

Central Administrative Tribunal
Lucknow Bench

Cause Title Q.A 286/89 of 1993

Name of the Parties R. P. Kalyan & others Applicant
C.W.C.C.P 52192 Versus

Respondents.

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C.C.A NO 52192 in Q.A 286/89

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Certified that no further action is required to factor that the Case is fit for Consignment to the record secony (D).

Check out
27-12-11

6

CENTRAL ADMINISTRATIVE TRIBUNAL
C.I.T. BINCH, LUCKNOW

Date of
Date of
17/10/87

Registration No. 226 of 1989 (L).

Deputy Registrar (P)

APPLICANT(S)

R.P. Kalyan & others

RESPONDENT(S)

Union of India & others

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal complete? Yes

2. a) Is the application in the prescribed form? Yes

 b) Is the application in paper book form? Yes

 c) Have six complete sets of the application been filed? Yes

3. a) Is the appeal in time? Yes

 b) If not, by how many days is it beyond time? —

 c) Has sufficient cause for not making the application in time, been filed? —

4. Has the document of authorisation/ lakalathama been filed? Yes

5. Is the application accompanied by B.D./Postal Order for Rs. 50/- Yes

6. Has the certified copy/copies of the order(s) against which the application is made been filed? Yes

7. a) Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed? Yes

 b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly? —

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

8. Has the index of documents been filed and paginated properly? Yes

9. Have the chronological details of representation made and the outcome of such representation 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? —

Particulars to be Examined

Endorsement as to result of examination

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

12. Are extra copies of the application with Annexures filed ?
a) Identical with the Original ? Yes
b) Defective ? No
c) Wanting in Annexures No. _____ pages Nos. _____ ?

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

14. Are the given address the registered address ? Yes

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

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

17. Are the facts of the case mentioned in item no. 6 of the application ?
a) Concise ? Yes
b) Under distinct heads ? Yes
c) Numbered consecutively ? Yes
d) Typed in double space on one side of the paper ? Yes

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

19. Whether all the remedies have been exhausted. Yes

dhush

540

R

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
---------------------------------	--	--

26-10-89

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

See original order on main petition

Heard the applicant's counsel. The applicants are allowed to make this claim application jointly. All the applicants will sign the application within two weeks.

Admit.

Issue notice to the opposite parties to file a counter within four weeks to which the applicant may file rejoinder within two weeks thereafter and list for further orders on 7-12-1989.

V.C.

rrm/

7/12/89

Hon. Justice K. Nath, V.C.
Hon. K. J. Roman, A.M.

Smt. Brijendra Bhargava appearing on behalf of opposite parties requests for and is allowed three weeks time to file counter. Admitted the applicant may file rejoinder within two weeks thereafter & list for orders on 10/1/90.

W.R.

A.M.

OR

V.C.

10-9-89
Dinesh

Hon. J. P. Sharma, I.M.
Smt. Brijendra Bhargava appearing on behalf of opposite parties for and is allowed four weeks to file counter to which the applicant may file rejoinder within two weeks thereafter & list for hearing on 14.3.90

OR

No reply filed
submitted for

Rec
7/12/89

order

in
10/1/90

OR
No CA filed
S. P.O.

10/1/90

2016-04(1)

23-5-91

D. R.

Present: None for the applicant. Let rejoinder

be filed on 23/7/91.
O.P.'s side is also absent today. List on 23/7/91 for filing R.A.

24-7-91

D. R.

Both the parties are absent today. This case has been taken up today because 23-7-91 was holiday. Applicant to file Rejoinder by 27-9-91. List it for filing R.A. by 27-9-91.

27-9-91

D. R.

Respondent's side is present.
Applicant to file Rejoinder by 6/12/91.

6-12-91

D. R.

Counsel for O.P. is present.
Applicant to file Rejoinder by 20/12/91.

AS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL-LUCKNOW BENCH

LUCKNOW.

O.A. 286 of 1989.

Sri R.P. Katiyar and others.....Applicants.

Versus

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

Hon'ble Mr. Justice U.C.Srivastava-V.C.

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

By means of this application, the applicants who are employees of the North-Eastern Railway and working under the control of Divisional Railway Manager (Commercial) has prayed that the opposite parties may be directed to re-fix their pay on notional basis from the date of their promotion as Head Clerk by taking into account the special pay of Rs. 35/70 and actual benefit ~~xxx~~ may be given to them from 1.9.1985 as has been done in the case of their juniors so that they may not get less pay than their juniors as per Board's order dated 17.8.1989.

The applicants were appointed initially as a clerk in the year 1956 and promoted to the post of senior clerk in the year 1980 and as Head Clerk in the year 1984 and 1985. The first three applicants were promoted as Head Clerk on 1.1.1984 and the last two on 1.5.1985 and ~~xxx~~ 1.6.1985 respectively.

It has been pointed out by the applicants that the junior incumbents Sri D.B. Saxena who was appointed after their appointments on 1.7.1958 and promoted to the post of Senior Clerk after them viz on 29.9.1981 and as Head Clerk on 1.2.1986 has been drawing a salary on 1.9.1988 amounting to Rs. 1720/- that is more one what is applicants are drawing whose salary was fixed at Rs. 1600/- except applicant no. 2 whose

salary was Rs. 1640/-. The applicants submitted a representation against the same.

The cadre restructuring the strength of Head Clerk was revised from 8 posts to 20 posts and the post of Senior Clerk who were in receipt of Rs. 35/- as special pay and those who were not receiving that special pay, were promoted together by the same order and this special pay was made vide Board's order dated 11.7.1979 which was to be given to 10% of the incumbents of a unit on the basis of seniority-cum-suitability, and the salary of the applicants was fixed after structuring the special pay of Rs. 35/70 per month was not taken into account which was given to the juniors incumbents. It has also been pointed out that vide Board's order dated 17.8.1989 has been issued a circular regarding the stopping up of pay of seniors under Note 7 of the Rule 7 (1) of Railway Services (Revised Pay) Rules, 1986 and even then the applicants' pay has not been fixed and that is why they have challenged the respondents.

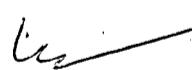
The respondents have contested the claim of the applicant and have made certain references of decided cases by this Tribunal and have pleaded that the special pay of Rs. 35/- was to be given on the basis of seniority/suitability with specific orders to perform the work on pin pointed seats, i.e. to deal with the complex nature of work, but the applicant could not receive that type of special pay because they were promoted straight way on the post of Head Clerk as a result of restructuring of the Ministerial cadre. The benefit of special pay of Rs. 35/- which was earlier Rs. 70/- was given to those senior posts.

(K)

Clerks who remained drawing Rs. 35/70 as special pay in fixation of their pay on promotion to higher grades. Those who were not drawing special pay of Rs. 35/70 were not found entitled for the benefit of this fixation of pay in higher grades. This matter has engaged the attention of this Tribunal earlier also after referring various other decisions of this Tribunal. We have taken the view in O.A. No. 87 of 1991 Hari Saran Shanker Srivastava Versus Union of India and others decided on 25.3.1992 in which it has been held that this benefit cannot be denied by the applicant also and there is no intelligible definitia that qualifying persons were promoted before and after a particular date. Consequently it was directed in this case that the respondent shall give a benefit of special pay of Rs. 35/- on notional basis to the applicant and this special pay of Rs. 35/- shall be taken into account in the fixation of pay from the date of promotion to the higher post. ~~By all the~~ ^{in all the terms} ~~in view of these very~~ ^{same} ~~directions~~ ^{in the above case} the respondents are directed to do the same within a period of two months from the date of communication of this order. No order as to the costs.

Dated: May 5, 1992.

(DPS)


Vice Chairman.

3. Divisional Railway Manager (P),
North Eastern Railway,
Ashok Marg, Lucknow.

..... Opposite Parties.

Ref. Claim Petition under section 19
of the Administrative Tribunals Act
No. XIII of 1985.

The applicants, above named, most respectfully
beg to submit as under :

1. Particulars of order against which
the claim petition is preferred.

The present Ref. Claim Petition is directed
against the payment of lesser pay to the petitioners/
applicants than their juniors who have been promoted
on or after 1-9-1985 while the petitioners were
promoted prior to 1-9-1985, on the principle that
the senior employees must not be paid less pay than
their juniors.

2. Jurisdiction of the Tribunal.

रामपाल कुमार The applicants declare that the subject-matter
in dispute raised in the present claim petition for
redressal of their grievances is within the jurisdic-
tion of this Hon'ble Tribunal after coming into force
of the Administrative Tribunals Act, 1985.

3. Limitation.

The applicants further declare that the
present Ref. Claim Petition is within the limitation

*Attested
S1 Vasant
Adv*

prescribed u/s 21 of the Administrative Tribunals Act, 1985 since the cause of action accrued for filing the present Ref. Claim Petition, on 26-6-1989 when the pay of junior incumbents had been refixed by the Opposite Party No. 3 vide his order dated 26-6-1989. Thereafter the petitioners submitted representations to the Opposite Party No. 2 through the Opposite Party No. 3 dated 12-7-1989 which has not yet been decided.

4. Facts of the case.

G.C.Rai Chowdhry 4.1 That the petitioners are the employees of the North-Eastern Railway and working under the control of Divisional Railway Manager (Commercial), North Eastern Railway, Lucknow. The dates of their appointment as Clerk, promotion to the post of Senior Clerk and Head Clerk are given below :

Name of the petitioner.	Date of 1st appointment as Clerk.	Date of promotion as Senior Clerk	Date of Promotion as Head Clerk.	Salary as fixed on 1-9-1988.
1. R.P. Katiyar	20-4-1956	11-8-1980	1-1-1984	1600/-
2. G.C.Rai Chowdhry	5-5-1956	11-8-1980	1-1-1984	1640/-
3. Ram Deo	20-7-1956	11-8-1980	1-1-1984	1600/-
4. S.N. Pandey	6-9-1956	1-10-1980	1-5-1985	1600/-
5. V.N. Singh	22-5-1958	1-10-1980	1-6-1985	1600/-

Ram Deo It is submitted that the junior incumbents, *Sri Pandey* namely Sri B.B. Saxena, who was appointed after *21st April 1981* the petitioners on 1-7-1958 and promoted to the post of Senior Clerk on 29-9-1981 and as Head Clerk on 1-2-1986, respectively has been drawing

*Afterted
G.L. Varma*

salary on 1-9-1988 amounting to Rs. 1720/- It is clearly evident from the chart given above that the petitioners being senior to one of the incumbents Mr. B.B. Saxena, are getting less pay than him.

4.2 That against the said anomaly in fixation of lesser pay of the petitioners than their juniors, the petitioners submitted their representations individually to Opposite Party No. 2 through the Opposite Party No. 3 on 12-7-1989 just after getting the knowledge about the fixation of pay of junior incumbents Mr. B.B. Saxena and others by the Opposite Party No. 3 vide order dated 26-6-1989. A photocopy of the order dated 26-6-1989 regarding refixation of pay of juniors is being annexed herewith as Annexure- 1 to the compilation no. 2 and a copy of one of the identical representations dated 12-7-1989 submitted by the petitioner no. 1, Sri R.P. Katiyar, is being annexed as Annexure- 2 to compilation No. 2 of this Reference Claim Petition. The reasons for payment of lesser pay to the petitioners than their juniors have also been mentioned in the representations. Due to Cadre's restructuring, the strength of Head Clerks was revised from 8 posts to 20 posts. Hence the Senior Clerks who were in receipt of Rs. 35/- as special pay and those who were not receiving that special pay, were promoted together vide one and the same order. The petitioners No. 1 to 3 were promoted as Head Clerk vide order dated 30-1-1985 with retrospective effect from 1-1-1984 and petitioners no. 4 & 5 were promoted vide order dated 30-9-1985 with

G. S. R. Katiyar
Ram Dev
S. N. Bhandary
21/7/1989

J. S. Pandit

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G. S. R. Katiyar*

retrospective effect from 1-5-1985 and 1-6-1985, respectively.

4.3 That the provision of special pay of Rs. 35/- p.m. was made vide Board's order dated 11-7-1979 which was to be given to 10 % of the incumbents of a unit on the basis of seniority-cum-suitability. The ~~exact~~ copy of the said order of the Board dated 11-7-79 is being annexed herewith as Annexure- 3 to this petition. The special pay was revised and raised to Rs. 70/- p.m. from 1-9-1985 with the provision to take into account the special pay in fixation of pay in higher grade, vide Board's order dated 5-1-1989, a copy of which is annexed herewith as Annexure- 4 to this petition. In compliance of these two orders the senior persons were given special pay of Rs. 35/70 while the petitioners could not avail of the benefit of special pay as ~~th~~ before their turn could reach to receive special pay, they were promoted straightway with retrospective effect from 1-1-1984, 1-5-1985 and 1-6-1985 vide orders dated 30-1-1985 & 30-9-1985 due to restructuring affected vide Memo. No. E/III/59/4/ Apa/KAM/84 dated 18-12-1984 issued by the Opposite Party no. 3. Due to this reason, after promotion of the petitioners on the post of Head Clerk, their salary was fixed without taking into account the special pay of Rs. 35/70 p.m. whereas the benefit of special pay of Rs. 70/- was given to the junior incumbents, e.g. Mr. B.B. Saxena and 2 others in fixation of their pay in the higher grade on the post of Head Clerk.

Gokhachaudhury
Ram Dutt
S. P. Pandey
Rehman on *22.3*
Rehman on *22.3* *Mr. B.B. Saxena and 2 others in fixation of their pay in the higher grade on the post of Head Clerk.*

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The benefit of Rs. 70/- special pay could not be given to the petitioners while fixing their pay on the post of Head Clerk as a result of their promotions effected under orders of restructuring and they got their promotions straightway against the revised strength from 8 to 20 posts ,without getting special pay.

4.4 That initially the special pay of Rs. 35/- was provided to the 10 percent senior incumbents on the basis of seniority-cum-suitability vide order dated 11-7-1979 (Annexure- 3) was merged in pay while fixing pay on promotion to higher post. But vide order of the Board dated 5-1-1989 (Annexure- 4) the special pay of Rs. 35/- was increased to Rs. 70/- p.m. and it was also provided that the benefit of this special pay will be given to the incumbents in fixation of their pay on higher posts. It was also provided that this benefit will be given to the persons promoted on or after 1-9-1985. Due to this reason the incumbents who were promoted prior to 1-9-1985 got lesser pay in comparison to their juniors who were promoted on and after 1-9-1985. As a result of this anomaly, some employees of the Posts & Telegraphs Department filed a Ref. Claim Petition before the Central Administrative Tribunal at Bangalore and the Bench of the Hon'ble Tribunal at Bangalore was pleased to decide the claim petition vide judgement and order dated 16-1-89 giving benefit of special pay in fixation to the incumbents promoted prior to 1-9-1985 also. A

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Gelharong Rd

photocopy of the said judgement is being annexed herewith as Annexure- 5 to this petition. In the light of the judgement dated 16-1-1989 (Annexure- 5) the Railway Board has issued a circular dated 2-8-89 regarding giving benefit of fixation to higher post to the incumbents promoted prior to 1-9-1985 also. A copy of the said circular is being annexed herewith as Annexure- 6 to this petition.

4.4. That the Railway Board vide Board's order dated 17-8-1989 has issued a circular regarding the stepping up of pay of seniors under Note 7 of Rule 7(1) of Railway Services (Revised Pay) Rules, 1986 and in paras 3 and 4 of the said circular provide as under :

"3. Nevertheless, the Government is of the view that, even if the anomaly is as a result of increments in terms of proviso 3 and 4 of Rule 8 of Railway Services (Revised Pay) Rules, 1986, combined with application of Rule 2018-B/FR 22-C/R.II, anomaly may be rectified by stepping up the pay of senior promoted before 1.1.1986 equal to pay of junior promoted on or after 1.1.1986, subject to fulfilment of following conditions :-

G.C. Choudhury
Ran D
S. Bhattacharya
মাধ্যমিক বিদ্যা

(a) Both the junior and the senior Railway Servants should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.

(b) The pre-revised and revised scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical, and

J. P. D.

Affested
G. S. V. A.

(c) The senior Railway servant promoted before 1.1.1986 has been drawing equal or more pay in the lower post than his junior promoted after 1.1.1986.

4. Further it has also been decided that where a senior railway servant was promoted after reaching the maximum of the pre-revised scale of the lower post before 1.1.1986, he should be deemed to have been drawing equal pay vis-a-vis his junior, who was also drawing pay at the maximum on that date (viz. date of promotion of senior) and promoted after 1.1.1986."

A photocopy of the said Board's order dated 17-8-1989 as communicated vide General Manager (P)'s order dated 7-8-1989 is being annexed herewith as Annexure- 7 to this petition.

4.5. That in view of the Board's ~~last~~ order dated 17-8-1989 (Annexure- 7) the petitioner's pay should not have been fixed lesser than their junior incumbents namely Sri B.B. Saxena and 2 others. But the Opposite Parties have not taken any action in settling the petitioner's grievances in spite of the Board's directions. Therefore, non-settling the petitioners' grievances by the Opposite Parties in the light of Railway Board's order dated 17-8-1989 (Annexure- 7) is arbitrary, illegal and in violation of Article 14 of the Constitution of India.

*G.C. Raychoudhury
Ranu Deo
S. A. Bandyopadhyay
Ranu Deo*

4.6. That since the special pay provided to the incumbents has been accounted for as 'pay' while fixing the pay of promotees in the higher grade,

*Attested
G.S. L. Varma, Adm.*

therefore the petitioners, being the promotees in the same grade prior to their juniors, their pay should have also been fixed on notional basis so that seniors may not get lesser pay than their juniors, as per Board's order dated 17-8-1989 (Annex-7). The opposite parties while fixing the pay of the petitioners on promoted post of Head Clerk, have deprived them of the benefit of special pay with the result that the petitioners, being senior, are getting lesser pay than their juniors. The action of opposite parties in non-providing the benefit of special pay while fixing the pay of the petitioners on the promoted post of Head Clerk, alike their juniors, is arbitrary, illegal and in violation of Articles 14 and 16 of the Constitution of India. It also violates the principles of equality.

4.7 That the petitioners have submitted their similar representations separately to the General Manager (Personnel), N.E.Railway, Gorakhpur through the Divisional Railway Manager (P) Lucknow for stepping up of their pay equal to the pay of their juniors, Mr. B.B. Saxena and 2 others as provided in Board's letter dated 17-8-1989 (Annexure- 7).

G.K. Chaudhury
Ram Das
S. S. Pandey
212415000232
A copy of the one of the identical representations, submitted on 22-9-1989 by petitioner no. 5 (V.N.Singh) is being annexed herewith as Annexure- 8 to this petition.

Alleged,
G.S.L. Varanasi
Adv.

..... 10.

5. GROUNDs :

The petitioners are filing the present claim petition before this Hon'ble Tribunal, inter alia, on the following grounds :

- 1- Because as per Board's order dated 17-8-1989 (Annexure- 7) the pay of senior incumbents (as the petitioners are) should not be less than the pay of their juniors. But in the present case the petitioners are being paid less pay/salary than their juniors Sri B.B. Saxena and 2 others. As such the payment of less pay to the petitioners than their juniors, is arbitrary, illegal and in violation of Articles 14 and 16 of the Constitution of India.
- 2- Because though the petitioners have been promoted prior to their juniors as Head Clerk, namely Sri B.B. Saxena and 2 others but their pay is lesser than their juniors. As such the payment of lesser pay to the petitioners ~~by~~ than their juniors, by the Opposite Parties is arbitrary, illegal and against the norms of service jurisprudence.
- 3- Because the petitioners could not get their special pay due to Cadre's restructuring by which the strength of Head Clerks was revised from 8 posts to 20 posts and as such the petitioners were promoted before their turn could reach to get special pay of Rs. 35/70 as only 10% of incumbents of a unit could get special pay on seniority-

After 2nd hearing

Approved

cum-suitability basis.

4- Because the opposite parties have not taken any action in settling the petitioners' grievances in spite of Board's directions contained in its order dated 17-8-1989 (Annexure- 7). As such the non-settling the petitioners' grievances by the opposite parties is arbitrary, illegal and in violation of Article 14 of the Constitution.

6. DETAILS OF REMEDIES EXHAUSTED.

The petitioners have exhausted all the remedies available to them as has already been stated in para 4 above under the heading 'FACTS'.

7. MATTER NOT PENDING WITH ANY OTHER COURT.

The petitioners declare that the matter regarding which this reference claim petition has been preferred, is not pending before any other court of law or any other authority or any other Bench of this Hon'ble R Tribunal.

C. Roychoudhury
8. RELIEFS SOUGHT:

Demanded
S 21 Pending
RP 41000/2022
In view of the facts mentioned in para 4 and the grounds mentioned in para 5 of the Memo. of Reference Claim Petition, the petitioners pray for the following reliefs :

1..... 12.

Altested
G. S. Varma Adv.

D. P. Mukherjee

(a) This Hon'ble Tribunal may kindly be pleased to direct the opposite parties to refix the pay of the petitioners on a notional basis from the date of their promotion as Head Clerk by taking into account the special pay of Rs. 35/70 and actual benefit may be given to them from 1-9-1985 as has been done in the case of their juniors so that they may not get less pay than their juniors as per Board's order dated 17-8-1989 contained in Annexure- 7 to this petition.

(b) This Hon'ble Tribunal may kindly be pleased to grant any other reliefs to the petitioners to which they are found entitled in the circumstances & of the facts of the case.

9- INTERIM RELIEF.

This Hon'ble Tribunal may kindly be pleased to grant ad interim relief to the petitioners as is deemed just and proper by this Hon'ble Tribunal.

G. Raychandhury
Ranjan
S. M. Pandey
QTA/1989/R/22

10- Particulars of the Postal Order in respect of the Application Fee :

Indian Postal Order No. 791467 dated

23-9-1989 issued from the G.P.O., Lucknow for Rs.50/-.

11- Documents relied on :

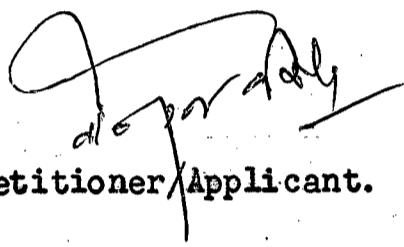
J. S. Pandey
The entire documents annexed with Compilation No. II to this claim petition are relied on.

*Attested
G. S. Narang*

12. List of documents enclosed :

The documents (Annexures no. 1 to 8) as attached with the Compilation-II to this claim petition, as per Index.

Dated Lucknow:
Sept 17, 1989.


Petitioner/Applicant.

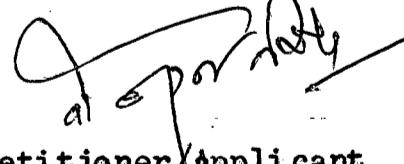
Verification

I, V.N. Singh, aged about 54 years, son of late Mithan Lal, posted as Head Clerk, office of Divisional Railway Manager (C), N.E. Railway, Ashok Marg, Lucknow, (who has been authorised by petitioners No. 1 to 4 to file the petition and swear affidavit on their behalf also) do hereby verify that the contents of paras 1 to 12 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Chayebhawany

Ramdeo

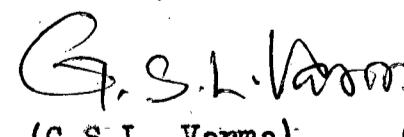
Place: Lucknow
Date: Sept. 17, 1989.


Petitioner/Applicant.

रामदेव चायेभावन्य

To

The Registrar,
Central Administrative Tribunal, U.P.,
Circuit Bench, Lucknow.


G.S.L. Varma
(G.S.L. Varma) *Adv.*
Advocate,
Counsel for the Petitioners/
Applicants.

८१

Central Administrative Tribunal, Allahabad
Circuit Bench, Lucknow महोदय

वादी (मुद्रई)
 मुद्रई (मुद्रालेह)

का

वकालतनामा



R.P. Katiyar & 4 others बनाम Union of India प्रतिवादी (रेस्पान्डेन्ट)

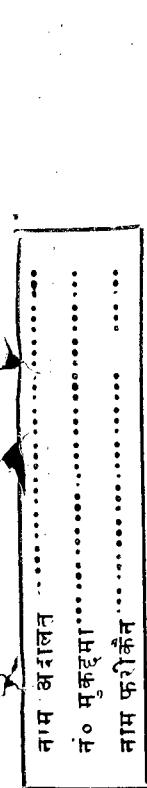
नं० मुद्रमा सन पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

G. S. L. Varma

वकील

एडवोकेट महोदय



को अपना वकील नियुक्त करके (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया 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 रूपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रूपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूं कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूंगा। अगर मुकद्दमा अदम पैरवी में एक तरफामेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पूर्ण कोम आवे।

साक्षी (गवाह) _____

साक्षी (गवाह) _____

दिनांक 17th Oct 1988 महीना सन् १९ ई०

1. रामपाल जाटीया
 2. जी. सी. राय देहरा

3. R. M. Deo
 4. S. M. Deo
 5. श्री बैबूल खान

5. *Signature*

422

Before the Hon'ble Central Administrative Tribunal,
Circuit Bench, Lucknow.

Reg. (O.A.) No. 286 of 1989 (L)

R.P. Katiyar and others Applicants
Versus
Union of India and others Respondents

COUNTER REPLY ON BEHALF OF ALL THE RESPONDENTS

I, S M N Delam working as
Sr Divl Per Officer in the office of Divisional
Railway Manager (P), North Eastern Railway, Ashok
Marg, Lucknow do hereby solemnly affirm and state
as under:-

1. That the official abovenamed is working
as Sr Divl Personnel Officer in the office
of Divisional Railway Manager (P), North
Eastern Railway, Ashok Marg, Lucknow and
has gone through the averments made in the
application and as such fully conversant
with the facts and circumstances of the case
and also has been fully authorised to answer
on behalf of all the respondents.

Shuile
प्रवर्तन मण्डल कार्यक्रमिक अधिकारी,
प्रवर्तन रेलवे, लखनऊ

Contd.....2

2. That in reply to the contents of para 1 of the original application, it is stated that the applicant in this para himself admits that his cause of action arose on 1.9.85 while the present application has been filed after the month of October, 1989 i.e. after more than 4 years as prescribed in section 21 of the Administrative Tribunals Act, 1985.
3. That in reply to the contents of para 2 of the original application, it is stated that since this application is beyond four years time, hence not within the limitation, hence unless delay is condoned (though the delay has not been explained anywhere in the application nor any prayer for condonation of delay has been made), this Hon'ble Tribunal has no jurisdiction to entertain the application.
4. That in reply to the contents of para 3 of the original application, it is stated that as already explained in the preceding paragraphs this application is highly barred by time.

That reply to the contents of para 4 of the original application are as under:-

Sudhakar
प्रधान न्यायालय कानूनी अधिकारी,
इवोर्टर रेलवे, लखनऊ

Contd....3

5. That the contents of para 4(1) of the original application are admitted except that Sri B.B. Saxena is getting more pay than the applicants only in compliance of Railway Board's circular dated 17.8.89 as contained in Annexure No. 7 to the original application.
6. That in reply to the contents of para 4(2) and 4(3) of the original application, so far it is matter of record is admitted, but rest of the contents of para are denied.
7. That in reply to the contents of para 4(4) of the original application, so far it is matter of record is admitted, but rest of the contents of para are denied. However, it is further stated that the special pay of Rs. 35/- was to be given on the basis of seniority-cum-suitability with specific orders to perform the work on pinpointed sheets Seats i.e. to deal with the complex nature of work but the applicant could not receive that type of special pay because they were promoted straight way on the post of Head Clerk as a result of restructuring of the ministerial cadre.

Contd....4

SM2 h/w

प्रबंध विभाग कार्यालय
पुर्वोत्तर रेलवे, लखनऊ

8. That the contents of para 4(5) are not admitted as alleged. As per Railway Board's circular dated 5.1.89, the benefit of special pay of Rs. 70/- as revised from Rs. 35/- was given to those Sr. Clerks who remained drawing Rs. 35/70 as special pay in fixation of their pay on promotion to higher grades. Those who were not drawing special pay Rs. 35/70 were not found entitled for the benefit of this fixation of pay in higher grades.

In Railway Board's circular dated 17.8.89 referred in the given direction to step up the pay of Senior equal to Junior if arises on account of increments. But in this case anomaly of pay arose due to junior got special pay and their pay was fixed giving benefit of the special pay whereas petitioners did not get special pay as such they were not given the benefit of special pay in fixation of their pay. However, it is further clarified that as per Railway Board's circular dated 17.8.89 (Annexure No. 7 to the original application), the benefit of stepping up the pay of the applicants could not be given since the difference of pay arose due to the fact that juniors got special pay and their respective pay was fixed after giving the

Shukla

प्रवर्त लेखक कार्यकारी
पुस्तक रेते, नवाज़

Contd....6

benefit of the special pay as such they were not given the benefits of the special pay while fixation of their pay.

9. That the contents of para 4(6) of the original application are not admitted as stated as explained in the preceding paragraph since the applicants were not getting the special pay of Rs. 35/70 prior to their promotion on the post of Head clerks, hence they could not receive the benefit of the special pay in fixation of their pay in Higher grade. The Railway Board's letter dated 17.8.89 is also silent on this issue.
10. That the contents of para 4(7) of the original application are admitted.
11. That the grounds mentioned in para 5 of the original application, it is submitted that the grounds taken by the applicants are irrelevant, false, mischievous and misconceived and as such present application is liable to be dismissed against the applicant and in favour of the answering respondents.
12. That the contents of paras 6 and 7 of the original application do not call for reply.

SM2 WLN
प्रबंध कार्मिक अधिकारी,
पुर्वोत्तर रेलवे, अवस्था

Contd.....6

13. That in reply to the contents of paras 8 and 9 of the original application, it is stated that the present original application is devoid of merits as such no relief can be granted to the applicant and therefore this application deserves to be dismissed in favour of the answering respondents and against the applicants.

Lucknow: Dated:

....6/5/ 1991.

Sudhir
प्रत्यक्ष मण्डल कार्मिक अधिकारी
प्रबोधन रेलवे, लखनऊ

VERIFICATION

I, the official above named do hereby verify that the contents of para 1 of this reply are true to my personal knowledge and those of paras 2 to 13 of this reply are believed by me to be true on the basis of records and legal advice.

Lucknow: Dated:

....6/5/ 1991.

Sudhir
प्रत्यक्ष मण्डल कार्मिक अधिकारी
प्रबोधन रेलवे, लखनऊ

A29

Before the Hon'ble Central Administrative Tribunal,
Circuit Bench, Lucknow.

Reg. (O.A.) No. 286 of 1989 (L)

R.P. Katiyar and others Applicants

Versus

Union of India and others Respondents.

COUNTER REPLY ON BEHALF OF ALL THE RESPONDENTS

I, S M N Islam working as
Divisional Personnel Officer in the office of Divisional
Railway Manager (P), North Eastern Railway, Ashok
Marg, Lucknow do hereby solemnly affirm and state
as under:-

P.S
6-5-91

1. That the official abovenamed is working
as Divisional Personnel Officer in the office
of Divisional Railway Manager (P), North
Eastern Railway, Ashok Marg, Lucknow and
has gone through the averments made in the
application and as such fully conversant
with the facts and circumstances of the case
and also has been fully authorised to answer
on behalf of all the respondents.

S M N Islam
प्रधार नगर कार्मिक अधिकारी
पुर्वोत्तर रेलवे नियन्त्रण

Contd.....2

2. That in reply to the contents of para 1 of the original application, it is stated that the applicant in this para himself admits that his cause of action arose on 1.9.85 while the present application has been filed after the month of october, 1989 i.e. after more than 4 years as prescribed in section 21 of the Administrative Tribunals Act, 1985.
3. That in reply to the contents of para 2 of the original application, it is stated that since this application is beyond four years time, hence not within the limitation, hence unless delay is condoned (though the delay has not been explained any where in the application nor any prayer for condonation of delay has been made), this Hgn'ble Tribunal has no jurisdiction to entertain the application.
4. That in reply to the contents of para 3 of the original application, it is stated that as already explained in the preceding paragraphs this application is highly barred by time.

That reply to the contents of para 4 of the original application are as under:-

Smt) wa
प्रबन्ध नायक कार्यालय अधिकारी
पुर्वोत्तर रेलवे, लखनऊ

Contd....3

5. That the contents of para 4(1) of the original application are admitted except that Sri B.B. Saxena is getting more pay than ~~than~~ the applicants only in compliance of Railway Board's circular dated 17.8.89 as contained in Annexure No. 7 to the original application.
6. That in reply to the contents of para 4(2) and 4(3) of the original application, so far it is matter of record is admitted, but rest of the contents of para are denied.
7. That in reply to the contents of para 4(4) of the original application, so far it is matter of record is admitted, but rest of the contents of para are denied. However, it is further stated that the special pay of Rs. 35/- was to be given on the basis of seniority-cum-suitability with specific orders to perform the work on pinpointed sheets ~~seats~~ i.e. to deal with the complex nature of work but the applicant could not receive that type of special pay because they were promoted straight ~~is~~ way on the post of Head Clerk as a result of restructuring of the ministerial cadre.

Contd....4

SN2 Wler
प्रधान मण्डल कार्मिक अधिकारी
पूर्वोत्तर रेलवे लखनऊ

8. That the contents of para 4(5) are not admitted as alleged. As per Railway Board's circular dated 5.1.89, the benefit of special pay of Rs. 70/- as revised from Rs. 35/- was given to those Sr. Clerks who remained drawing Rs. 35/70 as special pay in fixation of their pay on promotion to higher grades. Those who were not drawing special pay Rs. 35/70 were not found entitled for the benefit of this fixation of pay in higher grades.

In Railway Board's circular dated 17.8.89 referred in the given direction to step up the pay of Senior equal to Junior if arises on account of increments. But in this case anomaly of pay arose due to junior got special pay and their pay was fixed giving benefit of the special pay whereas pet did not get special pay as such they were given the benefit of special pay in fixation of their pay. However, it is further mentioned that as per Railway Board's circular dated 17.8.89 (Annexure No. 7 to the original application), the benefit of stepped up pay of the applicants could not be claimed if the difference of pay arose due to the fact that juniors get special pay and their respective pay was fixed after

benefit of the special pay as such they were not given the benefits of the special pay while fixation of their pay.

9. That the contents of para 4(6) of the original application are not admitted as stated as explained in the preceding paragraph since the applicants were not getting the special pay of Rs. 35/70 prior to their promotion on the post of Head clerks, hence they could not receive the benefit of the special pay in fixation of their pay in Higher grade. The Railway Board's letter dated 17.8.89 is also silent on this issue.
10. That the contents of para 4(7) of the original application are admitted.
11. That the grounds mentioned in para 5 of the original application, it is submitted that the grounds taken by the applicants are irrelevant, false, mischevious and misconceived and as such present application is liable to be dismissed against the applicant and in favour of the answering respondents.
12. That the contents of paras 6 and 7 of the original application do not call for reply.

- 6 -

13. That in reply to the contents of paras 8 and 9 of the original application, it is stated that the present original application is devoid of merits as such no relief can be granted to the applicant and therefore this application deserves to be dismissed in favour of the answering respondents and against the applicants.

S. M. Suleman

प्रधान भाष्यकारी
प्रवासी राज्य, लखनऊ

Lucknow: Dated:

...../...../1991.

VERIFICATION

I, the official above named do hereby verify that the contents of para 1 of this reply are true to my personal knowledge and those of paras 2 to 13 of this reply are believed by me to be true on the basis of records and legal advice.

S. M. Suleman

प्रधान भाष्यकारी
प्रवासी राज्य, लखनऊ

Lucknow: Dated:

...../...../1991.

134
BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUKT BENCH, LUCKNOW.

Regn. O.A. No. 286 of 1989 (L).

6.12.91

R.P. Katiyar and others Applicants.

Versus

Union of India and others Respondents.

REJOINDER REPLY

To counter reply on behalf of all Respondents.

*Read
duplicat
checkmark
24/7/91*

I, V.N. Singh, aged about 56 years, son of late Mithan Lal, posted as Head Clerk, Office of Divisional Rly. Manager (C), N.E. Railway, Lucknow (who has been authorised by the petitioners No. 1 to 4 to file the Rejoinder Reply on their behalf also) do hereby solemnly affirm and state as under :

*Filed today
7/10/91*

1. That the deponent is the Applicant No. 5 in the above mentioned O.A. and is well conversant with the facts of the case deposed to hereunder.
2. That the contents of para 1 of the counter reply are not controverted.

3. That the contents of para 2 of the counter reply are evasive, misconceived and denied. In reply it is stated that para 1 of the Regn. O.A. is with regard to the particulars of the orders against which the Regn. O.A. is preferred and not against the limitation as provided u/s 21 of the Administrative Tribunals Act, 1985. The applicants have already explained the limitation of the present application as per section 21 of the Act 1985 in para 3 of the Application.

4. That the contents of paras 3 and 4 of the counter reply are misconceived and denied and the contents of paras 2 and 3 of the Regn. O.A. are reiterated. In reply it is stated that the present O.A. is within limitation prescribed u/s 21 of the Act 1985 since the cause of action accrued for filing the present O.A. on 26-6-1989 when the pay of junior incumbents had been fixed by the Opposite Party No. 3 vide his order dated 26-6-1989 whereafter the applicants submitted their representation to the Opposite Party No. 2 through Proper Channel on 12-7-1989 which is still pending and has not yet been decided. Thereafter the present Application was filed in October 1989 which is well within limitation as provided u/s 21 of Act 1985.

5. That the contents of para 5 of the counter reply are misconceived. Shri B.B. Saxena, one of the junior incumbents was getting more pay than that



of the applicants in compliance with the Railway Board's letter dated 5-1-1989 (Annexure-4), the reference of which has been quoted in office order dated 26-6-89 (Annexure-1) issued by the respondent. The Rly. Board's letter dated 17-8-89 (Annexure-7) provides the jurisdiction for stepping ^{up} of the pay of seniors equal to their juniors. The para 4.4 of the claim petition has described the features of this Board's letter dated 17-8-89, following which the petitioners should have been given relief to step up their pay at par to their juniors.

6. That the contents of para 6 of the counter reply, as alleged, are misconceived and denied and the contents of para 4.2 and 4.3 of the O.A. are reiterated. In reply it is stated that the opposite parties have given evasive reply instead of giving a positive and effective reply. Therefore the averments of paras 4.2 and 4.3 are presumed to be admitted by the opposite parties in absence of any positive reply.

7. That the contents of para 7 of the counter reply, contrary to para 4.4 of the O.A. are misconceived and denied. The averments of para 4.4 of the O.A. are reiterated. In addition it is stated that the special pay of Rs. 35/- was given to the 10% senior incumbents and they were entrusted to work on pinpointed seats to deal with complex nature of work. The reasons for not giving the special pay to the applicants, are quite

evident from the records. Consequent upon the cadre's restructuring effected vide Memorandum no. E/III/59/4/APA/KAm/84 dated 18.12.84 issued by the respondent, the posts of Head Clerks in Commercial Branch of Lucknow Division were increased from 8 to 20. Against these revised strength, the Upper Divn. Clerks who were getting special pay of Rs. 35/- to the extent of 10% and those whose turn to receive special pay had not come were straightway promoted on the post of Head Clerks with retrospective effect from 1-1-1984.

8. That the contents of para 8 of the counter reply, contrary to para 4.5 of the O.A. are misconceived and denied and the averments made in para 4.5 of the O.A. are reiterated. In reply it is stated that ~~the~~ on this issue a claim petition (O.A. No. 87/91(L) filed by Shri Hari Saran Shanker Srivastava and four others before this Hon'ble Tribunal will show that the petitioners were in receipt of special pay on their turn sanctioned in their favour on different dates viz. 7-2-84, 11-2-84, 14-11-84, 6-6-85 and 6-6-85. But they ~~were~~ have also been denied to allow benefit of special pay in their fixation of pay in higher grade. These petitioners were also promoted on the post of Head clerks with retrospective effect from 1-1-84 as a result of restructuring of the cadre of ministerial category. Therefore, it is quite evident that whosoever upper division clerks,



In reply to sub-para of para 8 it is stated that the Railway Board's circular letter dated 17.8.1989 if read with note 7 below rule 7 of CCS(R) Rules 1986, the provision is clear to step up of the pay of seniors equal to their juniors. The extract is given hereunder :

"Rly. Board's Office Memorandum No. 1/2/86-
ETT.(PAY-1) dated 17.5.1988 provides when a
Govt. Servant is promoted or appointed to another
post carrying duties and responsibilities of great-
er importance than those attached to the post held
by him, the provisions contained in FR 22-C shall
apply for fixing the pay subject to the condi-
tion that the amount be added to pay in the lower
post before fixing the pay the higher post
should not be less than Rs. 25/-.

The staff side in the National Anomaly Committee have represented that if the higher pay fixed in case of Junior Govt. Servant promoted after 1-1-86 was due to allowing him a minimum benefit of Rs. 25/- ~~each~~ in the pay of the lower post before fixing it at the next higher stage in the scale of higher post, the pay of the senior Govt. servant should be stepped up from the date, the junior started drawing more pay. The matter has been considered and the president is pleased to decide that in cases where the higher pay fixed in case of a junior promoted after 1-1-85 was to allowing him a minimum benefit of Rs. 25/- in the pay of the lower post before fixing his pay in the scale of the higher post under FR 22-C the pay of the senior Govt. Servant may be stepped up with reference to the pay of his junior subject to the fulfilment of the other conditions laid down in Note 7 below Rule 7 of the CCS(RP) Rules, 1985. This decision will also apply to all those cases which are covered in terms of the department Office Memorandum No. 1/9/89-ETT(Pay-1) dated 10-7-1989."

A photocopy of the aforesaid Memo dated 17-5-1988 is annexed as Annexure R-1 to this Rejoinder Reply.

9. That the contents of para 9 of the counter reply, contrary to para 4.6 of the O.A., are misconceived and denied and the averments made in para 4.6 of the O.A. are reiterated. In reply it is stated that the plea taken by the respondents regarding not drawing of special pay of Rs. 35/- does not restrain in any way in stepping up of the pay of senior ~~Government~~ Govt. Servants as the applicants, or allowing pay less than their juniors for which the Railway Board's Office Memorandum No. 1/2/86-ETT (Pay-1) dated 17- 5- 1989 reproduced above provides that Senior Govt. Servants' pay should be stepped up equal to their juniors.

- 7 -

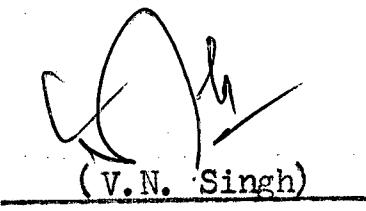
10. That the contents of para 10 of the counter reply need no reply since the averments of para 4.7 of the O.A. have been admitted.

11. That the contents of para 11 of the counter reply are misconceived and the ~~averments~~ grounds taken by the applicants in para 5 of the O.A. are all tenable under law and the present Regn. O.A. deserves to be allowed.

12. That the contents of para 12 of the counter reply need no reply.

13. That the contents of para 13 of the counter reply are denied.

Lucknow: dated
July , 1991.

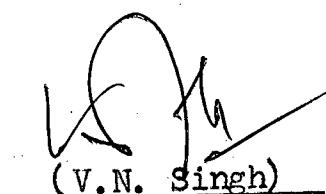


(V.N. Singh)

Verification

I, V.N. Singh, named above, do hereby verify that the contents of paras 1 to 13 of this rejoinder reply are true to my own knowledge and perusal of records and are believed by me to be true .

Lucknow, Dated:
July , 1991.



(V.N. Singh)

OFFICE MEMORANDUM

Sub:- Stepping up of pay in terms of Note 7 below Rule 7 of CCS(RP) Rules, 1986 clarification regarding.

The undersigned is directed to say that in cases where a senior Government servant promoted to a higher post before the 1st day of January, 1986 draws less pay

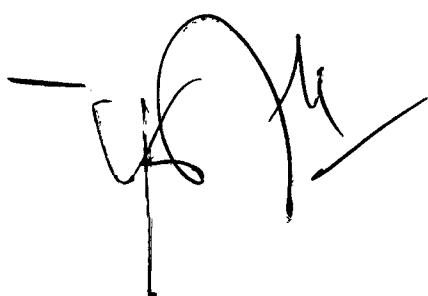
in the revised scale than his junior who is promoted to the higher post on or after the 1st day of January, 1986, the pay of the senior Government servant can be stepped upto an amount equal to the pay as fixed for his junior in that higher post, subject to the fulfilment of the following conditions in accordance with Note 7 below Rule 7 of CCS (RP) Rule, 1986:-

- (a) both the junior and the senior Government servants should belong to the same cadre and the post in which they have been promoted should be identical in the same cadre.
- (b) the pre-revised and revised scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical; and
- (c) the anomaly should be directly as a result of the application of the provisions of fundamental Rule 22-C or any other rule or order regulating pay fixation on such promotion in the revised scale. If even in the lower post, the junior officer was drawing more pay in the pre-revised scale than the senior by virtue of any advance increments granted to him, provisions of this Note are not invoked to step up the pay of the senior officer.

2. This Department's O. M. No. 1/2/86-Ett (Pay-1) dated 17-5-1988 provides that when a Government servant is promoted or appointed to another post carrying duties and responsibilities of greater importance than those attached to the post held by him the provisions contained in FR 22-C shall apply for fixing the pay subject to the condition that the amount to be added to pay in the lower post before fixing the pay in the higher post should not be less than Rs. 25/- (Rupees twenty five only).

3. The Staff Side in the National anomaly Committee have represented that if the higher pay fixed in the case of a junior Government servant promoted after 1-1-1986 was due to allowing him a minimum benefit of Rs. 25/- in the pay of the lower post before fixing it at the next higher stage in the pay scale of the higher post, the pay of the senior Government Servant should be stepped up from the date the junior started drawing more pay. The matter has been considered and the President is pleased to decide that in cases where the higher pay fixed in the case of a junior promoted after 1-1-1985 was due to allowing him a minimum benefit of Rs. 25/- in the pay of the lower post before fixing his pay in the scale of the higher post under FR-22-C the pay of the senior Government servant may be stepped up with reference to the pay of his junior subject to the fulfilment of the other conditions laid down in Note 7 below Rule 7 of the CCS (RP) Rules, 1985. This decision will also apply to all those cases which are covered in terms of this Department's office Memorandum No. 1/9/89-Ett (Pay-1) dated 10-7-1989.

AM



A.M.

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

M.P. No. 791 1991

R.P. Katiyar & Others..... Applicants

Versus

Union of India and others Opp. Parties

O.A. No. 286 (L)/ 1989

ff. 10.1.92

Application for expediting hearing.

The Applicants beg to submit as under :

1. That the applicants had filed the aforesaid appeal seeking fixation of their pay at par with their juniors who have been promoted later on.
2. That in the aforesaid case the counter and Rejoinder Affidavits have been exchanged between the parties. During the pendency of the aforesaid application, several applicants have been retired without fixation of their pay at par with their juniors causing monetary losses in retirement benefits and other applicants are to retire within a couple of months. Therefore it is expedient in the interest of effective justice that this Hon'ble Tribunal may

Filed today

SPB

12/12/91

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- 2 -

be pleased to decide the aforesaid O.A. No. 286(L)/89 expeditiously.

3. That similar application O.A. No. 87(L)/91 Hari Sharan Shanker & Others Versus Union of India has also been filed by the similarly situated incumbents. For consolidating these two cases application has already been moved which is pending in this Hon'ble Tribunal.

Prayer

WHEREFORE, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to hear and decide the aforesaid two cases (O.A. No. 286(L)/89 and O.A. No. 87(L)/91) as early as possible.


G.S.L. Varma
(G.S.L. Varma) *Adv*

Dated Lucknow:
Dec. 12, 1991.

Advocate,
Counsel for the Applicants

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,

L U C K N O W

M.P. 184/92 (L),
O.A.NO. 286 OF 1989 (L)

F.F. 20.2.92
5.5.92

R.P. KATIYAR & OTHERS

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

OPPOSITE PARTIES

APPLICATION FOR DECIDING THE PRESENT APPLICATION

~~AKK ALONG WITH O.A. NO. 87 OF 1991, H.S.S.~~

~~71/531 SRIVASTAVA VERSUS UNION; WHICH WAS HEARD AND~~

JUDGMENT WAS RESERVED ON 30.1.1992 BY THE BENCH

OF THIS TRIBUNAL HEADED BY HON'BLE VICE-CHAIRMAN

JUSTICE U.C. SRIVASTAVA.

The applicants most respectfully submit as
under: -

Filed today
3/3/92

1. That the controversies in both the original applications (O.A.No. 87 of 1991 and O.A.No.286 of 1989) are the same, therefore, this present case may also be disposed of, which was heard and the judgment was reserved on 30th January, 1992 by the bench of this Hon'ble Tribunal headed by Hon'ble Vice-Chairman Justice U.C.Srivastava.

2. That the present application was filed in the year 1989 but unfortunately could not be heard and disposed of till date, while the O.A.No.87 of 1991, filed much after, has already been heard and judgment was reserved on 30.1.1992 by this Hon'ble Tribunal. The

*G.S. Narima
Adv*

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he verge of super annuation, therefore,
o disposed of along with O.A.No.87 of
cants may also get benefits during

it is most respectfully prayed
tribunal may please to dispose of
n along with similar O.A.No.87 of 1991,
d judgment was reserved by the Bench

Vice-Chairman- Justice U.C.Srivastava

on 30th January, 1992.

LUCKNOW

DATED 3.3.1992.

G.S.L.Varma
(G.S.L.VARMA)
Adv.
Advocate,
COUNSEL FOR THE APPLICANTS

Pub
Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL

~~LUCKNOW~~
~~ALIGARH~~ BENCH

Misc. Petition 131 of 1991

O.A. No. 87 of 1991(L)

Harji Saran Shanker Srivastav & Ors . . . Applicants

Versus

Union of India & Ors. . . . Respondents

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorthi, Member(A)

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

The applicants by means of this application have prayed that the respondents be directed to refix the pay of the applicants on notional basis from the date of their promotion as Head Clerk by taking into account the special pay of Rs.35/- and the actual benefit may be given to them from 1.9.85 as has been done in the case of their juniors so that they may not get less pay than their juniors as per Railway Board's letter dated 17.8.89, where in it has been laid down that if as a result of fixation of pay of Gr. I Clerk/Sr. Clerk (330-560) although gets higher than them in the revised pay scale because of their work of complex nature in the pin pointed post, the pay of such seniors will not be stepped up because it cannot be treated anomalous because juniors will be drawing performed duties of complex nature and drawn special pay. The applicants

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are working under the control of the Divisional Railway Manager (Commercial) N.E. Railway, Ashok Marg Lucknow. They were appointed as Clerk. Their promotion to the senior clerk and head clerk date from which special pay of Rs.35/- was sanctioned to them from various dates between 1984-85. In view of the restructuring of the ministerial cadre of commercial branch were circulated under Divisional Railway Manager(P) Lucknow's letter dated 18.12.84 by which the senior clerks of Commercial cadre were given promotion on the basis of head clerk with retrospective effect from 1.1.84 was given in between 30.1.85 to 30.9.85 to persons who got promotion on the post of head clerk as a result of revised strength of the cadre, were denied the benefit of special pay of Rs.35/- p.m. on the fixation of pay to the higher post by the railway administration, as to whether they were getting special pay of Rs.35/- or not. On the plea that they were not receiving the special pay of Rs.35/- on 1.1.84, the date on which they were promoted as head clerk. It is to be seen that what was the fault on the applicants who had been given special pay of Rs.35/- p.m. on their turn on 7.2.84, 11.2.84, 14.11.84, 6.6.85 and 6.6.85 retrospectively by virtue of their seniority before the orders of restructuring dated 18.12.84. When their promotion was made with retrospective effect from 1.1.84 then as to why the Railway administration has denied the benefit of special pay to such senior staff with the result that their pay has become lesser than their juniors if the length of their service is considered. Initially the special pay of Rs.35/- was provided to the 10% senior incumbents on the basis of



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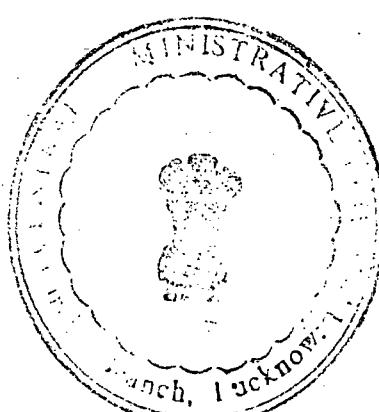
seniority-cum-suitability vide order dated 11.7.79 which was merged in pay while fixing pay on promotion to higher post. But vide order of the Railway Board dated 5.1.89 the special pay of Rs.35/- was increased to Rs.70/- p.m. and it was also provided that the benefit of this special pay will be given to the incumbents in fixation of their pay on higher posts. It was also provided that this benefit will be given to the persons promoted on or after 1.9.85. Due to this reason the incumbents who were promoted prior to 1.9.85 got lesser pay in comparison to their juniors who were promoted and after 1.9.85. As a result of this anomaly, some employees of the Posts and Telegraphs filed reference claim petition before the Central Administrative Tribunal Bangalore and the Bench of the Tribunal at Bangalore was pleased to decide the claim petition vide judgment and order dated 16.1.89 giving the benefit of special pay in fixation to the incumbents promoted prior to 1.9.85 also.

The Bangalore Bench of the Central Administrative Tribunal Bangalore vide its judgment dated 16.1.89 in M.S. Janjundaish and Others Vs. Government of India decided on 16.1.89 has held that;

"4. I have considered the rival contentions carefully, whatever the method by which the decision was taken to count special pay of Rs.35/- for fixation of pay in the higher post, no intelligible differentia is discernible in classifying persons promoted to LSG before and after a particular date. On the ratio

AMG

of the judgment of the Supreme Court in Nakra's case the benefit of the orders conveyed in Government of India's letter of 1.9.1987 can be extended from that date only but it cannot be confined to those who are promoted on or after that date. That to my mind, would be the only way to interpret Government of India's letter of 1.9.1987 relating to the date from which the orders therein were to become effective to avoid the charge of discrimination. For, the hold otherwise would lead to an anomalous situation in which persons promoted later would get higher pay than those who are promoted earlier merely because in the case of the former special pay drawn and this would violate the rule of equality.♦



In some what similar matter a Bench of this Tribunal has taken the view in May 1991 in O.A. 87 of 91 decided by this Tribunal has held that;

*10. In the result, we are of the view that the applicants are entitled to special pay, on a notional basis, w.e.f. 23.8.79 the date when they assumed the posts identified for the grant of special pay of Rs.35/-. We, therefore, direct that the respondents shall give the benefit of special pay on notional basis

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to both the applicant w.e.f. 23.8.79. Accordingly, the notional grant of special pay of Rs.35/- per month shall be taken into account in the fixation of pay of applicants no.1 and 2 from the respective dates of their promotion to the post of Office Superintendent.

In a similar matter this very Bench has also taken such similar view and accordingly this application is allowed and ^{is held} the respondents are directed that the applicants are entitled to special pay from the date when they assumed the post identified for the grant of special pay of Rs.35/-. We, therefore, direct that the respondents shall give the benefit of special pay of Rs.35/- on notional basis to the applicants and this special pay of Rs.35/- shall be taken into account in the fixation of pay from the date of promotion to the higher post. Let it be done within two months from the date of communication of this order.

Parties to bear their own costs.

MEMBER(A)

VICE CHAIRMAN

25 March 1992:

c/c

(Uv)

J. N. Rao
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench.
Lucknow

(AS)

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

C.M. Appln. No. 284 of 1989. (L)

In re:

Ref. Claim Petition No. O.A. _____ (L) of 1989.

R.P. Katiyar and others Petitioners/Applicants.

Versus

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

Application for permission to file joint
Claim Petition by five persons.

The petitioners beg to submit as under :

That the facts and questions of law involved in the present claim petition are the same with regard to all the petitioners/applicants in the aforesaid claim petition.

Prayer

WHEREFORE, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to allow the petitioners/applicants to file the joint petition before this Hon'ble Tribunal for redressal of their grievances.

Dated Lucknow:
Oct. 17, 1989.


G.S.L. Varma
(G.S.L. Varma) *Adv.*
Advocate,
Counsel for the Petitioners/
Applicants.

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

Registration O.A. No. 286 of 1989 (L)

R.P. Katiyar & others Petitioners.

Versus

Union of India & others Opp. Parties.

Annexure - 1

(As per photostat copy of order dated 26.6.1989 regarding fixation of pay of juniors ~~ix~~ being annexed hereto.)

..... contd.

Altest varm Ad
G.S.

NORTH EASTERN RAILWAY

OFFICE ORDER

In terms of Railway Board's letter No. PG/III/79/Spl./UDC dated 27.11.87 and 5.1.89 which was circulated vide GM(P)/GKP's No. E/213/PGK86/2Pt.I(IV) dated 16.12.87 and 19.1.89 respectively, the pay of the following employees who were promoted on or after 1.9.85 from Sr. Clerk to Hd. Clerk/PI and getting Rs. 35/70 asspl. pay in Sr. Clerk are fixed as mentioned against each giving the benefit of 35/70 of spl. pay in higher grade.

Sl. No.	Name	Design & Grade	Date of promotion confirmed on scale	Pay increase on the date of promotion	Date of promotions	Fixation of pay on promotion as Hd. Clerk in scale	Revised fixation of pay in terms of promotion as Board's letter No. PG/III/79/Spl./UDC dated 5.1.89
1- S7 Shri		Sr. Clerk	26.9.81 1200-2040	1500+70PP as on 29.9.82	1.9.86 1.9.87 1.9.86	1560/- 1600/- 1640/-	1.9.86 1.9.87 1.9.88
2- K.L. Gupta		Sr. Clerk	25/25.9.81 1200-2040	1500+70PP as on 29.9.82	9.12.86 9.12.86	1560/- 1600/- 1640/-	9.12.86 9.12.87 9.12.88
3- H.P. Bajpai		Sr. Clerk	19.6.82 1200-2040	1500+70PP as on 23.6.83	1.6.87 1.6.88	1560/- 1600/- 1640/-	1.6.87 1.6.88 1.6.88
4- R.M.C. Sinha		Sr. Clerk	22.5.82 1200-2040	1530+70PP as on 19.6.83	18.7.88 1.7.89	1600/- 1640/-	1.6.89 1.6.89 1.7.89
5- R.P. Khare		Sr. Clerk	12.5.86 1200-2040	1500+70PP as on 6.10.88	6.10.88	1560+10PP	6.10.88
6- S.P. Pandey		Sr. Clerk	25.6.83 1200-2040	1440+70PP as on 6.10.88	6.10.88	1500+10PP	6.10.88

No. E/11/210/Clerk/84/Comml.
Copy forwarded for information and necessary action to:-
1- Sr. DAO/LJN, 2- GM(P)/GKP. 3- OS/Bill, Pass, FO/der. 4- Employee concerned
5- Divl. Secretary Mazdoor Union & PRKS. 6- O.S/Comml.

Dated 26-6-1989 for Divl. Railway Manager(P)/Lucknow

for Divl. Railway Manager(P)/Lucknow
26/6/89
Divl. Manager

Abdul Karim Andi

Abdul Karim Andi

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

Registration O.A. No. _____ of 1989.

R.P. Katiyar & others Petitioners.

Versus

Union of India & others Opp. Parties.

Annexure - 2

(As per photostat copy of one of the
identical representations dated 12.7.89
submitted by the petitioner no. 1, annexed
hereto.)

..... contd.

*After Fed. Narcotic
G.S. v. Nar Bahadur*

To

The General Manager(P),
N.E.Railway, Gorakhpur,

Through-DRM(P)/LJN,

An 2
Sir,

4.

PGS

Reg:-Counting of special pay of Rs.35/-,70/- to upper Division clerks and benefit in fixation of pay on promotion.

.....

My humble submission is as under:-

1. That as a Head clerk I am drawing less pay than that of my junior due to spl. pay of Rs.35/-,70/- in fixation of pay on promotion was not given to me. My junior's pay is Rs.1720/- on 1.9.88 whereas I was drawing Rs.1600/- only on that date.

2. That reason behind it was that my promotion as Head clerk was done with retrospective effect from 1-1-84 following orders of re-structuring issued under DRM(P)/LJN's memorandum no.E/III/59/4/Apa/KAM/84 dated 18.12.84. As a result of revised sanctioned strength of Head clerk from 8 to 20, the Sr. clerks who were in receipt of Rs.35/- as spl. pay and those who were not, got promotion to gether vide same office order no.E/210/Clerk/84/Comm. dated 30/1/85. This position becomes clear from the chart is enclosed as Annexure -A along with photo copy of offic order under reference as Annexure-B & C. This is also to be mentioned here that benefit of spl. pay of Rs.35/- was ever given in order of seniority to avoid complication of the rules in its application, and not by pick and choose method.

3. That had the orders of re-structuring of the cadre not come by the time, the benefit of award of spl. pay Rs.35/- would have been given to me also on turn in order of seniority. There is not a single case of ignoring the senior person and awarding of this benefit to junior.


Contd....2

Attested
G.S. Varma
Adv

Juniors got this benefit of spl. pay when seniors were promoted in bulk on the post of Head clerk with retrospective effect from 1.1.84 due to re-structuring effected. As such in these cases to bring initial pay ^{at} par to my junior, proforma fixation of pay in case of seniors is a legitimate claim. The period covers w.e.f. 1.1.84 to 30.9.85 for such lapses during which senior persons were promoted directly without availing benefit of spl. pay. This sort of grievance is prevailing in every executive office of the Rly.

I have every hope that your good offices will do to remove this anomaly as early as possible putting it up at appropriate level, so that the initial pay in such cases may also be decided on notional basis deeming the special pay drawn prior to promotion and actual benefit of spl. pay in fixation of pay to higher grade may kindly be allowed from 1.9.85 as was done in case of my juniors and also in consideration in case of seniors who were getting spl. pay prior ^{to} 1.9.85.

With regards.

As said above.

Yours Faithfully

Date: 12-7-1989.

(R.P. Kalyan)

Head clerk,
Office of DRM(C),
Lucknow



After Ed
G. S. L. Varanasi Adm

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Classification of Employees according to seniority position assigned in the seniority list as on 1.6.87. It shows comparative pay & position of
Special Pay and Received and the note.

No.	Name of employees & Office where posted	Date of appointment	Date of promotion	Date of PAY as Design. ment	Date of SPL PAY (Refere
1.	Serve/Shri	3.1.84	3.1.84	3.1.84	3.1.84
2.	S. K. U. Thau	12.12.85	25.2.86	1.1.84 1.2.84	1.10.86
3.	M. N. Lai	"	"	"(Retd.)	1.11.86
4.	R. S. S. Srivastva	"	"	"(Retd.)	35-1-85
5.	J. P. Upadhy	"	"	1.4.7.86	35-1-84
6.	P. N. C. Rosh	"	"	2.5.88	35-1-84
7.	K. C. Trikha	"	"	21.7.86	35-1-84
8.	R. S. Nigam	"	"	2.5.88	35-1-84
9.	P. N. Srivastva	"	"	1.1.84	35-1-84
10.	D. P. Malik	"	"	1.1.84	35-1-84
11.	R. N. Nigam	"	"	1.1.84	35-1-84
12.	G. S. Tripathi	"	"	1.1.84	35-1-84
13.	R. P. Khatyay	"	"	1.1.84	35-1-84
14.	G. C. Roy Choudhury	"	"	1.1.84	35-1-84
15.	Syed Yase Hussain	"	"	1.1.84	35-1-84
16.	Ramdeo	"	"	1.1.84	35-1-84

A. M. N. K.

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1	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
17. R. Kumar Verma	DRM AC-LIN	10.12.86	1.10.80	1.11.81	1.10.84	1.10.84	1.10.88	35/-	35/-	35/-
18. N.K. Misra		27.11.86	1.10.81	1.10.80	1.10.81	1.10.84	1.10.88	35/-	35/-	35/-
19. S. K. Pandey			6.9.86	1.10.80	1.10.81	1.10.84	1.10.88	-do-	-do-	-do-
20. V. K. Singh			22.6.86	1.10.81	1.10.80	1.10.85	1.10.88	-do-	-do-	-do-
21. B. B. Saxon			1.7.86	1.10.81	1.10.80	1.10.85	1.10.88	-do-	-do-	-do-
				29.9.86	1.10.81	1.10.86	1.10.88	70/- Benefit of spl. pay given in fixation of pay to higher grade.		
22. K. L. Gupta				28.9.86	29.9.81	9.12.86	1680	9.12.88	70/-	70/-
23. H. P. Rajpal				4.10.86	19.6.82	9.12.86	1680	9.12.86	-do-	-do-
24. R. M. C. Sinha				10.12.86	19.6.83	18.7.88	1680	1.7.89	70/-	-do-
25. Chhote Lal				11.(Retd.) 23.2.87	19.6.82	18.7.88	1600	1.9.88	35-Not yet given.	
26. R. P. Khare				9.1.86	12.5.86	6.10.88	1640	1.10.88	70-Same remark as at S.No.21.	
27. S. P. Pandey				12.9.87	25.6.83	6.10.88	1560	1.10.88	-do-	-do-
28. S. Seth (Smt.)				1.12.84	25.6.83	29.6.89	1560	1.6.89	70	-do-
29. Jagdeo Singh				21.11.88	1.8.83	1.8.88	1560	1.8.89	70	-do-
30. O. K. B. Anandjee	SR.Clerk			18.12.84	1.1.84	-	-	-	70	-do-
31. K. K. Singh				28.11.87	1.1.84	-	-	-	70	-do-

EXPLANATORY NOTE:-

1. OSTI/Hd.Clerks at S.No.1 to 7 were in receipt of spl. pay of Rs.35/- whereas at S.No.8 to 16 remained deprived due to order of promotion from the retrospective effect of order no. E/210/clerk/84/comm. dt30.9.85 was issued by DRM(P)/LIN.

2. Similarly Hd.Clerks at S.No.17 to 188 were in receipt of spl. pay of Rs.35/- when their seniors promoted as said above , the Hd.clerks at S.No.19 & 20 remained deprived due to order of promotion from the retrospective effect vide office order no. E/210/clerk/84/comm. dt30.1.86.

*At present, Narendar Singh
A.G.C.*

3. When abnormal effect of restructuring came to end, the Hd. clerks/Sr. clerks at S.No.21 to 31 in order of seniority have been getting revised rate of spl. pay of Rs.70/-, the benefit of which was also given to them in re-fixation of their pay. On promotion as Head clerk vide order no. R/210/Clerk/Camtl./84 dt. 26.6.80 (Copy enclosed as Annexure-D) whereas Hd. clerks at S.No.1 to 20 did not get benefit of spl. pay in fixation of their pay on promotion as such the pay of Sr. persons is less than their junior if compared with the Hd. clerk shown at S.No.21.

Applicant.

*John Mathew
West End War Office
M.G.C. 21*

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

Registration O.A. No. _____ of 1989.

R.P.Katiyar & others Petitioners.

Versus

Union of India & others Opp. Parties.

Annexure - 3

(As per photostat copy of the said
order of the Board dated 11.7.89,
annexed hereto.)

..... contd.

*+ Dated
A.H. & G.S. Varanasi Adw.*

Sub:-Grant of Special Pay of Rs. 35/-P.M. to the Upper Division Clerks in the non-secretariate Administrative Offices.

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A committee of the National Council (N.C.N.) was set up to consider the request of the Staff Side that in the non-secretariate Administrative Offices since a certain percentage of Upper Division Clerks in the scale of Rs. 330-560 is handling cases of complex nature involving deep study and competence to deal with these cases, a ~~tiny~~ certain number of posts of U.D.Cs. should be upgraded to the grade of Assistants in the scale of Rs. 425-800 in the Secretariate. The Committee's report which was finalised on the 27th January/1979 was adopted by the National Council at its meeting held on 2nd and 3rd Feb. 1979. Pursuant to the agreed conclusions arrived at and accepted by the National Council the President is pleased to decide that the Upper Division Clerks a.g. Senior Clerks, Clerks Gr. I in scale Rs. 330-560 in the non-secretariate Administrative Offices attending to work of a more complex and important nature may be granted a special pay of Rs. 35/-P.M. The total number of such posts should be limited to 10% of the posts in the seniority Groups of the respective Clerical cadres, i.e. 10% of the posts of Senior Clerks/Clerks Gr. I in scale Rs. 330-560 and these posts should be identified ~~discre-~~ by you in consultation with your Financial Advisor as carrying discernible duties and responsibilities of a complex nature higher than those normally expected of Senior Clerks, Clerks Gr. I etc.

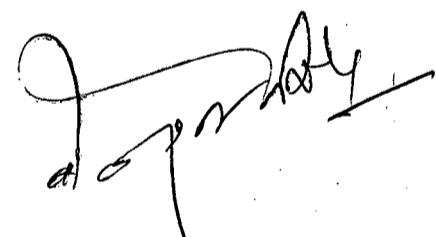
2. The filling up of the 10% of the posts should be on seniority cum-suitability basis. However, before posting the persons against 10% posts, it should be ensured that senior persons are not ignored and in case some body senior enough is not willing to considered for these posts or he is not considered suitable for the same, he should clearly be told that he will have no claim for higher fixation of pay subsequently when he is selected for higher grade.

3. Percentage of posts should be worked out separately for permanent, temporary and work-charged posts.

4. These orders take effect from 5.5.1979.

5. The number of posts to which the special pay of Rs. 35/- is attached in terms of these orders may be intimated the Ministry of Railways.

6. Hindi version will follow.



*True Copy,
Attested*


G. S. L. Varma

2. 11. 1979 (निर्दिष्ट
प्रधान द्वारा, उत्तराखण्ड)

*Attested
G. S. L. Varma
Adm*

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

Registration O.A. No. _____ of 1989.

R.P.Katiyar & others Petitioners.

Versus

Union Of India & others Opp. Parties.

Annexure - 4

(As per photostat copy of the ~~XXX~~
Board's order dated 5.1.1989, annexed
hereto.)

..... contd.

*Attest ed
G.S. Varma
Adv*

Am 4

N. P. RAILWAY.

No. E/213/PC/86/2 Pt. I(IV),

Office of the General Manager(P),
Gorakhpur: Dated, 1/1/1989.

Addl. General Manager,
 All Heads of Department,
 All Div'l. Railway Managers,
 All Extra Divisional Officers,
 All Personnel Officers,
 N. P. Railway.

Sub:- Grant of special pay ^{of} Rs.35/- p.m. to the Upper Division Clerks in the Non-Secretariat Administrative Offices-question whether the double the amount of special pay should be taken into account in the fixation of pay on promotion in the revised scale-Decision regarding.

A copy of Railway Board's letter No. PC- III/79/SP-1/UDC, dated 5.1.1989 is forwarded for information, guidance and necessary action. Board's earlier letter ^{of}, dated 27.11.87 as referred to there-in has already been circulated vide this office letter of even number dated 16.12.87.

DA/-One.

for General Manager (P).

Copy of Board's letter No. PC- III/79/SP-1/UDC, dt. 5.1.89 to G.Ms, All Indian Railways and copy to others.

Sub:-Grant of special pay of Rs.35/-p.m. to the Upper Division Clerks in the Non-Secretariat Administrative Offices-question whether the double the amount of special pay should be taken into account in the fixation of pay on promotion in the revised scale-Decision regarding.

Reference is invited to this Ministry's letter of even No. dt. 27.11.87 under which the special pay of Rs.35/- p.m. paid to Upper Division Clerks has been allowed for fixation of pay on promotion with effect from 1.9.1985. Consequent upon implementation of IV Pay Commission recommendations effective from 1.1.1986 the question arose whether the special pay of Rs.35/- which has been doubled with effect from 1.1.1987 should also be taken into account for fixation on promotion. The matter has been considered in consultation with Ministry of Finance and it has been decided that in respect of the Upper Division Clerks in the Non-Secretariat Administrative Offices who are in receipt of special pay of Rs.70/-p.m. in the Revised Scales of pay and are promoted to next higher grade, the special pay of Rs.70/- should be taken into account for fixation of pay on promotion subject to the conditions mentioned in this Ministry's letter of even number dt. 27.11.1987.

These orders take effect from 1.1.1988.

This has the signature of the President.
 Hindi version will follow.

Approved
A. H. Patel
G. S. L. Varma Ad.

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

Registration O.A. No. _____ of 1989.

R.P.Katiyar & others Petitioners.

Versus

Union of India & others Opp. Parties.

A-nnexionure - 5

(As per photostat copy of the judgement
dated 16.1.89, annexed ~~is~~ hereto.)

..... contd.

Affected
G.S. Varma

Central Administrative Tribunal Decisions

We publish below decisions of

1. Central Administrative Tribunal, Bangalore for counting special pay of Rs. 35/- p.m. for U.D.Cs pay fixation on promotion for those prior to 1-9-1985, the date from which the Arbitration Award was given effect to by the Ministry of Finance.

2. Central Administrative Tribunal Principal Bench Delhi, dismissing the contempt petition filed by Civil Wing Staff of Delhi Civil Wing Circle branch of our Union on matters relating to Payment of bonus to Postal Civil Wing Staff at Telecom rates, promotions, transfers channel of representation of Service Unions etc., but allowing them the liberty to move the proper forum if they are aggrieved by any consequence of structural organisation of the P&T Department. A fresh application has been filed on these issues separately in the last week of January, 1989.

Before the Central Administrative Tribunal, Bangalore

Dated - this - the sixteenth day of January, 1989.

Present : Hon'ble Sri P.Srinivasan Member(A)
Application Nos. 1652 to 1657/88 (F).

1. M.S. Nanjundaiah, 2. E.V. Srinivasan,
3. V.M. Gopinatha Rao, 4. M.S. Ranganathan
5. A.R. Prapulla, 6. G.V. Sundara Ram
(Applicants 1 to 6 are working as Section
Supervisors, in the O/o Postmaster General,
Bangalore-1).

Applicants

Vs.

1. The Government of India Represented
by its Secretary, Ministry of Finance, Deptt. of
Expenditure, New Delhi-1.

2. The Postmaster-General, Karnataka Circle
Bangalore-1.

(Sri M.S. Padmarajaiah

Feb. 1989

Respondents

Advocate

Tele-Admin Voice

These applications having come up before the Tribunal today, Hon'ble member (A) made the following :

ORDER

All the six applicants in this application were promoted from the post of Upper Division Clerk (UDC) earlier held by them to the Lower Selection Grade (LSG) on different dates from 27.2.1982 to 23.4.1983. Prior to their promotion they were drawing special pay of Rs. 35/- in the grade of UDC. Their initial pay on promotion to LSG was fixed without taking into account the special pay of Rs. 35/- being drawn by them. However, Government by its letter dated 1.9.1987 decided that special pay of Rs. 35/- being allowed to UDCs in non Secretariat Administrative Offices for attending to work of more complex and important nature would be taken into account in fixing their initial pay in the next higher post to which they were promoted provided that the official concerned held the post in which he drew special pay substantially or had the said post continuously for three years or more. This order was made effective from 1.9.1985 and those promoted as LSG prior to that date were therefore, denied the benefit of counting of special pay for the purpose of fixing their initial pay in LSG. The contention of the applicants is that they have been discriminated against merely because they were promoted to LSG prior to 1.9.1985 while those promoted on or after 1.9.1985 were being granted the benefit.

2. All the applicants were present in the court when the matter came up for hearing. Shri M.S. Nanjundaiah, the first applicant, submitted that classification of those promoted to LSG prior to 1.9.1985 and after 31.8.1985 was arbitrary and violative of Articles 14 and 16 of the Constitution. He relied on the judgement of Supreme Court in D.S. NAKRA V. Union of India AIR 1983 SC 130.

3. Shri M.S. Padmarajaiah, learned counsel for the respondents strongly opposed the claim of the applicants. The Government of India's letter dated 1.9.1987 by which special pay of

dt & for party

Affixed
G.S. Livermore
Pali

Rs. 35/- was to be taken into account for the purpose of fixation of initial pay on promotion was issued as a result of arbitration arising out of a dispute between the Government and the Employees. The date from which the new arrangement was to come into force was fixed as 1.9.1985 in conformity with the arbitration award. Thus it was not a date picked out of a hat and Government was justified in denying the same benefit to those were promoted prior to 1.9.1985.

4. I have considered the rival contentions carefully, whatever the method by which the decision was taken to count special pay of Rs. 35/- for fixation of pay in the higher post, no intelligible differentia is discernible in classifying persons promoted to LSG before and after a particular date. On the ratio of the judgement of the Supreme Court in Nakra's case the benefit of the orders conveyed in Government of India's letter of 1.9.1987 can be extended from that date only but it cannot be confined to those who are promoted on or after that date. That to my mind, would be the only way to interpret Government of India's letter of 1.9.1987 relating to the date from which the orders therein were to become effective to avoid the charge of discrimination. For, to hold otherwise would lead to an anomalous situation in which persons promoted later would get higher pay than those who are promoted earlier merely because in the case of the former special pay draw by them in the lower post is taken in-

to account and this would violate the rule of equality.

5. A question arose as to whether these applications should be rejected on the ground of limitation. Government of India's letter allowing special pay to be counted for the purpose of fixing initial pay in the higher post was itself issued on 1.9.1987 and received in the office of Respondent-2 on 28.10.1987. The same would have been communicated to the officers in the field on a still later date. The claim of the applicants is founded on this letter. The present applications have all been filed on 7.10.1988 and so should be regarded as well in time.

6. In view of the above discussion and the decision rendered by me in similar circumstances in R. Jagannathan V. Deputy Director of Accounts, Bangalore in application No. 1116/88, I direct the respondents to fit the initial pay of the applicant in LSG on a notional basis from the dates of their promotion to that grade taking into account the special pay drawn by them prior to their promotion. Actual pay on this basis will however become payable to them only from 1.9.1985 and no arrears will be payable for the period prior to 1.9.1985. The respondents are directed to effect payment of arrears arising out of this order within three months from the date of receipt of this order.

7. The applications are disposed of on the above terms leaving the parties to bear their own costs.

Signature

*Affested
G.S.L. Varma Adr.*

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

Registration O.A. No. _____ of 1989.

R.P. Katiyar & others Petitioners.

Versus

Union of India & others Opp. Parties.

Annexure - 6

(As per photostat copy of the circular
dated 2.8.89 issued by Railway Board,
annexed hereto.)

..... contd.

*After ed.
G. S. Varma, Adm.*

NORTH EASTERN RAILWAY

Office of the
General Manager(P),
Gorakhpur.

Dated: 8/9/1989.

P68

An6
No. E/213/PC/86/2 Pt.I/IV

Addl.GMs)
All HODs)
All DRMs) N. E. Railway.
All Extra Divl. Officers)
All Personnel Officers)

Sub: Grant of Special Pay of Rs.35/- per month to the UDCs in the non-sect.. administrative Offices - question whether this amount should be taken into account in the fixation of pay on promotion - Decision regarding.

A copy of Rly. Board's letter No. PCIII/79/SP/1/UDC dt. 2.8.89 received under their letter No. PCIII/79/SP/1/UDC dt. 5.9.89 both in Hindi & English is forwarded for information, guidance and necessary action. Board's letters dt. 11.7.79 & 27.11.87 as referred to therein have already been circulated vide this office letter of even number E/2/3/PC(73)/6-Pt.II/IV dt. 24.7.79 & E/213/PC/86/2/IV dated 16.12.87 respectively.

8-8-88
for GENERAL MANAGER(P)

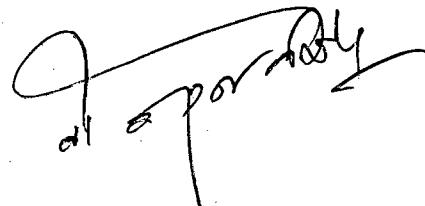
Copy of Bd.'s letter No. PCIII/79/SP/1/UDC dt. 2.8.89 addressed to All GMs & others.

Sub: Grant of Special Pay of Rs.35/- per month to the Upper Division Clerks in the non-secretariat administrative Offices - question whether this amount should be taken into account in the fixation of pay on promotion - Decision regarding.

Reference is invited to this Ministry's letter of even number dt. 27.11.87 under which the special pay of Rs.35/- p.m. paid to Upper Division Clerks has been allowed for fixation of pay on promotion w.e.f. 1.9.85. Agrioved by this decision, a number of UDCS, who while drawing special pay of Rs. 35/- p.m. were promoted to higher posts prior to 1.9.85 and whose pay on promotion was fixed without taking into account the special pay of Rs.35/-, filed a petition to CAT claiming that their pay should also be fixed taking into account the special pay of Rs.35/- as their Juniors who have been promoted after 1.9.85 are getting higher pay.

The judgement of CAT delivered in this case has been examined in consultation with Ministry of Finance and it has been decided that pay of those UDCs who were drawing special pay of Rs.35/- in terms of this Ministry's letter No. PCIII/79/SP/1/UDC dated 11.7.79 and were promoted to higher posts prior to 1.9.85 and who fulfil the conditions mentioned in this Ministry's letter No. PCIII/79/SP/1/UDC dt. 27.11.87 may be re-fixed on national basis from the date of the promotion by taking the special pay of Rs.35/- into account and such benefit may be allowed to them only from 1.9.85 without payment of any arrears.

SSA1
8978



Affected.
G.S.L.Varma
Add

869

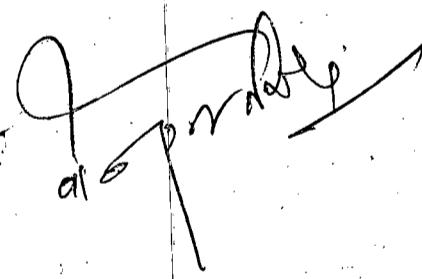
प्रतिलिपि रेल परिषद् के पत्र सं० पी.सी. 111/79/एस.पी./1/ यू.डी.सी.
नयी दिल्ली दिनांक 2-8-1989 को सभी भारतीय रेलों के महाप्रबन्धकों तथा अन्य
को सम्बोधित ।

विषय:- गैर सचिवालीय प्रशासनिक कार्य लियों के छब्बे उच्च श्रेणी-
लिपिकों की 35/- स० प्रतिमाह विशेष वेतन प्रदान दरना-
व्या पदोन्नति देने वेतन निर्धारण में इस राशि की गणना
की जाए- तत्सम्बन्धी निर्णय ।

इस मंत्रालय के 27-11-87 के समसंबद्ध पत्र की ओर ध्यान दिलाया जाता है
जिसके अन्तर्गत उच्च श्रेणी लिपिकों की दिये गये 35/- स० प्रतिमाह विशेष वेतन की
1-9-85 से पदोन्नति पर वेतन निर्धारण के लिए अनुमति दी गयी थी । इस निर्णय
से दुःखी होकर कुछ उच्च श्रेणी लिपिकों ने, जो 35/- स० प्रतिमाह विशेष वेतन हो रहे थे,
1-9-85 से पूर्व उच्चतर पदों पर पदोन्नत हो गये थे तथा पदोन्नति पर जिनका वेतन
35/- स० विशेष वेतन की हिसाब में लिए बिना ही निर्धारित कर दिया गया था,
इस दावे के साथ केन्द्रीय प्रशासनिक अधिकारण में याचिका दायर कर दी कि उनका वेतन
भी 35/- स० विशेष वेतन की हिसाब में लेकर निर्धारित किया जाना चाहिए क्योंकि
उनसे कमिज्ज, जो 1-9-85 के उपरान्त पदोन्नत हुए थे उनके अधिक वेतन ले रहे हैं ।
इस प्रमाणे में के प्रारंभिक द्वारा दिये गये निर्णय की वित्त मंत्रालय के पारमर्श
से जांच की गयी है तथा यह विनिश्चय किया गया है कि उन उ.श्र. लिपिकों का वेतन,
जो इस मंत्रालय के 11-7-79 के पत्र सं० पी.सी. 111/79/एस.पी./1/यू.डी.सी. के अनुसार
35/- स० विशेष वेतन ले रहे थे तथा 1-9-85 से पूर्व उच्चतर पदों पर पदोन्नत हो
गये थे और इस मंत्रालय के 27-11-87 के पत्र सं० पी.सी. 111/79/एस.पी./1/यू.डी.सी.
में उल्लिखित शर्त पूरी करते हैं, सैदान्तिक आधार पर 35/- स० विशेष वेतन को
हिसाब में लेते हुए उनकी पदोन्नति की तारीख से पुनः निर्धारित किया जाये तथा
उन्हें वास्तविक लाभ बिना किसी ब्राह्मण का भुगतान किये 1-9-85 से ही किया जाये ।

(सन्.गोपालकुमार)

कार्यपालक निदेशक, वेतन आयोग-।



Mr. Hestud
G. S. L. Varone, Ad.

19
A/T

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

Registration O.A. No. _____ of 1989.

R.P. Katiyar & others Petitioners.

Versus

Union of India & others Opp. Parties.

Annexure - 7

(As per photostat copy of Board's order
dated 17.8.1989 as communicated vide
G.M.(P)'s order dated 7.9.89, being
annexed hereto.)

..... contd.

*Affest not
G.S.L. Varma
J.D.*

N.E.RAILWAY

OFFICE OF THE
GENERAL MANAGER (P)
GORAKHPUR.

Dated: 7.9.1989.

NO. E/213/PC/86/Pt. I/IV.

Addl. General Managers,
All Head of Departments,
All Divisional Railway Managers,
All Extra Divisional Officers,
All Personnel Officers,
N.E. Railway.

Sub :- RS(RP) Rules, 1986-Stepping up of seniors under Note 7 of Rule 7(1)-Clarifications regarding.

A copy of Rly.Bd's letter No. PC-IV/89/RS, RP/2 dt. 17.8.89 both in Hindi & English is forwarded for information, guidance and necessary action.

for GENERAL MANAGER (P)

Copy of Railway Board's letter No. PC-IV/89/RSRP/2 dated 17.8.89 addressed to The General Managers, All Indian Railways & others

Sub: RS(RP) Rules, 1986 - Stepping up of pay
of seniors under Note 7 of Rule 7(1) -
Clarifications regarding.

Attention is invited to Note 7 below Rule 7(1) of the Railway Services (Revised Pay) Rules, 1986 where a senior Railway servant promoted to a higher post before the 1st day of January, 1986 draws less pay in the revised scale than his junior who is promoted to the higher post on or after the 1st day of January, 1986, the pay of the senior is stepped up to an amount equal to the pay as fixed for his junior in that higher post. Such stepping up is permissible if the anomaly has arisen as a result of the application of the provisions of Rule 2018-B-F-12-C-P-II or any other rules or orders regulating pay fixation on such promotion in the revised scale vis-a-vis the fulfilment of other conditions mentioned therein. The anomaly can be said to exist only if a senior employee, drawing equal or more pay than his junior in the lower post and promoted earlier, starts drawing less pay than such junior promoted later on regular basis. Further, two employees are said to be drawing equal pay if they have been drawing pay at same stage with same date of increment. In case the junior has been drawing the same pay with date of increment earlier than senior, then senior can be said to have been drawing equal pay and hence no anomaly.

There may be instances where the pay of a senior Railway servant has been allowed to be stepped up equal to junior even though there was no anomaly because the senior had no occasion to do more or equal pay than junior in the lower post. Such stepping wherever allowed should be rectified.

Contd.....2/-

Hestel
G. S. L. V. von und
Ade

22
RXX

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

Registration O.A. No. _____ of 1989.

R.P. Katiyar & others Petitioners.

Versus

Union of India & others Opp. Parties.

Annexure - 8

(As per photostat copy of ~~the~~ one of
the indentiaal representations dated
22.9.89 submitted by the petitioner
no. 5, annexed hereto.)

..... contd.

*After 1st
G.S. Silvering Adv.*

To,

The General Manager(P),
N.E.Railway, ~~Emukh~~ Gorakhpur.

Through:-DRM(P)/LJN.

23

17/2/89

Sir,

Re: - Stepping up of the Pay of Seniors equal to
the Junier.

Ref:- Your letter no. E/213/PC/86/2/Pt.I/IV dt. 17.8.89
issued in terms of Rly. Beard's letter no. PC-IV/-
89/RS/RP/2 dt. 17.8.89.

.....

My humble submission is as under:-

1. That as a Head clerk I am drawing lesser pay than that
of my junier whose pay is Rs.1720/- on 1.9.83 as a result of
re-fixation vide DRM(P)/LJN's order dt. 26.6.89, where as my
pay on that date was Rs.1499/- only.

2. That I am senior in appointment as clerk as well as
my promotion as Sr.Clerk and Head clerk was made prior to my
junier. At every stage prior to 1.1.86 my pay was higher than
that of my junier (Shri B.B.Saxena, Hl.Clerk). This is clear
from comparative position appended below:-

S. No.	The stages	In case of Applicant	() In case of Junier(B.B. Saxena)
1.	Appointment as clerk	22-5-58	17-58
2.	Promotion as Sr.Clerk	1.10.80	29.9.81
3.	" as Hl.Clerk	1.6.85/1.10.85	1.2.86/19.86
4.	Pay as Sr.Clerk on 1.10.84	Rs. 464/-	Rs. 452/-
5.	Pay as Hl.Clerk on 1.10.85	Rs. 500/-	Rs. 464/- + 35/- S.P. (as Sr.Clerk)
6.	" on 1.10.86	Rs. 560/-	Rs. 535/-
7.	" on 1.10.89	Rs. 1680/-	Rs. 1760/-

3. That in view of above I fulfill all the conditions
mentioned in the Beard's letter dt. 17.8.89 cited above and
as such I deserve to have benefit of stepping up of pay equal
to my junier.

4. That as a result of re-structuring enforced with
retrospective effect from 1.1.84 I was promoted straightway
on the post of Head clerk vide order dt. 30.9.85 without reaching
to my turn to avail spl. pay of Rs.35/-, with the result I
was deprived from the benefit of spl. pay in fixation of my
pay to the post of Head clerk. This setback in my pay is the
result of re-structuring's effect. On principle of equality
and provision of law, the senior man in no case be given
lesser pay than his junier, as such anomaly needs rectified.

L. B. J. P.

Contd....2

Ans for reply

Ans for reply
A. H. Patel
G. S. L. Varma
A. H. Patel
G. S. L. Varma

I have every hope that your good offices will do to remove anomaly said above as early as possible putting it up at appropriate level, so that the initial pay in such cases may also be decided on national basis deeming special pay drawn prior to promotion on the post of Head clerk and actual benefit of re-fixation of pay to Higher post may kindly be allowed from 1.9.85 as was done in case of my juniers promoted on and after 1.9.85 and also similar action is being done in case of seniors promoted prior to 1.9.85.

With regards.

Yours Faithfully

Dated 22.9.89


(V.N. Singh)
Head clerk,
Office of DRM(C),
Lucknow.

Affected
G. S. L. Varmi, Adm.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Lucknow-BENCH

Lucknow

Civil Compt Case 52 of 92

CAUSE TITLE O. A. 286 OF 1988 (L)
T. A. (T)

Name of parties V. Ishwari Nath Singh, Applicant's.

VERSUS
Union of India Sri Aslam Mahmood Ras Respondents.

Sl. No.	Particular of Documents	No. of page
<u>Part - A</u>		
	Check list.....	to.
	Order Sheet.....	to.
	Final Judgment Dated.....	A1 to.
	Petition copy with power	A2 to A14 & A25
	Annexure.....	A15 to A24
	Counter with power.....	A26 to A33
	Rejoinder with Annexure	to.
	Supplementary counter	
	Supplementary Rejoinder	

Part - B

NO B (Cp)

Part - C

C24-C25

7.8.92

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

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

Issue notice to the respondents/contemt partners to show cause as to why the contempt may not be initiated against them in non-compliance of the direction given by this Tribunal vide its judgment dated 5.5.92 in O.A.No. 286/89 the copy of which is said to have been served on them. To show cause personally or through some Advocate on the contempt application which shall be considered on 12.10.92.

A.M.

V.C.

(AR)

OR
Notice issued
on 20/10/92

12.10.92 No filing of P.P. & of
10.10.92

s.f.e.

D
16/10/92

19-10-92

Hon. Mr. Justice U.C. Srivastava, V.C
Hon. Mr. K. Obayya, A.M.

Shri Rakesh Kumar Ad. Counsel
for the respondents states that
he was ill; that is why the reply
was not filed. Put up on
22-11-92 for orders. Reply befi

A.M.

V.C.

A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

Original Application No. 52 of 1992

Vishwa Nath Singh Applicants.

Versus

Sri Aslam Mahmood Ras Respondents

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

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

The complaints of the applicant is that the direction given by this Tribunal vide its judgement dated 5.5.1992 and although time for the ^{application} same has accepted by moving an application for taking action against the respondents No. 1 & 2 under contempt of ~~its~~ Act. The respondents were directed that the applicant of this case was also be given benefit similar to others other i.e. K. 35 on the basis and that is special pay so as to be taken into account in fixation of pay from the date of promotion to Both respondents have filed their CA and a copy of the order indicating that the direction given by the Tribunal has been complied with and notionally and those amount notionally given consequential benefits have been given and that the result of the applicant has been able to get arrears also. Accordingly notices ^{are} discharged and the ~~arrears~~ case consigned.

A.M.

V.C

AY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
BENCH AT LUCKNOW

Civil Contempt Case No. 52 1992.

Vishwa Nath Singh ... Petitioner
Versus
Sri Aslam Mahmood and others ... Respondents

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2.	Affidavit	7 - 12
3.	Annex No. 1 Copy of Appln., dated 18.5.92 along with judgement, dated 5th May, 1992	13 - 18
4.	Annex No. 2 - Statement of difference of salary due to the petitioner	19 - 20
5.	Annex No. 3 - Copy of circular, dated 15.1.90	21
6.	Vakalatnama	23

Dated : Lucknow:
Aug. 4, 1992.

G.S.L. Varan
Counsel for the Petitioner

A/5
AB
7/8
5/8/92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
BENCH AT LUCKNOW

Civil Contempt Case No. 521. 1992

Arises from non-implementation of the
judgement, dated 5th May, 1992.

Passed in O.A. No. 286 of 1989.



Vishwa Nath Singh, aged about 57 years,
Son of late M.L. Singh, posted as Office
Supdt. in the office of Divl. Railway
Manager (Commercial), North Eastern Railway,
Lucknow.

... ...

Petitioner

Versus

(1) Sri Aslam Mahmood, Divl. Railway
Manager, NER, Ashok Marg, Lucknow.

(2) Sri Mohan Lal, Chief Personnel Officer,
NER, in the office of General Manager,
NER, Gorakhpur.

[Signature]

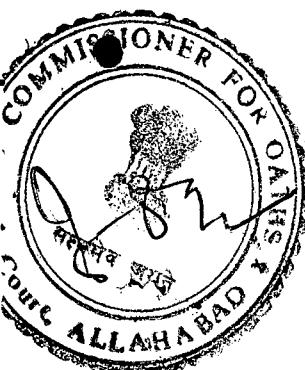
(3) Sri S.M.N. Islam, Senior Divl.
Personnel Officer, NE Railway, Divl.
Office, Lucknow. Respondents

PETITION UNDER SECTION 17 OF THE ADMINISTRATIVE
TRIBUNAL ACT 1985 READ WITH RULE 4 OF CENTRAL
ADMINISTRATIVE TRIBUNAL (CONTEMPT OF COURTS) RULES 1986.

The petitioner most respectfully submits as under :-

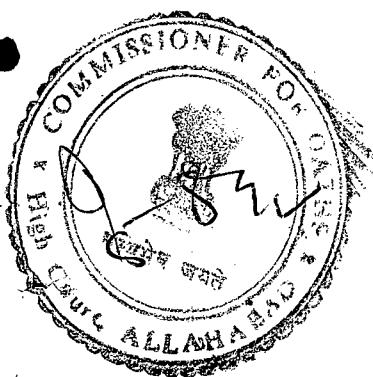
(1) That the petitioner has filed an application U/S 19 of the Administrative Tribunal Act, 1985, vide OA No. 286 of 1989, claiming the special pay and fixation of pay and this Hon'ble Court was pleased to allow the said claim, vide judgement, dated 5th May, 1992 with the following observations :-

"The respondents have contested the claim of the applicant and have made certain references of decided cases by this Tribunal and have pleaded that the special pay of Rs. 35/- was to be given on the basis of seniority/suitability ~~which~~ with specific orders to perform the work on pin pointed seats, i.e. to deal with the complex nature of work, but the applicant could not receive that type of special pay because they were promoted straight way on the post of



[Handwritten signature]

Head Clerk as a result of restructuring of the ministerial cadre. The benefit of special pay of Rs. 35/- which was earlier Rs. 70/- was given to those senior clerks who remained drawing Rs. 35/70 as special pay in fixation of their pay on promotion to higher grades. Those who were not drawing special pay of Rs. 35/70 were not found entitled for the benefit of this fixation of pay in higher grades. This matter has engaged the attention of this Tribunal earlier also after referring various other decisions of the Tribunal. We have taken the view in O.A. No. 87 of 1991 Hari Saran Shanker Srivastava versus Union of India and others decided on 25.3.1992 in which it has been held that this benefit cannot be denied to the applicant also and there is no intelligible definition that qualifying persons who were promoted before and after a particular date. Consequently it was directed in this case that the respondent shall give a benefit of special pay of Rs. 35/- on notional basis to the applicant and this special pay of Rs. 35/- shall be taken into account in the fixation of pay from the date of promotion to the higher post. This application is allowed in terms of very same directions in the above case and the respondents are directed to do the same within a period of two months from the date of communication of this order. No order as to the costs."



[Handwritten signature]

(2) That the aforesaid judgement was passed in the presence of the counsels of both the parties and after the pronouncement of the aforesaid judgement the petitioner has served the copy of the judgement passed by this Hon'ble Tribunal to the Divl. Railway Manager (P), NER, Lucknow, & vide application, dated 18th May, 1992, along with the copy of the judgement dated 5th May, 1992. A true copy of the application dated 18th May, 1992 along with the copy of judgement dated 5th May, 1992, is attached herewith as Annex. No. 1 to this petition.

(3) That this Hon'ble Tribunal, vide judgement dated 5th May, 1992, has directed to the respondent for complying the judgement within a period of two months from the date of the communication of the order. But the opposite party after the lapse of a period of two months from the date of communication has not yet complied with the judgement of this Hon'ble Tribunal. As per directions of this Hon'ble Tribunal the judgement should have been complied with upto 18th July, 1992 since the petitioner has communicated the judgement, dated 5th May, 1992, vide his application, dated 18.5.92, to the respondent.



(4)

That the Opp. Party No. 1 is the Divl. Railway Manager In Charge of the Division and Opp. Party No.

2 and 3 are the Chief Personnel Officer and Senior Divisional Personnel Officer and they are duty bound to comply with the judgement of this Hon'ble Tribunal but the respondent wilfully has not complied with the directions of this Hon'ble Tribunal. As such, the respondents by not complying the directions of this Hon'ble Tribunal has committed the civil contempt of Court.

(5)

That as per direction of this Hon'ble Tribunal the difference of salary due to the petitioner as calculated by the petitioner with effect from Oct., 1985 to June 1992 is Rs. 13031.50. The statement of difference of salary due to the petitioner is attached herewith as Annexure No. 2 to this petition.



That the General Manager Personnel has issued a circular, dated 15.1.90 for payment of arrear of special pay of Rs. 35/- per month with effect from 1.9.85 but the opposite party has not paid the arrears to the petitioner and even after the direction of this Hon'ble Tribunal also has not paid the arrear in compliance with the direction of this Hon'ble Tribunal. A true copy of circular, dated 15th Jan., 1990, is attached herewith as Annex. No. 3 to this petition.

(7) That the applicant has not filed any other contempt application before this Hon'ble Tribunal.

(8) That under the circumstances stated above, it is expedient in the interest of administration of justice that this Hon'ble Tribunal may please to issue notice to the opposite party for committing the contempt of this Hon'ble Tribunal by not complying directions of this Hon'ble Tribunal given in judgement, dated 5th May, 1992, contained in Annex. No. 1 to this petition.

WHEREFORE it is most respectfully prayed that this Hon'ble Tribunal may please to issue notice to the respondent for committing the contempt of this Hon'ble Tribunal by not complying the directions of this Hon'ble Tribunal given in OA No. 286 of 1989, dated 5th May, 1992, suo motu or this application be treated as information for committing the contempt of this Hon'ble Tribunal.

Dated : Lucknow:
Aug. , 1992.

G.S.L. Varma
Counsel for the Applicant. Adv.



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
BENCH AT LUCKNOW

Civil Contempt Case No..... 1992

Arises from non. implementation of the judgement, dated 5th May 1992.

Passed in OA No. 286 of 1989.



Vishwa Nath Singh

... ... Petitioner

Versus

Sri Aslam Mahmood, Divl. Rly.

Manager, NER, Ashok Marg, Lucknow
and others

... ... Opp. Parties

AFFIDAVIT IN SUPPORT OF CONTEMPT APPLICATION



I, Vishwa Nath Singh, the above named petitioner, do hereby solemnly affirm on oath and state as under :-

(1) That the deponent is the petitioner in the aforesaid contempt case and is fully conversant with the facts deposed herewith.



(2) That the petitioner has filed an application U/S 19 of the Administrative Tribunal Act, 1985, vide OA No. 286 of 1989, claiming the special pay and fixation of pay and this Hon'ble Tribunal was pleased to allow the said claim, vide judgement, dated 5th May, 1992, with the following observations :-

"The respondents have contested the claim of the applicant and have made certain references of decided cases by this Tribunal and have pleaded that the special pay of Rs. 35/- was to be given on the basis of seniority/suitability with specific orders to perform the work on pin pointed seats, i.e. to deal with the complex nature of work, but the applicant could not receive that type of special pay because they were promoted straight way on the post of Head Clerk as a result of restructuring of the ministerial cadre. The benefit of special pay of Rs. 35/- which was earlier Rs. 70/- was given to those senior clerks who remained drawing Rs. 35/70 as special pay in fixation of their pay on promotion to higher grades. Those who were not drawing special pay of Rs. 35/70 were not found entitled for the benefit of this fixation of pay in higher grades. This matter has engaged the attention of this Tribunal earlier also after referring various



for daily

other decisions of the Tribunal. We have taken the view in OA No. 87 of 1991 Hari Saran Shanker Srivastava versus Union of India and others decided on 25.3.1992 in which it has been held that this benefit cannot be denied to the applicant also and there is no intelligible definition that qualifying persons who were promoted before and after a particular date. Consequently it was directed in this case that the respondent shall give a benefit of special pay of Rs. 35/- on notional basis to the applicant and this special pay of Rs. 35/- shall be taken into account in the fixation of pay from the date of promotion to the higher post. This application is allowed in terms of very same directions in the above case and the respondents are directed to do the same within a period of two months from the date of communication of this order. No order as to the costs."



That the aforesaid judgement was passed in the presence of the counsels of both the parties and after the pronouncement of the aforesaid judgement the petitioner has served the copy of the judgement passed by this Hon'ble Tribunal to the Divl. Railway Manager (P), NER, Lucknow, vide application, dated 18th May, 1992, along with a copy of the judgement, dated 5th May, 1992. A true copy of the application,

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dated 18th May, 1992, along with a copy of judgement dated 5th May, 1992, is attached herewith as Annex. No. 1 to this petition.

(4) That this Hon'ble Tribunal, vide judgement, dated 5th May, 1992, has directed to the respondent for complying the judgement within a period of two months from the date of the communication of the order. But the opposite party after a lapse of two months from the date of communication has not yet complied with the judgement of this Hon'ble Tribunal. As per directions, the judgement should have been complied with upto 18th July, 1992 since the petitioner has communicated the judgement, dated 5th May, 1992, vide his application, dated 18.5.92, to the respondent.

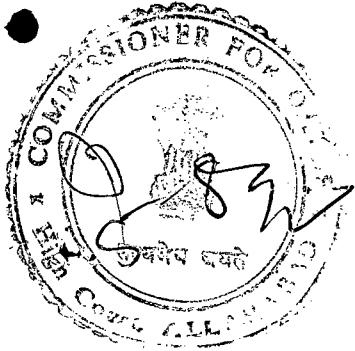
(5) That the Opp. Party No. 1 is the Divl. Rly. Manager in charge of the Divn. and Opp. Party No. 2 and 3 are the Chief Personnel Officer and Senior Divl. Personnel Officer and they are duty bound to comply with the judgement of this Hon'ble Tribunal but the respondent wilfully has not complied with the directions of this Hon'ble Tribunal. As such, the respondent by not complying the directions of this Hon'ble Tribunal has committed the civil contempt of Court.



(6) That as per direction of this Hon'ble Tribunal the difference of salary due to the petitioner as calculated by the petitioner with effect from Oct., 1985 to June 1992 is Rs. 13031.50. The statement of difference of salary due to the petitioner is attached herewith as Annexure No. 2 to this petition.

(7) That the General Manager Personnel has issued a circular, dated 15.1.90 for payment of arrear of special pay of Rs. 35/- per month with effect from 1.9.85 but the Opp. Party has not paid the arrears to the petitioner and even after the direction of this Hon'ble Tribunal also has not paid the arrear in compliance with the direction of this Hon'ble Tribunal. A true copy of circular, dated 15th Jan., 1990, is attached herewith as Annex. No. 3 to this petition.

(8) That the applicant has not filed any other application before this Hon'ble Tribunal.



for now (9)

That ~~the~~ under the circumstances stated above, it is expedient in the interest of administration justice that this Hon'ble Tribunal issue notice to the opposite party to appear before it to answer for the contempt of this Hon'ble Tribunal.

complying directions of this Hon'ble Tribunal given in judgement, dated 5th May, 1992, contained in Annex. No. 1 to this petition.

Dated : Lucknow:
Aug. 5, 1992.

Deponent



VERIFICATION

I, the ~~xx~~ aforesaid deponent do hereby solemnly verify that the contents of paras are true to my personal knowledge and those of paras of this affidavit are believed to be true.

Signed and verified this on 4th day of August, 1992
in the High Court compound. Nothing material is false.
So help me God.

Dated : Lucknow :
Aug. 4, 1992.

Deponent

Solemnly affirmed before my office to an
affidavit of M.R.V. *W. L. L.*
who is identified by Shri, *G. S. H.*
Shri is Shri *W. L. L.*
I have satisfied myself by examining the
ponent that he understands the contents
of this affidavit which has been read out and
explained to him.

STATE COMMISSIONER
High Court Lucknow Bench Lucknow
No - 46 - 1 - 14 - 14

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STATE COMMISSION

Fort Lupton Beach Launch

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Annexure 2101

20,

the Mv. Mly. Manager (P)
NCR N. E. Railway.
LUCKNOW.

SIR,

Reqd - Re-fixation of the pay to the post of Head
clerk giving benefit of special pay of Rs.35/-
revised Rs.70/- later on.

Reqd - Hon'ble CAT Bench Lucknow Bench's order
Dated 28/3/92 May 5th 1992 (Copy enclosed)

Aggrieved with the indifferent policy of the
Mly. Administration, helplessly I had to take shelter of
law through Hon'ble CAT Bench Lucknow in the year 1992
for the justice as I was deprived of the benefit of
special pay of Rs.35/- or Rs.70/- (revised) in fixation of
my pay on promotion to the post of Head clerk, with the
result I have to draw less pay than my juniors.

Hon'ble CAT Bench Lucknow has pleased to pass
their judicial orders to give the benefit of special pay
of Rs.35/- or Rs.70/- (revised) re-fixation of on notional
basis and the same is being taken into account in the
fixation of pay from the date of promotion to the higher
post i.e. the post of Head clerk. The copy of relevant
Judgement is enclosed to please regard the orders of the
Hon'ble CAT at the earliest.

In this context I have to say that I was
promoted to the post of Head Clerk v/s office order
no. E/210/Clerk/84/Commr. Dated 30.9.85 with retros-
pective effect from 1.6.85 but actual benefit of prom-
otion was given to me from 1.10.85 as such my pay may
kindly be re-fixed from fixing 1.10.85 giving benefit
of special pay of Rs.70/- and arrears may also be drawn
as a result of revision of pay from fixation 1.10.85
as was done in case of my juniors.

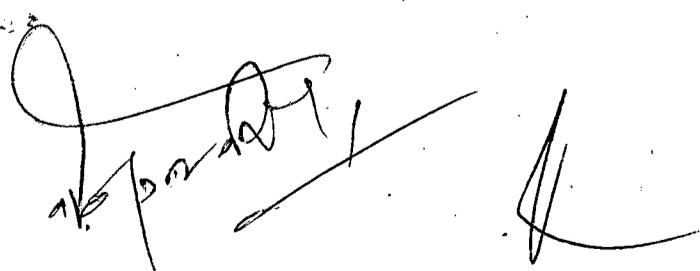
With regards.

DA/Rs above.

Yours sincerely

Dated 18th May, 1992.

(V. N. Singh)
OSTI
Commr. Branch,
Lucknow.



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Typed TRUE COPY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW.

O.A.286 of 1989.

Sri R.P.Katiyar and others.....Applicants.

versus

The Union of India and others.....Opp. parties.

Hon'ble Justice U.C.Srivastva - V.C.

(By Hon'ble Justice U.C.Srivastva - V.C.)

By means of this application, the applicants who are employees of the North Eastern Railway and working under the control of Divisional Railway Manager (comm.) has prayed that the opposite parties may be directed to re-fix their pay on national basis from the date of their promotion as Head Clerk by taking into account the special pay of Rs.35/- and actual benefit may be given to them from 1.9.85 as has been done in the case of their juniors so that they may not get less pay than their juniors as per Board's order dated 17.8.1989.

The applicants were appointed initially as clerk in the year 1956 and promoted to the post of senior clerk in the year 1980 and as Head clerk in the year 1984 and 1985. The first three applicants were promoted as Head clerk on 1.1.84 and the 1st two on 1.5.85 and 1.6.85 respectively.

It has been pointed out by the applicants that the junior incumbents Sri B.B.Saxena who was appointed after their appointments on 1.7.58 and promoted to the post of senior clerk after them viz. 29.9.81 and as Head clerk on 1.2.1986 has been drawing a salary on 1.9.1988 amounting to Rs.1720/- that is more one what is applicants are drawing whose salary was fixed at Rs.1600/- except applicant no.2 whose salary was Rs.1640/-. The applicants submitted a representation against the same.



The cadre restructuring the strength of Head Clerk was revised from 8 to 20 posts and the post of senior clerk who were in receipt of Rs.35/- as special pay and those who were not receiving that special pay, were promoted together by the same order and this special pay was made vide Board's order dated 11.7.1979 which was to be given to 10% of the incumbents of a unit on the basis of seniority cum suitability and the salary of the applicants was fixed after structuring the special pay of Rs.35/- per month was not taken into account which was given to the junior incumbents. It has also been pointed out that vide Board's order dated 17.8.1989 has been issued a circular regarding the stepping up of the pay of seniors under Note 7 of Rule 7(1) of Railway Services (Revised Pay) Rules, 1986 and even then the applicants's pay has not been fixed and that is why they have called the respondents.

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The respondents have contested the claim of the applicants and have made certain references of decided cases by this Tribunal and have pleaded that the special pay of Rs.35/- was to be given on the basis of seniority cum suitability with specific orders to perform the work on pin pointed seats i.e. to deal with the complex nature of work but the applicants could not receive that type of special pay because they were promoted straight way on the post of Head clerk as result of re-structuring of the Ministerial cadre. The benefit of special pay of Rs.35/- which was earlier Rs.70/- was given to those senior clerks who remained drawing Rs.35/70 as special pay in fixation of their pay on promotion to Higher grades. Those who were not drawing special pay of Rs.35/70 were not found entitled for the benefit of this fixation of pay in Higher grades. This matter has engaged the attention of this Tribunal earlier also after referring various other decisions of this Tribunal. We have taken the view in O.A. no.87 of 1991 Har Saran Shankar Srivastva versus Union of India and others decided on 25.3.1992 in which it has been held that this benefit can not be denied by the applicant also and there is no intelligible differentia that qualifying persons are promoted before and after a particular date. Consequently, it was directed in this case that respondents shall give a benefit of special pay of Rs.35/- on notional basis to the applicants and this special pay of Rs.35/- shall be taken into account in the fixation of pay from the date of promotion to the Higher post. This application is allowed in terms of very same directions in the above case and the respondents are directed to do the same within a period of two months from the date of communication of this order. No order as to the costs.

Dated May 5, 1992.
(I.P.S.)

Vice Chairman

CTC
Sd. (Intelligible)
12.5.92

Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow.



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL-LUCKNOW BENCH
LUCKNOW.

O.A. 286 of 1989.

Sri R.P. Katiyar and others.....Applicants.

Versus

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

Hon'ble Mr. Justice U.C.Srivastava-V.C.

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

By means of this application, the applicants who are employees of the North-Eastern Railway and working under the control of Divisional Railway Manager (Commercial) has prayed that the opposite parties may be directed to re-fix their pay on notional basis from the date of their promotion as Head Clerk by taking into account the special pay of 35/70 and actual benefit ~~may~~ may be given to them from 1.9.1985 as has been done in the case of their juniors so that they may not get less pay than their juniors as per Board's order dated 17.8.1989.

The applicants were appointed initially as a clerk in the year 1956 and promoted to the post of senior clerk in the year 1980 and as Head Clerk in the year 1984 and 1985. The first three applicants were promoted as Head Clerk on 1.1.1984 and the last two on 1.5.1985 and ~~on~~ 1.6.1985 respectively.

It has been pointed out by the applicants that the junior incumbents Sri D.B. Saxena who was appointed after their appointments on 1.7.1956 and promoted to the post of Senior Clerk after them viz on 29.9.1981 and as Head Clerk on 1.2.1986 has been drawing a salary on 1.9.1988 amounting to Rs. 1724/- that is more than what the applicants are drawing whose salary was fixed at Rs. 1600/- except applicant no. 2 whose



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salary was Rs. 1640/- The applicants submitted a representation against the same.

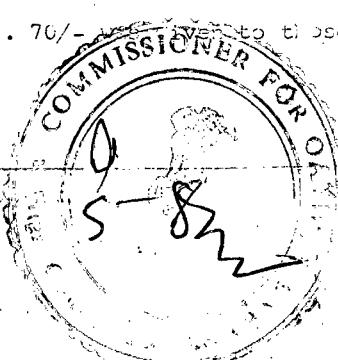
The cadre restructuring the strength of Head Clerk was revised from 8 posts to 20 posts and the post of Senior Clerk who were in receipt of Rs. 35/- as special pay and those who were not receiving that special pay, were promoted together by the same order and this special pay was made vide Board's order dated 11.7.1979 which was to be given to 10%

of the incumbents of a unit on the basis of seniority -suitability, and the salary of the applicants was fixed after structuring the special pay of Rs. 35/- per month was not taken into account which was given to the juniors incumbents. It has also been pointed out that vide Board's order dated 17.3.1989 has been issued a circular regarding the stopping up of pay of seniors under Note 7 of the Rule 7 (1) of Railway Services (Revised Pay) Rules, 1986 and even then the applicants' pay has not been fixed and that is why they have challenged the respondents.

The respondents have contested the claim of the applicant and have made certain references of decided cases by this Tribunal and have pleaded that the special pay of Rs. 35/- was to be given on the basis of seniority/suitability with specific orders to perform the work on pin pointed seats, i.e. to deal with the complex nature of work, but the applicant could not receive that type of special pay because they were promoted straight way on the post of Head Clerk as a result of restructuring of the Ministerial cadre. The benefit of special pay of Rs. 35/- which was earlier Rs. 70/- was given to those senior

Major B.R.

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- 32 -

Clerks who remained drawing Rs. 35/70 as special pay in fixation of their pay on promotion to higher grades. Those who were not drawing special pay of Rs. 35/70 were not found entitled for the benefit of this fixation of pay in higher grades. This matter has engaged the attention of this tribunal earlier also after referring various other decisions of this tribunal. We have taken the view in O.A. No. 87 of 1991 Hari Saran Shankar Srivastava Versus Union of India and others decided on 25.3.1992 in which it has been held that this benefit cannot be denied by the applicant also and there is no intelligible definition that qualifying persons were promoted before and after a particular date. Consequently it was directed in this case that the respondent shall give a benefit of special pay of Rs. 35/- on notional basis to the applicant and this special pay of Rs. 35/- shall be taken into account in the fixation of pay from the date of promotion to the higher post. ~~as well~~ This application is ~~in view of these~~ ^{some} ~~in view of these~~ very directions and the respondents are directed to do the same within a period of two months from the date of communication of this order. No order as to the costs.

Dated: May 5, 1992.

Vice Chairman.

(DPS)

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ML
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow



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Annexure A-2

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particulars of PAY already drawn and to be drawn by Shri Vishwanath Singh, Officer Super. Gr. II (1600-2660) in the office of M.V. Manager (Commr.) N.F. M.V. till date for



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8037.60 6527A 60 1691 50

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	1	2	3	4	5	6	7	8	9
37.	10/88	1640	377	2017	1760	405	2165	148	
38.	11/88	1640	377	2017	1760	405	2165	148	
39.	12/88	1640	377	2017	1760	405	2165	148	
40.	1/89	1640	476	2116	1760	510	2270	154	
41.	2/89	1640	476	2116	1760	510	2270	154	
42.	3/89	1640	476	2116	1760	510	2270	154	
43.	4/89	1640	476	2116	1760	510	2270	154	
44.	5/89	1640	476	2116	1760	510	2270	154	
45.	6/89	1640	476	2116	1760	510	2270	154	
46.	7/89	1640	558	2198	1760	599	2353	160	
47.	8/89	1640	558	2198	1760	598	2353	160	
48.	9/89	1640	558	2198	1760	598	2353	160	
49.	10/89	1680	571	2251	1800	612	2412	154	
50.	11/89	1680	571	2251	1800	612	2412	154	
51.	12/89	1680	571	2251	1800	612	2412	154	
52.	1/90	1680	638	2318	1800	684	2484	166	
53.	2/90	1680	638	2318	1800	684	2484	166	
54.	3/90	1680	638	2318	1800	684	2484	166	
55.	4/90	1680	638	2318	1800	684	2484	166	
56.	5/90	1680	638	2318	1800	684	2484	166	
57.	6/90	1680	638	2318	1800	684	2484	166	
58.	7/90	1680	722	2402	1800	774	2574	172	
59.	8/90	1680	722	2402	1800	774	2574	172	
60.	9/90	1680	722	2402	1800	774	2574	172	
61.	10/90	1720	740	2460	1850	796	2646	186	
62.	11/90	1720	740	2460	1850	796	2646	186	
63.	12/90	1720	740	2460	1850	796	2646	186	
64.	1/91	1720	877	2597	1850	944	2794	197	
65.	2/91	1720	877	2597	1850	944	2794	197	
66.	3/91	1720	877	2597	1850	944	2794	197	
67.	4/91	1720	877	2597	1850	944	2794	197	
68.	5/91	1720	877	2597	1850	944	2794	197	
69.	6/91	1720	877	2597	1850	944	2794	197	
70.	7/91	1720	1032	2752	1850	1110	2960	208	
71.	8/91	1720	1032	2752	1850	1110	2960	208	
72.	9/91	1720	1032	2752	1850	1110	2960	208	
G. Total		60480	23946	84426	56583	64920	25713	90633	6207

cont.....

Parry

High C.

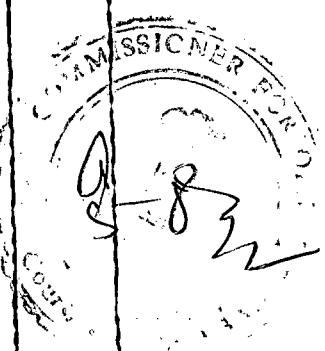
Low C.

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	2	3	4	5	6	7	8	9
73.	10/91	1760	1056	2816	1900	1140	3040	224
74.	11/91	1760	1056	2816	1900	1140	3040	224
75.	12/91	1760	1056	2816	1900	1140	3040	224
76.	1/92	1760	1250	3010	1900	1349	3249	239
77.	2/92	1760	1250	3010	1900	1349	3249	239
78.	3/92	1250	3010	1900	1349	3249	239	
79.	4/92	1250	3010	1900	1349	3249	239	
80.	5/92	1821	1293	3114	1967	1396	3363	249
81.	6/92	1850	1314	3164	2000	1420	3420	
Sub Total (3)		10775	25766	17267	11632	28899	2133	
Total of P. 1453100		7486.10	60586.10	57240	8037.60	65277.60	4691.50	
P. 2460480		23946	84426	64920	25713	90631	6202	
Grand total.	129571	42207	171778.10	139427	45382.60	184809.60	13031.50	

Total arrears dues for the period Oct. 85 to June, 92 comes to
Rs. 13031.50 (Thirteen thousand thirteen rupees fifty) only.



John Kelly

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Annexure A3

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(td 1)

No. 4/11/SC/84/3(IV),

Office of the
General Manager (R),
Varanasi.
Dated 15/4/1990.

The G.M.R. (R),
No. 2, Holloway,
Lucknow.

Subject: Grant of spl. pay of Rs.35/- per month
to the UCAs in the non-secretariate
administrative office - question whether the
amount should be taken into account
in the fixation of pay on promotion -
decision regarding.

Ref: Your letter No. 4/11/SC/84/2, dt. 14.12.89.

With reference to your letter quoted above, this
is to clarify that the actual permit has to be given
only from 1.4.85 and as far as letter to 1/4/85 have not
to be given in terms of Holloway Board's letter on 2/6/89
circulated under this office letter No. 4/11/SC/84/2 dt. 10
(IV), dated 6.9.89.

This has the approval of GM(R).

OS/PA (R)
N/A/P as per
Sr. Secy's instructions
D/o. 05/04/90

Loc. General Manager (R).

The above stamp has been
and pay (if any) has to be allowed
as per the above letter.

15/4/90

Approved
15/4/90



श्रीकान्तालाला श्रीमान ~~Central Allahabad~~ अदालत

Tribunal Allahabad 1955
Branch Lucknow.

(बाही मुद्रक)

(मुद्रक सुद्धालैह)

का.

बकालतनामा

Vishwanath Singh

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Sri Aslam Mohammad & Anr.

दनाम

प्रतिवादी रेस्पान्डेंट

ता० मुद्रदना

सन्

पेशी फौ ला०

१६

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ऊपर लिखे मुद्रदना में अपनी ओर से श्री

S. C. Varma

Adv.

पक्षील

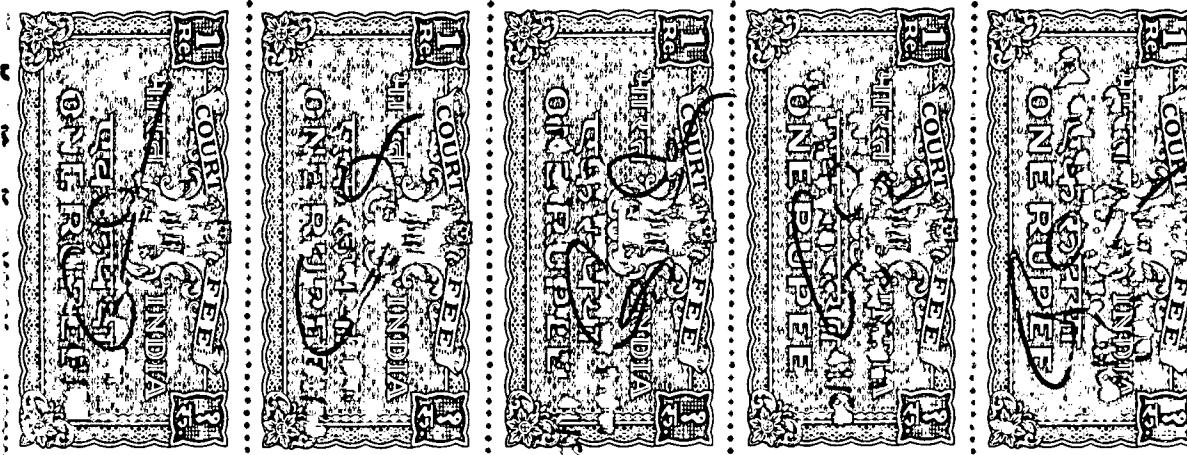
महोदय

R. L. Varma

लाला

एडपेट

नाम अदालत
ना० मुद्रदना
नाम कंट्रैक्ट



मी बोफार करता हूँ कि मैं हर पेशी स्वयं या किसी अचने परोक्तार फौ ज्ञेयता रहूँगा। अगर मुकदमा अदालत परेयी मैं एह तरफा मेरे खिलाफ फ़त्ता हो जाता है उसको जिम्मेदारी मेरे बड़ो संपर म होती है तो यह कालतनामा लिख दिया कि प्रमाण रहे और सम्बन्ध पर जाम आवे।

Accept
C. L. Varma

हस्ताक्षर
S. C. Varma

साक्षी (गदाह) C. L. Varma साक्षी (गदाह)

दिनांक १ १

महीना १ सन् १९७२ ₹०

Before the Central Administrative Tribunal Allahabad

Circuit Bench Lucknow

Civil Contempt Petition No. 52 /92

In Re :

Vishva Nath Singh Petitioner

Versus

Aslam Mahmood & others Opp. Parties

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE
PARTY NO. 3

I, S.M.N.Islam aged about 35 years son of late
sri S.M.Ismail resident of 71 Clay Square

Lucknow do hereby solemnly affirm and state
on oath as under.

1. That the deponent is the opposite party no.3
in the above mentioned contempt petition and as such
is fully conversent with the facts and circumstances
of the case. The deponent has read the contempt
petition and in reply, he has to make the following
submissions.

S.M.N.Islam
कर्मचारी विभाग
पृष्ठा: २४४
S. Divisional Personnel Officer
S. E. Railway, Lucknow.

2. That the contents of paragraph 1 of the contempt petition are not denied.

3. That in reply to the contents of paragraph 2 & 3 of the contempt petition, it is submitted that after O.A. NO. 286/1989 was decided, a copy of the judgement dated 5.5.1992 was obtained and thereafter the same was sent to the office of General Manager (Law), Northern Eastern Railway at Gorakhpur from where the judgement dated 5.5.1992 alongwith other relevant papers was sent to the Railway Board for filing Special Leave Petition before the Hon'ble Supreme Court. The Railway Board communicated its decision of not filing an Special Leave Petition vide D.O. No. PC-III/92-CTC-2/7 dated 24.7.1992 to the General Manager (Law), N.E.R., Gorakhpur, ^{who is known} wrote to the deponent on August 5, 1992 communicating the aforesaid decision of the Railway Board. The letter dated August 5, 1992 of the General Manager (Law), Northern Eastern Railway, Gorakhpur, was received in the office of the deponent on 19.8.1992.

Sw. [Signature]
प्रदर्शन कार्यकारी
प्रशासन विभाग
Sr. Divisional Personal Officer
N. E. Railway, Lucknow.

After the ^{letter} dated 19.8.1992 was received in the office of the deponent, the records pertaining

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to the applicants of O.A.NO.286/89 were collected.

It may be mentioned that except Sri V.N.Singh, all the other applicants have superannuated and as such it took sometime to collect the entire data relating to their salary etc. After the entire data was collected the salary of the applicant and others was refixed in accordance with the judgement dated 5.5.1992 of the Hon'ble Tribunal. The applicant has been given the benefit of special pay of Rs.35/- on notional basis and his pay in the cadre of Head clerk has been refixed with effect from 1.10.85, the date of his promotion as Head Clerk, taking into account the special pay of Rs.35/- vide letter dated 19.10.92. A photostat of office order dated 19.10.92 is being annexed as Annexure No.CA-1 to this contempt petition. The order dated 19.10.92 has been served upon the applicant on 20.10.92.

4. That the contents of paragraph 4 of the contempt petition have not been correctly stated and hence denied. It is denied that respondent have

S. N. S. Iyer

श्वर मंडल कार्यालय (आवासकारी),
पुर्वोत्तर रेलवे अधिकारी

St. Divisional Personnel Officer
R. R. Railway, Lucknow.

wilfully not complied with the directions of this Hon'ble Tribunal. The circumstances in which the

order ^{could} not be complied with earlier, have been stated in the paragraph above.

5. That in reply to the contents of paragraph 5 & 6 of the contempt petition, it is submitted that the judgement dated 5.5.92 passed in O.A. No.286/92 has been complied with and the salary of the applicant has been refixed in accordance with the said judgement and the applicant shall be paid the difference very shortly.

6. That ~~in reply to~~ the contents of paragraph 7 of the contempt petition are ~~denied~~ for want of knowledge.

7. That in reply to the contents of paragraph 8 of the contempt petition, it is submitted that the judgement dated 5.5.1992 in O.A .NO.286/89 has been complied with and the applicant shall be paid the difference in salary very shortly.

8. That the deponent has highest regards for the orders passed by this Hon'ble Tribunal and

in case the deponent is found guilty of having

S. M. Suleman
मरक विभाग कार्यालय
पुलिस रेलवे, लखनऊ
Ss. Divisional Personnel Officer
I. B. Railway, Lucknow

committed contempt of this tribunal, the deponent tenders his unconditional apology.

Lucknow :

Dated : 22.10.82

Deponent

Sudhir
श्वर अड्डे कार्यालय अधिकारी
पूर्वोत्तर रेलवे, लखनऊ
Sr. Divisional Personnel Officer
I. E. Railway, Lucknow

Verification

I, the above named deponent, do hereby verify that the contents of paragraph 1 to 8 of the affidavit are true to the personal knowledge of the deponent and those of paragraph 2 to 8 are records and believed to be true on the basis of legal advise.

No part of it is false and nothing material has been concealed. So help me God.

Dated : 22.10.82

Lucknow.

Sudhir
Deponent

श्वर अड्डे कार्यालय
पूर्वोत्तर रेलवे, लखनऊ
Sr. Divisional Personnel Officer
I. E. Railway, Lucknow

I personally know and verify the deponent who has signed before me.

David Swanson

Advocate

: 6 :

Solemnly affirm before me on
at A.M./P.M. by the deponent
who is identified by Sri
Advocate, High Court, Lucknow Bench, Lucknow. I
have satisfied myself by examining the deponent
that he understands the contents of this affidavit
which have been read over and explained by me to
him.

S. Div. Off.
प्रधार विभाग कार्यालय लखनऊ।
प्रौद्योगिक रेलवे, अस्सीकूल
Sr. Divisional Personnel Officers
S. B. Railway, Lucknow.

पुरुषों से लवे
कामलिय आदिक

केंद्रीय प्रशासनिक न्यायालूट दिवारी (कैट) लक्षणातु बैच ने मुकदमा नं० 286/ 39 श्री लोरोपांडिटियार दर्ब अस्य बनाम भूमार मे दिवे निधि दिनकि 5.5. 1992 दर्ब महाप्रबन्धक (विधि) / गोरखपुर ने अपने पत्र सं० ई/ख/263/ कैट/वाणिज्य/ - लक्षणातु/66/ 89 दिनकि 5. 6. 92 के अस्तगति निधि को लागे तिथे जने हेतु आदेश पारित किये है ।
उसके सदम्भ मे निम्न प्रमिल शाखा के सम्बन्धित कर्मदारियों का प्रोफर्म देतम निम्नांग निम्नप्रकार किया जाता है ।

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प्रभार विद्युत कार्यपाल अधिकारी ८८

मुख्यमंत्री राज्य विभाग के अधिकारी
Mr. Divisional Personal Officer
Mr. Gollwary, Lucknow

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(3)

पुस्तकालय उप निगमनियम महाराष्ट्र

कृष्ण प्रसाद आधिकारी

वाचनामुद्दीपन वर्षांग

संविधान

विधय V.N. Singh
V/S

(34)

संविधान नं 52 व दिन 1992 (4)

मैं नियम द्वारा ही भारा उपराज्यक के सं जो 11/2/93

में अनुमित ही गाया है और आक अनुमित नियमों की

नियमों के कारण ज्ञानालय ने इसे कृपया जारी किया कि

विधय विधान के विधान विधान के दिन कृपया करें

विधय विधान

Postal No. 4 29924626

दोस्रा

29/10/93

J.S.

25/10/93

पृष्ठा ५० दिन मास वार्षिक
कालिक

राज्य विधान विधान
दिवाकर

VAKALATNAMA

(35)

Before
In the Court of

Central Administrative Tribunal Lucknow Benjh Lucknow

C.P. No. 52 of 1982 (4)

Vishwanath Singh

Versus

Aslam Mahmud and others

I/We Aslam Mahmud Dirl Rly Manager NERly Lucknow
and S.M.N. Islam So Dirl Personnel Officer NERly Lucknow
Rakesh Sonwane

do hereby appoint and authorise Shri

Railway Advocate Lucknow to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Application/Appeal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

I/We hereby agree to ratify all acts done by the aforesaid Shri Rakesh Sonwane Railway Advocate, Lucknow

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed by me/us this

Accepted

day of 198..

Rakesh Sonwane

Signature

(S.M.N. Islam)

So Dirl Personnel Officer
NERly Lucknow

NER-84850400-807-4784

Accepted
(Aslam Mahmud)
Dirl Rly Manager
NERly Lucknow
Divisional Railway Manager

C36

Before the Central Administrative Tribunal Allahabad
Cir-cuit Bench, Lucknow
Civil Contempt Petition No. 192

125

In Re :

Vishva Nath Singh .. Petitioner

Versus

Aslam Mahmood & others .. Opp. Parties

APPLICATION FOR EXEMPTION FROM
PERSONAL ATTENDENCE

The applicant named above most respectfully
begs to submit as under :

1. That the applicant is the opposite party no.1
in the above mentioned contempt petition and as such is
fully conversent with the facts of the case.
2. That the judgement and order dated 5.5.92 passed
in OA No.286/89 has been complied with and a counter
affidavit to that effect is being filed alongwith this
application.
3. That it is necessary in the interest of justice
that the personal attendance of the applicant be exempted.

P R A Y E R

Wherefore, it is most respectfully prayed that
the personal attendance of the applicant be exempted.

Rakesh Srivastava

(Rakesh Srivastava)

Advocate

Counsel for the petitioner

Lucknow:

Dated : Dec. 1992

(3)

Before the Central Administrative Tribunal Allahabad

Circuit Bench, Lucknow

Civil Contempt Petition No. 52/92

In Re :

Civil Contempt No. 52/92

Vishva Nath Singh Petitioner

Versus

Aslam Mahmood & others Opp. Parties

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE
PARTY NO. 1

I, Aslam Mahmood aged about 50 years
son of Sri N. Mahmood resident of _____

do hereby solemnly affirm
and state on oath as under :

1. That the deponent is the Divisional Railway
Manager, Northern Eastern Railway, opposite party

no 1 in the above mentioned contempt petition. He

has read the above mentioned contempt petition and

has understood the contents thereafter and in

reply he has to make the following submissions :

Divisional Railway Manager
N.E. Railway-Lucknow

Aslam

2. That the deponent adopts the submissions made by Sri S.M.N.Islam, Senior Divisional Personal Officer, N.E.R., Lucknow, ~~and~~ in para graph 2 to 7 of his counter affidavit to the above mentioned contempt petition.

3. That the deponent has ^{the} highest regards for the orders passed by this Hon'ble Tribunal and in case the deponent is found guilty of having committed contempt of this tribunal, the deponent tenders his unconditional apology.

Lucknow :

Dated : 16.11.92

Qazalbad
Divisional Railway Manager
N.E. Railway-Lucknow

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paragraph 1 ~~to~~ of the affidavit are true to the personal knowledge of the deponent and those of paragraph 2 and 3 are believed to be true on the basis of legal advise. No part of it is false and nothing material has been concealed. So help me God.

Lucknow :

Dated: 16.11.92

Qazalbad
Divisional Railway Manager
N.E. Railway-Lucknow

: 3 :

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I personally know and verify the deponent
who has signed before me.

Advocate

Solemnly affirm before me on
at A.M./P.M. by the deponent
who is identified by Sri , Advocate,
High Court, Lucknow Bench, Lucknow. I have satisfied
myself by examining the deponent that he understands
the contents of this affidavit which have been read
over and explained by me to him.

Before the Central Administrative Tribunal Allahabad

Lucknow Bench, Lucknow

Civil Contempt Petition No. 192

S.M.N.Islam Applicant

160
K/12

In Re :

Vishva Nath Singh Petitioner

Versus

Aslam Mahmood & Others Opp. Parties

APPLICATION FOR EXEMPTION FROM
PERSONAL ATTENDENCE

The applicant named above most respectfully
begs to submit as under :

1. That the applicant is the opposite party no.3 in the above mentioned contempt petition and as such is fully conversent with the facts of the case.
2. That the judgement and order dated 5.5.92 passed in OA No.286/89 has been complied with and a counter affidavit to that effect is being filed alongwith this application.
3. That it is necessary in the interest of justice that the personal attendance of the applicant be exempted.

P R A Y E R

Wherefore, it is most respectfully prayed that
the personal attendance of the applicant be exempted.

Rakesh Srivastava
(Rakesh Srivastava)
Advocate

Dated :
Lucknow :

Counsel for the petitioner

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

2182 TO 2184
26/8/92

NO. CAT/CB/LKO/JULL

Date

CONTEMPT NO. 52 OF * 1992 (L)

NOTICE OF CONTEMPT

To

1. Aslam Mahmood, Divl. Railway Manager, NER, Ashok Marg, Lucknow.
2. Mohan Lal, Chief Personnel Officer, NER, in the office of General Manager, NER, Gorakhpur.
3. S.M.N. Islam, Senior Divl. Personnel Officer, N.E. Railway, Office, Lucknow.

Whereas information is laid/a petition is filed/ mention made by Vishwanath Singh that you have not complied the order of this tribunal dt. 5.5.92 passed in O.A. No. 286/89.



And whereas a petition has been registered against you for action being taken under the contempt of Courts Act, 1971.

You are hereby required to appear in person or through a duly authorised advocate on 12th day of Oct. 92 at C.A.T. Lucknow and on subsequent dates to which the proceedings may be adjourned unless otherwise ordered by the Tribunal and show cause why such action as is deemed fit under the Contempt of Courts Act, 1971 should not be taken against you.

Given under my hand and the seal of this Tribunal, this
17th day of Aug. 92.


Deputy Registrar.
Central Administrative Tribunal.

M. Panda

Encl: copy of Court's order.

Central Administrative Tribunal
Lucknow Bench, Lucknow.

Cont. No. 52/92 (L)
in
O. A. 286/89

XW

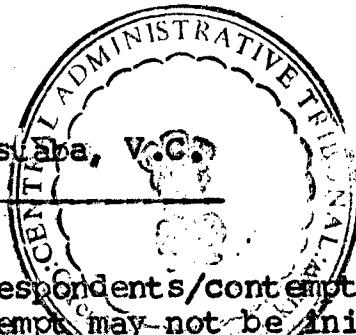
CW

Sri Vishwa Nath Singh
Sri Aslam Ahmad & others.

..... Applicant.
Versus
..... Respondent
Respondents.

DATED : 7-8-92

Hon'ble Mr. Justice U.C.Srivastava, V.C.
Hon'ble Mr. K.Obayya, A.M.



checked
26-8-92

Issue notice to the respondents/contemtioneers to show cause as to why the contempt may not be initiated against them in non-compliance of the direction given by this Tribunal vide its judgment dated 5.5.92 in O. A. No. 286/89 the copy of which is said to have been served on them. To show cause personally or through some Advocate on the contempt application which shall be considered on 12-10-92.

Sd/-
A.M.

Sd/-
V.C.

Certified Copy

Incharge
Judicial Section
C. A. T.
LUCKNOW.