

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE 0A71 OF 1988

NAME OF THE PARTIES Smt Pushpa Asthana Applicant

Versus

Union of India Respondent

Part A.

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18		

CERTIFICATE

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

Dated

Counter Signed.....

Section Officer/In charge

Signature of the
Dealing Assistant

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

INDEX SHEET

CAUSE TITLE 71 of 19 88(C)NAME OF THE PARTIES Smt. Pushpa Asthano

Applicant

Versus

Union of Indias

Respondent

Part A, B & C

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CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No.

71

of 1988(L)

(AT)

APPLICANT (s)

Smt. Pushpa Ashtang

RESPONDENT(s)

U. P. J. through the Secy. Rly. Board
Rail Bhawan, New Delhi & 2 others.

Particulars to be examined

Endorsement as to result of Examination

1. Is the appeal competent ? Yes
2. (a) Is the application in the prescribed form ? Yes
- (b) Is the application in paper book form ? Yes
- (c) Have six complete sets of the application been filed ? 5 Complete sets of the app. have been submitted
3. (a) Is the appeal in time ? Yes
- (b) If not, by how many days it is beyond time ? —
- (c) Has sufficient case for not making the application in time, been filed ? ✓
4. Has the document of authorisation, Vakalat-nama been filed ? Yes
5. Is the application accompanied by B. D. / Postage Order for Rs. 50/- OT/A/135061598 Mr B. S. D.
Mr S. B. I. Allahabad
6. Has the certified copy/copies of the order (s) against which the application is made been filed ? Yes
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? Yes
- (b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? Yes

A2

- | | | |
|--|--------------------------|-----|
| (c) Are the documents referred to in (a) above neatly typed in double space ? | Yes | (H) |
| 8. Has the index of documents been filed and paging done properly ? | Yes | |
| 9. Have the chronological details of representation made and the outcome of such representations been indicated in the application ? | Yes | |
| 10. Is the matter raised in the application pending before any Court of law or any other Bench of Tribunal ? | No | |
| 11. Are the application/duplicate copy/spare copies signed ? | only 2 copies are signed | |
| 12. Are extra copies of the application with Annexures filed ? | Yes | |
| (a) Identical with the original ? | Yes | |
| (b) Defective ? | — | |
| (c) Wanting in Annexures | — | |
| Nos...../Pages Nos..... ? | | |
| 13. Have file size envelopes bearing full addresses, of the respondents been filed ? | Yes without postage | |
| 14. Are the given addresses, the registered addresses ? | Yes | |
| 15. Do the names of the parties stated in the copies tally with those indicated in the application ? | Yes | |
| 16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? | N-A. | |
| 17. Are the facts of the case mentioned in item No. 6 of the application ? | Yes | |
| (a) Concise ? | Yes | |
| (b) Under distinct heads ? | Yes | |
| (c) Numbered consecutively ? | Yes | |
| (d) Typed in double space on one side of the paper ? | Yes | |
| 18. Have the particulars for interim order prayed for indicated with reasons ? | Yes | |
| 19. Whether all the remedies have been exhausted. | Yes | |

If agreed to, case may be listed before the Honorable Court on 22-08-00.

C.A. 71 of 1961 (C)

Smt. Pushpa Asthana — vs —

U.O 2. 2008.

ORDER SHEET

(A2)

22-9-11

Hon. A. John, A.M

Admit. Issue notices.

One month for C.A 15 days thereafter for R.A,
Put up on 28.10.11.

(1)

Sd/-

A.M

for
mr

7.9.11

OR

Notices issued to respondents no 1, 2, 23
through regd. Post. Put up on 28.10.11

(2)

for
9/9/11

for

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

O.A./T.A. No. 71 1988 (4)

(AM)

Applicant(s)

Versus

Respondent(s)

Sl. No.

Date

Orders

③

28.12.88

In application
PN. Bappei Advocate
present & for respite
Dr. Anil Kumar Advocate
present. L. Anil Kumar
Met. V. Kalatrama today
in 21.12.88 by reply

Lee

28/10/88

21/12/88

No sitting. adjourned to 25.1.89

h
21/12

28.1.89

L. P. N. Bappei Advocate
7 applicant present. Reply
not filed. in 28.3.89
reply

Lee

25/1/89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

O.A 71/88 (L)

REGISTRATION No. _____ of 198 .

APPELLANT
APPLICANT

VERSUS

DEFENDANT
RESPONDENT

AS

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
	<p>13.7.88</p> <p><u>Hon. D.K. Aggarwal - TM</u></p> <p>None for the applicant. In Anil Srivastava for the respondents files Counter affidavit already served on the applicant on 4-5-88. Let rejoinder, if any, be filed within 2 weeks hereof. Fixed 14-9-88 for final hearing.</p> <p style="text-align: right;">Member (J)</p>	
14.9.88	<p>भाषलय न रित्त अ कारण 975 5-12-87 अ सुनवाई अ रित्त सुची 97 एल. रित्त उतगवर्त गौर अ</p> <p>Hon. Justice K. Nath, v. Hon. Mr. K.T. Ramesh, AM</p> <p>On the request of both the parties, the case is adjourned to 24-1-90</p> <p style="text-align: right;">AM</p>	<p>R.A. filed today 14/9</p> <p>OR (Case is ready for hearing) Submitted for hearing</p> <p style="text-align: right;">L 4/9</p>

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No. 71 of 1988.

(46)

Smt. Pushpa Asthana

Applicant.

versus

Union of India & others

Respondents.

Hon. Mr. Justice K. Nath, V.C.

Hon. Mr. K. Obayya, A.M.

(Hon. Mr. Justice K. Nath, V.C.)

This application under section 19 of the Administrative Tribunals Act, 1985 is for promotion of the applicant to the post of District Extension Educator with arrears of salary and other benefits attached to the post.

2. It appears that the applicant was appointed as a Field Worker on 10.2.68, was promoted as Senior Clerk/Compilation Clerk on 6.5.84, and was expecting her further promotion to the post of District Extension Educator/Statistical Assistant in the scale of Rs 1600-2600, as two posts came to be in existence in the years 1984 and 1985.

3. It also appears that her case for promotion was under consideration when a query was made sometimes in the year 1986 to clarify whether females were also entitled to be considered for promotion to the post. A reply dated 4.8.78 (Annexure 2) was received from the Railway Board stating that Female Senior Clerk/Compilation Clerks were also eligible for promotion to the post of District Extension Educator/Statistical Assistant.

[Handwritten signature]

(A7)

4. The grievance of the applicant is that in spite of this clarification, the case of promotion was not considered. The reply of the respondents is that they had been making enquiries from the Railway Board on a further proposal made at Chief Medical Officers Conference held on 9th and 10th of July, 1987 that the candidates for the post in question should be graduates with Sociology. It appears that no rule was ever framed ultimately to provide for qualification of graduate for the promotion in question. The scheme of promotion as contained in Annexure-1 does not set out any such qualification; the simple provision is for promotion from the post of Senior Clerk/Compilation Clerk.

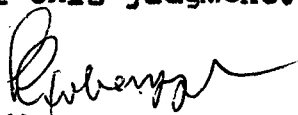
5. We have heard the learned counsel for the parties. The learned counsel for the respondents says that in respect of the reminders to the Railway Board in continuation of the letter of enquiry dated 16.1.87, R-1 no clarifications were ultimately received and the matter remained pending.

6. The applicant is about to retire on superannuation on 28.2.91. There can be no doubt that she was entitled to be considered for promotion to the post in question; but in the situation in which she is presently placed, there is hardly any chance of her having any immediate financial gain, though if promoted she may be entitled to some retiral benefits including pension, gratuity etc. We think that the case of the applicant's promotion should be fairly considered as on 4.8.1987 when the Railway Board clarified by Annexure - 2 that female Senior clerks etc. were eligible for promotion.

2

AS

7. We dispose of this application with the direction to the respondents to consider the case of the applicant for promotion on the post of District Extension Educator/Statistical Assistant in the scale of Rs 1600-2500 on 4.8.87 according to law and if she is found fit for promotion, she shall be given notional promotion with effect from 4.8.87, with notional refixation of her allowances ^{and} of salary as on that date. Since she is likely to retire before the promotion may be ordered, she would not be entitled to any arrears of correct salary but she shall get all the retiral benefits on the basis of promotion from the promotion date and the applicable scale for the post. The respondents shall comply with these directions within 5 weeks of the receipt of copy of this judgment.


A.M.


V.C.

Lucknow Dated: 8.2.91.

(19)

In the Central Administrative Tribunal Addl.
Bench) Allahabad Sitting at Lucknow.

Application No. 7/ of 1988 (4)

Smt. Pushpa Asthana Applicant.
Versus
The Union of India & others ... Opp. Parties.
Respondents.

I N D E X

S. No.	Particulars of papers	Page No.	Annex No.
1.	Petition-Application	1-8	
2.	Circular D/- 3.5.83	9-11	1
3.	Letter D/- 4.8.87.	12	2
4.	Copy of representation	13-14	3
5.	Notice d/- 21.5.88	15	4
6.	Vakalatnama	16	
7.	Bank Draft.	17	

Filed
today

Dated :- 21.7.88

(P.N. Bajpai)
Advocate.
Counsel for the
Applicant.

at the case

on 22.08.88

Noted for

22/7/88

Date of filing

OR

Date of Receipt

by post

Registration no.

DA 71/000(4)

(A10)

Signature
Registrar

In the Central Administrative Tribunal Addl.
Bench Allahabad(Circuit Bench)Lucknow .

Smt. Pushpa Asthana, aged about 55 years, W/O
SRIK.M. Asthana, employed as compilation
clerk, Family welfare, N.E.Rly. Hospital, Bad-
shah Nagar, Lucknow.

... Applicant.

Vs.

1. The Union of India, through the
secretary (Establishment) Rly Board , Rail
Bhwan, New Delhi.

2. The General Manager N.E.Rly. Head
Quarter Office, Gorakhpur.

3. General Manager (P) Medical, N.E.Rly.
Head Quarter, Gorakhpur.

... Respondents.

Details of Application

1. Particulars of
the Applicant.

(1) Name of the Applicant : Smt. Pushpa
Asthana.

C. Asthana

(11)

(ii) name of Father/
Husband. : Sri K.M. Asthana

(iii) Designation and
Office in which
employed : Compilation clerk
Family Welfare, N.E.
Rly. Hospital, Bad-
shah Nagar, Lucknow.

(iv) Office address : As above.

(v) Address for service
of all notices. : As above.

2. Particulars of the Respondent

(1) Name and/or
designation
of the respondents. : (1) The Union of India
through the Secret-
ary (Establish-
ment) Rly. Board,
Rail Bhawan,
New Delhi.

(2) The General Manager
N.E. Rly. Head
Quarter Office,
Gorakhpur.

(3) General Manager (B)
Medical, N.E. Rly.
Head Quarter
Gorakhpur.

(ii) Office address of
the respondent : Same as above.

(iii) Address for
service of all
notices. : Same as above.

3. Particulars of the order : The application is
against which applica- made against the
-tion is made. illegal action in the
matter of promotion
of the Applicant.

The application is against the following order.

(i) Order no.

(ii) Date

(iii) Passed by

(iv) Subject in brief.

: The application is of
mandatory nature

4. Jurisdiction of the Tribunal

The applicant declares that the subject &
matter of the order against which she wants redress
-al is within the jurisdiction of the Tribunal.

B. Asthana

A12

5. Limitation

The Application further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the case

The facts of the case are given below :-

(a) That the ~~particular~~ ~~was~~ Applicant was originally appointed on the post of Female Field Worker in Family Welfare Organisation of N.E. Railways on 10.2.1968. The Applicant was confirmed on her post in due course.

(b) That the Railway Board has issued a circular dated 3.5.1983 to the General Manager all Indian Railways in which the family welfare organisation was shown as permanent organisation. Further the cadre has been formed. The post of Field Worker has been shown as directly recruited post, the next higher post is senior clerk / compilation clerk. This post has been shown as promotional / direct recruit post. The Applicant was promoted on the post vide order dated 6.5.84. The Applicant has also been confirmed on this post.

(c) That the next higher post to the compilation clerk is 1/2 statistical Asstt./Distt. Extension Educator. The criteria for filling this post is by promotion from Senior clerk / compilation clerk. The criteria for promotion is seniority only. The copy of the circular is filed herewith as Annexure-1 to this application.

(d)

G. As Ward

(A13)

(d) That according to the seniority in the family welfare organisation at any Railway the senior most compilation clerk was Mr. S.K. Mandal who had resigned from the services, the second senior most compilation clerk was late Sri D.B. Guha who expired in the year 1985. Now the applicant is senior most compilation clerk in her cadre. She is entitled to get the promotion on the post of Distt. Extension Educator on the basis of her seniority.

(e) That the post Distt. Extension Educator fell vacant in the year 1982 due to the death of Mr. S.D. Lal. The post was filled up in the year 1984 by promoting Mr. D.B. Guha but he had refused to go on promotion. Thereafter the applicant was entitled to get the promotion but the name of the applicant was not considered by the authorities due to malafide intention.

(f) That another post of Distt. Extension Educator fell vacant due to the resignation of Sri R.S. Pandey, Distt. Extension Educator who was posted at Central Hospital N.E.Rly. Gorakhpur. In this way two posts have been vacant and the petitioner was entitled to get one of them.

(g) That the Applicant verbally requested and personally contacted the dealing Asstt. and the promoting Authority several times. She was told that there is question "Whether a lady could be promoted on the post of Distt. Extension Educator." It was further told that the matter will be referred to the Railway Board.

Q. Asthana

for clarification and the promotion will be made on receipt of such clarification.

(h) That the Railway Board had issued the clarification vide order dt. 4.8.87 in which it was made clear that the Ladies and Gents both could get the promotion on the post of Distt. Extension Educator. The copy of the order is Annexure-2 to this Application.

(i) . That the Applicant was not promoted inspite of the clarification Annexure-2 she had represented on 2.11.1987 requesting therein to get the promotion on the post of Distt. Extension Educator. The copy of the Representation is Annexure-3 to this Application.

(j) That the petitioner submitted several reminders for her promotion but no attention was paid uptill now. The last representation was made on 21.5.1988 . The copy of the last reminder is Annexure-4 to this Application.

(k) That the Applicant served a notice through her Counsel on the Respondents on 29.2.1988 but no attention has been paid.

(l) That the Petitioner is suffering a great loss since 1984 due to not getting the promotion on the post Distt. Extension Educator . The applicant is suffering a loss of Rs.500/- approximately per month.

(m) That the promotion is not being made by the opp. parties due to malafide intention of the authorities concerned. They are not ready to give the promotion to the applicant from the

C. AS/Handa

A/S

due date i.e. since 1984. They are further not ready to give the promotion when the post became vacant in the year 1985 due to the resignation of Sri Pandey.

(n) That the Applicant is entitled to get the promotion and there is no ground before the respondent of not promoting the Applicant.

(o) That the work and conduct of the petitioner remained always above average. She has been awarded several appreciation letters and the Certificates.

(p) That the applicant is liable to be treated as promoted since 1984 or 1985 with the benefit of salary etc. attached to that post.

(q) That the Applicant had already completed the 55 years of age and she will be retired in the month of Feb. 1991. She will suffer a great loss in her retirement benefits, if she will not be given promotion from the due date

7. Reliefs sought.

In view of the facts mentioned in para 6 above the applicant prays for the following reliefs.

(i) That the ~~xxxxxxx~~ Respondents may kindly be directed to give the promotion to the applicant on the post of Distt. Extension Educator along with the salary and other benefits attached to the post.

(ii) That the Respondents may be directed to allow the applicant the arrears of salary of the post of Distt. Extension Educator since 1984 or 1985 along with the interest at the Bank rate.

C. Asikama

(ii)1) That the cost of the Application may be awarded to the Applicant.

(iv) That any other relief which this Hon'ble ~~Tri~~ Tribunal may be awarded to the Applicant.

~~xx~~ 8. Interim order if prayed for

Pending final decision on the application, the applicant seeks issue of the following interim order.

The respondent may kindly be directed to promote the Applicant at one on the post of Distt. Extension Educator on one post out of two lying vacant since 1984 and 1985.

9. Details of the remedies exhausted:

The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc. The details are already given in para 6 ~~above~~ (4), (1) + (1) above.

10. Matter not pending with any other court

The Applicant further declares that the matter regarding which the application has been made is not pending before any court of law or any other authority or any other bench of the Tribunal.

11. Particulars of Bank Draft/Postal order in respect of the Application Fee.

1. Name of the Bank on : State Bank of India
Drawn : Nishatganj Branch
2. Demand Draft no. OT/A/135-001598
3. dt 14-7-88 of State Bank
of India Nishatganj, Lucknow

Q Aswanda

A12

12. Details of Index.

An index in duplicate containing the details of the documents to be relied upon in enclosed.

13. List in verification Enclosures.

- (i) Circular dated 3.5.83.
- (ii) Order Dated 4.7.87.
- (iii) Representation dated 2.11.87
- (iv) Reminder Dated 31.5.88

In verification

I, Smt. ~~Bushra~~ Pushpa Asthana wife of Sri K.M. Asthana aged about 55 years Working as Compilation clerk in Family welfare office, N.E. Rely. Hospital Badshahnagar, Lucknow.

Place : Lucknow.

Date :- 21.7.88

To,

The Registrar,
Central Administrative Tribunal, &
Addl. Bench, Allahabad.

P. Asthana

Signature of
applicant.

[Signature]
cancel for
applicant

In the Central Admin Tribunal Addl. Bench, Allahabad
Smt. Pushpa Asthana Petitioner.

Versus
The Union of India & and others ... Respondants

Annexure No. 1

(18)

5

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

No.E(NG)11-83/PO/135

New Delhi,

dt. 3-5-83

The General Manager,
All Indian Railways.

Sub: Cadre of Family Welfare Organisation on Railways.

Vide Board's letter No.E(NG)III-79/PO/27 dt. 22-5-1983 instructions were issued for conversion of 254 non-gazetted temporary posts held by the staff of Family Welfare Organisation on the Indian Railways into permanent ones. Ever since, the Ministry of Railways have had under consideration the question of formation of cadre of the Family Welfare work. It has now been decided that the posts in the Family Welfare Organisation shall be filled as under:-

<u>Name of the post</u>	<u>Scale of pay</u>	<u>Method of recruitment</u>	<u>Qualification</u>	<u>Remarks</u>
1. Field Worker	Rs.260-350	As per existing practice.	Matriculation or its equivalent.	
2. Senior Clerk/ Compilation clerk.	Rs.330-560	By promotion/ direct recruit- ment through Railway Service Commission as per Board's letter No. PCIII/81/UPG/7 of 18.6.81.	For direct recruitment, Graduate with commerce, Economics, Statistics, Mathematics or Social Service as one of the subjects.	
3. Statistical Assistant/ District Extension Educator.	Rs.425-700	By promotion from Senior Clerks/ Compilation Clerks.		
4. Lady Health Visitor.	Rs.350-560	Direct recruitment through Railway Service Commission.	Matriculation with 1½ years service in health visitor course, desirable experience in Family Welfare.	

Contd....2/-

Q. Asthana
The signature of
applicant is identified.
2/17/88

2/9

-2-

<u>Name of the post</u>	<u>Scale of pay</u>	<u>Method of recruitment</u>	<u>Qualification</u>	<u>Remarks</u>
5. Projectionist	Rs. 350-560	Direct recruitment (age upto 25 yrs)	i) Matriculate holding of trade certificate of training in Audio-visual Aids and electrical equipments issued by Institution recognised by state Governments. ii) Licence to operate Film Projector and Cinema Machine iii) Desirable, practical experience of two years with any agency.	
6. Attendant to projectionist.	Rs. 196-232	According to existing practice.	As per existing practice.	
7. Peon in HQ Attendant in Family Welfare Centre.	Rs. 196-250	According to existing practice.	-do-	
8. Stenographer	Rs. 425-700	-do-	As per existing practice.	

2. Whereas the categories of Field Workers, Senior Clerk/Compilation Clerk, District Extension Educator and Statistical Assistant will constitute a separate cadre, the posts of Lady Health Visitors and Projectionists will be retained as separate categories in the Medical Department. The Peons and Stenographers attached with Projectionist and Headquarters or with the Medical Officers (Family Welfare) will be merged with the cadre of the Medical Department, if existing separately at present. There are also a few posts of Public Health Nurses in scale Rs. 425-700 with necessary qualification

.....3/-

C. Asthana

Required for the Staff Nurses on the Railways. These Nurses may be absorbed in the Medical Department of the Railways and their posts filled by Lady Health Visitors in the Family Welfare Organisation.

Sd/-
(D.D. Aggarwal)
Joint Director, Establishment(N).
Railway Board

No.E(NG)II-83/PIp 135 New Delhi, dt. 3/5/1983

Copy (with 25 spares) to:-

- 1) General Secretary, NFIR, 3-Chelmsford Road, New Delhi.
- 2) General Secretary, AIRF, 4-5 State Entry Road, New Delhi.
- 3) Copy to all members of the National Council, Departmental Council and Secretary, Staff Side, National Council, 13-c, Ferozeshah Road, New Delhi.

Sd/-
For Secretary, Railway Board

Copy to :

E(LR)III, PC-III branches, Railway Board.

B. Asthana

The signature of
applicant in duplicate
21/7/88

True copy
attested
P. Aggarwal
21/7/88

1. That the petitioner was appointed on the post of Asstt. Teacher of primary school in Nagar Palika, Sandi on 19.10.68. He was confirmed on his post on the due date.

(A21)

Annex 2

भारत सरकार
रेल मंत्रालय/रेलवे बोर्ड

सं० ई/एन जी॥ ११/८३/पी ओ/१३५

नयी दिल्ली, दि० ५/११/८७

महाप्रबन्धक,
पूर्वोत्तर रेलवे,
गोरखपुर।

विषय:- शिक्षा विभाग में जिला विस्तार शिक्षक परिवार कल्याण
[वेतनमान १६००-२६०० रु०] के पद को भरना।

संदर्भ:- आपकी रेलवे का दिनांक १२ मार्च १९८६ का पत्र संख्या ई/२१०/१८/११/पार्ट ११/१४।

उपर्युक्त मामले पर रेल मंत्रालय में सम्यक रूप से विचार किया गया। यह स्पष्ट किया जाता है कि बोर्ड के ३ मई, १९८३ के पत्र संख्या ई/एन जी॥ ११/८३/पी ओ/१३५ में जारी अनुदेशों के अनुसार जिला विस्तार शिक्षक [परिवार कल्याण] [वे० १६००-२६०० रु०] के पद को परिवार कल्याण संगठन के परीष्ठ लिपिक/संयोजक लिपिक पुरुष हो या महिला की प्रोन्नति से भरा जायेगा।

(कृष्ण बिहारी लाल)
संयुक्त निदेशक, स्थापना [अराज्यीय]
रेलवे बोर्ड।

संलग्न: कुछ नहीं।

9/c

letter in file 5 No. 15

True copy
Attestation
[Signature]

Asst. Secy
The Secy
of the Govt.
of India
[Signature]
24/11/80

In the Central Admin Tribunal Addl. Bench, Allahabad
Smt. Pushpa Asthana Petitioner.
Versus
The Union of India & and others ... Respondants
Annexure No. 3

REGD-A.D.

To

The General Manager (P),
Medical, N.E. Railway,
Head Quarter Office,
Gorakhpur.

Through:- Proper channel

Sir,

SUB: Promotion of Smt. Pushpa Asthana,
Compilation Clerk in Family Welfare
Office N.E.R. Hospital, Badshah Nagar,
Lucknow to the post of District Extension
Education in the scale of Rs. 1600-2600.

Most respectfully, I, Smt. Pushpa Asthana,
Compilation Clerk in the Family Welfare Office,
N.E. Railway Divisional Hospitals Badshah Nagar
Lucknow, hereinafter may be called applicant submits
following submissions for your kind consideration.

1. The applicant joined N.E. Railway in the capacity of Female Field Worker in Family Welfare Organization at N.E. Railways on 10.2.68 (F.N.) and since then she is in continuous services.
2. That the applicant vide order No. E/II/283/Med PT.III dt. Lucknow dt. 6.5.84 of D.R.M(P) NER Lucknow promoted to the rank of Compilation Clerk. The applicant joined the post on 6.5.84 and she is still working in the same capacity.
3. That the set up of Family Welfare Organization at N.E. Railways the Senior Most Compilation Clerk was Mr. S.K. Mandal who has resigned from his services to join better post much before. The second Senior Most Compilation Clerk was Late Mr. D.B. Guha who unfortunately died in the year 1985. Now the applicant is Sr. Most Compilation Clerk in the cadre and deserves for promotion to the post of District Extension Educator in terms of Railway Boards' circular No. E(NG)-11-83/PO/135 New Delhi dt 3.5.83.
4. Two posts of District Extension Educator are lying vacant. One of the two is vacant in the Hqr. office, Gorakhpur since 1982 owing to the death of Mr. S.B. Lal who at the time of his death was District Extension Educator and the other post is vacant in N.E. Railway Hospital Gorakhpur since 1985 owing to the resignation of Shri R.S. Pandey, District Extension Educator was in Central Hospital NER Gorakhpur.

R. Asthana

5.

That the applicant is very sincere, labourious and result oriented worker and has been awarded by the General Manager, N.E. Railways, the honour of Best Worker in the year 1974-75 vide certificate dated 3.1.76 and recently at Anwar Ganj, Kanpur the applicant was again honoured by the Chief Medical Officer N.E. Railway, Gorakhpur with the honour of Best and Labourious Worker.

6.

That there has been a complete stagnation in Family Welfare Organization at railway for about 19 years and for the first time realizing the hardships and frustration of Members of Family Welfare Organization and injustice caused to the workers, the Ministry of Railways has been kind enough to decide the Cadres in Family Welfare Organization at Railways vide its circular No.F(NG)II-83 PQ/135 New Delhi dated 3.5.83. The Cadre of promotion for Compilation Clerk has been given to the post of Statistical Assistant/District Extension Educator. Since the applicant is senior most Compilation Clerk in Family Welfare Organization at N.E. Railways and since one of the two posts of the District Extension Educator is lying vacant since last 6 1/2 years and the other since 3 1/2 years the applicant deserves and is also entitled to be promoted to the post of District Extension Educator. But due to some administrative reasons or otherwise the applicant could not be promoted in terms of circular dated 3.5.83 referred as above. The promotion of the applicant has been delayed on the misconception and unreasonable doubt that whether or not the female incumbent who is occupying the post of Compilation Clerk may be promoted to the post of District Extension Educator. The doubt has been referred by the C.P.O. N.E. Railways Gorakhpur to the Railway Board vide its letter No.2/210/10/11/ET.III(IX) dated 12.3.86 and the Railway Board has decided the matter that the post of District Extension Educator shall be filled up only by promoting Compilation Clerks irrespective of their sex and the incumbents would have conveniently be promoted in terms of the circular dated 3.5.85. Since the date of its taking effect.

Wherefor it is most respectfully prayed that for the facts and circumstances submitted above for your kind consideration, the applicant's case for promotion to the post of the District Extension Educator may kindly be considered sympathetically and appropriate orders promoting the applicant to her advantage to the post of the District Extension Educator in the pay scale of Rs.1500-2600 may please be issued at the earliest.

Yours faithfully,

G. AS/Name
(SMT. PUSHPA SETHANA)

Compilation Clerk (FC)
BN3/LKO

Forwarded Dt.
& Recommended

2/11/87
[Signature]

2/11/87
[Signature]

G. AS/Name

Signature of Applicant
2/11/88

(Received by Anubhava Bala)
delivered MS 2/11/88

21-7-80
[Signature]

In the Central Admin Tribunal Addl. Bench, Allahabad
Smt. Pushpa Asthana Petitioner.
Versus
The Union of India & and others ... Respondants

Annexure No. 4

24

REGISTERED A/D

From,

Dated: 21 May, '1988.

P.N. MAURYA,
ADVOCATE,
House No. 84/396,
Vishwakarma Mandir Lane,
Magboolganj,
Lucknow.

To,

The General Manager,
North Eastern Railways,
Head Quarter Office,
Gorakhpur (U.P.)

Dear Sir,

Under instruction of my client Smt. Pushpa Asthana, compilation clerk, Family welfare, N.E. Railway, Hospitals, Badshahnagar, Lucknow I am to invite a reference of my notice dated 29.2.88 (Copy attached herewith) sent you under registered cover with A.D. vide receipt No. 820 dated 29.2.88 of Alambagh Post Office, Lucknow. It has been noted that inspite of passing away more than eighty days your orders as claimed in the last paragraph of the notice dated 29.2.88 is still awaited.

Wherefore I give you a further notice that the orders promoting my client to the post of District extension Educator in Family welfare organisation at N.E. Railways since 1.5.84 with all monatory effects be passed with in one month of receipt of this notice othorwise a petition claiming the same shall be prescuted before the Hon'ble Central Administrative Tribunal of competent jurisdiction at you cost.

P.N. Maurya
(P.N. MAURYA)
ADVOCATE.

Q. AS/ Wance D 21-5-88
I think
signature of applicant
21/7/88

True copy
21-5-88

In the Hon'ble Central Administration Tribunal
 ब अदालत ओमान A. Bench Sld. सहायक
 वादी अपीलान्त श्री
 प्रतिवादी रेंस्पाडेन्ट

बकालतनामा

Smt. Purpa Asthawa

The Sd/- of U.P. & other



पीसाष्ट)

(Signature)

बनाम

प्रतिवादी (रेंस्पाडेन्ट)

नं० मुकद्दमा

सन्

पेशी की ता०

१९८०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री प्रयाग नारायण बाजपेयी
 एडवोकेट एवं श्री कार्तिकेय बाजपेयी एडवोकेट भैरौ जी रोड,
 लखनऊ महोदय

नाम अदाकर्ता	पनाम
मुकद्दमा नं०	
नाम फरीकान	

जो अपना बफील नियुक्त करके प्रतिज्ञा (इफरार) करता हूं और लिखे
 देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य बफील
 द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोंत्तर करें या कोई फागज दाखिल
 करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल
 करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर
 से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा
 उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानो) का
 दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (बस्तखती)
 रसीद से लेवे या पंच नियुक्त करें—बफील महोदय द्वारा की गई वक्त
 सय कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार
 करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता
 एहंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो
 जाता है उसकी जिम्मेदारी मेरे बफील पर नहीं होगी इसलिए यह
 पदालतनामा लिख दिया प्रमाण रहे और समय पर काम आये।

Accepted
 (Signature)
 18/7/80

हस्ताक्षर P. Asthawa

साक्षी (जवाह) साक्षी (जवाह)

पिनाफ 18 जमीना 7 सन् १९८० ई०

IN THE UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK

Registration No. 71 of 1988(L),

A26

BEFORE ME

Sgt. Ryan Anthony.

-----Applicant

A AND

Union of India and others.

-----Respondents

Filed for: 3-5-89

STATE OF NEW YORK

IN, S.R. Mishra

Residing at

1887 Bessant Place in the Office of District

Attorney General, New York State, New York.

to hereby state as under:-

1. That the above-named official above named
fully conversant with the facts and circumstances
of the case and has read the claim application
and understood its contents and has been notified
by the respondents to file this short
counter reply on their behalf.

2. That the foregoing respondent are filing
this short counter reply, in reply to the claim
application filed by the applicant and are
adversely affected by the claim and are
entitled to file this short counter
reply in order to protect their interests.

Signature

राजपूत कार्मिक अधिकारी
मुंबई-२०

Recd Copy
Kalyani
4-5-89
on behalf of S.R. Mishra

(A27)

3. That it is stated that the application
of new Union Extension Clerk and the
has already been given the benefit of upgrading
of 1.3.1.4.26 in scale B. 1400-2200 in terms of
G.O. (P)/G.P.'s letter No. 7/205/12/VI/III dated
23.4.27.

4. That it is true that two posts of District
Extension Educator (D.E.E.) are lying vacant at
Gorakhpur but the post of District Extension
Educator could not be filled up due to nonreceipt
of reply from Director General, Railway
Health Service, New Delhi in reference to C.M.C.
G.M.'s letter No. 4/54/12 dated 16.11.27 with
reference to reports of members staff welfare item
No. 2 para 5 family welfare of the members of
C.M.C.'s conference held on 9.7.1927 and 10.7.1927
that the persons who are graduate with Sociology
should only be eligible for promotion to the post
of District Extension Educator. A copy of said
letter dated 16.11.27 is being filed as ANNEXURE
No. R-1 to this reply.

Lucknow,

Dated, : 3-5-89

[Signature]

जहाँपद जामिक अधिकारी
प्रांति, ३५-५-८९

VERIFICATION

I, the above named official do hereby verify
that the content of para 1 and 2 are true on the
basis of personal knowledge and those of 3 and 4
are believed by me to be true on the basis of records.

Lucknow,

Dated: 3-5-89

[Signature]

जहाँपद जामिक अधिकारी
प्रांति, ३५-५-८९

North Eastern Railway

Office of the
Chief Medical Officer
Gorakhpur Dt. 16.11.87

No. 4/84/12

The Director General
Railway Health Services,
Railway Board,
New Delhi.

Sub: Cadre of Family Welfare Organisation on Railways.
Ref: Railway Board's letter No. M (H) II-83/PG/135,
dt. 3.5.83.

As per item No. 3 the post of Statistical Assistant/District Extension Educator in scale Rs. 425-700 is to be filled in by promotion from Senior Clerk/Compilation Clerk in scale 330-560. The qualification prescribed for direct recruitment to the post of Senior Clerk/Compilation Clerk is Graduate with Commerce, Economics, Statistics, Mathematics or Social Services as one of the subjects.

Member Staff has remarked vide item 2, Para (5) - Family Welfare of the Minutes of SHC Conference held on 9th and 10th July, 1987 that the person with Graduate in Sociology should only be eligible for the post of District Extension Educator. Till now, we have been taking action in terms of Railway Board's letter quoted above. In case, the observation of Member Staff is followed in spirit, it will amount that the existing Senior Clerk/Compilation Clerk who are not Graduate with Sociology cannot be promoted as District Extension Educator in scale 425-700. Hence, the only alternative will be that the posts of District Extension Educators will have to be filled in through the Railway Recruitment Board by direct recruitment.

The Board may, therefore, kindly review the matter in reference to the observation of MS and Board's letter dated 3.5.83 referred to above and advise further.

Sd/- P. H. Banerji
Chief Medical Officer.

Attested T.C.

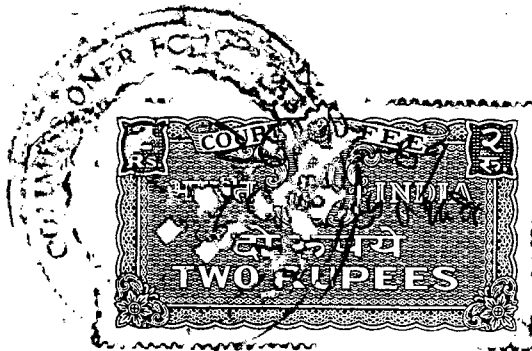
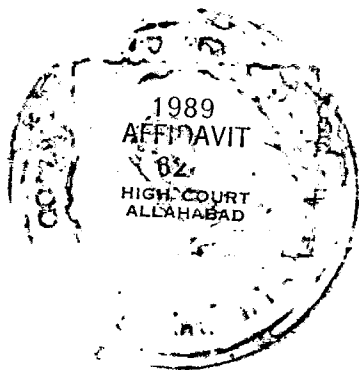
[Signature]

प्रमुख चिकित्सक अधिकारी
गोरखपुर

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

O. A. No. 71 of 1988 (L)

(A29)



Between

Smt. Pushpa Asthana Applicant.

And

Union of India & others ... Opp. Parties.

Rejoinder Affidavit.

I, Smt. Pushpa Asthana aged about 56 years wife of Sri K. M. Asthana, employed as compilation clerk Family Welfare, N.E. City Hospital, Badshah Nagar, Lucknow. do hereby solemnly affirm as under :-

1. That the deponent is the sole petitioner applicant in the case and she is fully ~~qualified~~ ~~fully~~ conversant with the facts of the case. She had read the short Counter Reply filed by the opp. parties.

2. That the contents of para 1 of the Short Counter are denied as stated. Sri S.K. Misra is not competent to file the counter reply. There is no provision to file the Counter Affidavit any Asstt. Personal Officer. The counter affidavit must be filed by the appointing authority or any other authority authorised by him. Sri Misra is a clerk who is not responsible persons and his counter



P. Asthana

reply could not be considered.

The Short Counter Reply filed on behalf of respondents by Sri Misra is not correct. The respondents once again tried to delay the promotion of the deponent illegally and to cause injustice to the applicant by violating the Principle of Natural Justice, and equity, 'Delay Defeats Equity' by alleging their counter reply as short reply and seeking permission of the Hon'ble Tribunal to allow them to keep their unfustifiable right reserve to file detailed counter reply later on without showing any reasonable cause.

3. That THE CONTENTS OF PARA 2 OF THE counter affidavit are wrong and against the procedural rules of this Hon'ble Tribunal. The respondents have already been given ample opportunity of more than one year to give complete and exhaustive reply of the applicant's claim petition and it would be absolutely unreasonable and against principle of natural justice and equity that the respondents are given further opportunity to delay the promotion of the applicant by allowing the respondents to file any other reply and the counter reply filed on 4.5.89 after 5 adjournments is to be treated as final on behalf of the respondents.

4. That the contents of para 3 of the counter reply are true to the extent that the applicant is now senior most compilation clerk, and the rest of the contents of para are misleading. In Railway Board's letter dated 3.5.83 (Annexure 1 to claim petition) it is clearly stated that the post of statistical assistant/Disstt Extension



C. Asthana

(A31)

Educator is to be filled only by promotion from senior clerks/ compilation clerk's and there is no impediment in the way of illegally delayed promotion of the applicant to the post of District extension Educator.

5. That the contents of para 4 of the counter reply are baseless, infructious and derogatory to the efficiency of the respondents in the administrative matters as only on the basis of the minutes of conference of the Chief Medical Officers held on 9th and 10th July 1987 that one simple suffession of one of the participants of the meeting that review of the qualification of the extension Educator should be considered, the Chief Medical Officer, N.E. Railway after lapse of four months only to delay the justiciable promotion of the applicant forwarded a reference to Railway Board (R-1 to the counter reply) and is unnecessarily not implementing the clear-cut direction issued by Railway Board in circular dated 3.5.83 (Annexure 1 to claim petition). The qualification if changed later on will not apply on the posts which were vacant prior to that date. In the present case, the qualification has not been changed and the respondents want to misguide the Hon'ble Tribunal. In this connection the case decided by the Hon'ble Supreme court is liable to be considered which is reported in S.L.R. 1983(1) 789 Y.V. Rangaich and others Vs. State of Andhra Pradesh and other.

6. That since the applicant is due to retire on 28.12-91 is facing a great mental agony for not being getting her justiciable promotion which is due since 1984 because the applicant



Q. Asst. Manager

A32

is not only interested in monetary benefits of the promotion but also is eager to serve the society and nation in her higher responsible post of the Distt. Extension Education and thus the case of the applicant in the light of the justice deserves to be decided in her favour at the earliest.

6. That as per directions and orders of Railway Board contained in Annexure I to claim petition there is no way to fill up to the post of Distt. Extension Educator except by promotion from Senior Clerks/ compilation clerks on the basis of seniority only and there is no intermediate stage in the cadre of family welfare organisation on Railway between senior clerks compilation clerks and statistical Assistant./ District Extension Educator and being a senior. most senior clerks in N.E. railway since 1984 the applicant's promotion w.e.f. 1984 is justifiable.

7. That the applicant is entitled for promotion to the post of District Extension Educator since the date of resignation of Sri R.S. Pandey in 1984 in terms of directions contained in Annexure I to the claim petition and also as per para 10 of Railway Board's letter no P.C. III/ 86/UPC/16 dated 24.12.86 (filed herewith as annexure C-1 to this Rejoinder affidavit) the applicant is entitled to the pay scale of Rs. 1000-3000 w.e.f. 1.4.88 for her post of District Extension Educator.

Dated: 26.6.89

R. Ashwani
Deponent 279.

Verification

I the above named deponent do hereby



Q

A33

verify that the contents of paras 1,3 and 6 of this affidavit are true to my knowledge and the contents of para 2,4,5, and 7 are true to my belief. Nothing has been concealed and no part of it is false. So help me God.

Signed and verified today this 26th day of June 1989.

R. Asthana
Deponent

I identified the deponent who has signed in my presence.

P. N. Bajpai
(P.N. Bajpai)

Advocate

Solemnly affirm before me on 26.6.1989 at 12.40 A.M, by the deponent Smt. Pushpa Asthana who has been identified by Sri P.N. Bajpai, Advocate.

I have satisfied myself by examining the deponent who understand the contents of this affidavit which has been read over and explained by me to him.

26.6.89

22/7/89

(22)
(33)

NS/CCS
64

VAKALATNAMA

Reg No 71 of 1988 (L)

Before

in the Court of

THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, LUCKNOW

Plaintiff

Defendant

Smt. Pushpa Asthana

Claimant

Appellant

Versus

Defendant

Plaintiff

Union of India & others

Petitioner

Respondent

The President of India do hereby appoint and authorise Shri. Anil Prasad...

Railway Advocate / Lucknow

.....to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri. Anil Prasad...

Railway Advocate / Lucknow

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this theday of.....198 .

Dated198

NER-84850400-8000-4 7 84

Accepted
Anil Prasad
Adv.

(K.K. Dharma)
Designation of the Executive Officer,
N.E. Rly, Lucknow.
On behalf of Union of India

VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, GANDHI BHAWAN.

Before
in the Court of

LUCKNOW.

Reg. No. 71 of 1988 (L)

Plaintiff

Defendant

Smt. Pushpa Asthana

Versus

Defendant

Plaintiff

U.O.I. & Ors.

Claimant

Appellant

Petitioner

Respondent

F.F. 28-10-88

The President of India do hereby appoint and authorise Shri... Anil Srivastava.....
Railway Advocate/Lucknow.

.....to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri... Anil Srivastava,
Railway Advocate/Lucknow.....
in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this theday of: Sept......198.

Dated198

NER-84850400-8000-4 7 84

.....
Designation of the Executive Officer,

Dy. Chief Personnel Officer/Gaz.
North Eastern Railway,
Gorakhpur.

Accepted
Anil Srivastava
Adv.
28-10-88

KOP
28/10/88