

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

## INDEX SHEET

CAUSE TITLE 33/89 (L) of 19 89 (L)

NAME OF THE PARTIES \_\_\_\_\_

Smt. K. S. Mishra Applicant

Versus

Union of India & RespondentPart A, B & C

Sl.No.	Description of documents	PAGE
A1	Check list -	2
A2	Order Sheet	2
A3	Judgement 28-9-89	2
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B-1	Petition copy	8
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C-1	Judgement copy dt. 28.9.89.	
	(One)	
C-2	Power of A.K. Chaudhary	
C-3	Notice	
Conf. found that no further action is required to be taken and that the case is fit for assignment to the record room (D)		

SOLD

Bijoy 22-6-2011

W. P. Mishra  
26-7-91

(13/1)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Circuit Bench at Lucknow

Registration O.A. No.33 of 1989.

K.K. Misra and Others ..... Applicants

Versus

Union of India & Others .... Opposite Parties.

Hon. Justice Kamleshwar Nath, V.C.

Hon. K. Obayya, A.M.

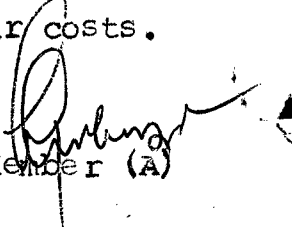

Shri V.K. Chaudhary appearing on behalf of the opposite parties says that the matter is under consideration of the Government in the light of the decision of the Bangalore Bench of this Tribunal in O.A. Nos. 1652 to 1657 of 1988. Shri M. Dubey, learned counsel for the applicant however says that in the meantime the opposite parties have made due payment of the applicants' salary claim and therefore nothing is payable on that account. He however says that since the applicants who were seniors have been wrongfully deprived of proper salary and were made to receive lesser salary than their juniors and since the applicants had been approaching the Department in various ways to give to them their appropriate amounts, the applicants may be awarded ~~interests~~ as well as costs.

2. It is not disputed that due date of payment was 1.9.85. We think that since the opposite parties, ultimately, did not contest the applicants' claim and honoured it in full, the opposite parties may not be burdened with costs. Nevertheless, we think that the applicants should get reasonable interest in the circumstances of the case. The ~~the~~ usually recognised rate of interest is 12% as held by the Supreme Court in the case

2

- 2 -

O.P.Gupta Versus Union of India & Others (1987)4 SCC 328  
para 24. In the circumstances, we direct that in  
addition to the amount already paid by the opposite  
parties to the applicants towards the claim which is  
~~Sub~~ject matter of this application, the opposite  
parties shall pay interest to the applicants @ 12%  
per annum with effect from 1.9.85 <sup>the date of</sup> till payment. Parties  
shall bear their costs.

  
Member (A)  
Vice Chairman

Dated the 28th Sept., 1989.

RKM

PS  
9204

Filed 25/1/89

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ADDITIONAL BENCH,**

23-A, Thornhill Road, Allahabad-211001

Registration No. 33 of 1989(L)

APPLICANT (s) K. K. Mishra

RESPONDENT(s) U. O. 2 for

Particulars to be examined	Endorsement as to result of Examination
1. Is the appeal competent ?	Yes
2. (a) Is the application in the prescribed form ?	Yes
(b) Is the application in paper book form ?	Yes
(c) Have six complete sets of the application been filed ?	No
3. (a) Is the appeal in time ?	Yes
(b) If not, by how many days it is beyond time ?	—
(c) Has sufficient case for not making the application in time, been filed ?	—
4. Has the document of authorisation/Vakalat-nama been filed ?	Yes
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-	Yes (18.0 No DD 000910 dt 21-1-89 Rs 50/-)
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	Yes
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Yes
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Yes, by Counsel

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT SEVEN AT LAGOS.

\*\*\*\*

O.A./T.A. No. 33 1989(c)

K. K. Mubwa

Applicant(s)

Versus.

Nor 403.

Respondent(s)

Sr. No.

Date

Orders

9.209

Hon. A. John, A.M.

Permission to join in a single application is granted.

Admit

Issue notice to respondents to file reply by 17.3.89. Repounder may be filed within a week. But the case for final hearing on 13.4.89.

Sd/-  
A.M.

12th  
13.2.89

16/3/89

OR

S.D.S. tickets was not available in the office. So, Notice issued to the respondents no 1 to 3 through Regd Post fixing 13.4.89 for final hearing.

OR

12th  
16/3/89

Notices were issued only on 16.3.89 to the respondents fixing 17.3.89 for reply and 13.4.89 for hearing.

No reply has so far been filed by respondents.

Submitted for orders

11/4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET



REGISTRATION No. \_\_\_\_\_ of 1984.

APPELLANT  
APPLICANT

VERSUS

DEFENDANT  
RESPONDENT

No. of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
	<p><i>[Faint, mostly illegible handwritten text]</i></p> <p><u>done by</u> <i>[Signature]</i></p> <p><i>[Signature]</i></p> <p><i>Recd copy G. M. Pandey (O) Shri. S. R. Chaudhary</i></p>	<p><i>3/4</i> <i>Compliance</i> <i>to final disposal</i></p> <p><i>2/11</i></p>

8/1

' FORM I '

(See Rule 4)

APPLICATION UNDER SECTION 19 OF THE CENTRAL TRIBUNAL ACT 1985

Title of the case

K.K.Misra and others

... Applicants

Versus

Union of India and others

... Respondents

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Lucknow

*K. K. Misra*  
Signature of applicant

Dated 23.1.89

For use in Tribunals office

Date of filing

of

Date of Receipt by post

Registration No.

Signature

for Registrar

*Filed by  
noted by  
9/2/89  
M. D. S.  
25/1/89*

(2/7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH AT LUCKNOW  
(U.P. ZONE)

BETWEEN

1.	Name	Approx. age	Son of	Resident of	last employed or last employed
A.	K.K. Misra	57 Yrs.	Ran Pd. Misra	396/93B, Kash- Miri Mohalla Lucknow.	Section Super- visor, O/O Post- master General U.P. Lucknow.
B.	R.P. Verma	54 "	Sheo Pd. Verma	440/12-I(B) Old Hyderabad, Lucknow.	--do--
C.	V.P. Misra	54 "	Ayodhya Pd. Misra	19, Cantt. Road Lucknow.	--do--
D.	Shabbir Ahmad	56 "	<del>XXXXXXXXXXXX</del> Maula Bux	<del>XXXXXX</del> 262/9Kha Katra Azambagh, Lucknow.	-do-
E.	S.H.A. Rizvi	57 "	S.S.A. Rizvi	D-2296 Indranagar Lucknow.	--do--
F.	Bhagwati Din	58 "	Dwarika Pd.	348/25, Sabik Bhadewan, Lucknow.	-do-(Retd)
G.	P.L. Tewari	55 "	C.L. Tewari	25/2, Chandranagar, S.S. Lucknow.	-do-
H.	V.K. Malik	57 "	P.D. Malik	50/A, Chandranagar, Lucknow.	-do-
I.	R.K. Saran	56 "	R.L. Saran	Kursi Road, Aliganj, Lucknow.	-do-
J.	S.K. Rastogi	57 "	N.C. Rastogi	213/1, Bashiratganj, Lucknow.	-do-
K.	A.P. Tewari	55 "	R.A. Tewari	D-43, Sarvodayanagar, Lucknow.	-do-
L.	M.P. Gupta	57 "	G.P. Gupta	294/49, Khalabazar, Lucknow.	-do-
M.	N.S. Bartarya	56 "	D.S. Bartarya	339/46, Naubasta, Lucknow.	-do-
N.	R.C. Raizada	57 "	Girja Dayal Srivastava	D-1/5, Paper Mill Colony, Lucknow.	-do-
O.	S.M. Dwivedi	56 "	Dr. Shyam Mano -har Dwivedi.	D-1419, Indranagar, -har Dwivedi.	-do- O/O Addl. PMG, Knp.
P.	R.N.M. Tripathi	49 "	R.R.M. Tripathi	557/25 /5, OMnagar, Alambagh, Lucknow.	-do- O/O DPS, Lucknow.
Q.	S.P. Kashyap	60 "	Puran Chand Kashyap.	14/I, Chandranagar, Lucknow.	Retired Sports Inspec- tor (identical scale)
... ....					Applicants.

AND

I. Post Master General, U.P. Circle Lucknow.

II. Director General, Deptt. of Posts., New Delhi.

III. Union of India, through Secretary, Ministry of  
Communication Department (P), New Delhi.

Respondents.

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

The humble applicants signed above submit as under -

1. Particulars of the order against which application is made -

*Krishna Kumar Mishra*



Orders of the Director General Deptt of Posts New Delhi as conveyed by the Postmaster General, U.P. Circle, Lucknow under his Endt. No. AGB/R-Reg/1984-85, dated 9.1.89.

The application is against the following orders :

- i) Order No: 6-9/87-PAP
- ii) dated 30.11.88
- iii) Passed by the Director General Deptt of Posts, New Delhi, being conveyed by Post Master General, U.P. under his Endt. dated 9.1.89, Annexure No. 1.
- iv) Subject in brief: Non-implementation of the principles of pay fixation on promotion decided by the Board of Arbitration to the officials working in same category grade of posts and promoted to/from same category/grade of posts - denial of benefits to promotions taking place before 1.9.85.

2. Jurisdiction of the Tribunal : The applicants declare that the subject matter of the order against which they want redressal is within the jurisdiction of the Tribunal.

3. Limitations: The applicants further declare that the application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

4. Facts of the case: (i) Ministry of Finance under their OM No. E-7(52)/E-III/78 dated 5.5.79 endorsed under the Director General Post & Telegraph, New Delhi Endt. No. 6/8/79-PAP dated 17.5.79 and the Postmaster General U.P. Circle Lucknow No. ACA/R-12/78-79 dated 24.5.79 allowed special pay of Rs.35/- p.m. to the Upper Division Clerks in non-secretariat Administrative offices for carrying discernible duties and responsibilities of a complex nature higher than those normally expected of Upper Division clerks (Ann. 2).

(ii) The applicants were appointed to posts referred to above on various dates getting Rs.35/- p.m. as special pay as detailed in annexure 3.

(iii) The order, referred to above, did not stipulate as to how this special pay of Rs.35/- is to be accounted for on promotion. The applicants were, however, denied the benefits of special pay of Rs.35/- and its inclusion in the pay fixed on promotion.

(iv) Ministry of Finance under OM No. 7(35)-E-III/87 dated 1.9.87 endorsed under the Department of Posts

Krishna Kumar Mittal

(2/2)

Communication No. ~~6-9/87-PAP~~ 6-9/87-PAP dated 5.10.87 and the Postmaster General U.P. Circle Endt. No. ACB/R-28/Rlg/87/5 dated 13.10.87 admitted that the matter relating to fixation of pay on promotion of those covered by the above orders was referred to the Board of Arbitration and conveyed the decision of the President in pursuant to the Award of Board of Arbitration. It stipulates that "Rs.35/- p.m. paid to UDCs as special pay under OM dated 5.5.79 (referred to above) shall be taken into account for fixation of pay on promotion subject to certain conditions." The last sentence of the orders reads as "These orders take effect from 1st Sept. 1985"

(v) The applicants represented to the Postmaster General U.P. Circle, Lucknow that their pay may be fixed 'Notionally' from the date of their promotion with actual benefits accruing from 1.9.85 in terms of Ministry of Finance OM referred to above. ( Annexure No. 5 )

(vi) The Postmaster General U.P. Circle, Lucknow referred the matter to the Director General Department of Posts, New Delhi who in its turn under his letter No. 6-9/87-PAP dated 30.11.88 rejected all the representations on the ground that crucial date 1.9.85 has emerged by the Award of the Board of Arbitration and no stepping up can be allowed. (Ann. 1)

#### 5. Grounds for relief with legal provisions :

(i) Under Arbitration Act an award should be read as a whole and portion of it cannot be picked up to show that findings of the Arbitrator was inconsistent with these portions. The basic ingredient of an Arbitration implies existence of dispute, an assertion of right by one party & repudiation of the same by another. The subject of inclusion or otherwise, of the Special Pay paid to UDCs was matter 'under dispute' on which Board of Arbitration gave <sup>its</sup> decision.

(ii) The principle decided by the Board of Arbitration is thus binding on both the disputing parties and no section can be left out. As a matter of principle and in settlement of issue under dispute the Award opens with the

Kishan Kumar

(F/A)

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sentence "Rs.35/- per month paid to UDCs as special pay under Ministry of Finance OM No. F7(52)E-III/78 dated 5.5.79 shall be taken into account for fixation of pay on promotion.

(iii) As per Oxford Dictionary the word 'account' denotes 'reckoning of debit and credit in money or services'. The word 'taken into account' has been defined as 'to take into consideration' as such debarring any section of UDCs out of consideration is in violation of the spirit of the Award.

(iv) The Board of Arbitration did not refer to any person or body of persons in relation to the 'date of effect' of the Award. The 'date of effect' when compounded with the words 'be taken into account' used in the Award clearly implies its being the date of accounting, as any other inference drawn out of it would be in violation of the spirit of the Award and also would be against the Fundamental Right of Equality.

(v) Although it has been admitted that Government has accepted the Award in toto without any amendment, the Director General Depptt. of Posts has hastily picked out only the last word i.e. 1.9.85 out of the complete text of Award to reject the claims of the applicants wrongly.

(vi) The department has already allowed draughtmen who were granted new pay scales as a result of recommendation-s of Third Pay Commission effective from 1.1.73 to draw their pay notionally from 1.1.73 and actually from 1.9.87 vide annexure 6.

(vii) The inference drawn by the Director General Department of Posts that it applied to 'post 1.9.85 promotees' has created 'unequals amongst equals' and as may be seen from Annexure 7 <sup>showing details in respect of 1985</sup> and by <sup>certified by Accounting body of the</sup> Department, juniors are now drawing more pay than their seniors due to accounting of Special Pay of Rs.35/- in former's account while denying its inclusion for the latter. It has also negated the longer service of Seniors in the same grade/post as their juniors by several years in the same grade/post are now drawing pay equal to them (annexure 7(a))

Krishna Kumar A.F.

grade/post are now drawing pay equal to ~~their~~ them (annexure 7(a) and 7 (b)).

(viii) That the Award having accepted that the special pay of ~~Rs.~~ Rs.35/- is to be accounted in fixation of pay on promotion, the applicants are legally entitled to have their pay fixed on promotion after taking into consideration of the special pay of Rs.35/- which has been denied so far. The refixation of pay as said would involve fresh option to be given by the applicants for election of new pay scales effective from 1.1.86 viz. from 1.1.86 or any other date as beneficial to them in the changed circumstances.

6. Details of the remedies exhausted : The applicants have availed of the remedies available to them under departmental rules by representing to the Postmaster General U.P. Circle, Lucknow (annexure 5) who in its turn referred the matter to the Director General Department of Posts have rejected their representations by letter dated 30.11.88 (annexure 1) and no other remedy is now available to the applicants except the Hon'ble Judge of this Tribunal.

7. Matters not previously filed or pending with any other court: The applicants further declare that they had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief(s) sought : In view of facts mentioned in paras 6 and 7 above the applicants pray for the following reliefs :

(i) That the impugned order dated 30.11.88 <sup>(Annexure 1)</sup> endorsed by the Post Master General in his endorsement dated 9.1.88 be quashed and the Special Pay of Rs.35/- per month paid to the applicants in UDC cadre in terms of Ministry of Finance OM No. F7(52)E-II/78 dated 5.5.79 be directed to be taken into account for fixation of pay on promotion. Such an

Krishna Kumar Mishra

5/1

6.

accounting should be on 'Notional Basis' from the dates of promotion with actual benefits accruing to the applicants from 1.9.85 as being done in case of promotees promoted after 1.9.85 in the same grade/post and promoted to/from the same grade/post, with all consequential benefits w.e.f. 1.9.85

(ii) The new revised pay scales came into effect from 1.1.86. The applicants may be permitted to revise their earlier options to elect new pay scales from the date as beneficial to them.

(iii) The cost of this application be allowed in favour of the applicants as against the respondents.

(iv) Any other relief deemed just and proper in the circumstances of the case be allowed in favour of the applicants.

9. Interim order, if any, prayed for:

No interim relief is sought for. It is, however, requested that the case be adjudicated expeditiously to mitigate the hardships of the applicants.

10. The application is being presented personally for admission.

11. Particulars of Bank Draft/Postal Order in respect of the a-p-plication fee :

1. Number of Postal Order : 088910
2. Name of the Post Office of issue: High Court Bench Lucknow
3. Date of issue: 21-1-1989

12. List of enclosures:

1. Annexure 1 in compilation No. 1
2. Annexures 2 to 7(a) and 7(b) in compilation 2.
3. Postal order for Rs.50/- in compilation No. 2.
4. Vakalatnama.

#### VERIFICATION

We K.K. Misra, aged 57 years, son of Ran Pd. Misra, R/O 396/93B, Kashmiri Mohalla, Lucknow; R.P. Verma, aged 54 years S/O Sheo Pd. Verma, R/O 440/12-I(B) Old Hyderabad, Lucknow; V.P. Misra, aged 54 years, S/O Ayodhya Pd. Misra, R/O 19, Cantt. Road, Lucknow; Shabbir Ahmad, aged 56 years, S/O Maula Bux, R/O 262/9Kha Katra Azambagh, Lucknow; S.H.A. Rizvi,

Kashin Kumar Mishra

aged 57 years, S/O S.S.A. Rizvi, R/O D/2296 Indranagar, Lucknow; Bhagwati Din, aged 58 years, S/O Dwarika Pd., R/O 348/25, Sabik Bhadewan, Lucknow; P.L. Tewari, aged 55 years, son of O.L. Tewari, R/O 25/2 Chandranagar, Lucknow; V.K. Malik aged 57 years, S/O P.D. Malik, R/O 50/A, Chandranagar, Lucknow; R.K. Saran, aged 56 years, S/O R.L. Saran, R/O Kursi Road, Aliganj, Lucknow; S.K. Rastogi, aged 57, S/O N.C. Rastogi, R/O 213/1, Bashiratganj, Lucknow; A.P. Tewari, aged 55 years, S/O R.A. Tewari, R/O D-43, Sarvodayanagar, Lucknow; M.P. Gupta, aged 57 years, S/O G.P. Gupta, R/O 294/49, Khala-bazar, Lucknow; N.S. Bartarya, aged 56 years, S/O D.S. Bartarya, R/O 339/46, Naubasta, Lucknow; R.C. Raizada, aged 57 years, S/O Girja Dayal Srivastava, R/O D-1/5, Paper Mill Colony, Lucknow; S.M. Dwivedi, aged 56 years, S/O Dr. Shyan Manohar Dwivedi, R/O D-1419, Indranagar, Lucknow; R.N.M. Tripathi, aged 49 years, S/O R.R.M. Tripathi, R/O 557/25 /5 Onnagar, Alambagh, Lucknow, and S.P. Kashyap, aged 60 years, S/O Puran Chand Kashyap, R/O 14/1, Chandranagar, Lucknow, all working or retired Section Supervisor/ in lower selection grade under Post Master General, U.P. Circle, Lucknow, hereby verify that the contents of paras 1 to 4, 6, 7 and 9 to 12 are true to our personal knowledge and para 5 and 8 are believed to be true on legal advice and that we have not suppressed any material fact.

Dated January 20, 1989.

Place- Lucknow.

Signature of applicants.

- |                        |  |
|------------------------|--|
| 10. <i>[Signature]</i> | (1) <i>Krishna Kumar Mishra</i>          |
| 11. <i>[Signature]</i> | (2) <i>[Signature]</i>                   |
| 12. <i>[Signature]</i> | (3) <i>Vinod Kumar Mishra</i>            |
| 13. <i>[Signature]</i> | (4) <i>[Signature]</i><br>(SHYAM PRASAD) |
| 14. <i>[Signature]</i> | (5) <i>[Signature]</i>                   |
| 15. <i>[Signature]</i> | (6) <i>[Signature]</i>                   |
| 16. <i>[Signature]</i> | (7) <i>Panna Lal Tewari</i>              |
| 17. <i>[Signature]</i> | (8) <i>V.K. Malik</i>                    |
|                        | (9) <i>Ram Kumar Sharma</i>              |

(8)  
(2/1)

Annexure 1

Copy of Communication No. 6-9/87-PAP Dated 30th November, 1988  
From Shri Bir Datt A.D.G. Department of Posts New Delhi  
Addressed to All Heads of Postal Circles and others.

Sub:- Grant of special pay of Rs.35/-p.m. to the UDCs  
in the non-sectt. administrative offices-stepping  
up of pay of seniors.

I am directed to invite a reference to the Ministry of Finance O.M.NO.7(35)-E.III/87 dated 1st September, 1987 permitting Rs.35/- per month paid to UDCs as special pay under Ministry of Finance (Department of Expenditure) O.M.NO. F.7(52)/E.III/87 dated 5.5.1979 to be taken into account for fixation of pay on promotion subject to the conditions mentioned therein. In this connection a question has been raised whether the pay of those UDCs who were drawing special pay of Rs.35/- p.m. for performing complex nature of duties and promoted to higher grade posts prior to 1.9.1985 without taking the special pay into account for pay fixation may be stepped up, in case pay of their juniors promoted after 1-9-1985 by taking the special pay of Rs.35/- into account for pay fixation, happens to be more.

The question has been carefully considered in consultation with the Ministry of Finance and it has been decided that since the crucial date 1-9-1985 has emerged by the Award of the Board of Arbitration and the Government has accepted the Award in to be without suggesting any amendment, stepping up of pay in such cases can not be allowed.

The representations on the above subject received in this office from your circle have been rejected. All those concerned may be informed accordingly.

ACB/R-20/Rlg/1984-85 Dated at Lucknow, the 9 -1-1989.

Copy forwarded to the All Regional Directors in U.P. Circle.

2- All Section Supervisor in the office of the P.M.G.UP Circle LW.

3- Office Supdt. /Dy. Office Supdt-I/II/III in C.O. LW.

K. N. Narasimhan  
FOR POSTMASTER GENERAL, U.P.

Krishna Kumar Mishra

Attested  
True 12/12/88

M. Dubey  
Adv

Grant of Special Pay of Rs. 35/- p.m. to the Upper Division Clerks in the non-Secretariat Administrative Offices.

Sir,

I am directed to forward a copy of O.M. No. F-7(52)-E.III/78 dated 5th May-1979 of the Ministry of Finance (Department of Expenditure), New Delhi on the above subject for information, and guidance and necessary action.

2. Hindi Version of the O.M. will follow.

Copy  
No. F-7(52)-E.III/78  
Govt. of India Ministry  
of Finance (Department of Expenditure).  
DATED AT N. DELHI 5th May-1979.

OFFICE MEMORANDUM

Sub:- Grant of special pay of Rs. 35/- p.m. to the Upper Division Clerks in the non-Secretariat Administrative Offices.

The undersigned is directed to state that a committee of the National Council (JOM) was set up to consider the request of the staff since that in the non-Secretariat Administrative Office 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 certain number of posts of UDCs should be upgraded to the grade of Assistants in the scale of Rs. 425-800 in the Secretariat. 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 February, 1979. Pursuant to the agreed conclusions arrived at in the Committee, the President is pleased to decide that Upper Division Clerks in the non-Secretariat Administrative Offices attending to work of 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 respective cadre and these posts should be identified as carrying discernible duties and responsibilities of a complex nature higher than those normally expected to Upper division clerks.

2. These orders take effect from the date of issue.

Sd/-R.C.PURM

Under Secretary to the Govt. of India.

To,

All Ministries/Departments of the Govt. of India (as per standard list with usual number of spare copies).

No:- Ac-A/R-12/78-79, f

Dated at Lw, the 24-5-79.

Copy forwarded for information and necessary action to:-

1. Regional Director of Postal Services, Lw H.Q/Lucknow/Kanpur/Dehradun/Allahabad.
2. All officers C.o. Lucknow.
3. OS/All H.Cs C.o. Lucknow.
4. J.A.o C.o. Lucknow.
5. Director of Postal A/Cs, Lucknow.
6. H.C Staff & Est-B for immediate Action.

Krishna Kumar Mehta

for, Postmaster-General, U.P.

Attested

True copy

M. Duleep  
HAW



(16) 8/3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH  
AT LUCKNOW (U.P. ZONE)

K.K. Misra and others

Versus

Union of India and others

Applicants

Respondents

ANNEXURE No. 3

<u>Name</u>	<u>Date from which allowed Special pay of Rs. 35/- p.m.</u>	<u>Date from which promoted to LSG (Higher grade)</u>
A. K.K. Misra	23.12.82	25.1.84
B. R.P. Verma	5.5.79	7.4.83
C. V.P. Misra	5.5.79	23.12.82
D. Shabbir Ahmad	5.5.79	6.9.83
E. S.H.A. Rizvi	22.12.84	15.1.85
F. Bhagwati Din	21.3.80	3.12.82
G. P.L. Tewari	23.12.82	25.1.84
H. V.K. Malik	7.4.83	5.4.84
I. R.K. Saran	23.1.80	7.11.83
J. S.K. Rastogi	23.12.82	5.4.84
K. A.P. Tewari	13.9.83	5.4.84
L. M.P. Gupta	8.9.81	7.11.83
M. N.S. Bartarya	5.5.79	<del>22/12/82</del> 2.5.80
N. R.C. Raizada	5.5.79	23.12.82
O. S.M. Dwivedi	13.9.83	6.4.85
P. R.N.M. Tripathi	13.9.83	19.4.85
Q. S.P. Kashyap	23.12.82	25.1.84

M. Dubey  
sdw

Krishna Kumar M.L.  
Applicant no 1

Annexure ~~1~~ - L

(11)  
B/S  
2

No.7(35)-EIII/87  
Government of India.  
Ministry of Finance.  
Department of Expenditure.

New Delhi, the 1st Sept. 1987.

OFFICE MEMORANDUM.

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

The undersigned is directed to refer to this Ministry's O.M. No.7(52)/E-III/78, dated 5th May, 1979 on the subject mentioned above which provides for grant of special pay at the rate of Rs. 35/- per month to Upper Division Clerks in the non-Secretariate administrative offices for attending to work of a more complex and important nature. The O.M. further stipulates that the total number of such posts should be limited to 10% of the posts in the respective cadre and that these posts should be identified as carrying discernible duties and responsibilities of a complex nature higher than those normally expected of Upper Division Clerks.

2. The Staff Side in the National Council of the J.C.M. made a demand that Rs. 35/- per month paid to the Upper Division Clerks as special pay in terms of the O.M. dated 5th May, 1979 referred to above, should be taken into account in fixation of pay on promotion. The matter was referred to the Board of Arbitration which gave its Award on 28th April, 1987. Accordingly, pursuant to the Award of the Board of Arbitration, the President is pleased to decide as under:-

Rs. 35/- per month paid to UDCs as special pay under Ministry of Finance (Department of Expenditure) Office Memorandum No.F7(52)/E-III/78 dated 5.5.1979 shall be taken into account for fixation pay on promotion subject to the conditions.

(a) that the incumbent is a substantive holder of the post to which the special pay is attached; or

(b) that the incumbent, on the date of his appointment to higher post, is officiating in the lower post to which the special pay is attached, continuously for a period of not than three years.

3. These orders take effect from 1st September, 1985.

Sd/-  
(M.S. MATHUR)  
Director.

Keestins lamma mima

Attested  
True copy  
M. Duhay  
Adv

(12)

Copy of commun. No.6-9/87-PAP dtd.5.10.87 from Shri Y.D.Mehta  
Section Officer(PAP) D.G.Posts New Delhi addressed to All  
Heads of Postal Circles etc.

.....

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

-----

Sir,

I am directed to forward herewith a copy of Ministry  
of Finance (Deptt.of Expenditure) New Delhi, O.M. No.7(35)-  
EIII/87 dated 1st Sept. 1987 on the above subject for your  
information, guidance and necessary action. That Ministry's  
O.M. No.7(52)-EIII/78 dated 5.5.79 was circulated vide this  
office letter 6-8/79-PAP dated 17th May 1979.

No.ACB/R-28/Rlg/87/5 Dated at Lucknow-226001 the 13-10-1987

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Copy forwarded for information, guidance and necessary  
action to:-

1. D.P.S. Allahabad/Dehradun/Kanpur/Lucknow.
2. Director Postal Accounts Lucknow.
3. Postmaster General (A) Kanpur.
4. All SSPO's/SPO's/SSRMs/SRMs in U.P. Circle.
5. Supdt. P.S.D. Lucknow/Saharanpur/Bareilly/Varanasi.
6. Supdt. P.S.F.S. Aligarh.
7. All A.O. ICO(SB) in U.P. Circle.
8. Manager M.M.S. Kanpur.
9. All P.M.s in U.P.Circle.
10. Chief Postmaster Lucknow/Kanpur.
11. Principal P.T.T.C. ~~XXXXXX~~ Saharanpur.
12. J.A.O. C.O. Lucknow.
13. All Officers in Circle Office.

*OB*

*For Postmaster General, U.P.*

*Kishore Kumar Mishra*

*Attested*  
*True copy*  
*M. Pathy*  
*DAW*

Annexure 5.

13

To

The Postmaster General,  
U.P. Circle Lucknow-226001

Sub: Taking into account Special Pay of Rs.35/- granted to UDCs in accordance with Ministry of Finance OM No.7(52)/E-III/78 dt 5.5.79 for the purposes of fixation of pay on promotion to LSG.

Ref: Your endt no.ACB/R-28/Rlg/87/5 dt 13.10.87

Sir,

Certain posts of UDCs with special pay of Rs.35/- were created in accordance with the aforesaid memo and I also worked on the same post drawing special pay before promotion to LSG.

2. Original orders stipulated that the special pay of Rs.35/- would not be taken into account while fixing the pay in next higher grade on promotion.

3. As evident from the clarification received in the Ministry of Finance O.M.No.7(35)-E-III/87 dated 1.9.87 endorsed under Director-General Deptt of Posts endt No.6-9/87-PAP dated 5.10.87, ignoring the Special Pay for the purposes of fixation of pay in higher posts, being non-judicious was resented by JCM and the matter was referred to Arbitration and as a result of Award of Arbitration, and in pursuant of Award, the President has substituted the non-judicious portion of O.M dated 5.5.79 with a judicious portion and has directed that special pay should be taken into account for the purposes of fixation of pay on promotion (subject to conditions). Thus, these orders are to be read with original orders dt. 5.5.79 and is applicable to all who were allowed special pay in terms of conditions of O.M dated 5.5.79.

4. The Ministry of Finance OM dated 1.9.87 stipulates that these orders take effect from 1.9.85 which implies that the Govt. accepts financial liability of the Award from 1.9.85. It never says that it would be applicable to those promoted after 1.9.85 as Award is applicable to all promoted in terms of OM dated 5.5.79.

5. Thus, in terms of O.M dated 1.9.87, all those who were promoted prior to 1.9.85, their pay would only be fixed on 'Notional basis' and financial benefits, if any, would accrue only from 1.9.85.

6. If the orders are interpreted otherwise, it would create an anomaly and those who were promoted after 1.9.85 would get higher pay inspite of being junior to those who were promoted prior to 1.9.85. Further, it would be discriminatory and against the Constitutional clause of Fundamental Right of Equality. Thus, all the UDCs granted Special Pay in terms of OM dt 5.5.79 are to be treated equally and in terms of Award of Arbitration granted financial benefits from 1.9.85, as payable to those promoted after 1.9.85.

7. I, therefore, request you to fix my pay accordingly.

Yours faithfully,

Sd

Lucknow

25-10-87

Keshav Kumar MCA

Attested

True copy.

M. Dubey  
HdW

(14)  
F/17

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH  
AT LUCKNOW ( U.P. ZONE )

K.K. Misra and others

Applicants

Versus

Union of India and others

Respondents

ANNEXURE No. 6

Copy of Communication No.25-24/85-PE.II dated 16th Jun, 1988 from shri Bir dutt A.D.G. (PE.II) Department of Posts New Delhi Addressed to All Heads of Postal Circles and others.

Sub:- Recommendations of the Third Central Pay Commission -  
Revision of pay scale of Draughtsmen.

.....

In pursuance to the orders contained in the Ministry of Finance (Department of Expenditure) O.M. No. 5 (13)-E-III/87 dated 11.9.87 conveying the approval of President for extension of the benefits of the pay scales allowed to the Draughtsmen to the Ordinance Factories Organisation, Ministry of Defence to similarly placed Draughtsmen in other Ministries/Deptt. of Govt. of India it has been decided that the Draughtsmen in the Deptt. of Posts as where in the pay scale of Rs-205-280/- prior to 1.1.73 and were placed in the scale of Rs.330-560/- based on the recommendation of the Third Central Pay Commission contained in para 81(iii) of Chapter 14 of its report, may be given the ~~xxxx~~ scale of Rs.425-700/- notionally from 1.1.73 and actually from 1.9.87

2. This issues with the concurrence of Finance Advice- (Postal) vide their I.D. No. 2452/FAP/88 dated 2.6.88

No. EST.A/X-1579/86-87/RIg/Ch.III Dated at LW the 14.7.1988

Copy forwarded for information, guidance and necessary action to :-

- 1- Addl. Postmaster General Kanpur.
- 2- The D.P.S. Lucknow/Allahabad/Kanpur/Dehradun & DPA LW.
- 3- All SSPOs/SPCs/SSRMs/ in U.P. Circle.
- 4- All P.S.Ds in U.P. Circle.
- 5- All A.O.I.C.O. (SB) in U.P. Circle.
- 6- The Manager Mail Motor Service Kanpur.
- 7- All the Postmasters in U.P. Circle.
- 8- The Chief Postmaster Lucknow/Kanpur.
- 9- The Executive Engineer (Postal) Ashok Marg, Lucknow.
- 10- All Section Supervisors and A.S.P.O's/I.I's in C.O. LW.

Sd/- illegible,  
for Postmaster General, U.P. Circle,  
Lucknow.

Krishna Kumar Meena

\_\_\_\_\_ M. D. Dubey  
TRUE COPY

M. D. Dubey  
Adv

# Annexure - 7

(15)

5/6

The chart of pay drawn by S/Shri S.M.Dwivedi and M.N.Pal from time to time since they held the post of UDC has been drawn and shown as under :

<u>Shri S.M.Dwivedi (Senior)</u>		<u>Shri M.N.Pal (Junior)</u>	
	UDC (330-560) LSG (425-700)		UDC (330-560) LSG (425-700)
18.4.70	192/-	1.7.68	176/-
18.4.71	200/-	2.7.69	184/-
18.4.72	208/-	2.7.70	192/-
18.4.73	428/-	2.7.71	200/-
1.4.74	440/-	2.7.72	208/-
.....		28.7.73	428/-
		1.7.74	440/-
1.4.83	560/-	.....	
13.9.83	560/- + 35/- Spl. Pay)	1.7.83	560/-
2.4.85	560/- + 35/- + 15/-)	15.9.83	560/- + 35/- Spl. pay
6.4.85	(560+35+15)	1.7.85	560+35+15PP (Due to
1.1.86	580+30PP		stagnation
	1720/-	1.1.86	1720+70+spl. pay
	with DAI	1.9.86	(1720+70) Rs.1850/- with
			DNI 1.9.87

Note : Date of confirmation of Shri Dwivedi in UDC cadre is 1.3.74 as noted in S.Book

Note : Shri Pal was promoted on adhoc local basis as UDC w.e.f. 1.7.68 followed by regular appointment vide orders dt. 7.6.72 noted in S.Book.

(ii) Reportedly confirmed in UDC cadre w.e.f. 1.3.74 vide STA/336-XA/3 dt.1.8.75.

2. It is evident that Shri Dwivedi though drew more pay from <sup>time</sup> to time is now getting less pay than his junior Shri M.N.Pal from the date Shri Pal was promoted to LSG i.e., w.e.f. 1.9.86. This anomaly is directly as a result of inclusion of spl. pay of Rs.70/- (double of 35/-) w.e.f. 1.1.86 in the fixation of pay in terms of GIMF OM No. 7(35)-E-III/87 dated 1.9.87.

3. If the special pay of Rs. 35/- was allowed to be included in the fixation of pay of Shri Dwivedi also w.e.f. 6.4.85, his pay in LSG cadre would have been fixed as Rs.620/- and Rs.1850/- w.e.f. 1.1.86 with DNI on 1.4.86 and there would have been no anomaly at all.

~~Signature~~  
~~Signature~~

Kanthakumar M. R.  
Applicant no 1

M. Dwivedi  
Adv

K.K. Misra & others	Versus	Applicants	Respondents
Union of India & others			

EXAMPLES OF THE SENIOR OFFICIALS DRAWING LESS PAY THAN THEIR JUNIORS IN L.S. GRADE.

Name of Official	Pay drawn as on 1.9.87.	Date of promotion from UDC to LSG grade.	Seniority as per gradation list.
1. Shri S.H.A. Rizvi	1850/-	25-1-84	\$1. 31
2. " K.K. Misra	1850/-	25-1-84	\$1. 33
3. " S.M. Dwivedi	1800/-	6-4-85	\$1. 49
4. " M.N. Pal	1900/-	1-9-86	\$1. 58
5. " P.N. Mishra	1900/-	1-9-86	\$1. 63
6. " B.C. Chatterjee	1900/- (promoted to LSG grade on 3.2.88.)	3-2-88	\$1. 69

Key Questionnaire  
Applicant no 1

5/2

16

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH AT LUCKNOW ( U.P. ZONE)

K.K. Misra & others

Versus

Union of India & others

Applicants

Respondents

ANNEXURE No. 7-B

EXAMPLES OF JUNIORS & SENIORS UDOS DRAWING SAME PAY ON PROMOTION IN LSG GRADE

Name of Official	Date of promotion from UDC to LSG grade	Substantive pay in UDC before promotion to LSG	Pay fixed in LSG	Pay in revised scale on 1-1-86	Present pay	W.E.F.
<u>Pre. 1-9-85</u>						
Shri S.M.A. Rizvi	25.1.84	560+15+35/-	580+30	1800/-	1900/-	1-1-88
" K.K. Mishra	25.1.84	560+15+35/-	580+30	1800/-	1900/-	1-1-88
" S.K. Rastogi	5.4.84	560+15+35/-	580+30	1760/-	1900/-	1-4-88
" S.M. Dwivedi	6.4.85	560+15+35/-	580+30	1760/-	1850/-	1-4-88
<u>Post 1-9-85</u>						
Shri M.N. Pal	1.9.86	1720/-+70/-	1850/-		1900/-	1-9-87
" P.N. Mishra	1.9.86	1720/-+70/-	1850/-		1900/-	1-9-87
" B.C. Chatterjee	3.2.88	1760/-+70/-	1900/-		1900/-	1-2-88

M. Dubey  
Adv.

Key-line known  
Applicant no. 15

A-5  
70

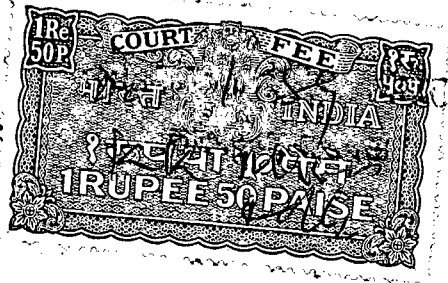
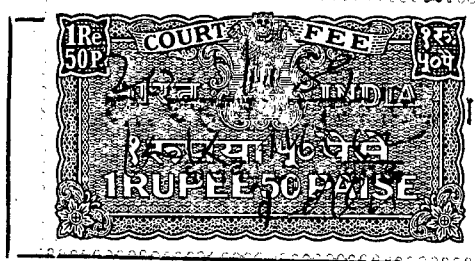




88/1

ब अदालत श्रीमान Central Administrative Tribunal, Circuit Bench, Lucknow  
 [ वादी ] अपीलान्त श्री K K Mishra & others  
 प्रतिवादी [ रेंस्पॉडेन्ट ]

## वकालतनामा



K K Mishra & others बनाम U O S & others प्रतिवादी (रेंस्पॉडेन्ट)

6. SM Divied नं० मुकद्दमा सन् पेशी की ता० १६ ई०  
 7. ऊपर लिखे मुकद्दमा में अपनी ओर से श्री B. Solomon, Advocate  
 and M. Duley Advocate - वकील  
 महोदय  
 एडवोकेट

नाम अदालत	नाम फरीकें	बनाम
मुकद्दमा नं०		

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोर्ट रुपया जमा करें या हमारी विपक्षी (फरीकसानों) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह

6. समन्ती सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

11. [Signature]

12. [Signature]

13. [Signature]

1. Krishna Kumar Mishra  
 हस्ताक्षर

साक्षी (गवाह) ----- साक्षी (गवाह) -----

दिनांक 22/1/87 महोना 1 सन् १९८७ ई०

स्वीकृत

14. Re Raizadeh

15. SN Divied

16. R N M Toyyathu

17. S. P. Kashyap

Accepted  
 (1) B. Solomon  
 Adv

(2) M. Duley  
 Adv

2. [Signature]

3. Vinod Kumar Mishra

4. [Signature] (SITABDI RAJAN)

5. [Signature]