  
~~23-A, Thornhill Road, Allahabad-211-001.~~  
Gandhi Bhawan, Lucknow

\*\*\*\*

Lko.  
No. CAT/Allh/

Dated the    198  .

O.A. NO. 11/88(L)

Prahlad Narain

APPLICANT (s)

Versus

Union of India Lrs.

RESPONDENT (s)

To

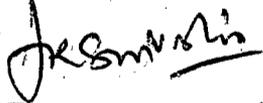
- ① Union of India, through  
General Manager, Northern Rly,  
Bazoda House, New Delhi,
- ② Deputy Controller of Stores,  
N. Rly, Alambagh, Lucknow.

Please take notice that the applicant above named has presented an application, a copy whereof is enclosed herewith which has been registered in this Tribunal, and the Tribunal has fixed 27<sup>th</sup> day of May 1988.

If no, appearance is made on your behalf, your pleader or by some one duly authorised to, act and plead on your in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal  
this 11/5/88 day of    198  .

dk/

  
For DEPUTY REGISTRAR (Jud)

C  
149

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALIAHABAD,  
AT LUCKNOW.

C.A. 27n. No. (Amend.) 13-delhi(L)  
m

CASE NO. OA-11-88(L)

C

BETWEEN

PRAHALAD NARAIN SON OF LATE SHRI SHYAM MANOHAR RETIRED  
HEAD CLERK, DISTRICT CONTROLLER OF STORES OFFICE NORTHERN  
RAILWAY, CHARBAGH LUCKNOW.

APPLICANT

VERSUS

1. THE UNION OF INDIA THROUGH the General Manager, Northern Railway Baroda House, New Delhi.
2. The Deputy Controller of Stores Northern Railway, Alam-Bagh, Lucknow.

RESPONDENTS

*Recd. RL Ad.  
for A.B. Singh*

*20/10  
S.N. Yadav  
H.C. Singh  
Amr/14/88*

The Applicant above named most humbly begs to submit  
as under :-

1. That the applicant had submitted an application before the Honourable Tribunal on 27.4.88 which is <sup>pending decision</sup> under judgement and the opposite parties have not yet submitted the counter affidavit.
2. That the opposite parties have lastly requested the Honourable Tribunal to grant extention upto 28.10.88 which the Honourable Tribunal have been pleased to grant on 23.9.88.
3. That while submitting the original application, applicant had prayed for the relief requesting to quash the order No 561E/214(Eiid) dated 24.2.64, passed by the General Manager (Personal) Northern Railway Baroda House New Delhi and promote the applicant with retrospective

.....2/-

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effect i.e. 3.6.63 against the 2nd (Twentieth) quota vacancy with full payment of arrears.

4. That the applicant further begs to submit that he had inadvertently missed to pray for the further promotional benefits consequent upon getting the benefits with effect from 3.6.63.

5. That the applicant having been arbitrarily and illegally denied his promotion from 3.6.63 was promoted in the grade in question on <sup>28.1.77</sup> 01.2.77 in the regular course and thus a bright and golden future of 14 years of the applicant was marred and belated.

6. That since this aspect has not been mentioned in the prayer, it may now very kindly be added.

PRAYER

After apologising from the Honourable Tribunal, it is, therefore, most humbly prayed that the Honourable Tribunal be pleased to allow the following amendment applications as under :-

a) That in line 8 in para 7 of the original application the words "allowing him with due seniority all future departmental promotional benefits", in between 'the contents against the 2nd (Twentieth) quota vacancy AND ' with full payment of arrears.' may please be added.

I, Prahalad Narain S/O Late Shri Shyam Manohar aged about 60 years having retired from the post of Head Clerk on 31.1.88 from the Office of the District Controller of Stores, Northern Railway, Charbagh Lucknow, under the Control of Deputy Controller of Stores, Northern Railway, Alambagh Lucknow, resident of E/2774, Rajajipuram, Talkatora Colony, Lucknow—

Contd.....3/-

151

do hereby verify that the contents of para 1 to (a) are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place : Lucknow

Prahalad Narain

Dated :  $\frac{24.x.88}{28}$

*Prahalad Narain*  
Signature of the applicant

To.

The Registrar,  
Central Administrative Tribunal  
Allahabad, at Lucknow

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,  
AT LUCKNOW.

CASE NO. OA-11-88(L)

C.M. An. No. (Amendment) 12 of 1988(L)

OA-11-88(L)

BETWEEN

PRAHLAD NARAIN SON OF LATE SHRI SHYAM MANOHAR RETIRED  
HEAD CLERK, DISTRICT CONTROLLER OF STORES OFFICE NORTHERN  
RAILWAY, CHARBAGH LUCKNOW.

APPLICANT

VERSUS

1. THE UNION OF INDIA THROUGH THE GENERAL MANAGER,  
NORTHERN RAILWAY, BARODA HOUSE, NEW DELHI.
2. THE DEPUTY CONTROLLER OF STORES NORTHERN RAILWAY,  
ALAMBAGH, LUCKNOW.

RESPONDENTS

The Applicant above named most humbly begs to  
submit as under :-

1. That the applicant had submitted an application  
before the Honourable Tribunal on 27-4-88 which is <sup>pending</sup> under  
<sup>decision</sup> judgement and the opposite parties have not yet submitted  
the counter affidavit.
2. That the opposite parties have lastly requested the  
Honourable Tribunal to grant extension upto 28-10-88  
which the Honourable Tribunal have been pleased to grant  
on 23-9-88.
3. That while submitting the original application,  
applicant had prayed for the relief requesting to quash  
the order No. 561E/214(Eiid) dated 24.2.64, passed by  
the General Manager (Personal) Northern Railway Baroda  
House New Delhi and promote the applicant with retros-  
pective effect i.e. 3-6-63 against the 2nd(Twentieth)  
quota vacancy with full payment of arrears.

153

4. That the applicant further begs to submit that he had inadvertently missed to pray for the further promotional benefits consequent upon getting the benefits with effect from 3.6.63.

5. That the applicant having been arbitrarily and illegally denied his promotion from 3.6.63 was promoted in the grade in question on ~~01.2.77~~<sup>28.1.77</sup> in the regular course and thus a bright and golden future of 14 years of the applicant was marred and belated.

6. That since this aspect has not been mentioned in the prayer, it may now very kindly be added.

PRAYER

After apologising from the Honourable Tribunal, it is, therefore, most humbly prayed that the Honourable Tribunal be pleased to allow the following amendment applications as under :-

a) That in line 8 in para 7 of the original application the words "allowing him with due seniority all future departmental promotional benefits", in between 'the contents against the 2nd (Twentieth) quota vacancy AND' with full payment of arrears' may please be added.

I, Prahlad Narain S/O Late Shri Shyam Manohar aged about 60 years having retired from the post of Head Clerk on 31.1.88 from the Office of the District Controller of Stores, Northern Railway, Charbagh, Lucknow under the Control of Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow resident of E/2774, Rajajipuram, Lucknow.

do hereby verify that the contents of para 1 to (a) are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place : Lucknow

Dated : <sup>24</sup>/<sub>28</sub>.x.88

To,

The Registrar,  
Central Administrative Tribunal,  
Allahabad, at Lucknow.

Prahlad Narain

*Prahlad Narain*

Signature of the applicant

Rev. No. 322/90  
d/o 25/2/93  
M.P.S. No 5/4/93

To

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

Sir,

says that  
The applicant humbly requests a copy of the judgement order dated 12.4.90 on his O.A. no 11(88)L in case Prahlad Narain, applicant,  
vs  
Union of India and others, respondents  
kindly be issued to him as he needs the same for production before the Honourable Supreme Court, New Delhi. This is urgently needed for filing SLP in Supreme Court at New Delhi.  
Thanking you for your kindness.

Official Incharge  
5/94

क्रि. सं 0322/90  
दि. 11/08  
के बहुत देखा, परन्तु  
पुलाविका मिल गये।  
ए/एच कागज  
उप निर्णय की  
कॉपी दी जा रही।  
तापत व्यवस्था  
का वैधानिक कार्यवाही  
काय के शासनालय

Dated: - 13/4/94

Encl.: Partial order  
to L. of.

Yours faithfully,  
Prahlad Narain  
applicant, E/2774  
Ajayipuram  
Lucknow

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OR  
copy prepared today  
& sent to reception  
counter. 23/5/94

19/4/94

J.S.  
21/4  
19/4/94

Mr. Raza  
Please trace  
out for file  
by 30-6-94  
21/4  
19-4-94

file is not  
able as  
the deatng  
submitted.  
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Lucknow-BENCH  
Lucknow

Reconstructed Renew Appl No - 322/90

CAUSE TITLE O.A. 11 in OF 1988 (L)  
F.A. (T)

Name of parties Prahalad Applicant's.

VERSUS

Union of India Respondents.

Sl. No.	Particular of Documents	No. of page
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Part - A

- Check list.....to.
- ① Order Sheet..... A1 to A2 ✓
  - ② Final Judgment Dated 25/2/93..... A3 to A8 ✓
  - ③ Petition copy with power..... A9 to A119  
Reconstructed Renew Appl No - 322/90  
Annexure with petition and photo judgment..... to.
  - ④ Counter with power Cen. M.R. Recall Appl. No - 1064/93 dt. 23/93..... A120 to A130 ✓  
Rejoinder with Annexure with Applicant..... to.
  - ⑤ Supplementary counter Use. Appl No - 77/91 dt. 14.2.91..... A131 to A132 ✓
  - ⑥ Supplementary Rejoinder Use. Appl No - 276/91 dt. 20.5.91..... A133 to A134 ✓  
of the explicit
  - ⑦ Use. Appl No - 276/91 dt. 20.5.91..... A135 to A136 ✓

Part - B

~~B 137 to B 271~~

Part - C

C 272 to C 287

B/C destroyed on 9-5-12.

SCW

Copy of 401410  
24.1.95

O/R

Applicant Bahlab Narain prayed to ~~be~~ reconstruct the file for Review the Case OA 11/88(L) decided on dated 12-4-1990 by Hon'ble members Sri J.P. Sharma and Hon'ble Sri P.S. Habibmohammad A.M. Judgment was delivered by Hon'ble Mr J.P. Sharma, Member(J). The original review application has been forwarded to Allahabad, <sup>office</sup> on ~~30~~<sup>03</sup>-8-90, the ~~re~~ reply is awaited.

A reminder draft is put-up for your approval pl.

Dy. R(J)

AKS  
20/9/91  
SO.

STW  
20/9/91

Review file is not traceable.

Submitted for Reconstruction  
Chen 2 1

A.M

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD/C.B. LUCKNOW

A2

Reconstructed Revised No. 322 OF 190

Boahabai Vs. U.O.S.

Sl.No.	Date	Office Report	Orders
		<p>Dated: 7.12.92</p>	<p>Hon'ble Mr. Justice U.C.Srivastava, VC Hon'ble Mr. K. Obayya, Member (A)</p> <p>Sri Arjun Bhargav is directed to take notice in this case on behalf of the respondents. List this case for hearing on 10.12.1992.</p> <p><i>[Signature]</i> A.M.</p> <p><i>[Signature]</i> V.C.</p>
		<p><u>10.12-92</u></p>	<p>Hon'ble Mr. Justice U.C.Srivastava, VC Hon'ble Mr. K. Obayya, Member (A)</p> <p>Applicant, in person Sri Arjun Bhargava leave Council of a respondent present.</p> <p>Arguments heard. Judgment reserved.</p> <p><i>[Signature]</i> A.M.</p> <p><i>[Signature]</i> V.C.</p>
		<p><u>25.12-92</u></p>	<p>Hon'ble Mr. Justice U.C.Srivastava, VC Hon'ble Mr. K. Obayya, Member (A)</p> <p>Judgment reserved today with open Court.</p> <p><i>[Signature]</i> A.M.</p> <p><i>[Signature]</i> V.C.</p>

Review Application No. 322 of 1990

In

~~XXXXX~~

O.A. No. 11 of 1988

~~XXXXX~~

~~XXXXX~~

Date of decision: 8.2.1993

Prahlad Narain

..... Petitioner

..... Advocate for the petitioner.

Versus

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

..... Advocates for the Respondent(s)

\*\*\*\*\*

CORAM :-

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

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

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

NAQVI/

Signature

*Naqvi*  
25/2/1993

A3

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

Review Application No. 322 of 1990

In

Original Application No. 11 of 1988

Prahlad Narain ..... Applicant

Versus

Union of India and Others ..... Respondents

CORAM:

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

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

( By Hon. Mr. K. Chayya, Member(A) )

This review application is directed against the order and judgement dated 12.4.90. The applicant who retired from the service of the Northern Railway as Head Clerk on 31.1.1986 approached the Tribunal more than two years there after raising the grievance against non promotion as Clerk Gr. I and prayed that he be promoted w.e.f. 3.6.1963 with all consequential benefits of seniority and that the order dated 24.2.64 rejecting his claim for the said promotion be quashed.

2. The applicant entered in the service as Clerk Gr. II. Promotion to the post of Clerk Gr. I was either on the basis of seniority or by competitive

A4

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examination. 90 percentage of the vacancies were to be filled in by promotion on the basis of seniority, while 10 percentage was opened to competitive examination among the departmental candidates. The applicant appeared for the departmental competitive examination held in 1963 and was declared successful. His name was at No.2 in the merit list of three candidates.

The respondents however, promoted the candidates at merit list no.1 and 3 and he was over looked. He made several representation but no avail.

He approached the Tribunal by filing an application on 27.4.88. The case of the applicant was that as he stood at merit position 2 ~~and that~~ he should have been promoted if not against the vacancies of 1963 but against the vacancies of 1964 or thereafter. The case was contested by the respondents on the point of limitation since the cause of action arose in 1963 and that the application was filed in 1988.

3. The case was heard and the application was dismissed holding that the respondents have successfully made out <sup>a</sup> ~~the~~ case that the present application is not within the limitation and is barred by Section 21 of the Administrative Tribunal Act 1985.

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4. In this review petition, the applicant has pointed out that the Tribunal erred in holding that the application was barred by limitation, since the applicant has preferred statutory appeal to the railway Board and that was pending and also that he has been making representations to the department from time to time between the period 14.7.1964 to 10.1.1987. The other ground urged by the applicant is that in as much as his fundamental right for promotion is involved in this case and that right cannot be abrogated by the plea of limitation. He also pleaded that Article 16(1) and 14 of the Constitution were violated in as much as equal protection of law and rule of law was not followed in his case. It is also his contention that the denial of promotion was a punishment and that could not have been imposed without initiating the disciplinary proceedings. He was higher in merit over Nanku Ram who was at sl. no.3 in the merit list and he should have been promoted in preference to the said Nanku Ram.

5. From the record, it is noticed that the applicant's case has been considered by the Administration more than once and the applicant

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has been told in clear and unambiguous terms that as there were only two vacancies in the year 1963 one in the general and the other in the reserved category and that the third vacancy was not available to the applicant, he could not be promoted and as the selection is against 10 percent Departmental quota he was not eligible for consideration for the vacancies falling in 1964. It is also noticed that sanction for two posts at Mughal Sarai expired in 1962 which was much earlier to the selections of 1963. In other words, there were only two vacancies one in the open category and the other in the reserved category and the candidates at sl. no. 1 and 3 were appointed against these vacancies. The candidate at sl. no. 3 ~~was~~ in merit was a reserved candidate. The applicant has also urged that the Tribunal has not considered the case law cited by him. We have carefully considered the various contentions raised by the applicant both on the point of facts and on the point of law. Admittedly, the applicant was successful in the 1963 selection ~~but~~ but he could not be promoted for want of vacancy. He represented to the Administration which was considered and the applicant was informed as to the reasons why he was not promoted. However, it would appear that in the year 1977 he was

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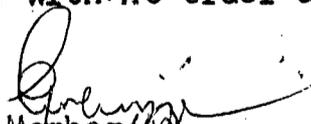
promoted as Senior Clerk and thereafter he also became Head Clerk and retired from that post. His application was dismissed on the ground that the applicant should have sought legal remedy long back since the cause of action relates to the year 1964 and it is being agitated in the year 1988. The point of limitation was discussed extensively in the judgement, and placing reliance on the decision of the Supreme Court in S.S. Rathore Vs. State of Madhya Pradesh (A.I.R 1990 S.C, page 10), wherein it was held that repeated unsuccessful representations not provided by law do not save limitation. The applicant's representation was considered and as for ~~back~~ in 1981 the applicant was informed that his case is closed and the question of re-examination does not arise as there are no fresh points for consideration.

6. Reference has been made to the case of G.C. Gupta Vs. N.K. Pandey (A.I.R 1988 S.C-268), wherein it was held that inordinate delay is not merely a factor for the court to refuse appropriate delay but also settled things cannot be unsettled. In this view of the matter, we are of the view that there is no error <sup>either</sup> ~~as error~~ of fact or of law in the judgement of the Tribunal. The scope of review is limited only for correction of patent error of fact or of law which stands one in the face without

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any elaborate argument being needed for establishing it. We do not find any such error in the judgment.

7. Even on merit the applicant has no case, Merely because he was successful in selection no right of appointment accrues to him, if there are no vacancies. There were only 2 vacancies to be filled in through competitive examination and those vacancies went to others one on merit to a candidate above the applicant and the second one to a reserved candidate. Reference is made to the decision of the Supreme Court in Shankaran Das Vs. Union of India (1991 SCC(L&S)) 800, wherein it was held that a candidate included in merit list has no indefeasible right to appointment even if vacancy exists. In the instant case, even this contingency does not exist as there was no third vacancy available to be given to him. For these reasons, the application is liable to be dismissed and accordingly it is rejected, with no order as to costs.

  
Member (A)

  
Vice Chairman

<sup>25th</sup>  
Dated: ~~8th~~ February: 1993

(Uv)

In the Central Administrative Tribunal,  
Allahabad  
Circuit Bench, Lucknow.

O/C AG

O.A. No. 11 of 1988 (L)

Prahlad Narain

... Applicant

Vs.

Union of India and others

... Respondents

Application for review under section 17 of Central Administrative Tribunal (Procedure) Rules, 1987 against order dated 12.4.90 by Hon. Mr. J.P. Sharma, J.M.

1. That at the time of hearing on 11.4.90, the applicant repeatedly put forth the following arguments supported by rulings of the Supreme Court on stoppage of limitation but the same have been left over unconsidered and the orders passed and hence this review petition.

2. That the respondents betrayed confidence of the Hon. Tribunal by suppressing the facts that validity of the General Manager's order dated 24.2.64 and his jurisdiction both had ended when after some 18 years of confidential negotiations, the highest appellate authority, Railway Board investigated into the case and took it up for their decision. In this way, they misguided the Hon. Tribunal for an adverse order. Since then either due to a severe prick of conscience or due to a fear of impunity confessed the fraud done on 6.12.85, ~~xxxx~~ when ~~xxxx~~ the applicant was on the verge of his retirement.

*M. affls  
no. 11/88  
29/90  
10/5/90*

3. The the set of orders from 27.4.88 to 5.3.90 needed a review because the maintainability of the application was adjudged on the same letter of 6.12.85 (page 34 Anx.7) from District Controller of Stores to the General Manager as referred to in para 9 of the subject order; show cause notice was issued on 27.5.88; his amendment application was admitted

*Page with circumstances regarding original application*

*Some material referred to in the subject application could ... 2*

*[Signature]*  
D. K. Srivastava  
A. A. O.  
C.D.A., LUCKNOW.

A10

on 24.11.88; the need for a detailed reply from the respondents was continuously emphasised and thereafter as a result of unreasoned defaults, the Hon. Bench consisting of Hon. Justice Kamleshwar Nath, V.C., J.M. and Hon. Mr. K.J. Raman, A.M., had to pass orders deliberately for ex-parte hearing on ~~5.3.90~~<sup>5.9.89</sup>. But the case having been put up in the declining hours of the court which Hon. Justice Kamleshwar Nath, J.M. illafforded also, hearing was postponed. From that day onwards, on the advice of the respondent, and abrupt total disagreement was brought about on 8.11.90 in the two years old settled judicial proceedings and ultimately the administration of justice has been deflected and the case prejudicated, hitting the application by the same section 21 of the Central Administrative Tribunal Act 1985 under which it was considered and its maintainability was upheld till ~~5.3.90~~<sup>5.9.89</sup>. Had the application been prima-facie or otherwise barred by limitation, it would have been summarily rejected under section 3 of rule 19 of CAT Act 1985 or under section 3 of the Indian Limitation Act which is pre-emptory and does not wait for any objection being raised by the opposite party.

4. That the point of violation of statutory rules and infringement of the applicants' fundamental rights which stops the limitation from every angle and which the applicant always asserted in his application and stressed in his rejoinder dated <sup>8.9.</sup>8.9.90 and which the applicant supported by dictum of the Supreme Court on 11.4.90 were missed and not mentioned alongwith other reasons in the order of 12.4.90. Ruling of the CAT in a case (Y.K. Gupta V. Engineer-in-Chief, (1986) 1 ATC 69 (CAT)(ND) is referred to for kind perusal.

5. That in this behalf, most express orders of the Govt. envisaged in Annexure 1 and 2 and in Railway Board's letter Nos. B9set) 570M1/29 dated 27.4.59 and No.B(SCT)620M15/10 dated 24.12.63 at Serial Nos.1, 2, 3 & 4 never allowed that:-



D. K. Srivastava  
A. A. O.  
C.D.A., LUCKNOW.

contd ... 3

- a) vacancies against 10% reserved quota be filled by such staff as never qualified the scheduled written competitive examination;
- b) promotion of candidates in the select list in violation of their merit position.
- c) quota for Scheduled caste be allowed in these competitive posts.

6. That as the Hon. Tribunal observed in their findings in para 4 & 5 of their order, the applicant was placed at No.2 in the select list and as such he was higher in merit than Shri Nankoo Ram SC who was placed at merit no. 3. The Hon. Tribunal also observed that out of the 3 notified vacancies the 1st and 2nd vacancy always existed. The Hon. Tribunal further observed that in the absence of reservation of quota for SCs, the applicant had every legal right for consideration of his promotion against the 2nd existing vacancy and he was not concerned even in the least with the existence or non-existence of the 3rd vacancy. But as stressed by the Hon. Tribunal in para 5, the applicant during all his 25 years <sup>service</sup> ~~tried~~ for a vacancy of 1964 to which he is alleged to be disentitled.

7. That in this way, by denying consideration of his promotion article 16(1) of the Constitution of India has been violated infringing his fundamental right and punishing him for no fault of his without any proceedings under Rule (9) of Disciplinary and Appeal Rules, 1968 being observed. By unduly discriminating Shri Nankoo SC and promoting him in preference with the applicant, his fundamental right of "equal protection of law" and the very concept of the "Rule of Law" as enshrined in Article 14 of the Indian Constitution has against been violated.

8. That undue discrimination of Shri Nankoo Ram S/C, violation of the merit order in the Select List and carry-forward of 37 unfilled posts on the entire Northern Railway due to inherent mistake of the DCOS and the G.M. have resulted in ~~but in~~

*D. J. Sivastava*

A. A. O.

C.D.A. LUCKNOW.

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servant gives notice to the Government, its purpose is to enable the Government to make arrangements for the carrying on of the work done by the Government servant. Whereas the object of the notice is served when the Government decides to terminate the service of a temporary Government servant forthwith without notice of payment to him of the salary and allowances for the period of the notice, the object is clearly not effected when the Government servant decides to leave the service from any moment he likes without giving notice to the Government even if he foregoes the pay and allowances for the period of the notice. In our opinion, the notice, which the petitioner gave to the Government for termination of his services, did not manifestly satisfy the requirements of rule 12 of the Rules.

11. For the foregoing reasons, this petition is dismissed. The petitioner complained before us about the long delay in the completion of the disciplinary enquiry against him. The complaint is undoubtedly justified. It is clearly not in the interest either of the Government or of the Government servant that a disciplinary enquiry should drag on and be conducted for years in a leisurely manner. The disciplinary enquiry was started against the petitioner in 1961 and he was first suspended on 3rd August 1961. Five years have elapsed since then and there is yet no conclusion of the enquiry. If the Government does not intend to retain the petitioner in service, it should either conclude the disciplinary proceedings as expeditiously as possible or reinstate him in service and then terminate his service, in accordance with rule 12 of the rules. In the circumstances of the case, we leave the parties to bear their own costs. The outstanding amount of security deposit shall be refunded to the petitioner.

*Petition allowed.*

PUNJAB HIGH COURT

Before:—Shamsher Bahadur and R. S. Narula, JJ.

Civil Writ Side

Civil Writ Case No. 1631 of 1964

Decided on 14th September, 1966

Mrs. J. K. Pritam Singh and others

(Petitioners)

Vs.

The State of Punjab and others

(Respondents)

Case referred by Hon'ble Justice Shamsher Bahadur on 6-3-1966 to a larger Bench for decision of important question of law involved in the case. The case was finally decided by a Divisional Bench consisting of Hon'ble Mr. Justice Shamsher Bahadur and Hon'ble Mr. Justice R. S. Narula on 14-9-1966.

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Present :

The Hon'ble Mr. Justice Shamsher Bahadur.  
and  
The Hon'ble Mr. Justice R. S. Narula.

*For the Petitioners:*—Mr. Abnasha Singh, Advocate with Mr. Maluk Singh, Advocate.

*For the Respondents:*—Mr. M. S. Pannu, Deputy Advocate-General and Mr. A. L. Bahri, Advocate for respondents Nos. 40 and 117. Mr. C. B. Kaushak, Advocate for Respondent No. 34 and Mr. S.S. Sandhawalia, Advocate for respondent No. 13.

**A. Constitution of India, Article 226.**

Delay and laches in filling writ petition—No hard and fast rule can be laid—Jurisdiction under Article 226 is discretionary—To be exercised judicially—High Court would consider delay or laches on relevant facts.

**B. Constitution of India, Article 16.**

Delay of 7 years in filling writ petition—Delay explained due to not taking final decision on the representation of petitioners—Held, delay need not held to be unreasonable due to prevaricating attitude of Government. Further held, question of delay or laches does not arise when order was held to be violative of Article 16.

The second objection, which was vehemently pressed by Mr. Pannu, related to the delay after which the petitioners chose to approach this court in 1964 for impugning an order passed in December, 1954. The facts, relevant for deciding this objection, have already been set out by me in an earlier part of this judgment. It would appear that almost immediately after the publication of the impugned order, the petitioners started representing against the same to the Government. It is significant to note that the Government very often took more than a year in replying to the communications of the petitioners and at one time gave them the hope that their grievances would be redressed by creating supernumerary posts in which the petitioners would be equally benefited in the higher scale of pay. It is also note worthy that even till 1964 the Government did not at any stage finally reject the claim of the petitioners, but continued to tell them that the matter was still under consideration. In these circumstances, I am inclined to think that this case falls within the dictum laid down in (8) Mrs. Dhillon's case (supra), wherein it was held that the question of laches or delay did not arise when the impugned order was held to be without jurisdiction on account of its being violative of Article 16 of the Constitution. Even otherwise, it has been authoritatively laid down by a Full Bench of this Court in (10) Rajinder Parshad and another v. The Punjab State and others, I. L. R. (1966)(2) Punjab 38, that the jurisdiction under Article 226 of the Constitution is discretionary and it is to be exercised judicially and that though delay is one of the factors that comes in for consideration in the judicial exercise of such

discretion, the High Court would consider delay or laches on the part of a petitioner on the relevant facts that in the circumstances of each case, and no hard and fast rule can be laid down in this respect. Applying the test laid down in this respect, by their Lordships of the Supreme Court in (11) State of Madhya Pradesh and another v. Bhailul Khai and others. A. I. R. 1964 S. C. 1006, it is apparent that this petition has been filed within the maximum period fixed by the Law of Limitation, within which the ultimate relief claimed by the petitioners could be sought by them by way of a civil suit. Moreover, even if the petition was to be filed beyond such time due to the prevaricating attitude of the Government itself, delay need not necessarily be held to be unreasonable in a petition of this type. Considering all the circumstances of the instant case, I hold that the petitioners are not disentitled to relief on account of the otherwise apparent delay in their approaching this court under Article 226 of the Constitution.

(Para 38)

- C. Common petition by several petitioners—Maintainability of—Held, one common petition is maintainable when petitioners are hit by same impugned order and claim same relief on same grounds.

In view of the fact that all the petitioners had been hit by the same impugned order and were claiming same relief on the same grounds and the further fact that even if such a petition was to be considered by us as being on behalf of any one of the petitioners it was competent in view of the Division Bench judgment of this Court in the (9) State of Punjab and another v. Nauhar Singh and others, ILR (1964)(2) Punjab 38, the learned counsel could not seriously press this objection. For the foregoing reasons, I am inclined to hold that there is no force whatever in the said first objection of the State Government in the circumstances of this case.

(Para 37)

- D. Punjab Education Service Class III Rules, 1954.

Executive Order and statutory rules—Government cannot amend or alter any existing rule by an executive order—No distinction made under rules between J. S. T. and B. T. Teachers for purpose of further promotion—Later on J.S.T. teachers excluded from further promotion by an executive order—Held, order could not amend or alter existing rules.

In the instant case also it is obvious that 1937 Rules relating to Punjab Education Service Class III were in force till they were superseded by the Punjab Education Service Class III School Cadre Rules, 1955. No such distinction for promotion was contained in those Rules. On the authority of the Division Bench in (7) Joginder Singh Grewal's case (supra) it is held that the Punjab Government could not amend or alter the existing rules or even add to them by an executive order so as to exclude from consideration for promotion except for the impugned executive order.

(Para 35)

- E. Constitution of India, Article 16.

Discrimination on basis of qualifications—No discrimination can be made on basis of qualifications between members of cadre fellow—B.T. and J.S.T. (Junior Secondary Teachers) formed joint cadre with common seniority with equal rights of promotion—Later on teachers who were B. T. or passed B. T. before 1-4-1954 picked out of joint cadre to form a

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newly created Class II Service with scope of further promotion to Class I Service—This opportunity closed to J. S. T. teachers even they passed B.T. after April, 1954—Held order violative of Article 16 because it denied equality of opportunity among cadre fellows.

The petitioners and the J.S.T. teachers on the one hand and their B. T. counter parts including respondents Nos. 3 to 27 on the other, were recruited by the same machinery on the basis of one general set of minimum qualifications and they started as one single unit in a joint cadre in one distinct service and had a common inter se seniority till the impugned order was passed.

(Para 32)

In the instant case the two categories now formed, originally set into one common category, and, therefore, the persons falling in any of the two categories have to be treated equally in the matter of opportunity of promotion and higher remuneration, etc., for each member of the erstwhile Joint Cadre. There is no force in Mr. Pannu's argument that the two categories started inequally, because of the B. Ts. being given Rs. 20/- as additional pay at the time of their entry into service on account of their higher qualifications. The B. Ts. were, admittedly, put in the same time scale of pay, but were merely given four advance increments. This fact alone did not constitute a separate service for the trained graduates. For all matters they were subject to the same rules and conditions of service and their inter se seniority among the members of the Joint Cadre was admittedly, not affected by the grant of the advance increments.

(Para 33)

The impugned order of December, 1954, in so far as it has adversely affected the petitioners, is, in the circumstances of the case, clearly violated the fundamental right guaranteed to the petitioners under Article 16 of the Constitution.

*Cases referred.*

(Para 33)

1. Aswini Kumar Rath and others v. Director of Public Instructions, 1965 (II), Indian Factories and Labour Reports 163.
2. Accountant General v. Bakshi, A.I.R. 1962 S.C. 505.
3. General Manager Southern Railway v. Rangachari, A.I.R. 1962 S.C. 36.
4. State of Punjab v. Joginder Singh, A.I.R. 1963 S.C. 913.
5. Lekh Raj Bowry and others v. The Punjab State 1966 P.L.R. 517.
6. Brijlal Goswami v. State of Punjab and others, A.I.R. 1965 Punjab 401.
7. Joginder Singh Grewal v. State of Punjab (Civil Writ 1960 of 1965 decided on 19-7-1966).
8. Mrs. H. M. Dhillon v. The State of Punjab, 1966 Current Law Journal (Pb.) 678.
9. State of Punjab v. Nauhar Singh, I.L.R. (1964) (2) Punjab 33.
10. Rajinder Parshad v. The Punjab State, I. L. R. (1966) (2) Punjab 38.
11. State of Madhya Pradesh v. Bhailal Bhai, A.I.R. 1964 S.C. 1006.
12. Udit Narain Singh v. Board of Revenue, A. I. R. 1963 S.C. 786.

ORDER.

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Shamsber Bahadur, J.—This is a petition of ten women teachers under Articles 226 and 227 of the Constitution of India to challenge the validity of the executive order of the State of Punjab in the Education Department of 10th of December, 1954, bifurcating the service to which they belong in two classes, the distinction being made, according to the petitioners; on arbitrary and unjust basis.

2. It is common ground that the ten petitioners and respondents 4 to 127 formed a cadre called "non-gazetted Class III" of teachers receiving the time-scale salary of 70-150. It is not denied that in this cadre there were teachers who were qualified in J.S.T. (Junior Secondary Training) and B.T. (Bachelor of Training). By the executive order which is sought to be impugned, issued in the form of a memorandum from the Deputy Secretary, Education Department, the service was reorganised. J.S.T. Women Teachers were to remain in the existing grades of 70—150 and 150—220, while those who had the degree of B.T. were adjusted in another grade designated as Class II. This revision in grades, which is called 'biturcation' was to take effect retrospectively from 1st of April, 1964. It is the complaint of the petitioners that when the teachers having J.S.T. and B.T. qualifications were placed in one cadre, there could have been no reorganisation to their detriment, preferring the B.T. teachers who were treated on an equal footing with J.S.T. teachers being in a common cadre before 1st April, 1954. It of a well settled principle that the principle of equality of opportunity enshrined in Article 16 of the Constitution operates both in the matter of recruitment and promotion and when J.S.T. and B.T. teachers had been receiving equality of treatment before 1st April, 1954, there should have been no discrimination made in favour of B.T. and against the J.S.T. teachers after that date. It may be that some principle of intelligible differentia may be made out but broadly speaking the question which arises for determination in this petition is whether the order of reorganisation passed by an executive order and not by any rule under Article 309 is violative of Article 16 of the Constitution? The matter is of considerable importance and affects not only the ten petitioners but a large number of other teachers who are awaiting the decision of this petition, as stated at the Bar by Mr. Abnasha Singh, the learned counsel for the petitioners. The matter is of sufficient importance in my opinion to warrant the decision of this question by a larger Bench as whatever view I may take the aggrieved party is likely to prefer an appeal before a Letters Patent Bench.

1. It may also be noted that the petition is sought to be defeated on the ground of laches, the revision having taken place in the year 1954 and the present petition having been moved as late as August, 1964. It has been contended by Mr. Abnasha Singh that the petitioners have been trying to have their grievance redressed through proper channels and it was only when they were finally denied justice that they have approached this Court. In any event, it is submitted on behalf of

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the petitioners that there can be no denial of justice in proceedings as the question they have raised involves a violation of fundamental right. Reinforcement is also sought on behalf of the petitioners on the ground that the non-B.T. qualified teachers have not been given the same treatment as men teachers. Some instances have been shown to exist in the men's cadre where a teacher who had not the B. T. degree before 1954 was promoted to Grade II of the Men's Branch in 1956.

4. As I am of the opinion that the questions which call for a decision are of sufficient importance, I direct that these papers should be laid before my Lord the Chief Justice for constituting a Division Bench for decision of this petition. It would be desirable that an early hearing should be fixed in this case as the question of promotion of teachers is involved.

6th May, 1966.

(Sd.) Shamsher Bahadur,  
Judge.

ORDER OF THE DIVISION BENCH

R. S. NARULA, J.

The only question, which we have to answer in this writ petition under Articles 226 and 227 of Constitution is whether and, if so, to what extent is the order of the Punjab Government, dated December 10, 1954 (Annexure A) bifurcating the joint P. E. S. (Non-Gazetted) Class III (Women's Branch) School cadre into two different cadres (whereby the interests of the petitioners and other J. S. T. teachers in the erstwhile Joint Cadre in the matter of promotion and future prospects have been seriously jeopardised) is *ultra vires* Article 16 of the Constitution or otherwise invalid and unenforceable.

2. The relevant facts leading to the filing of this writ petition may first be briefly surveyed. This State Education Service was known as the P. E. S. (Punjab Education Service) and has now come to be known for some time as S. E. S. (State Education Service). Prior to 1954, there existed in the State of Punjab, a Joint School Cadre of the State Education Service (Non-gazetted) Class III employees. The time-scale of pay of teachers in the above-said Joint Cadre since April 1, 1946, was Rs. 70-5-90/5-100-5-150. The educational qualification requisite for entry into the said Joint Cadre was J. S. T. (Junior Secondary Training) or B. T. (Bachelor of Training) or B. Ed. (Bachelor of Education). For facility of reference, the non-B. T. teachers in the Cadre, in question, would be called by me "J. S. T. teachers" in this judgement. It is not disputed that in the Joint Cadre, four initial advance increments of Rs. 5/- per year were paid to teachers, who had obtained the B. T. degree at the time of their entry into service. Thus, as compared with non-B. T. teachers the B. T. teachers started in the time-scale, referred to above, at the initial step of Rs. 90/- instead of Rs. 70/- per month. It is significant, however, to note that it is admitted that by obtaining the advance increments, a B. T. hand did not become senior to the non-B. T. teachers employed less than four years earlier than him. The seniority of the teachers

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The joint cadre was counted from the date of entry into the service irrespective of the comparatively higher or lower educational qualifications and also irrespective of the advance increments given to the B.T. teachers. One more fact which is relevant for consideration is that the B.T. as well as non-B.T. teachers usually performed same or similar duties, though it has been vaguely stated by respondent No. 2 that the B.T. teachers were "competent to teach high classes" while the J. S. T. teachers were "competent to teach middle classes only". At the bar, it has been admitted that what is intended to be conveyed by the above-quoted plea of the respondent in his written statement is that, in the opinion of the Director, the B. T. teachers were competent to teach high classes and the J. S. T. teachers were not competent to teach middle classes, but this did not mean that J. S. T. teachers never taught high classes, or B. T. Teachers never taught middle classes. Still, another undisputed fact, which has to be borne in mind, while deciding this case, that is several non-B. T. teachers used to and continued to obtain higher educational qualifications including the B.T. degree, while in service.

There was a separate Cadre of P. E. S. (Class II) the incumbents of which were serving in the time scale of Rs. 150—10—190/10—220. It would be noticed that the time-scale of pay of Class II employees started from Rs. 150/- per mensem, which was the maximum in Class III. According to the figures given in para 4 of the written statement of the Director, correctness of which has not been disputed on behalf of the petitioners, the position in the above-mentioned two Cadres, as on April 1, 1953, was as follows :—

- (a) Class III (i.e. in the time-scale of Rs. 70—150) B. Ts. 79 and J. S. Ts. 99=Total 178.
- (b) Class II (i.e. in the time-scale of Rs. 150—220) B. Ts. 62 and J. S. Ts. 44=Total 106.

Whenever a lady teacher from Class II or Class III or a male teacher from any of those two grades was promoted to the post of a Headmistress or Headmaster, as the case may be, he went into Class I of the P.E.S. which carried a still higher scale of pay of Rs. 230—10—2.0/10—300. This was the admitted state of affairs when the impugned order (Annexure A) was passed—on December 10, 1954. The order may, for facility of reference, be quoted verbatim :—

"Sanction is accorded with effect from the 1st April, 1954, to the reorganisation of the P. E. S. (Non-Gazetted) Class III (b) School Cadre.

(i) Senior Masters.

Senior Mistresses (except J. S. T. Women in the Rs. 70/150 and Rs.

grades of (Rs. 150/220, who remain in their existing grades),

HIGH COURT OF MYSORE

Before:—B. M. Kalagate J. and G. K. Govinda Bhat J.  
Writ Petition No. 221 of 1965.

Decided on 3-3-1967.

P. V. MUNAVALLI Secretary, Medical College Bellary (Petitioner),

Versus

THE STATE OF MYSORE (Respondent)

For the petitioner:—Shri H. B. Datar, Advocate.

For the respondents:—Shri M. Rangaswamy for High Court  
Special Govt. Pleader for Respondents 1  
and 2.

Mysore Civil Service (Classification, Control and Appeal) Rules 1957.

A. Confidential Report—Withholding of promotion on account of Adverse confidential reports—mentioning of irrelevant and vague remark in confidential Report—Competency of Court to examine confidential reports—Order of withholding promotion quashed as the Govt. order that confidential report was unsatisfactory was not supported by facts.

In our opinion, for the reasons already stated, the petitioner's confidential report for the year 1961 was not relevant; not only that, but even the promoting authority itself considered it irrelevant and insufficient to withhold petitioner's promotion when it was given to him on earlier occasions. Further the statement in the Government Order that his confidential report for 1963 was unsatisfactory is not supported by the document placed before us. The petitioner's promotion was in our judgment withheld on irrelevant and non-existent grounds. (Para 11)

B. Constitution of India, Article 16—Mysore Civil Service (Classification, Control and Appeal) Rules, 1957. Promotion—Right of Govt. Servant to be considered for promotion is a fundamental right guaranteed under Art. 16 of the Constitution—Denial of this right amounts to imposition of penalty.

Though we are not sitting in appeal over the action of the Government, which is the appropriate authority for consideration of the case of its officials for promotion, the right of an official for consideration for promotion is one of the fundamental rights guaranteed by Art. 16 of the Constitution. When a citizen complains to this Court that he has been arbitrarily dealt with and his fundamental right has been violated, it is the duty of this Court to examine his case whether, the complaint is justified. (Para 11)

It is settled law that no Government servant has a right to promotion; his right is only to have his case for promotion considered, which is a right guaranteed under Art. 16 of the Constitution. That right can be withheld by imposition of a penalty in accordance with Rule 8 of the Mysore Civil Services (Classification Control and Appeal) Rules, 1957, the consideration of his case for

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Grade II. The petitioner was working in the post of Lay Secretary Grade I on his own pay scale from 1st July 1964 until 18th January, 1965 when the Director of Medical Services issued the impugned, memo, which reads :

The Director of Medical  
Services, Bangalore.  
Dated 18-1-1965.

No. CLT 236-1 CR/64-65.

MEMO

Sri P. V. Munavalli, Lay Secretary Grade II, who is ordered to wait for one year in Government letter No PLM, 14 MSM 64, dated 25-7-1964 to get his further promotion is posted to Civil Hospital, Belgaum, in the vacancy release by the postings of Sri B. M. Tejram Singh.

He may be relieved and directed to join duty at Civil Hospital, Belgaum, forthwith.

Sd/- A. THIMMAYYA.

for Director of Medical Services.

3. B. H. Tejram Singh, referred to in the above memo, is respondent No. 4 in the above writ petition. On the same day, respondent 2 issued another memorandum posting respondents 3 and 4 as Lay Secretaries, Grade I, on their own pay scales, pending receipt of Government orders regarding their regular promotions, and they were posted to the Medical College, Bellary, and Wonlock Hospital, Mangalore, South Kanara, respectively.

4. Government order, dated 25th July 1964, on the basis of, which the petitioner was relieved of the charge of his grade I post copy of which was produced before us by the learned Government Pleader, reads :

"Govt. letter No. PLM, 14 MSM 64, dated 25th July 1964 from the Secretary to the Govt. of Mysore, P. H. Labour and Municipal Admn. Dept. Bangalore to the Director of Medical Services, Bangalore.

Sub :- Conversion of Non-Gazetted Lay Secretaries to that of Gazetted Cadre.

With reference to correspondence ending with your letter No. CLT, 61/CR 118476 dated 7-4-1964 on the above subject, I am directed to convey approval of Govt. to the inclusion of the names of Sriyuths B. Umanth and G. H. Katti, Lay Secretaries Class III in the eligibility list for promotion to Class Ij Cadre of Gazetted Lay Secretaries. They may be posted early if there are vacancies. As regards Sri Murath Singh orders for his promotion to the post of Class II Gazetted Lay Secretary, have been issued in the Notification No. PL 14 MSM 64, dated 25th July, 1964.

Sri P. V. Munavalli should wait for one more year since his Confidential Report for the year 1961 is damaging and that for 1963 is unsatisfactory, as observed by the Public Service Commission.

The Confidential reports as noted in the margin.

Munsiffs came up for consideration before the High Court for inclusion of names in the Panel of Officers to officiate as Subordinate Judges, that the respondent's name was excluded from the said panel and it was decided that after the special report from the District Judge was received, his case would be considered a year later. The respondent challenged his supersession by Munsiffs juniors to him in the Civil List, on various grounds, and one of the ground was, that the action of the High Court amounted to withholding promotion within the meaning of Rule 49 of the Civil Services (Classification, Control and Appeal) Rules-which rule corresponds to Rule 8 of the Mysore Civil Services (Classification, Control and Appeal) Rules, 1957. The said contention was repelled by the Supreme Court on the ground that Rule 49 comes into play only while proceedings are taken by way of disciplinary action against a public servant, and in such disciplinary proceedings, the Government servant proceeded against has a right to insist upon the procedure being strictly followed, and since there was no such disciplinary proceedings against the respondent, Rule 49 was not applicable. It is relevant to state that the respondent Amal Kumar Roy did not challenge the reason given by the High Court for his supersession by Munsiffs junior to him and deferring consideration of his case after the special report from the District Judge was received a year later. The circumstances under which the High Court excluded the respondents name from the names in the Panel of Munsiffs suitable for promotion appear from the facts of the case. The Supreme Court was satisfied that the respondent's case was considered along with that of other Munsiffs and the High Court after consideration of the relative fitness of the Munsiffs chose to place a number of them on the panel for appointment as Subordinate Judges as and when the vacancies occurred, and the High Court had exercised its power, after fully considering the respondent's case for promotion, to pass him over for a year and that his case was later considered and he was promoted to higher rank. The facts of the case before the Supreme Court are therefore, clearly distinguishable from the facts in the instant case. In the instant case, the petitioner has challenged his supersession by respondents 3 and 4 who are juniors to him in the Provisional Inter-State Seniority List. A part from the stated reasons, the respondent had not contended that the petitioner is not suitable to hold the posts of Lay Secretary, Grade I.

13. It is settled law that no Government servant has a right to promotion; his right is only to have his case for promotion considered, which is a right guaranteed under Art. 16 of the Constitution. That right can be withheld by imposition of a penalty in accordance with Rule 8 of the Mysore Civil Services (Classification Control and Appeal) Rules 1957; the consideration of his case for promotion may be deferred where for instance disciplinary proceedings are pending enquiry until the conclusion of such enquiry. In the absence of any such penalty or order of postponement of consideration for promotion, he is entitled to have his case considered whenever the occasion for promotion arises.

13. It is not the case of the State that there were any disciplinary proceedings against the petitioner to defer consideration of his case for one year. If the Government, after the consideration of

the relative fitness of the petitioner and respondents 3 and 4, had superseded the petitioner and promoted respondents 3 and 4, such action would have been non justiciable. After withholding petitioner's promotion for one year respondents 3 and 4 were posted as Lay Secretaries, Grade I, pending decision of the Government regarding their regular promotions, which clearly establishes that when the impugned orders were made, the relative fitness of the petitioner and respondents 3 and 4 were not considered and thereby, the equality of opportunity guaranteed by Art. 16 was denied to the petitioner. The action of the Government directing withholding promotion of the petitioner for one year and promoting respondents 3 and 4 without considering the relative fitness of the petitioner and his juniors when the occasion for promotion arose clearly amounts to the imposition of a penalty; and such a penalty can be imposed only following the procedure prescribed by Rule 12 of the Mysore Civil Services (Classification, Control and Appeal) Rules 1957. For these reasons, we hold that the order withholding the petitioner's promotion is illegal and cannot be sustained. The learned counsel for the petitioner submitted that if the impugned orders are quashed, the relief of mandamus prayed for is unnecessary.

15. For the reasons stated above, we allow the writ petition and quashed the impugned order of Respondent I made on 25th July 1964, and the Memo issued on 18-1-1965 by respondent 2 relieving petitioner of the charge of his post and posting respondents 3 and 4 to the said post. Respondents 1 and 2 will pay the costs of this petition. Advocate's fee Rs. 50/-.

Petition allowed.

### SUPREME COURT OF INDIA

Before:—K.N. Wanchoo C.J., R.S. Bachawat J., G.K. Mitter J.  
and K. S. Hegde J.

Written Petition No. 182 of 1966

Decided on 7-8-1967

SANT RAM SHARMA

(Petitioner)

versus

STATE OF RAJASTHAN and another

(Respondent)

- A. In *Indian Police Service (Regulation of seniority), Rules, 1954, R. 6—Seniority in Gradation List—Whether confers a right to be promoted as Deputy Inspector General of Police or Inspector General of Police—Posts of I.G., Addl. I.G. in Rajasthan are selection Grade posts and are outside the junior or senior time scale of Pay—*

## Sriyuths :

1. Surat Singh for the year 1961 to 63.
2. B. Umanath for the year 1961-63.
3. G. H. Katti for the years from 1-1-61. to 30-10-61, 17-11-1961 to 31-12-61, 62 and upto 6-4-63 and 1963-64.
4. P. V. Munavalli for the years 1961. to 63.

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1961  
received  
with your  
letter No.  
CLT 661  
CR 11847  
dated 10-3-1964  
are returned  
herewith

and its receipts may please be acknowledged immediately." P. V. Munavalli, referred to in the above letter, is the petitioner.

5. In this Writ Petition the Petitioner has prayed for an appropriate writ or order quashing the memo dated 18th January 1965, relieving him of the charge of his 1st Grade post, and the above cited Government order withholding promotion for one year and for a mandamus directing respondent-1 to consider his case for promotion to the post of Lay Secretary Grade I.

6. The aforesaid order of the Government and the memo issued by the Director of Medical Services in Mysore, based on the said order, have been challenged by the petitioner on two grounds, as formulated by Sri, Datar, his learned counsel.

7. The 1st ground was that the order made by the Government that the petitioner should wait for one year for promotion since his confidential report for the year 1961 is damaging and that for 1963 is unsatisfactory, amounts to imposition of a penalty of withholding promotion without affording a reasonable opportunity to show cause. The 2nd ground was that while promoting his juniors, respondents 3 and 4, and superseding the petitioner, respondent-1 has taken into consideration irrelevant matters, such as his confidential report for the year 1961.

8. The petitioner has alleged in his affidavit that the record of his service was throughout satisfactory and, in fact, he has earned three promotions after he came to the re-organised State of Mysore and that the report for the year 1961 was made by one Dr. B. N. Lingaraju, the Dean of the Hubli Medical College, who was inimically disposed towards him and that the said confidential report was actuated by bias. Dr. Lingaraju has filed a counter-affidavit refuting the averment made by the petitioner. The Director of Medical Services who promoted the petitioner, by his order made on 4th March 1964, to the post of Lay Secretary Hospital Grade II, with effect from 16th June, 1963, did not consider from the confidential report for the year 1961 that the petitioner was unsuitable for promotion. After promotion to the post of Lay Secretary, Hospitals Grade II he was placed in charge of Grade I and continued in that charge for a period of over six months. When the question of further promotion to a higher post arose one of the relevant matters for consideration was the confidential reports after he was posted as Lay Secretary, Hospitals, Grade II at Bellary with effect from 26th June, 1963.

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9. The learned Government Pleader placed before us (a) the copy of the confidential report for the year 1961-62 (1-4-61 to 31-3-1962), which is stated in the Government order to be damaging, (b) the copy of the report for the period 1-4-1962 to 31-12-62 and (c) the copy of the report for the year 1963.

10. From a perusal of the confidential report made by Dr. Lingaraju for the year 1961-62, it may be seen that certain irrelevant facts have been mentioned by him e.g. under Section II, requiring to state if the petitioner was not yet qualified for further promotion, it is stated that the petitioner has 'evaded payment of house rent.' In our view, mentioning of such and similar facts is irrelevant. Therefore, when Dr. Lingaraju mentions such facts in the confidential report and if the petitioner, in such circumstances, complains that Dr. Lingaraju had made certain adverse remarks against him because he had bias against him, it cannot be said that such a complaint is baseless.

11. In the copy of the confidential report for the period 1-4-62 to 31-12-1962, under every heading mentioned therein, the work of the petitioner is shown as satisfactory, and no damaging or adverse remarks appear. In the copy of the confidential report for the year 1963, under all the heads falling under Section I, the remark is that his work is 'satisfactory'; the 'General remarks' falling under col. 16 are that he is "hard working and reliable, quiet and unassuming." But under Section II, which relates to the degree of fitness for promotion, the general remark reads :—

"His personality and work is not impressive. Otherwise, he is qualified for promotion."

The remark that petitioner's work is not impressive is too vague; the said observation is opposed to the remark under col. 16 in Section I that he is 'hard working' and reliable, quiet and unassuming." A person who is unassuming quiet and hard working, even if unimpressive, cannot be said to be unsuitable to hold a post. Further the learned Government pleader has not shown from the relevant Recruitment Rules that personality is one of the relevant matters for consideration for promotion to the post of Lay Secretary Grade I. The impugned Government order states that the petitioner's confidential report for the year 1963 is unsatisfactory. The learned Government pleader did not point out any remark in the said report to the effect that the petitioner's work was unsatisfactory during 1963, on the contrary, the remarks are to the effect that his work was satisfactory. Though we are not sitting in appeal over the action of the Government, which is the appropriate authority for consideration of the case of its officials for promotion, the right of an official for consideration for promotion is one of the fundamental rights guaranteed by Art. 16 of the Constitution. When a citizen complains to this Court that he has been arbitrarily dealt with and his fundamental right has been violated, it is the duty of this Court to examine his case whether, the complaint is justified. The sole reason for withholding promotion of the petitioner for one year was, according to the impugned Govt. Order, that his confidential report for 1961 was damaging and that for 1963 it was unsatis-

Munsiffs came up for consideration before the High Court for inclusion of names in the Panel of Officers to officiate as Subordinate Judges, that the respondent's name was excluded from the said panel and it was decided that after the special report from the District Judge was received, his case would be considered a year later. The respondent challenged his supersession by Munsiffs juniors to him in the Civil List, on various grounds, and one of the ground was, that the action of the High Court amounted to withholding promotion within the meaning of Rule 49 of the Civil Services (Classification, Control and Appeal) Rules which rule corresponds to Rule 8 of the Mysore Civil Services (Classification, Control and Appeal) Rules, 1957. The said contention was repelled by the Supreme Court on the ground that Rule 49 comes into play only while proceedings are taken by way of disciplinary action against a public servant, and in such disciplinary proceedings, the Government servant proceeded against has a right to insist upon the procedure being strictly followed, and since there was no such disciplinary proceedings against the respondent, Rule 49 was not applicable. It is relevant to state that the respondent Amal Kumar Roy did not challenge the reason given by the High Court for his supersession by Munsiffs junior to him and deferring consideration of his case after the special report from the District Judge was received a year later. The circumstances under which the High Court excluded the respondents name from the names in the Panel of Munsiffs suitable for promotion appear from the facts of the case. The Supreme Court was satisfied that the respondent's case was considered along with that of other Munsiffs and the High Court after consideration of the relative fitness of the Munsiffs chose to place a number of them on the panel for appointment as Subordinate Judges as and when the vacancies occurred, and the High Court had exercised its power, after fully considering the respondent's case for promotion, to pass him over for a year and that his case was later considered and he was promoted to higher rank. The facts of the case before the Supreme Court are therefore, clearly distinguishable from the facts in the instant case. In the instant case, the petitioner has challenged his supersession by respondents 3 and 4 who are juniors to him in the Provisional Inter-State Seniority List. A part from the stated reasons, the respondent had not contended that the petitioner is not suitable to hold the posts of Lay Secretary, Grade I.

13. It is settled law that no Government servant has a right to promotion; his right is only to have his case for promotion considered, which is a right guaranteed under Art. 16 of the Constitution. That right can be withheld by imposition of a penalty in accordance with Rule 8 of the Mysore Civil Services (Classification Control and Appeal) Rules 1957; the consideration of his case for promotion may be deferred where for instance disciplinary proceedings are pending enquiry until the conclusion of such enquiry. In the absence of any such penalty or order of postponement of consideration for promotion, he is entitled to have his case considered whenever the occasion for promotion arises.

13. It is not the case of the State that there were any disciplinary proceedings against the petitioner to defer consideration of his case for one year. If the Government, after the consideration of

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factory. In the counter-affidavit filed by the Under Secretary to Government, the action of the Government is sought to be justified on the very same ground. This what the counter-affidavit states : —

"The petitioner's contention that his work was quite satisfactory and that there was no adverse remarks at any time by his superiors, is not correct. The confidential reports for the years 1961 and 1963 were unsatisfactory. The petitioner's case was referred to the Public Service Commission. The Public Service Commission after considering the confidential reports was of the opinion that the confidential report for year 1961 was damaging and for the year 1963 it was unsatisfactory. In view of this opinion, the Government, after considering the case of the petitioner for promotion to the post of Gazetted Lay Secretary (250-500) thought it fit to withhold the promotion of the petitioner..."

(Underlining ours)

On behalf of the State, it was not contended that the Petitioner's confidential report for the years 1962 and 1964 was unsatisfactory or that there were any adverse remarks against him, or that there was any justifiable ground for withholding his promotion for one year. It was also not contended in the counter-affidavit filed on behalf of the State that the petitioners, in the opinion of the Government, was unsuitable to hold the post of Lay Secretary, Grade I, when the occasion for his promotion arose in 1965. In our opinion, for the reasons already stated, the petitioner's confidential report for the year 1961 was not relevant; not only that, but even the promoting authority itself considered it irrelevant and insufficient to withhold petitioner's promotion when it was given to him on earlier occasions. Further the statement in the Government Order that his confidential report for 1963 was unsatisfactory is not supported by the document placed before us. The petitioner's promotion was in our judgment withheld on irrelevant and non-existent grounds.

12. The learned Government Pleader contended that the action of the Government withholding promotion is not justiciable; his argument was that withholding of promotion merely amounts to a case of non-promotion. In support of the said contention, he relied on Clause (3) to the Explanation to Rule 8 of the Mysore Civil Services (Classification, Control and Appeal) Rules, 1957, which states that non-promotion of a Government Servant after consideration of his case for promotion to which he is eligible shall not amount to a penalty within the meaning of the said Rule. He also sought support for his contention from the decision in (1) *High Court, Calcutta v. Amal Kumar Roy*. In the said case the respondent, who was in the Cadre of Munsiffs on the West Bengal Judicial Service, challenged the order of the Calcutta High Court, promoting his juniors to the cadre of Subordinate Judges. From the facts of the said case, it appears, that on or about the 16th December 1954, the cases of several

the relative fitness of the petitioner and respondents 3 and 4, had superseded the petitioner and promoted respondents 3 and 4, such action would have been non justiciable. After withholding petitioner's promotion for one year respondents 3 and 4 were posted as Lay Secretaries, Grade I, pending decision of the Government regarding their regular promotions, which clearly establishes that when the impugned orders were made, the relative fitness of the petitioner and respondents 3 and 4 were not considered and thereby, the equality of opportunity guaranteed by Art. 16 was denied to the petitioner. The action of the Government directing withholding promotion of the petitioner for one year and promoting respondents 3 and 4 without considering the relative fitness of the petitioner and his juniors when the occasion for promotion arose clearly amounts to the imposition of a penalty; and such a penalty can be imposed only following the procedure prescribed by Rule 12 of the Mysore Civil Services (Classification, Control and Appeal) Rules 1957. For these reasons, we hold that the order withholding the petitioner's promotion is illegal and cannot be sustained. The learned counsel for the petitioner submitted that if the impugned orders are quashed, the relief of mandamus prayed for is unnecessary.

15. For the reasons stated above, we allow the writ petition and quashed the impugned order of Respondent I made on 25th July 1964, and the Memo issued on 18-1-1965 by respondent 2 relieving petitioner of the charge of his post and posting respondents 3 and 4 to the said post. Respondents 1 and 2 will pay the costs of this petition. Advocate's fee Rs. 50/-.

Petition allowed.

### SUPREME COURT OF INDIA

Before:—K.N. Wanchoo C.J., R.S. Bachawat J., G.K. Mitter J.  
and K. S. Hegde J.

Written Petition No. 182 of 1966

Decided on 7-8-1967

SANT RAM SHARMA

(Petitioner)

versus

STATE OF RAJASTHAN and another

(Respondent)

- A. In *hac* Police Service (Regulation of seniority), Rules, 1954, R. 6—Seniority in Gradation List—Whether confers a right to be promoted as Deputy Inspector General of Police or Inspector General of Police—Posts of I.G.-Addl. I.G. in Rajasthan are selection Grade posts and are outside the junior or senior time scale of Pay—

damaging the service career of 37 others also who might have otherwise been promoted had not the reservation been wrongly done. Thus Article 16(4) of the Constitution of India has been violated again which neither impliedly nor expressly permits any of the above illegalities in relation to competitive posts.

9. That the greatest illegality and violation of the applicant's fundamental right under Article 311(2) is noteworthy when all the vacancies occurring one after the other in 1964 as well as those in subsequent years have been filled by non-qualified staff ignoring the right of the selected applicant without getting his name deleted from the select list by the Railway Board who is the only competent authority to effect any change in the circular published by G.M. as <sup>per</sup> para (2)B, Section B, Chapter II of I.R.E.M. Second Edition which reads as under:-

"Retention of Railway Board's servants name on a panel will be subject to continued suitability for the post in question. Notwithstanding anything to the contrary, the removal of a Railway servant's name from the panel would require specific approval of the authority next above that which initially approved the panel".

10. That in this connection, the following rulings of the Supreme Court are referred to for kind perusal:-

X 1. State of Madhya Pradesh V. Sayeed Qumar Ali  
1967 SLR 228 SC.

2. J.K. Pritam Singh V. State of Punjab 1967 SLR ✓  
~~231~~ 251 SC.

3. P.V. Munavalli V. The State of Mysore 1967 ✓  
SLR 899 SC.

X 4. Alappat Narain V. State of Kerala 1977(2)  
SLR 655 SC.

X applicant continuously during all the 25 years and when it was

11. That a tort of deceit has been practiced upon the X

*[Signature]*  
D. K. Srivastava

felt that the chance of redressal of the applicant's grievance in a court of law had grown remote, all the lapses were acknowledged on 6.12.85 with all the concealed references. The first office order at page 6 Annexure 4, the respondent no.2 placed the applicant at Sl.No.3 in order of seniority. Neither any copy of G.M's order at page 4 Annexure 3 nor any reference thereof was ever communicated to the applicant. The consequence being that the applicant could not locate his real position and was misled to believe that promotion of his two seniors was in order and if at all he had any chance, it was against the 3rd vacancy. A 28

12. That in his 2nd letter at page 7 Annexure 5, the respondent no.2 concealed the bare facts. Firstly, he reduced the number of vacancies from 3 to 2 which he himself reserved for 1962 and reported to G.M. He shirked his responsibility of 3 candidates being placed on the panel of 1962-63 on the shoulders of G.M. for which he was questioned on page 7 of Annexure 6 by G.M. in his order dated 24.2.64. All the 3 vacancies of 1962 existed and were filled by two from the select list and the remaining 3rd by a non-qualified staff from 90% quota out of a malafide intention. This he acknowledged on 4.2.77 in reply to a query from the Railway Board on 22.1.77 (at Sl.No.11 and 10).

13. That all the excuses about the ban on recruitment and consequent surrendering of two posts of grade I clerk at Mughalsarai are falsified by para 3 of P.S.No.956 and para 2 of P.S.No. 2105 (at Sl.No. 6 and 8) and the applicant was again misled by his name being suggested against a vacancy of 1964. What is noteworthy here is that copy of that G.M.'s order whereby promotion was denied was supplied in original but copy of the letter publishing the result of 27.4.63 and copy of letter No.247E dated 11/12.3.64 whereunder queries of G.M. for not absorbing the applicant against one of the 3 vacancies of 1962 were replied to were kept concealed from him.

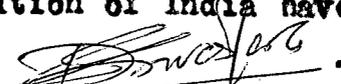
  
D. J. Srivastava  
A. A. O.  
C.D.A., LUCKNOW.

14. That another glaring proof of the fraud may kindly be seen at Page 12 Annexure 7. The 3rd vacancy vanished with the expiry of the sanction in March 1963 and still the applicant was informed of his success on 3.5.63 and no modification in result of 27.4.63 was carried out although there was enough time of 7 months to bury any anomaly by the end of 1963.

15. That through the order of G.M. at Page 4 Annexure 3, due to unauthorised reservation for SCs, the applicant was misled for good that no.1 and 3 were correctly promoted and that the applicant was rightly left behind to beg for a future 3rd vacancy. Thus in the temptation of 14 years seniority, the applicant like a mad man kept his pursuits alive till 6.12.65. In between the respondent no.2 kept the applicant fascinated for promotion in many ways. He was recommended for exemption from examination on 4.1.75 (at Sl.No.9) but for an arbitrary negative order by G.M. at Page 19 Annexure 7.

16. That so that the applicant may not think of his right, his representations were forwarded on 24.6.78 and 21.12.78 even after his promotion as Clerk Grade I in regular course of 19 years on 28.1.77 and when all the vacancies were filled by the staff of 90% quota at Sl.No.13, 14 and 15. Moreover, queries of the Railway Board at Sl.No.10, reply of respondent no.2 at Sl.No.11 and a 3rd revised order of G.M. (at Sl.No.12) seem to be enough to show how the applicant was kept from the knowledge of his right; how arbitrarily the G.M. revised his previous order of 24.2.64 acting in excess of his jurisdiction and setting aside all the principles of natural justice and ultimately how the supreme authority Railway Board avoided imparting justice to the defrauded applicant after having known the horrible illegalities and involvement of an unprecedented question of law.

17. That in view of the facts, when maintainability of his application was upheld by several Hon. Benches for two years, when a series of Articles of the Constitution of India have

  
D. K. Srivastava  
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been violated; when the cause of action is continuously shifting and when the respondent no.2, who is the key note of all the anomalies acknowledges himself his own mistakes and administrative lapses, justifies the delay of 25 years in favour of the applicant; conscientiously upholds the applicant as faultless with all the concealed references on 6.12.85 and finally recommends the applicant to G.M. through his quick and repeated reminders on 27.1.87, the relief sought for accrues from the consequences of coherent mistakes of the respondents. As such a case based on fraud and reopened on 27.1.87 may kindly be treated to be protected by the provision of section 17 and 29(2) of the Indian Limitation Act which adopts a universal application and on the basis of the same, the Hon. Tribunal in whom all the powers are vested by law may kindly admit the case under section 20(1) and 21(1b) of CAT Act 1985, because after acquiring knowledge of his right after 6.12.85, there was no other statutory remedy except the Railway Board to exhaust which the applicant did on 10.1.87 and 10.7.87, otherwise rule of limitation under section 21 of CAT Act 1985 may prove inconsistent with the provisions of Article 13(2) of the Constitution of India and may attract interruption of the Hon. Supreme Court because the three main tests, nature of the applicant's right, interest of the aggrieved applicant and the degree of harm done by the state action have been ignored.

18. That in the last, the applicant may solemnly pray that in the name of equity and justice when bare truth is made known to your Lordship and error in law is apparent on the face of the record, that the applicant be not deprived of his due justice because of his sheer technical mistake of challenging a void order of 1964 whereof the respondents have unduly and impartially taken advantage of after two years causing a gross miscarriage of justice in favour of the applicant.

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D. N. Sivastava  
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C.D.A., LUCKNOW.

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19. Details of Enclosures:

1. Electrostat copy of Railway Boards letter No. B(SCT/57 CM1/29 dated 27.4.59 regarding quota reservation for scheduled castes.
2. Electrostat copy of Railway Board's letter No. B(SCT) 62CM 15/10 dated 24.12.63 regarding reservation of quota for scheduled castes.
3. Electrostat copy of Railway Board's letter No. B(5) 60EG2-6 dated 27.9.60 - P.S.No. 956.
4. Electrostat copy of letter No.E/G/63 EC2-1 dated 28.5.63, P.S.No. 2195.
5. Electrostat copy of DCOS letter No.247E dated 4.1.75.
6. Electrostat copy of Railway Board D.O. letter No.E (Rep) III 76 RFB/II-49 of 22.1.77.
7. Electrostat copy of DCOS letter No.247E dt.4.2.77.
8. Electrostat copy of D.O. letter from APO/NDLS to APO/AMV No.145E/G-25757-LO/RB/SSB of 18.3.81.
9. Electrostat copy of DCOS letter No.429E dt.14.6.78
10. Electrostat copy of DCOS letter No.247E dt.21.12.78.
11. Electrostat copy of DCOS office order No.E/30 dt. 1.2.77.
12. Copy of Judgement dated 12.4.90.

20. List of Enclosures: Electrostat copies of Railway Board's Circulars, G.M's & DCOS orders as mentioned in para 20 in full <sup>20</sup> sheets.

In Verification:

I, Prahlad Narain son of late Shri Shyam Manohar aged about 63 years having retired from the post of Head Clerk on 31.1.86 for the office of District Controller of Stores, Northern Railway, Charbagh, Lucknow, resident of E/2774, Rajajipuram, Lucknow do hereby verify that contents from para 1 to 20 above are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place: Lucknow

*Prahlad Narain*

Dated: 10.5.90

Signature of the applicant.

The Registrar,  
Central Administrative Tribunal,  
Allahabad, Circuit Bench,  
Lucknow.

*D. K. Sivastava*  
D. K. Sivastava  
A. A. O.  
C.D.A., LUCKNOW.

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Copy of letter No. B(SCT)57CM1/29, dated 27-4-1959 from the Officer  
Special Duty (Labour), Railway Board, New Delhi to the General Managers,  
Indian Railways etc.

Reservation for members of Scheduled Castes and Scheduled  
Tribes in posts filled by promotion on Railways.

Reference is invited to Board's letter No. E55CM1/3, dated 5-10-1955. The  
Railway Board have, in partial modification of para. IV of the above letter, decided  
as follows :-

(a) Promotion from Class IV to class III and from Class III to Class II.

The Railway Board have decided that promotions from Class IV to Class III  
and from Class III to Class II service are of the nature of direct recruitment and the  
prescribed quota of reservation for Scheduled Castes and Scheduled Tribes should  
be provided as in direct recruitment. The field of eligibility in the case of Scheduled  
Caste and Scheduled Tribes candidates should be four times the number of posts  
reserved without any condition of qualifying period of service in their case, subject  
to the condition that such consideration should not normally extend to staff beyond  
two grades immediately below the grade for which the selection is held.

(b) Promotion from grade to grade in class III.

There are different grades of Class III posts. Some of these posts are  
"Non-selection" posts, promotion to which is made on "seniority-cum-suitability"  
basis, while in the case of others which are "selection" posts, promotion is made  
by a positive act of selection. There will be no quota for Scheduled Castes and  
Scheduled Tribes candidates in respect of promotion to "Non-selection" posts.

For promotion to "Selection" posts, however, there will be the prescribed  
quota of reservation. The field of consideration in the case of Scheduled Castes  
and Scheduled Tribes candidates should be four times the number of posts  
reserved without any condition of qualifying period of service in their case, subject  
to the condition that consideration should not normally extend to such staff beyond  
two grades immediately below the grade for which selection is held.

(c) "General Posts" in Class III.

There are certain other types of posts on Railways such as: Passenger Guides,  
Welfare Inspectors, safety Inspectors, Platform Inspectors, Publicity Inspectors.,  
Vigilance Inspectors, etc., which are ex-cadre posts filled by drawing staff from

*D. J. Srivastava*  
D. J. Srivastava

A. A. O.

C.D.A. LUCKNOW

more than one branch. Filling of these posts is in the nature of direct recruitment and the reservation for Scheduled Castes and Scheduled Tribes as applicable to direct recruitment should be applied.

(d) General.

(i) In the event of Scheduled Castes and Scheduled Tribes candidates not being found suitable for promotion, the reserved vacancies may be filled tentatively but not finally by others; the tentatively filled vacancies should be carried forward and included in the number of reserved quota fixed for the next selection. Where the number of Scheduled Castes and Scheduled Tribes employees selected on a subsequent occasion falls short of the total reservation, the number of Scheduled Castes and Scheduled Tribes candidates so selected should just be off set against the reserved posts carried forward. Should there be any reserved vacancies of the previous quota still left unfilled such vacancies should then be treated as unreserved and filled by 'others'.

(ii) Again, where Scheduled castes and Scheduled Tribes candidates are found unsuitable in the selection and thus superseded, such employees should be given two more chances in the subsequent selections before finally judging them as unfit for further promotion. Cases of Scheduled Castes and Scheduled Tribes candidates who are found unfit for promotion should at each stage be placed before the General Manager for his information and such action as he considers necessary.

(iii) While filling the posts on promotion, however, candidates of these communities should be judged in a sympathetic manner and arrangements made where necessary to give to such staff, additional training and coaching to bring them up to the standard of others.

(iv) The decision of the Railway Board providing reservation for Scheduled castes and Scheduled Tribes in promotion vacancies as laid down above, comes into effect from 4-1-1957. It will, therefore, be necessary to calculate the number of posts that should have been made available to the Scheduled Castes and Scheduled Tribes during 1957 and 1958 and these should be carried forward to be filled in 1959 and thereafter in terms of Board's letter No. F (SCT) CM1/61, dated 23-3-1959.

(e) It would be desirable to prepare a list of "General Posts". The Board, therefore, request that a complete list of posts on your Railway which can broadly be included under the heading "General Posts" may be furnished to them as early as possible and in any case, within three months from the date of receipt of this letter.

Please acknowledge.

Serial No. 527--Circular No. 220-E/O-III (Eiv), dated 12-5 1959.

Reg.—Absorption of surplus staff.

Attention is invited to this office letter No. 220-E/O-II (Eiv), dated 27-7-1956 under which instructions were issued that candidates selected by the Railway Service Commission and posted in the subordinate offices against temporary posts

*etc*

*anand*  
Chief Engineer, Lucknow Zone.  
LUCKNOW

( 2135 )

Serial No. 2391.—Circular No. 831E/46-III-A (Eiv), dated 18-1-1964.

Sub.—Reservation for members of Scheduled Castes & Tribes in posts filled by promotion on Railway.

In the course of a review of the orders contained in their letter No. E(SCT)57-CM1/20 dated 27-4-1959, circulated under this office letter No. 831E/46-III (Eiv) dated 16-5-59 (Serial No. 526), the Railway Board have decided that there should be no reservation for Scheduled Castes and Scheduled Tribes in promotion to Class II service. This has effect from 4-10-1962.

(Authority Rly. Board's letter No. E(SCT) 62CM15/10 dated 14-10-1963)

Serial No. 2392.—Circular No. 831E/46-III-A (Eiv), dated 19-1-1964.

Sub.—Reservation for members of Scheduled Castes and Tribes in posts filled by promotion on Railways.

A copy of Railway Board's letter No. E(SCT)62CM15/10 dated 24-12-1963, along with its enclosure, is forwarded for information and necessary action. The Board's letters referred to therein have been circulated as under :—

Railway Board letter No. and date      G.M. (P) NDLS letter No. and date.

1. E (SCT) 57CM1/20, dated 27-4-59      831-E/46-III (Eiv) dated 16-5-1959  
(Serial No. 526)
2. E (SCT) 62CM15/10      Substance reproduced in this office  
dated 14-10-1963      letter No. 831-E /46-III-A (Eiv),  
dated 18-1-1964 (Serial No. 2391).

Copy of Railway Board's letter No. E(SCT)62CM15/10 dated 24th December, 1963 addressed to the General Managers, All Indian Railways and others.

Chapt. I. Section E  
Para 114 (GREM) 2nd  
Edition

Sub.—Reservation for members of Scheduled Castes and Tribes in posts filled by promotion on Railways.

The Railway Board have reviewed the orders issued in their letter No. E (SCT) 57CM1/20 dated 27-4-1959. In the course of the review instructions were issued vide letter No. E(SCT)62CM15/10 dated 14-10-1963 that there should be no reservation for Scheduled Castes and Scheduled Tribes in promotions to Class II service. That review has now been completed and the following further decision have been taken :—

- (i) Henceforth there will be reservation for Scheduled Castes and Scheduled Tribes in all promotions by selection from Class IV to Class III and from grade to grade in Class III or in Class IV if any, provided there is no direct recruitment to the particular grade. Reservation for Scheduled Castes and Scheduled Tribes will also be made in categories of posts filled by promotion on the results of competitive examinations limited to departmental candidates. This means that in respect of promotions in.—

of 12. 24.12.1963

- (a) Grade to grade within Class IV.

There will be no reservation, as there are no selection posts in this class.

Lal Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone,  
LUCKNOW

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(b) Class IV to Class III.

In terms of Board's letter dated 27-4-1959 quoted above as amplified from time to time, reservation has so far been provided in all promotions from Class IV to Class III by selection *i.e.* except where the promotion is by seniority-cum suitability or by trade tests. Reservation will not henceforth be permissible in promotions to initial grades in Class III to which there is direct recruitment.

(c) Grade to grade within Class III.

In "selection posts" "general posts" filled by selection and posts filled by departmental competitive examinations, henceforth reservation will be confined to those grades where there is no direct recruitment. A tentative list of "Selection posts" where there is partial direct recruitment is attached. These and any other posts where there is direct recruitment in the normal course will be outside the scope of reservation.

27.4.59  
24.12.63

(ii) The provision in Board's letter of 27-4-1959 quoted above that qualifying periods of service prescribed for others will not apply to Scheduled Castes may be treated as cancelled. Selection of candidates from Scheduled Castes and Scheduled Tribes will be subject to their satisfying the prescribed minimum qualifications and standards of fitness.

(iii) So far, in the case of promotions the percentage of reservation was the same as in direct recruitment with the result that in categories the maximum of which was less than Rs. 300/-, the percentage varied from Railway to Railway. In future in all promotion categories where reservation is provided, the percentage should be uniformly 12½% for Scheduled Castes and 5% for Scheduled Tribes.

2. The above changes will have effect from the date of issue of this letter. Where selections have already taken place on the basis of reservation but promotions have not so far been made, the names of the selected Scheduled Caste/Tribe candidates may be retained on the panel. Their future promotions will, however, be on the basis of the panel position and not by the reservation roster.

*This relates to selection posts which were selected filled on the basis of reservation roster*

Selection posts which are filled partly by direct recruitment also.

Designation	Scale of pay.	Whether direct recruitment allowed.	if so, percentage.
1. Platform and luggage Inspector (Civil Apprentices)	150-225 (PS) 205-280 (AS)	Yes	25%
2. Wagon Movement Inspector (Traffic Apprentices)	—do—	Yes	25%
3. Assistant Transportation Inspector (Tfc. App.)	—do—	Yes	25%

P.C.—4.

*Lal Chand*  
Chief Engineer Lucknow Zone,  
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(b) Class III

Officers commissioned in this class will not be entitled to this allowance in peace time but will be granted an allowance of Rs. 400/- on being called to Army Service for items of Eit.

Application forms can be had free on application from the nearest Recruitment office, Sub Area or Bde HQ.

Serial No. 956. Circular No. 803-E/O/5(Eiv), dated 25-10-1960.

A copy of Railway Board letter No. E(G)60EC2-6, dated 27-9-1960, is forwarded for information and guidance. The different letters of the Railway Board referred to therein were circulated vide this office letters as indicated against each—

Railway Board letter No. and date	This office letter No. and date
1. No. E(G)60EC2-2, dated 6-2-1960	No. 803-E/O/5(Eiv), dated 24-2-1960.
2. No. E(G)60EC2-2, dated 4-7-1960	No. 803-E/O/5(Eiv), dated 28-7-1960.
3. No. E(G)60EC2-6, dated 25-7-1960	No. 803-E/O/5(Eiv), dated 3-9-1960.

The question whether ban stands in the way of promotion of Class IV staff to Class III ministerial post has been referred to the Railway Board and until a decision is available the panels formed for promotion of Class IV staff to Class III posts on percentage basis may be operated to the extent such promotions are permissible when filling vacancies in the circumstances detailed in para. 2 of the Board's letter No. dated 27-9-1960 is subject to the observance of other conditions laid down therein.

This disposes of D.S. Delhi letter No. 831-E/17(Eib), dated 28-9-1960.

The Assistant Director, Establishment, Railway Board, New Delhi, to the General Managers, all Indian Railways, etc.

Sub.—Ban on recruitment to ministerial etc. categories of posts for a period of one year—Not filling vacancies of less than two months.

Reference Board's letter No. E(G)60EC2-2, dated 6-2-1960 and 4-7-1960 and No. E(G)60EC2-2, dated 25-7-1960, on the above subject.

2. The Board have considered the matter further and have decided that you may personally authorise recruitment in relaxation of the ban on recruitment in the following cases:—

- (a) recruitment against sanctioned posts of stenographers and/or typists where such recruitment is considered inescapable to keep work current ;
- (b) recruitment against vacancies whether ministerial or otherwise resulting from the transfer of staff to other Railways or Railway Service Commission to Railway Construction Projects or to Production Unit, etc., or to posts of Stenographers and/or typists ;

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The following rules to amend the Railway Servants (Hours of Employment) Rules, 1961, namely:—

1. These rules may be called the Railway Servants (Hours of Employment) Amendment Rules, 1963.
2. In the Railway Servants (Hours of Employment) Rules, 1961:—
  - (i) in sub-rule (2) of rule 3, the word "concerned" shall be inserted at the end;
  - (ii) after sub-rule (2) of rule 6 the following sub-rule shall be inserted, namely:—
 

“(3) A copy of every delegation made under sub-rule (2) shall be sent to the Regional Labour Commissioner concerned”.

Serial No 2104.—Circular No. 39-E/O-V (Eiv), dated 13-6-1963.

Sub.—Allowances admissible to officers attending Refresher Courses at National Academy of Administration, Mussoorie.

A copy of Railway Board's letter No. E(GR)62TR1-32, dated 19-2-1963 reproduced for information and guidance.

“The Railway Board have decided that the Railway Officers attending Refresher Courses at National Academy of Administration, Mussoorie should, in relaxation of Rule 331-RI, be given Daily allowance at full rates for the entire period of training, at that Institution.

This has the approval of the President.”

Serial No. 2105.—Circular No. 803-E/O/5-III (Eiv), dated 14-6-1963. ✓

Sub.—Continuance of the ban on creation of and recruitment to ministerial categories and Class IV categories in offices etc.

A copy of Rly. Board's letter No. E/G/63EC2-1, dated 28-5-1963 is reproduced below for information and guidance.

2071 “A reference is invited to Railway Board's letter of even number dated 23-4-1963. The Board desire to clarify that the ban in respect of the creation of posts and filling up of vacancies will continue in respect of ministerial posts and class IV posts in offices including R.P.F. offices except in the case of such posts as are required in connection with developmental schemes.”

2. A question has been raised whether, after filling up the vacancies in the cadre as on 31-12-1961, the vacancies resulting from normal wastage thereafter could be filled irrespective of duration of the

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vacancy. In this connection, it is clarified that, as the Board's intention is to continue the ban in respect of ministerial and class IV posts as hitherto, Board's approval will be necessary for filling up any post, whether temporary or permanent, added to the cadre after 31-12-1961, but which has been lying vacant for 6 months or more. In cases where, however, the posts had been lying vacant merely due to the time taken in the process of recruitment they may be filled with the personal approval of the Dy. Chief Personnel Officer and the Deputy concerned of the F.A. & C.A.O. This will apply to vacancies arising as a result of normal wastage also.

The Board's letter dated 23-4-1963 referred to in the Board's letter was circulated under this office letter of even number dated 20-5-1963.

**Serial No. 2106.—Circular No. 743E/56 (Eiv), dated 28-6-1963.**

**Sub.—**Financial powers of an officer holding current charge of duties of a post during the absence of the regular incumbent of that post.

A copy of Railway Board's letter No. F(E)60SA1/1, dated 4-3-1963 together with its enclosure is forwarded for information and guidance. The Board's letter dated 30-11-1960 referred to therein was circulated under this office endorsement of even number dated 9-1-1961 (Serial No. 1023).

*Copy of letter No. F(E)60/SA1/1, dated 4-3-1963 from Dy. Director Finance (E). Rly. Board to G. Ms., all Indian Railways etc.*

**Sub.—**Financial powers of an officer holding current charge of duties of a post during the absence of the regular incumbent of that post.

Reference Railway Board's letter of even number dated 30-11-1960 forwarding a copy of the Ministry of Finance New Delhi's O.M. No. F. 12(2)E-II (A)/60, dated 5-10-1960. In continuation thereof a copy of the Ministry of Home Affairs O.M. No. F. 7/14/61-Ests(A), dated 4-1-1963 is sent herewith for information and guidance.

*Copy of O.M. No. F. 7/14/61-Ests (A), dated 4-1-1963 from Ministry of Home Affairs New Delhi to all Ministries of Govt. of India, all Union Territory Administrations, all Zonal Councils and attached and subordinate Offices of M.H.A. etc.*

**Sub.—**Holding of current charge of the duties of the post by another officer during the absence of the regular incumbent of the post.

The undersigned is directed to invite a reference to the Finance Ministry's O.M. No. F. 12 (2)-E-II (A)/60, dated 5-10-1960, according to which (i) an order appointing an officer to hold the current charge of the duties of a post should, in the absence of any specific direction to the contrary be deemed to the officer, with all the powers (including statutory power vested in the full-fledged incumbent of that post though he may not get full pay of the post, and (ii) where the exercise of statutory powers is involved, it is necessary, that the appointment should also be notified in the gazette.

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~~Annex 9~~

Copy of letter No. 247E dated 4.1.75 from Dy. COS/NR/AMV-LKO to the GM(P)/NR, New Delhi.

Sub:- Filling up posts of clerks in grade 330-560 against 10% reserved vacancies on the basis of competitive examination.

Ref:- Your letter No. 561-E/214 (EIID) dated 24.2.64.

In accordance with the instructions contained in your letter No. 561-E/214 (EIID) dated 22.12.62, a test for anticipated vacancies to be filled in against 10% reserved quota was conducted and three Clerks of this office were placed on the panel. Two were promoted on receipt of the result. Two vacancies of clerks in the lowest grade could not be filled in due to non availability of clerks approved by Rly. service-commission and as such the third man who had been declared successful and was to be accommodated against the 30th vacancy could not be promoted. His request to promote him against the vacancies ~~of 1964~~ falling due in 1964 was turned down vide your letter No. 561E/214 (EIID) of 24.2.64.

2) It has already been pointed out in this office letter No. 24 7E of 11.12.64, that the employee could not be promoted against 30th vacancy for no fault of his but because the administration could not fill in the posts in the lowest Grade. Had the two unfilled posts in the lowest grade been filled by the approved clerks the employee would have been promoted.

Now the competitive examination is again going to be conducted soon by the Divisional supdt. LKO and applications from willing staff have been already invited and forwarded to him for doing the needful.

The competitive examination which is going to be conducted by D.S. LKO is a test of suitability and in view of instructions contained in printed serial no 5470, it is felt that Sri Pralad Narain who passed the competitive examination in 1963 can be exempted from appearing a fresh and promoted as senior clerk grade 330-560 now. Will you kindly confirm.

Attested



D. K. Sivastava

A. A. O

C.D.A. LUCKNOW

~~Annex 10~~

Copy of D.O. from Sri Des Raj, A.P.O.(C) Hd. Qrs.  
Office No. 115-E/C-25751/10 (RB) SSB dated 31.1.77  
to Sri Mallik, A.O.S., MV-LKO.

A copy of Railway Boards letter no E(Rep)III 76  
REB/II-49 dated 22.1.77 is sent herewith. The  
information asked for therein may please be furnished to this  
office by return Dak to enable a reply being sent  
to Board.

Copy of D.O. letter No. E(Rep)III 76 REB/II-49 of 22.1.77  
from Sri Gularchand, Dy. Director Estt. Rly. Bd. to  
Sri E.S. Chatter, CPO, Nt/New Delhi.

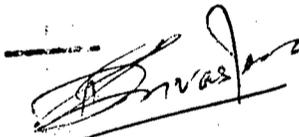
Sub:- Representation of Sri Prahlad Narain Clerk LKO  
regarding his promotion.

Please refer to the correspondence resting with  
Sri E.S. Chatter, CPO, Nt/New Delhi, dated 18.10.76  
on the above subject.

It has been stated that no panel was formed in the  
year 1964. The Board desires to know:-

- (1) When the next panel to fill up 10% vacancies  
was formed after 1963?
- (2) If no panel was formed, the reason thereof.
- (3) How the vacancies against 10% quota were filled  
up after 1963?
- (4) Whether the name of Sri Prahlad Narain was ever  
considered after 1963 against one of the 10%  
vacancies and in which grade he is working now?

I shall be very grateful for an early reply.



D. K. Sivastava

A. A. O.

C.D.A. LUCKNOW.

~~Annex H~~

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Copy of D.O. letter No. 247E dated 4.2.77 from Dy. COS/AMV to  
Shri Dee Raj, APO/C Board House, New Delhi.

Sub : Representation of Shri Prahlad Narain,  
Ref : Your D.O. No. 145-E/C-26551/LO SSB of 31.1.77

I am giving below the information called for the Board:

- 1.a) The test was held in 1967 but the result was not intimated to my office.
- 2.b) D.S./LKO called the applications of willing staff in 1975 but the test was not held.
- 2.) This pertains to Hd. Qrs. office and Divl. Supdt. Office.
- 3.) The vacancies were filled in by promotion of staff on the basis seniority-cum-suitability.
- 4.) His name was not considered. He has been promoted as Sr. clerk in Grade B. 330-560 (RS) w.e.f. 28.1.77.

Sd/- Dy. COS/AMV/LKO



S. Sivastava

A. A. O.

LUCKNOW



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जनरल डायरेक्टर/Genl. Secy Small

उत्तर रेलवे

NORTHERN RAILWAY

नम्बर/No

429E

दिनांक/Dated

14-6-1978

प्रेषक/From:

Dy. Comd/Am/Um

प्राप्त/To:

Shri. Prabh Lal Sharma  
Off. Secy. Comd/Am/Um

विषय/Subject:

Promotion against 10% reserved vacancies

संदर्भ/Reference:

Your letter dated 12/6/78

You are informed as under:-

- (1) The reply given in the letter No. 428E dated 13.3.78 is based on the instructions from H.O. des Office.
- (2) The reminder dated 16/78 recd under your letter dated 16/78 is being forwarded to S.M.O./H.O.

Pr. Dy. Controller of Stores

Am, Lucknow

Attested  
D. J. Sivastava

D. J. Sivastava  
A. A. O.  
C.D.A., LUCKNOW

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No 241E  
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21-12-78  
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Dy. Comptroller  
The General Manager  
N.B. & M. Co.

Sub: The Probated Morain's promotion  
against 10% retained vacancies.

Ref. to your letter No. 145E/10 2375/24 K.D. 106

3/9/76 ✓ 117  
② D.O. No. 145E/100R/9/175 (S.S. 106)  
27/2/78 ✓

23/12/78

Shri Prakash  
Nana

Will you please refer to  
the letter of order dt. dated 3/9/77 ✓  
14/4/68 and arrange to convey  
clearance of competition as likely as  
possible as per my last letter  
in para 2 dated 12/12/78 reported  
by you in para 2 in attached letter  
for necessary action.

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Dy. Comptroller  
N.B. & M. Co.

Attested  
D. J. Srivastava  
A. A. O.  
C.D.A., LUCKNOW

Northern Railway

Office order No.E/30

Dy.C.O.S's Office,  
Alambagh, Lucknow.

Dated: 31-1-1977.

The following arrangements are ordered w.e.f. 28.1.77:-

1. Sh. K.D. Srivastva clerk, CB Depot is appointed to officiate as Sr. clerk on pay Rs. 382/- + 10/- PM. in scale Rs. 330-560 and retained at Charbagh.
2. Sh. Kedar Ram, clerk Charbagh Depot is appointed to officiate as Sr. clerk on pay Rs. 390/- + 14/- PM. in scale Rs. 330-560 and retained in Charbagh.
3. Sh. Hari Mohan Srivastva clerk T.P.D is appointed to officiate as Sr. clerk on pay Rs. 390/- + 14/- PM in scale Rs. 330-560 and retained T.P.P.
4. Sh. N.N. Shukla, clerk D&E is appointed to officiate as Sr. clerk on pay Rs. 382/- + 10/- PM in scale Rs. 330-560 and retained in same section.
5. Sh. Ram Patel Singh clerk MGS Depot is appointed to officiate as Sr. clerk on pay Rs. PM in scale Rs. 330-560 and retained in Moghalsarai.
6. Sh. Y.P. Misra, clerk/Local Purchase Section is appointed to officiate as Sr. clerk on pay Rs. 390/- + 14/- P M in scale Rs. 330-560 and retained in Local Purchase.
7. Sh. Prahlad Narain clerk CB Depot is appointed to officiate as Sr. clerk on pay Rs. 400/- + 16/- PM in scale Rs. 330-560 and retained in Charbagh.
8. Sh. Sheo Shanker Lal Srivastva clerk, CB Depot is appointed to officiate as Sr. clerk on pay Rs. 382/- + 10/- PM in scale Rs. 330-560 and retained in Charbagh.
9. Sh. Narendra Pal Singh clerk Ledger Section is appointed to officiate as Sr. clerk on pay Rs. 374/- + 18/- PM in scale Rs. 330-560 and retained in Ledger Section.
10. Sh. S.K. Vidyarthi clerk, General Section is appointed to officiate as Sr. clerk on pay Rs. 320/- + 10/- PM in scale Rs. 330-560 and retained in General Section.
11. Sh. V.S. Gulati, clerk, Ledger Section is appointed to officiate as a Sr. clerk on pay Rs. 382/- 10/- PM in scale Rs. 330-560 and retained in Ledger section.
12. Sh. K.C. Misra clerk, Ledger Section is appointed to officiate as a Sr. clerk on pay Rs. 390/- + 14/- PM in scale Rs. 330-560 and retained in Ledger section.

Dy. Controller of Stores,  
Alambagh, Lucknow.

Copy to the following for information & N/actions:-

1. Dy. CAO(W)/AMV/Lucknow.
2. ACOS/CB, VYN.
3. A.F.O/ TPP
4. CIC/Bills
5. CIC/T.P. Estt.
6. Parties concerned.

Attested  
D. J. Srivastava  
A. A. O.  
C.D.A., LUCKNOW.

In the court of Central Administrative Tribunal,  
Allahabad

Circuit Bench, Lucknow.

O.A.No. 11 of 1988 (D).

Prahlad Narain ..

.. Applicant.

Versus

The Union of India and others ..

.. Respondents.

The Applicant begs to submit reply to the application dated 4.9.1988 moved on behalf of the respondents regarding limitation as under:-

1. That with reference to the contents of para 1 to 7 of the application of the respondents it is stated that the applicant was, no doubt, communicated with the decisions dated 7.2.1964 and 24.2.1964 contained in Annexure No. 6 refusing to accede to the request of the applicant for his promotion against 10% reserved vacancies, but the said decisions are absolutely non-speaking and do not decide the legal question raised by the applicant in his application regarding the application of Roster system under reservation Rules while giving promotion to Shri Naakoo Ram, scheduled caste candidate at merit No. 3, on the overleaf of annexure d. 3 whereas reservation was not at all applicable in non-selection posts filled through written competitive examination as provided in the Railway Board's letter No. W(SCT)/57-C/NI/29 dated 27.4.1959 to the General Managers, All Indian Railways.

8th Nov. 1989

Prahlad Narain

9th Jan 1989  
D. K. Sivastava

D. K. Sivastava

A. A. O.

G.D.A. LUCKNOW.

Contd..P.2.

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2. That the question involved for consideration of the Hon'ble Tribunal is a pure question of law and the applicant's case is fully fortified by law on merit and as such the applicant is fully entitled for the relief claimed.
  
3. ✓ That this feeling aggrieved with the decisions of the concerned authorities of the department referred to above, the applicant confidently further represented his case before the Railway Board vide his application dated 23.6.1971 and subsequent reminders dated 28.9.1971 and 12.11.1971 (page 17) where upon the Railway Board vide its D.O. letter No. A(Rep.)/111-76/RM/11-49 dated 22.1.1977 required the General Manager (Personal) Northern Railway, New Delhi to explain the following four-queries:-
  - (a) when the next panel to fill up 10% vacancies was framed after 1968.
  - (b) if no panel was framed, then reason thereof.
  - (c) how the vacancies against 10% quota were filled up after 1968.
  - (d) whether the name of Sri Prahlad Narain was ever considered after the year 1968 against one of the 10% vacancies and in which grade he is working now?
  
4. That thereafter, the applicant consistently wrote numerous letters and several reminders but no final decision could be taken or communicated to the applicant by the Railway Board and ultimately the applicant retired from service on 31.1.1986.
  
5. That the applicant has all along been a vigilant and

*Prahlad Narain*

PRO  
*[Signature]*  
D. K. Srivastava  
A. A. O.  
C.D.A. LUCKNOW.

and pursuing the concerned authorities to decide his matter on merit but his case could not be decided till now by them.

6. That the Hon'ble Supreme Court of India, New Delhi and its numerous decisions have been laying stress that the poor litigants should not be deprived of their legitimate claims if they are otherwise fortified on merit.
7. That the plea of limitation raised by the respondents is a technical plea and is not sustainable at all specifically when the applicant has been consistently harassing the Railway authorities to decide his case on merit for which, they have utterly failed.
8. That in view of the above facts the case of the applicant is a fit case for condoning the delay, if any, otherwise the cause of action actually arose on 10.7.1987 and not on 24.2.1964 and in observance of Rules 20 and sub-rule 1(b) of Rules 21 of Central Administrative Tribunal Act 1985, the applicant's case is within the proper jurisdiction and limitation.

Lucknow Dated:  
The 8th Sept. 1989.

*Prahlad Narain*  
( Prahlad Narain )  
E/2774, Rajaji Park,  
Lucknow.

Verification

I, Prahlad Narain c/o late Shri Chyam Manohar aged about 68 years having retired from the post of Head Clerk on 31.1.1986 from the office of the District Controller of Stores, Northern Railway, Cheroagh, Lucknow

*Prahlad Narain*

Contd..P.4.

*D. K. Srivastava*  
D. K. Srivastava  
A. A. O.  
G.D.A., LUCKNOW.

ASO

under the control of Deputy Controller of stores,  
Northern Railway, Alambagh, Lucknow, resident of E/2774,  
Rajaji Puram, Lucknow, do hereby verify that the  
contents of paras 1 to 8 are correct to my personal  
knowledge and belief and I have not suppressed any  
material facts.

Signed and verified of this.....day of Sept.  
1989 within the court compound, Lucknow.

Prahlad Narain  
(Prahlad Narain )  
E/2774-Rajaji Puram,  
Lucknow.

Lucknow Dated:

The 8th Sept. 1989.

Limitation

Supreme Court in state of  
Madhya Pradesh vs Sayed  
Qamar Ali 1967 5 LR 228  
has ruled that that there  
is no limitation against  
an invalid order which  
has no legal existence.

  
D. K. Sivastava  
A. A. O.  
Q.D.A., LUCKNOW.

Prahlad Narain

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In the Central Administrative Tribunal Allahabad  
Circuit Bench Lucknow.

C.A. No. 11 of 1988 (L)

Prabhu Narain

Applicant

Versus

The Union of India and others

Respondents

It is submitted on behalf of the Respondents as under:-

1. That the present application is directed against Order No. 561/E/214 (E11) dated 24.2.1968 passed by the General Manager, Northern Railway Baroda House, New Delhi.

2. That vide No. 561E/214 (E11d) dated 24.4.'68, the General Manager, Northern Railway New Delhi re-iterated its earlier decision conveyed through letter dated 24.2.1964 and informed that the applicant cannot be promoted against a vacancy arising after 31.12.1963.

3. That copies of both the above letters were communicated to the applicant under Letter No. 247 E dated June 2-3, 1964 by the District Controller of Stores Allahabad Lucknow as contained in Annexure No. 6 to the application.

4. That the applicant did not challenge this order any where including the Civil Court or High Court. The period of limitation prescribed for a suit to be filed in Civil Court is 3 years.

P. 9, 10, 11

*R.S.*  
(R.C. Srivastava)  
सहायक कामिष्ठ अधिकारी (म.)  
Assit. Person. Officer (Stores)  
उ०रे०, अ० [उखनक]  
N. Rly. Allahabad, Lucknow

the prescribed period means the period of limitation conferred under provisions of the Act. ...-2

*[Signature]*  
D. J. Srivastava  
A. A. O.  
C.A., LUCKNOW.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALIHAHABAD,  
AT LUCKNOW.

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CASE NO. OA-11-88(L)

BETWEEN

PRAHALAD NARAIN SON OF LATE SHRI SHYAM MANOHAR PETITIONED  
HEAD CLERK, DISTRICT CONTROLLER OF STORES OFFICE NORTHERN  
RAILWAY, CHARBAGH LUCKNOW.

APPLICANT

VERSUS

1. THE UNION OF INDIA THROUGH the General Manager, Northern Railway Baroda House, New Delhi.
2. The Deputy Controller of Stores Northern Railway, Alam-Bagh, Lucknow.

RESPONDENTS

The Applicant above named most humbly begs to submit as under :-

1. That the applicant had submitted an application before the Honourable Tribunal on 27.4.88 which is *pending decision* under judgement and the opposite parties have not yet submitted the counter affidavit.
2. That the opposite parties have lastly requested the Honourable Tribunal to grant extension upto 23.10.88 which the Honourable Tribunal have been pleased to grant on 23.9.88.
3. That while submitting the original application, applicant had prayed for the relief requesting to quash the order No 561E/214(Eild) dated 24.2.64, passed by the General Manager (Personal) Northern Railway Baroda House New Delhi and promote the applicant with retrospective

*Handwritten notes:*  
The Hon. Secy. Adm.  
A. B. Singh  
20/10  
S. K. Yadav  
H.C. Dept. Secy  
Adm.

*Handwritten notes:*  
S. K. Yadav  
27.4.88

*Signature of D. J. Sivastava*

D. J. Sivastava  
A. A. O.  
C.D.A., LUCKNOW.

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effect i.e. 3.6.63 against the 2nd (Twentieth) quota vacancy with full payment of arrears.

4. That the applicant further begs to submit that he had inadvertently missed to pray for the further promotional benefits consequent upon getting the benefits with effect from 3.6.63.

5. That the applicant having been arbitrarily and illegally denied his promotion from 3.6.63 was promoted in the grade in question on ~~01.2.77~~<sup>28.1.77</sup> in the regular course and thus a bright and golden future of 14 years of the applicant was marred and belated.

6. That since this aspect has not been mentioned in the prayer, it may now very kindly be added.

PRAYER

After apologising from the Honourable Tribunal, it is, therefore, most humbly prayed that the Honourable Tribunal be pleased to allow the following amendment applications as under :-

a) That in line 8 in para 7 of the original application the words "allowing him with due seniority all future departmental promotional benefits", in between 'the contents against the 2nd (Twentieth) quota vacancy AND ' with full payment of arrears ' may please be added.

I, Prahalad Narain S/O Late Shri Shyam Manohar aged about 60 years having retired from the post of Head Clerk on 31.1.88 from the Office of the District Controller of Stores, Northern Railway, Charbagh Lucknow, under the Control of Deputy Controller of Stores, Northern Railway, Alambagh Lucknow, resident of 8/2774, Rajajipuram, Talkatora Colony Lucknow

*Amendment inserted  
on 22/11/88 as per order of  
Court on 21/11/88*      *Dated 22/11/88*  
*Prb*      *at Lucknow*  
Contd...

*[Signature]*  
D. J. Srivastava  
A. A. O.  
C.D.A. LUCKNOW.

ASS C

do hereby verify that the contents of para 1 to (a) are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place : Lucknow

Prabhu Ind Nartan

Dated :  $\frac{24}{28}$ .X.88

*Prabhu Ind Nartan*  
Signature of the applicant

To.

The Registrar,  
Central Administrative Tribunal  
Allahabad, at Lucknow



D. J. Sivastava  
A. A. O.  
C.D.A., LUCKNOW.

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PRABHU DAS BHAIN ..

.. APPLICANT.

VERSUS

The Union of India and others ...

.. RESPONDENTS

Details of Index

- 1) A photostat copy of the Railway Board's circular No. RC-60/WP-3/1, dated 6.7.1961 regarding mode of 10% quota examination. p. 1-2
- 2) Electrostat copy of the railway board's letter No. RC-60/WP-3/1, dated 20.12.1961 regarding the policy of 10% examination. p. 3
- 3) ✓ Electrostat copy of the circular No. 661-B/214 (Etd) dated 27.4.1964, regarding result of examination. p. 4-5
- 4) ✓ Electrostat copy of order No. P/131 dated 2.5.1963 for applicant's success. p. 6-8
- 5) ✓ Electrostat copy of office letter No. 217-B-21-1111 dated 7.2.1964, referring applicant's case to the General Manager, Northern Railway, Baroda House, New Delhi. p. 7
- 6) Electrostat copy of the letter No. 661-B/214 dated 21.8.1964 regarding the reply of the General Manager (Personal), Northern Railway, Baroda House, New Delhi. p. 14-2-64 1-8
- 7) Electrostat copy of the applications along with correspondence and last representation to the Union of India, on 10.1.1967. p. 9-38

  
 D. K. Sivastava  
 A. S. O.  
 C.D.A., LUCKNOW.

AS (2)

(B) Electrostatic copy of Government of India, Ministry of Home Affairs, Memorandum No. 5/4/55-ET-1 dated 4.1.1957 regarding reservation, <sup>of</sup> and schedule caste and schedule tribes candidate.

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(B) Electrostatic copy of the letter No. 831(E)/273/(B-IV) dated 1.11.1962, from the General Manager(Personal), Northern Railway, Baroda House, New Delhi, regarding life of the panel.

P. 40-41

Prahlad Narain  
( PRAHLAD NARAIN )

son of late Shri Shyam Manchar,  
resident of B-2774, Najajipura

Dated: 26 April '88. Talkatora Colony, Lucknow, retired  
Head Clerk from the office <sup>of</sup> District  
Controller of Stores, Northern Railway,  
Alambagh, Charbagh, Lucknow.

Date . 27.4.88

5th Sept 89 for ex-parte  
trial hearing  
10/7/89

Dated = 27/5/88

Dated = 18/7/88

- D = 23/7/88 <sup>filed</sup> trial hearing
- D = 22/8/88 amendment in papers ~~made~~ on 28/10/88
- D = 24.11.88 amendment admitted on 24/11/88 and amend-  
ment inserted into OA on 28/11/88
- D = 22.12.88
- = 29.1.89
- D = 24.2.89
- D = 3.3.89
- 5.4.89
- 8.5.89

10th July 1989  
5/9/89

20th April for o.p to  
submit counter and  
for my self to submit  
reply under till 8/5/89  
for trial hearing

D. K. Sivastava  
A. A. O.  
C.D.A. LUCKNOW

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APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL  
ACT 1985.

Date of Filing

OR

Date of Receipt:

By Post:

Registration No.

Signature (Registrar).

In the Central Administrative Tribunal Allahabad, at LUCKNOW.

Petition No.

of 1988

Prahlad Narain son of late Shri Shyam Manohar, retired  
Head Clerk, District Controller of Stores, Northern Railway,  
Office, Charbagh, Lucknow now residing at E-2774, Rajajipuram  
Colony, Lucknow ..

.. APPLICANT.

Versus

1. The Union of India, through its the General Manager,  
Northern Railway, Baroda House, New Delhi.

2. The Deputy Controller of stores, Northern Railway,  
Alambagh, Lucknow ..

.. RESPONDENTS.

1. Particulars of the applicants

FTD

  
D. K. Srivastava  
A. A. O.  
C.D.A., LUCKNOW.

(2)

**(i) Name of the Applicant** P-RAHLAD NARAIN

**(ii) Name of Father** Late Shri Shyam Manohar

**(iii) Designation and office in which employed** Head Clerk, District Controller of Stores, Northern Railway, Charbagh Lucknow.

**(iv) Office Address** Dy. Controller of Stores, Northern Railway, Alambagh, Lucknow.

**(v) Address for service of all Notices** Prshlad Narain, F/2774, Rajajipuram Colony, Lucknow.

**2. Particulars of the respondents:**

- (1) Name and designation**
- a) The Union of India, through its the General Manager, Northern Railway Baroda House, New Delhi.
  - b) The Deputy Controller of Stores, Northern Railway Alambagh, Lucknow.
- (ii) Office address of the Respondents.**
- a) The Union of India, through its the General Manager, Northern Railway Baroda House, New Delhi.
  - b) The Deputy Controller of Stores, Northern Railway Alambagh, Lucknow.

PTO

  
D. K. Sivastava  
A. A. O.  
C.D.A. LUCKNOW

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- (iii) Addresses for service of all Notices.
  - a) The Union of India, through its the General Manager, Northern Railway, Baroda House, New Delhi.
  - b) The Deputy Controller of Stores, Northern Railway Alambagh, Lucknow.

3. particulars of the order against which the application is made;

The application is made against the following orders:

- (i) order No. 561/E/214(E11)d and
- (ii) date 24.2.1964 and
- (iii) passed by The General Manager(Personnel) Northern Railway, Baroda House, New Delhi.
- (iv) subject in brief: The applicant was selected and ordered for promotions clerk grade A I, but was not promoted by the Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow in due course and was later on refused by the General Manager, Northern Railway Baroda House, New Delhi for the promotion of the petitioner, vide his letter No. 561/E/214 (E11)d dated 24.2.1964

4. Jurisdiction of the Tribunal.

I, Prahlad Narain the petitioner, declares that the cause of action has finally accrued at

*[Signature]* PTO  
 D. K. Srivastava  
 A. A. O.  
 C.D.A., LUCKNOW

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Lucknow in the province of Uttar Pradesh on 10.7.1987 as the concerning authorities have not considered for promotion of the petitioner as Clerk Grade-I, and over six months have passed no reply has been received. The Central Administrative Tribunal came into operation with effect from 1.11.1985 and as such the redressals are within the jurisdiction of the Tribunal in terms of Rules 14 Chapter-3, of the jurisdiction, powers and authority of the Tribunals.

**5. Limitation:**

I, Prahlad Narain the petitioner further declared that the petitioner is within the limitation prescribed in the Section 21 of the Central Administration Tribunal Act 1985. The respondent No. 2, has not taken proper decision in the case of the applicant's promotion as Clerk Grade-I, scale Rs 190-300 (AS) and thus the applicant could not avail of opportunities of natural justice in regard the promotion - seniority and further promotions in higher grades.

**6. Facts of the Case:**

The facts of the case are as under:-

- (1) That the petitioner having been selected by the Railway Service Commission, Allahabad was appointed as Clerk Grade-II in the scale of Rs 110-130 to work in Charbagh Depot (Stores) under the control of the Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow. on 28.1.58

- (ii) That in Class-III posts, the scale of Rs 110-180 was known as initial (recruitment) grade and the personnel working in this scale were designated as Clerks of Grade-II.
- (iii) That towards channel of promotion the next higher grade was in the scale of Rs 130-300 and the personnel working in this scale were designated as Clerks grade-I.
- (iv) That prior to 6.7.1961, 20% of the posts in the scale of Rs 130-300 were filled in through direct recruitment and the remaining 80% posts were filled through seniority-cum-suitability tests.
- (v) That on approval of the Government the Railway Board revised the above policy of promotion and ordered that from 6.7.1961, onwards 10% of the posts in the category of Clerks Grade-I, in scale of Rs 130-300 would be filled in by the promotion, through a Competitive (written) examination limited to the departmental clerks of Grade-II and the remaining 90% of the posts would be filled through the promotions of Clerks Grade-II on the usual terms and conditions i.e. on the basis of seniority-cum-suitability.

ANNEXURE-I (Page 2)

- (vi) That in continuation of their above order in the Annexure-I, the Railway Board further added on 20.12.1961:
- (a) the Competitive examination for filling up 10% of the posts should be thrown open to all clerks grade-II.

  
D. K. Sivastava  
A. A. O.  
G.D.A., LUCKNOW.

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- (b) The 10% posts in the scale of B 130-300 should be worked out on the total number of annual anticipated vacancies occurring after 6.7.1961, the date of issue of revised Board's orders.
- (c) The number of employees to be placed on the panel should not normally exceed the number of vacancies reserved against 10% <sup>quota</sup> ~~posts~~ each year. The railway administration should hold the competitive examination every year.
- (d) The names of the employees to be placed on the panel should be arranged in the order of merit.

ANNEXURE-II (Page 3)

(vii) That the period involved for such examination and calculation of such 10% vacancies was from 6.7.1961 to 31.12.1962 in the first instance because <sup>after</sup> ~~at~~ the publication of the results of 3 vacancies of 1962, the General Manager, Northern Railway, Baroda House, New Delhi, invited further-  
 more vacancies which could have occurred in the year 1963, in the same circular. About the vacancies of 1963, the subordinate offices of the Northern Railway had no prior information and as such the notified vacancies of 1962 were concrete and solid and were no more subject to any anticipation.

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*[Signature]*  
 D. K. Sivastava  
 A. A. O.  
 C.D.A., LUCKNOW.

(viii) That the respondent No. 2 reserved three vacancies upto 31.12.1962, against 10% quota and intimated them to the General Manager(Personal), Northern Railway, Baroda House, New Delhi quite late on 9.1.1963, when there was no ground left for these three reserved vacancies of 1962 being treated as anticipated or not having occurred within the stipulated period.

Letter no  
190/E  
Page 4/4

(ix) That the scheduled competitive (written) examination conducted by the General Manager(Personal) Northern Railway, Baroda House, New Delhi, was held on 10.2.1963, and result thereof published on 27.4.1963. Three personnels of Stores Depot, Almbagh, viz. Shri K.L.Mendiratta, Prahlad Narain, the petitioner, and Shri Nankoo Ram, were placed on the panel of merit No. 1, 2, and 3 respectively and the order for promoting them simultaneously against the vacancies advised by the subordinate offices were also issued.

ANNEXURE-III (Page 4)

(x) That the tempering the order of merit, Shri Nankoo Ram was promoted first on 3.6.1963, Shri K.L. Mendiratta was promoted next on 3.6.1963 and the applicant who was to be promoted against the 2nd (Twentieth) vacancy by virtue of his merit position was totally ignored. The petitioner was of course, informed of his success on 3.5.1963 in the examination and till the end of 1963 he was verbally kept assured to be promoted <sup>in</sup> due course to save the person promoted, against 90% vacancies by virtue of seniority-cum-suitability.

Annexes  
3 and 4

PTO

  
D. N. Srivastava  
A. A. O.  
C.D.A., LUCKNOW.

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ANNEXURE -IV :

(xi) That the petitioner grew afraid of the malafide intention of the respondent No. 2 <sup>and</sup> as such ~~the~~ claimed to him on 15.1.1964, for his due promotion where upon paying no heed to my prayer, the respondent No. 2, referred my case to the General Manager, (Personal), Northern Railway, Baroda House, New Delhi, with the following false statements and irrelevant reasons about my non-promotion:-

(a) the 3rd vacancy being anticipated did not occur.

(b) due to ban on recruitment of initial grade-Clerk two clerks could not be made available and as much the two posts of grade-I clerk sanctioned for Diesel Shed, Moghal Sarai, could not be filled. The vacancies could have been filled from Class-IV Staff as this ban did / does not apply for promotion from Class-IV to Class-III.

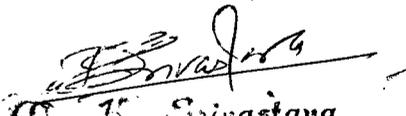
Falsified by Encls. no 5 to 8 of the Review application  
Falsified by Encls. - 7/8 R

(c) tempering of the panel position was concealed and instead of 3,10% vacancies already notified on 9.1.1963 and 27.4.1963 only two vacancies were exhibited and filled.

ANNEXURE-V.

(xii) that the General Manager (Personal) Northern Railway, Baroda House, New Delhi did not investigate as to how the candidate at merit No. 3, was promoted all the first and why promotion of the applicant was involved in dispute and why no action was taken by the opposite party No. 2, well in time to set right the anomaly when he had already known that the third vacancy did not arise. However, the applicant was

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D. K. Sivastava  
A. A. O.  
C.R.A. Lucknow.

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refused any promotion against 10% quota reserved vacancies.

ANNEXURE-VI:

Annexure 7  
Page - 9

(xiii) that the petitioner immediately represented to the General Manager, (Personal) Northern Railway, Baroda House, New Delhi on 14.7.1964, demanding justice and continuously kept praying till at last the present Deputy Controller of stores, Northern Railway, Alambagh, Lucknow made a thorough enquiry into the petitioner's case and forwarded it to the General Manager (Personal) Northern Rly. Baroda House, New Delhi, for reconsideration, vide his letter No. 247-E dated 6.12.1965. All the administrative lapses and injustice done to the applicant were disclosed but to no avail.

Annexure 7  
Page - 34 ad 37

ANNEXURE-VII:

Annexure 7  
Page 36 ad 38

(xiv) That due to financial and family burden, fear of the departmental authorities being annoyed and no permission to go in court of law having been granted, the petitioner could not obtain shelter of the court. However, after his retirement on 31.1.1966 the petitioner tried once more on 10.1.1967 to secure due justice from the Higher Authorities but more than six months have passed and the authorities have failed to <sup>impart</sup> him past due justice to the applicant and hence under sub-clause 1(b) of Clause 21 Chapter-4, "Procedure, his application is within time".

(xv) That in view of the above facts and the following further more orders of the Government and the Railway Board, the extent of injustice done to the applicant is further proved as under-

*[Signature]*  
D. N. Sivastava  
P.T.O.  
L. A. O.  
LUCKNOW

have most conveniently been withdrawn and name of the applicant deleted from the panel, which has not been done, so far

- (e) ~~There~~ <sup>S-heer</sup> injustice has been done as regards life of the panel. In this case, life of this panel was confined to the end of 1963 ( a duration of only eight(8) months ) where as in the normal course it was one year and now it is two years. In the case of promotions against the said 20% quota prior to 6.7.1961, life of the panel allotted was three years from 1959 to 1962. Had this natural justice not been refused to the applicant he could have been promoted against a vacancy arising in 1964 and thereafter.

ANNEXURE-IX :

- (f) Besides this it is also not in keeping with the orders of the Board then prevalent not to hold further examination, not to form further panels and fill-up the 3rd and subsequent 10% quota vacancies by the promotion of grade-II clerk on the basis of seniority-cum-suitability test.
- Sup Law 2*
- (g) ~~But~~ The truth is that at a that time, promotion from grade-II clerks to grade-I was a matter of about eighteen years. The applicant was the only junior most with five years length of service who had superseded so many of his seniors in the competition and could have got his promotion some 15 years earlier. Therefore, in order to promote some favourite seniors, all the rules and regulations were set aside and future of the applicant spoiled.

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*D. N. Srivastava*  
 D. N. Srivastava  
 A. A. O.  
 C.D.A. LUCKNOW.

(xvi) That the order of the General Manager, Northern Railway, Baroda House, New Delhi, is unjust, improper, illegal, arbitrary, discriminatory and violative of the principles of natural justice.

7. RELIEF (s) sought

In view of the facts mentioned in para 6 above it is, therefore, most humbly prayed that the Hon'ble Court be pleased to quash the order No. 561-E/214 (Eid) dated 24.2.1964 from the General Manager Northern Railway, Baroda House, New Delhi and pass the order to promote the petitioner with retrospective effect i.e. from 3.6.1963, against the 2nd (twentieth) quota vacancy with full payment of arrears giving due justice to the petitioner who has continuously suffered a re-occurring short-fall in the form of his salary since 1963 ~~and~~ and in the shape of LDFG, commutation, and leave encashment at the time of his retirement on 31.1.1986.

along with  
further promotion  
benefit.

provision  
PF

The above relief is being claimed on the basis of Article 14, 16 and 309 of the Constitution of India and in the grounds of violation of the principles of natural justice and settled practice of the Railway Administration to deviate from the normal rules and regulations.

8. INTERIM RELIEF (if any)

NO

9. DETAILS OF REMEDIES EXHAUSTED:

The petitioner declares that he has availed of all the remedies available to him under the relevant service rules etc., details of representations made by the applicant <sup>are</sup> as under:-

- (a) Representation dated 14.7.1964, made to the General Manager, Northern Rly., Baroda House, New Delhi.

*D. N. Srivastava*  
D. N. Srivastava PTO

A. A. O.

CO. D. A. BUCKNOW

15. 9. 72

- (b) Representation of ~~35/2973~~ made to the Sec-retary Railway board on 15.9.1972 <sup>for</sup> permission to sue in the court.
- (c) Representation made to the railway Minister on 21.2.1976 through the Member of Parliament.
- (d) Representation made on 23.9.1981 to the General Manager, (Personal), Northern Railway, Baroda House, New Delhi.
- (e) Representation made on 3.7.1984, and 2.12.1985 to the Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow, - applicant's case was referred to the General Manager (Personal) Northern Railway, Baroda House, New Delhi on 5.12.1985, <sup>and remainder on 27.1.1987</sup> ~~no~~ <sup>date</sup> avail.
- (f) Representation / appeal made to the Union of India, through its General Manager (Personal), Northern Railway, Baroda House, New Delhi 10.1.1987 with a copy to the Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow.

OUT COME:

More than six months have passed and authority mentioned above ~~xx~~ have not passed any final orders.

10. Matter not pending with any other court etc. The petitioner further declare that the matter regarding this application is not pending before any court or any other authorities or any other Bench of the Tribunal.

11. Particulars of Bank Draft / Postal order in respect of the application fee: *in 50/-*

PTO  
*[Signature]*  
D. K. Srivastava  
A. A. O.  
C.D.A., LUCKNOW.

*[Signature]*

- A72  
Representation 9/14.7.66
- (g) Electrostat copy of the applications along with  
 KK correspondence and last representation to the  
 Union of India, on 10.1.1987.
- (h) Electrostat copy of Government of India, Ministry  
 of Home Affairs, Memorandum No. 5/4/56-SCT-1,  
 dated 4x.1.1957 regarding reservation, <sup>of</sup> and schedule  
 caste and schedule tribes candidate.
- (i) Electrostat copy of the letter No. 831(E)/273/  
 (P-IV) dated 1.2.1962 from the General Manager,  
 (Personal), Northern Railway, Baroda House, New  
 Delhi, regarding life of the panel.

13. List of enclosures: Photostat/Electrostat copies  
 of the relevant orders and  
 circulars as mentioned in  
 para 12.

IN VERIFICATION:

I, Prahlad Narain son of late Shri Ghyam Manchar  
 aged about 60 years having retired from the post of Head  
 Clerk on 31.1.1986 from the office of the District  
 Controller of Stores, Northern Railway, Charagh, Lucknow,  
 under the control of Deputy Controller of Stores, Northern  
 Railway, Alambagh, Lucknow, resident of F/2774, Rejajipuram  
 Talha-tora Colony, Lucknow, do hereby verify that the  
 contents of pages from 1 to 13 are true to my personal  
 knowledge and belief and that I havenot suppressed any  
 material facts.

Place: LUCKNOW:

Dated: 26.4.1988

Prahlad Narain  
 Signature of the  
 Applicant.

The Registrar,  
 Central Administrative Tribunal,  
 Allahabad at Lucknow.

  
 D. K. Sivastava  
 A. S. O.  
 C.D.A., LUCKNOW.

American 1

A73

( 1125 )

advances of pay and travelling allowance may be sanctioned to a Railway servant on his transfer to foreign service by an authority competent to sanction his transfer and that reimbursement of such advances to Government by the foreign employer should be made in lump by sending a cheque or a bank draft in favour of the Accounts Officer on whose books the advances were originally booked. No orders have, however, been issued so far as to whether such advances may be granted by a foreign employer at the time of the reversion of the Railway servant from foreign service and, if so, how the repayment of such advances to the foreign employer should be made.

2. The President is now pleased to decide that the procedure indicated below may be followed for repayment of such advances granted to a Railway servant by a foreign employer.

(i) Advance of pay.

Advance of pay to a Railway servant on his reversion from foreign service should be granted by the foreign employer only after consultation with the authority competent to sanction the transfer of the Railway servant to foreign service on the analogy of the provisions contained in Note (4) below para. 1536(7)-GI as amended vide Advance Correction Slip No. 27-GI circulated to the Railways vide Board's letter No. F(E)60/ADV-2/7 dated 16-3-1961. As for the repayment of the advance to the foreign employer, immediately on receipt of a demand from the foreign employer, duly supported by the cash receipt obtained from the officer concerned at the time of the payment of the advance, the competent authority should refund the total amount to the foreign employer by means of a bank draft. The amount of the bank draft may be debited in the accounts under the head "Departmental Advance Railway Advances in Section "S-Deposits and Advances—Part III Advances not bearing interest." The recovery of the advance should be watched in the manner as in the case of advance of pay sanctioned to a Railway servant under paragraph 1512 of the Indian Railway General Code Vol. I.

(ii) Advance of T.A.

Since the T.A. for the return journey on the Railway servant's reversion to Government service is to be borne by the foreign employer, the advance of T.A. granted by the foreign employer in this regard may be adjusted only on the Railway servant submitting the T.A. bill, which should be sent straight to the foreign employer for the purpose.

Serial No.—1292.—Circular No. 831-E/273(Eiv), dated 4-4-1961.

Sub.—Filling of posts of clerks Grade I scale Rs. 130-300.

A copy of Railway Board letter No. PC-60/RTP-3/1, dated 6-7-1961 is forwarded for information and guidance.

2. The question whether departmental written test for promotion of clerks to grade Rs. 130-300 (AS) against 90% vacancies in this grade as already prescribed should continue to be held or not is under reference with the Board and their decision will be communicated when received.

Copy of Railway Board's letter No. PC-60/RTP-3/1, dated 6-7-1961 to the General Managers, all Indian Railways etc.

Prabhat Narain

As Decd

Chand Srivastava  
Adm Officer  
of Engineer Lucknow Zone.  
LUCKNOW

149/61

2  
Copy of Railway Board's letter no PC-60/RTP-31  
dated 6.7.61 to the General Managers  
all Indian Railways etc

( 1126 )

Sub.—Filling of posts of clerks grade I scale Rs. 130-300.

The Government have accepted the recommendation of the pay commission that there should be no direct recruitment to the posts of Clerks grade I, scale Rs. 130-300 and that a proportion of the vacancies in this grade may be filled on the basis of a competitive examination limited to Clerks grade II. They have accordingly decided that the posts of Clerks Gr. I should be filled exclusively by promotions of Clerks Gr. II in departments other than the Accounts Department on the Railways and that 10% of the posts in the category of Clerks Gr. I (instead of 20% as laid down in para 14 of Board's letter No. E(S)I-57CPC40, dated 7-3-1957) may be filled on the basis of a competitive (written) examination limited to Clerks Grade II. The Procedure and conditions to be observed for the said examination will be as under :—

- (a) The examination should be held once a year, separately for each of the different seniority units.
- (b) Each employee may be given a maximum of 3 chances. Employees belonging to Scheduled Castes/Scheduled Tribes may, however, be given an additional chance.
- (c) Every employee with at least one year's service may be allowed to take the examination.
- (d) The subjects of the examination, the time allotted and the maximum marks for each paper should be as follows :—

Paper (Subject)	Marks	Time
(i) English (including drafting, Precis writing, Essay, Grammar) Proof correcting and Elementary Tabulation (to test candidates ability in the art of compiling, arranging and presenting data in a tabular form).	100	2 hours
(ii) Departmental knowledge paper (including Office Procedure, rules and regulations etc.)	100	2 hours

- (e) The qualifying marks should be 50% in each written paper.
- (f) The Head of the department concerned should nominate officers for setting the Question Paper and marking Answer books. These officers should get the same honoraria as are admissible to Accounts Officers who deal with the App. II-A Examination.
- (g) The usual rules regarding reservation of vacancies for scheduled Castes/Tribes will apply in filling this quota.

3. The Board have also decided that the remaining 90% of the posts in the category of Clerks Gr. I may be filled by promotion from Clerks Grade II in the scale Rs. 110-180, on the basis of seniority cum-suitability.

4. These orders do not affect the employees, already promoted as Clerks Gr. I against the 20% vacancies reserved for being filled by direct recruitment.

5. 20% of the posts in the category of Clerks Gr. I in the Accounts Department on the railways will continue to be filled by direct recruitment as laid in para 13 of Board's letter No. E (S)I-57CPC40, dated 7-3-1957.

Prabhu Narain

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A  
~~Annex 1~~

A74

- a) Direct recruitment withdrawn on 6.7.61 and hence no reservation for SCs & STs in 10% quota posts
- b) To be filled only by such staff as qualified in competition

Reservation

once every year  
parallel to merit  
seniority

Attested

L. Chandra Srinasta  
Chief Engineer Lucknow  
LUCKNOW.

Annexure 2

( 1255 )

a written departmental examination. The procedure to be followed for such examination and promotion should be as laid down in this office letters No. 831-E/273(Eiv), dated 16-9-1957, 5-12-1959 and 21-5-1960.

3. The vacancies in grade Rs. 130-300 which occurred prior to 6-7-1961 but not yet filled should be filled on the basis of the previous percentages 80% and 20%. Separate instructions will follow for filling up vacancies against 20% quota from the panel of graduate clerks, formed in 1959.

4. Please acknowledge receipt.

Copy of Railway Board's letter No. PC-60/RTP-3/1, dated 20-12-1961 to the General Managers, all Indian Railways, etc.

Sub.—Filling of posts of clerks, Grade I scale Rs. 130-300.

In continuation of their letter of even number dated 21-9-1961, the Board have decided that in filling 10% of the posts in the category of Clerks Grade I, the following further instructions may be observed :—

merit

1. The Competitive examination for filling up of 10% of the posts should be thrown open to all Clerks Grade II.
2. The 10 % of the posts in the scale Rs. 130-300 should be worked out on the total number of annual anticipated vacancies occurring after 6-7-1961, the date of issue of the Board's revised orders .
3. The number of employees to be placed on the panel should not normally exceed the number of vacancies reserved against the 10% quota each year. The Railway Administration should hold the competitive examination every year.
4. The names of employees to be placed on the panel should be arranged in the order of merit.

Attested

Chief Engineer Lucknow Zone  
Adm Officer  
LUCKNOW.

Serial No. 1456.—Circular No. 5-E/11-II(Eiv), dated 30-1-1962.

Sub. Loan to members of the E.P. Railway Refugees Rehabilitation and House Building Co-operative Society Ltd., for the purchase of plots on the land to be allotted by the Delhi Administration.

The Railway Board have decided that refundable advance from S.A.P.F. may be allowed by the controlling officer in the case of members of the E.P. Railway Refugees Rehabilitation and House-Building Co-operative Society Ltd., New Delhi for purchase of house sites allotted to the Society by the Delhi Administration. The other terms and conditions of the advance will be the same as applicable to advances admissible for house building purposes to displaced persons vide Railway Board's letter No. F(E)50/ADV-3/2, dated 22-8-1951 as amended from time to time. These orders are incorporated in para. 30 (e) (V) and 30 (h) of Chapter XVI of the Indian Railway Establishment Manual. The above has the sanction of the President.

(Authority:— Railway Board's letter No. F(P)60PF-1/29, dated 27-12-1961).

Prakash Narayan

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Amritsar

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(R)

NORTHERN RAILWAY.

HEADQUARTERS OFFICE,  
Baroda House, New Delhi.

No. 56/E 2/4 (E.I.I.)

Dated 27 April, 1963.

- The Divisional Superintendent, Northern Railway, Delhi/Moradabad/Lucknow/Allahabad/Ferozepore/Jodhpur/Bikaner.
- Dy. Chief Mechanical Engineer, Amritsar.
- Works Manager, CB & AMV, Lucknow.
- Works Manager, Jagadhri.
- Works Manager, Jodhpur.
- D.C.O.S., Shakurbasti.
- D.C.O.S., AMV, Lucknow.
- D.C.O.S., Jodhpur.
- S.P.O.-III, Headquarters Office.

Subject.- Filling up posts of clerks in grade Rs.130-300(AS) against 10 % reserved vacancies on the basis of Competitive Examination.

As a result of examination held at various Centres on this Railway on 10.2.1963, the under-noted persons may be promoted to grade Rs.130-300(AS) against 10 % reserved vacancies of clerks grade Rs.130-300(AS) as advised by Divisions and extra-Divisional Offices in different seniority groups.-

Reservation list attached

Division/ Extra-Divl. Office.	Seniority Unit.	No. of vacancies advised to this Office for the period upto 31.12.1962		Name of clerks to be promoted in merit order within the Unit.	Remarks
		Scheduled Caste	Unreserved		
1	2	3	4	5	6
Allahabad Division.	Establish- ment.	1	1	1. Sh. Babu Ram Tewari (Unreserved)	One vacancy reserved for S/Caste to be carried forward.
	Mechanical	1	1	1. Sh. T.S. Dev Nath (Unreserved) 2. Sh. Hub Lal (S/C)	-do-
	Transporta- tion.	1	1		-do-
	Commercial	1	1		-do-
Bikaner Division.	Establish- ment.	1	1		-do-
	Mechanical	1	1	1. Sh. Rattan Lal Vohra. (U.R.)	-do-
Delhi Division.	Establishment	1	1	1. Sh. Suraj Parkash (U.R.)	-do-
	Mechanical	1	1		-do-

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A76 8

1	2	3	4	5	6
3 Delhi Division (Contd.)	Electrical ✓	1	-	-	One vacancy reserved for S/Caste to be carried forward. -do-
	Operating ✓	1	-	-	
4 Ferozepore Division.	Establishment (1)	1	1	1. Shri Harbans Lal Monga (U/R) 2. " Madho Ram (S/C).	-do-
	Operating.	1	-	-	-do-
5 Jodhpur Division.	Mechanical ✓	1	-	-	-do-
	Claims ✓	1	-	-	-do-
6 Lucknow Division.	Establishment	1	-	-	-do-
	Operating.	1	-	-	-do-
	Mechanical	1	-	-	-do-
	Engineering	1	-	-	-do-
7 Moradabad Division.	Establishment	1	1	1. Shri A.P. Vaish (U/R)	-do-
	Mechanical	1	1	1. Shri T.D. Bhatia (U/R)	-do-
8 W.M., Jodhpur.	Estt.	1	-	-	-do-
	Mechanical ✓	1	-	-	-do-
9 Dy.C.M.E.,	Mechanical	1	-	-	-do-
10 Works Manager CB, Lucknow	Estt.	1	-	-	-do-
	Mech.	1	-	-	-do-
11 W.M., AMV, Lucknow.	Mechanical	1	1	1. Shri R.C. Srivastava (U/R)	-do-
12 W.M., Jagadhri Kalka.	Estt.	1	1	1. Shri Bhagat Singh Sharma (U/R)	No Post to Sec Reservation not applied
	Mechanical	-	1	1. " Ram Sarup Khara (U/R)	
13 D.C.O.S., Shakurbasti.	Stores	(1)	4	1. Shri Om Prakash Singhal (U/R) 2. " Devinder Singh Bawa (U/R) 3. " Ramesh Chander (U/R) 4. " Onkar Nath Handa (U/R) 5. " S. Dharman (S/C)	Class I
14 D.C.O.S., AMV, Lucknow.	Stores	(1)	2	1. Shri K.L. Mendiratta (U/R) 2. " Prahlad Narain (U/R) 3. " Nankoo Ram (S/C)	
15 D.C.O.S., Jodhpur/Bikaner.	Stores	✓ 1	-	-	-do-

	1	2	3	4	5	6
Headquarters Estt. Officers	1	1	1	1	1	1. Shri. Shyam Sunder Gupta (U/R) One vacancy reserved for S/Caste to be carried forward
Mechanical	1	-	-	-	-	-do-
Optg.	1	1	1	1	1. Shri. Romesh Chander Joshi (U/R)	-do-
Claims	1	1	1	1	1. Shri. Dhanpat Rai Rastogi (U/R)	-do-
Claims BSB	1	2	1	2	1. Shri. Washisht Narain Shukla (U/R) 2. " P.N. Kapoor. (H/R).	-do-
Refund	1	1	1	1	1. Shri R.P. Sharma (U/R)	-do-
Rates	1	1	-	-	1. Shri P. Ramaiah (S/C)	-do-
Group 'D'	1	2	1	2	1. Shri S.P. Malhotra (U/R) 2. " Har Chand Singh (U/R)	-do-
Stores	1	3	1	3	1. Shri Ram Prakash Bhasin (U/R) 2. " Tirath Das (U/R) 3. " Balbir Mitter Sharma (U/R)	-do-
Statistical Machine Section.	1	-	16	-	-	-do-
Statistical Jullundur.	1	-	17	-	-	-do-
Statistical Delhi.	1	2	1	2	1. Shri Shyam Sunder Lal (U/R) 2. " Ramesh Raj Gupta (U/R)	-do-
Security.	1	-	1	-	1. Shri Ramji Lal (S/C)	-do-
Medical	1	-	18	-	-	-do-

Note.- (U/R) Stands for 'Unreserved'.  
(S/C) stands for 'Scheduled Caste'.

2. The result pertaining to Engineering Groups and General Branch (Headquarters only) will be declared shortly.

3. The examination held on 10.2.1963 was to cater for 10 % vacancies which existed upto 31.12.1962 and also the reserved vacancies which would occur during the period of one year from 1.1.1963 to 31.12.1963. The vacancies upto 31.12.1962, have already been advised by you to this office. Details of vacancies which have occurred from 1.1.1963 to date should be advised to this office early indicating clearly as to how many out of them are reserved against Scheduled Caste quota so that names of eligible persons who have passed in the examination may be intimated. Vacancies which occur hereafter upto 31.12.1963 may also be intimated in due course for similar action.

*Prakash Narain*

P.T.O.

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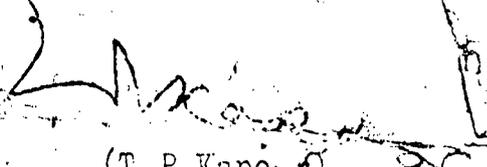
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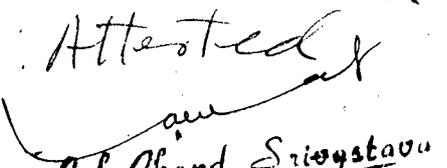
U. D. Singh  
2. Reserve Appo 2

4. The position in regard to reserved vacancies upto 31.12.1962 including those to be earmarked for Scheduled Caste should be checked up again before promotions of the persons shown above are actually ordered by your office.

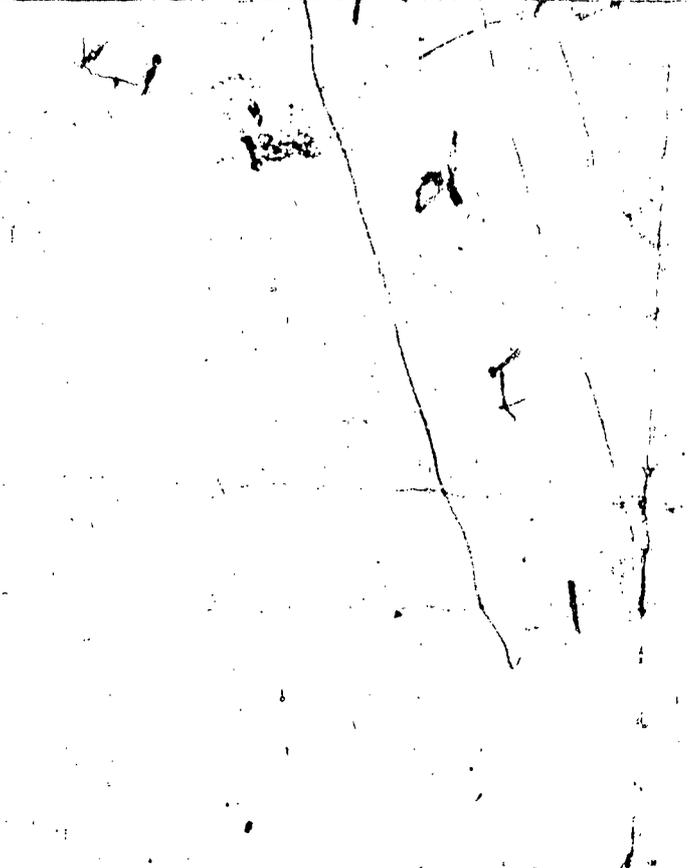
5. Please acknowledge receipt.



(T.P. Kapoor)  
for General Manager(P).

Attested  
  
Lal Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone  
LCKNOW

S.C. Chatterjee



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AFI

~~Annexure 5~~

dated. 3. 5. 63.

(5)

Order No. E/131

As a result of competitive examination held on 10.2.63 to fill up 10% vacancies reserved for clerks grade Ps-130-300, the following clerks have been declared successful:-

1. Mr. K. S. Nand Lal
2. Mr. B. K. Singh
3. Mr. P. K. Singh

Distt. Controller of Stores,  
Allahabad, Lucknow.

Copy of the following may be furnished:-

1. A.C.C./Lucknow.
2. A.C.C./Al.
3. Mr. P. K. Singh.

Distt. Controller of Stores,  
Allahabad, Lucknow.

P. K. Singh

Attested  
*[Signature]*

L. S. Choudhary  
Chief Engineer Lucknow  
LUCKNOW.

As a result of competitive examination held on 10.2.63 to fill up 10% vacancies reserved for clerks grade Ps-130-300, the following clerks have been declared successful.

~~Am 5~~

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(4)

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1964  
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Northern Railway.

No. 247E P-XVII

Dated: Feb. 7, 1964.

The General Manager (P),  
Northern Railway,  
New Delhi.

(H)

Subject: Filling up posts of Clerks in grade Rs. 130-300 (AS) against 10% reserved vacancies on the basis of competitive examination.

Reference: Your letter No. 561E/214 (Eiid) dated 27.4.63.

\*\*\*\*

In terms of your letter No. 561E/214 (Eiid) of 22.12.63 a test for anticipated vacancies to be filled in against 10% reserved vacancies was conducted and three Clerks of this office were placed on the panel. Two Clerks were promoted immediately on receipt of the result against the two vacancies reserved for the period up to 31.12.62. Due to non-availability of approved clerks in grade Rs. 110-130 two vacancies of Clerks in grade Rs. 130-300, sanctioned for Diesel Shed, Moghalsara, could not be operated and the third man who was to be accommodated against the 30th vacancy could not be promoted so far.

para 3  
956

This employee, Sri Prahlad Narain has represented for his posting against 10% vacancies reserved on the basis of competitive examination. Will you please let this office know at a very early date if Sri Prahlad Narain can be accommodated against the 30th I vacancy falling in 1964.

Awefully mislead

Shri Narain

District Controller of Stores,  
Alambagh, Lucknow.

Copy to Shri Prahlad Narain in reference to his representation dated 15.1.1964.

Attested

C. Chand Srivastava  
Adm Officer

District Controller of Stores,  
Alambagh, Lucknow.

Yaday/5264.

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*Amun...*

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The General Manager (P),  
Northern Railway,  
Baroda House,  
NEW DELHI.

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HT

Through:- Proper Channel.

29

Sir,

Sub:- Filling up posts of clerk in grade  
Rs.130-300 A.S. against 10% Reserved  
vacancies on the basis of competitive  
examination.

-----

Ref:- Your letter No.561E/214 (Eid) of  
24-4-1964.

-----

Para-VII of G.M.(P)'s Circular letter No.831E/273  
(E.IV) dated 3-11-'64 lays down as under:-

"If any of the qualified staff are not <sup>absent</sup> observed in  
a particular year, their names will be carried forward  
but they will not be required to sit for competitive  
examination again. These promotions will, however,  
depend upon their record of service continuing to be  
satisfactory."

abstract

And para-VI of the same letter lays down  
as below:-

"The vacancies will be carried forward from  
year to year and filled according to the roster."

As such it would be within the rules to carry  
forward my name and placed in the waiting list for  
absorption against the 10% vacancies occurring in  
the subsequent years in order of seniority vis-a-vis  
those who may qualify in the subsequent examinations.

I request you to kindly re-consider my case  
in the light of above rulings and pass orders  
whereby I may be promoted against the vacancies  
which are to occur after 31-12-'63, and I having  
been qualified in the competitive examination under  
your office letter No.561E/214(Eid) of 27-4-'64.

L. declared

Dated 14-7-'64.

Yours faithfully,

*Attested*  
*[Signature]*

*Prahalad Narain*

L. Chand Sinhasnava  
Chief Engineer Lucknow Zone  
LUCKNOW.

(Prahalad Narain )  
Clerk  
D.C.O.S. Office/N.Rly.,  
Charbagh, Lucknow.

*Prahalad Narain*

26.8.64

A83

To

The General Manager (P),  
N.R., NEW DELHI.

Through Proper Channel.

Sub: Filling up posts of clerks in Gr. Rs. 130-300  
(AS) against 10% reserved vacancies on the  
basis of competitive examination.Ref: G.M.(P) N.R. New Delhi Circular letter  
No. 561E/214/Pt. IV (Eiid) dt. 13.1.67.

Sir,

In this connection I have the honour to refer to your letter Nos. 561E/214(Eiid) dt. 24.2.64, 24.4.64 and 30.8.66 and to say that in these letters it has not been clarified as to why and under what orders I cannot be promoted when in your circular letter No. 831E/273/E-IV dt. 3.11.61 it has been clearly laid down that a successful candidate shall not be required to appear again at any such subsequent examination and that he would be considered for promotion against any such further vacancy.

I, therefore, once again request that my this appeal be reviewed in light of your circular No. 831E/273/E-IV dt. 3.11.61. I, time and again, lay stress on this point because I think the policy laid down therein has not since been changed. As such I feel that my claim for promotion does also stand due and valid.

Yours faithfully,

*Prahlad Narain*(Prahlad Narain Srivastava)  
Clerk  
Charbagh Depot, N.Rly.,  
Lucknow.

Dated - 4.2.67

Copy forwarded to Sri N.M. Shah, Dy. C.O.S./N.Rly., New Delhi, for favour of his kind perusal and compassionate consideration. In the name of equity and justice, it is most humbly requested that this case may kindly be called for and considered in view of G.M.(P)/N.Rly./New Delhi's circular letter No. 831E/273/EIV Dated 3.11.61. (copy enclosed)

Encl: One.

*Attested*  
*an*  
Lal Chand Srivastava  
Chief Engineer Lucknow Zone  
LUCKNOW.

*Prahlad Narain*  
(Prahlad Narain Srivastava)*Prahlad Narain*

ASy

Co

The District Controller Of Stores,  
Northern Railway, Alambagh,  
Lucknow.

27

Through A . C . O . S,  
Charbagh, Lucknow.

Subject. Filling of posts of clerks in grade O-300(AS)  
against 10 percent reserved vacancies on the  
basis of competitive Examination.

Reference. Your letter no.247E/Pt.XVII dated 15.3.67.

29

Sir,  
With reference to the correspondence resting with your  
above quoted letter, I beg to request you to re-consider my  
case very kindly in light of your office letter No.247E/Pt.XVII  
dated 7.2.64 and pass orders for my promotion .

It is, therefore, requested that the decision taken by  
you pursuant to my interview with your goodself on 19.12.1968  
may kindly be intimated to me as early as possibly.

Yours faithfully,

Dated  
24.12.1968.

*Prahlad Narain*

(Prahlad Narain) Clerk,  
Charbagh Depot,  
Lucknow.

*Prahlad Narain*

*Attested*  
*an*  
*an*  
Chief Engineer Lucknow Zone,  
LUCKNOW.

A85 12

NORTHERN RAILWAY

G.L.P. 5  
Form 99-5000

247 E

Dated... 29/1/69 ... 19

To: Dcos Office  
Amr, Lko

From: Shri Prabal Narain  
C/o Asst Controller of stores  
N. Ry, CR, Lucknow

Subject: Filling up the posts of clerks  
Go I Scale Rs 130-300 against  
10% quota

Ref - your interview with Dcos/Amr  
on 19-12-68 & application  
dated 26-12-68

Your case has been examined by  
Dcos Alambagh in detail and the findings  
ordered to inform you that since there  
temporary sanction of clerks had gone  
under ban when the result of clerks  
declared suitable for promotion against  
10 percent quota in Rs 130-300 was  
received, the post could not be filled  
in and therefore no vacancy arose  
against 10 percent quota during the  
period in question hence you had no  
chance of promotion against  
10 percent quota.

Attested  
Chand S. ...  
A.S.M. O...  
Engineer Lucknow Zone  
LUCKNOW.

M. N. ...  
Dist. ...  
...

Prabal Narain

13  
ASG

Dated - 6/9.6.69.

To

Shri M.N. Bery,  
General Manager  
Northern Railway  
Baroda House  
New Delhi

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24

THROUGH PROPER CHANNEL

Sub: Filling up posts of clerks in Gr.130-300(A/a) against 10% reserved vacancies on the basis of competitive examination.

Ref: G.M. (P)/NDLS Circular letter No.561E/214(Eiid) dt.27.4.63.

Sir,

With due respect I beg to state the following lines for your kind perusal and favourable orders -

That in terms of GM(P)/NDLS letter No.561E/214(Eiid) dt. 22.12.62, a competitive test was held on 10.2.63 at various centres of Northern Railway to fill up vacancies against 10% quota upto 31.12.62. As would appear from the letter cited above (extract enclosed) DCOS/Alambagh had advised 3 such vacancies and accordingly only 3 persons including myself were declared successful.

That on the announcement of result two of us were immediately promoted but I was not nor have I so far been given the chance despite my repeated appeals to G.M. (P) New Delhi.

That from the date of result to 31.12.63 I made personal approaches to the Establishment Staff of the DCOS/Alambagh in connection with my promotion and sometimes I was asked if I would like to join at Mughalsarai for which I had given my consent, but to no purpose.

That when the year 1963 was over I had the occasion to feel most restless about my promotion and as such I made an application in black and white to the DCOS/AMW whereupon, vide his letter No.247E/Pt.XVII dated 7.2.64 (copy enclosed), he referred my case to G.M. (P) in the most neglected and ambiguous form.

That from the letter of DCOS/AMW dated 7.2.64, it is crystal clear that after promotion of the two candidates there were still two vacancies and necessary sanction for them was also there. But he did not promote me as two clerks in grade Rs.110-180 were not readily available to fill up vacancies consequent upon my promotion.

That such a ground of withholding my promotion is the most funny and singular because as per general practice in any office or as per establishment code promotions to all the higher posts other than Selection Posts, are always made from lower scales. In my case when vacancies were there and there I was standing eligible for promotion, I should have been rightfully promoted.

That by denying the chance to me not only one more is evolved but the chance of another qualified is also been seized because instructions contained of G.M. (P) New Delhi letter No.561E/214(Eiid)

*File & Seal*  
*aw ad*

*P. Chandra Srinivasa*  
Adm Officer  
Chief Engineer Lucknow Zone  
LUCKNOW

7.6.69

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*Prakash Narain*

AS)

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have not been adhered to.

That since 1964 to date I have been in a series of correspondence with the DCOS/AMW and the G.M. (P) but to no avail.

Interview  
with  
CRB.  
refused  
by  
DCOS.

That atleast, when I sought permission for an interview with your goodself who visited the Alambagh Depot near about 7th December, 1968, the present DCOS was pleased to cancel the interview and see my case personally. As I am told he thoroughly investigated into my case. He also did realize that sheer injustice was done to me by not promoting me when the two vacancies were there. He located that the mistake occurred at the end of establishment staff of the Alambagh Depot. But to my utter disappointment I was given a new negative reply with no substantial reason after a fortnight.

Under the above circumstances, I most humbly request your honour to look into my case personally and pass orders for my promotion now. I may further stress that the vacancies were there and for no fault of mine, my promotion is so ruthlessly denied.

DA/-As above.

Yours faithfully,

9/6/69.

*Prahlad*

I copy in advance to Sri M.N. Singh, G.M. N.R. for information & necessary action.

(PRAHLAD NARAIN) Clerk  
Charbagh Depot, Lucknow

✓ I Copy forwarded to Shri Anand Bahadur Lal Srivastava Chief Personal Officer/NR/New Delhi for favour of information and investigation into the case. It may be pointed out in this connection that on repeated appeals dt. 14.7.64, 24.12.64, 27.4.65, 5.2.66 and 13.6.67 no action has so far been taken. Only vague replies have been communicated to me. (DA-As above)

✓ II Copy forwarded to Shri Gulshan Rai, C.O.S./N.Rly/Banoda House/New Delhi for favour of his information. It is requested that my case may kindly be looked into personally and my rightful chance given to me. In the event of my case being neglected at this stage, I shall be compelled to request your goodself to allow me to seek redress of my grievances in some other higher channels. (DA-As above)

*Prahlad*

*Prahlad*  
(PRAHLAD NARAIN)

L. C. Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone,  
LUCKNOW.

*Prahlad Narain*

ASS

2nd Remuniter  
8/02-1-6970

Sri P.M. Jery,  
General Manager,  
Northern Railway,  
New Delhi.

44 82

THROUGH MAIL CHANNEL

Subject: Filling up posts of clerks in grade 110-120 (1/2) against 12 reserved vacancies on the basis of Competitive Examination.

Reference: - (1) New Delhi Circular Letter No. 167/274 (11) dated 27.4.63.

Sir,

With reference to my appeal dated 6/9.6.69 and subsequently reminder dated 6.11.69 on the above subject, I beg to say that more than six months are elapsing from the date of my appeal but no order for my promotion has so far been passed. In this connection I may once again enclose herewith a copy of D.C.C. Alakhya's letter No. 2477/Pt. III dated 7.2.1968 for your ready reference and stress that the two vacancies for Diesel Shed Mughalpur pertained to the period upto 31.12.62; requisite sanction for the same also existed during that year and the same could have very well been operated by promoting two clerks of grade 110-120, from amongst the then existing strength. The question of temporary, therefore, having some under bias in 1963 does not arise. On account of this obvious slackness on the part of administration, speedy clerk like myself should not be allowed to suffer.

X sanction

In the name of justice, I, therefore, most humbly pray your honour with folded hands that my case may kindly be looked into personally and orders for my promotion passed now at a very early date, because being devoid of this chance, I feel to develop some mental set-back which, at the present, may tell very much upon myself and my family.

Encl: One

Yours faithfully,

*Prabhu*

(Prabhu Verma, Prastava)  
Clerk, Charbagh Depot, Lucknow.

Copy in advance to Sri P.M. Jery, General Manager, New Delhi, for favour of his information and necessary early action.

Copy forwarded to (1) Sri Chand Bahadur Lal Prastava, Chief Personal Officer, N.W. New Delhi, and (2) Sri Gulshan Lal, Controller of Stores, N.W. New Delhi, together with a copy of D.C.C. Alakhya's letter referred to above, for favour of information and kind examination of the case and favourable early orders.

Encl: one

Attested  
*[Signature]*

Yours faithfully,

*[Signature]*

(Prabhu Verma, Prastava)  
Clerk, Charbagh Depot, Lucknow.

Chief Engineer  
LUCKNOW.

*Prabhu Verma*

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A90

Copy

26

The Secretary,  
Railway Board,  
New Delhi.

Reminder

Dated

72.

Through proper channel

Sir,

Reg:- Filling up posts of Clerks in Grade  
Bs. 130-300 (AS) against 10% reserved  
Vacancies on the basis of competitive  
examination.

Ref:- G.M (P) NDLB circular letter No.  
501-B/214 (N.L.C.) dated 22.4.1963.

...

In this connection please refer to my appeal  
dated 25.6.71 and subsequent reminders dated 26.9.71  
No decision has so far been communicated  
to me. It is, therefore requested that my case may  
kindly be looked into very early and orders for my  
promotion passed.

In case my promotion is not deemed to be proper, I  
may kindly be permitted to seek redress in the Court  
law.

Thanking you.

Dated 15/9/ 72.

Yours faithfully,

*Prabhad Manrai*

(PRABHAD MANRAI)  
Clerk, Chirbagh Depot  
Lucknow.

....

Copy in advance to the Secretary Railway Board,  
Rail Bhawan, New Delhi for favour of his personal  
and kind orders.

*Prabhad Manrai*

*Attested*  
*an*

L. P. Chand Srivastava  
Chief Engineer Lucknow Zone.  
LUCKNOW.

18  
A91

The Deputy Controller Of Stores,  
Northern Railway, Alambagh,  
LUCKNOW

*[Handwritten signature]*  
LH

Subject:- Filling up posts of clerks in Grade 130-300  
(AS) against 10% reserved vacancies on the  
basis competitive Examination.

Sir,

With reference to your Notice No.190 E dated  
20.12.1974 on the above subject, I beg to state that  
by virtue of my having passed the subject examination  
on 27.4.1963, as per General Manager New Delhi's letter  
No.561 E/214 (Elid) dated 27.4.1963, (see Extract enclosed  
for ready reference), I already stand qualified for  
promotion.

I, therefore, most humbly request your honour  
kindly to promote me now against the 10% reserved  
vacancies.

Dated. 24.12.1974

Encl. One.

Yours faithfully

*Prahlad Narain*  
(Prahlad Narain )  
Clerk, D.C.O. Office, N.E.  
Charbagh, LUCKNOW.

*Prahlad Narain*

*Attested*  
*[Signature]*  
Chief Engineer Lucknow Zone  
LUCKNOW.  
Adm Officer

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19  
1972

NORTHERN RAILWAY

No. 247E

Dated 9-10-75

G.L. 19-43  
Genl. 99-6small

From

Dy COS/Arms/Les

To

Shri Pralad Narain  
Clery, CS Dept  
Lucknow

Subject: Filling up posts of clery in  
Grade Rs 330-560 on basis  
Reference of Competitive examination  
Your representation dated 11/2-75

The General Manager of New Delhi has decided that since you qualified the Competitive examination held in 1963, and were not promoted for one reason or the other the question of grant of exemption from appearing the fresh suitability test after a lapse of 12 years does not arise.

For Dy Controller of Arms, Lucknow

Pralad Narain

Attended

L. P. Chandra Sengupta  
Chief Engineer, Lucknow Zone  
LUCKNOW

21  
A94

S.D. Singh Chaurasia

15 A.P. Sen Road,  
Lucknow  
Dated 21.6.1976

Respected Pandit Jee,

On 21.2.76 I had forwarded to you a case of one Shri Prahlad Narain, an employe of Dy. C.O.S. office, N. Ry. Alambagh, Lucknow for your perusal and kind orders. I have gone through his case & feel that great injustice and harrasment have been done to the employe by not promoting him against the reserved existing quota simply because the administration had no other clerks to fill in the lower grade resultant vacancies.

However, I am enclosing herewith a history of his case again in net shell along with other relevant papers, keeping both the legal and ethical bounds in view request that he be promoted now with retrospective effect.

Yours sincerely,

*S.D. Singh Chaurasia*  
( S.D. Singh Chaurasia )  
NIP

Shri Manlapati Tripathi,  
Minister of Railways,  
Government of India,  
New Delhi.

*Prahlad Narain*

*Attested*  
*[Signature]*  
Chief Engineer Lucknow  
LUCKNOW.

22  
AGS  
15

The General Manager (P)  
Northern Railway.  
New Delhi.

Through Proper Channel

Sir,

Sub:- Filling up posts of clerks in grade 130-300 (AB) against 10% reserved vacancies on the basis of competitive examination.

Ref:- 1. Your letter No 561E/214 (Eid) dated 22.12.62.  
2. Your Circular No 561E/214 (Eid) dated 27.4.1963.

In this connection I may refer to my latest appeal dated 25.12.78. and again beg to say that in terms of your letter No 561E/214 (Eid) dt. 22.12.62, a competitive test was held on 10.2.63. and vide your circular of even No dt. 27.4.63. ( Extract enclosed ) three successful candidates including myself ( Second in the merit ) were advised to be promoted quite in conformity with the number of 3 vacancies shown reserved upto 31.12.62. by DCOS/AMV vide his letter No 190E dt. 9.1.63. Two of them were promoted immediately but I was not and my case was kept buried till 31.12.63 with false assurance of promotion to me.

However, when I <sup>persued</sup> promoted my case in black and white. It was intimated to you by DCOS/AMV vide his letter No 247E pt xvii dt. 7.2.64. ( Copy enclosed ) that I was not promoted due to non-operation of two posts sanctioned for Diesel Shed, Moghalsarai and the cause of this non-operation of post was, in the first instance, shown as non-availability of two approved clerks in grade 110-180. In the second instance after six years, the cause of this very non-operation of the post at Moghalsarai was conveyed as the temporary sanction having gone under ban prior to the announcement of the result on 27.4.63. (copy enclosed). Thus the two different causes of non-operation create doubt. Again with regard to number of vacancies reserved against 10% quota upto 31.12.62. DCOS/AMV letter Nos. 190E dt. 9.1.63. and No 247E pt xvii dt. 7.2.64. contradict each other as much as the former declared 3 vacancies and the latter speaks of the two. This contradiction also seems to be more than enough to betray one's confidence.

Leaving the above facts aside, the existence of the 3rd vacancy during the specified period from July 1961 to 31.12.63. can not be negotiated because non-availability of the approved clerks in grade 110-180. and expiry of the temporary as sanction before announcement of the result were pre-known facts and as such they can not tell upon the creation of 3rd vacancy even in the least.

Further, if the 3rd vacancy had not come into being why at all I was informed and allured of my success and promotion by DCOS/AMV vide his letter No E31 dt. 3.5.63. (copy enclosed) why the administrative unit at Alambagh kept silent in rectifying the mistake and removing the anomaly and why I was not informed of the query raised by you in your letter of even No dt. 24.2.64. (copy enclosed).

This in view of the above, contradictions and created ambiguity in the existence of 3rd vacancy during the period in question can not be enveloped. I, therefore, request your honour kindly to review my case and pass orders of my promotion with retrospective effect in view of instructions contained in printed serial No 5470.

Encs:- 5

Dated:- 28.12.79.

Yours faithfully

Prahlad Narain  
( PRAHLAD NARAIN )  
Senior clerk/CB depot.

Copy in reference to the G.M.(P)N.Rly, New Delhi- for favour of his perusal and orders.

Prahlad Narain

(PRAHLAD NARAIN )  
Senior clerk/CB depot.

1970

To

23

The General Manager (P)  
Northern Railway  
New Delhi

10/6

Through Proper Channel

Sub: Filling up posts of clerks in grade 130-500  
(As) against 10% spare room  
vacancies on the basis of Competitive  
Examination

Refer: My appeal dated 28-12-79.

With reference to above I have to say that  
no decision has so far been made to me  
despite my several requests. I therefore  
request your kind & looking into my case  
very kindly and decide my case  
favorably. A copy of my appeal  
of 28-12-79 is attached with your  
ready reference.

Cds. on  
of 22-12-79/80

Yours faithfully  
Pradeep Kumar

Swecher (P.O.)

Pradeep Kumar

Attested  
[Signature]  
Chief Engineer (P)  
Northern Railway Zone  
11-12-1980

Pradeep Kumar

24  
A97

जी०एल० 19/G.L. 19  
फॉर्म 99 छोटा/Genl. 99 Small.

उत्तर रेलवे/NORTHERN RAILWAY

No 247E

Date 30-3-1981

From Dy. Comr. Amv. (Secy)

To Shri Prahlad Narain Sacha  
ACOS Office / N.R. Ry.  
CB - Lucknow

Sub: - Representation from Shri Prahlad Narain Sacha re: promotion.

Ref: Your appeal dated 22-12-80 to GM (P) NRS

In reference to your above, the GM (P) New Delhi has informed that this case has been closed and that the question of re-examination at his level does not arise.

For Dy. Comr. Amv. (Secy)  
Northern Railway,  
LUCKNOW.

Prahlad Narain

Attested  
[Signature]

L. L. Chand Srivastava  
Adm Officer  
Chief Engineer Lucknow Zone  
LUCKNOW.

25  
A98

To: The General Manager (P)  
Baroda House, New Delhi.  
Northern Railway

H

Through Proper Channel

Subject: Promotion to Grade 330-560 against 10% reserved vacancies of 1963 as a result of competitive test.

158

Reference: Your Circular letter No. 561R/214(L.I.I.D) dated 27.4.1963.

Sir,

In this connection I have to say that in view of the three reserved vacancies having then existed and by virtue of my having passed the competitive test, I have been crying since 1963 for my promotion, but to my utter disappointment, I am now informed vide Dy. C.O.S., Alambagh letter No 247 R dated 30.3.1981 that the case has now been closed and that the question of reexamination does not arise at this stage. I am extremely wondered at the reply being so astray.

However, I again request your good self kindly to decide my case favourably or I may be permitted to seek redress in the court.

793-9-1981

Yours faithfully

*Prahlad Narain*  
(Prahlad Narain)  
A.C.O.S. Office, W.F.  
Charbagh, Lucknow.

Copy in advance to the General Manager (Personal)  
Baroda House, New Delhi, for favour of kind and early action.

*Attested*  
*[Signature]*  
Chief Engineer Lucknow Zone,  
LUCKNOW.

*Prahlad Narain*  
(Prahlad Narain)  
A.C.O.S. Office, W.F.  
Charbagh, Lucknow.

170

*Prahlad Narain*

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नं. 99 अं. 21 Genl. 49 Small

उत्तर रेलवे NORTHERN RAILWAY

No 247 E

dt 29-9-51

Dy. Secy/Am

To Shri Bahadur Narain  
Sr. Clerk Accounts  
CB - LKO

Encl. - Promotion grade 330 560 (As against 10% posts on competitive basis

ref. - Your application dt 23-9-51

In your application quoted above address to GMCP's NDLS no fresh points has been raised for examination hence the same cannot be forwarded to GMCP NDLS.

Bahadur Narain

105  
Attested  
*[Signature]*

L. Chandra Satow  
Adm Officer  
Chief Engineer Lucknow Zone,  
LCKNOW

27  
A/100

To,

The Deputy Controller of Stores,  
Northern Railway,  
Alambagh,  
LUCKNOW.

10

~~10~~

Ref : Your letter No. 247 E dated 29.9.81

Sub: Filling up posts of clerks in grade 130-300(AS) against 10% reserved vacancies on the basis of competitive examination.

Sir,

I beg to say that vide your letter cited above, your goodself did not forward my appeal dated 23.9.1981 to G.M. (P), NDL, advising me that my appeal did not bear fresh points. Sir, I am awefully surprised to see that my most genuine claim is being turned down and I am compelled to keep mum.

However, I am, once more bringing my case <sup>to</sup> your kind notice and request your goodself to let me know the following points for my satisfaction and consolation.

Firstly your records as well as the circular of G.M. (P) NDLS No. 361 E/214 (Rid) dated 27.4.1963 clearly show three vacancies reserved for the period upto 31.12.1962, where as while referring my case to G.M. (P) NDLS, in line 6th para-I of your letter No. 247 E/PT. XVII dt 7.2.64, only two vacancies instead of three have been shown upto 31.12.1962. Is this not a breach from truth ?

Secondly, the affair regarding the 3 reserved vacancies being anticipated is most unintelligible and beguiling because we anticipate only for a thing which has not occurred and is expected to occur very soon. When the examination was held in Feb. 1963 and your last intimation about the existance of 3 vacancies was sent to G.M. (P) NDLS quite late in January 1963, then how the question of anticipation can arise in the case which is strictly restricted upto 31.12.1962.

Lastly, the plea taken in para one of your above quoted letter regarding non-availability of two approved clerks in grade 110-180 and consequent non-operation of two vacancies at Diesel Shed, Mugal Sarai fails to bear a shield and subscontality in as much as your records

*Prabhu Ram*

Contd on page.....(2)

22

28  
A/101

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(2)

113

clearly confirm the entry of two new entrants in grade 110-180 in 1963 which could have very well made good the so-called above short coming.

In view of the facts, I request you kindly to consider my case sympathetically and intimate to me as early as possible the decision and reply of my queries.

Dated : 3.7.69

*Prahlad Narain*

Yours faithfully,

*Prahlad Narain*

( PRAHLAD NARAIN )  
Senior Clerk  
Charbagh, Depot  
Lucknow

7c

*Attested*

*[Signature]*

*L. C. ...*  
Chief Engineer Lucknow Zone.  
LUCKNOW.

29  
A/102

( For personal attention of Dy Cas/Amr/Hko )

9

To,  
The Dy. Controller of Stores,  
Northern Railway, Alambagh,  
Lucknow.

H/S

Through: Proper Channel.

Sub:- Filling-up posts of Clerks in Grade 130-300(AS) against 10% reserved vacancies on the basis of competitive examination.

Ref:- G.M.(P) Circular letter No. 561E/214(E11d) dated 27.4.1963 and your letter No. 247E/Pt.VII dated 7.2.64.

Sir,

In this connection, I may refer to my appeal dated 3.7.64 and subsequent reminder dated 9.2.65 and once again bring the following facts of my case of promotion for your kind consideration.

That the circular of G.M.(P)/NDLS No. 561E/214(E11d) dated 22.12.62 where under the competitive test was hold and the G.M.(P)/NDLS letter of even no. dated 27.4.63 where by the result was announced, mainly stood for the 3 reserved vacancies of 1962. I should have then been promoted alongwith the other two candidates. But it was not done so.

are

Further the reasons for my non absorption as shown in your above cited letter and your letter of even no. dated 29.1.69 are not comprehensible and plausible because the facts of non availability of two lower grade clerks ( 110-180) and expiry of the sanction of two posts at Mughal Sarai on its scheduled dates were already known to the administration quite well in advance and prior to the sending of an intimation of 3 reserved vacancies of 1962 to Hd.Qrs. at later date i.e. on 9.1.63.

Again when I was not to be promoted against my due quota of 1962 and more so even of 1963, then why at all I was informed on 3.5.63 of my success in the test to up-set my mental equilibrium and why no steps were taken to get my name deleted from the list. Thus an omission of circumspection substantiates the existence of the 3rd vacancy and guarantees of my promotion.

Noted

Hand Submitted  
Adm Office  
Engineer Lucknow  
LUCKNOW

However, in view of the above facts and paras 2 to 8 of G.M.(P)/NDLS letter no. 831E/214(E11d) of 3.11.61, I request your goodness kindly to review my case and promote me with retrospective effect as early as possible under intimation to the applicant.

Thanks,

Yours faithfully,  
Prahlad Narain  
( Prahlad Narain )  
Head Clerk  
D.C.O.S./CB Office,  
Lucknow.

Prahlad Narain

Dated: August 7, 1985.

Spare copy

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A103

8

REMINDER

To,

The Dy. Controller of Stores,  
N. Railway, Alambagh,  
Lucknow.

H7

Through: Proper Channel.

Sir,

Sub:- To fill-up vacancies against 10% reserved quota in Gr. 130-300.

Ref:- My application dated 7.8.1985.

With reference to this above, I have to say that no action seems to have been taken so far in my case. Since I am due retirement on 31.1.96, I request your goodself kindly to look into my case very early and do me justice of which I have been kept deprived so long.

The truth and genuiness of my case has all along been kept envalaped notwithstanding my continuous efforts to expose them. The error once accured can however be subjected to rectification any movement.

Thanking you in anticipation.

Yours faithfully,

*Prahlad Narain*  
( PRAHLAD NARAIN )  
Hd. Clerk, CB Stores,  
Lucknow.

Dated: 26.8.85.

*Prahlad Narain*

*Attested*  
*[Signature]*

*L. P. Chandra Sainastava*  
Adm Officer  
Chief Engineer Lucknow Zone,  
LUCLNOW.

31  
A104

THROUGH PROPER CHANNEL

To,

The General Manager (P),  
N.R. Baroda House,  
NEW DELHI.

Subj

Filling up posts of clerks in grade 130-300 (AS) against 10% reserved vacancies on the basis of competitive examination.

Refs

G.M.(P) Circular letter No.561 E/214(Eiid) dt 27-4-1963.

Sir,

Most humbly I beg to say that for the last 22 years, I have been striving to achieve my long due promotion but my case has all along been excepting precise and just probe by the authorities. However, being sure that my case has got a moral and legal footing, I am once again laying down my case for kind scrutiny and justice:-

- (A) ORDERS OF G.M.(P) CIRCULAR NO.831-E/273/E-IV of 30-11-1961.
1. For promotion from grade 110-180 to 130-300, 90% posts to be filled on seniority-cum-suitability basis and the rest 10% reserved to be filled through competitive test.
  2. Such competitive test to be held every year.
  3. Only as many candidates to be placed on the pannel as would be advised by the respective units of N.R. to G.M.(P).
  4. 10% quota posts would not be filled through Seniority-cum-suitability media.
  5. Name of a pannelled candidate, who is not absorbed in the particular year would be carried forward.

(B) CASE IN BRIEF :-

Accordingly, in terms of G.M.(P) l.no.561-E/214(Eiid) dated 22-12-1962 a test was held on 10-2-1963 on N.Rly basis. This examination covered two phases-one to fill up vacancies upto 31-12-1962. As against advice of D.C.O.S., Alambag vide his letter No.190-E dated 9-1-1963, only three persons including myself were declared successful by G.M.(P),NDLS in his letter No.561-E-/214(Eiid) dated 27-4-1963 against the reserved quota of 1962. The quota of 1963 went blank. Two persons were promoted but I was given no chance neither against the scheduled quota of 1962 nor that of 1963.

On appeal from myside my case was referred to G.M.(P)vide D.C.O.S., Alambag letter No.247-E/PT-XVII dt 17-2-1964 stating the cause of my non-absorption and recommending for my promotion against a vacancy of 1964. The G.M.(P) was pleased to

*Antilal K...* .....(2)

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A105

(2)

reply negatively vide his letter No.561-E/214(E11d) dated 7-2-1964.

(C) MY GRIEVANCES :-

As given in D.C.O.S., Alambag letter cited above, the 3rd vacancy did not occur because two Railway Service Commission pannelled staff were not available to operate two Senior-clerk grade vacancies sanctioned for Diesel Shed, Moghal Sari and that the said sanction had expired before announcement of the result on 27-4-1963(247-E of 29-1-1963).

(D) ARGUMENTS :

1. That the two posts could be got operated from amongst the staff already working in grade 110-180 as done for operation of two posts of Wardkeepers against the same sanction.
2. That had, as soon as the sanction expired, my case been referred to H.O.office, some solution would have been obtained.
3. That as pointed out by D.C.O.S., Alambag in his letter No. 247-E dated 11/12-3-1964, when 28 promotions had been done, it meant that 0.8% of the 3rd vacancy was in existence which mathematically meant to one unit and confirms the existence of the subject vacancy in 1963.
4. That the presence of sanction for diesel shed, Moghal Sari to allow the two posts go un-operated, not to initiate for any solution on expiry of the sanction and lastly to inform me of my success vide letter No.E/131 dated 3-5-1963 do guarantee the existence of the 3rd vacancy and prove me an open victim of administrative lapses.
5. That as elaborated by Dy.C.O.S., Alambag in his D.O.letter No.247-E dated 4.2.77... to Shri Deo Raj, A.P.O.(C), H.O.office New Delhi in reference to his D.O.letter No.145-E/C-26551/Lo SS dated 31-1-1977, no further competitive tests were held and 10% vacancies were filled by promotion of staff on Seniority-cum-suitability basis. Obviously this is a violation of The Railway Board's orders because there are no instructions either of the Railway Board or of the G.M.(P), N.Rly to adopt the above policy of seniority.
6. That as would appear from D.O.letter No.145-E/C-25751-Lo/RB-SSB dated 18-3-1981 from Shri M.M.Malik, A.P.O.Gr-I to Shri M.B.Lal, A.P.O., Stores, Alambag, Lucknow, my case has been

..... (3)  
*Prabhat Narain*

7

(3)

7/24

hanging in space and decisions so far taken are based on mere speculation without any enquires and passing final orders.

7. That in support of the legal aspects of my case, I may refer to G.M.(P),MHS letter no.561-2/113-PT(Eild) of 24-9-1963 to D.C.O.S.,Alambag where-under the case of my colleague Shri V.D. Ahuja was turned down, because he was not on the roll<sup>s</sup> of M.Rly when he passed a test to fill up vacancies against graduate quota in 1956. He appealed and secured promotion with retrospective effect and is for the present enjoying benefits of the post of an Office Superintendent.

P R A Y E R :-

I am due retirement on 31-1-1965 and as such I request your honour kindly to promote me with retrospective effect within my service period so that I may be saved from the pecuniary loss evaluating to approximately Rs.40.00 Thousand and still more important from the loss of physical soundness.

Dated : 2.12.65

*Prahlad Narain*

Yours faithfully,

*Prahlad Narain*  
( PRAHLAD NARAIN )  
HEAD CLERK  
C.B.DEPOT,  
LUCKNOW.

7c  
*Attested*  
*am*

*L. P. Choudhary*  
Chief Engineer Lucknow Zone  
LUCKNOW

34  
A10

NORTHERN RAILWAY

NO: 247 E/  
Dated: December 6, ,85.

The General Manager (P)  
N. Railway, Baroda House,  
New Delhi.

Sub:- Filling up posts of Clerks in Grade 130-300 (AS) against 10% Reserved Vacancies on the basis of competitive Examination.

Ref:- D.O. Letter No. 145E/C/-25751-LO/RB/SSB dated 18.3.81 from Shri M.M.Malik, APO, Gr. I to Shri M.B.Lal, APO, Stores/AMV Lucknow.

As is quite evident from G.M.(P) circular letter No.561E/214 (Eid) dated 27.4.1963, Shri Prahlad Narain, an employee of CB depot whose appeal is enclosed herewith and which is self-explanatory qualified in the scheduled test against the reserved quota of 1962. Two of his colleagues who also passed the subject test were promoted in 1963 but the employee was given no chance and as such he has been after it so long.

As expressed in DCOS/AMV letter No.247E Pt.XVII dated 7.2.64 (copy enclosed), the two posts of Sr. Clerks sanctioned for Diesel Shed Mughasarai could not be got operated due to non availability of R.S.C. panelled candidates of Grade 110-180 and the 3rd vacancy did not arise and the employee could not be promoted in 1963 against quota of 1962.

After going through the office records, it is revealed that the arguments as laid down in para D of enclosed appeal of the employee are quite plausible. Orders of GM(P)/NDLS circulated in his letter No. 831E/273/E-IV of 30.11.61 devising a policy for filling up 10% reserved vacancies from 1962 onwards have not been adhered to fully in as much as, when-ever the 10% reserved vacancies came in being, no further competitive examinations were held and neglecting the qualified employee, Shri Prahlad Narain, the subject vacancies were filled through promotion of staff on seniority-cum-suitability basis. This is openly affirmed in a D.O. letter No.247E dated 4.2.77 from Dy.COS/AMV/DKO to Shri Deo Raj, APO/C Baroda

House New Delhi (copy enclosed). Besides this as apprised in D.O. letter referred to above from Shri Malik APO/ Hd. Drs. to Shri Lal A.P.O./Stores/AMV, without any final decision of the Railway Board having been received or achieved, the case of the employee has been brought to closure.

Therefore, in face of the meritorious performance of the employee and also his faultlessness, it is recommended to reconsider his case favourably so as to cover up the administrative divergences and effect the required reconciliation.

Hkkk.R DA/Sec.3.

Dy. Controller of Stores,  
N. Railway, AMV/DKO.

Copy to :  
Shri Prahlad Narain, Hd. Clerk, CB Depot in reference to his application dated 7.8.85 and his appeal dated 2.12.85.

Dy. Controller of Stores,  
N. Railway, Lambagh, Lucknow.  
*Prahlad Narain*

materialized  
40  
Chand Sivasastri  
Adm Officer  
Chief Engineer Lucknow Zone  
LUCKNOW.



Handwritten marks: a checkmark and the number '109' written vertically.

To,

The Chairman,  
Railway Board,  
New Delhi.

Sub : FILLING UP POSTS OF CLERKS IN GRADE 130-300 (AS)  
AGAINST 10% RESERVED VACANCIES ON THE BASIS OF  
COMPETITIVE EXAMINATION.

Ref : Railway Board's letter No.F(Rep)II/76 REB/11-49  
dated 22.1.1977.

Sir,

With due respect I am enclosing herewith a copy of  
By.COS/AMV letter No.247 E dated 6-12-1986 alongwith all the docu-  
ments referred to therein and request your honour kindly to consider  
my case in light of the bare facts and pass order of my promotion  
with retrospective effect.

I now stand retired on 31.1.1986.No decision having  
been received from G.M.(P),NDIs, I seek justice from your end and  
in case I receive no information within a month so, I shall  
presume my case being turned down by your goodself also and feel  
myself permitted by you to seek redress in the Court of Law.

With humble submission.

Dated : 10.12.87

Encls : six sheets

Yours faithfully,

( PRAHLAD NARAIN )  
Retd. Employee ofem DCOS  
Charbagh, Lucknow

Attested  
L.S. Chandra Srivastava  
Chief Engineer Lucknow Zone.  
LUCKNOW

Copy to :

1. G.M.(P),NDIs in reference to By.COS/AMV letter No.247E dt 6.12.85.
2. The Honourable Railway Minister, All Indian Railways, Rishi Bhawan New Delhi with the request to kindly order for a proper enquiry in my case also justice.

Handwritten note: "I have sent a reminder on file" with an arrow pointing to the list.

Handwritten signature: Pahlad Narain

( PRAHLAD NARAIN )  
Retd. Employee from DCOS,  
Charbagh, Lucknow

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560A

No. 247 E

Dated 27-1-1987

To

The General Manager (P)  
NRG B. House  
New Delhi

Sub: Filling up posts of clerks in grade  
Rs 130-300 (AS) against 10  
Reserved vacancies on the basis  
of Competitive Examination.

Ref: Do letter no 145 E/K / 25751-LD/RB  
SSB dated 18-3-81

Your attention is invited to this office  
letter of even number dated 6-12-85  
followed by my reminder and it is  
requested that the case be examined  
of work and a decision conveyed  
early.

34

निदेशक विपणन,  
एन.टी.ए. बिल्डिंग  
लखनऊ

27/1/87  
प्रति 9.1.87

Copy to be kept in main file  
100/82/110

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निदेशक विपणन  
27/1/87

(11/1/87)  
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100/82/110

Annex 9

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216

REMEMBER

To,

The Chairman,  
Railway Board,  
NEW DELHI.

Sub : FILLING UP POSTS OF CLERK I GRADE B.130-300  
(AS) AGAINST 10% RESERVED VACANCIES ON THE BASIS  
OF COMPETITIVE EXAMINATION.

Ref : By appeal dated 10.1.1987.

Sir,

With reference to the above I humbly pray that decision in my case may very kindly be expedited otherwise I will be compelled to seek redress in the court of law. For the last 25 years, no case has been taken to review and reconsider my case despite my repeated continuous prayers.  
Dated : 10.7.87.

Yours faithfully,

*P. Pralad*  
( PRALAD ARAIN )  
EX-HEAD CLERK, CHARGED.  
DEPT. LUCKNOW (N.R.)

Copy forwarded for information.

1. The General Manager (P), N.R., Baroda House New Delhi.
2. Dy. C.O.S., N.R., Alambagh, Lucknow.

Dated 10-7-87

*Pralad Arain*

*P. Pralad*  
( PRALAD ARAIN )

*Attested*  
*Chand Srivastava*  
Chief Engineer Lucknow Zone,  
LUCKNOW.

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*Ames*

( 1134 )

Copy of Memorandum No. S/4/55-SCT.I, dated 4-1-1957 from the Government of India Ministry of Home Affairs, New Delhi, to all Ministries of the Government of India etc.

Sub.—Reservation for members of the Scheduled Castes and Tribes in posts filled on the basis of departmental examinations of a competitive nature.

As the Ministry of Finance etc., are aware, reservations in the public services are made in favour of members of the Scheduled castes and the Scheduled Tribes in posts which are filled by direct recruitment from the open market, but not in those filled by departmental promotion. The procedure to be followed in making selections against the reserved vacancies filled by the direct recruitment from the open market as well as the vacancies filled by departmental promotion in the case of members of the Scheduled Castes and the Scheduled Tribes has been laid down in this Ministry's Office Memorandum No. 2/11/55-RPS, dated the 7-5-1955. Where promotion is made on the principle of seniority subject to the rejection of the unfit or subject to the passing of departmental tests of qualifying nature, the instructions are that officers belonging to the Scheduled Castes and the Scheduled Tribes should be judged in a sympathetic manner and the standards applied to them need not be unduly high.

2. It has been represented to the Ministry of Home Affairs from time to time that the existing instructions do not ensure adequate representation of the Scheduled Castes and the Scheduled Tribes in the higher grades of the public services. As a result for recruitment to Grade III of the Central Secretariat Service through the limited competitive examination prescribed under the Scheme, an ad-hoc reservation of vacancies, in relaxation of the normal rules, has been agreed to in favour of candidates of the Scheduled castes and the Scheduled Tribes. Similar reservations exist also in certain cadres in the P & T Deptt., which are filled on the basis of competitive examinations and restricted to departmental candidates serving in lower grades. In the interest of securing uniformity of practice and procedure it has now been decided that the principle of reservation should be extended to all grades in all services which are filled by promotion through competitive examinations limited to departmental candidates, and that the quantum of reservation in each case should be the same as has been prescribed for posts filled by direct recruitment through open competitive examinations, viz 12 1/2% for the Scheduled Castes and 5 percent for Scheduled Tribes. As in the case of direct recruitment by examination the appointing authority, the U.P.S.C. or other recruiting authority as the case may be, will have full discretion to appoint or recommend for appointment candidates of the Scheduled Castes and the Scheduled Tribes who may have obtained comparatively low places in the examinations except where such authority considers that the minimum standard necessary for the maintenance of the efficiency of the administration has not been reached. Where candidates are selected in this manner, the appointing authorities, will make necessary arrangements to give them additional training and coaching so that they may come up to the standard of others appointed along with them.

Attest

*Lal Chand*  
Chief Engineer  
LUCK

Serial No. 1302.—Circular No. 393-E/O/5-II(Eiv), dated 8-9-1961.

Sub.—Ban on recruitment on Ministerial and Class IV staff in offices.

A copy of Railway Board letter No. E(G)61FC2-4, dated 18-8-1961 is forwarded for information and guidance. The Board's letter dated 11-10-1960

*Ballabh*

Annexure 9

A113

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( 1254 )

Serial No. 1455.—Circular No. 831-E/273(Eiv), dated 1-2-1962.

Sub.—Filling of posts of clerks grade Rs. 130-300 (A.S.)

Ref.—Railway Board's letter No. PC-60/RTP-3/1, dated 6-7-1961 circulated vide this office letter No. 831-E/273(Eiv), dated 4-9-1961,

As a result of further directions received from the Railway Board vide their letter No. PC-60/RTP-3/1, dated 20-12-1961 (copy enclosed), the following instructions are issued for promotion of clerks grade Rs. 110-180 (A.S.) to grade Rs. 130-300 (A.S.) which will be in supersession of those contained in this office letter No. 831-E/273(Eiv), dated 30-11-1961.

- (i) For the purpose of promotion of clerks to grade Rs. 130-300 (A.S.) against 10% of vacancies on the basis of competitive (written) examination each office/branch will form a separate unit. Each such unit will be division/office-wise as at present.
  - (ii) All clerks in grade Rs. 110-180 (A.S.) in the unit concerned whether they are graduates or non-graduates, or promoted from lower ranks (whether matriculates or not) will be eligible irrespective of the length of service in the grade to sit for the competitive examination for 10% vacancies in the respective unit.
  - (iii) The examination will be held once a year for each branch viz., Personnel, Engineering, Transportation, Commercial etc. for the Railway as a whole. Question papers will be set by the Headquarters Office and sent to subordinate offices according to a programme to be prepared by this office. Marking of Answer Books will also be done in the Headquarters Office.
  - (iv) ~~The names of those qualifying in the written examination shall be placed on the panel in the order of merit, groupwise.~~
  - (v) A roster should be maintained for filling 10% vacancies by competitive test. First nine vacancies will be filled by staff due promotion, against 90% quota and the 10th vacancy will be filled by a person from the panel mentioned in item (iv) above, subject to his record of service being satisfactory for such promotion.
  - (vi) The 10% of the posts in the scale Rs. 130-300 open for competitive test should be worked out on the total number of actual existing and anticipated vacancies during a year occurring after 6-7-1961, the date of issue of the Board's revised orders.
  - (vii) The number of employees to be placed on the panel should not normally exceed the number of vacancies reserved against the 10% quota each year.
  - (viii) The orders regarding reservation of posts for Scheduled Castes against 10% quota by competitive test vide para. 2 (g) of Railway Board's letter dated 6-7-1961, circulated vide this office letter No. 831-E/273(Eiv), dated 4-9-1961 should be strictly followed.
2. 90% of the posts in the category of clerks grade Rs. 130-300 (A.S.) occurring after 6-7-1961 should be filled by promotion from clerks grade Rs. 110-180 (A.S.) on the basis of seniority-cum-suitability, suitability being adjudged by

Attested

L. Ch. and S. S. S. S.

Chief Engineer Lucknow  
LUCKNOW

Sh. S. S. S. S.

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a written departmental examination. The procedure to be followed for such examination and promotion should be as laid down in this office letters No. 831-E/273(Eiv), dated 16-9-1957, 5-12-1959 and 21-5-1960.

3. The vacancies in grade Rs. 130-300 which occurred prior to 6-7-1961 but not yet filled should be filled on the basis of the previous percentages 80% and 20%. Separate instructions will follow for filling up vacancies against 20% quota from the panel of graduate clerks, formed in 1959.

4. Please acknowledge receipt.

Prabhat Naraini

Attested

*[Signature]*

L. S. Choudhary  
Chief Engineer Lucknow Zone  
LUCKNOW

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and appointed as Clerk Grade- II at Charbagh Depot (Store) under respondent No.2. The next promotional posts was of Clerk Grade- I. In this cadre 10 per cent of the posts were to be filled up by competitive written examination for Departmental Clerks Grade-II and remaining 90 per cent by promotion of Clerks Grade-II. The said examination was held in Feb, 1963 and the applicant was declared successful at No.2. out of the three candidates. No.1 and 3 were promoted but the applicant was over-looked and not promoted and he was given assurance that he will be promoted in due course. Subsequently, it was found that there were only two vacancies so, the applicant could not be appointed. The applicant made representation but to <sup>no</sup> avail. The applicant, due to financial and family burden and fear of the departmental authorities being annoyed and no permission to go to the court of law having been granted the petitioner could not obtain shelter of the court. So after retirement again on 10.1.1967, he represented to the Higher authorities and as more than 6 months have passed, so he has filed this application. The respondents filed a short reply on the point of limitation only. The respondent contended that the application is directed against the order passed by the General Manager, Northern Railway on 24.2.1964. By this order General Manager informed the earlier decision that the applicant could not be promoted against the vacancies arising after 31.12.1963. The copy of both the orders were communicated to the applicant on 2.6.1964 by the District Controller of Stores, which is evident by annexure-6 of the application.

why IX



5. We have heard the learned counsel at length and perused the record. The grievance of the applicant is that in the year 1964, he was not given due promotion on the

AM

10 per cent quota reserved for filling up the promotional post to the post of Grade- I of Clerks, to be filled after completion of written examination of departmental candidates Grade-II Clerks in 7.2.1964. The applicant was informed by the letter (Ann-exure-5) that there was a query whether the applicant could be accommodated in the 30th vacancies falling in 1964. The letter is produced literally:-

"In terms of your letter No. 561E/214 (Eiid) of 22.12.1962 a test for anticipated vacancies to be filled in against 10% reserved vacancies was conducted and three clerks of this office were placed on the panel. Two Clerks were promoted immediately on receipt of the result against the two vacancies reserved for the period up to 31.12.1962. Due to non-availability of approved clerks in grade Rs. 110-180 two vacancies of clerks in grade Rs. 130-300 sanctioned for Diesel Shed, Hoghalsarai could not be operated and the third man who was to be accommodated against the 30th vacancy could not be promoted so far.

This employee, Sri Prahlad Narain has represented for his posting against 10% vacancies reserved on the basis of competitive examination. Will you please let this office know at a very early date if Sri Prahlad Narain can be accommodated against the 30th-I vacancy falling in 1964."



On 2.7.1964 vide Annexure-6 it has been clearly revealed to the applicant that the applicant was selected in 1963 and no could not be given promotional post. in the vacancies occurring after 1964, thus, for every purpose the applicant was definitely told that he could not be promoted and so he has to seek remedy for redressing his grievance in the competent court at that time. The mere explanation of by the applicant that he was apprehensive of Departmental victimisation or was awaiting that he may be considered in due course for promotion would not, by itself, make out the ground to go as back as to the year 1964. Under Section 21 any cause of action which arisen 3 years before the coming into force of the Administrative Tribunal Act, 1955, could not be looked into at all and the jurisdiction of the Tribunal also in that connection is barred. In short, if

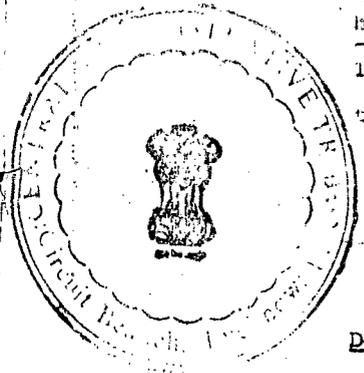
A119

months' period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall be taken to have first arisen. We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. Repeated unsuccessfully representations not provided by law are not governed by this principle.

9. Even the letter dated Dec 6, 1985 to G.O. by Dy Controller & S. B. ...  
10. In this circumstance we are of the opinion that

Unfavorably for  
the applicant

the respondent have successfully made out the case that the present application is not within the limitation and is barred by Section 21 of the Administrative Tribunal Act, 1985 and so the application is dismissed in limine with the costs on the parties.



JUDICIAL MEMBER

12/4/1990  
ADM MEMBER

Dated: 12.4.1990

12/4/90  
Deputy Registrar  
Central Administrative Tribunal  
Lucknow Bench,  
Lucknow

AIR

the cause of action has arisen before 1982 then the Tribunal could not look into it, as applicant slept over <sup>his</sup> right for number of years without any rhyme or reason.

6. Section 21 starts with non-obstante clause and there is an injunction on the Tribunal not to entertain the matter in the event. It is not within the limitation as prescribed under Section 21 of the aforesaid Act. The applicant could not show any law or precedent on the subject.

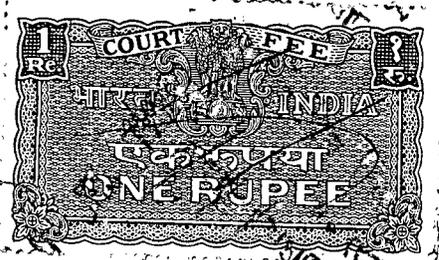
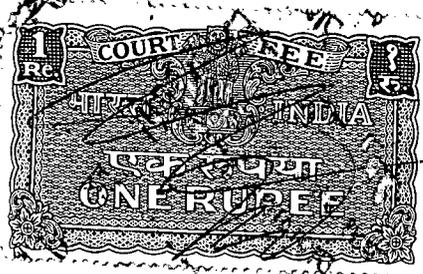
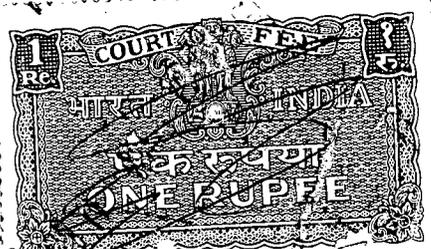
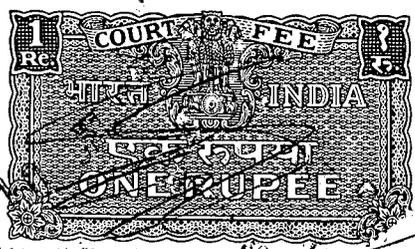
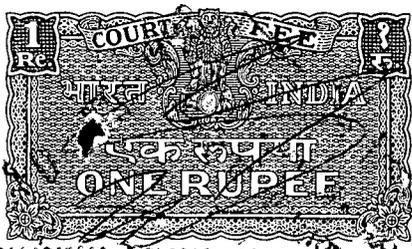
7. The applicant has since retired from service after 25 years and he wants to upset everything <sup>in as much as</sup> there were only two vacancies existing in 1963. The promotion given to Nankoo Ram, who was No.3 <sup>in select list</sup> as the applicant alleged himself at No.2 struck down and that Nankoo Ram has not been made a party.

More over since 1964, there has been an abnormal change in the gradation of Clerks and so that matter now could not be taken again to the pre-judice for others who have been subsequently promoted to even high grades or posts, which were existing as promotional posts in the cadre. The applicant wants to undo what has already been done for all these more than 25 years and that he wants to challenge years after his retirement from service. He has accepted the pensionary benefits and continued to accept the monthly salary without any hesitation or protest.

8. The law on the point of limitation has been expressly laid down in the case of S.S. Rathore Vs State of Madhya Pradesh reported in A.I.R. 1990, Supreme Court at page 10.

"We are of the view that the cause of action shall be taken to arise not from the date of the original order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six





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THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH.

.....

CIVIL MISC. RECALL APPLICATION NO. 1064 OF 1993.

( Under inherent Jurisdiction.)

IN

CIVIL MISC. REVIEW APPLICATION NO. 322 OF 1990.

readwith.

O. A. APPLICATION NO. 11 OF 1988(L)

Prahlad Narain, aged about 63 years,  
Son of Bate Shri Shyam Manchar,  
Resident of E-2774A Rajajipuram Colony,  
District Lucknow. .... Applicant.

Versus

- 1. The Union of India,  
through the General Manager,  
Northern Railway, Baroda House,  
New Delhi. ....Opp. No. 1
- 2. The Deputy Controller of Stores,  
Northern Railways, Alambagh Lucknow.  
.....Opposite Parties.

*So manish  
mahatma 1/01  
All pur up...  
28/6/93*



1. INTRODUCTION:-

By means of this Recall application under inherent jurisdiction of all courts. The applicant begs this Hon'ble Court to recall its orders passed in O.A. 11 /1988(L) decided on 12.4.1990 and order

*Prahlad Narain*

.2.

passed on review application No. 322 of 1990 decided on 25.2.1990 ( copy delivered on 11.3.1993.).

2. SUBJECT MATTER OF LIST :-

The matter relates to grant of National ~~xxxxx~~ Promotion w.e.f. April 1963 which was denied by opposite parties without any rhyme or reason and <sup>by</sup> malacious handling of improper twisting, manipulation and concealment of vital and relevant papers and to compensate applicant by way of grant of monetary ~~xxxxxx~~ compensation in lieu of promotion and sufferings.

3. That the applicant is aggrieved by decisions dated 12.4.1990 and refusal to hear the matter a fresh by rejecting review application on 25.2.1993.

4. DELAY CONDONATION:-

The remedy of filing this recall application has been advised by counsels while preparing Special Leave Petition to be presented in Hon'ble ~~xxxx~~ Supreme Court and delay if any may graciously be pleased to be condoned as the applicant was confined to bed for last three months.

5. RECALL APPLICATION GROUNDS:

*Prahlad Narain*



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.3.

The applicant begs to prefer this recall application on following amongst other:-

G R O U N D S

6. Because it is common knowledge that, lawyers are skilled and apt in the field of inter-pretation of law and their application in given set of facts and as such right to representation through lawyer is recognised as a right under section 23 of Administrative Tribunals Act, 1985.

7. Because, after failing to convince this Hon'ble Court Tribunal by preparing and presenting the O.A. 11/1988(2) and Review application 322/1990 the applicant engaged services of Mr. G.K. Khare and Ms. Maya Kapil both lawyers of Bombay High Court who pursued follow up of review application and promised to argue the matter on date-fixed viz December, 1992.

8. Because, the lawyers did not turn up on December, 1992 due to curfew and other nation wide restrictions as a result of Ayodhya Incident of 6.12.1992, and the applicant presented himself

*Prabhu D. Kharani*

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physically without any file and papers which were given to lawyers to inform the Hon'ble Bench about lawyers' inability to come and to get another date. The Bench however proceeded to dispose of application by referring several case law which could be replied only by lawyers,

9. Because, the opportunity of hearing was in fact no hearing due to absence of lawyers and as such denial of principles of natural justice occurred resulting into serious prejudice and irreparable loss to applicant.

10. Because, after hearing the applicant submitted a Misc. Application No. 119 of 1993 by post on 9.1.1993 and by hand on February<sup>1</sup>, 1993 to bring it to kind notice of Bench a vital fact that statutory appeal with Railway Board was pending which could be basis for a sympathetic result from Railway Board who were actively conducting investigations and due to expectation of ~~success~~<sup>Success</sup> from final authority the delay could be condoned. The opposite parties had not got the statutory appeal decided from Railway Board and matter

Prakash Narain

123

.5.

was not closed <sup>in 1981</sup> as observed in Judgement dated 25.2.1993 para 5 (4th time from below). However, this Misc. Application could not be referred to in Judgement inferring therefore ~~That~~ that this application though on record could not be considered while preparing Judgement.

11. Because the Hon'ble Bench wrongly came to a conclusion that case was finally closed in 1981 when the representations/appeals permitted under Railway Rules were pending with Railway Board and Administration is headed by Railway Board instead of General Manager who closed the case,

12. Because, the Hon'ble Bench again fell into error while it felt that out of 3 posts one post was meant for scheduled caste and one vacancy was withdrawn. The then prevalent rules did not permit such reservation. At best reservation could be only upto 12.5% that meant 4 vacancies out of 30 posts of Grade I Clerk if the Cadre of Clerk Grade I consisted of 30 posts. There was no record or even counter affidavit of

*Prabhat Narain*

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.6.

opposite party to bring this to show that out of cadre of Clerk Grade I, (<sup>by 4 posts</sup> 30 posts) were not filled by S.C. candidate. The reservation of one post out of 2 or 3 was about 50% or 33.3.% which was not permissible at the cost of right of General candidates and it was void because of violation of Article 16(4) of Constitution of India. The grant of 1st Vacancy to S.C. was arbitrary, whimsical and void,

13. Because, in any event third post could not be abolished as inferred or concluded by Hon'ble Bench. For arriving at 10% reservation of Selection posts to competitive examination the total strength of the Cadre had to be seen which was 30. So 3 posts were available. Assuming if 2 posts were non-operative for any reason even then the strength was of 28 posts. 10 percent of it comes to 2.8 post. Since 2.8 is more than 2.5, it could be treated as 3 in view of settled legal interpretation.

14. Because nothing adverse against applicant

Prahlad Narain

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was brought to Hon'ble Bench's notice and in these circumstances the passing of competitive examination had created a vested right in the applicant for promotion and the proposition of law that candidates have no indefeasible right for appointment was not applicable in the facts and secretive circumstances of the case.

P R A Y E R

Wherefore it is most humbly prayed that this Hon'ble Tribunal may graciously be pleased to recall the orders passed on 25.2.1993 in Review Application No.322 of 1990 and order passed in O.A. 11/1988(2A) on 12.4.90 and be pleased to arrive at a fresh decision in the light of correct records after granting hearing to both the parties.

For this act of kindness the applicant shall ever remain obliged.

Dated 11 June, 1993  
Lucknow.

Prahlad Narain  
( PRAHLAD NARAIN )  
APPLICANT.

*Essehore*  
Counsel for Applicant

Prahlad Narain

बीमा नहीं NOT INSURED

क्रमांक/No.

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Date Stamp



टिकटों का मूल्य रु. १०/-

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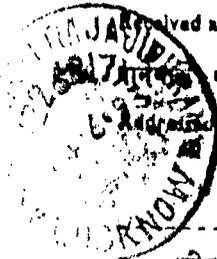
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क्रमांक/No.

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Date Stamp



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Date Stamp



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Signature of Receiving Officer

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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL BENCH  
U.P. AT LUCKNOW.

.....

AFFIDAVIT

IN

MISC. RECALL APPLICATION NO. OF 1993

IN

REVIEW APPLICATION NO. 322 OF 1990

DISTRICT: LUCKNOW

Prahlad Narain . . . . . Applicant.

Versus

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

Affidavit of Prahlad Narain, aged about  
63 years son of Late Sri Shyam Manohar  
r, resident of E-2774, Rajajipuram,  
Colony, Lucknow.

(DEPONENT)

I, the deponent aforesaid do hereby solemnly  
affirm and state on oath as under:-

1. That, the deponent is the applicant in O.A.  
No. 11/1988(1) Review Application No. 322/1990 Misc.  
Application No. 119/1993 and the accompanying recall

*Prahlad Narain*



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application and as such is well aware of the facts  
deposed to below.

2. That the applicant was confirmed to bed due  
to physical infirmity <sup>in leg</sup> for last 3 months.

3. That the contents in para 1 to 15 of this  
accompanying affidavit, are true to my personal  
knowledge, which all I believe to be true that no  
part of it is false and nothing materials has been  
concealed in it.

So help me God.

Prahlad Narain  
X Deponent.

I, G. K. Khare,

Bombay Camping at

Advocate, High Court, Allahabad do hereby declare that  
the person making this affidavit and alleging himself  
to be the same person is known to me from the perusal  
of papers produced before me in this case.

G. K. Khare

....

Solemnly affirmed before me on this 11<sup>th</sup> day  
of June, 1993 at 4 PM a.m./p.m. by the deponent who has  
been identified by the aforesaid person.

Prahlad Narain



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.3.

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

OATH COMMISSIONER.



*R. S. Sharma*  
M. A. 10/11/28  
High Court, Allahabad  
Sl. No. 1128  
Date .....  
116193

*Prahlad Narain*

A/31

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
( ALLAHABAD) LUCKNOW CIRCLE BENCH AT LUCKNOW.  
M. P. No. 77/91 (C)  
O.A. 11/1988 Review 322 of 90

Prahlad Narayan .. petitioner-applicant  
Versus  
Union of India(Railway) .. Opposite party.  
BEFORE HON'BLE THE PRESIDENT AND HIS OTHER  
COMPANION MEMBERS:

The humble application of the petitioner showeths.  
as under:-

1. That an application for review of judgment passed by this Bench on 12.4.90 in O.A. 11/1988 was submitted on 10.5.90.
2. That the same was registered as Review Application no. 322 of 90.
3. That the review application is still pending.
- 4.. That the applicant petitioner is old and continuous to be under sickness and will feel much relaxed if this application could be decided early.
5. That the Hon'ble Members who decided the petition O.A. 11/88 Hon'ble Mr. Habib Ahmad and Hon'ble Mr. J.P. Sharma are not holding court in this Bench. The review is therefore to be placed before court.

It is therefore humbly prayed that the review petition be directed to be placed at an early date.

Lucknow: dated  
14.2.91

*Maya Kapil*  
Counsel for petitioner  
Maya Kapil, Advocate,  
c/o Yogendra Kumar Khare  
4/73, Vivek Khand, near  
I.G. police Training Office,  
Gomti Nagar, Lucknow

*Filed today*  
*sgw*  
*14/2/91*

*Office to*  
*refer*  
*14.2.91*

A132

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
( ALLAHABAD ) LUCKNOW CIRCLE BENCH AT LUCKNOW.  
M. P. No. 17/9114  
O.A. 11/1988 Review 322 of 90

Prabhat Narayan .. petitioner-applicant  
Versus  
Union of India(Railway) .. Opposite party.  
BEFORE HON'BLE THE PRESIDENT AND HIS OTHER  
COMPANION MEMBERS:

The humble application of the petitioner showeth as under:-

1. That an application for review of judgment passed by this Bench on 12.4.90 in O.A. 11/1988 was submitted on 10.5.90.
2. That the same was registered as Review Application no. 322 of 90.
3. That the review application is still pending.
4. That the applicant petitioner is old and continuous to be under sickness and will feel much relaxed if this application could be decided early.
5. That the Hon'ble Members who decided the petition O.A. 11/88 Hon'ble Mr. Habib Ahmad and Hon'ble Mr. J.P. Sharma are not holding court in this Bench. The review is therefore to be placed before court.

It is therefore humbly prayed that the review petition be directed to be placed at an early date.

Lucknow: dated  
14.2.91

*Signature*  
Counsel for petitioner  
Mays Kapil, Advocate,  
c/o Yogendra Kumar Khare  
4/73, Vivek Khand, near  
I.G. Police Training Office,  
Gomti Nagar, Lucknow

A133

*Deputy Registrar*  
BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BRANCH AT LUCKNOW.

Misc. Application 276 of 1991

IN RE

Review petition no. 322 of 1990

In

O.A. 11/1988 (L)

Prahlad Narain .. Applicant.

Versus

1. Union of India through General Manager,  
Northern Railway, Baroda House, New Delhi.

Respondent no.1

2. The Deputy Controller of Stores, Northern  
Railway Alambagh, Lucknow.

.. Respondent no.2

Respondents

BEFORE HONOURABLE THE VICE CHAIRMAN AND HON'BLE  
COMPANION MEMBER

The humble application on behalf of the  
petitioner showeth as under:-

1. That the O.A. No. 11 of 1988 filed by the applicant was decided on 12.4.90 by Hon'ble Bench consisting of Hon'ble Mr. P.S. Habib Mohammad and Hon'ble Mr. J.P. Sharma.
2. That the applicant filed a review petition which was registered as Review Petition no. 322 of 1990 on 10.5.90.
3. That this Hon'ble Tribunal has not yet decided this petition and on inquiries it was revealed that it was forwarded to Allahabad. The Tribunal's office at Allahabad on inquiries revealed that no such matter is pending with them.

A124

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4. That about one year has passed since filing of petition. An early decision shall be in the interest of justice.

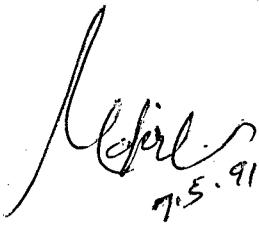
PRAYER

It is therefore prayed that this Hon'ble Tribunal may graciously be pleased to:-

- (1) expedite bearing of review petition and in case file is not traceable .
- (ii) issue directions for reconstruction of file.

Lucknow: dated

7.5.91

  
7.5.91  
(Maya Kapil)  
Advocate

Counsel for petitioner

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BEFORE THE DEPUTY REGISTRAR, CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BRANCH AT LUCKNOW.

Misc. Application 276 of 1991 (4)

IN - RE

Review Petition No. 322 of 1990

In

O. A. 11/1988 (L)

Prahlad Narain ... Applicant.

Versus

- 1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi. Respondent no. 1
  - 2. The Deputy Controller of Stores, Northern Railway Alambagh, Lucknow. Respondent no. 2
- Respondents.

*office  
enquire  
regarding  
the position  
2 the Review  
petition  
Allahabad Bench  
by 20/5/91  
2/11*

BEFORE HONOURABLE THE VICE CHAIRMAN AND HON'BLE COMPANION MEMBER

The humble application on behalf of the petitioner showeth as under :-

- 1. That the O. A. No. 11 of 1988 filed by the applicant was decided on 12.4.90 by Hon'ble Bench consisting of Hon'ble Mr. P. S. Habib Mohammad and Hon'ble Mr. J. P. Shama.
- 2. That the applicant filed a review petition which was registered as Review petition no. 322 of 1990 on 10.5.90.
- 3. That this Hon'ble Tribunal has not yet decided this petition and on inquiries it was revealed that it was forwarded to Allahabad. The Tribunal's

*Filed today  
20/5/91  
2/11*

*[Signature]*

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office at Allahabad on inquiries revealed that no such matter is pending with them.

4 That about one year has passed since filing of petition. An early decision shall be in the interest of justice.

P R A Y E R

It is therefore prayed that this Hon'ble Tribunal may graciously be pleased to :-

- (i) expedite bearing of review petition and in case file is not traceable.
- (ii) issue directions for reconstruction of file.

Lucknow Dated:-

7.5.91



( Maya Kapil )

Advocate

Counsel for petitioner

C  
27

Before Hon'ble Central adm. Tribunal, Allahabad Bench  
(Sitting at Lucknow.)

In the matter of O.A.  
11/88 (L) decided on 12-4-90 prahlad Narain... *Petitioner*  
..... E.L. 2774, Raja ji Puram  
Colony, Lucknow.

V/S

Union of India & ..... Respondent's  
Dy. Controller of Stores,  
Northern Railway, Alambagh Lucknow.

May it please this Hon'ble Court :

1. That the petitioner through this application seeks orders for reconstruction of file.
2. That the petitioner filed O.A. 11/88 (L) on 27.4.88 for promotion and arrears w.e.f. 1964,
3. That the petition was decided on 12.4.90 and was dismissed as barred by limitation.
4. That the fact that statutory appeal (representation) with Railway Board was still pending could not receive the attention of Hon'ble Tribunal while dismissing appeal. The pendency of Statutory appeal (representation and last reminder) on 10.7.87 was a vital fact affecting the decision of Hon'ble Court on 12.4.90.

Contd....2/.

.....2..

5. That the petitioner filed a review application on 10.5.90 which was registered under No. 322/90 and it remains yet to be decided.
6. That the petitioner reminded about pendency of review application on 27.10.90, 14.2.91 & 7-5-91 and also made inquiries at Allahabad office but came to know that file is not traceable..

Prayer

It is "therefore" most humbly prayed that this Hon'ble court may please order for reconstruction of file so that review petition could be decided early in the interests of justice.

*Prahlad Narain*  
( Prahlad Narain )  
Applicant (Petitioner)

Verification

I, the applicant above named do hereby verify that contents of paragraphs 1 to 6 are true to my personal knowledge.

Place : Lucknow

Dated : 30.8.91

*Prahlad Narain*  
( Prahlad Narain

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BRANCH AT LUCKNOW.

Misc. Application 276 of 1991

IN RE

Review petition no. 322 of 1990

In

O.A. 11/1988 (L)

274

Prahlad Narain

.. Applicant.

Versus

1. Union of India through General Manager,  
Northern Railway, Baroda House, New Delhi.

Respondent no.1

2. The Deputy Controller of Stores, Northern  
Railway Alambagh, Lucknow.

.. Respondent no.2

Respondents

BEFORE HONOURABLE THE VICE CHAIRMAN AND HON'BLE  
COMPANION MEMBER

The humble application on behalf of the  
petitioner showeth as under:-

1. That the O.A. No. 11 of 1988 filed by the  
applicant was decided on 12.4.90 by Hon'ble Bench  
consisting of Hon'ble Mr. P.S. Habib Mohammad and  
Hon'ble Mr. J.P. Sharma.
2. That the applicant filed a review petition which  
was registered as Review Petition no. 322 of 1990  
on 10.5.90.
3. That this Hon'ble Tribunal has not yet decided  
this petition and on inquiries it was revealed that  
it was forwarded to Allahabad. The Tribunal's office  
at Allahabad on inquiries revealed that no such matter  
is pending with them.

....2

Prahlad Narain

215

4. That about one year has passed since filing of petition. An early decision shall be in the interest of justice.

PRAYER

It is therefore prayed that this Hon'ble Tribunal may graciously be pleased to:-

- (i) expedite bearing of review petition and in case file is not traceable .
- (ii) issue directions for reconstruction of file.

Lucknow: dated

7.5.91

(Maya Kapil)  
Advocate

Counsel for petitioner

276

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
(ALLAHABAD) LUCKNOW CIRCLE BENCH AT LUCKNOW.

O.A. 11/1988 Review 322 of 90.

Entry 77 / 1991  
14/2/91

Prahlad Narayan .. petitioner-applicant

Versus

Union of India(Railway) .. Opposite party.

BEFORE HON'BLE THE PRESIDENT AND HIS OTHER  
COMPANION MEMBERS:

The humble application of the petitioner showeths  
as under:-

1. That an application for review of judgment passed by this Bench on 12.4.90 in O.A. 11/1988 was submitted on 10.5.90.
2. That the same was registered as Review application no. 322 of 90.
3. That the review application is still pending.
4. That the applicant petitioner is old and continuous to be under sickness and will feel much relaxed if this application could be decided early.
5. That the Hon'ble Members who decided the petition O.A. 11/88 Hon'ble Mr. Habib Ahmad and Hon'ble Mr. J.P. Sharma are not holding court in this Bench. The review is therefore to be placed before court.

It is therefore humbly prayed that the review petition be directed to be placed at an early date.

Lucknow: dated  
14.2.91

Counsel for petitioner  
Maya Kapil, Advocate,  
c/o Yogendra Kumar Khare  
4/73, Vivek Khand, near  
I.G. Police Training Office,  
Gomti Nagar, Lucknow

Prahlad Narayan

G. K. KHARE  
Advocate  
(Maharashtra)

9/7/90  
Camping at

VIMAL KUNJ  
4 Vivek Khand  
73  
Behind I.G. Police  
Tsg. office,  
Gomti Nagar  
LUCKNOW 226026

To,

The Registrar,  
Hon'ble Central Adm-  
-istrative Tribunal, 27th Oct. 1990  
Allahabad Bench, -harohill Rd.  
Allahabad.

Sub: Review Petition No. 322/90  
filed on 10/5/90 at Lucknow  
O.A. No. <sup>IN</sup> 111/1988 (L) - Prahlad  
Narayan - Circuit Bench,  
Lucknow decided on 12/4/90

SIR,

I have been retained by  
petitioner Sri Prahlad Narayan.

The review petition was  
forwarded by your Lucknow  
Circuit Bench to you on or  
around first week of August, 90.

The original petition  
was decided on 12/4/90  
by Hon'ble Member Sri J. P. Sharma  
(Judicial) and Hon'ble Member  
Sri P. S. Habib Mohammed (Adm.  
Member) and I learn both these  
Honourable members are not sitting  
at Lucknow/Allahabad Bench.

In view of above I pray  
that the Review Petition may  
be placed in Open Court at  
any earlier date after 20th  
Nov. 1990 and oblige.  
Thanks,  
Yours faithfully  
G. K. Khare

Prahlad Narayan



7. Besides this, order of the Hon'ble Bench is just against the principles of a judicial adjudication where the well accepted principles of jurisprudence are properly applied. It is so because order of the 12 previous benches resting their decision on a detailed reply of the respondents was ever ruled and after two years the application was dismissed, as if prima-facie, on a short reply under total disregard by the principles of natural justice, causing a permanent torture and a monetary loss of about Rs. one and half lakhs to the applicant.

P R A Y E R.

*This appeal is allowed*

In the name of equity and justice, the applicant prays that orders of the Hon'ble Bench dated 12-4-90 be set aside and the applicant be allowed to have a say either in the Hon'ble Court of your Lordship, or in the Hon'ble High Court at Lucknow.

Yours obediently.

(Prahla Narain)  
Or. No. E-2774,  
Raja-Ji-Puran,  
Lucknow-17.

Dated 30-7-91.

Copy forwarded for information to the :-

1. The Hon'ble Chairman, Central Administrative Tribunal, Allahabad.
2. The Hon'ble Vice Chairman, Central Administrative Tribunal, Allahabad, Circuit Bench, Lucknow.

*Prahla Narain*  
(Prahla Narain)

ANURAG KUMAR  
DY. REGISTRAR  
CENTRAL ADMINISTRATIVE TRIBUNAL



REGISTERED.

No. CAT/ALLH/J.A./03  
23-A, Thornhill Road  
Allahabad - 211001

Dated:- 27th. November, 1991

To

The Deputy Registrar,  
Central Administrative Tribunal,  
Lucknow Bench,  
Gandhi Smarak Nidhi,  
Opposite Residency,  
LUCKNOW. ( U.P. )

C  
201

SUBJECT:- REVIEW APPLICATION No.322/90 filed on 10.5.90 at Lucknow.

In O.A.No.1988 (L) Prahlad Narain Vs. Union of India and  
others decided on 12.4.90.

\*\*\*\*\*

An application dated 20.11.90 from Sri Prahlad Narain, E/2774,  
Rajaji Puram Colony- Lucknow addressed to the Chairman, C.A.T.  
Allahabad Bench is sent herewith , for immediate action in the matter.

In case the file is not traceable at your end a detailed Office  
Note to seek reconstruction orders for reconstruction of file may  
be furnished at an early date. Otherwise, action taken in the matter  
may please be intimated.

Yours faithfully,

Anurag Kumar  
27/11

( ANURAG KUMAR )

Encl. 1

2-12-91  
R.No. 753/91

S.O. [Signature]  
2/12/91

Sd/- G. Padhya  
PL. [Signature] file  
2/12/91 SO

293  
27/11

2304  
25.11.91  
C  
202

To

The Chairman  
Honourable Central Administrative  
Tribunal Allahabad Bench,  
Allahabad.

*Review*

Subject:- ~~Reminder~~ Application n0 322/90 filed on 10.5.90  
at Lucknow.

In C.A. NO 1988(L) Prahlad Narain Vs Union of  
India and others decided on 12.4.90.

Sir,

That the applicant filed O.A. 11/88(L) on 27.4.88 for  
promotion and areas w.e.f.1962 and his application was  
decided and dismissed on 12.4.90 as barred by limitation.

That the fact that statutory appeal (representation with  
Railway Board was still pending could not receive attention  
of the Honourable Tribunal while Dismissing the appeal.  
The pendency of the statutory appeal (representation dated  
10.1.87 and last reminder on 27.1.87) was a vital fact affect-  
ing the decision of the Honourable Court on 12.4.90. That  
the petitioner filed a <sup>review</sup> ~~reminder~~ application on 10.5.90 which  
was registered under n0 322/90 and it remains yet to be  
decided.

That the petitioner reminded on 27.10.90, 14.2.91, 7.5.91  
and 4.9.91 and found after enquires that the file is tracea-  
ble neither at Lucknow nor at Allahbad.

The applicant therefore most <sup>humbly</sup> ~~honorably~~ prays that kind  
orders of reconstruction of the file my please be passed  
so that review petition may be decided early in the interest  
of justice.

Dated:- 20.11.90

Yours faithfully  
*Prahlad Narain*  
(Prahlad Narain)  
Petitioner, E  
E/2774 Rajajipuram  
Coloney LUCKNOW.

So (J)  
Report by  
28/11/91

This is for  
Co. (JA)  
26/11/91

1991

To

Cylo  
2/3

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

Subject: - Supply of true copies of judgement  
orders dated 12.4.90 and 25.2.93

Ref: - O.A. 11 (88) L decided on 12.4.90  
R.A. 322/90 decided on 25.2.93  
in matters: - Prabhu Nandan vs.  
Union of India and others N.D.

Sir,

I most humbly request that true  
copies each of the above said judgement  
orders be supplied to the applicant which  
he needs for special leave petition  
before the Honourable Supreme Court, New  
Delhi.

Postal order of rupees ten only attached  
herewith towards requisite court fees for the  
said copies.

Encl. first order no  
B 77 LD 90 25/2/93  
Dated 23.6.93

Yours faithfully

Prabhu Nandan  
E/2724, Rajgurunagar  
Lucknow

Series  
Ardi  
25/6/93  
SO

Received 1/2 Duplicates  
for order dated  
633, 109075  
19/7

25/6/93

Copy sent to Reception  
Center for Issuance  
on-6-7-93  
07/7/93

C  
201

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

( ALLAHABAD) LUCKNOW CIRCLE BENCH AT LUCKNOW.

M. P. No. 77/9114,  
O.A. 11/1988 Review 322 of 90

Prahlad Narayan

.. petitioner-applicant

Versus

Union of India(Railway)

.. Opposite party.

BEFORE HON'BLE THE PRESIDENT AND HIS OTHER  
COMPANION MEMBERS:

The humble application of the petitioner showeths  
as under:-

1. That an application for review of judgment passed by this Bench on 12.4.90 in O.A. 11/1988 was submitted on 10.5.90.
2. That the same was registered as Review Application no. 322 of 90.
3. That the review application is still pending.
4. That the applicant petitioner is old and continuous to be under sickness and will feel much relaxed if this application could be decided early.
5. That the Hon'ble Members who decided the petition O.A. 11/88 Hon'ble Mr. Habib Ahmad and Hon'ble Mr. J.P. Sharma are not holding court in this Bench. The review is therefore to be placed before court.

It is therefore humbly prayed that the review petition be directed to be placed at an early date.

Lucknow: dated  
14.2.91

*Maya Kapil*  
Counsel for petitioner

Maya Kapil, Advocate,  
c/o Yogendra Kumar Khare  
4/73, Vivek Khand, near  
I.G. police Training Office,  
Gomti Nagar, Lucknow

2304

25/11/91

C  
282

To

The Chairman  
Honourable Central Administrative  
Tribunal Allahabad Bench,  
Allahabad.

*Review*

Subject:- ~~Reminder~~ Application n0 322/90 filed on 10.5.90  
at Lucknow.

In C.A. NO 1988(L) Prahlad Narain Vs Union of  
India and others decided on 12.4.90.

Sir,

That the applicant filed O.A. 11/88(L) on 27.4.88 for  
promotion and areas w.e.f.1962 and his application was  
decided and dismissed on 12.4.90 as barred by limitation.

That the fact that statutory appeal (representation with  
Railway Board was still pending could not receive attention  
of the Honourable Tribunal while Dismissing the appeal.  
The pendency of the statutory appeal (representation dated  
10.1.87 and last reminder on 27.1.87) was a vital fact affect-  
ing the decision of the Honourable Court on 12.4.90. That  
the petitioner filed a <sup>review</sup> reminder application on 10.5.90 which  
was registered under n0 322/90 and it remains yet to be  
decided.

That the petitioner reminded on 27.10.90, 14.2.91, 7.5.91  
and 4.9.91 and found after enquires that the file is tracea-  
ble neither at Lucknow nor at Allahbad.

The applicant therefore most <sup>humbly</sup> ~~honorably~~ prays that kind  
orders of reconstruction of the file my please be passed  
so that review petition may be decided early in the interest  
of justice.

Dated:- 20.11.90

Yours faithfully  
*Prahlad Narain*  
(Prahlad Narain)  
Petitioner, D2  
E/2774 Rajajipuram  
Coloney LUCKNOW. :

So (J)  
Re post by  
28/11/91

This is for  
S.O. (JA)  
26/11/91

C-23

5. That the petitioner filed a review application on 10.5.90 which was registered under No. 332/90 and it remains yet to be decided.
6. That the petitioner reminded about pendency of review application on 27.10.90, 14.2.91, & 4.9.91, 22.11.91, 5.2.92 and 5.3.92 7.5.91 and also made inquiries at Allahabad office but came to know that file is not traceable.

Prayer

It is "therefore" most humbly prayed that this Hon'ble Court may please order for reconstruction of file so that review petition could be decided early in the interests of justice.

*Prahlad Narain*  
(Prahlad Narain)

Applicant (Petitioner)

Verification

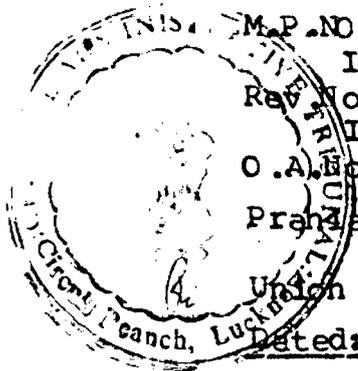
I, the applicant above named do hereby verify that contents of paragraphs 1 to 6 are true to my personal knowledge.

Place : Lucknow

Dated : 9.2.92

*Prahlad Narain*  
(Prahlad Narain)

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW.



M.P. NO. 1064/93

In

Rev. No. 322/90

In

O.A. No. 11/88

Pranad Narain ..... Applicant

-Vs-

Union Of India & Others..... Respondents.

Dated: 5.11.93

Hon'ble Mr. Justice R.K. Verma, V.C.

*2/8/93*

The application does not lie and can not be entertained

It is dismissed.

Sd/-

V.C.

*Impo. sent  
23/12/93*

*(Signature)*  
Incharge  
Official Section  
C.A.T.  
LUCKNOW  
*2*



