

## FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ~~lucknow~~ BENCH  
OA/TA/RA/CP/MA/PT 73/88 of 20.....

B.N. Srivastava.....Applicant(S)

Versus  
.....union of Indi.....Respondent(S)

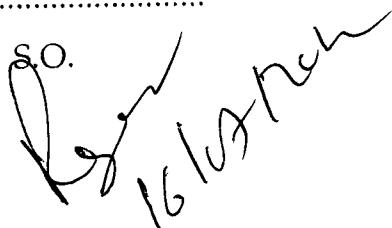
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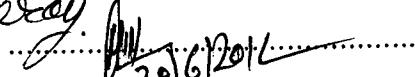
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B.C. Filed unexecuted &amp; despatched

Signature of S.O.



Signature of Deal. Hand



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
 Lucknow-BENCH  
 Lucknow

CAUSE TITLE O. A. 73 OF 88 199 (L)  
F.A. (H)

Name of parties B. N. Srivastava & others Applicant's.

VERSUS  
 Union of India U.O. 2 Through its Secy Min of Respondents.  
Tele Comm, New Delhi 1200

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No "B copy"

Part - C

C 87, - C 91

# CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 73 of 1988(L)

APPLICANT (s) B. N. Srivastava & 2 others

RESPONDENT(s) U. J. D. Th. Dr. (Dr. B. N. Srivastava & 2 others  
Tata Comm., New Delhi & 2 others

## Particulars to be examined

1. Is the appeal competent ?
2. (a) Is the application in the prescribed form ?  
(b) Is the application in paper book form ?  
(c) Have six complete sets of the application been filed ?
3. (a) Is the appeal in time ?  
(b) If not, by how many days it is beyond time ?  
(c) Has sufficient cause for not making the application in time, been filed ?
4. Has the document of authorisation, Vakalat-nama been filed ?
5. Is the application accompanied by B. D./Postal Order for Rs. 50/-
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?

## Endorsement as to result of Examination

73

Yes

Yes

5 Complete sets of the application have been submitted.

73

—

—

Yes, DD 22/9/88  
4 829965  
At. 22/4/2001

73

Yes

Yes

Particulars to be ExaminedEndorsement as to result of Examination

(c) Are the documents referred to in (a) above neatly typed in double space ?

8. Has the index of documents been filed and paging done properly ?

9. Have the chronological details of representation made and the outcome of such representations been indicated in the application ?

10. Is the matter raised in the application pending before any Court of law or any other Bench of Tribunal ?

11. Are the application/duplicate copy/spare copies signed ?

12. Are extra copies of the application with Annexures filed ?

(a) Identical with the original ?

(b) Defective ?

(c) Wanting in Annexures

Nos...../Pages Nos..... ?

13. Have file size envelopes bearing full addresses, of the respondents been filed ?

14. Are the given addresses, the registered addresses ?

15. Do the names of the parties stated in the copies tally with those indicated in the application ?

16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?

17. Are the facts of the case mentioned in Item No. 6 of the application ?

(a) Concise ?

(b) Under distinct heads ?

(c) Numbered consecutively ?

(d) Typed in double space on one side of the paper ?

18. Have the particulars for interim order prayed for indicated with reasons ?

19. Whether all the remedies have been exhausted.

If agreed to, case may be listed before Hon'ble court  
on 22-08-2017.

P.22

Right Hon'ble

AI

Ys

Ys

Ys

No

2 Cpls are signed.

Ys

Ys

—

Ys but without postage.

Ys

Ys

Ar-A.

Ys

Ys

Ys

Ys

Ys No

Ys

Apr

B. N. Savarkar — vs — U.O.S.

ORDER SHEET

22.11.1981 Hon. A. John, A.M.

Admit. Issue notices.  
One month for C.A. 15 days thereafter for R.H.  
Put up on 26.10.81 for hearing.

Sd/-  
A.M.

Mr B

11/10/81

OR  
Notices for respondents Nos 1 to 3 received  
by Sri V.K. Choudhury, Govt. Counsel.

Mr B  
11/10/81

Affidavit on B.N. Shekhar  
with Ld Basal on P.W.  
Beggar Street. Reply  
not filed. Date 24.11.88

To reply.

Q  
Acc

26/10/88

73/08(c)

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

Hon' Mr. K.J. Raman, A.M.

7/7/89

None is present for the parties,  
list this case for final hearing  
on 1-9-89.

  
A.M.

  
V.C.

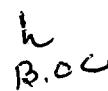
(sns)

No rejoinder filed  
submitted for hearing

31/7

19.09

No Sitting of D/B. Adj. to 7.11.89.  
Both the counsel are present.

  
B.C.

R.A. filed today

  
B.C.

Case is ready for  
hearing  
submitted for  
hearing

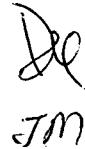
6/11/89

7.11.89

Hon. Mr. DK Agrawal - JM  
Hon. Mr. K. Obayya - AM

On the request of  
both the counsel for parties  
the case is adjourned to  
05-02-90 for hearing.

  
AM

  
JM

  
JM

  
JM

0.5.2.89

No Sitting adj. to 6.4.90  
Applicant is present

6-9-90

Hon. Justice Mr. K. Nath V.C.  
Hon. Mr. K. J. Raman A.M.

On the request of both the  
parties case is adj. to 13-8-90.

  
JM

  
V.C.

OA. 73/88

6/9/91

AY

Hon. Mr. D. K. Afraswal, J.M.  
Hon. Mr. K. Obazga, A.M.

Shri P. Sr. Bajpai for the applicant

C.M.A. 180 206/91 taken up.

This is a petition for recalling  
the order dt. 9/11/90. Comt's affidavit  
is already on record. Therefore it  
appears that the order dt. 9/11/90  
was passed inadvertently. The same  
stands recalled.

The learned counsel for  
the applicant wants short time  
for filing Supplementary Rejoinder.  
Allowed. Let Supplementary Rejoinder  
be filed within four weeks. dist  
it for hearing on 19/11/91.

2  
Am.

De  
J.M.

(09.11.91)

No. STMugradf 20 9.12.91

2

OR  
No supply affidavit

h  
4/12

9.12.91

D. R.

Applicant is present

in person. He is directed  
to file suppl. affidavit  
by 10/12/91

OB 731082

AS

15-5-32

Stand. Mr. A. B. Galt. A.M

Judge and pronounced  
today in the Open Court.

2

AM

A 6

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

D.A. 73/1988

Shri B.N. Srivastava ... ... Applicant

vs.

The Union of India ... ... Respondents

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

Hon'ble Mr. A.B. Gorthi, A.M.

(By Hon'ble Mr. A.B. Gorthi, A.M.)

The applicants who were granted national promotion as Technical Supervisors w.e.f. 1.6.74, feeling aggrieved by the subsequent order holding the said promotion order in abeyance, have filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying that the original order dated 6-10-87 granting for national promotion w.e.f. 1-6-74 be implemented and that the subsequent order dated 14-4-87 holding the earlier order in abeyance be quashed.

2. Some undisputed facts of the case may be stated at the outset. The applicants were Technical Supervisors under the General Manager (Telecom.) U.P. Circle. In 1973, when the Lucknow Division was re-organised as Lucknow Distt. independent of the U.P. Circle, the applicants opted to remain with the Lucknow Distt. In 1974, a scheme for promoting 20% Technicians and other cadres was introduced. As a result of implementation of the scheme, 20% Technicians in U.P. Circle and 20% Technicians in Lucknow Distt. were promoted <sup>the</sup> separately from amongst <sup>the</sup> seniormost Technicians in the Circle and the Distt. Separately. The said promotions were granted retrospectively from 1-6-74. Subsequently some Technicians who were initially junior to the applicants, but who remained in U.P. Circle got benefit

of the new scheme and were promoted. The applicants had to wait because they did not come within 20% of the seniormost Technicians in the Lucknow Distt. In 1975, there was a merger of the staff of U.P. Circle and Lucknow Distt. for the purpose of their inter se seniority. This has led to certain problems as happens usually whenever frequent and hasty changes are effected in the policy covering seniority, promotion etc. These problems were attempted to be resolved by various instructions issued by the respondents as is evident from Annexures attached to the Counter Affidavit (CA-I, CA-II & CA-III).

3. The relevant extract of the guide lines given in the policy letter <sup>of</sup> DGP & T Deptt dated 30-7-75 are reproduced below :-

"(i) Divisional <sup>Cadre</sup> officials like Telephone Operators, T.S. Clerks who went out under Rules 33 either prior to or after formation of minor Telephone District would remain their seniority as if the Rule 38 transfer has not taken place. In the divisional Gradation list their positions will be restored. Similarly officials who sought mutual transfers would also be restored to their original seniority.

(ii) Officials officiating in the circle like LSG Monitors who sought reversion and transfer under Rule 38 will also be restored to their original seniority without affecting the promotions already made. They will be promoted on the basis of their original seniority in further vacancies.

(iii) The merger of seniority of the staff of the minor Telephone Districts with that of the Telecommunication circle will be done on the following basis :-

A) The officials who had been working in a particular cadre prior to the formation of the minor telephone

district and still continue to work in the same cadre in both the units viz. minor telephone district and Telecom. Circle, will be fixed according to the original seniority.

B) The seniority of officials who have since been promoted to higher cadres will be merged on the principle of the length of continuous regular service in the cadre without affecting the inter-caste seniority of officials in each group."

4. G.M. (Telecom.), U.P. Circle, vide his order dated 6-10-86 has promoted the applicants as Technical Supervisors notionally w.e.f. 1-6-74, as their juniors stand promoted w-e-f- 1-6-74. (underlined for emphasis). The said promotion order was subsequently held in abeyance <sup>without any</sup> ~~when no~~ notice to the applicants and without giving any reasons, vide G.M. (Telecom.) U.P. circle Memo dated 20-1-87 (Annexure-II).

5. The case of the applicants, who have since been regularly promoted as Technical Supervisors, is that though they opted to remain with Lucknow Distt. on its re-organisation, subsequent merger of the Lucknow Distt. staff with that of the U.P. Circle staff resulted in their being placed below some of their erstwhile juniors who happened to be promoted as Technical Supervisor earlier in view of their seniority position within the U.P. Circle. This would adversely affect their chances of future promotion for no fault of theirs. Their representations were duly considered resulting in the order granting them notional promotion w.e.f. 1-6-74. Cancellation of the same without assigning any reasons was unfair, arbitrary and illegal, so contended the applicants.

6. The respondents ~~strongly~~ opposed the claim of the applicants on the ground that as per extant instructions,

the applicants were not entitled to retrospective promotion even on a notional basis w.e.f. 1-6-74. The applicants opted for Lucknow Distt. and hence they could be promoted only in accordance with their seniority within the Lucknow Distt. Since the scheme of 20% promotion was introduced in 1974, when Lucknow Distt. had its own separate identity, the said scheme was to be implemented separately for Lucknow Distt. The applicants can-not therefore, complain if some of their erstwhile juniors were promoted as Technical Supervisors in U.P. Circle, ahead of the applicants. Subsequent to the merger of the staff of U.P. Circle with the staff of the Districts in U.P. the applicants would have to reckon their seniority in the grade of Technical Supervisor from the date from which they were promoted to that grade and can-not claim retrospective promotion w.e.f. 1-6-74 so as to regain their original seniority. The order granting them notional promotion w.e.f. 1-6-74 was passed & erroneously and it therefore be held in abeyance. The respondents thus contended that they acted within the frame-work of the instructions and if, in the process, the applicants became junior to some of their erstwhile/juniors, it could not be held. The applicants who have since been promoted as Technical Supervisors and have also been confirmed in that grade, merely claim their promotion on notional basis w.e.f. 1-6-74 so that their seniority after the merger of the staff of U.P. Circle and the Districts is not adversely effected.

7. A careful examination of the instructions issued by the DGP&T Deptt. on the question of "merger of seniority of staff of telephone Distts. with the Circle staff" would clearly indicate that they aim at restoring the original seniority, i.e. the seniority that prevailed prior to the formation of the independent Districts.

It was only as regards the officials who were promoted

in their respective groups, it was decided that the question of the merger of their seniority would reckon "on the principle of length of continuous regular service in the cadre without affecting the inter se seniority of officials in each group."

8. The applicants could not have had any reason to complain it. They remain with the Lucknow Distt. for which they had opted, ~~the~~ irrespective of any advantage or dis-advantage resulting from such option. The decision from the respondents soon after the applicants had exercised from option and took up their position within Lucknow Distt., the merger of the Lucknow Distt. in the U.P. Circle for the purpose of seniority of the staff, had resulted in an anomalous situation thereby the applicant become junior to some of their erstwhile juniors in U.P. Circle. The decision to effect merger being ~~entirely~~ that of the respondents, they had a duty to protect the interests of those employees who were being adversely effected for no fault of their. By means of the merger so soon after the separation some junior officials in U.P. Circle store a march over those who were senior to them prior to the separation of the Distt. from the Circle.

9. Seniority, undoubtedly, is an incident of service, but it cannot be tinkered with at will to the detriment of even a segment of the employees. Where the service rules prescribe the method of its computation, it is squarely covered by such rules. In the instant case, what has been brought to our notice is no set of rules, but ~~a~~ few departmental instructions issued by the DGP&T on the subject of merger of seniority of the staff of Distts. with the Circle staff. Even these instructions clarify that the original seniority would be maintained in respect of officials who had been working in a particular cadre prior to the formation of the Distt. and will

continue to work in the same cadre in both the units, i.e., the Distt. and the Circle. To deny this protection of original seniority in respect of those promoted on account of <sup>the</sup> scheme of 20% promotion as Technical Supervisors is arbitrary and unfair. In fact the applicants brought <sup>although</sup> out that ~~back~~ the 20% promotion scheme was introduced in 1974, its actual implementation was done after the merger in 1975. We therefore, find that the initial order giving notional promotion to the applicants w.e.f. 1-6-74 was correctly issued with a view to protect their seniority over their erstwhile juniors, as the order itself clarified. We are not convinced with the flat contention of the respondents that the initial order of promotion was later on cancelled because the applicants were not entitled, to such promotion. The respondents' contention that the applicants having opted to be ~~within~~ the Distt. and having thus got their promotion later, can-not claim parity <sup>with</sup> their colleagues in the Circle, would become redundant in view of the merger of the staff of the District and the Circle for the purpose of seniority, which was effected uni-laterally by the respondents. The applicants request for protection of their original seniority for the purpose of their future promotion is, therefore, reasonable.

io. In the result, we quash the order of the G.M.T., U.P. Circle, Lucknow communicated under his Memo dated 20-1-87 and direct the respondents to give effect to their earlier order dated 6-10-86 by means of which the applicants were given notional promotion w.e.f. 1-6-74 with certain consequential benefits as stated in the order itself. The respondents shall comply with this order within 3 months from the date of communication of this judgement.

ii. The application is allowed in the above terms without any order as to costs.

*Thangaraj*

Member (A) 15 May 92.

*Luz*  
Vice-Chairman

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

Application no. 73 of 1988 (L)

B.N. Srivastava & Others ... Applicants  
Vs.

The Union of India & Others ... Respondents

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Dated: 7.1988

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

*Advocate*  
COUNSEL FOR THE APPLICANTS.

*List this*

*Case on 22.08.88*

*Note to*

*Keshav Prabhu*

*22-7-88*

*248*

CA 73 of QD(1)

A13

XXXXXX XXX

22.7.08

Date of filing : .....

OR

Date of Receipt

By post : .....

Registration no. : .....

Registrar

In the Central Administrative Tribunal Additional Bench, Allahabad (Circuite Bench)  
Lucknow.

1. B.N. Srivastava, aged about 54 years, S/O Late Shiv Shanker Lal, R/O 269/26 Birhana, Lucknow.
2. Hem Raj Kureel, aged about 52 years, S/O Sri Late Bhoola Ram, R/O, Telephone Exchange, Kaiserbagh, Lucknow.
3. Mahabir Pd. Kureel, Aged about 54 years, S/O employed as Technical Supervisor Telephone Exchange Vidhan Sabha Lucknow.
4. Sri Hari sh Chand Dixit , employed as Technical Supervisor, Telephone Exchange, V.S. Mat, Lucknow.
5. Sro J.C. Tewari, employed as Technical supervisor Telephone Exchange Kaiserbagh, Lucknow.
6. Shiv Ghulam, employed as Technical supervisor, Telephone Exchange, Kaiserbagh, Lucknow.
7. Jawaher Lal, employed as Technical supervisor, Telephone Exchange, Chowk, Lucknow.
8. Umasn Narain Srivastava, employed as Technical supervisor, Telephone Exchange, Maneger, Eko. ....Applicant.

2.

Versus

- 1. The Union of India, through the Secretary Ministry of Tele-communication, New Delhi.
- 2. The Director General, Tele-Communication, New Delhi.
- 3. The General Manager, (Tele-communication) U.P. Circle, Lucknow.

... Opp. parties.

## 1. Particulars of the Applicants

(i) Name of the Applicants : (1) M.N. Srivastava

(2x) S/O Late Shiv  
Shanker Lal, R/O  
269/26 Birhana,  
Lucknow.(ii) Name of Father/  
Husband(2) Hem Raj Kureel,  
S/O Late Bhoola  
Kam, Telephone  
Exchange, Aisar  
Bagh, Lucknow.(iii) Designation and  
Office in which  
employed(3) Mahabir pd. Kureel  
S/O employed a  
Technical Supervisor,  
Telephone Exchange,  
Vidhan Sabha, Lucknow.

(iv) Office address

(4) Harish Chand  
Dixit, Technical  
Supervisor,  
Telephone Exchange  
Vidhan Sabha, Lko.(v) Address for  
service of all  
notices.(5) J.C. Tewari, Technical  
Supervisor, Telephone Exchange  
Aisarbagh, Lko.(6) Shiv Ghula, employed  
as Technical  
Supervisor, Tele-  
phone Exchange  
Aisarbagh, Lko.(7) Jawahar Lal, employed  
as Technical  
Supervisor, Telephone Exchange  
Chowk, Lucknow.(8) Umesh Narain  
Srivastava, employed  
as Technical Supervisor

## 3. (8) contd.

Telephone Exchange,  
Managar, Lucknow.

## 2. Particulars of the Respondents

(i) Name and /or designation of the respondent.	(1) The Union of India, through the Secretary Ministry of Tele-communication, New Delhi.
(ii) Office address of the respondent.	(2) The Director General, Tele-communication, New Delhi.
(iii) Address for service of all notices.	(3) The General Manager, Tele-communication, U.P. Circle, Lucknow.

## 3. Particulars of the order against which application is made.

The application is against the following order:-

(i) Order no. :	Memo no. S.T.-82/4/Ch-V/74
(ii) Date :	14.4.1987
(iii) Passed by :	Tele-com. Distt. Manager, Lucknow.
(iv) Subject in Brief :	Memo no. S.T.-82/4/Ch-V/56 Dated 6.10.1986 has been held in abeyance.

## 4. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

## 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:-

(1) That the applicants were originally appointed on the post of technicians on the different dates and they are confirmed on this post. The next higher post is the Technical Supervisor which is liable to be filled up by promotion amongst the technicians. The Applicants were found suitable for the ~~existing~~ post of Technical Supervisor and were promoted accordingly on different dates. All the applicants are now confirmed on the post of Technical Supervisor.

(2) That the discrimination has been done with the petitioner in the matter of fixing the seniority of the Applicants in the cadre of Technical supervisor. The seniority was given to the Applicants at the correct place in the cadre of technicians. The same seniority may be given to the applicants in the cadre of Technical Supervisor.

(3) That the promotions and confirmation of the juniors to the applicants have been made on the post of Technical Supervisor without taking into consideration the seniority on the post of technicians. The promotions have been made in an arbitrary manner.

(4) That the authorities have given the promotions without taking into consideration the seniority. Consequently the juniors were promoted prior to the seniors. The juniors have got the increments more than the seniors.

(5) That the promotions of the juniors were

5.

made not only made in the cadre of the applicant. It was done in other cadres also. It was done due to the mistake of the dealing Assistant who had not pointed out that the juniors are being promoted.

(6) That the employees of the other cadre namely, Telephone Operators, Clerks etc, requested the Opp. party- Respondent no. 2, & 3 to allow them the Notional promotions from the due dates and to fix the seniority in the promoted cadre which was in the lower cadre and to allow the salary equal to their next juniors. The representatives were considered and the departmental authorities had realised the mistake and passed the orders accordingly. In this way the loss in pay and seniority of the seniors was compensated. The names of the persons were kept in the seniority list at the correct place.

(7) That the applicants has come to know that the benefit of seniority and salary has been given to the persons of other cadres, they have also made the representations to the respondent no. 2 & 3 and the General Manager, Tel-Com. U.P.Circle, Lucknow was pleased to allow the benefit of salary and seniority in comparison to the juniors like the employees of the other cadre vide order dated 6.10.1986. The latter was communicated the applicant through the District Manager ( Telephones) Lucknow vide order dated 7.10.1986. The copy of the order is furnished herewith as annexure-1 to this application.

*SL*

## 6.

(8) That the Respondent no. 3 had failed to comply his own order dated 6.10.1986 inspite of making several requests by the Applicants in writing and also oral. The applicants have taken the persons interview ~~xxxxxxxxxx~~ for the compliance of the order Annexure -1 but no attention was paid. He passed an other order on ~~30.10.1987~~ <sup>20-1-87</sup> ~~of Jups~~ on ~~30.10.1987~~ in which the notional promotions have been held in abeyance.

(9) That the O.P.No.3 has treated the applicant in a discriminatory manner as the seniority and pay was fixed in other cadre of employees, but in the cadre of the Applicants the orders were passed, but they have been held in any abeyance.

(10) That the orders of held in abeyance have been passed in respect of the Applicants in the Office of the O.P.No.3 on 17.9.1987 and they have been given the actual benefits of correct fixation of % salary and seniority, in respect of the employees of the other cadre. In case of the Applicants the orders have been kept in Abeyance.

(11) That the provisions of Art. 14 & 16 of the Constitution of India have been violated, in holding the order kept in abeyance.

(12) That the applicants are entitled to get their same seniority in Technical supervisor which was held by them in the cadre of Technicians. Further they are entitled to get the salary equal to their next juniors.

20-1-87

(13) That the order dated 30.10.87 could not be implemented in the eye of law against the petitioners. The copy of the order is Annexure 2 to this application.

*Placed back  
order 21/22-8/88  
22-8-88  
S.M.K.*

(14) That the applicants were in the hope that they will get the arrears as their pay was fixed accordingly w.e.f 1.6.1986.

(15) That the applicants have been allowed the notional promotion w.e.f. 1.6.1974. The applicants being aggrieved from order Annexure 2 represented on 27.7.1987. The copy of the representation of Sri H.R. Kurel is filed herewith as Annexure 3 to this application.

(16) That the applicants further represented on 27.8.1987 but no attention has been paid. The copy of the representation is Annexure 4 to this application.

(17) That the O.Ps. are bound to comply the order contained in Annexure 1 to the application and the applicants are entitled to get the benefit of the order accordingly.

(18) That the applicants are suffering a great civil loss due to fault of the officials and the authorities.

(19) That the applicants have ~~not~~ served a notice in the last through their counsel on 23.4.1988 but no response has been received. The copy of the notice is Annexure 5 to this application.

(20) That the

## 7. Reliefs sought.

In view of the facts mentioned in para 6 above, the applicant prays for the following reliefs:-

(a). That the applicants may kindly be allowed the benefits of orders contained in Annexure 1 w.e.f. 1.6.1974.

(b). That the C.Ps. may kindly be directed to comply the order Annexure 1 and to allow the seniority and the salary to the applicant accordingly.

(c). That the orders contained in Annexure 2 may kindly be quashed.

(d). That the cost of the application may be allowed to the applicants.

(e). That any other relief which this Hon'ble Tribunal deems fit and proper in these circumstances of the case may kindly be allowed to the applicants.

(f).  
8.

Interim order, if prayed for:-

No interim order is prayed as present.

## 9. Details of the remedies exhausted:-

The applicants declares that they have availed of all the remedies available to them under the relevant rules etc. The copy of the representations and the notice given by the counsel are Annexures 3 to 5 as mentioned above.

## 10. Matter not pending with any other court etc:-

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or

- 9 -

any other other authority or any other Bench of the Tribunal.

11. Particulars of postal orders in respect of the application for:-

1. No of Indian postal order: UD829965  
4

2. Name of issuing post office: High Court  
Bench Lucknow

3. Date of issue of the  
Postal order. 22.4.88.

4. Post Office at which  
Payable. G.P.O. Lucknow

12. Details of Index:-

An Index in duplicate containing the details of the documents is filed.

13. List of enclosures:-

- (1). Order dated 6.10.1986.
- (2). Order dated 14.4.1987.
- (3). Application dated 27.7.1987.
- (4). Application dated 27.8.1987.
- (5). Notice dated 23.4.1988.

We, the abovenamed applicants do hereby verify that the contents of para 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place: Lucknow.

Dated: 7.88.

To,

The Registrar,  
Central Administrative ~~XXX~~  
Tribunal, Additional  
Bench, Allahabad  
(Circuit Bench Lucknow)

SIGNATURE OF APPLICANTS

B.N. Srivastava  
2- Hem Rajkumar  
3- Munir  
4- ~~Patnaik~~

5- Shukla  
6- ~~Tanwar Lal~~  
7- ~~W.~~  
8- ~~Gitewari~~

~~D. M. J. S. S. D.~~  
(P. N. B. offia)

In the Central Administrative Tribunal Additional Bench  
Allahabad (Cir with Bench) dated

S.M. Srivastava & others. — A27  
H.M.Carts

The Union of India & others. — Opp parties  
Answer No. —

DEPARTMENT OF TELECOMMUNICATION.

OFFICE OF THE DISTRICT MANAGER TELEPHONES, LUCKNOW.

Memo No. ST-82/4/V/56 Dated at Lucknow 6. 10.86.

G.M.T.U.P.Circle Lucknow his letter No. Staff/M-27-  
-25/85/5 dated 6.10.86 has promoted notinlly with effect  
from 1.6.74 the following technical supervisors as their  
Juniors stand promoted with effect from 1.6.74. Their promotion  
with effect from 1.6.74 for fixation of pay and any difference  
of pay and allowances in the shape of arrears will be payable  
from the date they are actually working in 20% Technical  
Supervisor's cadre.

S1. Name of the officials.

Unit.

1. Shri Habib Ahmed	o/o A.E. S/R III
2. " B.N. Srivastava	o/o A.E. P.B.Xs.
3. " O.P. Dixit	o/o A.E. S/R III
4. " Umesh Narain Srivastava	o/o A.E. Extl. MHN
5. " Prem Kishore Kharc	o/o A.E. S/R II
6. " J.C. Tivari	o/o A.E. S/R I
7. " B.K. Mt. Fara	o/o A.E. Bhadewan.
8. " M.P. Kureel	<del>o/o A.E. (3/4)</del>
9. " Jawahar Lal	o/o A.E. Chowk
10. " H.C. Dixit	o/o A.E. P.B.Xs, Council House
11. " Shoo Gulam	o/o A.E. Electrical
12. " H.R. Kureel	o/o A.E. S/R III

Compliance may please be reported to this  
office so that the same may be conveyed to the G.M.T.  
UP Circle, Lucknow.

*2/10/86*  
For District Manager  
Telephones Lucknow.

Copy forwarded for information & necessary action To:-

1. G.M.T. UP Circle Lucknow.
2. A.O. (Wks&Budget), Nehru Bhawan Lucknow alongwith 12  
spare copies.
3. Concerned officials through their Unit Officers.
4. Concerned Unit Officers.
5. A.O. (TA) o/o D.M.T. Nehru Bhawan Lucknow. alongwith  
two spare copies.

*Signature of  
Official on  
1st sheet  
(See page 1)  
21-7-86*

A23

Mr. Central Secretary  
Allohabad (circ with Bch) dated

S. N. Srivastava & others. — State Bank

The Union of India & others. — Dtp for the  
Annexure No. 2

18991

u27/640

DEPARTMENT OF TELECOMMUNICATIONS

OFFICE OF THE TELECOM DISTRICT MANAGER- LUCKNOW-226001

Memo No. ST-82/4/ChV/74 Dated at Lucknow the 14-4-87

The notional promotion orders of following technical Supervisors of this District issued vide this office Memo No. ST-82/4/ChV/56. Dated 6.10.86 are hereby held in abeyance as per orders of G.M.T. U.P. Circle Lucknow, communicated vide his Memo No. STAFF/M-27-25/85/5 dated 20-1-87.

Sl No.	Name of the Official	Unit where working.
1.	Shri Habib Ahmad.	AEP S/R-III
2.	" B.N. Srivastava	A.E.P. PBX
3.	" O.P. Dixit.	AEP S/R-III
4.	" U.N. Srivastava	AEP Extl. Mahanagar.
5.	" Prem Kishore Khare S/o Raghubandhu	AEP S/R-II
6.	" J.C. Tewari. <i>Kishore Khare</i>	AEP S/R-I
7.	" B.K. Mittra.	AEP Bhadewan ( Now Transferred to GMT K)
8.	" M.P. Kureel S/o Dulam Dass	AEP PBXs.
9.	" Jawahar Lal	AEP Chokan
10.	" H.C. Dixit.	AEP PBXs.
11.	" Sheo Gulam	A.E.P. Trunks Tech.
12.	" H.R. Kureel.	AEP S/R-III

*Copy to the following for information:-*  
for Telecom District Manager  
Lucknow-226001

1. G.M.T.U.P. Circle Lucknow.
2. A.O.(W & B) Nehru Bhawan Lucknow.
3. Concerned Unit Officers alongwith one sapre copy for concerned officials.

Srivastava/-

14-4-87

*Signature of  
Official  
Date  
21.7.87  
21.7.87*

2. Mr. Central Administration Bureau Technical Additional Branch  
Allahabad ( Cir with Bch) ~~and~~

S. N. Srinivasan & others.

Stamps A/4

6. The Union of India & others.

Diff for this

Answer No. 3

To

The G.M.T., U.P. Circle,  
Lucknow

Through Proper Channel.

Sub-National Promotion to Tech. Sup.

Sir,

I was promoted nationally in cadre of Tech. Supervisor w.e.f. 1.6.74, vide your letter Nos. Staff/M-27-25/85/5 dated 5.10.85 against my representation dt. 25.3.85 (copy enclosed).

Similarly Telephone Operators and T.O.s were also promoted nationally w.e.f. 1.6.74 vide your letter Nos. Staff/M-9/14/78-79/CH.III/2 dt. 25.2.85 and Nos. Staff/M-12/3/C/85/5 dated 25.9.85 respectively (copy enclosed).

The above two cadres (Telephone Operators and T.O.s) got fixation from 1.6.74 and received th. payments also (Enclosed).

I have failed to understand that why my orders for nationally promotion in cadre of Tech. Supervisor w.e.f. 1.6.74 were held in abeyance vide your letter Nos. Staff/M-27-25/85/5 dt. 25.1.87 (copy enclosed) when departmental rules and regulations are same and applicable to all the cadres.

Therefore, I request your honour either decide my case,

*Received one copy*  
pending with you for last six months within a month or permit me to go to the court of law to seek justice.

Thanks.

J.F. Phones PBX 27/7/87

Lucknow Telephones  
Telephone No. 40632

Lucknow dated

27/7/87

Enc. Four.

Yours faithfully,

*(Signature)*  
(R. Kapoor)

Tech Secy  
c/o AE PBX, Lucknow

J.F. Phones PBX  
Lucknow Telephones  
Telephone No. 40632

21/2/88  
S. J. S.  
S. J. S.

In the Month of June, 1987, in the presence  
of the Director of Posts & Telecommunications

B. N. Srivastava & others

The Staff of U.P. & others

80

The A.D.G.  
P&T Section  
Telecommunication Directorate  
Dak Tar Bhawan  
New Delhi

Annexure No. 4

Ans

(Through Proper Channel)

Subject: Notional Promotion to Technical Supervisors

Sir,

We were promoted notionaly in the cadre of Tech. Sup. w.e.f. 1-6-74 vide G.M.T.Lw. Letter No. Staff/M-27-25/85/5 dated 6-12-86 <sup>(G-10-86)</sup> against our representation dated 25-3-85 as our juniors were promoted w.e.f. 1-6-74 vide G.M.T. letter No. Staff/M-27-10-74/7 dated 22-6-76 under insontivo scheme vide P&T Board New Delhi No. 15/14/75 TE dated 1-7-74 copy enclosed.

Similarly Telephono operators and T.O.Cs were also promoted notionaly w.e.f. 1-6-74 vide G.M.T. Lw. Staff/M-9/14/72/79 ch IIIrd/2 dtd 26-2-85 and No. Staff /M-12/8/86/85/5 dated 26-9-86 respectively.

The above two cadres ( Tele. Operators & T.O.Cs ) get fixation from 1-6-74 and received orders also.

We have failed to understand that why our orders for notionaly promotion in the cadre of Tech. Sup. w.e.f. 1-6-74 were hold in abeyance vide G.M.T. Lw. letter No. Staff/M-27-25/85/5 dated 20-1-87. When the departmental rules and regulations are the same and applicable to all the cadres.

Therefore we request your honour kindly do us justice in our case pending with G.M.T. Lucknow for the last six months.

Thanking you

Yours faithfully

Technical Supervisors  
G.M.T. Lucknow

Copy to:-  
1. A.D.G. P&T. Soc. N.D.  
in Advance U.P. Circle

2. Sri V. Rajgopal G.M.T. Lw.

3. Sri A.K. Gupta D.M.T. Lw.

Dated at Lucknow  
27.8.1987

- ① (Bishan Naran Saini)
- ② (Hem Raj Kureel)
- ③ (Habib Ahmed)
- ④ (H.C. Dixit)
- ⑤ (M. Dikshit)
- ⑥ (P.K. Khare)
- ⑦ (U.N. Saini)

P.T.O

Recd two copies  
1 for D.M.T. Lw  
and one for A.D.G.  
H.L. Section P.T.  
(T.P.C.)  
all sent  
2 copies

Recd one copy  
for G.M.T. Lucknow  
circle. Lw

Recd for  
Sri V. Rajgopal

Recd for  
Sri V.

A76

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

B.N. Srivastava & Others .... Applicants  
Vs.

The Union of India & Others .... Respondents  
Annexure No. 5

From:

Prayag Narain Bajpai (Advocate)  
16, Bahiron Ji Road,  
Lucknow.

To,

(1) The Director General  
Post & Telegraph  
New Delhi.  
(2) The General Manager,  
(Telecom) U.P. Circle, Lucknow.

Sub:- Notice for awarding the relief  
claimed in the notice

Respected Sir,

Under instructions of my client Sri  
Habib Ahmad, employed as Technical Supervisor,  
Office of A.E. Switch Room III, Sri B.N.  
Srivastava, employed as Technical Supervisor,  
Office of A.E. P.B. Xs, Sri O.P. Dixit employed  
as Technical Supervisor, Office of A.E. Switch  
Room III, Sri Mr Omesh Narain Srivastava,  
employed as Technical supervisor office of A.E.  
(Extl.) Sri Prem Shanker Kishore Khare, employed

as Technical Supervisor, Office of A.E. Switch Room II, Sri J.C. Taaari employed as Technical Supervisor, office of A.E. Switch Room I, Sri B.K. Mitra, employed as Technical Supervisor, Office of A.E. Bhadewar, Sri N.P. Kurail, employed a Technical Supervisor, Office of A.E. P.B Xs Sri Jawahar Lal, employed as Technical Supervisor, office of Asstt. Engineer, Chowk Sri H.C. Dixit, emplotted as Technical supervisor, Office of A.E.P.B.Xs, Council House, Sri Shiv Ghulam, employed as Technical Supervisor, office of A.E. Electrical and Sri H.R. Kurail, employed as Technical Supervisor, Office of A.E. P.B.Xs. ( Installation Unit), I am to serve you this notice as under:-

(a) That my above noted clients were originally appointed on the post of Technicians, on the different dates and they are confirmed on this post. The next higher post is the Technical supervisor which is liable to be filled up by promotion amongst the Technicians. My clients were found suitable for the post of Technical supervisor and were promoted accordingly. On different dates. All the above named clients are also confirmed on the post of Technical supervisor.

(b) That the discrimination has been done with the petitioner in the matter of fixing the seniority of my clients in the cadre of Technical supervisor. The seniority has been given to the Petitioners on the post of Technicians at the correct place.

(c) That the authorities have made the promotions and the confirmations on the post of Technical supervisor without taking into consi-

## 3.

Technical Supervisor without taking into consideration the seniority of the post of Technicians. The promotions have been made in the arbitrary manner.

(d) That the authorities have given the promotions without taking into consideration the seniority, consequently the Juniors were promoted prior to the seniors. The Juniors have got the increments more than the seniors.

(e) That the said position was not only in the cadre of my clients, it was in /other cadres also.

(f) That the employees of the other cadres namely, Telephone Operators, clerks, and Others, requesting to allow them the National promotions from the due dates and to fix the seniority in the promoted scale which was in lower cadre. The representations were considered and the Department had realized the mistake and passed the order accordingly. In this way the loss in pay and seniority of the seniors was compensated. The names of the persons were kept in the seniority list at the correct place.

(g) That when my clients had come to know that the benefit of seniority and salary has been given to the persons of other cadres, they have also made the representations and the G.M.T. U.P. circle Lucknow was pleased to allow the benefit of salary and seniority above the Juniors like other employees of other cadres. vide order dated 6.10.86. The letter was communicated to my

4.

The letter was communicated to my clients through the District Manager ( Telephone ) Lucknow vide order dated 7.10.86.

(h) That the G.M.T U.P. Circle, Lucknow had failed to comply his own order dated 6.10.86 and have passed another order in which the orders of Notional promotions were held in abeyance. The orders were issued on 30.10.87.

(i) That the G.M.T. has treated my clients in a discriminatory manner. as the seniority and pay was fixed in their cadre's but in the cadre of clients the orders were passed, but the actual benefit had not been given.

(j) That after passing orders of Held in abeyance in connection with my clients the orders have been passed in respect of the clerks in the office of the G.M.T on 17.9.1987 and they have been given the actual benefits of correct fixation of salary and seniority but in case of my clients the compliance of the orders have been kept in abeyance.

(k) That the provisions of Article 14 & 16 of the constitution of India have been violated in with-holding the compliance of the orders dated 6.10.86.

(l) That my clients are entitled to get the same seniority in the cadre of Technical supervisor which was held by them in the cadre of Technicians. Further they are entitled to get the salary equal to their next juniors



5.

(m) That my clients have been advised to take the necessary actions in the competent Court of law against you, for their grievance but they want to give a chance to your honour to fulfill their grievances based on order dated 6.10.86 within a month's time from the date of receipt of this notice, failing which legal action will be taken against you and you will be arrayed as a Opp. party in the case and will be responsible for the expenses of the litigations and the damages etc.

Yours faithfully,

sd/-  
( P.N. Bajpai )  
Advocate.

Dated : 23.4.1988

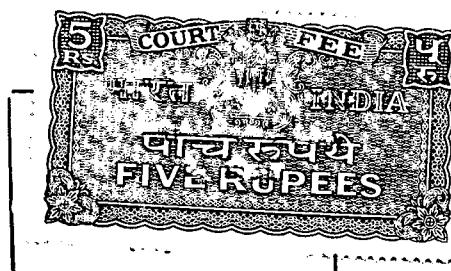
TRUE COPY.

*P.N.B.*  
Signature of applicant  
on behalf of  
*P.N.B.*  
(P.N.B. Bajpai)

A3)

Central Administration Tribunal Addl. Bench  
 ब अदालत अधीनस्त Alcoholism (Selling of alcohol) वहोएण  
 वादी अपीलान्ट श्री  
 प्रतिवादी रेस्पाइट

B. M. Srinivas



विकालतनाया

Union of India + others पनाम

प्रतिवादी (रेस्पाइट)

पं० मुफद्दमा सन् पेशी फी रा० १० रु०

ठषर सिखे मुफद्दमा में अपनी ओर से श्री प्रयाग नारायण बाजपेयी  
 एडवोकेट एवं श्री कार्तिकेय बाजपेयी एडवोकेट भैरो जी शेड,  
 लखनऊ महोदय

प्रतिवादी
अपीलान्ट
वादी
प्रतिवादी
रेस्पाइट

जो अपना वकील नियुक्त करके प्रतिज्ञा (इच्छारार) करता हूं और लिखे  
 हेता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील  
 हारा जो कुछ पैरवी व जघाब देही व प्रश्नोंतर करें या कोई कामज दाखिल  
 करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया बसूल  
 परें या मुलहनामा व हकबाल दावा तथा अपील निमरानी हमारी ओर  
 से हमालै या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा  
 डालवें या कोई रुपया यमा करें या हमारी विपक्षी (फरीकसानी) का  
 दाखिल पिला हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती)  
 रसीद से लेवे या दंच नियुक्त करें—वकील महोदय हारा की गई घम  
 सद्य कार्यवाही हमको सर्वथा स्वीकार है और होगा में यह भी स्वीकार  
 करता हूं कि मैं हर पेशी पर स्वयं या किसी अपनी पेरोफार को मेजता  
 रहूँगा अगर मुकद्दमा अदम पैरवी में एफ तरफा मेरे जिलाफ फैसला हो  
 जाता है उसकी जिम्मेदारी मेरे वकील पर महों होगी इसलिए यह  
 प्राप्तालसमामा नियम दिया प्रमाण रहे और समय पर फाम आये।

7- W. S. D.  
 8- J. Chaturvedi

4- H. R. Patel  
 5- S. K. Patel  
 6- J. Patel

ताक्षी (पर्याह)

दृस्ताक्षर B. M. Srinivas  
 2- H. R. Patel  
 3- M. B. Patel

ताक्षी (पर्याह)

पिनाप

21

पर्याप्ता

7

सन् १०६८ रु०

Central Administrative Tribunal  
In the Hon'ble ~~High Court of Judicature~~ at Allahabad  
(Lucknow Bench) Lucknow. A32

C.A. Case  
Writ Petition No. 73 of 1988 (W)

B. N. Srivastava & ors.

Applicant  
Petitioner

Versus

Union of India

Respondents.

REGISTRAR,

I am appearing as the Central Government  
Standing Counsel, on behalf of ~~Petitioner~~/Respondent/  
Opposite Parties.

D  
Dhaon

Dated :

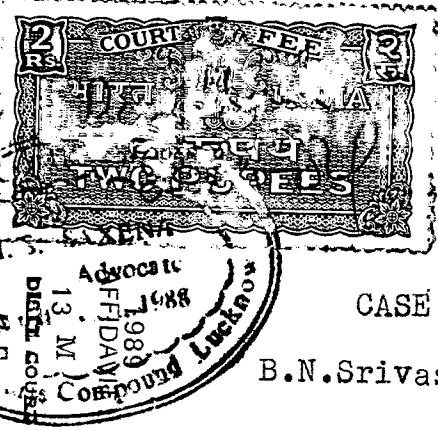
28-3-1989

U. K. DHAON  
Advocate  
Additional Standing Counsel  
Central Government  
Allahabad High Court  
(Lucknow Bench)  
Lucknow.

A33

Filed today  
3/1/88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD  
CIRCUIT BENCH AT LUCKNOW



COUNTER AFFIDAVIT ON BEHALF  
OF RESPONDANTS

In re

CASE NO.73 of 1988 (L) 1

B.N.Srivastava and others ... ... Applicants.

Versus

Union of India and others ... ... Respondants.

I, Ram Lal aged about 57 years son of late Sri Durga Prasad Personnel Officer, office of the Chief General Manager, Telecommunication U.P.Circle Lucknow do hereby solemnly affirm/and state on oath as under :-

1. *Office of* *2* *That the deponent is the Personnel Officer in the Department of Chief General Manager Telecommunication Lucknow as such is fully acquainted with the facts of the case. The contents of the application have been read over and explained to the deponent and has understood the same and its parawise reply is as follows.*
2. *That the contents of paras 1 and 2 of the application need no comments.*
3. *That the contents of para 3 of the application need no comments.*
4. *That the contents of para 4 of the application need no comments.*
5. *That the contents of para 5 of the application*

.../2.

-: 2 :-

need no comments.

6. That in reply to the contents of paras 6(1) of the application it is stated that the applicants were originally appointed as Technicians in the Department. They were subsequently promoted as Higher Grade Technicians now Technical Supervisor from the different dates on the basis of their seniority by the District Manager Telephones, Lucknow now Telecommunication District Manager, Lucknow under whom they were working. The cadre of Technical Supervisor is the next promotional grade for technicians being the channel of their promotion.

7. That the contents of para 6(2) of the application are absolutely incorrect and baseless. It is further stated that the applicants were promoted as Technical Supervisors on different dates as per their seniority by the Telecom District Manager, Lucknow. This fact has also been admitted by the applicants in para 6(1) of their application. As such their seniority on promotion to the cadre of technical supervisor was correctly fixed based on the date of their promotion. Thus it is in no way discriminatory as alleged rather perfectly correct based on the rules and regulations of the Department. Their contention for maintaining their seniority of technician even on promotion to the grade of technical supervisor is entirely incorrect and contrary to the rules of the Department and as such it does not in any way stand for consideration.



-: 3 :-

8. That the contents of para 6(3) of the application are not admitted. It is stated that promotions of technicians made to the grade of technical supervisor were perfectly correct based on their seniority in the circle gradation list and the rules enforced for grant of such a promotion as stated above. Hence the question of arbitrariness in making the promotions as alleged is absolutely false and baseless.

9. That the contents of para 6(4) of the application are not admitted. It is stated that the promotions of technicians made were strictly as per their seniority and rules enforced as stated above. The pay of such of the promotees were accordingly regulated in the grade of technical supervisor and they by virtue of their promotions having been made from an earlier date will naturally draw more increments in comparision with those promoted from a later date. Thus there is no illegality at all in fixation of pay of such a promotee as alleged rather perfectly correct and inconformity with the rules and regulations.

10. That the contents of para 6(5) of the application are wholly misleading, false and baseless. It is further stated that the promotions of technicians to the grade of technical supervisor were made strictly as per rules based on their seniority in circle gradation list as stated in the preceding paragraphs. Thus the contention made to the contrary is nothing but simply a pretention having no ground to stand for consideration.

-: 4 :-

11. That in reply to the contents of para 6(6) of the application it is stated that the case of the applicants is quite different from the basic principles of recruitment, training, appointment and fixation of seniority and as such they are not in any way entitled for the benefit of the notional promotion on the grounds it was extended to the Telephone Operators etc. as a result of revision of their seniority on the basis of length of service as per the Supreme Court Judgement. The averments made to the contrary are false and as such are emphatically denied.

12. That in reply to the contents of para 6(7) of the application only this much is admitted that an order granting notional promotion to the applicants was issued by the General Manager Telecom. U.P. Circle, Lucknow vide letter No. Staff/M-27-25/85/5 dated 6.10.86. The rest of the averments made in para under reply are false and as such are denied.

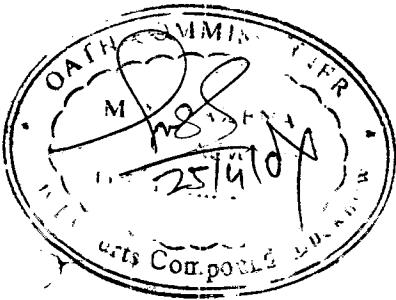
13. That in reply to the contents of para 6(8) of the application it is stated that the applicants were not at all entitled for their notional promotion as per the existing rules and orders on the subject. Actually due to misunderstanding orders were issued erroneously for granting notional promotions to the applicants w.e.f. 1.6.74 vide General Manager Telecom. U.P. Circle, Lucknow Memo No. Staff/M-27-25/85/5 dated 6.10.86. Subsequently on further verification of the facts, the said irregularity was noticed and the erroneous orders issued inadvertently were



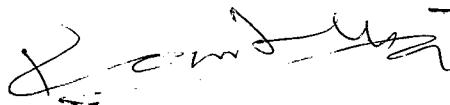
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rectified by a modified order issued on 20.1.87. Thus the General Manager Telecom. U.P. Circle, Lucknow acted correctly to rectify the erroneous orders issued inadvertently against the spirit of the rules, immediately rather than to allow it to continue.

It is further stated that erstwhile Lucknow Telephones Division was upgraded as a separate Lucknow ~~Telephones District~~ with effect from 1.6.73 having its independent identity for all purposes of promotion, confirmation etc. of staff under his jurisdiction. As such on upgradation of Lucknow Telephone District as a separate and independent unit the staff working in the cadre of technician were given an opportunity for exercising their options of posting in either of the two units according to their choice being the circle cadre staff as per rules. The technicians so opted for Lucknow Telephones District were absorbed in the said unit and thereby ceasing their seniority to exist on the common circle gradation list of the U.P. Circle. Consequently, their liability of transfer etc. was restricted within Lucknow Telephones District and they were entitled for their promotion confirmation etc., only within the District itself.



Further, during 1974, 20% promotion scheme for technicians and other cadres was introduced in the department vide orders 16.6.74, 1.7.74 and 6.9.74. As a result of implementation of the said scheme as per the aforesaid orders, the 20% upgraded posts which became available in the cadre of Higher Grade Technician in circle, were filled up by promotion from amongst the senior most technicians of the circle in order



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of their seniority to the extent the posts were available w.e.f. 1.6.74. Accordingly the Telecom. District Manager Lucknow issued the orders of promotion of technicians of his district against the upgraded posts of the District w.e.f. 1.6.74. Thus it is ~~xx~~<sup>32</sup> evident that promotions were made by both the ~~xx~~<sup>32</sup> units separately and there is no relation at all with regard to the promotions of technicians of the District with that of the Telecom. Circle against the upgraded posts under 20% for the year, 1974.

Later on, the seniority of staff of Lucknow Telephones District was merged with the staff of the Telecom Circle w.e.f. 31.7.75 vide orders dated 30.7.75, 4.9.75 and 10.12.75 bringing them on a common gradation list of U.P. Telecom Circle. In the aforesaid orders it was specifically laid down that the vacant posts in higher Grade which existed as on 30.7.75 should be filled up in respective~~x~~ units separately and promotion done separately on the basis of seniority of staff in each unit. The promotion of technicians in each unit was thus made separately on the basis of seniority in the respective unit. Further, the seniority of technicians is determined on the basis of marks obtained by them in the training centre examinations. Accordingly the seniority of all the recruits of a particular year is arranged strictly on the basis of marks obtained by them in the training centre examinations irrespective of the date of their appointment in the grade. Consequently, the merger of seniority of technicians of Lucknow Telephones District with the Technicians working in U.P. Telecom Circile as



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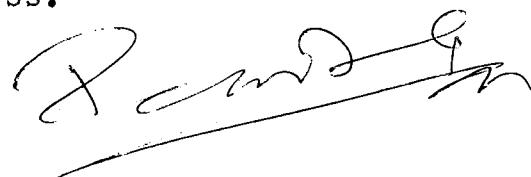
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per the aforesaid orders did not effect them in any way in the matter of their seniority rather remained unaffected after merger as it was fixed on the basic principle of original seniority, that was existed prior to formation of Lucknow Telephones District.

Thus it is evident that the applicants during 1974 were not having their seniority in the gradation list of U.P.Telemc circle rather having their separate identity and seniority in the gradation list of Lucknow Telephones District and as such they do not in any way stand eligible for promotion either notionally or against a upgraded post by the Telecom circle w.e.f. 1.6.74. The facts thus presented by the applicants are quite wrong and baseless and contrary to the rules of the Department but simply with the intention to mislead the Hon'ble court by putting a wrong picture.

A true copy of the aforesaid orders dated 30.7.75, 4.9.75 and 10.12.75 is being annexed herewith and marked as Annexure CA-I, 3 CA-II and 3 CA-III, to this counter affidavit.

14. That in reply to the contents of para 6(9) of the application it is stated that the applicants are not in any way entitled for notional promotion w.e.f. 1.6.74 in view of the facts enumerated in para 13 above. Hence the contention of treating them in a discriminatory manner as alleged is absolutely false and baseless.



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15. That in reply to the contents of para 6(10) of the application it is stated that the modified orders were actually issued by the General Manager Telecom. U.P. Circle, Lucknow on 20.1.87 in true spirit of the existing rules on the subject. As a matter of fact the applicants are not at all entitled for notional promotion as stated above. Hence the question of implementation of the orders dated 6.10.86 as alleged does not arise at all.

16. That in reply to the contents of para 6(11) of the application it is stated that by not allowing the benefit of the notional promotion to the applicants for which they were not actually entitled as per rules, can not in any way be termed as violation to any Rule, order or constitutional provisions. The applicants were actually granted promotion to the grade of Technical Supervisor from the due date from which they were entitled for the same correctly as per rules and regulations on the subject without any prejudice ~~or~~ or bias against the applicants and without any violation to Law & Justice.

17. That the contents of para 6(12) of the application are absolutely irrelevant incorrect and baseless. It is further stated that the contention of the applicants for maintaining their original seniority of technician to the grade of Technical Supervisor even after promotion as alleged is totally wrong and contrary to the rules of the Department as stated in the preceding paragraphs. Further, the promotions of technicians of the circle to the grade of Technical Supervisor were made separately against the upgraded posts of the circle



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w.e.f. 1.6.74 as per their seniority in the circle gradation list and the rules enforced for grant of such a promotion during 1974. Hence the applicants can not have a claim of their salary equal to those circle technicians who were promoted from an earlier date against the upgraded posts of the circle separately as per the existing rules and orders of the Department. Their contention thus made is wholly false and baseless having no ground to rely upon.

18. That the contents of para 6(14) of the application are wholly misleading and misconceived. It is further stated that the question of implementation of the orders of notional promotion in respect of the applicants as alleged does not arise at all in light of the facts enumerated in the preceding paragraphs. The contention thus made is absolutely wrong and baseless and does not in any way stand for consideration.
19. That the contents of para 6(14) of the application are not admitted. It is stated that the applicants are not in any way entitled for notional promotion as enumerated in the preceding paragraphs. Their hope for payment of arrears as alleged is nothing but simply a pretension having no ground to rely upon.
20. That in reply to the contents of para 6(15) of the application it is stated that there was no specific ground requiring any consideration of the case in view of the facts enumerated in the preceding paragraphs. As a matter of fact the applicants had actually no case for consideration.

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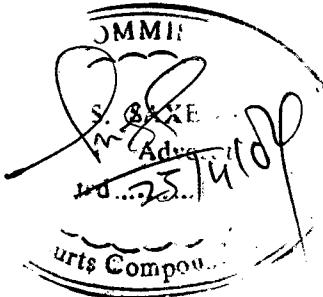
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21. That in reply to the contents of para 6(16) of the application it is stated that there is nothing new but repetition of the same fact and that has been replied in para 20 above.

22. That the contents of para 6(17) of the application are absolutely incorrect and baseless. It is further stated that the applicants are not at all entitled for their notional promotion to the grade of Technical Supervisor w.e.f. 1.6.74 as enumerated in the preceding paragraphs. Hence the question of implementation of the orders of notional promotion in their favour, which is altogether based on wrong presumption, does not as such arise at all. Though the applicants are not entitled for their notional promotion as per the existing rules of the Department but presented a wrong picture just to gain a favour from this Hon'ble Tribunal.

23. That the contents of para 6(18) of the application are not admitted. It is stated that the applicants were granted promotion to the grade of Technical Supervisor from the due date from which they were actually entitled for it as per rules and seniority in the gradation list. As such the applicants are not suffering in any way from the so called civil loss as alleged.

24. That in reply to the contents of para 6(19) of the application it is stated that no claim of the applicants for their notional promotion virtually stand in light of the facts enumerated in the preceding paragraphs. As such no action was at all ..//ll.



*S. S. K. Tyagi*

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☒ necessary rather uncalled for, as contended.

25. That in reply to the contents of para 7 of the application under heading Reliefs Sought, it is stated that the applicants are not entitled for any of the relief claimed for in as much as they are not eligible for notional promotion. The petition of the applicants is wholly misconceived in view of the facts and circumstances disclosed in the preceding paragraphs of this affidavit and as such the petition filed is not maintainable and is liable to be dismissed with costs.

26. That the contents of para 8, 9 and 10 of the application require no reply by means of this affidavit.

Lucknow Dated  
April 25<sup>th</sup>, 1989.

Deponent.

Verification

I, the above named deponent do hereby verify that the contents of paras 1 to 13, ~~16, 20, 24 and 26~~ of this counter affidavit are true to my knowledge on the basis of records maintained in the office and those of paras ~~14, 15 and 25~~ are believed by me to be true.

Signed and verified this on 25th day of April  
1989 at Lucknow.

M. S. Sepeh  
M. S. Sepeh  
Oath Commissioner  
Civil Courts U.P.  
25/4/89

Mohamal  
Deponent.

I identify the deponent who has signed before me and personally known to me.

Mohamal  
Clerk to S. N. Shrivastava  
Adv.

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application are reiterated. The Petitioners are not only entitled to get the notional promotions, they are also entitled to get the salary since then.

17. That the contents of paras of 19 of the C.A. are denied. The contents of para 6(15) of the Application are reiterated. The opp. parties are bound to pay the arrears to the Petitioners from the date of the promotion of the juniors.

18. That the contents of para 20 of the C.A. are denied. The contents of para 6(16) of the application are reiterated. The representation was made and is still pending. The grounds taken in the application are just and genuine. The Petitioners have a good case for getting the promotion since 1.6.74.

19. That the contents of para 21 of the C.A. are denied. The contents of para 6 (16) of the application are reiterated.

20. That the contents of para 22 of the C.A. are denied. The contents of para 6(17) of the application are reiterated. As already stated above the opp. Parties are bound by their own acts to comply the orders contained in Annexure=1. The Petitioners are entitled to get the salary of the post of Technical supervisor w.e.f.1.6.74.

21. That the contents of para 23 of the C.A. are denied. The contents of para 6 (18) of the application are reiterated. The promotion has not been given to the petitioners from the due dates. The due date is 1.6.74, when the juniors were promoted. The Opp. parties are required to produce the seniority lists of the relevant period at the time of final hearing of the application.



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22. That the contents of para 24 of the C.A. are denied. The contents of para 16 (19) of the Application are reiterated. The claim of the Petitioners is just proper, bonafide, pressing and justified in the eye of law.

23. That the contents of para 25 of the C.A. are denied. The contents of para 7 of the application are reiterated. The Petitioners are entitled to get the reliefs claimed. The Petition is liable to be allowed with cost. The petitioners are entitled to get the reliefs claimed.

24. That the contents of para 26 of the C.A. needs no reply.

25. That the order contained in Annexure=1 could not be put in abeyance for indefinite period. The opp. parties are bound to give the benefit of the order Annexure=1 to the Petitioners.

26. That the Petitioners are being harrassed by the Opp. parties in the interest of the Juniors.

27. That the names of the petitioners were not deleted from the circle seniority list, hence they could not be ignored from getting the promotion.

28. That the Opp. parties could not misguide the Hon'ble Tribunal in the interest of the juniors.

Dated: 23.9.89

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Verification.

MS (Signature)  
Deponent

I, the above named deponent do hereby verify that the contents of paras 1 to 28 of the Rejoinder Affidavit are true to the knowledge and belief of the deponent. Nothing has been concealed



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and no part of it is false, so help me God.

Signed and verified today this the 23rd day of Sept. 1989, in the high Court Compound at Lucknow.

Dated; 25.9.89

PNB  
SOS  
Deponent.

Identify the deponent who has signed before me.

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

Solemnly affirmed before me on 25.9.89 at 10-25 A.M./P.M. by Sri B.N. Srivastava, the above named deponent who is identified by Sri P.N. Bajpai, Advocate, High Court of Judicature at Allahabad Lucknow Bench Lucknow.

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



*Done  
SRI B.N. SRIVASTAVA  
SRI P.N. BAJPAI  
10-25 A.M./P.M.  
25.9.89  
Do. 65173  
Date 25.9.89*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH AT LUCKNOW.

FF 8-7-91

M. P. No. 206 (91) C,  
Civil Misc. An. No. of 1991.

In re

CASE NO. 73 OF 1988.

B.N. Srivastava and others. . . . . Applicants.

V E R S U S

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

APPLICATION FOR RECALLING THE ORDER  
DATED NOVEMBER 9, 1990.

The above-named opposite-parties respectfully beg to submit as under :

1. That although the opposite-parties have filed the counter-affidavit on May 31, 1989 but even then this Hon'ble Tribunal has passed an order on November 9, 1990 that in case the counter-affidavit is not filed the case will proceed ex-parte on January 3, 1991.
2. That it appears that the aforesaid order has been passed by this Hon'ble Tribunal under an impression that no counter-affidavit has been filed.
3. That in the circumstances stated above and in the interest of justice the said order dated November 9, 1990 may kindly be recalled, and the case be heard on merits.

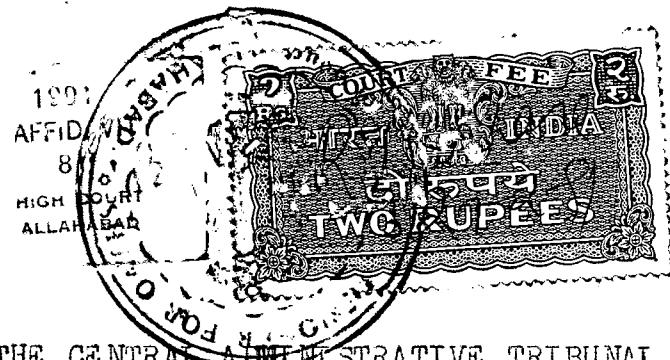
Wherefore it is most respectfully prayed that this Hon'ble Tribunal may be pleased to recall its order dated November 9, 1990 and the case be ordered to be heard on merits.

Lucknow dated

April 16, 1991.

*Shan*  
(U.K. SHAON)  
Additional Standing Counsel,  
Central Government  
Counsel for the Opposite-Parties

Filed today  
Shan  
16/4/91



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH AT LUCKNOW.

SUPPLEMENTARY COUNTER-AFFIDAVIT

In re

CASE NO. 73 OF 1988.

B.N. Srivastava and others. . . . . Applicants.

V E R S U S

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

I, R.M. Khare, aged about 57 years, son of Late Sri Kamla Saran Khare, Divisional Engineer Legal, Office of the Chief General Manager Tele-Communication Uttar Pradesh Circle, Lucknow, do hereby solemnly affirm and state on oath as under :

1. That the deponent is Divisional Engineer Legal in the Office of Chief General Manager Tele-Communication, U.P. Circle, Lucknow and as such fully conversant with the facts of the case.
2. That with respect to the contents of para 4 of the rejoinder-affidavit it is stated that the applicants were promoted by the authorities of the Tele-Communication Circle only after merger of seniority of the District Staff with that of Tele-Communication Circle on July 31, 1975.
3. That the contents of para 5 of the rejoinder-affidavit are not disputed.
4. That in reply to the contents of para 6 of the rejoinder-affidavit only this much is admitted that the applicants were given promotion under one



*Likhail*

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and the same order, rest of the averments made in ~~the~~ the para under reply are wrong and as such are denied. It is incorrect to say that the seniority has not been given at the appropriate place in the cadre of Technical Supervisor. The seniority of the applicants after promotion has been regulated ~~correctly~~ correctly in the cadre of Technical Supervisor by placing them below the promotees of an earlier date as ~~they~~ by virtue of their promotions having been made from an earlier date will naturally rank senior to those promoted from a later date. The contention of ~~the~~ applicants to have their original seniority of technician in the promotional cadre of Technical Supervisor without their promotion to the grade is not only surprising but beyond the sphere of reality to which no one is supposed to rely upon.

5. That the contents of the repeated para 6 of the rejoinder-affidavit are ~~debased~~ and those of para 8 of the counter-affidavit are reiterated. It is entirely incorrect to say that the applicants were treated the staff of Lucknow Telephones District simply on account of their working at Lucknow at the time of upgradation of Lucknow Phones Division into a separate and independent Telephones District on June 1, 1973. The applicants were actually borne on a Circle Cadre staff and as per rules they along ~~with~~ with others were given an opportunity to exercise their option of posting according to their choice on formation of Lucknow Telephones District as a separate and independent Unit. Since the applicants had opted for Lucknow Telephones District, they were absorbed in the District as per their option. Consequently the names of such of the optees ~~absorbed~~



*Michael*

absorbed in the Lucknow Telephones District ceased to exist in the gradation list of the Tele-Communication Circle as their gradation list was separated and maintained at District level for all purposes of their confirmation and promotion etc. Later on the introduction of 20 percent promotion scheme for technicians and other cadres in the department 20 percent posts were computed for upgradation in the Circle as well as in Lucknow Telephones District separately for the purposes of promotion of staff in both the Units to the cadre of Higher Grade Technician with effect from June 1, 1974. The promotions of technicians against the said upgraded posts in the Circle and Lucknow Telephones District were made separately with ~~effect~~ effect from June 1, 1974 on the basis of separate gradation list maintained in both the Units. Hence the applicants do not have any claim of their promotion against the said upgraded posts of the Circle ~~as~~ with effect from June 1, 1974 as alleged. They could be entitled for ~~maximum~~ promotion against the upgraded posts of the Circle only after their merger with the staff of the Circle on July 31, 1975 and that was granted to them in the Circle after their merger. As such no injustice was done ~~to~~ to the applicants rather the action taken was perfectly correct and in conformity with the rules and regulations as well as law and justice.



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6. That the contents of para 7 of the rejoinder-affidavit are denied as wrong and misleading and those of para 9 ~~the xxx~~ of the counter-affidavit are ~~reiterated~~ reiterated. The delay in granting promotions to

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some of the technicians of the Circle against the upgraded posts from June 1, 1974 does not in any way make the applicants entitled for promotion against the upgraded posts of the Circle with effect from June 1, 1974. The applicants were enjoying their separate identity and seniority in Lucknow Telephones District during 1974 and as such they cannot have a claim of promotion with effect from June 1, 1974 against the upgraded posts of the Circle. They could be entitled for promotion in Circle only after merger of the staff of the District with that of the Tele-Communication Circle on July 31, 1975. The applicants were accordingly allowed promotions against the upgraded posts of the Circle of subsequent year after their merger on the basis of their merged seniority in Circle. Hence the allegations of the applicants for ignoring them from promotion is absolutely false and baseless. There is also no force in the contention of the applicants for equality in pay in comparison to those who were promoted from an earlier date. The principle is well settled that "no work no pay."



7. That the contents of para 8 of the rejoinder-affidavit are denied as wrong and those of para 10 of the counter-affidavit are reiterated. It is a matter of strange that the applicants are not even aware of the rules but on the contrary they are claiming their promotion from June 1, 1974 against the upgraded posts of the Circle perhaps simply on hearsay and presumption. The applicants are in no way entitled for promotion against the upgraded posts of the Circle with effect from June 1, 1974 as

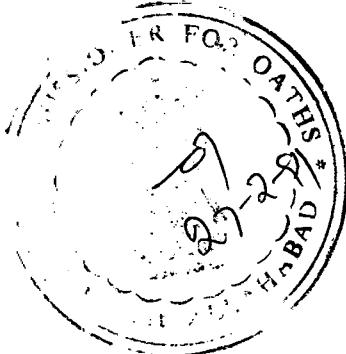
*Rebuttal*

enumerated in the preceding paragraphs.

8. That the contents of para 9 of the rejoinder-affidavit are denied as wrong and misconceived and those of para 11 of the counter-affidavit are reiterated. It is incorrect to say that the case of the applicants is similar to that of Telephone Operators etc. As a matter of fact the applicants have no equality from the basic principles of recruitment, training, appointment and fixation of seniority etc. and they do not in any way come under the purview of fixation of their seniority on the basis of length of service like Telephone Operators as per the Hon'ble Supreme Court Judgment. The said judgment cannot have any relevancy at all with the applicants who were working as Technicians and whose seniority all along been determined on the basis of marks obtained in the Training Centre Examinations.

9. That in reply to the contents of para 10 of the rejoinder-affidavit it is stated that the correct facts~~xxx~~ have been submitted in para 12 of the counter-affidavit which are reiterated and reaffirmed as correct.

10. That the contents of para 11 of the rejoinder-affidavit are absolutely misleading, misconceived and baseless and as such are emphatically denied. The applicants during 1974 were enjoying their separate identity and seniority on the gradation list of Lucknow Telephones District and were having no relation of any kind with the staff of the Tele-Communication Circle. As such there can be no validity in the contention of the applicants to



*Lucknow*

have any claim for their promotion by the Circle. As a matter of fact the applicants are in no way entitled for promotion either motionally or against an upgraded post of the Circle with effect from June 1, 1974 as enumerated in the preceding paragraphs. Only those who were borne on the gradation list of the Circle during 1974 were entitled for such a promotion. Hence there has been nothing wrong in rectifying the erroneous orders issued inadvertently on October 6, 1986. Further, it is quite wrong to allege that the relevant rules have not been filed. In fact the copies of the relevant rules have been filed as Annexures No. CA-I, CA-II, and CA-III to the counter-affidavit but the applicants have failed to follow it correctly in its true spirit.

There is no reality in the contention of the applicants that the option exercised by them to live in Lucknow Telephones District does not effect their position. As per the rules an employee who exercises his option for the new Unit and if he is absorbed in that Unit as per his option called for the adjustment of staff, he ceases all his relations whatsoever with his parent (original) Unit. Since the applicants were absorbed in Lucknow Telephones District on the basis of their option exercised for that Unit and they continued to enjoy ~~as~~ their separate identity and seniority upto July 30, 1975 till their seniority was merged with the staff of the U.P. Tele-Communication Circle on July 31, 1975, they cannot have a claim of their promotion against an ungraded post of the Tele-Communication Circle.



*Rebuttal*

to July 30, 1975. The contention thus made by the applicants is quite wrong and based altogether on wrong presumption.

It is quite incorrect to say that the 20 percent promotion scheme was not introduced in Lucknow Telephones District. The said scheme was duly implemented in all the Tele-Communication Circles and Telephone s Districts in India including U.P. Tele-Communication Circle and Lucknow Telephones District. Both the Units awarded promotion to their staff separately to the extent of posts upgraded with effect from June 1, 1974 on the basis of separate gradation list maintained in both the Units as per the rules enforced. As the applicants were junior-most in the gradation list of Lucknow Telephones District, they could not be considered for promotion against upgraded posts of the District with effect from June 1, 1974. The delay in granting promotion to some of the technicians of the Circle with effect from June 1, 1974 as a result of revision of seniority of the technicians on implementation of the revised rules of seniority, necessitated due to merger of the T & D. Circle technicians with the staff of the Circle in order to safeguard the interest of such of the merged staff in promotion etc. in Circle, does not in any way make the applicants entitled for promotion against the upgraded posts of the Circle from June 1, 1974.

*Lucknow*  
It is beyond the sphere of reality to allege that the orders for promotion of technicians of Lucknow Telephones District were to be passed by



the Authorities of the U.P. Tele-Communication, Circle. As already stated that during 1974 Lucknow Telephones District was functioning as a separate and independent Unit and promotions of the staff working in the District were made against the upgraded posts of the District separately, with effect from June 1, 1974 on the basis of separate ~~gradation~~ gradation list maintained in the District itself and as such there can be no relation at all amongst ~~the~~ the promotions made by both the Units viz. Tele-Communication Circle and Lucknow Telephones District separately from June 1, 1974 on the basis of separate gradation list maintained in both the Units as enumerated in the preceding paragraphs. In the orders of merger of the staff of the District with that of the Tele-Communication Circle it is specifically laid down that the vacant posts in the promotional cadre of Higher Grade Technician existed as on July 30, 1975 should be filled up by promotion by the respective Units separately on the basis of separate gradation list maintained in each Unit separately and hence there can be no legitimate ground in the contention of the applicants to have any claim of their promotion against the upgraded posts of the Circle from June 1, 1974. Though the applicants have admitted the above facts but they wilfully projected a wrong picture just to ~~manipulate~~ manipulate the things in their favour.

The applicants cannot have a claim of promotion against an upgraded post of the Circle prior to their merger i.e. upto July 30, 1975 as stated above. They could be entitled for promotion only after their merger and that was duly awarded to them from the due date from which they were entitled for the same in



*Lucknow*

Tele-Communication Circle as per the rules and regulations on the subject. Hence the question of grant of promotion to the applicants from June 1, 1974 as alleged does not arise at all. It is wrong to say that no promotion was awarded in the District whereas the fact remains that it was duly awarded in the District but the applicants could not be considered being the junior-most technicians in the degradation list of Lucknow Telephones District. There is also no reality in the contention of the applicants that the copies of the relevant rules have not been filed. In fact the applicants are confused with the result that they are unable to follow the real facts of the case inspite of perusal of the relevant rules, copies of which having been annexed to the counter-affidavit as enumerated in the preceding paragraphs. Further, the assertion of the applicants that Lucknow Telephones District was abolished on July 31, 1975 is far away from the facts and reality. The applicants are put to strict proof to their statement.



11. That the contents of para 12 of the rejoinder-affidavit are denied as wrong and unfounded and those of para 14 of the counter-affidavit are reiterated.

The applicants are in no way entitled for promotion either notionally or on regular basis against any upgraded post of the Circle from June 1, 1974 as enumerated in the preceding paragraphs. No claim for payment of salary as such stands as contended.

*Lucknow*

12. That the contents of para 13 of the rejoinder-affidavit are denied as misconceived and those of para

15 of the counter-affidavit are reiterated. The applicants are in no way entitled for promotion and hence the question of implementation of the orders dated October 6, 1986 as alleged does not arise at all.

13. That the contents of para 14 of the rejoinder-affidavit are denied as wrong and misleading and those of para 16 of the counter-affidavit are reiterated. As already stated that during 1974 the applicants were borne on the gradation list of Lucknow Telephone District which was functioning as a separate and independent Unit for all purposes of confirmation and promotion etc. of the staff ~~working~~ working in the District. Accordingly on introduction of ~~the~~ 20 percent promotion scheme in the department, the promotions to the staff of the district were awarded separately by the authorities of the district itself from June 1, 1974 on the basis of separate gradation list maintained in the district. Though the promotions were also awarded to the staff working in the Circle on similar pattern and seniority maintained separately from June 1, 1974 but it had no relation ~~at all~~ with the promotions made by the district. Hence there can be no force in the contention of the applicants to have any claim of promotion against the upgraded posts of the Circle from June 1, 1974 when they were enjoying their separate identity having no relation at all with the staff of the Circle. By not allowing the benefit of the notional promotion to the applicants for which they were not entitled as per rules cannot in any way be termed as violation to any rule, order or constitutional provisions.



*Rukhsar*

The applicants were granted promotion by the authorities of the Circle after merger of their seniority with the Circle staff from the due date from which they were entitled for it correctly as per rules and regulations on the subject.

14. That the contents of para 15 of the rejoinder-affidavit are denied as wrong and unfounded and those of para 17 of the counter-affidavit are reiterated. It is incorrect to say that the applicants are entitled to get the same seniority to the promotional grade of Technical Supervisor which they had on the lower post of Technician. The applicants during 1974 were borne on separate gradation list of Lucknow Telephones District and they continued to enjoy their separate identity till July 30, 1975 as stated in the preceding paragraphs. They could be promoted to the grade of Technical Supervisor only after merger of seniority of the district staff with that of Tele-Communication Circle on July 31, 1975, by the authorities of the Circle and as such they cannot have a claim of seniority over and above those who were promoted and working as Technical Supervisor from an earlier date viz. June 1, 1974. They cannot have also a claim of their salary equal to those who were promoted from an earlier date as stated above. Hence there is no force at all in the contention of the applicants to claim for their seniority and salary equal to those who stand promoted from an earlier date. Further, there is no reality in the contention of the applicants that Lucknow Telephones District was abolished. In fact the said Lucknow Telephones District is still in existence and is



*Rebuttal*

functioning but not as an independent Unit as prior to July 31, 1975. The applicants may be put to strict proof as to their statement that Lucknow Telephones District was abolished.

15. That the contents of para 16 of the rejoinder-affidavit are denied as wrong and those of para 18 of the counter-affidavit are reiterated. The applicants are neither entitled for notional promotion nor for salary.
16. That the contents of para 17 of the rejoinder-affidavit are denied as unfounded and those of para 19 of the counter-affidavit are reiterated. The applicants are in no way entitled for promotion from June 1, 1974 as stated in the preceding paragraphs. Hence the question of payment of arrears as alleged does not arise at all.
17. That the contents of para 18 of the rejoinder-affidavit are denied as wrong and those of para 20 of the counter-affidavit are reiterated. The applicants have no case for promotion as enumerated in the preceding paragraphs.
18. That the contents of para 19 of the rejoinder-affidavit are denied as wrong and those of para 21 of the counter-affidavit are reiterated.

*Rebuttal*

19. That the contents of para 20 of the rejoinder-affidavit are denied as wrong and those of para 22 of the counter-affidavit are reiterated. No claim of the

applicants either for promotion or salary from June 1, 1974 altogether stands. The question of implementation of the orders does not as such arise as alleged.

20. That the contents of para 21 of the rejoinder-affidavit are denied as wrong and those of para 23 of the counter-affidavit are reiterated. The applicants are in no way entitled for promotion from June 1, 1974 as stated in the preceding paragraphs. They were granted promotion in Circle after merger of their seniority with the Circle staff on July 31, 1975, correctly from the date from which they were entitled for the same as per rules and regulations on the subject. The seniority list has no relevancy at all as alleged when the applicants continued to enjoy their separate identity till July 30, 1975 on the gradation list of Lucknow Telephones District having no relation with the staff of Tele-Communication Circle. The facts thus presented by the applicants are altogether wrong and baseless but simply with ~~the~~ the intention to mislead the Hon'ble Tribunal by putting a wrong picture.

21. That the contents of para 22 of the rejoinder-affidavit are denied as wrong and those of para 24 of the counter-affidavit are reiterated. No claim of the applicants for promotion as alleged altogether stands as enumerated in the preceding paragraphs.



*Richard*

22. That the contents of para 23 of the rejoinder-affidavit are denied as unfounded and those of para 25 of the counter-affidavit are reiterated. The contentions made by the applicants are misconceived and not tenable in the eyes of law.

23. That the contents of para 24 of the rejoinder-affidavit need no reply.

24. That in reply to the contents of para 25 of the rejoinder-affidavit it is stated that the applicants are in no way entitled for promotion from June 1, 1974 as enumerated in the preceding paragraphs.

25. That the contents of para 26 of the rejoinder-affidavit are not admitted. It is stated that by not extending the benefit for which the applicants are not in any way entitled as per rules cannot be termed ~~xx~~ or taken as harrasment as alleged.

26. That in reply to the contents of para 27 of the rejoinder-affidavit it is stated that the names of all those who opted for the districts were excluded from the Circle gradation list as per the rules enforced. Consequently such of the staff stood to cease all their relations with the Circle restraining their transfer liability and promotional prospects etc. within the District itself. It is only on the said account that none of the Technician either working in



*Rukhsat*

Kanpur or Lucknow Telephones District was promoted by the Circle from June 1, 1974 rather they got their promotion in respective district against the upgraded posts of the district itself from June 1, 1974. ~~and~~ Hence the contention of the applicants that they were finding their position in the gradation list of Uttar Pradesh Circle is absolutely wrong and baseless.

27. That the contents of para 28 of the rejoinder-affidavit are quite wrong and unfounded. In fact it is the malafide intention of the applicants of their own who wilfully projected a wrong picture just to mislead the Hon'ble Tribunal.

Lucknow dated

February 27, 1991.

*Rekha*  
Deponent.

#### VERIFICATION

I, the above-named deponent do hereby verify that the contents of paras 1 to 18, 23 and 26 of this supplementary counter-affidavit are true to my own knowledge based on perusal of relevant records and documents and the contents of paras 19 to 22, 24, 25 and 27 of this supplementary counter-affidavit are believed by me to be true on the legal advice tendered and no part of it is false and nothing material has been concealed, so help me God.

Signed and verified this 27<sup>th</sup> day of February, 1991 in the Court Compound at Lucknow.

*Rekha*  
Deponent.

I identify the deponent who has signed in my presence.

*Mohan Lal*  
(Mohan Lal)  
Clerk to Sri U.K. Dhaon  
Additional Standing Counsel

Copy of communication letter no. 257/124/74-STB.I Dated 30th July, 1975 from D.G. P&T B.D. to All General Manager Telecom. and others.

Sub:- Merger of seniority of staff of minor Telephone Districts with the circle staff.

Sir,

I am directed to invite a reference to this office letter of even number dated 20.2.75 and to say that the question regarding merger of seniority of the district staff with circle staff has been considered in detail in consultation with Department of Personal. It has been decided that the seniority of the district staff in respect of Patna, Jaipur, Nagpur, Poona, Coimbatore, Kanpur and Lucknow with the circle staff may be merged as follows:

(i) Divisional cadre officials like Telephone Operators T.S. Clerks who went out under Rule 33 either prior to or after formation of minor Telephone District would regain their seniority as if the Rule 33 transfer has not taken place. In the divisional Gradation whst their positions will be restored. Similarly officials who sought mutual transfers would also be re-restored to their original seniority.

(ii) Officials officiating in the circle like LSC Monitors who sought reversion and transfer under Rule 33 will also be restored to their original seniority without affecting the promotions already made. They will be promoted on the basis of their original seniority in further vacancies.

(iii) The merger of seniority of the staff of the minor Telephone Districts with that of the Telecommunications circle will be done on the following basis:-

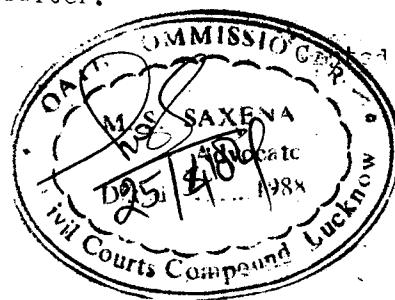
A) The officials who had been working in a particular cadre prior to the formation of the minor telephone district and still continue to work in the same cadre in both the units viz., minor telephone district and Telecom. circle, will be fixed according to the original seniority.

B) The seniority of officials who have since been promoted to higher cadres will be merged on the principle of the length of continuous regular service in the cadre without affecting the inter se seniority of officials in each group.

C) The seniority of the officials who have been recruited after the formation of the Telephone District will be merged in each group on the basis of the length of continuous regular service without affecting their inter se seniority in the unit of recruitment.

D) All officials who have been promoted to the higher cadre after formation of the telephone district either in the district or in the circle would be continued in the promoted cadre.

2. The instructions issued in this office letter of even number dated 20.2.75 and the above instructions will mutatis-mutandis apply to the newly formed minor districts, i.e. Ernakulam, Indore and Amritsar, or other minor Telephone districts which may be created hereafter.



..... on page .....

Annexure CA II

Copy of communication No.257/48/75-STB-I dated 4-9-75 from DG P&T New Delhi addressed to all General Manager Telecom. and others.

Subject:- Promotion to higher grade/S.G. against the vacancies available prior to the orders of merger of staff of Districts with the Circles.

Sir,

I am directed to invite a reference to this office letter No.257/124/74/-STB-I dated 30-7-75 and to say that following queries have been raised in the matter:-

(i) How 20% SD posts in the districts available prior to the orders of merger of staff with the Circle may be filled up.

(ii) What would be the recruiting authority consequent on the merger.

In this connection it has been decided that

(a) The Departmental Promotion Committee should be held immediately in respective units separately and promotion done separately from the present seniority of the staff in the two units.

(b) After these posts are filled up, the staff should be merged and combined seniority list prepared as per instructions issued in this office letter dated 30-7-75 referred to above and thereafter.

(c) The next review may be done by the territorial Circle i.e. G.M.T/o, for both the Circle and District put together. As a result of review it is likely that there may be some excess posts. These excess posts will be treated as personal to the officiating and will be adjusted against future vacancies.

Regarding (ii) above it has been decided that the Territorial Circle will be the recruiting authority both for the Circle and merged District.

Copy of Communication No.35/1/74-SR dated 26-8-75 from DG P&T New Delhi addressed to all General Manager Telecom. and others.

Subject:- Representation of staff of minor Telephone Districts by Unions.

I am directed to invite your attention to this office letter No.257/124/74-STB-I dated 30-7-75 regarding merger of seniority of staff of minor Telephone Districts with the Circle Staff and to state that the instruction contained in this office letter of even number dated 22-2-75(copy enclosed reproduced hereunder) shall be followed in the case of the following Telephone Districts as well:-

- 1) Telephone Districts, Patna
- 2) Telephone Districts, Jaipur.
- 3) Telephone Districts, Firozabad
- 4) Telephone Districts, Indore.
- 5) Telephone Districts, Amritsar.

The same procedure as stated above will apply to other minor Telephone Districts which may be created hereafter.



Annexure-CAT

A.G.S

Copy of communication No.257/124/74-STR-1 dated 19-12-75 from the DG RTT HQ to the All G.M.T and others.

Sub: Merger of seniority of staff of minor telephone districts with the circle staff and promotion to higher grade/S.G.

I am directed to invite a reference to this office letter No.257/48/75-STR-1 dated 4-2-75 on the subject mentioned above and to clarify that the vacant posts in higher grade/S.G. which existed as on 30-7-75 should be filled up in respective units separately and promotion done separately on the basis of the seniority of staff in each unit. Thereafter, the seniority of staff may be merged as per the instructions issued in this office letter dated 30-7-75.

The same principle may be followed for confirming the officials against the permanent posts available up to 30-7-75 in the respective units.

HO. Staff/R-55/75/75 Dated at Lucknow the 22-12-75.

Copy forwarded for information and guidance to:-

- 1) All the Divisional Heads of Telegraph Engineering and Telecom. Trf. units.
- 2) The CAO-Telecom. Lucknow (3) All Dealing Agents in Staff Sec.

31/-

For General Manager Telecom. UP.

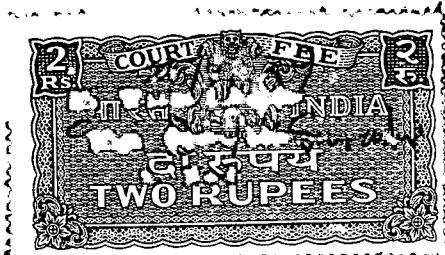


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In the Central Administrative Tribunal

Addition Bench Allahabad  
Circuit Bench Lucknow.

O.A. No. 73 of 1988



B.N. Srivastava & Others ... Applicant

Vs.

The Union of India & Others ... Opp. parties.

Replynder Affidavit.

I, B.N. Srivastava, aged about 55 years  
S/O Late Shiv Shanker Lal Srivastava, R/O 269/26  
Birhana, Lucknow, do hereby solemnly affirm  
as under:-

1. That the dponent is the applicant no.1  
in the above noted application. He is also  
Parokar on behalf of the applicant nos. 2 to 8.  
He had read the Counter Affidavit filed by the  
respondents. He is fully conversant with the  
facts of the case.

2. That the contents of para 1 of the  
C.A. are admitted. It is pointed out that the  
personal officer is not party in the application  
hence he could not file the Counter Affidavit.

3. That the contents of paras 2 to 5 of  
the C.A. needs no reply.



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4. That the contents of para 6 of the C.A. are admitted to the extent of original appointment on the post of Technicians but rest of the contents are denied. All the petitioners were promoted through a single order passed by the General Manager (Telephones) vide order dated 30.9.77 bearing no. GMT STB /M-27-10-77.

5. The applicants are at present are working under Telecommunication Distt Manager, Lucknow.

6. That the contents of para 7 of the C.A. are denied. The contents of para 6 (2) of the application are reiterated. All the Petitioners were promoted on one date on the post of Technical Supervisor. The date of promotions are not different. It is wrong to say that the facts have been admitted in para 6 (1) of the application. The seniority has not been given in the cadre of Technical Supervisor at the correct place. The seniority on the post of Technicians was liable to be maintained on the post of technical supervisor. The discrimination has been done as the persons junior in the cadre of technicians were given the seniority above the applicant in the cadre of Technical Supervisor. The contents are vague and not clear. No copy of rules or regulations has been filed. The Applicants were certainly entitled to get the same seniority which was in the cadre of Technicians that seniority could not be changed. The pleadings are vague and not clear.



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6. That the contents of para 8 of the Counter Affidavit are denied. The contents of para 6 (3) of the application are reiterated.

XXXXX It is hereby pointed out that the Lucknow was separated from the U.P. Circle and was declared a separate Telephone District. The Petitioners were working at the relevant time in Lucknow and were treated in that District. This position remained till the year 1975, and the separate district was abolished w.e.f. 31.7.75 and the old position was restored. In this way the position in the circle gradition list of the Petitioners remained intact. The seniority of the Petitioners was not considered at the time of passing of the orders of promotion of the Juniors. The Discrimination was done and the promotions were made in an arbitrary manner.

7. That the contents of para 9 of the C.A. are denied. The contents of para 6 (4) of the application are reiterated. The Opp. parties have failed to file the alleged seniority list which was used for promotion of the juniors. It is considerable point that the position of the seniority of the applicants will remain the same which was prior to the creation of the separate Telephone District of Lucknow in the year 1973. This position could not be changed in any manner. The petitioners were senior and will remain the senior always. The promotions of the juniors were illegal. The position



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of the applicants was liable to be treated as restored when they have come again in the U.P. Circle. The actual promotions of juniors were made and the orders were passed in the year 1976, but the effect of promotion was given since 1974. The applicants were in the circle on the date of order, and they were allegedly ignored from getting the promotion prior to the juniors. It is also pointed out that the Petitioners were senior, hence they were entitled to get the salary equal to the salary of the juniors, but it has not been done and the fundamental rules have been violated. The promotions from the back date was made with intention to provide the illegal gain to the juniors. The pay of the senior could not be less than the juniors. The discrimination has been done in the matter of fixation of pay of the petitioners.

8. That the contents of para 10 of the C.A. are denied. The contents of para 6 (5) of the application are reiterated. The contents are clear and correct. The rules have not been filed, hence proper reply is not possible. The seniority of the applicant was liable to be restored before passing of the promotion orders from the back date. The orders of promotion have been actually passed in the year 1976, when the applicants were again in the services of U.P. Circle. The true facts have been concealed.

9. That the contents of para 11 of the C.A. are denied. The contents of para 6(6) of the application are reiterated. It is wrong to



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to say that the case of the applicants was different. The cases of the applicants are quite similar. The opp. parties has tried to misguide the Hon'ble Tribunal. The cases of the applicants were not only similar to the clerks, they were also similar to the clerk etc. The Opp. parties have failed to give the citation of the judgment of the Hon'ble Supreme Court. They have also failed to file the copy of the judgement for ready reference, hence the proper reply is not possible. The opp. parties are required to produce the copy of the judgement before the Hon'ble Tribunal to clarify the position. The averments made by the applicants are clear and correct.

10. That the contents of para 12 of the C.A. are admitted to the extent of passing of the orders granting the notional promotions to the applicants, but rest of the contents are denied. The contents of para 6(7) of the application are reiterated.

11. That the contents of para 13 of the C.A. are denied. The contents of para 6 (a) of the application are reiterated. The orders has not been complied with inspite of making the several requests. The notional promotion was correctly given to the applicants for which they were entitled. In fact the applicants were actually entitled to get the promotions alongwith all benefits of salary etc. from the date of promotion of the juniors but they have considered to suffer the loss due to notional promotion but the opp. parties are not giving the notional promotions now. There was no question of any



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misunderstanding in passing of the order. The authority who passed the orders was fully satisfied that the injustice was done with the applicants and the justice was given to the applicants by giving the notional promotions. The orders were correctly passed. It is wrong to say that any further verification of the facts was made. The orders passed giving the notional promotions could not be said to be erroneous orders. The orders were kept in anyance and there was modification. The order dated 20.1.87 will speak the truth itself. There is question of correction of any erro as there was no illegality or irregularity in the orders. No rules have been filed, hence proper reply is not possible.

That the position of the applicants remained the same which was on 1.6.73 in the U.P. circle as the Lucknow District was created and was abolished. In these circumstances the fact of submitting the option to live in Lucknow District does not effect the actual position of the applicants. The applicants were absorbed again in the U.P. circle, hence they will be kept in the same position, in which they were on 16.73. The opp. parties are trying to mis-gude the Hon'ble Tribunal by giving the false and concocted facts.

These applicants were senior in the Gradition list in the eye of law on the date of actual passing of the promotion orders. The illegal gain has been given to the juniors knowingly. The mistake done in the promotion of juniors was corrected by giving the notional



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promotions to the applicants . The promotions of the juniors were wrong. The applicants will also be treated in the seniority list of the U.P. circles on 1.6.74 . The scheme was not introduced in the Lucknow Distt. Unit. The Lucknow District was not in existence on the date of passing the actual position has not been considered. The mistake was done by the authorities which was rectified by giving the Notional promotions. The mistake was again done by ignoring the <sup>rightful</sup> ~~XXXX~~ claim of promotion in the U.P. Circle.

It is true that the Lucknow District was abolished on 31.7.75 and the employees were absorbed in U.P. circle. In this way the applicant acquired the same position which was on 1.6.73. The order contained in Annexure- CA-1,,2 & 3 have wrongly be interpreted by the Opp. parties. Annexure -CA-1 says that the old seniority shall be ~~rearrange~~ restored. The Annexure CA-2 provides that the post of senior scale on 30.7.75 will be filledup first from the separate Units separately and thereafter the combined seniority list will be prepared. The District Manager Lucknow was not in existence on the date of actual promotion. Hence there was no question to give the promotion in the Lucknow District Unit. Actually no promotions were made. The orders were actually liable to be passed by the authorities of U.P. circle to the candidates of Lucknow Distt. Unit but it has not been done. Thus the wrong seniority was fixed after the merger of both the ~~two~~ Units. The policy laid down in the



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Annexure CA-1,2 & 3 was not correct. In fact the position dated 1.6.73 was liable to be restored of the employees of both the Units.

The applicants shall be treated in the Gradition list of the U.P. circle without any effect of creation of new Unit of Lucknow Distt. The applicants are entitled to get the promotion from 1.6.74 and are entitled to get all the benefits attached to that post. As already stated above the rules were not filed, hence the proper reply is not possible.

12. That the contents of para 14 of the C.A. are denied. The contents of para 6 (9) of the application are reiterated. The applicants are not only entitled to get the notional promotion, they are entitled to get the regular promotion since that date and are entitled to get the salary from that date.

13. That the contents of para 15 of the C.A. are denied. The contents of para 6 (10) of the application are reiterated. No modified orders have been issued as alleged. The applicants are certainly entitled to be treated as promoted on the post of Technical Supervisor w.e.f. 1.6.74. The order dated 6.10.86 must be complied with. It is still in existence.

14. That the contents of para 16 of the C.A. are denied. The contents of para 6 (11) of the application are reiterated. The applicants are actually entitled to get the promotion from 1.6.74 alongwith the salary and other benefits. The promotion has not been given



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due to the malafide intention and for illegal gain to the juniors. The petitioners were actually entitled for promotion according to the rules, but they were ignored. The national promotion was ordered on the representation of the petitioners. The promotion from the back date was not possible by superseding the seniors. An error of law has been committed in promoting the juniors. It is wrong to say that the juniors were entitled to get the promotion from the back dates. In fact the promotion was liable to be made according to the seniority on the date of the order.

15. That the contents of para 17 of the C.A. are denied. The contents of para 6 (12) of the application are reiterated. The petitioners are entitled to get the same seniority in the cadre of technical supervisor which were on the post of technicians. The claim of the petitioners could not be ignored in an arbitrary manner, The Opp. parties had again tried to misguide the Hon'ble Tribunal. When the Telephone District Lucknow was abolished and employees were sent back again in the in the circule cadre. They have automatically acquired the same position whcih was on the date of the creation of the Lucknow Distt. Now it is well settled law that the salary of the juniors could not be more than the seniors. In this way the Petitioners are entitled the to get the salary equal to the juniors. In fact the Lucknow Telephone District was never created in the law of law. In these circumstances there is no special gain to the juniors in the matter of promotion. The contention of the Petitioners is quite correct.

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16. That the contents of para 18 of the CA. are denied. The contents of para 6 ( 14 pf the

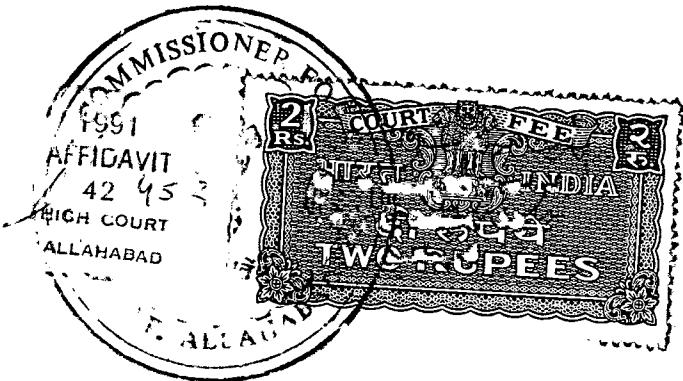


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In the Central Administrative Tribunal  
Additional Bench Allahabad  
Circuit Bench - Lucknow.

O.A. No. 73

of 1988 (L)



B.N. Srivastava & Others ... Applicants  
Vs.

The Union of India & Others... Respondents.

Supplementary Rejoinder Affidavit.

I, B.N. Srivastava, aged about 57 years  
S/O Late S.S.N. Srivastava, R/O 269/26, Birhana  
Lucknow, do hereby solemnly affirm as under:-

*Filed today  
S.N.  
10/2/1988*

1. That the deponent is the applicant no. 1  
in the above noted application and he is paro-  
kar on behalf of the remaining applicants  
nos. 2 to 8. He had read the supplementary  
Counter Affidavit filed by the respondents and  
have understood the contents thereof.

2. That the contents of para 1 of the S.C.A.  
need no reply. There is no question of any  
as alleged.

3. That the contents of para 2 of the S.C.A.  
are denied as stated. There is no question of  
merger of the seniority. The seniority was  
restored, just after the abolition of the  
office of the Distt. Manager, Telecommunication

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4. That the contents of para 3 of the S.C.A. needs no reply.

5. That the contents of para 4 of the S.C.A. are admitted to the extent of promotion of the payiorid buy trdy og yar vonyrnyd str denied. The seniority has not been given to the applicants correctly. The seniority of the post of Technician was liable to be maintained on the post of Technical Supervisor. The discrimination has been done as the junior have been shown as seniors. The promotions to the juniors were given illegally without considering the seniority. The mistake was committed in giving the promotions to the juniors on the basis of the principles pick & chose. The department has realised the mistake and have accepted the representations of the petitioners and his other colleagues. The mistake committed by the staff could be corrected at any time.

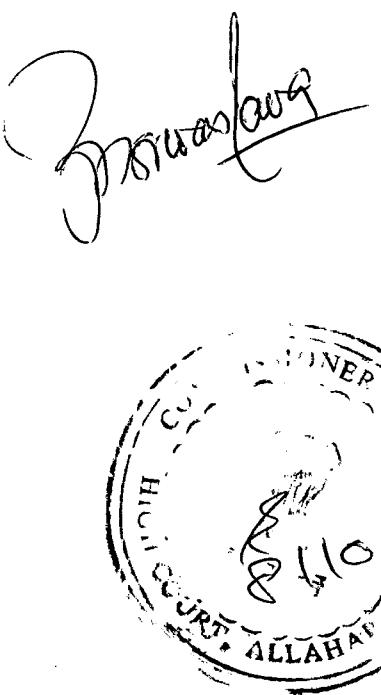
6. That the contents of para 5 of the S.C.A. are denied. The contents of para 6 of the Rejoinder affidavit are reiterated. It is true that the Lucknow Telephone District was separated from the U.P. Circle w.e.f. 1.6.73 and remained separate upto 31.7.75. The exercising of the option to live in Lucknow Telephone Distt. will not effect the original position, when the Lucknow Distt. was abolished and the original position of U.P. circle was restored. There was no seniority list which could be



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treated as separate seniority list of Lucknow Telephone District. No such list has been filed to prove the contents of para under reply. The promotions if any made treating the separate seniority list are illegal as they have been made after abolishing the Lucknow District. The applicants have rightly claimed the promotions from the date of the promotions of the juniors. The applicant will not be treated separate from the seniority list of U.P. Circle. The injustice has certainly been done with the applicants in giving the promotions to the juniors prior to the applicants.

7. That the contents of para 6 of the S.C.A. are denied. The contents of para 7 of the Rejoinder affidavit are reiterated. The applicants are certainly entitled to get the promotion w.e.f. date of promotion of the juniors. On the date of promotion there was no separate identity of Lucknow Telephone District. It was only U.P. Circle. The position of the seniority list remained in tact. The Opp. parties have failed to file the rules which they want to say were applicable. In this way the proper reply could not be given. The Opp. parties are misguiding the Hon'ble Tribunal by giving the false and fabricated facts. The names of the applicants were in the seniority list of U.P. Circle, on the date of actual promotion and they could not be ignored in an arbitrary manner. There was no justification in promoting the juniors treating them employees of the separate circle. The



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was never created in the eye of law. The dishonesty was played in making the promotions. The Petitioners were at the seniority list at the circle cadre and were entitled to get the promotion on the due date. The discrimination was done which was corrected by giving the notional promotion.

8. That the contents of para 7 of the S.C.A. are denied. The contents of para 8 of the R.A. are reiterated. The contents of para under reply are misleading and have been written due to illegal gain. The Opp. parties want to misguide the Hon'ble Court. The applicants were certainly entitled to get the promotions from the due date on the basis of the seniority from the circle cadre.

9. That the contents of para 8 of the S.C.A. are denied. The contents of para 9 of the R.A. are reiterated which are clear. The case of the petitioner is certainly similar to the Telephone Operators and other cadres. The applicants are entitled to get the Notional seniority which has been given to the employees of the other cadres. The applicants could not be given the step motherly treatment. The judgment of the Hon'ble Supreme Court referred in para 9 of the R.A. is fully applicable in case of the applicants.

10. That the contents of para 9 of the S.C.A. are denied. The contents of para 10 of the R.A. are reiterated. The correct facts have



been stated in para 6 (7) of the application.

11. That the contents of para 10 of the S.C.A. are denied. The contents of para 11 of the R.A. are reiterated, which are clear and are much relevant for the present case. The situation of 1971 is not relevant, in the present case. It is relevant which was in the year 1976 when the actual promotion orders were passed. The Lucknow Telephone District was not separate in the year 1971 as alleged in para under reply. The applicants have rightly claimed the promotions from the date of promotion of the juniors. The applicants remained in the U.P. Circle seniority list without any obstruction as the Lucknow Telephone District which was created on 1.6.73 was abolished. No separate seniority list was prepared. The names of the applicants remained intact in the U.P. Circle seniority list and were not deleted from there. The mistake was committed in promoting the juniors which was rectified by the authorities. The annexures filed with the counter affidavit have already been replied properly in the rejoinder affidavit.

*3. B. Srivastava*

The seniority of the applicants will not be effected due to opting the services in the Lucknow Telephone District which was created on 1.6.73. The position of employees of the U.P. Circle will not change as the applicant and other employees of the Lucknow Telephone District were again given their position in the U.P. Circle. It is wrong to say that the relations



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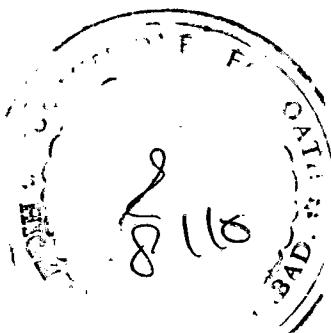
6.

were ceased from the original Unit. The position of the applicants remained the same which was prior to the creation of new Telephone District of Lucknow. The applicants have rightly claimed the promotions from the due date.

It is true that no promotions were made till the Lucknow Telephone District remained in existence. The Opp. parties are required to prove the contents. The applicants have no concern with the promotions made in other circles and Units. They are interested and have concern with their own Units of U.P. Circle. No separate seniority list of Lucknow Telephone Distt. was prepared and published. The seniority list of U.P. Circle remained in tact. The applicants were entitled to be considered for promotion on the basis of the original seniority list of U.P. Circle. There was no question of merger. The original position was restored. Infact it will be treated that no Lucknow Telephone District was created. The applicants are entitled for promotion according to the seniority maintained in the U.P. Circle seniority list.

*Govindaswamy*

The contents given previously in para 11 have been again repeated in this para. The suitable reply has already been given which may be considered as reply of this para also. The discrimination was done with the applicants. The step motherly treatments have been given with the applicants. The position of operators clerks and other employees have been restored.



but the applicants have been deprived. It is also violation of Art. 16 of the Constitution of India. As already stated above, there is no question of merger only the position which was on 1.6.73 was restored. The Opp. parties are trying to misguide the Hon'ble Court by giving the false and fabricated facts. The petitioners - applications were in the combined seniority list on the date of passing of the actual ~~transfer~~ promotion order. It is wrong to say that the promotion were awarded to the applicants in the Lucknow Telephone Districts. The Opp. parties are required to produce the orders. The applicants were senior to the persons who have been promoted according to the combined Gradition list. The copies of the rules have not been filed. The proper reply is not possible. The contention of the applicant is not clear, but the Opp. parties are misguiding the Hon'ble Court by giving the concocted facts. The rules if any filed with the C.A. have been properly replied in the rejoinder affidavit.

11. That the contents of para 11 of the S.C.A. are denied. The contents of para 12 of the R.A. are reiterated. The applicants are entitled to get the promotion w.e.f. the date of promotion of the Juniors i.e. 1.6.74. They are also entitled to get the salary accordingly.

12. That the contents of para 13 of the C.A. are denied. The contents of para 13 of the



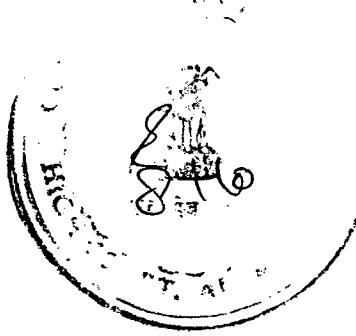
*Ansawer*

R.A. are reiterated. The applicants are entitled for promotion and the order dated 6.10.86 is liable to be complied with. It could not be treated as cancelled.

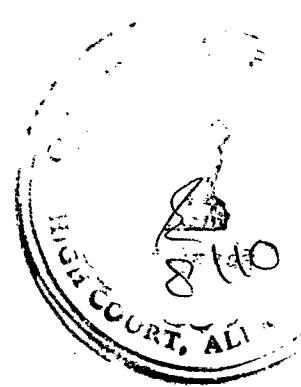
13. That the contents of para 13 of the S.C.A. are denied. The contents of para 14 of the R.A. are reiterated. The Lucknow Telephone District was created w.e.f. 1.6.73 but it was abolished on 31.7.75. The position of seniority was restored in the U.P. Circle. As already stated above the promotions were made after abolition of the Lucknow Telephone Districts. The names of the applicants were in the seniority list of the U.P. Circle. The applicants were illegally ignored in the matter of promotion. No promotions were awarded w.e.f. 1.6.74, in the Lucknow Telephone Distt. The position of other employees was corrected but the discrimination is being done with the applicants. They are also entitled to get the Notional promotions w.e.f 1.6.74, the date of promotion of the juniors. It is wrong to say that the applicants were separate in jux enjoying the benefit of promotion in the Lucknow Telephone District. The applicants could not be denied the benefit of promotion like other employees. The Opp. parties are misguiding through the contents of para under reply.

14. That the contents of para 14 of the S.C.A. are denied. The contents of para 15 of the Rejoinder affidavit are reiterated.

F.R.



It is correct that the applicants are entitled to get the same seniority on the post of Technical Supervisor which was on the lower post of Technician. The Opp. parties want to misguide the Hon'ble Court by giving the reference of Lucknow Telephone District. This District was created by separating from the U.P. circle, and was abolished and the position was U.P. circle restored in this way, no Lucknow Telephone District was created in the eye of law. In this way the position of the employees remained in tact. It is wrong to say that any benefit was given to the applicant in the Lucknow Telephone Distt. The promotions have been made actually in the year 1976, when the combined seniority list was in existence. The applicants were illegally ignored on the due date of promotion. The salary of the applicants could notes less than the juniors, They have rightly claimed the salary accordingly. The Lucknow Telephone District which was created on 1.6.73 was abolished. The present district was already in existence and is still in existence.

*B. Narayana*  
  
  
 15. That the contents of para 15 of the S.C.A. are denied. The contents of para 16 of the R.A. are reiterated. The applicants are certainly entitled to get the promotion and salary w.e.f. the date of promotion of the juniors.

16. That the contents of para 16 of the S.C.A. are denied. The contents of para 17 of

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R.A. are reiterated. The applicants are certainly entitled to get the promotion from 1.6.74 . The applicants are entitled to get the arrears accordingly.

17- That the contents of paras 17 to 20 of the S.C.A are denied. The contents of paras 18 to 21 of the R.A. are reiterated. The contents of paras under reply are the repetition of the previous paras. The reply has already been given. The applicants are certainly entitled to get the promotions w.e.f 1.6.74 The facts stated by the Petitioners in the application and in the Rejoinder affidavit are correct.

18. That the contents of para 21 of the S.C.A. are denied. The contents of para 22 of the R.A. are reiterated. The applicants are entitled for the promotion.

19. That the contents of para 22 of the S.C.A. are denied. The contents of para 25 of the R.A. are reiterated. The contents are clear and are based on true facts.

19. That the contents of para 23 of the  
B.S.C.A. needs no reply.

21. That the contents of para 24 of the  
S.C.A. are denied. The contents of paras 25 of  
R.A. are reiterated. The applicants were  
rightly allowed the Notional promotion from 1.  
1.6.74.

22. That the contents of para 25 of the  
a.c.a. are denied. The contents of para 26 of the

A.95

R.A. are reitrated. The applicants are entitled to get the benefit of promotion as claimed in the application.

23. That the contents of para 26 of the S.C.O. are denied. The contents of para 27 of the R.A. are reiterated. The option in the Lucknow Telephone District does not affect the seniority of the applicants in the U.P. Circle. The names of the applicants remained in the seniority list of the U.P. Circle and were not deleted due to the creation of Lucknow telephone District. The applicants have concerned with the promotion of U.P. Circle and not other offices. The promotions were made when the combined seniority list was there, hence the applicants could not be ignored, in getting the promotion from the due date.

24. That the contents of para 27 of the  
S.C.A are denied. The contents of para 28 of the  
R.A. are reiterated. The Petition deserves to  
be allowed with cost.

Dated: 8.10.91

Deponent.

### verification.

I, the above named deponent do hereby verify that the contents of para 1 to 24 of the supplementary R.o.s. are true to my knowledge and ~~xxxxxx~~ <sup>2</sup> belief. Nothing material has been concealed and no part of it is false, so help me, God.

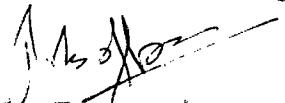
Signed and verified today this the  
8rd day of Oct. 91 in the Court Compound at Lkl.

Mr. W. J. Morris  
Deposent.

AP6

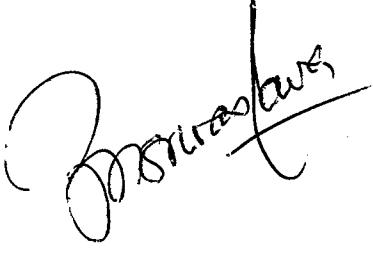
10.

I identify the deponent who has signed  
before me.

  
( P.N. Bajpai  
Advocate )

Solemnly affirmed before me on 8th Oct  
8.10.91 at 10.20 A.M./P.M. by the above named  
deponent Sri V.N. Srivastava, who is satisfied  
by Sri P.N. Bajpai, Advocate High Court of  
Judicature at Allahabad ( Lucknow Bench )  
Lucknow.

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



Shikha	
SHIKHA SRIVASTAVA	
City	Ver
High Court	.....
Lucknow	
No. 741453	
Date 8.10.91	