

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW REGIONAL, PETI BHAL, LUCKNOW.

Case Title O.A.

152/88 of 19

(L)
(T)

Name of parties
VERSUS

M. C. Tiwari

Applicant's

Union of India & others

U-59

Respondents.

Sl. No.

Particular of Documents

No. of page

PART-A

Check list ----- to

Order sheet

Final Judgment

at 13-3-94

18 to 16

26 to 25

Petition or y with power

Annexure

Counter with power

Rejoinder with Annexure

Supplementary Counter

Supplementary Rejoinder

Misc. Application

PART-B

1- Power, notice ASA to A60

59 to 94

PART-C

B/C. Weeched out / destroyed.

Case No. ----- of 199

CERTIFICATE

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

DATED: _____

Signature of the dealing Assistant

Counter-Sign

Incharge.

Section officer.

Court Officer.

(RM)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUGANO.

O.A./T.A. No. 152 1980 (C)

M. C. Tawani

Applicant(s)

Versus

U.O & Cons

Respondent(s)

Sr. No.	Date	Orders
7-X-00	Hon. K.S. Puttaswamy, V.C. Hon. A. John, A.M.	Applicant by <u>Sr. L.P. Shukla</u> . Admit. Issue Notices. one month for C.A. 4 to days thereafter for R.A. Call this case for hearing on 21-11-00
21/11/00	<u>OR</u>	Sd/- A.M. Sd/- V.C. <u>fnsh</u> Notices issued to the respondents. No 1, 2 & 3 through Regd. Post. fixing 21-11-00 for hearing.
21/11/00		No. Sd/- .. Adjourned to 24-1-09. for filing reply. Power on behalf of O.Ps. filed today
24-1-09	<u>OR</u>	Both the parties are present. Last opportunity for filing reply is granted by 20-2-09.

D.R.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LACNO.

O.A./I.A. No. 152 1982 (L).

M.C. Tewari Applicant(s)

Versus

Union of India Respondent(s)

Sr. No.	Date	Orders
	<u>20-2-89</u>	NO SITTING, Ad JOURNED to 8-3-89 For Reply. <div>Res 20/2</div>
	<u>8-3-89</u>	<u>D.R.</u> Counsel for the applicant present. Reply not filed today. The case is adJourned to 30/3/89 for hearing. In the mean time the reply may be filed. <div>OR</div> <div>No reply filed</div> <div>h 29/3</div>

29/3

D.R.

O.A. No.152/88(L)

Hon. Mr. D.S. Misra, A.M.
Hon. Mr. D.K. Agrawal, J.M.

30/3/89

Shri S. Verma learned counsel for the respondents has requested for further time to file counter reply. He may do so within a month. The applicant may file rejoinder, if any, within two weeks thereafter. List the case for final hearing on 17-5-89.

J
J.M.

bl
A.M.

(sns)

GR
The learned Counsel for the respondents. No reply have been filed as directed by the court's order dt. 30.3.89. Submitted for order.

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

17/5/89

None is present for the applicant. A request has been received on behalf of the learned counsel for the respondents requesting for four weeks further time for filing reply. The request made is allowed. The applicant may file rejoinder if any, within 2 weeks thereafter. List this case for final hearing on 21-8-89.

W
A.M.

(sns)

OR
No reply filed submitted for order
h
10/5

21-0-0P

Hon. Mr. D.K. Agarwal, J.M

None is present for the applicant. Shri S. Verma learned counsel for the respondents, has requested for further time to file counter reply. List the case for further order 27-9-0P

Del
J.M. *OR*

No reply filed. Submitted for order
h
26/9

O.A. 152/88 ✓

6/5/91

(5)

D.R.

Both the parties are present today. Sri

S. Verma counsel for the respondents has been filed counter today. Applicant to file R.A. by 15/7/91.

15.7.91

D.R.

Applicant's side is present but he did not submit Reply. O.P. is absent. Case is listed on 30/8/91 for filing Reply.

30.8.91

D.R.

Both the parties are also present today.

Applicant desires to file Reply by 28/10/91. ✓

⑦

O.A./I.A. No 152/88

O R D E R

Both the parties are present.
Applicant to file rejoinder
by 13.10.92

Both the parties are present.
Rejoinder has not been filed.
Applicant to file rejoinder
by 3.12.92.

None is present for the parties. Applicant to file rejoinder by 29.1.93.

None is present for the Parties Applicant to file rejoinder on the date fixed. List on 2/3/93 for F.H.

Wie Sitzung am 26.3.83

Noting of D.M. 2017
N 54 53

CA 1603440112

5511b

31/3/57

O.A. 152/88.

⑨

12/8/94

Hon'ble Mr. V.K. Seth, A.M.

Hon'ble Mr. D.C. Verma, J.M.

Heard the parties. Learned Counsel for the applicant request that time may be granted to obtain the circular of G.M. Railway Board, referred to in the judgement. (1985 to S.S.C. Page. 45) A.K. Chatterjee versus Union of India. Time is granted. List on 19/8/94 for hearing.

J.M.

A.M.

OR

CA filed &
RA not filed.
Submitted for
hearing.

th
18/7/94

19/8/94

Hon-Mr. Justice B.C. Saxena, V.C.
Hon-Mr. V.K. Seth, A.M.

This is a part-heard matter before the Bench constituted of Hon. Mr. V.K. Seth, A.M. & Hon. Mr. D.C. Verma, J.M. Therefore, list on 22-9-94 before the same Bench for further hearing.

(over)

A.M.

Boh

22-9-94

Hon Mr V.K. Seth, A.M.
Hon Mr DC Verma, J.M.

V.C.

None for the parties. List on 2-10-94 for hearing.

J.M.

A.M.

th

A.M.

PH

CA 152/08

(11)

21.10.94

Hon Mr V.K. Sethi - D.M.

Hon Mr D.C. Verma - J.M.

Now responds to the
patent holder on 24.11.94

J.M.

L.K.
D.M.

24.11.94

DR

List it before the Bench

of Hon Mr V.K. Sethi A.M. and

Hon Mr D.C. Verma J.M. &

put heard case on 8.12.94

DR

on
CA / J.M. Filed
S.A.H.
2/12

8.12.94

No sitting of D.B. Case adjourned

to 27.1.95

B.C.C.

27-1-95

Hon Mr V.K. Sethi A.M.

Hon Mr D.C. Verma, J.M.

Shri L.P. Shukla, learned
counsel for the applicant
None for the respondent.
but on 22-2-95 for
hearing

on
proceedings are
complete
S.A.H.
21/2/95

J.M.

b

A.M.

QA. No. 152/88

(13)

16-5-95

D.R.

Layars abstain from Judicial work. Case adjourned to 17-5-95 for hearing.

DR

DR

17.5.95

Hon'ble Mr. V.K. Seth, A.M.

Hon'ble Mr. D.C. Vora, J. M

None for parties.

List for hearing on 6-7-95

L.K.
A.M

J.M.

R.N.

6.7.95

Case not reached adjourn to 3.8.95

J.
Boc

on
pleadings are
complete
5/5/95

Submitted for
DR
H.A.

03-8-95

JK

Appropriate Bench is not available. Move for the respondents. Place before the Hon'ble Bench on 29-9-95 for hearing. Learned Counsel for the applicant is also not present today.

Q

JK

29-9-95

D.R.

Appropriate bench is not available. Move for the applicant. Learned Counsel for the respondents is present. Place before the Hon'ble Bench on 16-10-95 for hearing if concerned bench is available.

JK

JK
D.R.

① - submitted before DR
29/9/95

152/00

(15)

04-1-96

Honble. Mr. U.K. Seth. A.M.
Honble. Mr. D.C. Verma J.M.

None for the applicant.
Sr. S. Verma, learned counsel
for the respondents has
prayed for adjournment
for personal reasons.

list on 19-1-96 for
hearing.

JM.

LK
AM.

19.1.96

NO sitting at D.M. office
to 02-2-96

LK
AM

2-2-96

Hon Mr U.K. Seth. A.M.
Hon Mr D.C. Verma J.M.

None for parties.
list on 15-2-96.

JM.

LK
AM

b

02
04/01/96
S.A.H.
31/1/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

O.A. NO. 152/1988 199 (L)
T.A. No. 199 (TL)

Date of Decision-----

M.C. Tewari Petitioner
Shri L.P. Shukla Advocate for the
Petitioner(S)

V E R S U S
Union of India & Ors Respondent.

Shri S. Verma Advocate for the
Respondents.

C O R A M

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

1. Whether Reporter of local papers may be allowed to see the Judgment.
2. To be referred to the reporter or not? ✓
3. Whether their Lord Ships wish to see the fair copy of the Judgment?
4. Whether to be circulated to other benches?

Vice-Chairman/Member

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

Lucknow this the 13th day of March 1996.

O.A. No. 152/1988

HON. MR. V.K.SETH, MEMBER(A)

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

M.C. Tewari, son of late Sri O.B. Tewari,
Chief Inspector Tickets, r/o 78/99, New
Ganeshganj, Lucknow.

Applicant.

By Advocate Shri L.P. Shukla

versus

1. Union of India through General Manager,
Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern
Railway, Lucknow.
3. Ram Lochan Chief Inspector of Tickets,
Office of the Divisional Chief Inspector of
Tickets, Charbagh, Lucknow.

Respondents.

By Advocate Shri Sidharth Verma.

O R D E R

HON. MR. V.K. SETH, MEMBER(A)

Vide this O.A. the applicant has prayed for the same benefit of services which were given to Shri Ram Lochan Junior to the applicant including arrears by way of difference of pay with effect from 6.12.1974 to 31.10.1987 and consequential post retirement benefits, such as ^{Leave} encashment, gratuity and pension.

2. The claim of the applicant has been resisted by the respondents and pleadings were exchanged between the two sides. We have also given anxious thought to rival contentions of the learned

24

counsel for the two sides made during the course of hearing.

3. The applicant who was serving as Assistant Station Master, in the Northern Railway under D.R.M. Lucknow was decategorised from the post of A.S.M. in the scale of Rs 150-240 and absorbed on the post of Ticket Collector in the scale of Rs 110-180 on 6.9.1968. Subsequently, he was promoted as T.T.E. in 1969 and according to the O.A. confirmed on the said post in the same year. He was further promoted as Chief Inspector Tickets with effect from 1.1.1984 and finally retired from this position on 31.10.1987.

4. The applicant's contention is that consequent on his medical decategorisation from the post of Assistant Master in the scale of Rs 150-240 his absorption in the post of Ticket Collector in the lower scale of Rs 110-180 was illegal and, based on his seniority as A.S.M. he is entitled to consequential reliefs resulting from denial of promotion from next higher post and grades when persons junior to him ^ewere promoted. In regard to Shri Ram Lochan whose name has been mentioned in prayer for relief, it has been alleged that Shri Ram Lochan was confirmed as Ticket Collector on 4.7.1972 whereas the applicant was absorbed as such in 1968 and was promoted as T.T.E. in 1969, while Ram Lochan was confirmed as T.T.E. on 4.7.92. Still he superseded the applicant in his promotion to the post of Senior T.T.E., in the scale of Rs 425-640 on 6.12.1974. Shri Ram Lochan was thereafter again promoted as Junior Inspector Tickets (scale Rs 550-750) with effect from 1.9.79 and to the next higher grade of Chief Inspector Tickets in the

scale of Rs 700-900 on 1.12.84. The applicant claims that he has been making representations from 1978 onwards, but no action was taken. He also asserts that though he was confirmed as T.T.E. on 30.6.1969, while Shri Ram Lochan was confirmed as such on 7.4.1972, Shri Ram Lochan has been getting higher salary though junior to him. It is also alleged that Ram Lochan has been paid salary more than the applicant since 1974. While the applicant was drawing Rs 428/- on 1.12.74, Shri Ram Lochan was drawing Rs 515/-. It is further averred that the discrepancy in the salary between Ram Lochan, and the applicant continued throughout, till the applicant retired from service on 31.10.78. Therefore, he is entitled to difference in leave encashment, gratuity and pension etc.

5. The contention of the respondents briefly stated is that after his medical decategorisation, the applicant was absorbed as T.C. in the grade of Rs 110-180 fixing his pay at the maximum as the petitioner was at that time drawing Rs 181/-per month. This was done in accordance with rules on the subject restricting the difference in alternative job to below 25% or the applicant was found suitable for the post of grade Rs 110-180 by the Screening committee. It is also argued that the applicant joined the post of T.C. on 6.9.1968 and is raising his claim after a lapse of about 19 years and the same is highly time barred.

6. We find force in the contention of the respondents. The applicant's claim that his absorption in 1968 in lower pay scale was illegal, is highly belated. He should have

agitated this matter before the departmental authorities and proper judicial forum well in time which apparently he failed to do.

7. Even on merits, we do not find any force in the claim of the applicant. Our attention was drawn to the rules for absorption of medically incapacitated staff which are contained in Chapter 13 of Indian Railway Establishment Manual, Volume I. For our purposes, rules, 1305, 1309, 1313 and 1314 are relevant.

8. Rule 1305 prescribes that medically decategorised staff may, as far as possible, be absorbed in such alternative posts which should broadly be in allied categories and where their background and experience in earlier posts could be utilised. Rule 1309 states that the alternative post to be offered to a railway servant should be the post available for which he is suited to ensure that the loss ^{of} emolument is minimum.

9. Rule 1313 deals with fixation of pay and states that on absorption in alternative post the pay of the railway servant will be fixed at a stage corresponding to the pay previously drawn in the post.....if there is no such..... he may be given stage just below pay provisionally drawn by him. Rule 1314 deals with seniority and the same is not relevant for our purposes as the seniority of the applicant is not in question.

10. No material has been placed before us to demonstrate that there has been violation of any rules in offering the appointment in a lower scale to the applicant on his medical decategorisation. In any case the fact remains that he accepted the same without demur.

u v

10. In support of his case the applicant has cited instructions contained in Railway Board's letter dated 30.7.83 (Annexure-4 enclosed with the O.A.) on the subject of removal of anomalies arising as a result of application provision for option for fixation of pay on promotion, para 2 of which is specially relevant for our purposes, which is reproduced below:

"2. After careful consideration, the president is pleased to decide that in order to remove that aforesaid anomaly, the pay of the senior person in the higher post should be stepped up to a figure equal to the pay as fixed in respect of the junior person in that higher post from the date of occurrence of the anomaly, viz. from the date the pay of the junior is re-fixed in the higher post, in terms of para 2(b) of Board's letter of 13.11.81. The stepping up of pay of the senior would be subject to the following conditions, namely:

(a) Both the senior and junior employees should belong to the same cadre and the posts in which they have been promoted on a regular basis should be identical in the same cadre.

(b) The scales of pay attached to the lower and the higher posts in which they are entitled to draw pay should also be identicals and

(c) The anomaly should have arisen directly due to re-fixation of pay of the junior person (promoted on or after 2.5.81) in the Higher post, on his date of next increment in respect of the lower post, in terms of para 2(b) of Board's letter of 13.11.81. In other words, it should be ensured that there could have been no anomaly, had the pay of the junior person on promotion been fixed under the normal rules viz, under FR 22-C, direct. Also the senior person should not have been in receipt of less pay than the junior even in the lower post from time to time.

11. We find that the applicant cannot draw any support from the above provision on the basis of his seniority as A.S.M. in so far as fixation of pay is concerned. On medical decategorisation, he was offered the post of T.C. in the scale of Rs 110-180, which he readily accepted. This is the point from where he could claim comparison with Ram Lochan. As rightly pointed out by the learned counsel for the respondents, seniority and fixation of pay are two different aspects of service conditions and very often a junior person on promotion draws higher pay than his senior because even before promotion he was drawing higher pay in lower post. It is for this reason that the stipulation provided in the last sentence of para 2 'c' has been included. In accordance with the same, a senior person's pay can be stepped up to the level of that of his junior only if he was not in receipt of less pay than the junior even in the lower post from time to time. No material has been placed before us from which it could be made out that from the level of T.C. onwards, Ram Lochan was allowed less pay than the applicant during the period in question.

12. The respondents have stated that Shri Ram Lochan was promoted as T.T.E. on 8.1.65 whereas the applicant joined as T.C. on 6.9.80. Also the pay of Shri Ram Lochan was fixed in the grade of Rs 250-350 with effect from 10.12.71 at Rs 250/- per month whereas the applicant was drawing Rs 193/- per month on that date. Again Ram Lochan opted for fixation of his pay on promotion as C.I.T. in the grade of Rs 700-900 from the date of his next increment and therefore his pay was fixed at Rs 760 per month with effect from 1.9.84, but the

petitioner's pay was fixed at Rs 700/ with effect from 1.1.84. All this goes to show that in the lower posts from time to time the applicant had been drawing lesser pay than Ram Lochan which facts have not specifically been controverted by the applicant. It is therefore, clear that the protection and benefit of the instructions of the Railway Board dated 30.7.83 are not admissible to the applicant.

13. The applicant's counsel also sought to derive support from the decision of the Hon'ble Supreme Court in the case of Arun Kumar Chaturvedi vs. South Eastern Railway and others (1985, SCC (L&S) 465). An observation has been made therein to the effect that loss of seniority of a government servant with consequent loss of promotional prospect, higher pay and emoluments is a matter of serious consequences to him. It is further observed that if a person has been promoted but not on the date he should have been promoted, due to some administrative error, then the employee should be assigned correct seniority vis-a-vis his juniors already promoted irrespective of the date of promotion. In our view the circumstances of the present case are distinguishable. Also in the case cited three departmental representations were made and a view was also taken that there was no delay in filing the petition, the same does not hold true in the present case.

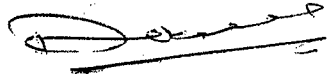
14. In the light of the foregoing discussions, we hold that the claim of the applicant in the present O.A. is devoid of merit. The same is

4/5

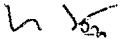
25

-8-

therefore, hereby dismissed. Parties shall bear
their own costs.



MEMBER(J)



MEMBER(A)

Lucknow; Dated; 13.3.94

Shakeel/

26

Filed today
Insb
6/11/88

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 152 /1988 ✓

M.C. Tewari

.....

Applicant

Versus

Union of India & others

Respondents

Details of Index

Application

1 to 11

1. Order dated 8.10.1986 promoting the applicant as Chief Inspector Tickets and placing him in the panel of Chief Inspectors Tickets. ANNEXURE NO 1

12 -

2. Seniority list dated 19.11.1975 of Travelling Ticket Examiner in Lucknow Division. ANNEXURE NO 2

13 - 15

3. Applicant's representation dated 8.6.1987.

ANNEXURE NO 3 - 16 - 17

मेरी न्याय

Attested/True Copy

L. P. SHUKLA
Advocate

Noted for
7-10-88

W. P. Shukla

Copy received
dt. 28/11/88

28/11

Application under Section 19 of the Administrative
Tribunals Act, 1985.

Date of filing

Registration No.

Signature

Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Between

M.C. Tewari

.....

Applicant

And

1. Union of India through the
General Manager, Northern Railway
2. Divisional Railway Manager,
Northern Railway
3. Ram Lochan ,
Chief Inspector Tickets

..... Respondents

DETAILS OF APPLICATION

I. Particulars of the applicant :

M.C. Tewari,
Son of late Sri O.B. Tewari,
Chief Inspector Tickets,
Office of the Divisional Chief
Inspector Tickets, Northern Railway,
Charbagh, Lucknow,
78/99 New Ganeshganj, Lucknow.

II. Particulars of the respondents :

- (1) Union of India through the
General Manager, Northern Railway,
Baroda House, New Delhi.

महेश चंद्र तिवारी

Attested/True Copy

L. P. SHUKLA
Advocate

(2) Divisional Railway Manager,
Northern Railway, Lucknow.

(3) Ram Lochan,
Chief Inspector Tickets,
Office of the Divisional Chief
Inspector Tickets, Charbagh,
Lucknow.

III. Particulars of the order against which
application is made :

31-
The applicant claims correct fixation after
his decategorisation on medical grounds from the post
of Asstt. Station Master in the scale of Rs.150-240 and
his absorption on the post of Ticket Collector in the
lower scale of Rs.110-180 on 6.9.1968. He further
claims all consequential reliefs resulting from denial
of promotion to next higher posts and grades while
persons junior to him were promoted ; thus resulting
in his discrimination and supersession.

IV. 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.

V. Limitation :

The applicant further declares that the appli-
cation is within the limitation prescribed under Section
21 of the Administrative Tribunals Act, 1985.

VI. Facts of the Case :

The facts of the case are given below :-

1. That the applicant was appointed as Asstt. Sta-
tion Master after his selection by the Central Railway
Service Commission Bombay in May 1951. He was sent for
training to the Zonal Training School at Chandausi in

Attested/True Copy

L. P. SHUKLA
Advocate

महेश्वर लाल शर्मा

U.P. The applicant was appointed Assistant Station Master and posted at Lucknow under the Divisional Superintendent Lucknow in the scale of Rs.150-240. He was confirmed on the post of Asstt. Station Master in 1964. The applicant continued to discharge his duties sincerely and diligently and he had an unblemished service record throughout while working on the post of Asstt. Station Master at different places in Lucknow division.

2. That the applicant failing in the eye sight test required for the post of Asstt. Station Master was medically decategorised in 1968 while he was working as Asstt. Station Master at Malipur in district Faizabad and getting the salary of Rs.181/- per month in the scale of Rs.150-240.

3. That after his decategorisation on medical grounds the applicant was absorbed as Ticket Collector in lower scale of Rs.110-180.

4. That the applicant's aforesaid absorption on his medical decategorisation from the post of Asstt. Station Master in the scale of Rs.150-240 to the post of Ticket Collector in the lower scale of Rs.110-180 was illegal and arbitrary.

5. That the applicant was entitled to be absorbed in the same scale on his decategorisation on medical grounds and his salary and emoluments were to be protected in accordance with the rules. The applicant's absorption as Ticket Collector in the lower scale amounts to reduction in rank and reversion from a higher

Attested/True Copy

L. P. SHUKLA
Advocate

Handwritten signature and initials.

post of Asstt. Station Master to the post of Ticket Collector in the lower scale.

6. That at the time of applicant's decategorisation on medical grounds posts in equivalent grades and in the same pay scale were vacant and were available for absorption of the applicant. The applicant by virtue of his experience of working as Asstt. Station Master was fully competent and qualified for being absorbed in any equivalent post carrying the same scale of pay.

7. That the applicant made various representations to the railway administration against his absorption in a post carrying a lower scale of pay but to no effect.

8. That persons junior to the applicant in service, who were also decategorised on medical grounds and were absorbed in alternative posts, were given higher scale than the applicant. This amounts to discrimination in service.

9. That the following persons junior to the applicant as Asstt. Station Master have been absorbed medically and posted in higher grade after being decateorised:-

(1) Sri Irshad Hussain, who was appointed Asstt. Station Master in 1955, was absorbed as Enquiry Clerk in higher grade of Rs. 425-640 and was given higher salary than the applicant.

Attested/True Copy

L. P. SHUKLA
Advocate

11/21/2014

- (2) Sri S.P. Seth, who was appointed as Asstt. Station Master in 1955, was also medically decategorised and was absorbed in the higher grade as Announcer at New Delhi Station and was given the salary of Rs.600/- per month.
- (3) Similarly Sri B.L. Dubey, who was appointed as Asstt. Station Master in 1955, was also decategorised and was absorbed in a higher grade and on a higher salary.
- (4) Sri C.P. Kapoor was appointed as Asstt. Master in 1955. He was also absorbed as Enquiry Reservation Clerk in the higher grade and was given higher salary than the applicant.
- (5) Sri K.D. Jha, who was appointed as Asstt. Station Master along with the applicant in 1951 was also absorbed, after being medically decategorised, in a higher grade of Wagon Movement Inspector and was given higher salary than the applicant.

10. That a large number of Ticket Collectors, who were appointed in 1954 and 1955, although much junior to the applicant who was appointed as Asstt. Station Master in 1951, have been promoted to the post of Conductor in the higher grade while the claim of the applicant for promotion has been ignored. Of these Sri K.L. Tandon was appointed as Ticket Collector in 1952 and although junior to the applicant was allowed

Attested/True Copy

L. P. SHUKLA
Advocate

मेरी सत्य प्रमाण

to supersede the applicant by being promoted as Conductor in the higher grade of Rs.425-640 in 1978. Sri Ram Lochan was appointed as Ticket Collector on 17.7.1955 and was confirmed on the post on 4.7.1972 much after the applicant who was absorbed as Ticket Collector in 1968 and was promoted as Travelling Ticket Examiner (TTE) in 1969 and confirmed on the said post in the same year. Sri Ram Lochan was confirmed as TTE after the applicant on 4.7.1972 still he superseded the applicant when he was promoted to the post of Senior TTE in the higher scale of Rs.425-640 on 6.12.1974. Sri Ram Lochan was thereafter again promoted to the next higher post of Junior Inspector Tickets in the scale of Rs.550-750 w.e.f. 1.9.1979. He was again promoted to the next higher grade of Chief Inspector Tickets in the scale of Rs.700-900 on 1.1.1984. Sri Ram Lochan is still continuing on the said post of Chief Inspector Tickets.

11. That against the aforesaid supersession of the applicant and promotion of his juniors to the next higher posts, the applicant made various representations from 1978 onwards but no action was taken. Thereafter the applicant continued to make representations through proper channel against his supersession and claiming due promotion prior to the date when his juniors were promoted on the higher posts than the applicant. The matter was also taken up on his behalf by the Northern Railwaymen's Union.

12. That by order dated 8.10.1986 passed by the Sr. Divisional Personnel Officer, Northern Railway, Lucknow the applicant was promoted on the post of

Attested/True Copy

L. P. SHUKLA
Advocate

18.11.2015

Chief Inspector Tickets in the grade of Rs.700-900(RS) against restructuring w.e.f. 1.1.1984 and placed in the panel of Chief Inspector Tickets declared under Notice No.181 E/6-8/IV dated 26.5.1984 below Sri S.K. Gupta at serial No.8 and above Sri K.L. Tandon at serial No.9 . A photostat copy of the order dated 8.10.1986 promoting the applicant as Chief Inspector Tickets and placing him in the panel of Chief Inspectors Tickets between serial No.8 and 9 w.e.f. 1.1.1984 is filed as Annexure No.1 to this application.

Annexure-1

13. That as already stated above, the applicant is senior to Sri Ram Lochan as he was confirmed as Travelling Ticket Examiner on 30.6.1969 much before Sri Ram Lochan who was confirmed as TTE on 7.4.1972. Both the applicant and Sri Ram Lochan were promoted as Chief Inspector Tickets w.e.f. 1.1.1984, still Sri Ram Lochan is getting higher salary than the applicant although he is junior to the applicant.

14. That on the basis of the order dated 8.10.1986 the applicant was promoted as Chief Inspector Tickets w.e.f. 1.1.1984 and as such he will be senior to Sri Ram Lochan in service but Sri Ram Lochan was being paid higher salary than the applicant since December, 1974. On 1.12.1974 while the applicant was getting the salary of Rs.428/- Sri Ram Lochan was getting the salary of Rs.515/-. On 1.1.1975 the applicant was getting the salary of Rs.440/- while Sri Ram Lochan was getting the salary of Rs.515/-. This discrepancy in salary of Sri Ram Lochan and the applicant continued throughout the years and the applicant is entitled to the difference.

Attested/True Copy

L. P. SHUKLA
Advocate

महेश्वर लाल शर्मा

in pay from 1.12.1974 to 31.10.1987. The applicant retired from service on 31.10.1987 and on the date of his retirement the applicant was getting the salary of Rs.2240/- while Sri Ram Lochan, although junior to the applicant in service, was getting the salary of Rs.2450/-. The difference of salary of the applicant with that of Sri Ram Lochan as calculated from 1.12.1974 to 31.10.1987 comes to Rs.17,247/-. The applicant is also entitled to all the other benefits consequent to his retirement at par with Sri Ram Lochan who is junior to the applicant. The applicant is entitled to the difference in leave encashment at the time of retirement (7 months) Rs.1661.10paise; difference in gratuity (16½ months) Rs.3465/- ; difference in pension from 1.11.1987 till date (10 months) Rs.1050/-. Total amount under the aforesaid heads thus comes to Rs.23,423.10 paise. The applicant is entitled to this amount by way of arrears.

15. That the applicant is admittedly senior to Sri Ram Lochan as per the seniority list of Travelling Ticket Examiners in Lucknow Division issued by the Divisional Superintendent dated 19.11.1975. In the said seniority list the applicant is placed at Serial No.36 while Sri Ram Lochan is placed at serial No.38. Thereafter both the applicant and Sri Ram Lochan have been promoted as Chief Inspector Tickets in the Lucknow Division w.e.f. 1.1.1984. Thus the applicant is throughout senior to Sri Ram Lochan in service. A photostat copy of the seniority list dated 19.11.1975 is filed as Annexure No.2 to this application.

Annexure-2

Attested/True Copy

L. P. SHUKLA
Advocate

नंदन नरयण दत्त

32

16. That the applicant retired from the post of Chief Inspector Tickets in Lucknow Division on 31.10.1987.

17. That the applicant made various representations against the discrimination meted out to him in relation to his juniors who were given benefit of promotion before the applicant and were being paid higher salary and emoluments than the applicant. The applicant was being paid lesser salary than Sri K.L. Tandon above whom the applicant was placed by the promotion order itself. Sri Tandon, although junior to the applicant, was being paid salary of Rs.2300/- whereas the applicant's salary was fixed at Rs.2240/- in the same grade. Similarly Sri Ram Lochan, who was much junior to the applicant in the seniority list as already stated above, was getting the salary of Rs.2375/- on 1.1.1986. A photostat copy of the applicant's last representation dated 8.6.1987 is filed as Annexure No.3 to this application.

Annexure-3

18. That when no action was taken on the aforesaid representation till the date of applicant's retirement, the application sent a reminder on 27.5.1988. But no action has been taken so far.

19. That as a result of the discriminatory action of the railway authorities by paying lesser salary and emoluments to the applicant in relation to persons junior to him, the applicant has suffered loss of benefits in service and also post retirement benefits. The applicant is consequently entitled to parity with persons junior to him, particularly in relation to Sri Ram Lochan.

Attested/True Copy

L. P. SHUKLA
Advocate

Handwritten signature and date: 24/12/88

20. That Sri Ram Lochan has been paid arrears amounting to Rs.21078.50 paise by the railway administration on 30.12.1987.

VII. Relief Sought -

The applicant is entitled to the same benefits of service which were given to Sri Ram Lochan junior to the applicant including arrears by way of difference of pay w.e.f. 6.12.1974 to 31.10.1987 and consequential post retirement benefits such as leave encashment, gratuity and pension.

IX. Details of the remedies exhausted :

The applicant declares that he has availed of all the remedies available to him under the relevant service rules by way of various representations already mentioned in para VI above.

X. 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.

XI. Particulars of Bank Draft/Postal Order in respect of the Application Fee:

1. Number of Indian Postal Order DD 5 065152
2. Name of the issuing Post Office High Court Branch Lko
3. Date of issue of Postal Order 6/10/88
4. Post office at which payable

XII. Details of Index:

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

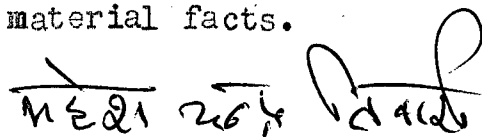
Attested/True Copy

L. P. SHUKLA
Advocate

22/2/88 19/2/88

In Verification :

I, M.C. Tewari, son of late Sri O.B. Tewari, adult, resident of 78/99 New Ganeshganj , Lucknow, do hereby verify that the contents of paras I to XII are true to my personal knowledge and belief and that I have not suppressed any material facts.




Place Lucknow

Signature of the applicant.

October 6, 1988.

Attested/True Copy


L. P. SHUKLA
Advocate

Registration

41988

Mr. Tandon

versus

Union of India

ANNEXURE A

Respectfully

NORTHERN RAILWAY.

No. 181 E 6/8-TTF/Seniority-III.

Divisional Office,
Lucknow, Dt. 15/10/86.

NOTICE

Consequence upon empanelment to Gr. B. 700-900 (RS) the name of Sri M.C. Tewari, TTF/LKO having been found suitable for the post of C.I.T. Gr. B. 700-900 (RS) against restructuring w.e.f. 1.1.84 is interpolated in the panel of C.I.T. Gr. B. 700-900 (RS) declared under Notice No. 181 E/6-8/IV dt/- 26/5/84 below Sri S.K. Gupta (S.No. 8) and above Sri K.L. Tandon (S.No. 9) and as a result thereof he is appointed to officiate as C.I.T. Gr. B. 700-900 w.e.f. 1.1.84.

[Signature]
/Sr. Divl. Personnel Officer,
Northern Railway,
Lucknow.

Copy to :-

SE/LKO, DCIT/LKO to inform all the
staff working in Ticket Checking Branch.

Supdt/Pay Bill.
Sr. DAO/Lucknow.

[Signature]

Attested True Copy

L. P. SHUKLA
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

(13)

Registration No

1988

40

Mr. Tewari

Applicant

Versus

Union of India

Respondents

ANNEXURE No 2

NORTHERN RAILWAY

Divisional Supdt.'s Office
Lucknow. Dated: 19-11-75

No. 854, E. 6/8. I.

The Station Supdt./ LKO & BSB
GIT/Lucknow.
SIT/Vareanasi.
Station Master, Faizabad.
CCS/New Delhi.

Re:- Seniority List of TTEs in Scale Rs 130-212(AS)/
Rs 330-560(RS).

Herewith please find Seniority list of TTEs Scale Rs 130-212(AS)/
Rs 330-560(RS). This should be given wide publicity amongst the
staff.

Representation if any received from the staff should immediately
be forwarded to this office. If no representation is received
within one month from the date of issue of this letter, it will
be presumed that the seniority list is correct.

Any error or omission detected in respect of the Service
particulars of the staff should be brought to the notice of
this Office.

Seniority List:

for Divisional Supdt.,
Lucknow.

17-11-75

Kemistra/
27.10.75.

Attested/True Copy

L. P. SHUKLA
Advocate

(51)
(14)

1 2 3 4 5 6 7 8 9 10 11 12

20.	"	SS Sharma	TTS	LKO	15.12.25	1.4.45	TTE	330-660	3.7.69	-	-	-
21.	"	RS Sinha	"	BSB	1.2.26	11.5.46	"	"	25.5.69	-	-	-
22.	"	TN Awasthi	"	LKO	15.9.26	12.9.45	"	"	26.5.69	-	-	-
23.	"	RC Pandey	"	LKO	14.5.18	14.7.44	"	"	27.5.69	-	-	-
24.	"	Roop Lal Mehta	"	NDLS	30.3.25	10.3.45	"	"	Working Hd. Qrs. / HRS.	-	-	-
25.	"	Bachcha Tewari	"	BSB	2.1.24	23.7.45	"	"	28.5.69	-	-	-
26.	"	CM Shukla	"	LKO	1.1.25	6.4.45	"	"	29.5.69	-	-	-
27.	"	BD Kamal	"	LKO	19.2.25	12.12.44	"	130-212	31.5.69	-	-	-
28.	"	Inder Kumar	"	NDLS	11.6.28	7.5.47	TC	260-400	6.7.54	TTE	330-560	6.7.62
29.	"	Kanhaiya Lal	"	LKO	12.2.28	23.2.47	TTE	330-560	2.6.69	-	-	-
30.	"	Ma Qureshi	"	LKO	19.7.21	31.10.46	"	"	9.6.69	-	-	-
31.	"	GR Sachdeo	"	"	2.1.25	25.7.46	"	"	6.6.69	-	-	-
32.	"	Ram Adhar	"	BSB	10.6.20	9.9.50	"	"	14.6.69	-	-	-
33.	"	NK Sharma	"	LKO	16.3.29	7.11.50	"	"	15.6.69	-	-	-
34.	"	Sohan Lal	"	LKO	10.11.30	16.2.51	"	"	16.6.59	-	-	-
35.	"	OF Basi	"	BSB	13.2.29	30.6.51	"	"	17.6.69	-	-	-
36.	"	MG Tewari	"	LKO	10.10.29	30.6.51	"	"	30.6.69	-	-	-
37.	"	DC Kar	"	BSB	6.3.27	15.7.51	"	"	17.6.69	-	-	-
38.	"	Jitendra Nath Gulati	"	BSB	1.11.30	28.9.51	"	"	20.6.69	-	-	-
39.	"	CR Misra	TTS	LKO	24.11.28	26.9.50	"	"	18.10.70	-	-	-
40.	"	Ram Saroop	"	LKO	15.7.23	2.11.43	"	"	-	-	-	-
		Graves:ave										

Altered/True Copy
Contd.....31

ns 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40
L. P. SHUKLA

42
15

87.	Sh. Mohd. Alim Khan	TTE	LKO	11.8.35	17.7.55	TTE	230-560	9.3.72		
88.	" Ram Loochan	"	"	18.7.31	17.7.55	"	"	7.4.72		
89.	" Kanta Pd. Singh	"	BSB	1.1.32	17.7.55	"	"	177.72		425-640 Monthly
90.	" Ram Dularey Singh	"	BSB	1.12.33	5.7.55	"	"	16.8.72		
91.	" Raj Bahadur Srivastava	"	LKO	10.4.32	5.7.55	"	"	23.9.72		
92.	" Har Pd. Ojha	"	LKO	1.7.34	5.7.55	"	"	27.10.72		
93.	" Trilokti Nesh Sharma	"	LKO	1.7.30	5.7.55	"	"	14.11.72		
94.	" Purnan Lal	"	LKO	15.1.37	4.7.55	"	"	31.12.72		
95.	" Surej Narain Gupta	"	BSB	2.1.33	6.7.55	"	"	17.1.73		
96.	" Sheo Nesh Pd. Sinha	"	PD	1.7.33	5.7.55	"	"	31.1.73		
97.	" Ram Asrey Srivastava	"	LKO	15.1.34	5.7.55	"	"	1.4.73		
98.	" Trilokti Nesh Singh	"	LKO	13.3.34	6.7.55	"	"	5.4.73		
99.	" Awadh Bahari Tewari	"	LKO	18.12.30	5.7.55	"	"	7.5.73		
100.	" SS Lal Awasthi	"	BSB	1.1.33	8.7.55	"	"	17.6.73		
101.	" HS Subramanyam	"	BSB	21.7.32	5.7.55	"	"	19.6.73.		
102.	" Salig Ram Gupta	"	LKO	10.7.34	5.7.55	"	"	21.7.73		
103.	" Pram Narain Gupta	"	LKO	1.7.34	4.7.55	"	"	31.12.73.		
104.	" KK Saxena	"	LKO	5.7.33	5.7.55	"	"	28.2.74		
105.	" Surendra Narain Lal	"	BSB	9.3.34	5.7.55	"	"	1.3.74		
106.	" NE Singh Gaur	"	LKO	10.11.33	5.7.55	"	"	3.3.75		
107.	" Kashi Nesh Rai	"	BSB	8.7.35	5.7.55	"	"	8.3.75		
108.	" Ram Sharanoy Lal	"	BSB	1.7.29	5.7.55	"	"	13.3.75.		
109.	" HC Sen Gupta	"	LKO	25.12.33	5.7.55	TC	230-400	16.5.61		26.1.67
110.	" ND Meera	"	LKO	1.8.30	5.7.55	TC	"	16.5.61		28.3.67
111.	" DD Jain	"	BSB	10.7.34	5.7.55	"	"	16.5.61		
112.	" Ghanshyam Dass I	"	LKO	1.2.32	5.7.55	"	"	16.5.61		2.9.67
113.	" Kafilash Kumar Verma	"	LKO	3.6.34	8.7.55	"	"	16.5.61		
114.	" Dil Chow	"	BSB	1.1.33	16.9.55	"	"	16.5.61		
115.	" Surendra Nesh Saxena	"	LKO	5.5.32	16.9.55	"	"	16.5.61		

Attested True Copy

MS 21 257, AFAID

L. P. SHUKLA
Advocate

Contd.....6/

Registration No.

41388

ME Tewari

Applicant

Versus

Union of India

Respondents

ANNEXURE NO-3

The Divisional Railway Manager,
Northern Railway,
Lucknow.

Dear Sir,

Respectfully I beg to submit that I am much grateful of your goodness for accepting my claim of seniority/subsequent promotion in higher grade Rs.700-900 with effect from 1/1/84 vide your notice No.847E6/8-TTA/Seniority-III dated 8/10/86 after interpolating my name in the panel of C.I.T. Grade Rs.700-900 below Sri S.K. Gupta and above Sri K.L. Tondon but I further beg to lay down the following few lines for your consideration and very early orders to restore full justice to me.

1) That it has been accepted that there was administrative error in assignment of post/seniority in the category of absorption i.e. in the Ticket Checking Branch in the year 1968. As such I am due proforma fixation of pay in scales Rs.425-640 (RS) and Rs.550-750 (RS) as I would have reached if there would not have been wrong fixation of seniority.

2) That I was working as Station Master scale Rs.150-240/425-640 when I was medically decategorised.

3) That I was absorbed as Ticket Collector scale Rs.110-180 i.e. in lower grade. In fact I should have been absorbed in a grade where I would have suffered the minimum loss i.e. I should have been given grade Rs.150-240/425-640 as T.C. Grade I or Conductor. As such I am now due fixation of pay in scale Rs.425-640 from

Attested/True Copy

L. P. SHUKLA
Advocate

सहस्र २२५ १८४२

(44) (17)

_____ vide item 3 of the P.N.M. (photostat copy attached). DPO has agreed to my promotion as Conductor from 23/2/78.

4) Once I am fixed up in scale Rs.425-640 then I am to be given seniority and pay in scale Rs.550-750. Here it is pointed out that both these two grades are non-selection posts and I have been selected in scale Rs.700-900 (subsequently promoted in scale Rs.700-900 after empanelment). As such there remains no doubt about my suitability. I may be given fixation of pay in scale Rs.550-750 from 1978 immediately after my promotion to scale Rs.425-640 as juniors were working in scale Rs.550-750.

In the ends of justice I would request that I may be given grade of Rs.425-640 from the date of absorption in the Ticket Checking staff and thereafter fixation of pay in scale Rs.550-750 and allowed arrears of pay accordingly and fixation of seniority may also be reviewed. As per fact my name should be below to Sri N.P.Srivastava, DCIT/LKO as per my _____ absorption in Ticket Checking branch as stated above.

Thanking you.

Yours faithfully,

M. C. Tewari

(M.C. TEWARI)
CIT/LKO

Dated: 08/6/87

Attested True Copy

L. P. SHUKLA
Advocate

In the Central Administrative Tribunal
Circuit Bench Lucknow

(45)

अदालत श्रीमान

महोदय

वादी (मुद्दे)
प्रतिवादी (मुद्दालेह)

का वकालतनामा

Registration No

41980



M. C. TEWARI

Union of India & others

प्रतिवादी (मुद्दालेह)

नं० मुकद्दमा सन १६ पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Sri L. P. Shukla

एडवोकेट

महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावे या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखर्ता) रसीद से लेवे या पंच नियुक्त करें। वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने एगोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर श्री L. P. Shukla

साची (गवाह).....साची गवाह.....

दिनांक.....महीना.....

नाम अदालत
नं० मुकद्दमा
नाम फरीकन

Accepted
Kashyap

(46)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

T.A.No.152/88(L)

Sri M.C.Tiawri

.....Petitioner

Versus

Union of India and others

.....Opposite Parties

COUNTER REPLY ON BEHALF OF THE OPPOSITE PARTIES

I, *N. K. Tiawri*, son of Sri *A. C. Tiawri*, presently posted as *Asstt. Personl. Officer* in the office of the Divisional Railway Manager, Northern Railway, Lucknow, state as under :-

1. That I am presently posted as *Asstt. Personl. Officer* in the office of the Divisional Railway Manager, Northern Railway, Lucknow and is well conversant with the facts stated hereunder. I am competent to file the present reply of behalf of the answering opposite parties.
2. That the contents of paragraphs 1 to 5 need no comments from the answering opposite parties.
3. That the contents of paragraph 6(1) of the petition pertain to record and therefore, need no comments.
4. That in reply to the contents of paragraph 6(2) of the petition it is submitted that after being medically decategorised, the petitioner was absorbed as T.C. in grade Rs.110-180, fixing his pay at the maximum of the grade i.e. @ Rs.180/- per month.
5. That the contents of paragraph 6(3) of the petition are admitted.
6. That in reply to the contents of paragraph 6(4) of the petition it is most respectfully submitted that the medically decategorised staff has to appear before a screening committee and after adjudging his suitability, the screening committee decides as to in which category

Filed today
6/5/91
Asstt. Personnel Officer
N. R. Lko.

decategorised person is to be absorbed. After following this procedure only, a person can be absorbed in alternative category, but prior to his absorption, an employee has an option either to accept or to refuse the alternative job which is being offered to him. The petitioner did not refuse the alternative job which was offered to him and accepted the alternative job of T.C. grade Rs.100-180 @ Rs.180/-, which was the maximum of the grade. There is no rule to fix the pay beyond maximum of of the time pay scale. Hence, the absorption of the petitioner in the cadre of T.C. grade Rs.100-180 was in no way illegal or arbitrary.

7. That the contents of paragraph 6(5) of the petition are not admitted. The alternative job offered to any medically decategorised employee is considered to be suitable if the emoluments which he will get after absorption in alternative cadre does not fall below 25% below the emoluments in the former post. The petitioner was drawing Rs.181/- per month prior to his decategorisation and he was absorbed in the scale Rs.110-180 @ Rs.180/- per month which was much less, rather, negligible in comparison to the 25% permissible limit. The petitioner has misrepresented the facts in the paragraph under reply and also, has not shown any rule in support of his averments.

8. That the contents of paragraph 6(6) are not admitted. It is respectfully submitted that the petitioner was found suitable for the post of grade Rs.110-180 by the screening committee, which he accepted without any protest, and was, accordingly absorbed in the said grade. The petitioner joined the post of T.C. grade Rs.110-180 @ Rs.180/- per month on 6.09.1968. Now, after retirement from service on 30.10.1987 i.e., after a lapse of about 19 years, the case of absorption of the petitioner, it can not be reopened at such a belated stage and the claim of the petitioner be treated as time barred. Moreover, the petitioner has an option either to accept or refuse the alternative job which was being offered to him at that time, but he joined without any qualm, and hence, he is estopped from questioning his absorption in the alternative job.

Personnel
N. R. Lko.

9. That the contents of paragraph 6(7) are not admitted. It is submitted that the petitioner had sufficient opportunity to accept or refuse the alternative employment, T.C. grade Rs.110-180 in the year 1968. Once he had accepted the same, the applicant can not challenge it. Moreover, his emoluments were protected adequately as his pay was fixed at the maximum of the grade, i.e. @ Rs.180/- per month, marginally less than he was getting before his medical decategorisation, which was Rs.181/- per month.

10. That the contents of paragraph 6(8) are not admitted. It is submitted that no employee can be absorbed until medically decategorised staff are screened by the screening committee, comprising of officers, including the officers of the department concerned in which such decategorised staff is likely to be considered for absorption. It is the screening committee which assesses the ability and suitability of the employees and decides in which grade & category medically decategorised staff is to be absorbed.

11. That the contents of paragraph 6(9) are not admitted. It is submitted that merits of the individual cases can not be considered because the absorption of medically decategorised staff is done only after he has been declared suitable for absorption in a particular category and grade by the screening committee.

12. That in reply to the contents of paragraph 6(10) it is most respectfully submitted that the petitioner had also been promoted as C.I.T. in grade Rs.700-900(R.S.) with effect from 1.1.1984, the date of promotion of Sarva Sri Ram Lochan and K.C.Tondon referred to in the paragraph under reply. Moreover, the date of confirmation is not the guiding factor for fixation of seniority. Thus the contents of this para are not admitted. Sri Ram Lochan was appointed as T.C. on 17.7.55 and was confirmed on 15.12.56. Sri Ram Lochan was promoted as T.T.E. on 8.1.65, whereas the petitioner joined the cadre in the lower grade of T.C. on 6.9.68, at that time Sri Ram Lochan was working as T.T.E., who was later confirmed as T.T.E. on 7.4.72.

N. R. Eko.
Asstt. Personnel Officer.
N. R. Eko.

13. That in reply to the contents of paragraphs 6(11) and 6(12) it is most respectfully submitted that the case of the petitioner was examined and he was accordingly promoted to the post of C.I.T. in grade Rs.700-900 w.e.f. 1.1.84, the date when his juniors were promoted and he was allowed fixation of pay in grade Rs.700-900 from that very date.

14. That the contents of paragraph 6(13) are not admitted. Sri Ram Lochan was working as T.T.E. in grade Rs.130-212 when the petitioner joined the cadre of T.C. grade Rs.110-180. Further, in pursuance of the letter of the General Manager (P) No.752 E/72/XVII/Loose/EIC dated 16.6.87, the pay of Sri Ram Lochan was fixed in grade Rs.250-350 w.e.f. 10.12.71 and his pay was fixed @ Rs.250/- per month from that date whereas the petitioner was drawing @ Rs.193/- per month on that date. Further, on promotion to the post of C.I.T. Gr.Rs.700-900, Sri Ram Lochan opted for fixation of his pay from the date of next increment, and accordingly, his pay was fixed @ Rs.760/- per month w.e.f. 1.9.84 (the date of next increment), but the petitioner opted for the grade from the date of promotion, and his pay was fixed @ Rs.700/- w.e.f. 1.1.84.

15. That in reply to the contents of paragraph 6(15) it is submitted that as explained in the foregoing paras, the reasons of difference in pay of the petitioner and Sri Ram Lochan at the time of retirement are that Sri Ram Lochan was drawing Rs.795/- p.m. on 1.1.86 when his pay was fixed in the new pay scale, while the petitioner was drawing Rs.730/- p.m. on 1.1.86. This was due to the different options given by Sri Ram Lochan and the petitioner for fixation of their pay in Grade Rs.700-900. Since, the petitioner did not give any option, and therefore, his pay was fixed @ Rs.700/- p.m. from the date of his promotion, i.e. 1.1.84. As an afterthought, the petitioner can not opt for the fixation of pay from the date of next increment, at this stage, as he is not in service and the existing frame-work of rules do not provide for it.

W. Jain
Asstt. Personnel Officer
N. R. Lko.

16. That the contents of paragraph 6(15) are admitted as they are matter of record.

Lucknow, dated:

N. R. Lko
Asstt. Personnel Officer
N. R. Lko.

VERIFICATION

I, *N. R. Lko*, hereby verify that the contents of paragraph 1 is true to my personal knowledge and those of paragraphs 2 to 16 of this reply are based on records and the same is believed to be true. That no part of this reply is false and nothing material is concealed.

Lucknow, dated:

N. R. Lko
Asstt. Personnel Officer
N. R. Lko.

The Dy. Registrar
C.A.T. Kulerow

Sir,

On 15/12/82 Mr. Tinsai is v. 2
located for 04/10/82 but on the date fixed
it could not be traced. This has been
been found together with 08/04/29/82
It is now being submitted for printing etc.

Yours faithfully

Subhash Chandra Datta

29/10/82
Subhash Chandra Datta

(51)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL?, ALLAHABAD,
CIRCUIT BENCH? LUCKNOW.

O.A. No. 152 of 1988 (L).

M.C. Tewari

____ Applicant.

Versus

Union of India & others

____ Respondents.

REJOINDER TO THE COUNTER FILED ON
BEHALF OF THE RESPONDENTS.

I, M.C. Tewari, aged about 60 years, son of
Late C.B. Tewari, resident of 78/99, Ganeshganj,
Lucknow, submit as under :-

- Recd
Sunder
3/8/82*
1. That I am applicant in the above case
and have read and understood the contents of the
counter reply filed on behalf of the respondents,
and as such, file this rejoinder as follows :-
 2. That the contents of para 1 of the
counter reply need no comments.
 3. That the contents of para 2 of the
counter reply call for no remarks.

4. That the contents of para 3 of the counter reply need no comments.

5. That the contents of para 4 of the counter reply, being the matter of record, are not denied. It is, however, submitted that the absorption of the applicant in grade Rs 110-180 was illegal and arbitrary. As per rule, the applicant, on being de-categorised in the cadre of Assistant Station Master scale Rs 150-240 on medical ground in the year 1968 when he was drawing Rs 181/- as his basic pay, should have been absorbed in other categories carrying same scale of pay or in the alternative, as T.T.E. in scale Rs 130-212 instead of Ticket Collector scale Rs 110-180 which was in the same cadre wherein the post of T.T.E. was available.

6. That the contents of para 5 of the counter reply call for no remarks.

7. That in reply to contents of para 6 of the counter reply, it is stated that the applicant, on being declared medically unfit for the post of Asstt. Station Master grade Rs 150-240, was straight away absorbed as Ticket Collector grade Rs. 110-180 without holding any screening and without affording any opportunity to him to exercise his option. With this submissions, the averments made in the para, under reply, are denied and the averments made in para 6(4) of the application are reiterated. The respondents are required to a strict proof of the allegations made in the para under reply.

M. E. Tammir

(3)

8. That in view of the averments made in para 5 of this rejoinder, the averments of para 7 of the counter reply are denied and the averments made in para 6 (5) of the application are reiterated. It is further submitted that the absorption of the applicant as Ticket Collector in grade Rs. 110-180 was purely arbitrary and illegal.

9. That the contents of para 8 of the counter reply are denied as stated and the averments made in para 6(6) of the application are reiterated. It is further respectfully submitted that the applicant, on being declared medically unfit for the post of Asstt. Station Master grade Rs 150-240, was straight away absorbed as Ticket Collector grade Rs. 110-180 without any screening and without affording any opportunity to him to exercise his option. It is further submitted that as provided by the administrative instructions, the applicant had been agitating the matter for the redressal of his grievances before the departmental authorities and ultimately on the intervention of one of the recognised unions, he was granted some relief that is the grade of Rs. 700-900 in the year 1986. It may also be mentioned that under Chapter XXXVII of the Indian Railway Establishment Manual, it was a remedy open to the applicant to get his claim pressed before the departmental authorities through any of the recognised Unions of the Railway. Therefore, the claim of the applicant is not barred by time as alleged in the para under reply.

10. That in view of the facts mentioned in paras 7 and 9 of this rejoinder, the contents of para

M. L. Thakur

9 of the counter reply are denied and the averments made in para 6(7) of the application are reiterated.

11. That the contents of para 10 of the counter reply are denied and the averments made in para 6(8) of the application are reiterated. It is further submitted that the applicant, on being declared medically unfit for the post of Asstt. Station Master grade Rs 150-240 was never subjected to any screening and that he was also not given an opportunity to exercise his option for the post of Ticket Collector in lower grade of Rs 110-130. The respondents are required to a strict proof of the allegations made in the para under reply.

12. That the contents of para 11 of the counter reply, as stated, are denied and the averments made in para 6 (9) of the application are reiterated. The respondents are required to produce the Service Records of S/Shri Irshad Husain, S.P. ^{Seth} Singh, B.L. Dubey, O.P. Kapoor, K.D. Jha and of the applicant alongwith the records of their screening as well as the rules justifying the reduction in emoluments of a medically decategorised staff in the alternative post to the extent of 25% as alleged in para 7 of the counter reply.

13. That in view of the facts mentioned in para 5 of this rejoinder, the averments made in para 12 of the counter affidavit are denied and the averments made in para 6 (10) of the application are reiterated. It is, however, admitted that the applicant was promoted in 1961.

M. K. Tamsar

(5)

grade Rs 700-900 with effect from 1.1.1984 by an order dated 8.10.1986 (Annexure No. 1 to the application).

14. That the contents of para 13 of the counter reply, in so far as they are matter of record, are not denied. Rest are denied and the averments made in paras 6(11) and 6(12) of the application are reiterated. It is further respectfully submitted that the applicant has not been given the benefit of promotion and fixation of his pay in grade Rs 330-560 and 425-640 from the dates when the persons admittedly junior to him, as mentioned in the para under reply, were promoted. The applicant has been given the benefit of scale of Rs. 700-900 with effect from 1.1.1984 alongwith his juniors consequently fixing his pay at Rs 700/- which is the starting of the the grade. The pay of the applicant should have been fixed in grade Rs 700-900 after giving him the benefits of promotions and fixation of his pay in grades Rs 330-560 and 425-640 from the dates when his juniors were promoted in that grades.

15. That in reply to contents of para 14 of the counter reply, it is stated that since the applicant is senior to Sri Ram Lochan, his pay, in no case, can be fixed lower than his junior. Moreover, he should have^{also} been given the benefits of promotions and fixation of his pay in the grades atleast from the dates when his juniors were promoted.

It is further respectfully submitted,

M. L. Tanna

(56)

without prejudice, that in terms of instructions issued by the Railway Board in their Letter No. E(P&A)II-81/PP-4 dated 30.7.1983 (General Manager, Northern Railway, New Delhi's Printed Serial No. 8392), a true copy of which is Annexure No. 4 to this rejoinder, the pay of the applicant atleast should have been stepped up equal to the pay of his junior namely Sri Ram Lechan in grade Rs 700-900 from the date of occurrence of anomaly in fixation and re-fixation of pay of senior and junior.

16. That in view of the averments made in para 15 of this rejoinder, the averments made in para 15 of the counter reply are denied and the averments made in para 6(14) of the application (wrongly numbered as para 6(15) in the counter reply) are reiterated. It is further submitted that the contents of the para under reply are also self contradictory to the averments made in para 14 of the counter reply.

17. That the contents of para 16 of the counter reply need no comments.

18. That since the respondents have not filed their counter reply against paras 16 to 20 of the application, the averments made in the said paras of the application stand admitted by them.

Lucknow:
Dated: -2-1992.

Applicant.

M. L. Tanna

(7)

V e r i f i c a t i o n .

I, M.C. Tewari, the applicant, do hereby
verify that the contents of paras 1 to 18 are
of this rejoinder are correct to my knowledge.
I have not suppressed any material fact.

Lucknow:
Dated: -2-1992.

Applicant.
M. C. Tewari

अदालत रोमाना. 13 Jan 18 Enkid Paly
वादी मुद्दा महादय

वादी ॥ सुदृष्टि ॥

प्रतिवादी (सुवर्णज) का कानून

Luciano
M. 152/1 all

M. e. T. 1000

प्राचीन मुद्रा
मुद्रा प्राचीन मुद्रा

ऊपर लिखे सुकदवमा में अपनी ओर से

19 ई०
श्री
एडवोकेट

.. for .. Sister .. with .. Van ..

• • • • • महाद्वय
कपील

को अपना वकील नियुक्त करके प्रतिज्ञा इकरार करता हूँ और लिखो देता हूँ इस मुकदमा में वकील मंडोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्न करे या अन्य कोई कामज दाखिल करे या लौटा वै या हमारी ओर से डिगरी जारी करावे और स्वया वगूल करेया मुहनासावगा इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करे और तत्तदीक करे या मुकदमा उठाने या कोई स्वया जमा करे या हमारी या विपक्षा करीकसानि का दाखिल किया स्वया अपने या हमारे हस्ताक्षर से मुक्त वस्तु रसीद से लेवेया एवं नियुक्त करे वकील मंडोदय द्वारा की गई कार्यवाही हमारी स्वीकृति है और हेकी मैं यह भी स्वीकार करता हूँ कि मैं हर पैरवी स्वयं या किसी अपने पैरवीकार को भोजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफा मेरे खिलाफ फैला हो जाता है उसकी निम्मेदारी मेरी वकील पर न होगी । इसलिए यह कालतनामा लिखा दिया कि प्रमाण रहे और समय पर काम आवे ।

हस्तक्षार

Beers

• Northern Railway •
LUCKNOW

साक्षी गवाह
दिनांक
नाम
पद

• साक्षी गवाह

Accepted

Shera
21/11/88
(Siddharth Verma)
Advocate
Counsel for OPs

A
to

Registered

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

No. CAT/CB/LKO/ 442 to 444 Dated : _____

Registration No. _____ of 1938.

Applicant

Versus

Respondent's

To

Please take notice that the applicant above named has presented an application a copy whereof is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed _____ day of _____ 1938 for

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

Given under my hand and the seal of the Tribunal this _____ day of _____ 1938.

For DEPUTY REGISTRAR

dinesh/

[Signature]