

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE ..@.125.....OF ..9.2.....

NAME OF THE PARTIES ..K. K. Srivastav.....Applicant

Versus

.....Union.....of.....India.....Respondent

Part A.

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CERTIFICATE

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

Dated ..27/12/2011

Counter Signed.....



Section Officer/In charge



Signature of the  
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNEW BENCH LUCKNOWINDEX SHEET

Cause No. 125/89 of 199

Name of the parties

K. K. Srivastava

Applicant.

VERSUS

State of Bihar

Respondents.

Part A.B.C.

S. No.

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Preliminary

BRAHMIN

SRI LAKHMAN

# CENTRAL ADMINISTRATIVE TRIBUNAL

Circuit ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001  
Gandhi Bhawan, Lucknow

(P-1)

Registration No. OA-125 of 1988(L)

APPLICANT (s) ..... K. K. Srivastav

RESPONDENT(s) ..... Union of India through Secretary Ministry of Planning, Dept of Statistics N.S.S.O (Field Operation Division) West Block-8- Wing C, R.K. Puram, New Delhi-200029

## 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 ?

## Endorsement as to result of Examination

yes.

yes.

yes.  
only two set application are filed.

yes.

—

—

—

yes.

yes P.C. No DD 823977 dt. 19.9.88.

yes, also yes.

yes

yes (By advocate)

Particulars to be ExaminedEndorsement as to result of Examination

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

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

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

10. Is the matter raised in the application pending before any Court of law or any other Bench of Tribunal ? *No*

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

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

(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 ? *No*

14. Are the given addresses, the registered addresses ? *yes*

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

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

17. Are the facts of the case mentioned in item No. 6 of the application ? *yes.*

(a) Concise ?

(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 ? *yes*

19. Whether all the remedies have been exhausted. *yes*

Order Sheet

O.A. 125-88(4)

5.10.88. Hon'ble K.S. Puttaswamy, V.C.  
Hon'ble A. Johri, A.M.

On the request of Sri I.B. Singh  
Counsel for a applicant the case is  
adjourned for tomorrow (6.10.88) for  
admission.

AM  
8/11

V.C  
1/11

6.10.88. Put up tomorrow for admission as prayed  
by the learned counsel for the applicant.

AM  
6/10/88

Bec

7.10.88 Hon. K.S. Puttaswamy, V.C  
Hon. A. Johri, A.M.

Application by Sri I.B. Singh.  
As the matters are not very clear  
& free from doubt we consider it proper  
to notify the respondents before  
admission.

Issue notice to the respondents  
to show cause as to why this application  
should not be admitted.

Call this case for admission  
on 28.10.88 for admission.

Sd/-  
V.C

Sd/-  
AM

1/11

OR

No extra copy for notices  
of respondents have been filed.

1/11

Hon. D.S. Misra, A.M

24.10.88

None is present. The case is  
adjourned to 22.12.88.

1/11

OR : copy of O.P filed on 3.11.88. To  
D. Notices issued to respondents through  
At. 10.11.88 by 1/11

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION NO. 125 of 19886(1)

APPELLANT  
APPLICANT

K. K. Srivastava

(V.W)

DEFENDANT  
RESPONDENT

VERSUS

V.O.R.

Trial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
4/5/89	<p>Hon' Mr. Justice K. Nath, V.C. Hon' Mr. D.S. Misra, A.M.</p> <p><u>for adjournment</u> Request has been made on behalf of Shri V.K. Choudhary, learned counsel for the opp. ps. on the ground that he is out of station. The request <u>for</u> is allowed. List this case <u>for admission</u> on 16-5-89.</p> <p><i>b</i></p> <p>A.M. <i>9/2</i> (sns) V.C.</p>	<p><i>OB</i></p> <p>C.M. An. No. 131/1989 has filed by the learned Counsel for the applicant for interim relief. Submitted for order.</p>
16/5/89	<p>Hon' Mr. K.J. Raman, A.M.</p> <p>Shri I.B. Singh, learned counsel for the applicant is present. An application has been received from the learned counsel for the respondents seeking 2 weeks time to file written statement and Vakalatnama. In the interest of justice, the time asked for is allowed. After a reply is filed, the applicant may file rejoinder within one week thereafter. This case be listed <u>15/6/89</u> for hearing on 30-6-89.</p> <p><i>ADR</i> A.M. (sns)</p>	<p><i>15/6/89</i></p> <p>Consl. for the applicant Sir I.B. Misra have filed the condonns of delay.</p> <p><i>15/6</i></p>

In

O.A. No. 125/88 (L)

(X)

Hon' Mr. D.K. Agrawal, J.M.

30/10/89

None is present for the parties. The case is ripe for hearing. List this case for hearing on 10-1-90.

J.M.

(sns)

10-1-90

No sitting. Adj to 15-3-90.

10/11/90

PR  
S.P.H

13/1

15/3/90

O.A. NO. 125/88 (L)

No sitting adj to 31/7/90.

15/3/90. B.O.C

31-7-90.

No sitting adj to 3-X-90.

Key.

90.

No sitting Adj to 17-12-90.

Q

17-12-90

No sitting Adj to 11-1-91.

11-1-91

No sitting Adj to 14-3-91.

C

14-3-91

No sitting Adj to 10-5-91.

J

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

....

Registration O.A. No. 125 of 1988 (L)

K.K. Srivastava     ...     ...     ...     Applicant.

Versus

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

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. A.B. Gorthi, Member (A)

( By Hon. Mr. Justice U.C. Srivastava, V.C.)

By means of this application, the applicant has challenged the combined seniority list of the Assistant Superintendent (SE), Assistant Superintendents (I<sup>c</sup>) and Assistant Superintendents (AS), N.C.S., F.O.D. published under the signatures of the Administrative Officer, for director of the department. The applicant was appointed as Investigator on 26.12.1955 in the pay scale of Rs. 150-300 in the Department of Statistics, Ministry of Planning, Government of India and he was promoted on the post of Assistant Superintendent on 6.7.1972 and the pay of the applicant for the post of Assistant Superintendent was fixed at rs. 265/- on 1.12.1972. The appointment of the above mentioned official to the post of Assistant Superintendent is purely temporary and adhoc in nature and will not confer any right or privileges for continued retention on the said post, and a note was also put in by the department that for the purposes of seniority, these persons will be considered to have been promoted w.e.f. the date of issue of this order. In the year 1972, there was a re-organisation of the functions of the F.O.D and it was felt necessary to make the Assistant Superintendent Multi-functional to ensure their inter-changability for performing duty in the work of different schemes and to prepare them for the

1988, SC page 164, wherein it has been held that the determination of seniority, on integration of different wings of the same department, in absence of rules, length of service and not confirmation, held decisive for determining seniority in the combined gradation list. However, inter se seniority within the wing would remain undisturbed. The seniority is to be reckoned from the date of the regular appointment of an employee, and in case the earlier appointment was not made in accordance with the rule of subsequent regularisation, the employee will not be entitled for the benefit of the intervening service and seniority. But, in the instant case, there is no statutory rule existed and accordingly, the principle of continuous officiation will apply and the applicant will be given the benefit of seniority from the date he has been appointed on the basis of his continuity in service and were promoted like similarly placed other persons. Let the seniority list be corrected within a period of 3 months from the receipt of the copy of this judgment. The application is disposed of with the above observations. Parties to bear their own costs.

*Amarsingh*  
Member(A)

Dated: 25.5.1992

*U*  
Vice-Chairman

(n.u.)

next supervisory post of superintendent. Accordingly, it was decided that the three categories of Assistant superintendents viz A.S. (SE), A.S. (IS) and A.S. (AS) may be done away with and a new category of Assistant Superintendent without any label be brought into being so that Assistant Superintendents could perform duties in all the schemes and that is why, it was decided to create a new category of Assistant Superintendent without label. In pursuance of this policy decision, it was then decided not to make appointment on regular basis to the three labelled categories of Assistant Superintendents and to make appointment against vacancies of Assistant Superintendent without any label till new Recruitment Rules were framed. The recruitment rules were framed in the year 1973 and were published on 5.1.1974. In accordance with these recruitment rules, 642 persons including the applicant were appointed to the post of Assistant Superintendent on regular basis vide office order dated 16.4.1974. The name of the applicant found place at No. 325. The contention on behalf of the applicant is that his seniority should be counted w.e.f. 6.7.1972 and not w.e.f. the date when others were appointed, and in this connection, reference to the note has been made by the applicant that for the purposes of seniority, his date of appointment will be taken into account. The rules are silent on the point as to whether for the purposes of seniority, the date of appointment is counted. Whenever, the rules are silent, the criteria for determination of seniority is continuous officiation in service. In this connection, a reference has been made to the case of Union of India Vs. M.P. Singh, AIR, 1990, SC page 1098 and the case of Nirmal Kumar Chaudhari Vs. State of Bihar, AIR

filed today  
Jash  
20/8  
(V/V)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH: LUCKNOW.

K.K.Srivastava

.. Applicant

versus

Union of India and others

.. Respondents

I n d e x.

Sl.No.	Particulars	Page No.
1.	Application u/s 19 of the Administrative Tribunal Act.	1 to 10
2.	<u>ANNEXURES:</u>	
	a. Copy of the promotion order dated 6-7-72.	20 - 21
	b. Copy of the representation dated 6-5-88.	22 to 29
3.	Vakalatnama	

Lucknow:

Dated : August , 1988

*BB*  
Advocate  
Counsel for the applicant.

Noted for 23.9.80 /  
filed on 13.8.88  
20.9.88  
Copy of O.P.  
Filed on 13.11.88  
For Sri 13.8.88

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNALS ACT, 1985.

DATE OF FILING -

REGISTRATION NO.--

Signature

Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH: LUCKNOW.

BETWEEN

K.K.Srivastava, aged about 57 years,  
son of late Sri M.P.Srivastava,  
resident of village Dwarikapur,  
P.O.Sherpur district Barabanki. .. Applicant

AND

1. Union of India through Secretary  
Ministry of Planning, Department of  
Statistics, N.S.S.O.(Field Operation  
Division), West Block -8, Wing-6,  
R.K.Puram, New Delhi.

2. The Director, National Sample Survey  
Organisation(Field Operation Division),  
Department of Statistics, Ministry of  
Planning, Government of India, West  
Block No.8, Wing No.6, R.K.Puram,  
New Delhi.

3. The Chief Administrative Officer,  
National Sample Survey Organisation  
(Field Operation Division), Department

(K.K.Srivastava)

of Statistics, Ministry of Planning,  
Government of India, West Block No.8,  
Wing No.6, R.K.Puram, New Delhi.

.. Respondents.

DETAILS OF APPLICATION.

1. Particulars of the applicant:

(i) Name of the applicant - K.K.Srivastava

(ii) Father's name - late Sri M.P.  
Srivastava.

(iii) Designation and  
office in which  
employed

- Assistant Superin-  
tendant, National  
Sample Survey  
Organisation, Field  
Operation Division,  
U.P.(C), Lucknow.

(iv) Office Address:

- National Sample  
Survey Organisation  
(Field Operation  
Division), U.P.(C),  
Government of India,  
B 991, Sector A,  
Mahanagar, Lucknow.

(v) Address:

Village Dwarikapur,  
P.O.Sherpur, district  
Barabanki.

2. Particulars of the Respondents:

(i) Name and designation  
of the respondent no.1 - Secretary, Department  
of Statistics,  
Ministry of Planning  
Government of India,  
Sardar Patel Bhawan,  
Parliament Street,  
New Delhi-110001

(ii) Office Address

- Office of the  
Secretary, Department  
of Statistics,  
Ministry of Planning  
Government of India,  
Sardar Patel Bhawan  
Parliament Street,  
New Delhi-110001.

11/11/2022

(iii) Address for service  
of the notices

- Office of the  
Secretary, Department  
of Statistics,  
Ministry of Planning,  
Government of India,  
Sardar Patel Bhawan,  
Parliament Street,  
New Delhi 110001.

(iv) Name and designation  
of respondent no.2 -

The Director, Field  
Operation Division,  
National Sample  
Survey Organisation,  
R.K.Puram, New Delhi.

(v) Office Address

- Office of the  
Director, Field  
Operation Division,  
National Sample  
Survey Organisation,  
R.K.Puram, New Delhi.

(vi) Address for service -  
of the notices

Office of the  
Director, Field  
Operation Division,  
National Sample  
Survey Organisation,  
R.K.Puram, New Delhi.

(vii) Name and designation-  
of respondent no.3

Sri Darbari Lal,  
Chief Administrative  
Officer.

(viii) Office Address

- Office of the  
Director, Field  
Operation Division,  
National Sample  
Survey Organisation,  
R.K.Puram, New Delhi.

(ix) Address for service  
of the notices

- Office of the  
Director, Field  
Operation Division,  
National Sample  
Survey Organisation,  
R.K.Puram, New Delhi.

K. M. S. S.  
K. M. S. S.

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

(i) Order Number

- O.M. No. 32016/6/83-E.II

(ii) Date

- 24th August, 1983.

(iii) Passed by

- Combined seniority list of the Assistant Superintendents (SE), Assistant Superintendents (IS) and Assistant Superintendents (AS), NSS, F.O.D. published under the signatures of Sri Darbari Lal, Chief Administrative Officer, for Director.

(iv) Subject in brief

- The applicant was appointed as Investigator on 26-12-1955 in the pay-scale of Rs. 150-300 in the Department of Statistics, Ministry of Planning, Government of India. The applicant was promoted on the post of Assistant Superintendent on 6-7-1972 (6th July, 1972) in the pre-revised pay scale of Rs. 250-475 and the pay of the applicant for the post of Assistant Superintendent was fixed at Rs. 265/- on 1-12-1972. The promotion order was issued under the signatures of Sri N.K. Chakravarty, the then Director, Department of Statistics, National Sample Survey Organisation (Field Operation Division), West Block

W.M. Wadhera

NO.8, Wing No.6, R.K.Puram  
New Delhi, dated the 6th July,  
1972. But while the seniority  
list was published vide letter  
dated 24-8-1988 under the  
signatures of Sri Darshan Lal,  
the then Chief Administrative  
Officer for Director, the  
petitioner have been placed  
at Sl.No.501 and his date of  
promotion on the post of  
Assistant Superintendent from  
the post of Investigator  
have wrongly been shown as  
16-4-74 in place of 6-7-72  
as a result of which the  
petitioner have been deprived  
from promotion to the post of  
Superintendent and several  
juniors to the petitioner  
have been promoted on the  
said post in the department  
of Statistics, National Sample  
Survey Organisation (Field  
Operation Department), Govern-  
ment of India, New Delhi.

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. Limitations :

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

W.M. Wallen

6. Facts of the case

(i) That the applicant was qualified for the post of Investigator and accordingly he has applied for the said post. He was selected and an appointment letter was issued appointing the petitioner on the post of Investigator on 26-12-1955 in the pay-scale of Rs.150-300 in the Department of Statistics, Ministry of Planning, Government of India. At the said time there were separate cadres. However, the aforesaid cadres were merged into one. Thereafter a combined seniority list was ~~published~~ prepared. Subsequently the services of Investigator/Computers and others were merged.

(ii) That the petitioner was found eligible and he was promoted on the post of Assistant Superintendent from the post of Investigator alongwith other Investigators in the pay-scale of Rs.210 - 425 vide order dated July 6, 1972. The said order was issued under the signatures of Sri N.K.Chaturvedi, the then Director of the Department of Statistics, National Sample Survey Organisation( Field Operation Division), Government of India, West Block No.8, Wing No.6, R.K.Puram, New Delhi. The

K.M.S. P.W.

-7-

petitioner joined the duties on the promoted post and he continued to work and discharge his duties on the said post till date and there has been no negligence on his part.

(iii) That while the petitioner/applicant was promoted on the post of Assistant Superintendent vide order contained in No.A-12026/40/72-Estt. I(i), Government of India, Department of Statistics, National Sample Survey Organisation (Field Operation Division), West Block No.8 Wing No.6, R.K.Puram, New Delhi dated 6-7-1972, some other persons have also been promoted. The applicant's salary was fixed at Rs.265/- on 1-12-72 but he has been discriminated with the juniors in fixation of the salary, as one of his junior, namely, Sri V.S.Malviya, have been given higher salary to that of the petitioner for which the applicant made several requests and representations, but the respondents have not paid any heed towards his request and the said anomaly in the pay still exist.

*V.S.Malviya*

(iv) That since the applicant was

• 8 •

promoted from 6-7-1972 on the post of Assistant Superintendent, the applicant's pay was fixed Rs.485/- in the scale of Assistant Superintendent on 1.1.1973 which on the next increment on 14.8.1973 will amount at Rs.500/- whereas one Sri V.S.Malviya who is junior to the applicant and was promoted as Assistant Superintendent on 5-6-1973 was getting Rs.500/-.

(v) That discrepancy arose on 5-6-1973 when the applicant was getting Rs.485/- per month, whereas the applicant's junior Sri Malviya was getting Rs.500/- per month on that date and <sup>applicant's</sup> pay reached at Rs.500/- on 14.8.1973 meaning thereby that the applicant got less pay than Sri Malviya from 5-6-1973 to 14.8.73.

(vi) That it is established principle of law that junior will not get more pay than his senior.

(vii) That it is pertinent to point out here that the Order of the Government of India, Ministry of Finance, O.M.No.F.1(55)/H.III(A), dated 18-7-74 provides that the pay of the senior government

Mohd Ali

servant promoted to the higher post before 1.1.1973 and draws less pay in the revised scale than his junirs who are promoted to higher post after that crucial date is to be stepped up to a figure equal to the pay fixed for the junior officer in that higher post promoted on or after 1.1.1973.

(viii) That it is pertinent to point out here that although the applicant was promoted, as stated earlier, another order for promotion was issued by which the petitioner was promoted vide order contained in Order No. A-32016/2/74-Esstt-II(i) dated 16-4-74 on the post of Assistant Superintendent in National Sample Survey Organisation(Field Operation Division) under the Recruitment Rules of 1973 by ignoring the earlier order or promotion as a result of which the applicant have been treated to be junior and placed much below in the revised seniority list and several others who were juniors were shown as senior.

(ix) That the applicant was promoted on the post of Assistant Superintendent on 6-7-72 and the

Monwesirn

-10-

aforesaid Rule has come into effect in the year 1973 from the date of publication in the gazette i.e. 26-12-73 and on the said date the applicant was already promoted and working as Assistant Superintendent and accordingly the promotion order which have been issued subsequently would be void ab initio but with malafide intention the said order of promotion have been issued in the year 1974. The aforesaid Rule ~~xxxix~~ does not speak that it has got retrospective effect, nor the order dated 6-7-72 by which the applicant was promoted was superseded, nor amended nor modified nor nullified.

(x) That it is evident from the contents of Column-11 of the Schedule of the said Rule which runs in these words, 'Promotion(1) for a period of three years commencing the date on which these recruitment rules comes into force' which means that a person who completed three years after the enforcement of these rules, will be eligible for promotion as Assistant Superintendent but the said rule does not speak about the employees who have already been promoted on

W.M. Reddy

the post of Assistant Superintendent but the said rule have been wrongly interpreted by issuing fresh promotion order in the year 1974 by ignoring the promotion order dated 6-7-72 by which the applicant was promoted on the post of Assistant Superintendent.

(xi) That while the revised seniority list was issued no objections were invited from the applicant and others whose seniority have been affected and who have been placed much below and who have been promoted subsequently or juniors to the applicant, who have been placed much above the applicant.

(xii) That by mis-interpreting the Service Rules 1973 there has been great injustice caused to the applicant, as his seniority have been affected otherwise the applicant would have been placed at Sl.No.319 in the seniority list published on 24-8-83 in place of Sl.No.501 because the applicant have been promoted on 6-7-72 on the post of Assistant Superintendent on which date the other similarly

M. M. S. M.

situated Assistant Superintendents have been promoted to the post of Superintendent.

(xiii) That the Assistant Superintendents who have been placed at Sl.319 to 373 have been promoted to the post of Superintendent and if the applicant would have been placed at Sl.No.319 then he would have been promoted alongwith the aforementioned persons but the applicant have been deprived from the right of promotion to the post of Superintendent by wrongly placing him at Sl.No.501 in the seniority list and thus the action of the opposite parties is illegal,invalid and contrary to the Service Rules.

(xiv) That while fixing the seniority of any employee like the applicant, the total length of service on the respective post is to be reckoned i.e. the initial date of promotion on the post of Assistant Superintendent and in case of the applicant 6-7-1972 ought to have been taken into account for the the purposes of promotion, but the same has not been done in the instant case.

K. M. N. S. I. R. I.

(xv) That due to the preparation of incorrect seniority list and mis-interpretation of the Service Rule, 1973 the applicant have been deprived from the right of promotion although Sri Kashmiri Lal who have been promoted on the post of Assistant Superintendent on 10-7-72 have been promoted to the post of Superintendent in February, 1982. Besides him there are several Assistant Superintendents who are juniors to the ~~present~~ applicants have also been promoted as Superintendent and as such the applicant is entitled for promotion to the post of Superintendent atleast since February, 1982.

(xvi) That because of the wrong place assigned to the applicant in the seniority list at Sl.No.501, he has been continuously suffering loss of salary for which he was entitled on the post of Assistant Superintendent and thereafter on the promoted post of Superintendent besides mental agony and humiliation.

(xvii) That ~~the~~ in view of G.O./ O.M.No.F.1(35)/M.III(A), dated 18-7-74, several persons who were

*W.M. Lal*

juniors to the applicant and were promoted as Assistant Superintendent prior to 1.12.72 and after ~~his~~ his promotion(6-7-72), were given the benefit of the said G.O. Sri S.N.Sinha and 9 others were promoted by G.O. No.A-38020/2/86-Estt.II, dated 29-1-87 and Sri P.N.Chaturvedi and 14 others were given the benefit vide order dated 13-3-87. All these persons mentioned above are juniors to the applicant and they have been given the aforesaid benefit from 5-6-73 but the applicant has been denied the said benefit for the reasons best known to the respondents.

(xviii) That the applicant submitted his representation in 1977 requesting for stepping up of ~~exp~~ the pay of the applicant as has been done in the likewise cases as mentioned in the preceding paragraphs but his representation has been rejected on the ground that condition(b) of the Government Order 10(b) below F.R.22(c) has not been satisfied.

(xix) That while rejecting the aforesaid representation, the Chief Administrative Officer has wrongly

W.M.Wadekar

interpreted the word 'Scale' Scale does not mean salary. There may be thousands of persons in identical scale but hundreds of them may not be drawing identical salary and thus the prayer of the applicant for stepping up of his pay was wrongly rejected by the Chief Administrative Officer

(xx) That it is pertinent to point out here that the government has issued general instructions contained in G.I.M. G.O.O.M.No.7(13)Estt.III/81 dated 20-3-1981 by which a clarification has been made in respect of para 17 below F.R. 22(c) which provides for stepping of pay of senior employee for a second time in order to remove an anomaly in his pay *visea-vis* his junior admissible.

(xxi) That the work and conduct of the applicant have been better in comparison to the juniors who have been promoted and he has not been given or communicated with any adverse entry or remark and his entire service career has been unblemish, but even then the petitioner has not been promoted to the post of Superintendent.

(xxii) That all the aforesaid facts have already been brought to the notice of the respondents through the representation dated 6-5-88 through proper channel to the Secretary, Department of Statistics, Ministry of Planning, Government of India, Sardar Patel Bhawan, Parliament Street, New

*Murali*

Delhi but till date no decision has been communicated to the petitioner and the petitioner has also come to know that no such decision has been taken upon the said representation. While the said representation have been made certain papers have also been annexed like the promotion order etc.

### 7. Relief Sought:

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

(i) That in the seniority list date of promotion of the petitioner be corrected and mentioned as 6-7-1972 and the date shown as 16-4-74 be deleted and the petitioner's name be placed at the appropriate place in the said seniority list and delate the name of the petitioner from Sl.No.501. and in difference of salary of the Assistant Expt be give also given

(ii) That the respondents may be directed to promote the petitioner on the post of Superintendent since 1982 i.e. from the date on which

his juniors have been promoted and the arrears of salary for the said post of Superintendent be paid from the date of promotion and other consequential reliefs may also be granted.

8. Interim Order Prayed for :

As the applicant was promoted on the post of Assistant Superintendent on 6-7-72 but the same has wrongly been shown as 16-4-74 by misreading and misconstruing the service rules, the respondents may be directed to promote the petitioner on the post of Superintendent in the Department of Statistics, National Sample Survey Organisation(Field Operation Division), Government of India by way of interim measure and to pay salary for the said post and the opposite parties may be further directed not to make any promotions on the post of Superintendent unless the petitioner is promoted or until the applicant's claim is decided by this Hon'ble Tribunal and pass such other orders as may be deemed just and proper in the circumstances of the case.

9. Details of Remedies Exhausted:

After receiving the seniority list, the applicant made several representations including the representation dated 6-5-88 to the Secretary of the Department.

*Memorandum*

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 any other authority or any other Bench of the Tribunal.

11. Particulars of Bank Draft/Postal Order in respect of the application fee

(i) Name of the Bank/Post Office on which drawn

(ii) Demand Draft/Postal Order No. 4 823977

12. Details of Index :

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

13. List of Enclosures :

(i) Copy of the promotion order dated 6-7-72

(ii) Copy of the representation made by the petitioner dated 6-5-1988.

In verification :

I, K.K.Srivastava, son of late Sri M.P.Srivastava working as Assistant Superintendent, National Sample Survey Organisation ( Field Operation Division),  
*K.K.Srivastava*

(Signature)

-19-

U.P.(C), Government of India, B-991,  
Sector A, Mahanagar, Lucknow do hereby verify  
that the contents of paras 1 to 13 above  
are true to my personal knowledge and  
belief and that I have not suppressed any  
material facts.

Place:

*Verma*

Dated:

Signature of the applicant.

To,

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

✓ In the Central Administrator Toorana

10 Km Beach week on

Case#

8/9/80

R. K. Srivastva Rekha

Union of India Adon of dates

Amritsar N-1

18/5/80

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S. K. Singh  
Ravat

111 Rekha

Annexure - A

(20/13)

No.A-12026/40/72-Estt.I(1)  
 Government of India  
 Department of Statistics  
 NATIONAL SAMPLE SURVEY ORGANISATION  
 (Field Operations Division)

West Block No.8, Wing No.6, R.K. Puram,  
 New Delhi -22, Dated the 6 JULY 1972.

OFFICE ORDER

The following Investigators in U.P. State of this Division are appointed to the post of Asstt. Superintendent in the Blocks shown against their names in a temporary capacity in the scale of pay of Rs.210-10-290-15-320-EB-15-425, w.e.f. the dates they assume charge of their duties until further orders. The Investigators shall hand over charge immediately and join their duties at their new places of postings after availing of joining time, if they so desire.

S.No.	Name of Investigator	Present posting
1.	Shri S.N. Dwivedi	Gonda, UP(C)
2.	" P.N. Misra	Basti, UP(E)
3.	" Pooran Mal	Agra, UP(W)
4.	" Rameshwar Dayal	Kanpur UP(C)
5.	" R.C. Lal	Moradabad, UP(W)
6.	" Dukhi Ram	Varanasi, UP(E)
7.	" S.S. Niket	Meerut, UP(W)
8.	" Jai Shri	Jaunpur, UP(E)
9.	" B.S. Bhadauria	Kanpur UP(C)
10.	" R.K. Dwivedi	Jaunpur, UP(E)
11.	" S.P. Srivastava	Allahabad, UP(E)
12.	" K.K. Srivastava	Lucknow, UP(C)
13.	" R.P.S. Yadava	Agra, UP(W)
14.	" P.N. Chaturvedi	Aligarh, UP(W)

The appointment of the above mentioned officials to the post of Asstt. Superintendent is purely temporary and ad-hoc in nature and will not confer on them any rights or privileges for continued retention on the post.

Postings and transfers

S.No.	Name of Official	Present place of posting	New place of posting	Scheme in which posted
1.	Shri S.N. Dwivedi	Gonda U.P.(O)	Lucknow U.P.(C)	M.T
2.	" P.N. Misra	Basti U.P.(E)	Allahabad U.P.(E)	M.T
3.	" Pooran Mal	Agra U.P.(W)	Bareilly U.P.(W)	M.T
4.	" Rameshwar Dayal	Kanpur U.P.(C)	Lucknow U.P.(C)	M.T

(P.S.T.P.)  
contd.....2.

Memorandum

COPY

S. No.	Name of official	Present place of posting	New place of posting	Scheme in which posted
5.	Shri R.C. Lal	Moradabad U.P.(W)	Bareilly U.P.(W)	M.T
6.	" Dukhu Ram	Varanasi U.P.(E)	Allahabad U.P.(E)	M.T
7.	" S.S. Niket	Meerut U.P.(W)	Bareilly U.P.(W)	M.T
8.	" Jai Shri	Jaunpur U.P.(W)	Allahabad U.P.(E)	M.T
9.	" B.S. Bhaduria	Kanpur U.P.(C)	Lucknow U.P.(C)	M.T
10.	" R.K. Dwivedi	Jaunpur U.P.(E)	Allahabad U.P.(E)	M.T
11.	" S.P. Srivastava	Allahabad U.P.(E)	Allahabad U.P.(E)	M.T
12.	" K.K. Srivastava	Lucknow U.P.(C)	Lucknow U.P.(C)	M.T
13.	" R.P.S. Yadava	Agra U.P.(W)	Bareilly U.P.(W)	M.T
14.	" P.N. Chaturvedi	Allahabad U.P.(W)	Bareilly U.P.(W)	M.T

For purposes of promotion these persons will be considered to have been promoted with effect from the date of issue of this order.

*(N.K.Chakravarti)*  
(N.K.Chakravarti)  
Director

Copy to:-

1. Officials concerned through Superintendents, FOD (SE), U.P.(C), U.P.(W) & U.P.(E) Blocks.
2. Asstt. Director, FOD, U.P. State.
3. Socio-Economic/Manual Tabulation Section.
4. Office Order register
5. Personal File
6. Superintendent (SE), (MT), U.P. (Central), U.P.(East), U.P.(West) Blocks.

*(N.K.Chakravarti)*  
(N.K.Chakravarti)  
Director

*Monal*

*BSR*  
G. B. Singh  
Advocate

22

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH: LUCKNOW.

TOP 100

## అంశులు.

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The Secretary,  
Department of Statistics,  
Ministry of Planning  
Government of India,  
Sardar Patel Bhawan,  
Parliament Street,  
New Delhi-110001.

### **THE OTHER PROPER CHARGE.**

## Sub: Petition Against the Order of Minister

國 P.

I beg to submit the following few lines for your kind consideration and favourable orders:

W. W. Smith

1881/82

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( 2 )

1. That I was appointed as Inspector on 23.12.65 in the scale of Rs.150-300.
2. That I was promoted as Assistant Superintendent on 6.7.1972 in the previous scale of pay Rs.150-475 and my pay as Assistant Superintendent was fixed at Rs.236/- on 1.12.1972. A copy of the order of the promotion is enclosed herewith as Annexure (A) No. A-12026/3/72 dated 1(1), dated 6.7.1972 for your perusal. This order clearly provides on page 2 for purposes of seniority, "Those persons will be considered to have been promoted with effect from the date of issue of this order."
3. That it is to my bitter surprise that as per order No. A-32016/3/74-Inst.-II(1), dated 16.4.1974, I was again promoted on the post of Asstt. Supt. in National Sample Survey Organisation (Field Operations Division) Directorate 1973 ignoring the previous order of promotion which was not granted and I was placed next below in the revised seniority list.
4. That the Rule 1973 is not applicable in my case as it came into force from the date of publication in Gazette order dated 23.12.1973 while I was already promoted and working as Asstt. Supt. This rule does not speak that it has got retrospective effect over the order dated 6.7.1972 as is reported, issued, passed or published. Thus how and under what provisions it has been applied to Asstt. Supt., who was appointed, promoted before the inception of this Rule. To my mind it is only

*M. N. Singh*

*15/5/74  
M. N. Singh*

...  
...  
...

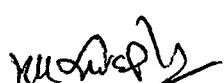


applicable to those persons who are promoted after the implementation of this Rule, but not to them who were already promoted prior to it in its inception.

5. This fact is clearly evident from the contents of column-11 of the schedule of the said rule which runs in these words, "Promotion (2) for a period of three years commencing the date on which these recruitment rules come into force". It means that a person, who completes 3 years after the enforcement of these rules, will be eligible for promotion as Ass't. Supt. But it has no bearing with them who were already promoted and working as Ass't. Supt., on that date. Hence it is very strange that these rules have erroneously been interpreted that it is applicable to all even to those who were already promoted as Ass't. Supt., much earlier even in 1972. The list incorporating them persons who were Ass't. Supt. on that date was never conveyed to the incumbents.

6. And this minority list was communicated to us, the sufferers would have definitely challenged this minority by this list was not disclosed, my objections were not called for from incumbents, are the circumstances which go to show the malafides of the officers and officials for whom worked interest.

7. That this erroneous interpretation of Rule 1973 has caused great injustice with regard to my minority as my name would have been on serial no.519 of the minority list, dated August 24, 1965 instead of serial no.501 as I was promoted on 6.7.1972, and I would like to whom



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Superintendent as rest of our colleagues who were promoted in 1972 as Asstt. Suptt. have been promoted as Superintendent. Not only this there are cases, where persons promoted as Asstt. Suptt. after 1972 have been promoted as Suptt. For example persons mentioned from serial no.319 to 373 were promoted as Suptt., had there been a correct, judicious and careful approach of the interpretation of rules 1973. As such this seniority list prepared after the inception of the rules 1973 wherein my seniority was fixed at serial no.301, is wrong, prejudicial, biased and illegal showing favouritism to some persons.

8. That it is established principles of law that seniority should be fixed from the date of appointment. This view was expressed by the Hon'ble Supreme Court of India in AIR 1973 page 1220 P holding that "length of service in a cadre determines seniority, so persons appointed earlier, although temporary, will become senior to one appointed later." This view was further reiterated in Balochwar Dass & others vs. State of U.P. by Hon'ble Supreme Court in Civil Appeal No.1317-16/76 Date R.884/79.

9. That due to erroneous and illegal list of seniority by application of rule 1973, which was not applicable in my case, I was not promoted as Suptt., although Sh. Kachhri Lal, who was promoted as Asstt. Suptt. on 10.7.1972 after my promotion, has been promoted as Suptt. in Feb. 1982. Besides, there are so many cases that Asstt. Suptt., who are junior to me, have been promoted as Suptt. As a matter of fact I should have also been promoted as Suptt. in 1982.

B.S.M.

... . . . .

Kachhri Lal

( 5 )

10. That this is one aspect of my misfortune on account of wrong interpretation of rule 1973 in fixing my seniority, which was inexplicable in my case, as documents above, which has caused loss of my seniority entitling less of salary as Supt., besides mental agony and torture and this is not the end of injustice with me as this erroneous application of Rule 1973 has doubly jeopardized me.

11. That since I was promoted from 6.7.1972 on the post of Asstt. Supt. my pay was fixed Rs.453/- in the scale of Asstt. Supt. on 1.1.1973, which on the next increment on 14.8.1973 will amount at Rs.500/- whereas on 5.6.1973 when I was promoted to Asstt. Supt. on 5.6.1973 was getting Rs.500/-

12. That discrepancy arose on 5.6.1973, when I was getting Rs.453/- per month, whereas my junior Sri M. V. Iyer was getting Rs.500/- p.m. on that date and my pay remained at Rs.500/- on 14.8.1973. Coming thereby that I got less pay than Sri M. V. Iyer from 5.6.1973 to 14.8.73.

13. That it is established principle of law that junior will not get more pay than his senior.

14. That to attract your attention I am attached to the order of Govt. of India, Ministry of Finance, O.M. No. F. 1 (SS)/B. III (A), dated 10.7.74, which provides that the pay of the senior Govt. servant promoted to higher post before 1.1.1973 and draws less pay in the revised scale than his junior who was promoted to higher post after that crucial date, is to be stepped up to a scale equal to the pay fixed for the junior officer in that higher post promoted on or after 1.1.1973.

K. M. V.

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(V.P. Jay)

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15. That in view of the above G.O. many persons, who are junior to me and were promoted as Ass't. Supt. prior to 1.12.72 and after my promotion I.O. on 6.7.72, were given the benefit of the said G.O., a copy of that order is enclosed herewith as Annexure no.B, A-56020/2/83-23t. II, dated 29.1.1937. Sri S.V. Gopal and 9 others who are above dated 29.1.1937 and Sri P.N. Chaturvedi and 14 others were given this benefit vide order dated 13.3.1937 as in Annexure no. A-56020/2/83-23t. II, dated 13.3.1937. It will be noted that place to submit here that the above named persons are junior to me. It may be pointed out that this benefit was given to them from 8.6.1973 but the same has been rejected in my case for the reasons best known to the officers.

16. That I submitted my representation in 1977 regarding stopping up of my pay as has been done in the like wise cases as mentioned in previous para, the learned Civil Auditor Administration Officer has rejected my prayer vide his letter no. A-50012/203/72-23t. II/617, dated 17.3.1983, a photocopy of the same, is attached as Annexure B on the ground that condition (b) of the Government order 10(b) below I.O. & 22(c) of the same has not been mentioned. For your convenience I am quoting herewith contents of (b) of 10(b): "The current and revised scale of pay of the lower and higher post in which they are entitled to draw pay should be identified".

17. As such the scale of pay of lower and higher post were identical in all the cases whether the pay of my regular

W.M.W.

R.S.Y.

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J. C. Singh  
T.O.C.C.

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was allowed to be stepped up or not. Here I will submit that while respecting my representation the chief administrative officer has failed in interpreting the word scale. Scale does not mean the salary. There may be thousands of persons working in the identical scale but hundreds of them may not be drawing identical salary. Thus it appears to me that there has been much confusion in the connection of the word scale and salary.

18. The contents of para 8 of the letter dated 17.3.1963 is not applicable in my case. Thus the chief administrative officer has erroneously interpreted and misconstrued the said para referred in his order. However, if there is any technical difficulty in stepping up of my pay the department may look upon the following orders which will facilitate in stepping up my pay.

19. In this connection your attention is invited to G.O.M. G.O.M. No. 7(15) Batt. III/81, dated 20.3.1961 para 17 below P.R. 22(0), which provides for stepping up of pay of senior employees for a second time in order to remove a disparity in his pay vis-à-vis his junior circumscribed.

Para 2 according to the clarification contained in the Comptroller and Auditor General's letter no. 2117-NCL-3/3/68, dated the 11th September, 1968 while stepping up of pay in accordance with the aforesaid general instruction 0, the benefit should be allowed only once with reference to the pay of the first 'senior' on whom promotion or increment are to be in pay of the senior incumbent. In cases where pay of such 'first senior' is per till

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when the pay of senior employees was initially stopped up gets stopped up in the event of a merely arising on promotion of persons juniors to him and this gives rise to a situation where the said senior employee again drawn less pay than his first junior, the benefit is not admissible in terms of aforesaid letter of the 11th Sept. 68.

The position has been reviewed and after careful consideration the President has been pleased to decide on the pay of the 'First Junior' being stopped up with reference to that of his junior, the pay of such senior employee may be stopped up for a second time as per with the first junior, past come may be reviewed in the light of these instructions.

20. Under these circumstances it is most humbly solicited that your honour would be pleased enough to remove the discrimination caused by the department by allowing stopping up of pay to others in the like wise cases, but rejected by me for the reasons best known.

21. Lastly, I would like to bring to your kind notice that I made a representation to this effect in 1977 followed by several reminders, which is still pending and undecided. A general reply of similar cases was conveyed after a long lapse of 11 years. This delayed decision has caused a very adverse in financial and future promotion.

Therefore it is very humbly solicited that my seniority may be reconsidered and I may be given promotion from 1982 to as Superintendent, when my other colleagues were promoted on the same footing. Secondly the arrears of my pay as Sept. from that year 1982 to paid to me. I am of your goodwill may be pleased to intercede in the matter of judicious and natural justice may be awarded to such officers like me.

In the end it is stressed that the matter may be decided within a month, otherwise I will have no option except to knock the doors of the court.

Dated: Lucknow; 6.5.1983  
Encl. a.-Eight Leaves.

Yours faithfully  
S. K. K. Srivastava  
6.5.83

(K. K. Srivastava)  
Asst. Superintendent,  
M.S.O.(F.O.D) U.P. (G), Lucknow.

Mailed copy to-

The Secretary, Department of Justice, Government of India, New Delhi for immediate natural justice and orders.

S. K. K. Srivastava  
(K. K. Srivastava)

Handwritten

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T.R.T. - 77

19.

ब अदालत श्रोमान Central Administrative Tribunal महोदय  
 Lucknow Bench Lucknow  
 वादी (मुद्रा) का वकालतनामा  
 प्रतिवादी (मुद्रालेह)



K. K. Srivastava

वादी (मुद्रा)

बनाम

Union of India And Others प्रतिवादी (मुद्रालेह)

नं० मुकदमा सन् १९ पेशी की ता० १९ ई०  
 ऊपर सिखे मुकदमा में अपनो ओर से

Sri A. K. Jain एडवोकेट

Sri H. B. Singh A.O. I, Kaiser Bagh Lucknow महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा (इकारार) करता हूँ और  
 लिखे देता हूँ इस मुकदमा में वकील महोदय स्वयं अथवा अन्य  
 वकील द्वारा जो कुछ पैरवी व जवावदेही व प्रश्नोत्तर करें या अन्य  
 कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी  
 जारी करावें और रुपया बसूल करें या सुलहनामा या इकबाल  
 दीवानी तथा अपील व निगरानी हमारी ओर से हमारे या अपने  
 हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें  
 या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का  
 दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखत)  
 रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की  
 गई यह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं  
 यहाँ भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी  
 अपने पैरोकार को भेजता रहूँगा अगर मुकदमा अदम पैरवी में  
 एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी  
 मेरी वकील पर न होगी । इसलिए यह वकालतनामा लिख दिया  
 है कि प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर

साची (गवाह) ..... साची (गवाह) .....

दिनांक ..... महीना ..... सन .....

وَمُلْكُ الْكَوَافِرِ إِنَّمَا يُنَزَّلُ مِنَ الْكِتَابِ مَا يَرِيدُونَ

LAWRENCE R. BROWN 1966-1967

ମୋହନ୍ତିରେଣୁ

•• Applicant

Vorwurfs

Union of India and others

o. Resende dentes

Annexes

Sl. No.	Particulars	Page No.
1.	Application u/s 19 of the Administrative Tribunal Act.	1 to 19
2.	<u>Sub. A. S.:</u>	
	C. Copy of the petition in order dated 6-7-72.	
	D. Copy of the representation dated 6-5-80.	
3.	Validation	

### Lack of cut

Dated 8 August 1955

Advocate  
Council for the applicant.

Government of India - Central Statistical Organisation  
Statistical Bureau.

Mr. G. V. M. S. -

Librarian I.D.O.

21.000/-

No. 10100.

Mr. G. V. M. S. -  
Central Statistical Bureau,  
Lok Bhawan, New Delhi.

Mr. D.

K. D. Srivastava, aged about 57 years,  
son of late Sri K. S. Srivastava,  
resident of village Chorikpur,  
J. J. Thorpur District Saranpur. - A. Licent

A.D.

1. Union of India through Secretary

Ministry of Planning, Department of  
Statistics, A.O.S.O. (Field Operation  
Division), 1st block -C, Wing-6,  
R.K. Puram, New Delhi.

2. The Director, National Sample Survey

Organization (Field Operation Division),  
Department of Statistics, Ministry of  
Planning, Government of India, West  
Block No. 8, Wing No. 3, R.C.D.Puram,  
New Delhi.

3. Mr. Chief Administrative Officer,

National Sample Survey Organisation  
(Field Operation Division), Department

OS Statistics, Ministry of Planning,  
Government of India, 703 Block B.C.D.,  
Vijay Encl., R.K. Puram, New Delhi.

.. Respondents.

D. M. Form No. 101.

1. Particulars of the applicant:

(i) Name of the applicant - K.N. Srivastava,  
(ii) Father's name - Late Sri K.N. Srivastava.  
(iii) Designation and office in which employed - Assistant Superintendent, Office of Sample Survey Organisation, Field Operation Division, U.P. (C), Lucknow.  
(iv) Office address - National Sample Survey Organisation (Field Operation Division), U.P. (C), Government of India, P. O. 991, Sector A, Lucknow, Lucknow.  
(v) Address - Village Sharikpur, P.O. Sharikpur, District Barabanki.

2. Particulars of the respondents:

(i) Name and designation of the respondent - Secretary, Department of Statistics, Ministry of Planning, Government of India, Bazar Patel Marg, Parliament Street, New Delhi-110001  
(ii) Office address - Office of the Secretary, Department of Statistics, Ministry of Planning, Government of India, Bazar Patel Marg, Parliament Street, New Delhi-110001.

o  
(iii) Address for service  
of the notices

- Office of the  
Deputy Secretary,  
Ministry of Planning,  
Government of India,  
Bunker Road Bhawan,  
Mahanagar Complex,  
New Delhi 110001.

(iv) Name and designation  
of respondent no.2 -

The Director, Fac2D  
Operation Division,  
National Sample  
Survey Organisation,  
R.S. Bhawan, New Delhi.

(v) Office address

- Office of the  
Director, Field  
Operation Division,  
National Sample  
Survey Organisation,  
R.S. Bhawan, New Delhi.

(vi) Address for service  
of the notices

Office of the  
Director, Field  
Operation Division,  
National Sample  
Survey Organisation,  
R.S. Bhawan, New Delhi.

(vii) Name and designation  
of respondent no.3

Deputy Director Lok,  
Chief Administrative  
Officer.

(viii) Office address

- Office of the  
Director, Fac2D  
Operation Division,  
National Sample  
Survey Organisation,  
R.S. Bhawan, New Delhi.

(ix) Address for service  
of the notices

- Office of the  
Director, Fac2D  
Operation Division,  
National Sample  
Survey Organisation,  
R.S. Bhawan, New Delhi.

40

3. Particulars of the order or notice which application is made.

(i) Order number - O.M. No. 52016/G/63-D, XI

(ii) Date - 24th August, 1973.

(iii) Issued by - Combined seniority list of the Assistant Superintendents (AS), Assistant Superintendents (AII), Assistant Superintendents (AS), I.M.D., P.O.P. published under the signature of Sri Barberi Lal, Chief Administrative Officer, Govt. Director.

(iv) Subject in brief - The applicant was appointed as Investigator on 26-12-1959 in the pay-scale of Rs. 190-300 in the Department of Statistics, Ministry of Planning, Government of India. The applicant was promoted on the post of Assistant Superintendent on 6-7-1972 (6th July, 1972) in the pre-revised pay scale of Rs. 250-475 and the pay of the applicant for the post of Assistant Superintendent was fixed at Rs. 235/- on 1-12-1972. The promotion order was issued under the signature of Sri B.K. Chakravarty, the then Director, Department of Statistics, National Sample Survey Organisation (Field Operation Division), Govt. Director.

1003, 0153 G.O.6, D.L. Duran  
Lok Polka, u. dated the 6th July,  
1972. But while the concavity  
list two published video letter  
(dated 19-3-1970) under the  
signature of Sri Suresh Lal,  
the then Chief Administrative  
Officer for Director, the  
petitioner have been placed  
at Rs. 6,501 and his date of  
promotion on the post of  
Assistant Superintendent from  
the post of Investigator  
have wrongly been shown to  
16-7-75 in place of 6-7-72  
as a result of which the  
petitioner have been deprived  
from promotion to the post of  
Superintendent and several  
judicess to the petitioner  
have been granted on the  
con post in the department  
of Statistics, National Camp  
Survey Organisation (NCSO)  
Operation Department, Govern-  
ment of India, New Delhi.

#### 4. Jurisdiction of the Tribunal

The applicant avers that the  
subject matter of the order against which his  
rehearsal date is within the jurisdiction  
of the Tribunal.

#### 5. Discretion

The applicant further avers that  
the specific date is within the limitation  
prescribed in Section 21 of the Administrative  
Reform Act, 1961.

6. Scope of the order

(1) That the applicants who qualified for the post of Investigator and accordingly he has applied for the same post. He was selected and an appointment letter was issued appointing him as a member on the post of Investigator on 23-12-1955 at the pay-scale of Rs.150-300 in the Department of Statistics, Ministry of Planning, Government of India. At the said time there were no posts available. However, the aforesaid posts were merged into one. Therefore a combined capacity list was ~~prepared~~ prepared. Subsequently the services of Investigator/Controller and others were merged.

(2) Since the posts eligible are the posts of Investigator

and Controller

1.

petitioner joined the duties on the prescribed post and he continued to work and discharge his duties on the said post till date and there has been no negligence on his part.

(iii) That while the petitioner/applicant was promoted on the post of Assistant Superintendent vide order contained in MoS-12026/40/72-Lest. I(1), Government of India, Department of Statistics, National Sample Survey Organisation (Field Operation Division), West Block no.3 Wing No.6, R.K.Puram, New Delhi dated 6-7-1972, some other persons have also been promoted. The applicant's salary was fixed at Rs.265/- on 1-12-72 but he has been discriminated with the juniors in fixation of the salary, as one of his junior, namely, Sri V.b.Nambya, have been given higher salary to that of the petitioner for which the applicant made several requests and representations, but the respondents have not paid any heed towards his request and the said anomaly in the pay still exist.

(iv) That since the applicant has

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It is noted from 6-7-1972 on the point of Assistant Superintendent and the applicant's pay was fixed Rs.405/- in the cadre of Assistant Superintendent on 1.1.1973 which on the next increment on 16.9.1973 will amount to Rs.500/- where as one Sri V.B. Balviya who is junior to the applicant and was promoted to Assistant Superintendent on 16-1-1973 was getting Rs.300/-.

(v) That above pay scale on 2-6-1973 when the applicant was getting Rs.405/- per month, whereas the applicant's junior Sri Balviya was getting Rs.300/- per month on that date and by pay reached at Rs.500/- on 16.9.1973 meaning thereby that the applicant got 1000/- pay than Sri Balviya from 2-6-1973 to 14.9.1973.

(vi) That it is established principle of law that junior will not get more pay than his senior.

(vii) That it is pertinent to point out here that the Order of the Government of India, Ministry of Finance, O.C.O.D.O.7.1(55)/E.883(A), dated 10-7-74 provided that the pay of the senior G.O.C. 20x.31

-9-

servant promoted to the higher post before or 1.1.1973 and draws less pay in the revised scale than his junior who are promoted to higher post after that crucial date is to be entitled to a salary equal to the pay fixed for the junior officer in that higher post promoted on or after 1.1.1973.

(iii) This is in pertinent to point out here that although the applicant was promoted, as stated earlier, another order of promotion was issued by which the petitioner was promoted vide order contained in Order No. A-32016/2/74-Dept-088 (2) dated 16-4-74 on the post of Assistant Superintendent in Civil and Camp Survey Organisation (Field Operation Division) vide the memorandum dated 19-7-73 by superseding the earlier order of promotion as a result of which the applicants as have been ordered to be senior and placed much below in the revised seniority list and several others who were juniors were placed as senior.

(iv) with the aforesaid he was promoted on the post of Assistant in Civil and Camp Survey on 6-7-72 on the

Government rule is a GOCC 2070 dated  
on the 20-12-73 from who were of  
public trust in the pay scale 1.00.  
20-12-73 and on the basis of the  
aforesaid rule initially promoted and  
working as assistant Superintendent  
and accordingly the promotion order  
which have been issued subsequently  
would be valid ab initio but with  
clarification intended who a/s order of  
promotion have been issued in the  
year 1974. The aforesaid rule ~~does~~  
does not speak that it has got  
retrospective effect, nor the order  
dtd 6-1-72 by which the aforesaid  
was granted was superseded, nor  
even ab initio modified nor nullified.

(x) that it is evident from the  
contents of Column-11 of the schedule  
of the said rule which runs in the  
word, 'Promotion(1) for a period  
of three years commencing 1st date on  
which these recruitment rules comes  
into force' which means that a person  
who completed three years after the  
enforcement of these rules, will be  
eligible for promotion as Assistant  
Superintendent but the said rule  
does not speak about the categories  
the have also by law permitted

In the post of M. Assistant Superintendent  
the said rule have been wrongly  
interpreted by issuing such  
promotion order in the year 1974  
by ignoring the previous order  
dated 6-7-72 by which the applicant  
was promoted on the post of  
Assistant Superintendent.

(ii) that while the revised seniority  
list was issued no objections were  
invited from the applicant and  
others whose seniority have been  
affected and who have been placed  
such below and who have been  
promoted subsequently or junior to  
the applicant who have been  
placed much above the applicant.

(iii) that by mis-interpreting the  
Del. Vice Rules 1973 there has been  
gross injustice caused to the  
applicant, as his seniority have  
been affected otherwise the  
applicant would have been placed  
at 61.40.519 in the seniority list  
published on 26-6-69 in place of  
61.40.501 because the applicant  
have been promoted on 6-7-72 on  
the post of Assistant Superintendent  
in which due to the other similarly

dated 26.12.1972 the Superintendent  
have been promoted to the post of  
Sup. Assistant.

(211) that the Assistant

Superintendent who have been placed  
on D.R.O.379 to 379 have been promoted  
to the post of Superintendent and as  
the applicant would have been placed  
on D.R.O.379 then he would have been  
deprived of his post. The aforementioned  
persons but the applicant have been  
deprived from the right of promotion  
to the post of Superintendent by  
wrongly placing him at D.R.O.301 in  
the seniority list and thus the  
action of the concerned parties is  
illegal, invalid and contrary to the  
service rules.

(212) that while fixing the seniority  
of any employe like the applicant,  
the total length of service on the  
respective post is to be reckoned  
i.e. the initial date of promotion  
on the post of Assistant to  
Superintendent and in case of the  
application G-7-1972 ought to have  
been taken into account for the  
time previous to promotion, but  
the same has not been done in the  
case of G-20.

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(iv) That due to the perpetuation of incorrect seniority list and mis-interpretation of the service rule, 1973 the applicants have been denied from the right of promotion although Sri Keshmari Lal who have been promoted on the post of Assistant Superintendent on 10-7-72 have been promoted to the post of Superintendant on 1st August, 1982. Besides, there are several Assistant Superintendants who are junior to the former applicants who have also been promoted to Superintendant and as such the applicant is entitled for promotion to the post of Superintendant on the same date, 1982.

(v) and because of the wrong place and due to the failure of seniority list at 51.00.001, he has been continuously suffering loss of salary for which he was entitled on his post of Assistant Superintendent and his right on the present post of Superintendant has also been a agony and hurt.

(viii) 2000/-  
0.00.00.01 (50)

July 20 to the a. 13:00: 1.1 were  
prosecuted as Assistant Superintendent  
prior to 1.12.72 and 1.2.07 by  
prosecution(6-7-72) were given the  
benefit of the said G.O. and 3.1.1981  
and 9 others were prosecuted by G.O.  
No. A-059020/2/CS-Ltd. 11,0 and  
25-1-87 and 21.1.1982 Curvedi and  
14 others were given the benefit  
via an order dated 13-3-87. All those  
persons mentioned above are junior  
to the applicant and they have been  
given the aforesaid benefit from  
3-6-73 but the applicant has been  
denied the said benefit for the  
reasons best known to the respondent also

(xviii) That the applicant submitted his representation in 1977 requesting for stopping up of ~~any~~ the bay of the applicant as it is mentioned in the 24th line of the 2nd paragraph of the preceding paragraphs but his request has been rejected as the said ~~any~~ is the said first condition (b) of the law and it Under 10(b) before P....22(c) has not been satisfied.

(xix) *Surveillance and the  
Control of Recognition*, the Chief  
Administrator Officer has already

and for C.G. and Corp. Col. to do  
not to do easily. While my o. t. command  
is prone to be like 1 or 2. But command  
is hard not to getting Section 1 and  
as that the Major of the regiment for  
stop, 2 or 3 or 4, 5, 6, 7 and strongly  
selected by the Adj. and Inspector Officer.

(m) Part 20 is pertinent to point out  
that it is the government has issued  
J.C.P. 1 instructions that issued in G.O. no.  
G.O. 13. 3. 7 (19) Lot. 418/39 C. & G. 20-3-1931  
by which it is made that the term made in  
entry of 23rd 1931 Section 22(c) which  
provides for stopping of 2 or 3 senior  
and you for a certain time as or to  
have an authority in the pay visco-vis his  
superior authority.

(n) In the work in contact at the  
J.A.S. that may be had for in connection to  
the juniors who have been granted a. to  
it is not be a given or economic and which may  
also be entry or a certain time his entire  
service earlier has been established, but even  
then the permission has not been granted  
in the post of Superintendent.

(o) In the 11th the concerned facts  
it is also y do a credit to the  
M.A.C. on the 5th month through  
the representative - to Col. G.O.S.  
through p. o. r. command to the - G.O. 8. 7.  
and at 20 X 1931, history of  
G.O. 13. 3. 7 (19) 20-3-1931, 20-3-1931  
and 20 X 1931, earlier at 1931, G.O.

16

Being that till date no decision has been communicated to the petitioner and the petitioner has also come to know that no such decision had been taken upon the said representation. While the said representation have been made certain papers have also been annexed like the position order etc.

#### 7. Relief Prayer:

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

- (i) That in the seniority list date of promotion of the petitioner be corrected and mentioned as 07-09-1972 and the date shown as 16-4-74 be deleted and the petitioner's name be placed at the appropriate place in the said seniority list and delete the name of the petitioner from S.L.No.201.
- (ii) That the res evidence may be directed to promote the petitioner on the post of Superintendent since 1972 S.O. from the date on which

the juries have given you  
and the arrest of salary for  
the said post of Superintendent at  
be paid from the date of  
arrest and other consequential  
expenses may also be incurred.

#### 9. Expenses incurred for 8

As per article 80 of the revised on the 30th  
of December 1947 issued on 6-10-72 but it  
has also already been issued as 9-6-70 by  
these day and concentrating the service rules  
as aforesaid may be directed to prosecute  
the petitioner on the post of Superintendent  
in the department of Education, and  
apply salary during official service up to the  
levelised, Government is advised by way of  
Circular to direct the concerned to pay salary for the  
said post on the 30th December 1947 as may be  
directed in the aforesaid to make any prosecution  
on the post of Superintendent unless the  
petitioner so demanded or until the aforesaid  
as so directed by the aforesaid directed and  
and when other orders as may be done and just  
and proper for the circumstances as the aforesaid.

#### 10. Removal of the petitioner

Under article 80 of the Constitution Act, the  
Government may remove the petitioner  
including the representation and so forth  
to the Secretary of the department.

मार्च 18

10. ~~first~~ ~~surgeon~~ ~~and~~ ~~physician~~ ~~about~~ ~~him~~.

210. It is also provided that the public  
the author or author, which they  
against the two books, and is so pending  
before any Court of Law or any other  
authority or any other tribunal or com-  
missioner.

12. Application of Part A of the Act  
An exhort of the Act is to

(1) Name of the Bank/Post Office  
on which drawn

(2) Date of deposit  
Bank

CR 0300 121 02 35000 8

As a result, the effects of varying the locations of the receptors to be relieved upon is examined.

Digitized by srujanika@gmail.com

(A) Copy of the purchase order L 202  
Copy of the requirements in code by  
the manufacturer and distributor.

### Environnement

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U.P.(C), Government of India, 2023.  
Sectos & Helms, Mr. Lee, do hereby verify  
that the content of para 1 to 13 above  
are true to my personal knowledge and  
beliefs and that I have not suppressed any  
material in it.

Place:

Date:

Signature of the witness.

For,

The Collector,  
Central Administrative Services,  
Lucknow District,  
Lucknow.

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A  
No

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD CIRCUIT BENCH AT LUCKNOW.

*Misra Agarwal*  
CASE NO. 131/88 (L) IN O.A. REGISTRATION NO. 125/88 (L)

K K SRIVASTAVA..... APPLICANT

v/s

UNION OF INDIA..... RESPONDENT'S

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APPLICATION FOR CONDONATION OF DELAY:

The applicants, above named beg to state as follows :-

*Filed today*  
1:-That on last date this Hon'ble Court was pleased to grant 14 days time to the opp. parties to file the Counter Affidavit.

*Put up before  
Court on the  
date fixed*  
2:-That since the documents, file and necessary material could not be collected in time as the records were available at Delhi. Collection of information, papers & documents took some time.

*15/6/89*  
3:-That now the Counter Affidavit is prepared and is being filed herewith.

*S.D. (S)*  
Wherefore, it is, respectfully prayed that this Hon'ble Court may kindly be condone<sup>g</sup> the two days delay in filing the Counter Affidavit and the same may kindly be taken on record.

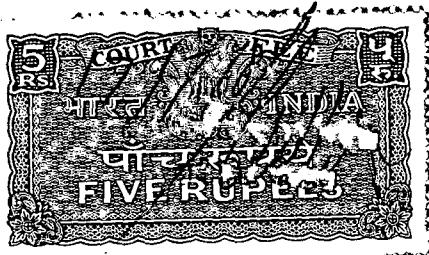
Lucknow:

Date: June 89

*S. N. MISRA*  
( S. N. MISRA )  
Counsel for the applicants

UNION OF INDIA

BEFORE THE ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH  
AT LUCKNOW.



<sup>125</sup>  
Case No. 121/88(L) IN O.A. REGISTRATION  
No. 1126/88(L).

K.K.Srivastava

.. Petitioner

versus

Union of India and others

.. Respondents.

Application for condonation of delay,  
in filing rejoinder affidavit.

The applicant above named begs to submit  
as under:

1. That due to non-availability of certain  
papers the rejoinder affidavit could not be prepared  
in time allowed by this Hon'ble Tribunal.

2. That now the applicant has been able to  
procure the necessary papers and the rejoinder  
affidavit have been prepared without any further  
delay.

3. That in view of the above facts and  
circumstances, delay in filing rejoinder affidavit  
deserves to be condoned.

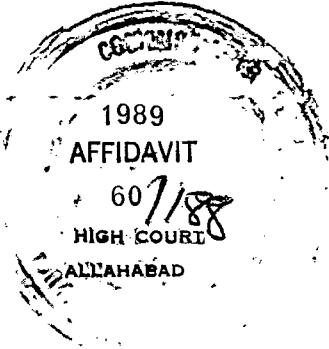
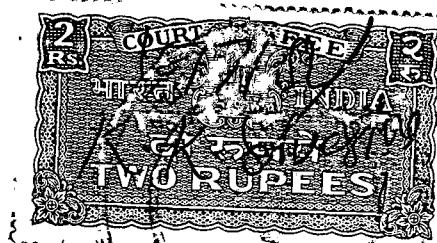
Wherefore, it is most respectfully prayed  
that this Hon'ble Tribunal may be pleased to condone  
the delay in filing rejoinder affidavit.

Lucknow; dated

Advocate  
Counsel for the petitioner.

July , 1989.

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



Case No. 131/88(L) IN O.A. REGISTRATION  
NO. 1126/88 (L).

K.K.Srivastava

.. Petitioner

versus

Union of India & others

.. Respondents.

REJOINDER AFFIDAVIT/ REPLY TO THE  
WRITTEN STATEMENT OF THE OPPOSITE PARTIES.

I, K.K.Srivastava, aged about 57 years, son of late Sri M.P.Srivastava, resident of village Dwarikapur, P.O.Sherpur district Barabanki do hereby solemnly affirm and state on oath as under:

1. That the deponent is the petitioner in the above noted case and as such he is well conversant with the facts deposed to hereinafter.

2. That the contents of para 1(i) of the written statement are incorrect and are denied.

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-2-

It is submitted that the petitioner was promoted on the post of Assistant Superintendent on 6-7-72 and he joined the duties on 10-7-72 and since then he has been continuously working and discharging the duties on the said post and as such while fixing the seniority, the total length of the service of the petitioner ought to have been taken into consideration by treating the initial date of appointment on the post of Assistant Superintendent as 6-7-72 and the date of joining as 10-7-72 but the same has been ignored and the petitioner's seniority has been reckoned from 16-4-74 i.e. the date of regularisation on the post of Assistant Superintendent. It is submitted that there is a clause in the order of promotion which provides that for the purpose of fixing of seniority these persons(promoted persons) will be considered to have been promoted with effect from the date of issue of this order i.e. 6-7-72 but while fixing the seniority the aforesaid clause have been ignored and the said fact has not been mentioned and has been concealed while the written statement has been filed.

W.M. S. S. A.

3. That the contents of para 1(ii) of the written statement are incorrect and are denied. It is submitted that a combined seniority list which has been prepared bears several defects, as the date of appointments have wrongly been given. As it is evident, the petitioner was promoted as Assistant Superintendent on 6-7-72.

(F) 2  
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(AS)

Similarly, <sup>other</sup> the Assistant Superintendent ~~16-4-72~~ at

~~16-4-72~~ No. 51 was also promoted ~~in the year 1972~~ ~~with effect from 0-7-72~~

whose services were also regularised on the said post with effect from 16-4-74 alongwith the petitioner but the petitioner's date of initial appointment have been shown as 16-4-74 while the initial date of promotion of the aforesaid persons have been shown of the year 1972 and thus the petitioner have been discriminated while the seniority have been determined and he has been placed at bottom and has been shown junior to several other persons.

4. That the contents of para 1(iii) of the written statement need no reply.

5. That the contents of para 1(iv) are incorrect and are denied. It is submitted that new recruitment rules known as Assistant Superintendents (FOD) NSSO Recruitment Rules, 1973 were published on 5-1-74 but it is incorrect to say that on the basis of the said rules the petitioner and others were appointed on the post of Assistant Superintendent on regular basis vide office letter no. dated 16-4-74. It is submitted that the petitioner was initially appointed/promoted on the post of Assistant Superintendent on 6-7-72 and since then he has been working and discharging his duties on the said post and on coming into force the aforesaid rules the services of the petitioner were regularised

16-4-74

W.M.W.S.

alongwith other Assistant Superintendents who were also promoted initially on adhoc basis but while the seniority have been determined for the purposes of promotion to the next higher post, their ~~the~~ initial date of appointment have been shown as the date of adhoc promotion but while fixing the seniority of the;petitioner, petitioner's date of regularisation on the post of Assistant Superintendent have been shown as initial date of appointment and thus the petitioner have been discriminated with the aforesaid persons, as a result of which the petitioner have been placed at the bottom and have been shown junior to several candidates who have been promoted subsequent to that of the petitioner on adhoc basis and their services were regularised on 16-4-74. It is further submitted that the petitioner has been promoted before the enforcement of the aforesaid service rules and as such the date rules will not be applicable in the case of the petitioner, as the same have not been given retrospective effect.

6. That the contents of para 1(v) as alleged are incorrect and are denied. It is incorrect to say that the applicant has made three prayers in the application and all these prayers are misconcieved, contradictory and not tenable and are liable to be rejected. It is submitted that the petitioner could make <sup>as many</sup> ~~2~~ prayers as he likes. It is further submitted that the petitioner has made several representations, but none of the representations have been considered and decided,

W.M.S. Alavi

and as such he has rightly prayed that the representations made by him may be decided. He has further prayed that he may be promoted to the post of Superintendent and in any case no promotion be made till the petitioner ~~is~~ is considered and promoted to the post of Superintendent.

7. That the contents of para 1(vi) of the written statement are absolutely incorrect and are denied. It is submitted that the petitioner has neither challenged the seniority list nor fixation of the seniority of any person but he has challenged the date of initial appointment/promotion on the post of Assistant Superintendent, as the initial date of promotion of the petitioner is 6-7-72 and the total length of service be counted from the said date in fixing the seniority and he may be placed at the appropriate place and in view of the above, there is no necessity to implead all the aforesaid persons. It is further submitted that the petitioner has prayed that he may be promoted ~~is~~ with effect from February, 1982 when the juniors to the petitioner have been promoted.

16-7-82

8. That the contents of para 1(vii) of the ~~3<sup>rd</sup> expatition~~ written statement are incorrect and are denied. It is further submitted that the petitioner has been making the representations from time to time and he was agitating his claim from the very begining and there is no such lapse on his part and as such it is incorrect to say that

10/10/82

A/C

-6-

he cannot be allowed to agitate his claim after lapse of such a long time. It is submitted that the opposite parties did not consider and dispose of the representations made by the petitioner and they were sitting tied over the matter and when there was no other way out then the petitioner approached this Hon'ble Tribunal for redressal of his grievance and there is no lapse on the part of the petitioner.

9. That the contents of para 2 of the written statement need no reply.

10. That the contents of para 3 of the written statement need no reply.

11. That the contents of para 3(iv) of the claim petition are reiterated and the contents of para 4 of the written statement are incorrect and are denied. It is submitted that the petitioner and all the aforementioned persons who have been promoted on or after 6-7-72 were promoted in the scale of Rs.210-425 and they have drawn the salary accordingly but subsequently the said pay-scale was revised in December, 1972 and the revised pay scale was 250-475.

It is submitted that the petitioner was appointed on adhoc basis on 6-7-72 and others have also been appointed on adhoc basis on or after 6-7-72 and on enforcement of the new rules the services of the petitioner and others have been

*W.M. Doshi*

*16-7-72*

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regularised and they have been given regular promotion but while the seniority was determined, the total length of service from the date of initial appointment on the post (date of adhoc promotion) have been taken into consideration in respect of others, the petitioner's initial date of appointment have been taken as 16-4-74, the date on which he was regularised on the said post and not the date when he was initially appointed on adhoc basis and thus the petitioner's total length of service has not been taken into consideration and he has been discriminated with other persons who were also initially appointed/promoted on adhoc basis on or after 6-7-72 and they were also regularised on 16-4-74 but their period of adhoc appointment/promotion have been counted while fixing the seniority while the petitioner has been excluded from such consideration and his total length of service on the said post has not been taken into consideration. In any case either the period of appointment on adhoc basis ought to have been ignored in case of all the persons and not only in the case of the petitioner or it ought to have been counted towards the total length of service in respect of all the persons including the petitioner but it is only in the case of the petitioner that the ~~xxxxxx~~ opposite parties ignored the period of service rendered on adhoc basis. It is further submitted that there was an award in respect of the merger

16-7-74

MLA

of the three categories i.e. Computer Agriculture, Socio Economic and Industrial which was made by Hon'ble K.M.Wanchoo which provides that on the merger the seniority would not be affected and as a result of which the above seniority list was prepared and all the aforesaid three categories were merged and their services were regularised with effect from 16-4-74. While the seniority list was prepared the candidates who have been placed from Sl.No.1 to 373, their initial date of promotion on the post of Assistant Superintendent have been taken into consideration although their services were also regularised with effect from 16-4-74 but while the seniority of the petitioner and others have been determined their initial date of promotion on the post of Assistant Superintendent i.e. 6-7-72 have been ignored and the date of regularisation i.e. 16-4-74 has been treated to be the initial date of promotion. It is submitted that one the petitioner was promoted on the post of Assistant Superintendent on 6-7-72, the only requirement was to regularise his promotion on the said post and not to issue a fresh order of promotion and when the fresh order was issued the petitioner made several representations but of no avail.

16-7-87  
M. Wanchoo

13. That the contents of para 4 of the claim petition are reiterated and the contents of para 5 of the written statement are incorrect and are denied.

14. That the contents of para 5 of the claim petition are reiterated and the contents of para 6 of the written statement are incorrect and are denied. It is submitted that the seniority list was published but it was not circulated to the staff and the petitioner and several others have not been given any opportunity to look into the seniority list. However, on coming to know about the irregularity in the fixation of the seniority, the petitioner as also others have made several representations and requested that they may be placed at their appropriate place treating their initial date of promotion as 6-7-72 and not as 16-4-74. It is incorrect to say that the applicant did not make any representation against the seniority list and his seniority in the grade of Assistant Superintendent having been reckoned w.e.f. 16-4-74 and the said seniority was adopted as final after meeting all objections and comments received from different quarters. It is also incorrect to say that now after a gap of about five years the applicant has moved this Hon'ble Tribunal in the matter and thus the application suffers from law of limitation prescribed under the Central Administrative Tribunals Act. It is submitted that there is recurring cause of action and as such the limitation prescribed under the Act will not affect the claim of the petitioner. The petitioner has been making representations from time to time but the opposite parties did not

(A)  
16-7-74  
M.M.D.W.

pay any heed and all the aforesaid facts have been mentioned in the body of the claim petition. It is further submitted that a copy of the seniority list has not been given to the petitioner even till date and he has been the seniority list for the first time when the opposite parties supplied a copy of the same alongwith the written statement.

15. That the contents of para 6(i) ~~2~~ of the claim petition are reiterated and the contents of para 7 of the written statement are incorrect and denied. It is submitted that the opposite parties have concealed the material facts about the award made by Hon'ble K.M.Wanchoo dated 31.10.72 with ulterior motive.

16. That the contents of para 6(ii) of the claim petition are reiterated and the contents of para 8 of the written statement are incorrect and are denied. The detailed reply has already been given in the preceding paragraphs.

17. That the contents of para 6(iii), (v), (v), (vi) and (vii) are reiterated and the contents of para 9 of the written statement are incorrect and are denied. The detailed reply has already been given in the preceding paragraphs.

18. That the contents of para 6(viii) & (ix) are reiterated and the contents of para 10 of the written statement are incorrect and are denied.

19. That the contents of para 6(x) are reiterated and the contents of para 11 of the written statement are incorrect and are denied. It is incorrect to say that the petitioner was appointed on the post of Assistant Superintendent purely on adhoc basis vide office order dated 6-7-72 and the adhoc appointments are distinct from regular appointment and thus the applicant who was appointed to the post of Assistant Superintendent on regular basis with effect from 16-4-1974 is entitled to claim seniority only with effect from this date. It is submitted that there is no provision in the aforesaid Rules for fixation of the seniority by ignoring the total length of service rendered by the petitioner and others. It is submitted that the petitioner was promoted on adhoc basis on 6-7-72 and since then he has been continuing on that post and his appointment on the said post was regularised <sup>as</sup> with effect from 16-4-74 and as such <sup>per</sup> the decisions of the Hon'ble Supreme Court in S.P.Dowali's case and Baleshwar Dass's case the period of service rendered on adhoc, temporary or officiating should be counted towards total length of service and the seniority would be determined on the basis of total length of service rendered by an incumbent. It is further submitted that even otherwise the persons who were working alongwith the petitioner who have been promoted subsequent to that of the petitioner on adhoc basis after 6-7-72 on which date the petitioner was promoted and they have

16-7-89

M. S. Khan

have also been given regular promotion with effect from 16-4-74 while their seniority was fixed their total length of service rendered either on adhoc basis or temporary have been taken into consideration and they have been placed at Sl.No.1 to 373 but while the petitioner's seniority have been fixed, his total length of service have been ignored and the ~~date~~<sup>2</sup> date of regularisation on the said post have been taken as the initial date of appointment and thus the petitioner have been discriminated.

20. That the contents of para 6(xi) of the claim petition are reiterated and the contents of para 12 of the written statement are incorrect and are denied. It is submitted that the seniority list has neither been circulated nor the petitioner have been allowed to look into the same and make objections, if any. It is further submitted that the petitioner is on field duty and on coming to know about the publication of the seniority list, he has made several requests to the authority concerned but they have avoided to show the seniority list on the ground that it is a confidential documents and as such the petitioner cannot be allowed to look into the same. When a written application was moved to the authority concerned only then he was allowed to look into the same and then he immediately made a representation that he has wrongly been placed at Sl.No.501

16-7-89

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and his total length of service has not been taken into consideration and his date of regularisation on the post has been taken as the initial date of appointment but the said representation has still not been considered and disposed of and thus it is incorrect to say that no such objection have been raised by the petitioner and as such he is now estopped from making any objection. It is further submitted that the petitioner has mentioned all the facts in the representation including the fact that the persons ~~2 have been 2~~ who ~~were~~ placed at Sl.No.1 to 373 have been promoted alongwith the petitioner on regular basis with effect from 16-4-74 but they have been placed above the petitioner,although they were promoted on adhoc basis subsequent to the petitioner, as the petitioner was promoted on adhoc basis on 6-7-72, much prior to the aforementioned persons.

16-7-89

21. That the contents of para 6(xii) of the claim petition are reiterated and the contents of para 13 of the written statement are incorrect and are denied.
22. That the contents of para 6(xiii) of the claim petition are reiterated and the contents of para ~~6(xiv)~~ 14 of the written statement are incorrect and are denied.
23. That the contents of para 6(6(xiv)) are reiterated and the contents of para 15 of the

claim petition are reiterated and the contents of para 23 of the written statement are incorrect and are denied.

32. That the contents of para 9 of the claim petition are reiterated and the contents of para 24 of the written statement are absolutely incorrect and are denied.

33. That the contents of para 25 of the written statement is absolutely incorrect and denied. The petition deserves to be allowed with costs and the petitioner deserves to be given all consequential benefits.

M. A. Hashmi  
Deponent.

Lucknow; dated.

July 16, 1989.

Verification.

I, the above named deponent, do hereby verify that the contents of paras 1 to 33 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed.

So help me God.

M. A. Hashmi  
Deponent.

Lucknow; dated

July 16, 1989.

I identify the deponent who has signed before me.

Solemnly affirmed before me on 16-7-1989 at 7-45 am/pm by Sri K. K. S. N. Verma, the deponent, who has been identified by Sri A. Q. Khan, Advocate, High Court, Lucknow.

Advocate

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

D. D. ARIJANI  
PARK COMMISSIONER  
High C. now Bepch Lucknow  
60 1188  
16/7/89

FF.16.5.89

PP

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH: LUCKNOW.

Civil Misc.Application No. 131

1989 (L)



CLAIM PETITION NO. 125 OF 1989

K.K.Srivastava

.. Claimant

versus

Union of India and others

.. Opposite parties

*Bind on  
record  
and put up  
on 16.5.89 before  
Hon'ble Bench  
which is the  
date already  
fixed by  
you*

APPLICATION FOR INTERIM RELIEF.

The applicant/claimant begs to submit as  
under:

That for the facts, reasons and circumstances  
stated in the accompanying affidavit, it is most  
respectfully prayed that this Hon'ble Court may  
kindly be pleased to direct the opposite parties to  
promote the claimant on the post of Superintendent,  
N.S.S.(FOD), Government of India and stay the further  
promotions till the petitioner/claimant is promoted  
to the aforesaid post.

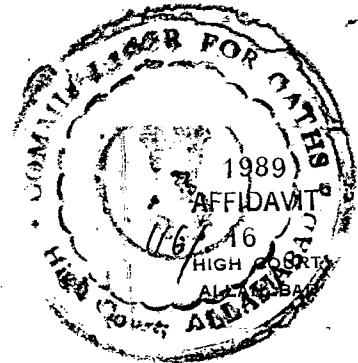
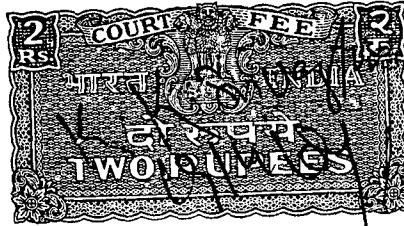
Any other order which this Hon'ble Court

may deem just and proper in the circumstances of  
the case may also be passed.

Lucknow; dated  
April  
1989.

*R. V. Singh*  
Advocate  
Counsel for the claimant.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH: LUCKNOW.



K.K.Srivastava

.. Petitioner

versus

Union of India

.. Opposite parties

A F F I D A V I T.

I, K.K.Srivastava, aged about 57 years, son of late Sri M.P.Srivastava, resident of village Dwarikapur, P.O.Sherpur, District Barabanki do hereby solemnly affirm and state on oath as under:

1. That the deponent is the claimant in the above noted case and as such he is well conversant with the facts deposed to hereinafter.
2. That the claimant has filed the above mentioned claim petition challenging the inaction on the part of the opposite parties and depriving the claimant from right of promotion. The deponent has taken steps for service of notice on the opposite parties and the notices have been served

*K.K.Srivastava*



and 29-3-89 is fixed for further orders.

3. That the deponent is going to retire on 31st July, 1989 and the opposite parties are lingering the disposal of the claim petition with a view to deprive the petitioner from right of promotion and to hold the office of Superintendent, although the deponent is much senior and he ought to have been promoted in the year 1982, when his junior <sup>m</sup>Kishari Lal have been promoted.

4. That in view of the above facts and circumstances, the opposite parties deserves to be directed to promote the petitioner immediately to the post of Superintendent, N.S.S.(FOD) with effect from February, 1982 and in any case unless the claimant is promoted, further promotions deserves to be stayed and in case an order to the same effect is not passed, the petitioner will suffer irreparable loss and injury.

M. A. Wazir

Lucknow; dated

Deponent.

App. 16  
March 19, 1989.

Verification.

I, the above named deponent, do hereby verify that the contents of paras 1 to 4 of this



-3-

affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So help me God.

K.L. Masih

Lucknow; dated

Deponent.

March 19, 1989.

I identify the deponent who has signed before me.

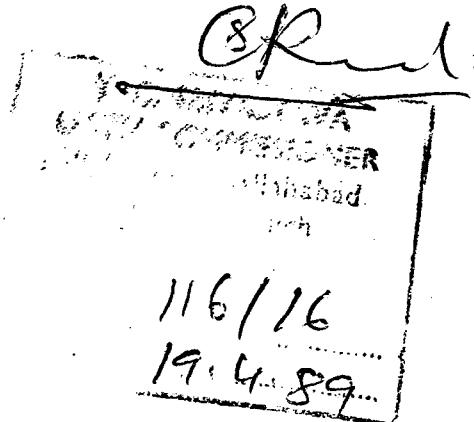
R.V. Singh

Advocate.

Solemnly affirmed before me on 19.4.89  
at 8.00 am/pm by Sri ~~R.V. Singh~~ Sri K.K. Srivastava  
the deponent, who has been identified by  
Sri R.V. Singh.

Advocate, High Court, Lucknow.

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



ब अदालत श्रीमान भिलाई इस्तहम्बर जहां न्यायालय उत्तर की लज्जनक  
कानून सेवा अधिकारण उ० प्र० नं० हृष्टिंदू लखनऊ

वादी (मुद्दे) प्रतिवादी (मुद्दालेह) का वकालतनामा

रिट याचिका संख्या - १२५ - आफ १९५४ (L)

कौ० कौ० श्रीवास्तव युक्ति प्रतिवादी (मुद्दालेह)

नं० मुकद्दमा सन् १९ पेशी की ता० १९ १९०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री राकेश शर्मा एवम् सहायक  
श्री रामलक्ष्मण एडवोकेट (वकील) महोदय को

फीस तय कर अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और  
लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो  
कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें  
या हमारी ओर से डिग्री जारी करावें और रुपया वसूल करें या सुलहनामा  
या इकबाल दावा तया अपील व निगरानी हमारी ओर से हमारे या अपने  
हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया  
जमा करें या हमारी या विपक्ष (फरोकसानी) का दाखिल किया रुपया  
हर्जाखिर्चा अपने या या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या  
पंच नियुक्त करे - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा  
स्वीकार है और होगी मैं इकरार करता हूँ कि अंतिम सुनवाई से पूर्व में  
तपशुदा पूरी फीस का भुगतान कर दूँगा अन्यथा आगे वकील महोदय पैरवी  
बदि नहीं करें तो उनकी जिम्मेदारी नहीं होगी। मैं यह भी स्वीकार करता हूँ  
कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकद्दमा  
अदम पैरवी में एक तरफा फैसला हो जाता है उसकी जिम्मेदारी मेरी वकील  
पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और  
समय पर काम आवे।

२५८८  
हस्ताक्षर-युक्त (दस्तखती)  
उत्तर कालीन (१००००)  
प्रतिवादी (मुद्दालेह)

साक्षी (गवाह) साक्षी (गवाह) १००००

दिनांक १२५८८ महीना सन् १९५४

उपरोक्त शर्तों पर पैरवी दरना स्वीकार है।

(राकेश शर्मा)  
एडवोकेट

१२५८८

३०३०६५