

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

CAUSE TITLE OA-353/89 OF

NAME OF THE PARTIES S.C. Rastogi, P.I.O. of the D.R.M. Rly (L)
.....Applicant

Versus

Union of India Rail.....Respondent

Part A, B & C

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CERTIFICATE

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

Dated...27-2-12

Counter Signed.....

Section Officer / In charge

M
Signature of the
Dealing Assistant

Endorsement as to result of examination

۲۲

42

b) Defective ?

Mo. _____ p.m. Mo. _____ ?

No

۷۲

7

N. A.

3/5

b) Under distinct heads ?

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

4/5 ~~but~~ without reasons

75

91257

A
2

22-12-1989

W
V. Depu.

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 353 of 1989 (C)

APPLICANT(S) S. C. Rastogi
RESPONDENT(S) U. O. & Sons

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent?
2. a) Is the application in the prescribed form?
b) Is the application in paper book form?
c) Have six complete sets of the application been filed?
3. a) Is the appeal in time?
b) If not, by how many days it is beyond time?
c) Has sufficient case for not making the application in time, been filed?
4. Has the document of authorisation/ Vakalatnama been filed?
5. Is the application accompanied by B.D./postal Order for Rs.50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed?
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?
8. Has the index of documents been filed and paging done properly?
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?

Yes

Yes

Yes

Two sets

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

No

(Postal order No 11 55 2131)
11 55 2131

(Rs. 10/-)
= 50/-

3.2.2000

from M. A. V. Haridassan, VC
from Mr. J. L. Negi, AM

copy of CA & RA
to P. V. S. S. S. S. S.
21/2/2000

A copy of CA and RA
be supplied by Registry
to Shri Anil Srivastava
by tomorrow. but on 7.2.2000

AM.

V.C

In compliance
of Hon Court's order
dt. 21/2/2000
copy of CA & RA
has been given
to Shri Anil Srivastava
Advocate on 04.2.2000
04/2/2000

07.02.2000

Due to sad demise of Shri D. N.
Srivastava, Advocate, case is adjourned
to 17.02.2000 for hearing

4
BDO

11.02.2000

Lawyers abstain from jail work.
case is adjourned to 14.02.2000
for hearing

4
B.O. 2000

order dt. 14/2/2000
prepared in
21.2.2000
21/2/2000

14.2.2000

Ms. U.P. Shukla.
Ms. Anil Srivastava.

Bench: Honble VC (CVH)
Honble AM (JLN).

Heard. Orders pronounced in open court.

By order
Co. Cl.
14/2/2000

(B) OA 353/89

A/W

31-8-98 - 140 settled of AB adj
to 25-11-98

See

25-11-98

No sitting at D.B. Court is
while 12-4-99 for hearing.

V. M.
B.C.

28
Pleadings
Completed
11/12

12-04-99

Due to special D.B. the case
is adjourned to 29-06-99.

J.
B.C.C.

29-6-99

Case not reached adj to
17-8-99 for hearing.

B.C.C.

17/8/99

Hon. Mr. D.C. Verma, J.M.
Hon. Mr. Atk. Mishra, AM.

Sh. L.P. Shukla for applicant seeks
adjournment. Sh. P. Kumar for Sh.
Anil Srivastava for respondent.

List on 01/9/99 for hearing.

J.M.

MR
Neither CA
nor RA has
been filed on
behalf of OP No.
5 & 6 till date.
Pleadings are
complete on
behalf of OP No.
1504
20-8-99

AM.

12- CA 253/89

0.12.45

Schedule 2
Dated 12.12.89
13.1.90

A/S

BA

02
Pleadings are
Completed
30.12.97

13-1-98

Due to Lawyers abstained
from Judicial work adj
to 03-3-98.

BA

03-3-98

Hon. V. K. Raju, A.J.
Hon. P. C. Vengal Rao, J.

P. A. Rama, appearing
for L. A. Hussain, learned
Counsel for applicant & pray
for adjournment.

Adj on 20-4-98 for
hearing.

TH
28-4-98

No sitting of AB. adj. to 21-5-98.

BA

21-5-98 No sitting of AB. adj.
to 09-7-98

BA

7-7-98 No sitting of AB
adj to 31-8-98

BA

02
Extra work
changed
15/5/98

(10)

X/6

20-3-27

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

Note for applicant.
Mr. Anil Srivastava, learned
counsel for respondents has
submitted application for
adjournment.

list on 16-4-27 for
hearing

J.H.

V.C.
A.M.

R.

16-4-27

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

On 16. 29. 27. Govt. H.
off. C.I. dated 24.4.27

3/4

V.C.
D.M.

29-4-27

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

Mr. O. R. Srivastava has sent
an all new slip.

list on 22-5-27 for hearing.

J.H.

V.C.

or
CPDA have been
changed
21/4/27

4

A

27-11-95

Home present. dealing Assistant is directed to be careful about listing the case next on 15-1-96 for hearing before Hon. Bench.

CP/A
C/A
SPH
11/1/96

PD

15-1-96

Case not ready for adj. to 20-2-96
Boe

20-2-96

Due to sad demise of Sir P.C. Singh (an) Case is adj. to 11-4-96

11-4-96

Case not ready for adj. to 01-5-96
Boe

Boe

01-5-96

Hon. Mr. Justice B.C. Saksena, C. J.
Hon. Mr. V.L. Saxena, J.
on the request of Counsel
to adj. case adj. to 01-7-96

things are
bleat
26/6/96

Boe
A.M.

Boe
V.

1-7-96

NO filing of D.M. adj. to 22-8-96
Boe

No 2416/94
is submitted before
Hon. vs. on 30/1/95

~~OR~~ ~~RE~~

~~As the case has
been fixed for
hearing on 27/1/95;
M.P. NO 2416/94 is
also submitted
before DB on
27/1/95 for order~~

~~RE~~

(W)

12.2.92
D.R.

8/9

6.3.92 Due to Strike of Advocates
Case is adjourned to 1.5.92
at 10.00

Both the parties are
absent. CA/RA have
been exchanged.

1.5.92 Case adj. reached
adj to 13.7.92
at

Hence, this case is
listed for hearing
On 6/3/92, before the
Hon. Bench.

13.7.92 Case adj. reached adjourned to
14.10.92
at

Submitted for
hearing
S.M.
5.3.92

25.2.93
D.R.

This file has been traced
undated during physical
verification.

FOR
Notice issued
on 21/4/93
at

Issue notice for 22.4.93
by U.P.C.

Noted for exchange
CA & RA
S.M.

Noted for 22/4/93

21/4/93
22.4.93

Case adj. reached adj to

(K) S.M.

CA/RA

CA 353/84(1)

to file counter affidavit. let,
the counter, be filed within
6 weeks, hereof and rejoinder,
if any, within 2 weeks, thereafter.

List it for hearing on 19/11/90

Sd

A.M.

Ill
J.M.

11/90

Hon. Mr. Justice K. Nath VC
Hon. Mr. M. M. Singh - AM

OR

No CA Held
S. F. H.

12/11/90

On the adjournment application of
A. Bhargava, due to his mother's death
case is adj to 4.2.91.

M. H. L
AM.

VC

OR

No CA held

11/2/91

4/2/91

Counter has been
filed. Put up on

15/3/91 for
rejoinder
4/2/91

15.3.91

D. R.

Both the parties are
absent today. R.A. has not
been filed yet. Application
to file R.A. by 20/4/91 R

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

O.A.No.353/89

Monday this the 14th day of February, 2000

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. J.L. NEGI, ADMINISTRATIVE MEMBER

SC Rastogi, Personal Inspector
Office of the Divl Railway Manager
Northern Railway,
Lucknow.

... Applicant

(By Advocate Mr. L.P. Shukla)

Vs.

1. Union of India through the
General Manager, Northern Railway,
Baroda House, New Delhi.
2. Chief Personnel Officer
Northern Railway,
Baroda House, New Delhi.
3. Divisional Railway Manager
Northern Railway, Hazratganj, Lucknow.
4. Senior Divisional Personnel Officer,
Northern Railway, Hazratganj, Lucknow.
5. Sri Arun Shama, Personal Inspector,
Divisional Railway Managers Officer
Northern Railway, Hazratganj, Lucknow.
6. Sri Reman Shama -do- ... Respondents

(By Advocate Mr. Anil Srivastava)

The application having been heard on 14.2.2000, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant and respondents 4&5 were selected and
empanelled for promotion to the post of Personal Inspector
while they were working as Senior Clerks. The respondents
5&6 were placed below the applicant in the panel. As
per the printed S1.No.6814A dated 15.7.77 as also the
letter dated 27.9.85 of the General Manager, Senior Clerks
before appearing for the selection examination as also
after selection and empanelment for promotion as Personal

contd....

-2-

Inspector should exercise their option to come into that cadre ~~and~~ for all further career advancements. Once final option is given after placing in the panel the option is not reversible. The applicant as also respondents 5&6 were promoted as Personal Inspectors. The applicant had a grievance that the respondents 5&6 and another person had been given stationary post while the applicant was put in charge of adjudication factual job analysis team which involved outsider duties and touring. Since the family ground of the applicant was not congenial for such an outsider job the applicant made a request to the Divisional Railway Manager for a stationary posting or for leave. This request was not acceded to. Hence he made a request for reversion to the post of Senior Clerk. The request of the applicant was acceded to and he was reverted to the post of Senior Clerk by order dated 29.10.86. While the applicant was reverted to the ministerial cadre, the ministerial staff association made representation against it. The applicant also made a representation (Annexur .A.8) on 24.11.86 seeking cancellation of the order of reversion. The above representation of the applicant was accepted and the 4th respondent passed the order dated 13.2.87 cancelling the order of applicant's reversion and allowing him to continue to work as a Personal Inspector in the grade Rs.425-640 (1400-2300 revised) posting him at PCDO Seat. The respondents 5&6 challenged the cancellation of the applicant's reversion and restoration of seniority as according to them they became entitled to be senior to the

contd....

-3-

applicant by a representation which was rejected by the third respondent by order dated 19.9.88 (Annexure.A.11). Aggrieved by that they took up the matter before the second respondent. The second respondent on consideration of the above representation passed Annexure.12 order dated 15.11.88 holding that Shri Rastogi the applicant would rank junior in seniority to respondents 5&6 as he has got seniority in the list of P.I. after facing reversion only on joining back i.e., with effect from 13.2.87. The applicant aggrieved by A12 order made a representation to the second respondent which was rejected by the impugned order A.16. It is aggrieved by that the applicant has filed this application. According to him the 4th respondent could not have reverted the applicant as he had given his irrevocable option to go as a Personal Inspector and therefore as per the rules and instructions on the subject, the applicant was not to lose his seniority. The applicant has also stated that the reliance placed on the printed sl.7126 and 8876 (A.13 and A.14) is misplaced and the second respondent has mislead the above two circulars. With these allegations the applicant seek to have the impugned order set aside and his seniority restored.

2. We have heard the learned counsel of the applicant as also Shri Anil Srivastava learned counsel for the respondents 1 to 4. That the applicant and respondents 5&6 were placed in one and the same panel for promotion to the post of Personal Inspector and that the applicant was placed above respondents 5&6 are not

contd...

in dispute. That the applicant was ~~reverted~~ as a senior Clerk with effect from 29.10.86 and rejoined that post on 13.2.87 is also not disputed. The sole question that calls for consideration is as the option of the applicant after empanelment for promotion to the post of Personal Inspector having been final whether the 4th respondent was competent to revert ~~him~~ as Senior Clerk even if he was so reverted on re-promotion whether he would get his seniority over respondents 5&6. As far as the competence for reversion is concerned, though the option after empanelment is said to be final, there is no embargo on the competent authority in entertaining a request of an employee for being ~~reverted to a lower~~ post. It was only on the request of the applicant that he was reverted.

3. Regarding the question whether the applicant would lose his seniority over respondents 4&5 or would ^{it} regain/on his restoration to the post of Personal Inspector, the instructions contained in Circular No.6814A are abundantly clear. From the clarification given in the circular 7126 and 8876 it is very clear that in a case where after promotion one has been reverted on his request the bar for consideration for promotion would operate just as a personnel who has declined to accept promotion. In this case as the applicant has been reverted on his request those who were placed in the same panel along with the applicant and were promoted would undoubtedly rank and continue senior to the applicant. We, therefore, do not find any infirmity in the order passed by the second respondent in this case.

contd...

4. In the result, the application fails and the same is dismissed leaving the parties to bear their own costs.

Dated the 14th day of February, 2000

J.L. Negi

J.L. NEGI
ADMINISTRATIVE MEMBER

A.V. Haridasan

A.V. HARIDASAN
VICE CHAIRMAN

s.

Clerk

Date

Date

22-12-1989

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

CA 353/89 (C)

S.C. Rastogi

...

Applicant.

Versus

Union of India & others...

Respondents.

FORM-I.

(See rule 4)

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

For use in Tribunal's Office.

Date of filing

22-12-89

of

Date of receipt by post

.....

Registration No.

353 goe (C)

Filed today
Noted for
4/1/90
L.P. Shukla

F-7
2
22/12

Steps filed today
L.P. Shukla
10/1/90

In the Central Administrative Tribunal, Allahabad,
Circuit Bench, Lucknow.

O.A. No. 353 of 1989 (L).

Central Administrative Tribunal

Circuit Bench

Date of Filing 22-12-89.

Date of Receipt by 1

Y Deputy Registrar(J)

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

S.C. Rastogi ... Applicant.

Versus

Union of India & Others ... Respondents.

DETAILS OF APPLICATION:

1. Particulars of the applicant:

(i). Name of the applicant : S.C. Rastogi.

(ii). Name of Father : Sri Shyam Sunder Lal.

(iii). Age of the applicant : 34 years.

(iv). Designation & particulars of office in which employed : Personnel Inspector.
Office of the Divisional
Railway Manager,
Northern Railway,
LUCKNOW:

(v). Office address : As above.

(vi). Address for service of notices : 210/81, Bavarchi Tola,
Chowk,
Lucknow-226003.

2. Particulars of the respondents.

- (i) Name of the respondents:) 1. Union of India ,
) through the General -
) Manager, Northern -
) Railway, Baroda House,
) NEW DELHI.
- (ii) Designation and parti-
culars of Office in
which employed.) 2. Chief Personnel Officer,
) Northern Railway,
) Baroda House, NEW DELHI.
- (iii) Office address.) 3. Divisional Railway -
) Manager, Northern -
) Railway, Hazratganj,
) Lucknow.
- (iv) Address for service of
notices.) 4. Senior Divisional -
) Personnel Officer,
) Northern Railway,
) Hazratganj, Lucknow.
-) 5. Sri Arun Sharma,
) Personnel Inspector,
) Divisional Railway -
) Manager's Office,
) Northern Railway,
) Hazratganj, Lucknow.
-) 6. Sri Raman Sharma,
) Personnel Inspector,
) Divisional Railway -
) Manager's Office,
) Northern Railway,
) Hazratganj, Lucknow.

Sehastogi

3. Particulars of the orders against which the application is made:

The application is against the following order :-

- | | | |
|-----------------|---|-------------------------------------|
| (i) Order No. | } | 1. No. 752E/IA/PI Selection dated |
| (ii) Date. | | 15.11.1988 communicated by the |
| (iii) Passed by | | respondent no. 4 containing the |
| | } | decision of respondent no. 2. |
| | | (Annexure No. A-12). |
| | } | 2. No. 752E/533/Pt-II/Loose EIID |
| | | dated 23.2.1989 passed by the |
| | | respondent no. 2 communicated by |
| | } | the Sr. Personnel Officer, Northern |
| | | Railway, Baroda House, New Delhi. |
| | | (Annexure No. A-16). |

(iv). Subject in brief:

By the above orders, the applicant has been made junior to the respondents No. 5 and 6 in the cadre of Personnel Inspectors in an arbitrary manner and in violation of rules.

4. Jurisdiction of the Tribunal:

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

5. Limitation:

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

S. K. Singh

6. Facts of the case:

(a). That as required under the rules, the applicant and respondents no. 5 and 6 as well as many others, while working as Senior Clerks grade Rs. 330-560 in the Personnel Branch of the office of respondent no. 3, had given their provisional options to the respondent no. 3, for being appeared in a selection, which was to be held for the post of Personnel Inspectors grade Rs. 425-640 (now revised to scale of Rs. 1400-2300). It may be mentioned that the respondents no. 5 and 6 were junior to the applicant.

(b). That in terms of instructions and orders contained in Printed Serial Nos. 6814 A and 8819, true copies of which are being filed herewith respectively as ANNEXURE NO. A-1 AND A-2 to this application, the senior clerks, ~~who~~ after their empanelment for the post of Personnel Inspectors, are required to give their final options for being promoted on the said post of Personnel Inspector or to give their refusal for retaining their substantive posts.

(c). That on receipt of final options in affirmative, the empanelled staff are promoted to the post of Personnel Inspectors.

(d). That after exercising the final options and promotions thereupon, the staff so promoted are not competent to exercise another options or refusal seeking their repatriation from the post of the Personnel Inspectors and the authorities are not empowered to entertain such option or request for being accepted.

Annexure A-1 &
A-2.

(e). That on the basis of provisional options, the applicant as well as respondents No. 5 and 6 and many other Senior Clerks appeared in the aforesaid selection for the post of Personnel Inspectors in the year 1986.

(f). That on 30.7.1986, the respondent No. 4, after the approval of the respondent no. 3, declared the panel of Personnel Inspectors consisting of seven names wherein the name of the applicant was at serial no. 6 and the name of respondent no. 5 was at serial no. 7. In this panel, the name of respondent no. 6 was not added. However, he was also selected and subsequently placed below the names of the applicant and respondent no. 5 being junior to them.

A true photo stat copy of the said panel dated 30.7.1986 is being filed herewith as ANNEXURE NO. A-3 to this application.

Annexure-^A3

(g). That by the aforesaid panel - (Annexure No. A-3), the applicant and other selected staff, in terms of Printed Serial No. 8819 (Annexure No. A-2), were required to furnish their final options latest by 7.8.1986 for being promoted to the post of Personnel Inspectors.

Sehadi

(h).

That on 4th. August, 1986, the applicant,

gave his final option for being promoted to the post of Personnel Inspector and on that basis, he was immediately promoted as Personnel Inspector ^{ref. 30-7.86} and was put in the Factual Job Analysis Team which normally had six programmes in a month resulting into continuous out door duties. It may be clarified that the work assigned to the applicant was within the duty of Personnel Inspectors.

i). That on the other hand, S/Shri Janardan Singh (a selected candidate as shown at serial no. 4 in Annexure no. A-3) and respondent nos. 5 and 6, who were also promoted to the post of Personnel Inspector alongwith the applicant, were retained in the Union Cell of the Personnel Branch of the Office of the respondent no. 3 and were not physically put to discharge the duties of Personnel Inspectors. Thus they had no outdoor duties.

j). That in the month of October, 1986 that is after ^{about} ~~more~~ ^{than} three months of the applicants' promotion as Personnel Inspector, the applicant, on account of his father's illness, who was to be admitted in the King George Medical College, Lucknow for his eye operation and also because there being none to look after his wife, who was then facing various complications in respect of her advanced stage of pregnancy, requested the then Senior Personnel Officer for his posting on some stationery post for the time being in the same ~~fashion~~ fashion as was done for Sri Janardan Singh and respondent nos. 5 and 6 or in the alternative to grant one month leave to him.

Behadragi

k). That the aforesaid request of the applicant was not acceded to and he was verbally advised to seek his reversion from the post of Personnel Inspector, so as to manage his own affairs.

l). That there being no alternative, the applicant, under very compelling circumstances and under the facts stated above, gave an application *dt 10/86* to the respondent No. 3, who was competent to deal with the case, and decide the matter, showing his refusal to work as Personnel Inspector and seeking his posting in his parent department. A true copy of the said application is filed as ANNEXURE A-4 to this application.

Annexure A-4.

m). That thereafter, the ^{then} Sr. Divisional - Personnel Officer, without bringing the matter to the notice of the respondent no. 3 to whom the aforesaid application was addressed, issued Notice No. 752E/2A/PI Selection (Pt.II) dated 29.10.1986 reverting the applicant from the post of Personnel Inspector to the post of Senior Clerk, which was without jurisdiction. The said notice of reversion dated 29.10.1986 is being filed herewith as ANNEXURE NO. A-5 to this application.

Annexure A-5

n). That after the issue of the aforesaid reversion order and the applicant's posting as Senior Clerk in the Personnel Branch of the Office of the respondent no. 3, the aggrieved staff of the Personnel Branch through their joint representation as well as through their ^{Asst.} General Secretary, All India RLY's Ministerial Staff Association, demanded cancellation of the said reversion order being against rules and in this

Lehadi

circumstance, the ~~application~~ applicant was also advised to make an application for cancellation of his reversion order which he did vide his application dated 24.11.1989. True copies of the representations made by the aggrieved staff, letter dated 11.11.86 issued by the Assistant General Secretary, All India Railways Ministerial Staff Association challenging the reversion order of the applicant and applicant's representation dated 24.11.1986 for restoration of his status are being filed herewith respectively as ANNEXURE NO. A-6, A-7 and A-8 to this application.

Annexure A-6 to
A-8.

6

o). That thereafter, the Additional Divisional Railway Manager (T), Northern Railway, Lucknow considered the aforesaid representations and cancelled the reversion order of the applicant being in contravention of the rules and allowed the applicant to continue as Personnel Inspector as if he was never reverted from that post. In pursuance of the said order, the respondent no. 4 issued cancellation Notice No. 752 E/2A/PI/Selection dated 13.2.1987 and posted the applicant on the stationery post of ~~Statements~~/P.C.D.O. in the Union Cell in the capacity of Personnel Inspector vice Shri Janardan Singh. True copy of the said notice dated 13.2.1987 is being filed herewith as ANNEXURE NO. A-9 to this application.

Annexure A-9.

7

p). That by the aforesaid notice dated 13.2.1987, the respondent no. 5 and 6 were also ordered to be spared from the Union Cell and directed to join the Adjudication Section where the applicant, prior to his reversion, was posted and working.

Sehlaaji

A/27

q). That thereafter, the respondent nos. 5 and 6, by means of a joint representation purported to be given on 23.2.1987 to the respondent no. 3, challenged the order dated 13.2.1987 by means of which the applicant was restored on his original post of Personnel Inspector. In the said representation, they prayed for the following reliefs :-

" In the light of the above mentioned facts, we request your honour to kindly cancel the notice dated 13.2.87 and further S.C. Rastogi be promoted as Personnel Inspector after expiry of refusal period of one year and he should be allowed seniority from the date of repromotion and not the original panel position. "

A true photo stat copy of the aforesaid representation purported to be given on 23.2.1987 is being filed herewith as ANNEXURE NO. A-10 to this application.

Annexure A-10

r). That the respondent no. 3, by his order contained in Letter No. 752E/IA/PI/Selection dated 19.9.1988, rejected the aforesaid representation of the respondent No. 5 and 6 and upheld the decision ^{taken} already by the Additional Divisional Railway Manager (T), Lucknow contained in Annexure No. A-9 to this Application. A true copy of the said letter dated 19.9.1988 is being filed herewith as ANNEXURE No. A-11 to this application.

Annexure A-11

S. Rastogi s).

That aggrieved by the aforesaid decision

of the respondent no. 3, the respondent nos. 5 and 6 got the matter agitated before the respondent no. 2 also through their Union (Northern Railway Men's Union) and the said Union, in an illegal manner, got the previous orders reversed without giving any opportunity of showing cause to the applicant, which ought to have been given under the extent rules as it was a matter relating to the seniority. The said decision of respondent no. 2 was communicated by the Senior Divisional Personnel Officer, Northern Railway, Lucknow to the applicant under his Letter No. 752E/1A/PI Selection dated 15.11.1988, a true photo stat copy of which is being filed herewith as ANNEXURE NO. A-12 to this application.

Annexure A-12

t). That as per decision above, the applicant was ^{ordered} to be given seniority as Personnel Inspector from the date he rejoined as Personnel Inspector after facing reversion as a Senior Clerk in terms of ^{alleged} instructions issued under Printed Serial Nos. 7126 and 8876. Consequently, the applicant was made junior to respondent nos. 5 and 6.

u). That the respondent no. 2, while deciding case, misread, ^{and} mis-interpreted and mis-applied the aforesaid Printed Serials namely Printed Serial No. 7126 and 8876 in the case of the applicant. The case of the applicant should have ^{been} decided keeping in view the special instructions contained in Printed Serial Nos. 8819 and 6814-A meant for the post of Personnel Inspector and ^{also in view of}

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Annexure A-13
and A-14

the fact of non-competency of the Sr. Divisional Personnel Officer, Northern Railway, Lucknow, who issued the illegal order of the applicant's reversion of his own accord. True photo stat copies of Printed Serial Nos. 7126 and 8876 are being filed herewith respectively as ANNEXURE NOS. A-13 and A-14 to this application.

Annexure A-15

v). That aggrieved by the aforesaid decision of the respondent no. 2, the applicant made a representation to the General Manager, Northern Railway, Baroda House New Delhi ^{even} through one of the recognised Unions namely the Uttariya Railway Mazdoor Union for restoration of the orders already passed by the respondent no. 3 and the orders passed by the Additional Divisional Railway - Manager, Northern Railway, Lucknow by means of which the reversion order of the applicant from the post of the Personnel Inspector was cancelled being illegal and inoperative in law. A true copy of the said representation is being filed herewith as ANNEXURE NO. A-15 to this application.

w). That vide communication Letter No. 752E/533/Pt.-II/Loose EIID dated 23.2.1989 issued by Senior Personnel Officer (PC), Northern Railway, Headquarters Office, Baroda House, New Delhi, the aforesaid representation of the applicant was rejected and the decision already taken contained in Annexure No. A-12 was upheld. A true photo stat copy of the said decision dated 23.2.89 is being filed herewith as ANNEXURE NO. A-16 to this application.

Sehlaogi

x). That the orders contained in Annexure nos. A-12 and A-16 by means of which the applicant has been made junior to respondent nos. 5 and 6 are wholly illegal, contrary to the rules and violative of Articles 14 and 16 of the Constitution of India.

y). That the order contained in Annexure No. A-5, by means of which the applicant was reverted illegally from the post of Personnel Inspector, is illegal and without jurisdiction and on that basis, the applicant cannot be deemed to have been reverted.

z). That the orders passed by the respondent no. 3 and the Additional Divisional Railway Manager(T), Northern Railway, Lucknow cancelling the ~~reversion~~ order of the applicant's reversion illegally passed by the ^{then} Senior Divisional Personnel Officer, Northern Railway, Lucknow and restoring his original status on the post of Personnel Inspector with seniority above the respondent nos. 5 and 6 still hold good being passed in accordance with law and rules and as such they are liable to be restored.

7. DETAILS OF THE REMEDY EXHAUSTED:

The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc.

8. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

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The applicant further declares that he

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 of law or any other authority, Bench of the Tribunal and nor any such application, writ petition or suit is pending before any of them.

9. RELIEF SOUGHT:

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

- (a). This Hon'ble Tribunal be pleased to quash the orders contained in Annexure No. A-12 and A-16 passed by the respondent no. 2 and the orders passed by the respondent No. 3 in which the orders passed by the Additional Divisional Railway - Manager (T) are merged contained in Annexure Nos. A-11 and A-9 be up-held directing the respondent nos. 1 to 4 to treat the applicant as senior to the respondent nos. 5 and 6 in the cadre of Personnel Inspectors.
- (b). Cost of this application be awarded to the applicant.

G r o u n d s.

- Dehari*
- (a). Because the reversion order contained in

Annexure No. A- 5 having been passed in an illegal manner and without jurisdiction is no order in the eyes of law and on that basis the applicant cannot be deemed to have been reverted from the post of Personnel - Inspector.

- (b). Because the impunged order contained in Annexure No. A-12 having been passed at the back of the applicant is violative of Principles of Natural Justice.
- (c). Because the impunged orders passed by the respondent no. 2 contained in Annexure Nos. A-12 and A-16 are based on mis-interpretation and mis-application of rules.
- (d). Because the impunged orders passed by the respondent no. 2 are arbitrary and violative of Articles 14 and 16 of the Constitution of India.
- (e). Because the applicant has been made junior to respondent nos. 5 and 6 illegally and by ignoring the ~~xxx~~ relevant rules.

10. INTERIM ORDER, IF ANY PRAYED FOR :

Pending disposal of this application, this Hon'ble Tribunal be pleased ^{to} stay the operation of the impunged orders contained in Annexure Nos. A-12 and A-16 .

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11. PARTICULARS OF POSTAL ORDER IN
RESPECT OF APPLICATION FEE.

1. Numer of Indian Postal
Order.

11 55 2131
11 55 2132
11 55 2133
11 55 2134
11 55 2135

2. Name of the issuing
Post Office.

Jawahar Bhawan Bazar

3. Date of issue of
postal order.

21/12/89

4. Post Office at which
payable.

All India

12. LIST OF ENCLOSURES:


- 1). Photo stat copy of Printed Serial No. ^{6814-A} 8819. *6814-A*
- 2). Photo stat copy of Printed Serial No. ⁸⁸¹⁹ 6814. *8819*
- 3). Photo stat copy of Panel dated 30.7.1986 of
Personnel Inspectors.
- 4). Photo stat copy of application dated October, 86
of the applicant showing his refusal to work as
Personnel Inspector.
- 5). Photo stat copy of Notice No. 752E/2A/PI Selection
(Pt.II) dated 29.10.1986 issued by Senior Divisional
Personnel Officer, Northern Railway, Lucknow.
- 6). Photo stat copy of representation made by the
aggrieved staff against the reversion order of
the applicant.
- 7). Photo stat copy ^{of} letter ^{Dt 11-11-86} issued by the Assistant
General Secretary, All India Rlys. Ministerial
Staff Association against the reversion of the
applicant.

Lehlogi

- 8). Photo stat copy of application dated 24.11.86.
- 8). Photo stat copy of Notice No. 752E/2A/PI/
Selection dated 13.2.1987 issued under
the orders of A.D.R. (T) cancelling the
reversion order of the applicant.
- 9). Photo stat copy of joint representation
dated 23.2.1987 of respondent nos. 4 and 5.
- 10). Photo stat copy of Letter No. 752E/1A/PI/
Selection dated 19.9.1988 containing the
orders of the respondent no. 3 rejecting
the representation of respondent nos. 4 & 5.
- 11). Photo Stat copy of Letter No. 752E/1A/PI
Selection dated 15.11.1988 issued by the
Sr. Divisional Personnel Officer containing order
of
/the respondent no. 2.
12. Photo stat copy of Printed Serial No. 7126.
13. Photo stat copy of Printed Serial No. 8876.
14. Photo stat copy of applicant's representation
to the General Manager, Northern Railway,
~~xxxxxx~~ New Delhi.
15. Photo stat copy of Letter No. 752E/533/Pt.-II/
Loose EIID dated 23.2.1989 issued by S.P.O.
(PC) Northern Railway, Headquarters Office,
Baroda House, New Delhi.

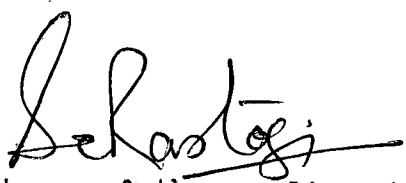
V e r i f i c a t i o n .

I, S.C. Rastogi, son of Sri Shyam Sunder Lal,

 aged 34 years, working as Personnel Inspector in the

Office of the Divisional Railway Manager,
Northern Railway, Hazratganj, Lucknow resi-
dent of 210/81, Bavarchi Tola, Chowk, Lucknow,
do hereby verify that the contents of para 1
to 12 of this application are correct to my
knowledge and belief and that I have not
supressed any material fact.

Date: -12-1989.
Place: Lucknow.


Signature of the applicant.

To,

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

In the Central Administrative Tribunal

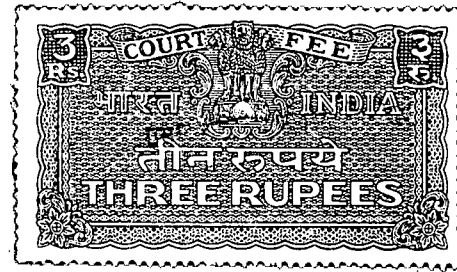
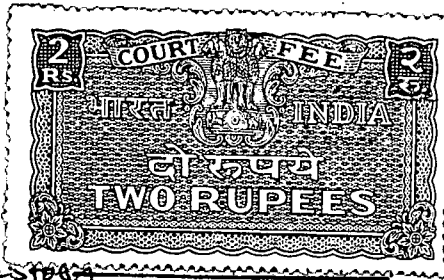
ब मकालत भीमान्

[गवी] वपीनाम्

प्रतिवादी [रेषाडेण्ड]

महोदय

वकालतनामा



S. C. Rastogi

वनाम

प्रतिवादी (रेखाडेण्ड)

नं० मुकद्दमा

सन्

पेशी की ता०

१२ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से थी

L. P. Shukla, Advocate

2700 Sector C Mahenagar

वकील

महोदय

एडवोकेट

LHO

नाम अदाकर्ता	नाम
मुकद्दमा नं०	
नाम फरीकशी	

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 पेशी व जबाब देही व प्रश्नोंत्तर करें या कोई कागज बाखिल करें या लौटावें या हमारी ओर से डिंगरी जारी करावे और रुपया वसूल करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से बाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई खर्चा करना करें या हमारी बिपक्षी (फरीकशानी) का बाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (वस्तुस्थिति) रसीद से लेवे या बंध नियुक्त करें—वकील महोदय द्वारा की गई यह सब कार्यवाही हमको सबंधा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पेशीकार को भेजता रहूंगा अगर मुकद्दमा अवम पेशी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समर्थ पर काम आवे।

हस्ताक्षर

S. C. Rastogi

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

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स्वीकृत

Naresh Kumar Shukla

183
ANNEXURE NO

A-1

P.S. No. 6814-A

No. 752E/111/Pt. V (Eiid).

Dt. 15th July 1977

Sub: Avenue of Promotion for Personnel Inspectors grade Rs. 425-640 (RS)

As per instructions contained in this office letter No. 752E/111/Pt. V/ Eiid dated 6.8.1964, a Senior Clerk after being promoted as personnel inspector and even after having been confirmed, is permitted to opt for the Ministerial side, as and when his turn falls for promotion as Head Clerk. This results in continuous out-flow of matured and experienced Inspectors. Taking into account the fact that with the coming in of the R.L.T. award, the job requirements of this post have become extremely technical :-

1. It has accordingly been decided in consultation with both the recognised Unions that the existing empanelled personnel Inspectors grade Rs. 425-640 (RS), who are working against the regular posts will be treated as finally opted for non-ministerial cadre i.e P. Is grade Rs. 550-750 (RS), unless they give in writing within one month of the date of issue of this letter un-quivocal terms and finally opt for the ministerial side.

2. However, if any options have already been exercised before or after their promotion as Head Clerk/Personnel Inspectors, no further chance will be admissible to the existing staff for exercising fresh option.

3. As for future, Sr. Clerk shall only be allowed to opt at the time of his promotion as Personnel Inspector/Hd. Clerk whichever falls earlier and the option will be treated as final for future advancements.

These orders should be implemented forthwith.

[Signature]

11th July 1977

Adm. Secy

ANNEXURE NO. A-2 19
3

NORTHERN RAILWAY.

Headquarter Office,
 Baroda House, New Delhi.

No. 752-E/III/Pt.VII Mid

The Divisional Railway Manager,
 ALD, BKN, DLI, FZR MB LKO & JU

Dated 27.9.85

P.S. No. 8817

The A.P.O/HQ

Sub: Promotion to the post of Personnel Inspectors
 grade Rs. 425-640(RS).

The Senior Clerks of 'P' Branch are at present allowed to opt at the time of their promotion as Personnel Inspector/Head Clerk which ever falls earlier and the option is being treated as final for all future advancements in terms of this office letter No. 752-E/III/Pt.V/Mid dated 15.7.77 (P.S. No. 6814/A)

2. The matter regarding exercising the option by the Sr. Clerks of 'P' Branch for promotion as P.I./HC has been discussed with the General Secretaries of both the recognised Unions in the informal meeting with OSD/IR held on 15.4.85 and it has been decided that Sr. Clerks gr. 330-560 (RS) (of Personnel Branch) will be asked to give their willingness for appearing in the selection for the post of P.I. gr. Rs. 425-640(RS) and a final option will be taken only after their empanelment and before promotion as P.I. The Head Clerks promoted on regular basis, will not be eligible for selection as P.I. gr. Rs. 425-640(RS). The Sr. Clerk who have been promoted as Head Clerks on adhoc basis or against short term leave vacancies, will, however, be eligible for selection to the post of Personnel Inspectors, if they so desire.

3. It may, however, be clarified that the Sr. Clerks who have been promoted as Head Clerks on provisional basis with effect from 1.1.84 as a result of restructuring orders in accordance with Railway Board's instructions contained in their letter No. 85E/SCT/dated 26.2.85 (P.S. No. 8688) will not be considered as adhoc promotees and thus will not be eligible for appearing in the selection of P.I.s gr. Rs. 425-640(RS) for the reasons that these provisional promotions as Head Clerks are not Adhoc Promotions and have been made in view of Interim orders of honourable Supreme Court. These are subject to final decision of the Supreme Court.

4. This has the approval of the C.P.O.

5. These instructions may be kept in view for strict observance while conducting the selections of P.I.s gr. Rs. 425-640(RS).

Attested/True Copy

Sd/-
 (M.P. Sharma)
 for General Manager(P)

Sefodas
 Advocate

A 3

ANNEXURE NO. 3

CONFIDENTIAL

No. 7552/11A/PI. Selection/Pt. II

Divisional Office,
Lucknow.

Dated 30.7.86

1/11/87,
(11)
(11).

Sub: Final option for the post of Personnel Inspector
grade Rs. 425-640(11).

In terms of P.S.No. 8619 the undernoted Senior Clerks who have been empanelled for the post of Personnel Inspector, grade Rs. 425-640(11), are requested to submit their final option for the post of personnel Inspector, grade Rs. 425-640(11) or submit their refusal for the cadre of Personnel Inspector latest by 7.8.86.

1. Shri B.V. Saini,
2. Shri C.K. Jais
3. Shri Jayanto Kumar Jais
4. Shri Jaganmohan Singh
5. Shri Mohd. Ismail
6. Shri S.S. Jais
7. Shri Arun Kumar

Sectional In-charges could ensure onward submission of final option/refusal to the competent authority latest by 7.8.86.

Amal Kumar

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To,

Divl Rly Manager
उत्तर रेलवे NORTHERN RAILWAY
N. Rly
Lko

ANNEXURE NO. A-4

With due respect I beg to say that
My wife is in a advance stage of prignency
and my father is about 75 yrs of age and
remains regularly sick and there is no
other mate member in the family to look after
them except me.

As I have been recently promoted
as PI gr Rs 425-640(Rs) and is having regular
outdoor duties due to which it has become
difficult for me to look after my family and
maintain the regular domestic affairs.

Under the Circumstances explain above
it is requested that my refusal to work as
PI may please be accepted and I may be
posted back to my parent department and
oblige In term of rule 2008-R II

Thank you

Yours faith fully
Schootog
PI-NRli Lko

Schootog

22
A/4
ANNEXURE NO A-5

NORTHERN RAILWAY.

No: 752 E/24/PI Selection (Pt.II).

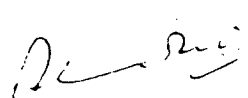
Divisional Office,
Lucknow, Dt/-29/10/86.

NOTICE.

The request of Shri S. C. Rastogi, P.I/Lucknow grade
B. 425-640 (RS) for reversion to his Sub Post as Sr. Clerk Grade
B. 330-560 (RS) is hereby accepted.

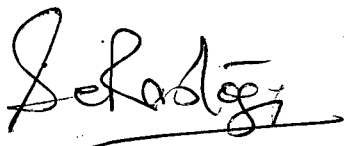
On reversion Shri S.C. Rastogi is posted with Shri S.P. Sibbal,
S.E.I.

The above has the approval of Sr. D.P.O.


for Sr. Divl. Personnel Officer,
Lucknow.

Copy for information and necessary action to :-

- 1) CPI/Adj Section/Lucknow. He will please spare Shri S.C. Rastogi to report to Supdt. 'E' at once.
- 2) SE-I.
- 3) Sr. DAO/Lucknow.
- 4) Supdt/Pay Bill.



TE


Divisional Railway Manager,
Northern Railway
Lucknow.

ANNEXURE NO. 4-6

Sir,

Reg. Reversion of Sri S.C. Rastogi from PI grade
Rs. 425-640 to sp clerk Rs. 330-560Rs.

Sri S.C. Rastogi Sr. clerk 'E' sec. was empane-

led for the post of 'PI' grade 425-640(Rs) with affect
from 30-7-86 and given final option on 4-9-86. It

has come to notice that the refusal of Sri Rastogi has
been accepted by the senior D.P.O. despite the facts

that Sri Rastogi had submitted his final option for the
PI cadre.

Acceptance of his refusal and induction to

wards the ministerial cadre is violative of the instruc-
tions contained in P.S. No. 8819 (Copy enclosed)

The orders dated 29-10-86 accepting the refusal
of Sri Rastogi be cancelled as they are not in confir-
mity with the extant rules and effected our promotion
from senior clerk to head clerk.

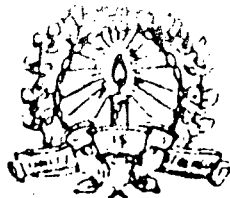
Thanking you.

Your faithfully

Attn: Secy
Mr. B. K. Sharma
Secy to Govt
Secy to Govt

Attn: Secy
Mr. B. K. Sharma
Secy to Govt
Secy to Govt

Attn: Secy
Mr. B. K. Sharma
Secy to Govt
Secy to Govt



ANNEXURE NO

A-7

ALL INDIA RLYS. MINISTERIAL STAFF ASSOCIATIONP.N. Tripathi
ACS/AIRMSA.

(A Constituent of AIREC)

(Regd. No. - 1832)

DIVISIONAL OFFICE
Hazratganj, LUCKNOW

Ref No... AIRMSA/HR/LAO/86.

Dated... 11-11-86

Dear Shri Aslam Mahmud,

Sub:- Reversion of Sri S.C. Rastogi from P.I.Gr. Rs. 425-640 (RS)
to Sr. Clerk grade Rs. 330-560 (RS).

...

The senior Clerks grade Rs. 330-560 (RS) affected from the reversion order of Shri S.C. Rastogi from the post of P.I.Gr. Rs. 425-640 (RS) to Sr. Clerk Gr. Rs. 330-560 (RS) have represented against the above order on the following grounds :-

1. That having been empanelled and spared for the post of P.I. Mr. Rastogi was asked to give his final option which he gave after careful consideration of his future prospects and liking of the job.
2. That soon after a month, he requested for his reversion to his parent cadre which was accepted by the administration without investigating the reasons of the reversion.
3. That after a lapse of 4 yrs. the selection of P.Is was materialised with great difficulty and soon after implementation, the reversion has caused a vacancy in the P.Is cadre which will again take years to be filled in.
4. That if things will be allowed to move in his fashion, it will be difficult to pull on the work of administration.

Under the above circumstances not only P.S. 8819 has been abused but the right to seek reversion, after completion and implementation of a difficult task of selection of P.Is has been misused against the administrative interest.

It is, therefore, requested that the orders passed for reversion may be re-examined and Mr. Rastogi should be forced to work as P.I. If he still presses for reversion, he should be asked to do so after completion of at least one year from the option he exercised for P.Is post.

With regards.

Shri Aslam Mahmud
A. D. R. M.

N. Rly. Lucknow

Yours sincerely,

(P.N. TRIPATHI)
Te

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To,
The Divisional Railway Manager,
Northern Railway,
Lucknow.

A-8
REFERENCE NO.

Reg:- Restoration to the Cadre of P.I. Grade
Rs 425-640(Rs).
.....

Respected Sir,

With due respect I beg to say that I was made eligible for appearing selection of P.I. on the ground of my option for the same and was selected as P.I. Scale Rs 425-640(Rs) on pannel issued on 30.7.86. I was promoted as P.I. and joined the P.I. Cadre on 30.7.86.

I gave my final option on the P.I. Cadre on 4.8.86 in terms of instruction contained in P.S.No. 6814 A and 8819. Subsequently I requested to revert me to Ministerial Cadre vide my application dated September 1986 on the grounds of family circumstances because I was not in a position to undertake the regular outdoor duties as P.I.

Now the family circumstances are normal because of successful operation of my father and delivery of my wife. Now I am in a position to perform the duties of P.I.

According to P.S. No. 6814 A and 8819 I opted for P.I. after placement of my name on the panel within a week, which is termed as final one, the revision order dated 29.10.86 is a nullity. In fact as the final option is not changeable under extant rules.

I, therefore, request your honour to restore me as P.I. after in scale Rs 425-640(Rs) within the frame of instructions contained in P.S.Nos 6814 A and 8819, the orders issued vide your office notice dated 29.10.86 being in violation of these instructions (P.S.Nos. 6814 A and 8819) and accordingly be treated as cancelled.

Thanking You in anticipation.

Yours faithfully,

Dated:- 24.11.86

Suresh Chandra Rastogi

(Suresh Chandra Rastogi)

Sn clerk

Est Sec. DRM Office.

N. Rly. Lko

Suresh Chandra Rastogi

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269

A-9

ANNEXURE NO

NORTHERN RAILWAY

NO: 752E/2A/PI/Selection.

Divisional office,
Lucknow: Dt. 13/2/1987.

NOTICE

The following orders are hereby issued to have immediate effect :-

- 1). In supersession to this office notice No. 752E/2A/PI/Selec. (Pt. II) dated 29.10.86, the reversion orders of Shri S.C. Rastogi are hereby cancelled. He is allowed to continue to work as Personnel Inspector in grade Rs. 425-640 (RS) /1400-2300 (new scale) and posted on Statement and PCDO seat vice Sri Janardhan Singh.
- 2). Shri Janardhan Singh, DPI presently working on Statements, PCDO seat is posted in Policy Sec. under BWLI/Union Cell.
- 3). Shri Arun Sharma and Raman Sharma, Personnel Inspectors are spared from Union Cell and posted in Adj. Section.

Item No. 1. has the approval of A.D.R.M. (T).

13/2/87

for Sr. Divl. Personnel Officer,
Lucknow.

Copy to :-

D.P.O., APO(I), APO(II),
SWLI(Union), CPI(Adj.), S.E. (I).
Supdt. (Pay Bill).
Sr. D.A.O./Lucknow.

.....

Schastogi

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A
H
ANNEXURE NO A 10

To,

The Divisional Railway Manager,
Northern Railway,
Lucknow

Respected Sir,

Sub:- Re-promotion of Shri S.C.Rastogi, Senior Clerk
in grade Rs.330-560(RS) as Personnel
Inspector during the refusal period.

Ref:- Your office notice no.752E/2A/PI/Selection
dated 13.2.87.

In reference to the above notice dated 13.2.87
we the undersigned Personnel Inspectors would like to
inform you that Shri S.C.Rastogi has been allowed
promotion during the refusal period with full benefits
of seniority, violating all the rules laid down on the
subject.

The facts of the case are as under:-

- 1) Shri S.C.Rastogi submitted his unequivocal
refusal after being promoted as PI which
was accepted by the railway administration.
- 2) Shri S.C.Rastogi was reverted to his parent
ministerial cadre and he worked as senior
clerk in grade Rs.330-560(RS).
- 3) Shri S.C.Rastogi challenged the orders of
following two grounds:-

S. C. Rastogi
Contd.../-

28

:2:

- (1) That he had given his final option in terms of PS No. 8319.
- (11) That the authority who accepted the refusal was not competent enough to accept it.
- 4) On the basis of the pleas forwarded by Smt S.C. Rastogi the reversion orders of Smt S.C. Rastogi were cancelled through notice dated 13.2.87 and he was promoted as Personnel Inspector giving him seniority on the basis of original panel position.

The following points should also have been considered while deciding the case:

- (1) A person who refuses promotion cannot be promoted before expiry of one year.
- 2) PS No. 7126 deals with the situations where refusal is made after working on non-fortuitous vacancy.
- 3) An employee can seek his reversion to his parent cadre at any time unless and until his lien is ~~anyway~~ suspended or transferred.

refusal in such cases and why the case was not processed for his acceptance.

- 5) Instructions contained in PS No. 8876 of 1976 have been kept into account while deciding the instant case, one thing is clear that Smt S.C. Rastogi submitted his resignation to the railways that an employee is eligible for promotion once he has accepted the refusal.

Sehest

any of the Divisional authorities/Zonal authorities are competent to reduce the period of refusal of one year.

In the circumstances explained above the promotion of Shri S.C.Rastogi after a period of five months on tendering a refusal is not supported by any rules.

Moreover, if the administration desires to cancel the notice dated 29.10.86 (by which his refusal was accepted) for the reason that it was issued by the authority who was not empowered to do so, then the rectification required was to the extent only to cancel the administrative orders of acceptance of refusal and as a corrective method the case should have been put up to the competent authority for acceptance of refusal. Instead of doing such a corrective action, Shri S.C.Rastogi has been promoted as Personnel Inspector within a period of one year of refusal and also allowed seniority from the original panel position.

It is not clear as to ~~know~~ how the refusal tendered by an employee can be declared to be null and void ~~void~~ when there is a wrong committed by the administration in acceptance of the refusal only.

In the light of the above mentioned facts, we request your honour to kindly cancel the notice dated 13.2.87 and further Shri S.C.Rastogi be promoted as

S. K. Singh
-R

:4:

Personnel Inspector after expiry of refusal
period of one year and he should be allowed seniority
from the date of re-promotion and not the original
panel position..

Submitted for your sympathetic consideration
please.

Dated: 23/2/87

Yours faithfully,

Arun Sharma

Raman Sharma

Raman Sharma

This representation was recd. by the Central registry
but till date we have recd. no intimation as to
what decision has been taken.

Kindly decide the matter as it has
been badly delayed and will affect our future
prospects of promotion.

Dr. 8/4/88

Schodig

Raman Sharma

(32) 31
4/9

Northern Railway
Divisional Office
Lucknow.

A-11
ANNEXURE NO

No.7521/1A/PI/Selection
19 Sept, 1988

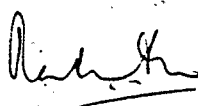
Shri Raman Kumar Sharma,
Personnel Inspector, Job Analysis,
Lucknow(In office).

Shri Arun Kumar Sharma,
Personnel Inspector, Vigilance,
Lucknow(In Office).

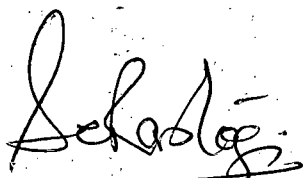
Subject:- Your joint representation dated 23.2.87 and April, 1988 against the re-promotion of Shri S.C.Rastogi, v.e.f. 13.2.87 as Personnel Inspector in grade Rs. 425-640(RS)/1400-2300(RPS).

Your joint representation dated 23.2.87 and April '88 against the re-promotion of Shri S.C.Rastogi in the cadre of Personnel Inspector in grade Rs.425-640(RS)/1400-2300(RPS) with full benefit of seniority have been considered by the Divisional Railway Manager, Lucknow, who has passed the following orders:-

" I do not see any reason to modify the decision taken by the then ADM(T) Shri Aslam Mahmud".


(RAHUL JHA)
for Divisional Railway Manager,
Lucknow.

Copy to:- Shri S.C.Rastogi, PI/PCDO/LKO in
reference to his application dated
28.4.88 and 12.9.88.



TE


Northern Railway

ANNEXURE NO

32
A-12

No: 752E/1A/PI Selection.

Divisional Office,
Lucknow, Dt/- 15/11/88

Shri Raman Kumar Sharma, PI, Job Analysis, LKO (in Office)
Shri Arun Sharma, PI (Confdl.), LKO (In office)
Shri S.C. Rastogi, PI (PCDO), LKO (In Office)

Sub: Reckoning of seniority in the cadre
of PI case of Shri S.C. Rastogi.

Ref: GM(P)'s letter No. 752/533/Pt.11/Loose/
EIID dt. 17.10.88.

In supersession to their office letter of even no. dated 19.9.88, it has been decided by the Chief Personnel Officer, Northern Railway that Shri S.C. Rastogi should be given seniority as PI from the date he rejoined as PI after facing reversion as a senior clerk in terms of instructions issued under PS No. 7126 and 8876.

Consequently on the aforesaid decision Shri S.C. Rastogi will rank junior in seniority to Shri Arun Sharma and Shri Raman Kumar Sharma.

Further Shri S.C. Rastogi will be entitled to the benefit in grade B. 425-640 w.e.f. 13.2.87 i.e. the date of rejoining as Personnel Inspector.

Rahul Jha

(RAHUL JHA)
Sr. Divisional Personnel Officer,
Lucknow.

Copy to:

1. GM(P), NDLS in ref. to letter cited above.
2. Divl. Secy. NRMU, LKO
3. Sr. DAO/LKO
4. Supdt. Pay Bill.
5. CPI (Adj)/LKO.

S. C. Rastogi

ANNEXURE NO

A-13

17

33

GM(F) letter No.83LE/63/2-XI(E-4) dated 20.10.78. PS No.7126.

Copy of Railway Board letter No.E(NG)1-76 PMI/80 dated 22.9.78.

Sub:- Regularisation of seniority and promotion of staff who seek voluntary reversion.

~~RECEIVED~~

Reference your letter No.P/R/14/309 dated 15.10.1983, it is clarified that with the issue of Board's letter No.E(NG)1-76 PMI/106 dated 15.12.71 their earlier letter No.E(NG)1-39PMI/69 dated 13.5.69 does not hold any ground and stands superseded. A person who refuses promotion or seeks reversion after some period stands debarred for promotion for one year. He would, however, loose seniority position below the persons who may be promoted from the panel to which he belongs during the period of one year when he stands debarred for promotion. He will, however, remain above the persons empanelled in the subsequent panel if any formed during this period of one year. But if an employee refuses promotion for the second time after the one period is over, he will have to appear again for a suitability test/selection for empanelment.

Schodg

(16)

34

ANNEXURE NO A-14

NORTHERN RAILWAY.

No. 831E/63-2VII(EIV)

Headquarters office,
Bhoda House, New Delhi

Dated 31.12.85

PS No. 8876

All DRMS and Extra Divisional officers.
FA&CAO, Director Audit, Dy. GPO(EQ) AS to GM

Sub: Effect of refusal of promotion on transfer-stoppage
of promotion of non-gazetted staff.

.....

In accordance with the instructions contained in Board's letter No. E(NG)PM-1-66 dated 21.1.65, circulated under this office letter No. 9-0E/O-III(EIV) dated 17.2.65 (PS No. 2854) the person, who refuses to carry out his transfer on promotion against selection post, is debarred for promotion for one year and the staff who had been promoted before his promotion after one year will stand senior to him. If he again refused to carry out transfer on promotion for the second time his name is : deleted from the panel and the administration may transfer him to outstation in the same grade. He will have to appear again for the selection for empanelment and promotion to that post.

On a question having been raised as to how the case wherein the staff after getting promotion against a selection post seek reversion, should be dealt with. The matter was referred to Rly. Board, who have decided that the above instructions are also applicable in case of staff, who seek reversion after having been once promoted against selection post.

9 ROSHAN LAL)
For General Manager(P)

Copy to,

1. Genl. Secretary, NRMU 166/2 Railway Banglow Panchsala Road New Delhi (20 copies)
2. Genl. Secretary, NRMU 12 Chemsford Road, New Delhi.

Schroder

In the Central Administrative Tribunal,
Circuit Bench, Lucknow.

O.A. No. 353 of 1989 (L)

S.C. Rastogi

...

Applicant.

Versus

Union of India & others ...

Respondents.

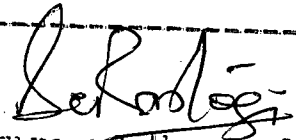
I N D E X.

S.No.	Particulars.	Page No.
1.	<u>ANNEXURE NO. A-1</u> Photo stat copy of Printed Serial No. 6814 A	18
2.	<u>ANNEXURE NO. A-2</u> Photo sat copy of Printed Serial No. 8819	19
3.	<u>ANNEXURE NO. A-3.</u> Photo Stat copy of Panel dt. 30.7.86 of Personnel Inspectors.	20
4.	<u>ANNEXURE NO. A-4.</u> Photo stat copy application moved by the applicant for repatriation.	21
5.	<u>ANNEXURE NO. A-5.</u> Photo stat copy of Notice dated 29.10.86 reverting the applicant from the post Personnel Inspector.	22
6.	<u>ANNEXURE NO. A*6</u> Photo stat copy of representation made by the staff against repatriation of applicant.	23
7.	<u>ANNEXURE NO. A-7.</u> Photo stat copy of letter dt. 11.11.1986 of the Asstt. General Secretary, All India Rlys. Ministerial Staff Association against the reversion of the applicant.	24
8.	<u>ANNEXURE NO. A-8.</u> Photo Stat copy of applicant's application dated 24.11.1986 for restoration of his status as Personnel Inspector.	25
9.	<u>ANNEXURE NO. A-9.</u> Photo Stat copy of Notice dated 13.2.1987 containing the orders of ADRM(T) and can- celling the reversion order of the applicant.	26
10.	<u>ANNEXURE NO. A-10.</u> Photo Stat copy of Joint representation dt. 23.2.1987 of the respondents no. 5 and 6.	27 to 30

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<u>S.No.</u>	<u>Particulars.</u>	<u>Page no.</u>
11.	<u>ANNEXURE NO. A-11.</u> Photo stat copy of letter dt. 19.9.88 containing the order of respondent no. 3 rejecting the representation of respondents no. 5 and 6.	31
12.	<u>ANNEXURE NO. A-12.</u> Photo Stat copy of Letter dt. 15.11.1988 containing the order of the respondent no. 2 by means of which the applicant has been made junior to respondent nos. 5 & 6.	32
13.	<u>ANNEXURE NO. A-13.</u> Photo Stat copy of Printed Serial No. 7126	33
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15.	<u>ANNEXURE NO. A-15.</u> Photo Stat copy of applicant's representation dated 8.12.88 to the General Manager, Northern Railway, New Delhi challenging the decision of respondent no.2.	35 to 36
16.	<u>ANNEXURE NO. A-16.</u> Photo stat copy of letter dt. 23.2.1989 of S.P.O.(PC), Northern Railway, New Delhi containing the decision of respondent no.2 rejecting the claim of the applicant.	37


Signature of the Applicant.

To,

The General Manager
Northern Railway
Baroda House,
NEW DELHI.

ANNEXURE NO A-15

Sir,

Subject: Assignment of Seniority in the Cadre
of Personnel Inspector Scale Rs.1400-2300
(NPS)/Rs.425-640(R.S.)

With due respect and humble submission I beg to appeal
as under for your kind consideration and favourable orders
please:

1. That while reviewing the case of seniority on the initiation
of Northern Railway mens Union, the Hd.Qrs. Office N.
Railway, Boarda House, New Delhi have passed orders
against the orders of the ADRM(T) & DRM N. Rly. Lucknow
without applying their own mind and viewing the case
history in proper perspective.
2. That the history of the case is as under:-

(i) That a penal of Personnel Inspector was formed
vide DRM/LKO letter No. 752E/IA/PI/Selection
dated. 30.7.86 and the following were placed
on the pannel in the order of seniority.

1. S/Shri B.V. Bajpai
2. S.N. Das
3. Jayanto Mukherjee
4. Janardan Singh
5. Mohd. Saghir
6. S.C. Rastogi
7. Arun Sharma
8. Raman Sharma

The final options were taken by the Lucknow Administration
after the promotion as P.I. accordance with P.S. No. 6814A
and 8819.

(ii) That S/Shri B.V. Bajpai, S.N. Das, J. Mukherjee
and Mohd. Saghir were put on sections as Sectional
P.Is in the Adj Section whereas Sri Janardhan
Singh, Arun Sharma and Raman Sharma were retained
in the Union Cell on stationary work of Clerks,
Sri S.C. Rastogi put on Factual job Analysis
team in the Adj. Section where he worked with
the entire satisfaction of his incharge.

(iii) That Shri S.C. Rastogi P.I. requested for stationay
job for a month in October 1986 on the ground
that his wife was in the advance stage of pregnancy,
and his only ailing old father admitted in K.G.
Medical College, Lucknow for eye operation and
was none else in his family to look after both
the patients, but then Sr. D.P.O. had no human
courtesy to consider his request favourably,
he was rather forced to seek reversion in the
interest of the lives of his patient members
of his family.

Sehoolas
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Contd...2/-

- (iv) That it was very surprising that the then Sr. D.P.O. ignored all humanitarian approaches and mercilessly accepted the reversion of Mr. Rastogi vide his order No. 752E/2A/PI/Selection date 29.10.86.
- (v) That his reversion evoked fresh protest by the effected senior Clerks S/Shri Chandreshwar Singh Alok Yagnik, Vipin Bihari and V.K. Balani, who represented to the Administration against his reversion on the authority and basis of the provisions contained in P.S. No. 8819, 6814A and 6211. Even the Assistant General Secretary, All India Railway Ministerial Staff Association wrote against his reversion supporting the contention of the effected senior Clerks who had represented against him.
- (vi) That soon after the trouble period of about a month was over, Sri Rastogi also Represented on 24.11.86 (within a month) against the reversion and restoration of his promotion as P.I. Thanks God that good sense prevailed and Sri Rastogi was restored as P.I. superceding the reversion orders of the Sr. D.P.O. by the then AERM(T) Sri Aslam Mahmud with clear orders of maintaining his original seniority of the panel vide notice No. 752E/2A/PI/Selection dated: 13.2.87.
- (vii) That not only restoration but the then learned ADRM(T) also ordered his posting on P.C.D.O. seat in the E. Section which was a stationary job without the request of the employee because his family troubles and ended and he was prepared for outdoor duties of his post.
- (viii) That S/Shri Arun Sharma and Raman Sharma the Jr. most P.Is of the same panel represented after one and a half year to the DRM against the restoration of the seniority to Sri Rastogi which was seriously examined by the learned D.R.M. Lucknow and order passed as under:-
"I do not see any reason to modify the decision taken by the then ADRM(T) Sri Aslam Mahmud".

3. That the N.R.M.U. Lko Division took up this case at Hd.Qrs. N.Rly. New Delhi level where they got the orders of DRM/Lko reversed under undue influence, I am sure if my case would have been examined by the Hd.Qrs. in a fair way, the decision would have gone in my favour.

1. That in addition to above facts I would also clarify that although I was reverted for a month but was put on assisting the Clerks of E-1 section in fixation of pay of employees in the revised scale as recommended by 4th C.P.C. and no honourarium was paid to me as paid to other clerks. Not only this I got my increments in the grade of PI i.e. 1400-2300 as original without effecting the reversion i.e. 1.7.87 and 1.7.88 And I got my pay between period 29.10.86 to 13.2.87 also in the scale of Rs.1400-2300. So actually orders of reversion were no doubt passed but were not actually implemented.

In the end I would humbly request your honour to kindly restore the orders passed by ADRM(T) Lko and DRM/Lko which are in accordance with the rules and based on natural justice.

Thanking you,

Dated: - 2-12-88

Yours faithfully,

(S.C. RASTOGI)
Personnel Inspector
DRM Office N.Rly.
LUCKNOW.

उत्तर रेलवे
NORTHERN RAILWAY

ANNEXURE NO

A-16

SECRET 99/100
Cont. 99/L

Headquarters Office,
Baroda House, New Delhi.

No. 752B/533/Pt.-II/Loose FIID.

Dated: 23-2-1989

Sub:- Assignment of Correct Seniority in the case of Shri
S.C. Rastogi P.I. /Lucknow.

Ref:- Your letter No. 961/101/Q/URMU/89 (R(Union) dated. 31.1.89.
...

The case of Shri S.C. Rastogi P.I. Grade Rs. 1400-2300 (RPS) Lucknow Division regarding assignment of his correct seniority was thoroughly examined in this office and it was decided by the Competent authority that Shri Rastogi should be given seniority as P.I. from the date he rejoined as P.I. after facing reversion as Sr. Clerk interms of instruction contained in P.S. No. 7176 and 8876. This decision was conveyed to LKO Division in Oct. 1988.

The decision is being implemented on LKO Division, the orders have already been issued to effect the recovery and to effect the increment of Shri Rastogi.

SPQ(U).

S. P. Q. (PC).

Copy to DRM/N.Rly/LKO in ref. to Sr. DFO's D.O. letter No. 752B/1-A/Pl-Selection dated. 16.2.89 to ensure an immediate action on the Hd.Qrs. decision in the case of Shri Rastogi, P.I.

S. Rastogi

...

ब अदालत श्री मान

वादी । मुद्दई ।

प्रतिवादी । मुद्दालय । का वकालतनामा

बनाम

वादी । मुद्दई ।

प्रतिवादी । मुद्दालय ।

नं० मुकद्दमा सन 19 पेशी की तारिख

19

ई०

उपर लिखे मुकद्दमा में अपनी ओर से श्री

रडवोकेट

महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा । इकरार । करता हूं । लिखें देता हूं । इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्न करेगा अन्य कोई कागज दाखिल करें या लौटा दें हमारी ओर से डिक्ली जारी करावें और खया वसूल करेगा सुलहनामा इकबाल दावा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करे या मुकद्दमा उठावें या कोर्ट में जमा करें या हमारी या विपक्ष । फरीकसानी । का दाखिल किया खया अपने या हमारे हस्ताक्षर युक्त । दस्तखती । रसीद से लेवेगा पंच नियुक्ति करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं भी यह कहता हूं । कि मैं हर पेशी स्वयं या किसी अपेरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरी वकील पर न होगी । इसलिये यह वकालतनामा लिख दिया कि प्रमाण रहें और समय पर काम आवें ।

साक्षी । गवाह ।

हस्ताक्षर

दिनांक

महीना

साक्षी । गवाह

नाम अदालत

नं० मुकद्दमा

नाम फरीकन

M. P. No. 48/91 (L)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O. A. No. 353 OF 1989 (L)

S. G. RASTOGI - - - - - APPLICANT

VERSUS

U. O. J. & OTHERS - - - - - RESPONDENTS

COUNTER REPLY ON BEHALF OF RESPONDENTS No. 1 To 4.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A. NO. 353 of 1989 (L)

M.P. No 48/914,

S.C. Rastogi Applicant

VERSUS

UNION OF INDIA & OTHERS - - - - Respondents

APPLICATION FOR CONDONATION OF DELAY IN FILING COUNTER
REPLY

The delay in filing counter reply is not intentional or
deliberate but due to administrative and bonafide
reasons which deserves to be condoned.

PRAYER

Wherefore, it ~~most~~ is most respectfully prayed that in
the interest of justice, delay in filing counter reply
may kindly be condoned and counter reply may be taken
on record.

Anil Srivastava
(ANIL SRIVASTAVA)
ADVOCATE
COUNSEL FOR RESPONDENTS

Lucknow:

Dated: 4th Feb, '91

*Recd Copy
C.A. No. 353 of 1989
4/2/91*

Xc

In the Central Administrative Tribunal,

Circuit Bench, Lucknow.

O.A. No. 353 of 1989 (L)

S.C. Rastogi

..... Applicant

Versus

Union of India and others

..... Respondents

COUNTER REPLY ON BEHALF OF RESPONDENTS NO. 1 to 4

I, Ram Swaroop working as Assistant Personnel Officer
in the office of Divisional Railway
Manager, Northern Railway, Hazratganj, Lucknow
do hereby solemnly affirm and state ~~on~~ as under:-

R
Filed today
5/2/91

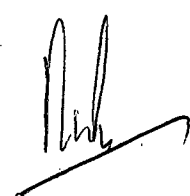
1. That the official abovenamed is working under the respondents and is fully conversant with facts and circumstances of the applicant's case and has been authorised by the respondents to file this counter reply on behalf of them.
2. That the contents of para 1 to 5 of the original application do not call for comments.
- 3x That reply to the contents of para 6 of the original application are as below:-

Rah

Contd.....2

3. That the contents of para 6(a) of the original application are admitted.

4. That the contents of para 6(b) and 6(c) of the original application are admitted. It is further submitted that PS No. 6814(A) and 8819 lay a guideline to be adopted at the time of making promotion of Sr. Clerks of 'P' Branch to the post of Personnel Inspector/Head Clerk. Since the Sr. Clerks of Personnel Branch may seek advancement in either of the streams namely personnel Inspector and Head Clerk in grade Rs. 425-640(RS)/425-700(RS) now revised to Rs. 1400-2300 (RPS), the General Manager (P), Northern Railway had framed specific directions through Printed Serial No. 6814(A) and further modified through PS No. 8819, according to which the senior Clerks of 'P' Branch were required to choose a particular line of advancement at the time of their promotion for the post of Personnel Inspector or Head Clerks, whichever falls earlier. In otherwords if a vacancy occurs in the category of Head Clerk, which is filled on seniority-cum-suitability basis, the senior most senior clerk of 'P' Branch is at liberty to seek advancement towards the post of Personnel Inspector thereby making a way for the next junior person for promotion to the post of Head Clerk. Subsequently, the provisions of PS No. 6814(A) were modified through PS No. 8819 to the extent that the senior clerk were required to give willingness at the time of selection for the



12

- 3 -

post of Personnel Inspector but were required to give final option after empanelment and before promotion as Personnel Inspector. In this way, the rule was liberalised to this extent that even after the empanelment as Personnel Inspector, a senior clerk could choose the line of advancement towards the Head Clerk side. So far the question of tendering a refusal after affecting the promotion on a selection post is concerned, the Railway Board's directions in this regard have been embodied under PS No. 7126, 8876 and 8425(A). Printed Serial No. 7126 and 8876 are the annexure No. A-13 and A-14 of the application. The PS No. 8425(A) is attached as Annexure No. R-1 to this reply.

5. That the contents of para 6(d) of the original application are categorically denied, as the facts have been twisted and manipulated by the applicant. An employee is always at liberty to seek reversion even after passing the selection and affecting higher grade promotion in view of his domestic and personal problems in terms of PS No. 7126, 8876 and 8425(A). The final options in accordance with the PS No. 8819 were called for on unequivocal terms to fix a proper line of advancement i.e. either towards Personnel Inspector side or Head Clerk side. The final option for the post of Personnel Inspector was to determine the specific line of progress i.e. Personnel Inspector, in order to set right his domestic problems, was in no way violative of PS No. 6814(A)

[Handwritten signature]

and 8819 and was in conformity with the provisions of PS No. 7126, 8876 and 8425(A).

6. That the contents of para 6(e) of the original application are admitted.

7. ^{in reply to} That/the contents of para 6(f) of the original application it is stated that a provisional panel for the post of Personnel Inspector in grade Rs. 1400-2300 (RPS) consisting of seven names was announced on 10.7.86 with the stipulation that one post of Personnel Inspector was kept vacant to be filled by a suitable person after finalisation of a Court case. A true copy of the Provisional panel dated 10.7.86 is attached as Annexure No. R-2 to this reply. In continuation to the panel dated 10.7.86 a final panel comprising of eight candidates was announced on 19.8.86 which is filed as Annexure No. R-3 to this reply.

8. That in reply to the contents of para 6(g) of the original application it is stated that the final options in terms of PS No. 8819 were called for only to fix the proper line of advancement for the empanelled candidates.

9. That in reply to the contents of para 6(h) of the original application it is stated that the applicant had tendered his final option on 12.8.86 and not on 4.8.86 (A true copy of his final option dated 12.8.86 is enclosed as Annexure No. R-4 to

Contd....5

(5)

⑤
this reply). This final option dated 12.8.86 which was
in accordance with the PS No. 8819 had ~~not~~ only
refrained the applicant to seek advancement
towards the post of Head Clerk and was ~~in~~ no
way a bar in seeking reversion to the post of
senior Clerk grade Rs. 1200-2040 (RPS) which was his
substantive post. The simple reading of PS No. 6814
(A) and 8819 reveals that there is a bar on lateral
induction from Head Clerk to Personnel Inspector and
vice-versa. It is further stated that the Personnel
Inspector can be posted anywhere in the Personnel Branch
and the applicant was posted in the factual job anal-
ysis team consisting of three Personnel Inspectors.
Further knowing fully well the implications of the
post, the applicant has willingly gave his final
option for the said post.

contd....6/-

on record to show that the request of grant of leave was even rejected. In fact the applicant had refused promotion after effecting the same through Annexure A-4 of the application and his action was in conformity with the laid down instructions. The applicant is trying to point a wrong picture in order to give strength to his concocted and manipulated story.

12. That the contents of paras 6(1) and (m) of the original application are not admitted as illegal. The refusal of the applicant to work as Personnel Inspector (Annexure A-4 of the application) was unequivocal and voluntary in order to manage the domestic affairs. The applicant was promoted as Personnel Inspector by the Sr. Divisional Personnel Officer, Lucknow and the Sr. DPO/LKO was the Competent authority to accept his refusal and reversion from the post of Personnel Inspector to that of senior clerk. Senior Divisional Personnel Officer, Lucknow was the appointing authority of the applicant and he has exercised his powers to accede to his voluntary reversion and refusal from the post of Personnel Inspector to the post of senior clerk. The action of the senior Divisional Personnel Officer, Lucknow was within his powers and jurisdiction. Once the applicant had himself tendered his refusal, he is stopped to challenge its validity now.

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P/4

- 2 -

13. That the contents of para 6(n) of the original application are misleading and as such are denied. The representation of the clerks of 'P' branch (Annexure A-6) of the application) and the letter of All India Ministerial Staff Association (Annexure No. 7 of the application) were not in accordance with the laid down instructions in view of the fact that the refusal of the applicant to work as Personnel Inspector in grade Rs. 425-840(RS) was accepted in accordance with the instructions contained in Printed serial No. 7126 and 8876 (Annexure No. A-13 and A-14 of the application).

14. That in reply to the contents of para 6(o) of the original application it is stated that the Annexure A-8 of the application was considered by the next higher authority ie. Additional Divisional Railway Manager (T), Lucknow in view of the fact that the request of seeking reversion and tendering refusal to work as Personnel Inspector was accepted by the appointing authority namely Senior Divisional Personnel Officer, Lucknow. The orders of the Additional Divisional Railway Manager (T), Lucknow were issued through Annexure A-9 of the application. In fact, the decisions of the Additional Divisional Railway Manager (T), Lucknow was not the final decision and as such the respondent No. 5 and 6 having been aggrieved from the decision of the Additional Divisional Railway Manager (T), Lucknow had represented to the next higher authority namely the

- 9 -

Divisional Railway Manager, Lucknow through their joint application dated 23.2.87 and relied upon the provisions of the Railway Board's directions which were communicated through General Manager(P), Northern Railway under printed serial No. 7126 and 8876.

It is absolutely incorrect to allege that the applicant was posted on the stationary post/PCDO in the Union Cell in the capacity of Personnel Inspector.

In fact there is no stationary post specifically meant for Personnel Inspector and the applicant while functioning as Personnel Inspector or PCDO/ Statement seat had been visiting to HQ's Office/New Delhi for submitting various statements as well as PCDO in each month. It is also worth while to indicate that after submitting the joint representation dated 23.2.87 (Annexure No. A-10 of the application) the respondent No. 5 and 6 had represented on 8.4.88, 18.4.88 and another application dated April '88 the applications dated 18.4.88 and April '88 of the respondent No. 5 and 6 are being annexed herewith as Annexure No. R-6 and R-7 to this reply.

15. That in reply to the contents of para 6(p) of the original application, it is stated that the respondent No. 5 and 6 were posted in Adjudication Section as per the requirement of the administration.

Contd.....9

-10 -

16. That in reply to the contents of para 6(q) of the original application, it is stated that the Railway employees are at liberty to make representation in order to seek redressal of their grievances and while doing so they may furnish the facts and seek some prayer. But it is always left to the Competent authority to decide the case within the framework of the existing rules.

17. That in reply to the contents of para 6(r) of the original application, as far as it is matter of record is admitted. Aggrieved by the order of Divisional Railway Manager as contained in Annexure No. A-11, the respondent No. 5 and 6 made their representation to even next higher authority i.e. to respondent No. 2 whose decision is contained in Annexure No. A-12 to this original application.

18. That the contents of para 6(s) of the original application are not admitted as alleged. The respondent No. 5 and 6 had every right to make their representation to respondent No. 2 and agitate the matter through their recognised union and the respondent No. 2 was the competent authority in the present case to decide such representation. A true copy of the letter No. NRMU/8/88 dated 20.9.88 representing the case of respondent No. 5 and 6 is enclosed as Annexure No. R-8 to this reply.

Contd.....10

The HQ's office on receipt of the Union's letter dated 20.9.88 had called for the comments of the Divisional Railway Manager vide letter No. 7528/523/Pt.II Eiid dated 20.9.88. A true copy of HQ's letter dated 20.9.88 is enclosed as Annexure No. R-9 to this reply. The HQ's office too had called for the relevant case in order to arrive at the correct decision and to sort out the controversy of the case. The DRM/LKO vide letter No. 752-E/1-A/PI/Sele. dated 23.9.88 had furnished the comments in ~~brief~~ brief and sent the relevant case file to HQ Office for decision. A true copy of DRM/LKO's letter No. dated 23.9.88 is being enclosed herewith as Annexure No. R-10 to this reply.

Further the Chief Personnel Officer, Northern Railway, New Delhi had decided vide letter No. 752E/533/Pt. II/Loose/Eiid dated 17.10.88 that the applicant should be given the seniority as Personnel Inspector from the date he rejoined as Personnel Inspector after facing reversion as a senior clerk in terms of instructions issued under PS No. 7126 and 8876. A true copy of letter dated 17.10.88 is attached to this reply as Annexure No. R-11 to this original application. The respondent No. 5 and 6 ~~had~~ ~~xxxx~~ ~~xxxx~~ not committed any illegality whatsoever as alleged and the respondent No. 2 has also passed the order as contained in Annexure No. A-12 to the original application strictly in accordance with the existing rules and instructions by the Railway Board.

hny

A/x

-- 12 --

The order contained in the Annexure No. A-12 to the original application is a perfectly valid, well reasoned and law ful order.

19. That in reply to the contents of para 6(t) of the original application, it is stated that the relevant case file was summarised and thoroughly considered by HQ's office and the CPO/NR/NDLS having gone through the notings and orders of the Divisional Authorities had decided to afford seniority to the applicant from the date he rejoined as Personnel Inspector. In fact the orders of the ADRM (T) in the relevant case file dated 11.2.87, which were communicated through Annexure -9 of the original application were found to be ~~xxxx~~ violative of the Provisions of PS No. 7126 and 8876. A true copy of the notings and orders of the ADRM/T dated 11.2.87 is attached as Annexure No. B- 12 to this reply.

20. That the contents of para 6(u) of the original application are false, misleading and as such are denied. The stipulations made by the Railway Board in GM(P)'s PSR No. 7126 and 8870 have statutory force and deal with such type of cases wherein the refusals are accepted even after affecting the promotions of selection posts. These specifications also deal with the consequential loss of seniority in the event of seeking voluntary

Contd...12

- 13 -

refusal/reversion. The case of the applicant was therefore decided by the CPO, Northern Railway correctly in true sense and spirit of PS No. 7126 and 8876. The guidelines framed by the GM(P), Northern Railway for ~~max~~ promotion to the post of PI or Head Clerk vide PS No. 6814 (A) 8819 only spell out the method for identifying a particular stream for the Sr. Clerks of 'P' branch at the time of their promotion as Personnel Inspector or Head Clerk whichever falls earlier.

It is further stated that the Sr. DPO, Lucknow was the appointing authority for the post of Personnel Inspector and as such he was the appropriate authority to consider the voluntary reversion and unequivocal refusal of the applicant as per rules.

21. That in reply to the contents of para 6(v) of the original application, it is stated that the applicant had got his case tabled in the PNM meeting at GM'S level under item No. 87/89 through URMU. The true copy of the agenda item No. 87/89 ~~through~~ of GM's PNM with the URMU is attached as Annexure No. R-13 to this reply. The detailed comments of the case were sent to HQ office through Sr. DPO/LKO's letter No. 752E/1-A/PI selection dated 16.2.89. A true copy of the letter dated 16.2.89 giving detailed a factual position of the case is enclosed as Annexure No. R-14 to this reply.

Contd.....13

8/3

22. That in reply to the contents of para 6(w) of the original application, it is stated that the Annexure No. A-16 of the original application is the internal communication of the facts in order to prepare the proposed reply for discussion with the Union in the PNM's forum and it was not the ultimate disposal of the demand of the Union as final decision was to be arrived at the PNM meeting after hearing the views of the Union. It is worth while to indicate that the said item No. 87/89 (dealing with the case of seniority of the applicant) is still pending for final decision of General Manager, Northern Railway.

~~That~~
223. That the contents of paras 6(x), 6(y) and 6(z) of the original application are categorically denied. Annexure No. A-16 is only internal communication and not a final order. Order as contained in the Annexure No. A-12 to the original application is a perfectly valid, legal and well reasoned order which has been passed strictly in accordance with existing rules and instructions of the Railway Board.


24. That the contents of paras 7 and 8 of the original application do not call for reply.

25. That in reply the ~~xxx~~ contents of paras 9 and 10 of the original application, it is stated that in view of the facts and circumstances stated

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hereinabove the present original application is devoid of merits and as such deserves to be dismissed with costs in favour of the answering respondents and against the applicant. The grounds mentioned are irrelevant, vague, illegal, misconceived and not applicable to the instant case.


Lucknow: Dated:
4th Feb-1991.


Asst. Personnel Officer
N. Rly. Lucknow.

V E R I F I C A T I O N

I, the official abovenamed do hereby verify that the contents of para 1 of this appzt reply is true to my personal knowledge and those of paras 2 to 25 of this reply are believed by me to be true on the basis of records and legal advice.

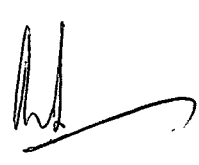
Lucknow: Dated:
4th Feb-1991.


Asst. Personnel Officer
N. Rly. Lucknow

certain difficulties being experienced on the divisions in implementation of this policy. After carefully considering various factors. It has been decided to lay down the following policy with immediate effect in supersession of the existing instructions mentioned above.

- (i) In terms of Railway Board's instructions circulated under this office letter No. 940E/O-III(Eiv) dated 22.10.71 (PS No. 5460) a system for registration of requests for transfer of employees for a particular station of their choice within the seniority units should be introduced, wherever this is not being done at present.
- (ii) The requests of staff for transfer to a particular station should be considered strictly in order of priority and existing procedure of transfer of staff on promotion in the ratio of 1:1 and instructions issued under PS No. 7297 should be despatched with.
- (iii) Employees refusing transfer on promotion in writing should be debarred for promotion for a period of one year for each refusal upto 2 years where-after the administration has a right to transfer him in the same grade in terms of Railway Board's instructions

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Before the Central Administrative Tribunal,
Circuit Bench, Lucknow.

O.A. No. 353 of 1987

S.C. Rastogi Applicant
Versus
Union of India and others Respondents.

Annexure No. R-1

Head Quarter Office,
Baroda House,
New Delhi.

No. 834-E/63/8-MU(EIV)

Dated: 3.11.88

All Divisional Railway Managers
and
Extra Divisional Railway Officers,
Northern Railway.

P.S. No. 8425-A

Sub: Filling up of vacancies in Headquarters and
Divisional Controlled post-policies regarding
transfer of staff on promotion.

Ref: This office letter No. 831-E/63/2-MU-Eiv
dated 17.8.78 and 30.5.79 circulated under
PS Nos. 7068A, 7269A and 7297.

The existing policy for filling up of
headquarters and Divisional controlled posts by
transfer on promotion has been under consideration
of this office for sometime past in view of

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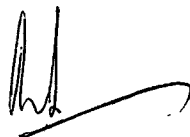


- 2 -

certain difficulties being experienced on the divisions in implementation of this policy. After carefully considering various factors. It has been decided to lay down the following policy with immediate effect in supersession of the existing instructions mentioned above.

- (i) In terms of Railway Board's instructions circulated under this office letter No. 940E/O-III(Eiv) dated 22.10.71 (PS No. 5460) a system for registration of requests for transfer of employees for a particular station of their choice within the seniority units should be introduced, wherever this is not being done at present.
- (ii) The requests of staff for transfer to a particular station should be considered strictly in order of priority and existing procedure of transfer of staff on promotion in the ratio of 1:1 and instructions issued under PS No. 7297 should be despatched with.
- (iii) Employees refusing transfer on promotion in writing should be debarred for promotion for a period of one year for each refusal upto 2 years where-after the administration has a right to transfer him in the same grade in terms of Railway Board's instructions

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circulated under this office letter No. 940/0
III(Eiv) dated 17.2.65 (PS No. 2854).

- (iv) It would, however, be left to the competent authority to entertained requests from staff for postponement of promotion for every short periods on account of domestic difficulties and other humanitarian considerations which should be limited to a maximum period of 4 months. The employees concerned should be promoted after that period if there is any vacancy and his seniority will be fixed only from the date of ~~xx~~ his promotion.

2. It, may please be ensured that the revised policy is brought into force immediately.

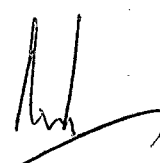
3. Please acknowledge receipt.

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Sd/-

(H.I. BHATTIA)
for General Manager (P)



O.A. No. 353 of 1987

X/8

S.C. Rastogi

..... Applicant

Versus

Union of India and others Respondents.

Annexure No. R-2

Annexure - R-2

2

NORTHERN RAILWAY.

No.752-E/EIA/P.I.Selection/nt.II

Divisional Office,
Lucknow.

Dated 10.7.86

NOTICE.

As a result of the selection held for the post of Personnel Inspector grade Rs.425-640(RG) on 12.4.86, 27.4.86 (Written test) and on 3.6.86 (Viva-Voce), the following candidates on being found suitable, are placed on the panel of Personnel Inspectors, grade Rs.425-640(RG). Their names are given below in accordance with their seniority:

1. Shri B.W. Dalpayee
2. Shri S.H. Dass
3. Shri Jayanto Mukherjee
4. Shri Janardan Singh
5. Shri Mohd. Saghir
6. Shri S.C. Rastogi
7. Shri Arun Sharma

The above panel is provisional and has the approval of the competent authority.

One vacancy has been kept for placement of a suitable person after decision in Writ Petition No. 255 of 1986 in Shyam Behari vs U.O.I & others before the Central Administrative Tribunal Allahabad.

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Attested

[Handwritten signature]

[Handwritten signature]
(ASIA)

Sr. Divisional Personnel Officer,
Lucknow.

[Handwritten initials]
10/7/86

Copy to:

1. CPT (Adj)
2. SE(V), (C)
3. Supdt. Mills
4. SUJI (Union)

Before the Central Administrative Tribunal,
Circuit Bench, Lucknow.

20

O.A. No. 353 of 1987

S.C. Rastogi

..... Applicant

Versus

Union of India and others Respondents.

Annexure No. R-3

NORTHERN RAILWAY.

No.752-E/B1A/PL.Selection/Pt.II

Divisional Office,
Lucknow.

Dated 19.8.86

NOTICE

S.No.2. In continuation of this office notice of even number dated 10.7.86, the following candidates on being found suitable in the selection held for the post of Personnel Inspector grade Rs.425-640(RS) on 12.4.86, 27.4.86 (written test) and on 3.6.86 (Viva-Voce) are placed on the panel of Personnel Inspectors grade Rs.425-640(RS). Their names are given below in accordance with their seniority:

1. Shri B.V. Baipai
2. Shri P.N. Dass
3. Shri Jayanto Mukherjee
4. Shri Janardan Singh
5. Shri Mohd. Saghir
6. Shri S.C. Rastogi
7. Shri Arun Sharma
8. Shri Ramakumar Sharma

The above panel is final and has the approval of the competent authority.

S.No.7618 All the above candidates from S.No.1 to 8 have submitted their final option for the post of Personnel Inspector, grade Rs.425-640(RS) in terms of P.S.No.8819.

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Copy to:

1. CPT (Adj),
2. S-II (U)
3. SE (C)

(R.K. T. DON)
Sr. Divisional Personnel Officer,
Lucknow.

O.A. No. 353 of 1987

S.C. Bastogi

..... Applicant

Versus

Union of India and others Respondents.

Annexure No. R-4

Annexure R-4

S.N.-301/82-2,00,000 Pds.

जी० एल० 19-ए'G.L. 19-A
जनरल 99 बिदा Genl. 99 Small

उत्तर रेलवे NORTHERN RAILWAY

Div 2 Rly Manager
N. Rly. Lko

Sub. Final option for the post of PS
grade Rs. 425-640(Rs)

In terms of your letter no.
752 E/EIA/PI Selection / P7 D dated
30.7.86. I hereby opt for the post
of PS gr. Rs 425-640(Rs)
Shankar.

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{ your faithfully
Sankar
P.1
12.8.86.

O.A. No. 353 of 1987

S.C. Rastogi

..... Applicant

Versus

Union of India and others Respondents.

Annexure No. R-5

ANNEXURE - R - 5

Railway Board's letter No E(G)85 FE-135 dated 5.4.84
Sub; Indian Railway Establishment Manual (including
Labour Laws) by L.L.J-and.

The Ministry of Railway desire that you may obtain
copies of the said book from the publishers direct for
reference/guidance etc.

.....

DUTIES OF PERSONNEL INSPECTOR

(Page No. 599 & 600 of Manual by Shri M.L.Jand)

Like WLIs, PIs also have very important duties to perform
and to make an establishment section work efficiently, they
can play a vital role. Their duties, interalia, relate to:

i) INSPECTORS(a) They should inspect all establishment
within their jurisdiction where establishment work is dealt
with to ensure that the records are maintained properly. They
may provide guidance to dealing staff of such units in
matters of rules and procedures.

b) They should inspect various register like CT, HOER,
Quarters, Rosters, Muster sheets, AVG, decategorised staff
casual labour engagement, seniority lists, confirmation
positions, requests for transfers etc.

ii) GRIEVANCES: They should arrange open court hearing of
HOD/GMs, receive, marshal and ensure disposal of grievances.

iii) FINAL SETTLEMENT : To ensure that names of staff due to
retire are published, the papers got ready, the service
books updated and final settlement dues paid to staff in time.

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iv) HOER AND LIRM (a): To ensure correct implementation of various provisions of HOER(b) provision and proper utilisation of LRs and RGs, (c) Check on OT, (d) Job analysis for determining proper classification of staff under HOER(e) deal with representations/Complaints to LFO and under CIRM.

v) PNM : Prepare remarks against PNM agenda and ensure disposal and proper action on decisions taken in PNM Meeting.

vi) COURT CASES : To watch progress of court cases of 'P' Branch to collect material and frame remarks, consult law officer/Rly. Advocate and take timely action.

vii) SENSITIVE CELLS: To make such cells dealing with grievances sensitive categories.

viii) RESERVATION: To ensure that reservations for SC/SIs backward Communities, Sports/Cultural/Scouts quotas are done properly to help in compassionate appointment.

ix) MISCELLANEOUS : To assist their officers in the work as may be allotted to them from time to time.

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.....



Before the Central Administrative Tribunal,
Circuit Bench, Lucknow.

24

O.A. No. 353 of 1987

S.C. Rastogi

..... Applicant

Versus

Union of India and others Respondents.

Annexure No. R-6

To
The Divisional Railway Manager,
Northern Railway,
Lucknow.

Respected Sir,

Subject:- Wrong promotion of Shri S.C. Rastogi
during the period of reversion.

Reference:- Our representation dated 23.2.87.

A detailed representation was submitted by us
on 23.2.87 to the then Sr.DPO/LKO stating the
facts of wrong promotion of Shri S.C. Rastogi
as PI during the period of reversion. All the
rules on the subject were also referred and it
was requested that decision be taken keeping
in view the extant rules.

Despite our personal chasing and written reminders
we regret to ~~representative~~ inform you that our
representation dated 23.2.87, has not been dealt
with till date. It is requested that our represen-
tation be finalized and the outcome be intimated
to us.

A copy of the representation dated 23.2.87 is
again enclosed for your ready reference please.

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Thanking you,

Yours faithfully,

Raman Sharma

Raman Sharma

Dated: 18.4.88

Arun Sharma.

Arun Sharma

To,

The Divisional Railway Manager,
Northern Railway,
Lucknow.

Respected Sir,

Sub:- Re-promotion of Smt S.C. Rastogi, Senior Clerk
in grade Rs.330-560(R) as Personnel
Inspector during the refusal period.

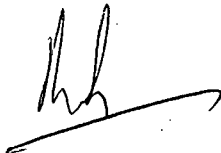
Ref:- Your office notice no.7524/2A/PI/Selection
dated 13.2.87.

In reference to the above notice dated 13.2.87
we the undersigned Personnel Inspectors would like to
inform you that Smt S.C. Rastogi has been allowed
promotion during the refusal period with full benefits
of seniority, violating all the rules laid down on the
subject.

The facts of the case are as under:-

- 1) Smt S.C. Rastogi submitted his unequivocal
~~XX~~
refusal after being promoted as PI which
was accepted by the railway administration.
- 2) Smt S.C. Rastogi was reverted to his parent
ministerial cadre and he worked as senior
clerk in grade Rs.330-560(R).
- 3) Smt S.C. Rastogi challenged the orders of
~~XXXXXXXX~~ acceptance of his refusal on the
following two grounds:-

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- (1) That he had given his final opinion in terms of P. No. 8413.
- (11) That the authority who accepted the refusal was not competent enough to accept it.
- 4) On the basis of the plea forwarded by Smt S.C. Bastogi the reversion orders of Smt S.C. Bastogi were cancelled through notice dated 13.2.27 and he was promoted as Personnel Inspector giving him seniority on the basis of original panel position.

The following points should also have been considered while deciding the case:

- 1) A person who refuses promotion cannot be promoted before expiry of one year.
- 2) P. No. 7126 deals with the situations where refusal is made after working on non-fortuitous vacancy.
- 3) An employee can seek his reversion to his parent cadre at any time unless and ^{with} ~~unfit~~ his lien is ~~discontinued~~ suspended or transferred.
- 4) Who is the competent authority to accept the refusal in such cases and why the case was not processed for his acceptance.

5) Instructions contained in P. No. 8876 should also have been kept into account while deciding this case. In the instant case, one thing is quite clear that

Smt S.C. Bastogi submitted his refusal. There are no rules on the railways that an employee can withdraw his refusal on for promotion once it is on the official records and neither

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any of the Divisional authorities/zonal authorities are competent to reduce the period of refusal of one year.

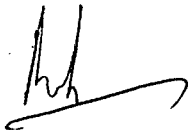
In the circumstances explained above the promotion of Shri S.C.Rastogi after a period of few months on tendering a refusal is not supported by any rules.

Moreover, if the administration desires to cancel the notice dated 29.10.86 (by which his refusal was accepted) for the reason that it was issued by the authority who was not empowered to do so, then the rectification required was to the extent only to cancel the administrative orders of acceptance of refusal and as a corrective method the case should have been put up to the competent authority for acceptance of refusal. Instead of doing such a corrective action, Shri S.C.Rastogi has been promoted as Personnel Inspector within a period of one year of refusal and also allowed seniority from the original panel position.

It is not clear as to ~~how~~ now the refusal tendered by an employee can be declared to be null and void ~~void~~ when there is a wrong committed by the administration in acceptance of the refusal only.

In the light of the above mentioned facts, we request your honour to kindly cancel the notice dated 13.2.87 and further Shri S.C.Rastogi be promoted as

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Personnel Inspector after expiry of refusal period of one year and he should be allowed seniority from the date of re-promotion and not the original panel position.

submitted for your sympathetic consideration please.

Dated: 23/2/87

Yours faithfully,

Arun Sharma

Raman Sharma

Raman Sharma

This representation was recd. by the Central registry but till date we have recd. no intimation as to what decision has been taken.

Kindly decide the matter as it has been badly delayed and will affect our future prospects of promotion.

Dr. 8/4/88

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Wh

Raman Sharma

O.A. No. 353 of 1987

S.C. Rastogi

..... Applicant

Versus

Union of India and others Respondents.

Annexure No. R-2

The Civil Railway Manager,
Northern Railway,
Lucknow.

1/Sir,

Sub:- Wrong promotion of Shri S.C. Rastogi
as P.I. violating the rules on the
subject.

Ref:- Our representation dated 23.2.87.
.....

Shri S.C. Rastogi has been re-promoted as P.I.
grade 1.425-640(15) through notice No.752-E/C/PI/Selection
dated 13.2.87 by misinterpreting the instructions contained
in PS No.6814 A and 8319.

In this connection it is stated that the PS No.(814A
and 8319 deals with the option to be exercised by the empanel-
led PI's for further advancement either to PI's cadre or to
the post of Head Clerk and it bans the lateral induction
from PI to Head Clerk.

No where in both the circulars it is mentioned
that the empanelled PI cannot seek his reversion to his
substantive cadre of senior clerk. The case of Sh. S.C.
Rastogi should have been dealt with in terms of PS No.7126,
8376. Further even if the promotion was to be deferred for
short period then the instructions contained in PS No.8425-
should have been complied with.

But in the instant case no rules were followed or
mentioned when the case was put up to the competent
authority and the case was badly twisted simply to give
benefit to Shri S.C. Rastogi.

The instant case should have been dealt on proper
footings keeping in view PS No.7126 and 8376.

PS No.7126 reads as under:-

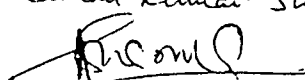
" A person who refuses promotion or seeks reversion
after some period stands debarred for promotion for one year.
He would, however, lose seniority position below the persons
who may be promoted from the panel to which he belongs during
the period of one year when he stands debarred for promotion."

Keeping this into account Sh. S.C. Rastogi shall rank
junior to us because he had tendered unequivocal refusal,
has been reverted to his substantive cadre and has worked as
senior clerk in grade 1.330-560(15). He should be allowed
seniority from the date of joining as PI w.e.f. 13.2.87 as his
promotion was deferred for a period less than 4 months in
terms of PS No.8425(A).

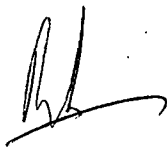
Submitted for your information and orders please.

Dated: /4/1988.

Yours faithfully,

Raman Kumar Sharma


True copy
ATTACHED



Central Administrative Tribunal,
Circuit Bench, Lucknow.

O.A. No. 353 of 1987

S.C. Rastogi

..... Applicant

Versus

Union of India and others Respondents.

Annexure No. **L-8**

Amicus

L-8

Tele: 81-2601 (Rly)
352623 (P & T)



Northern Railwaymen's Union

Registered Recognised & Affiliated to : A. I. R. F. & H. M. S.

CENTRAL OFFICE :
12, CHELMSFORD ROAD,
NEW DELHI-110055

Dated 20.9.1986

Ref. No. NRMU/ 8/88

The General Manager
Northern Railway
Baroda House
New Delhi

Sub: Irregular re-promotion of Shri S.C. Rastogi as
Pl/ Gr. Rs. 425-640(RS) and determination of
unlawful seniority

Dear Sir,

This issue was discussed by the Divisional Secretary,
Lucknow with DRM formally but he did not agree for any change
in his order.

In terms of PS Nos. 6814A & 8819 Staff having exercised
final option seeking advancement to the cadre of Personnel
Inspectors could not be allowed to go back to Ministerial
Cadre and seek advancement. One Shri S.C. Rastogi was
empanelled as Pl on Lucknow Division and after exercising
his final option he was promoted as Pl/Gr. Rs. 425-640(RS) on
19.8.86.

Shri Rastogi refused his promotion as P.I. and sought
reversion in Clerical Cadre putting his specific request
therefor, due to his domestic reasons and he was reverted
as Senior Clerk Estt./Gr. Rs. 1200-2040/- vide DM Lucknow's
Notice No. 752-E/2A/Pl Selection Pt. II dt. 29.10.86 to his
substantive post in Ministerial Cadre that is of Senior Clerk.

Since Shri S.C. Rastogi was reverted as Sr. Clerk Estt./
Gr. Rs. 1200-2040(RPS) on his own request the question of his
re-promotion to the post of Pl/Gr. Rs. 425-640(RS) should have
not arisen in terms of PS Nos. 71 26 and 8876. But in violation
of these specific provisions of rules he was re-promoted vide
Notice No. 752-E/2A/Pl/Selection Pt. II dt. 13.2.87 i.e. within
a spell of 3 months and 15 days, and in doing so Lucknow Divn.
has also allowed reckoning of original panel seniority to
Shri S.C. Rastogi which is beyond all cannons of justice.

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O.A. No. 353 of 1987

S.C. Rastogi

..... Applicant

Versus

Union of India and others Respondents.

Annexure No. R-9

Annexure R-9

G.D. CHATURVEDI
S.P.O. (PC)

NORTHERN RAILWAY
HEADQUARTERS OFFICE
BARDA HOUSE
NEW DELHI.

D.O.No. 752E/533/Part.II/EtID. Dated: 20.9.1988.

My dear Jha,

Sub:- Irregular promotion of Shri S.C. Rastogi,
as P.I. grade B. 425-640 (PS) and determi-
nation of unlawful seniority.

A copy of General Secretary/NRMU's letter No.8/88 dated 20.9.1988 is sent herewith for furnishing full comments and advising factual position of the case. It is also requested that the relevant case may also be sent alongwith your comments as it has been indicated by the Union that they would like to discuss this issue in the opening speech of the ensuing PNM meeting at GM's level to be held on 29/30.9.1988.

Yours sincerely,

(G.D. Chaturvedi)

Shri Rahul Jha,
Sr.DPO/N.Rly.,
Lucknow.

Read through Sh. Pathak
CEG Khallasi of NRMU on
date

Dispositive
8/11/88
21/9/88

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Sh. M. may kindly
the unions letter
noted by the RST (especially the
para) after which
it will be processed.
21/9/88

21/9

321

S.C. Rastogi

..... Applicant

Versus

Union of India and others Respondents.

Annexure No. R-10

Annexure R-10

BE

NORTHERN RAILWAY.

No:752-E/1-A/P.I.Selection

Divisional Office,
Lucknow, dated 23.9.88

The General Manager(P),
Northern Railway,
Headquarters Office,
Bareda House,
New Delhi.

Recd
26/9/88
E U D

Sub:- Promotion of Shri S.C.Rastogi and determination of his seniority.

Ref:- S.P.O.(PC)'s D.O.letter No.752-E/533/Pt.II/BIID dated 20.9.88.

Kindly refer to your letter referred to above. Brief facts of the case are given as under:-

Shri S.C.Rastogi was selected as P.I. grade B.425-640 (RS) on 19.8.86 and was at Sl.No.6 of the above panel. S/Sri Arun Sharma and Raman Sharma were at Sl.No.7 and 8 respectively. After working as P.I. for 3 months and 12 days he requested for reversion as Senior clerk in grade B. 330-560(RS) which was accepted by the then Sr. D.P.O.

Thereafter he again requested for promotion as P.I. in grade B. 425-640(RS) on the plea that he had given a final option for the ~~xxxx~~ cadre of P.I. The request was examined and the then A.D.R.M.(T) decided that since he had given a final option as P.I. he was not authorised to give his refusal to work as P.I. and therefore acceptance of his refusal to work as P.I. was not in order. Hence he was promoted as P.I. and original seniority restored.

On a representation from S/Shri Arun Sharma and Raman Sharma this case was examined again and the D.R.M. up-held the decision taken by the then A.D.R.M.(T).

As desired the relevant case file No.752-E/1-A/P.I. Selection containing thirty five serial numbers and sixteen PPs is also being sent herewith.

DA/As above.

(Jagwant Rai)
for Divisional Railway Manager,
Lucknow.

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[Signature]

O.A. No. 353 of 1987

S.C. Rastogi

..... Applicant

Versus

Union of India and others Respondents.

Annexure No. R-11

~~Annexure No. X~~

Annexure R-11

37

NORTHERN RAILWAY

Headquarters Office,
Baroda House,
New Delhi.

No. 752-E/533/Pt.II/Loose/B11D.

Dated: 17 Oct., 1988.

The Divl. Rly. Manager,
Northern Railway,
Lucknow.

Sub:- Promotion of Shri S.C. Rastogi and
determination of his seniority.

Ref:- Your office letter No. 752-E/1-A/
P.I. Selection dated 23.9.88.

The case has been thoroughly examined and
it has been decided by C.P.O. that Shri S.C. Rastogi
should be given seniority as P.I. from the date he
rejoined as P.I. after facing reversion as a Senior
Clerk in terms of instructions issued under P.S.No.
7126 and P.S.No. 8876.

Lucknow division's case No. 752-E/IA/P.I. Selection
containing thirty five serial numbers and sixteen PPs
is returned herewith.

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ATTESTED

DA/As above.

(G.D. Chaturvedi)
for General Manager(P).

[Signature]

.....

O.A. No. 353 of 1987

S.C. Rastogi

..... Applicant

Versus

Union of India and others Respondents.

Annexure No. R-12

Annexure ~~XIV~~ R-12

PP-2

No. 752 E/ I/ PI/ Selection

Sub: Personnel Inspectors in grade,
R. 425-640 (RS) - request of
Shri SC Rastogi, Sr Clerk,
Personnel branch

Shri SC Rastogi, while working as Sr Clerk, in grade R. 330-560 (RS), on the basis of his option was considered for the post of Personnel Inspector in grade R. 425-640 (RS). He was declared suitable in the panel issued on 30.7.86. He joined PI cadre on 30.7.86. He also gave his final option on 4.8.86 to work as PI, through his application at SI-1.

Shri Rastogi, requested that his refusal to work as PI may be accepted in view of his family circumstances. His request was accepted and through office order dated 24.10.86, Shri SC Rastogi, PI in grade R. 425-640 (RS) was reverted to the post of Sr Clerk in grade R. 330-560 (RS).

Now, through his application dated 24.11.86, at SI-5, Shri Rastogi has requested for restoring him as PI in grade R. 425-640 (RS) as his family circumstances have now normalised and he is in a position to undertake the duties of a Personnel Inspector.

According to PS 8819 (copy at SI-3), it is laid down that Sr Clerks in grade R. 330-560 (RS) belonging to Personnel branch are to be asked to give their willingness for appearing in the selection for the post of Personnel Inspector in grade R. 425-640 (RS) and a final option is to be taken only after their empanelment and before promotion as PI. Shri SC Rastogi, was empanelled as PI on 30.7.86 and he gave his option for PI on 4.8.86 in terms of PS 8819. In other words, once the Sr Clerk has given his option for the post of PI after empanelment as PI, his option will be final and irrevocable.

Further, in terms of PS 6814-A, the existing empanelled PIs in grade R. 425-640 (RS), who are working against regular posts will be treated as finally opted for the non-ministerial cadre of PI in grade R. 425-640 (RS). This PS further states that if a person had already exercised his option before or after his promotion as PI, no further chance will be admissible to him for exercising fresh options.

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[Signature]

उत्तर रेलवे NORTHERN RAILWAY

PP-3

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It would be seen from the foregoing paragraphs that Shri SC Rastogi, after functioning as PI for a few months, was not authorised to give his refusal to work as PI. He had already opted for the post of PI and he was not in a position to refuse. Therefore, office order No. 7524/11/PI/Selection(Ft.II) dated 29.10.86 issued for accepting the refusal of Shri SC Rastogi, to work as PI was not in order.

It is, therefore, decided as under :-

- a) Shri SC Rastogi, should continue to work as PI in grade Rs. 425-640 (RS);
- b) He should be paid in grade Rs. 330-560 (RS) during the period he did not work as PI;
- c) Shri Rastogi, will maintain the seniority of the panel on which his name had appeared as PI; and
- d) Shri Rastogi, will be entitled to grade Rs. 425-640 (RS) from the date he rejoins as PI.

ASLAM MAHMUD
ADAR/T
11.2.87

He is to work vice Shri
Dhanwan who is posted
in policy section. Shri Raman and
Shri Afreen will go back to ADD section -
11.2.87

Sr DFC

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Kindly sign the notice as stated attached

AP O/G

13/2

PP-4

Reg:- S.Nos.11 and 13.

S/Shri Raman Kumar Sharma, PI/Job Analysis, and Arun Sharma, PI/Vig have jointly represented through S.Nos 11 and 13 against the re-promotion of Shri S.C.Rastogi as PI in grade Rs.425-640 (RS). The representationists have quoted PS No. 7126,8876 and 8425-A, copies placed at S.Nos. 17,16 and 15 respectively, in support of their claim.

The full facts of the case, besides comments on the various rules referred in this case from place to place, are given below in chronological sequence:-

- (1) A final panel of PIs(Consisting of 8 staff) in grade Rs.425-640(RS) was announced on 19.8.86;
- (2) Following 8 staff were placed on this panel;
 - (i) Shri B.V.Bajpai,
 - (ii) Shri S.N.Dass
 - (iii) Shri Jayanto Mukherji
 - (iv) Shri Janardan Singh
 - (v) Shri Mohammad Saghir
 - (vi) Shri S.C.Rastogi
 - (vii) Shri Arun Sharma
 - (viii) Shri Raman Sharma
- (3) This panel was notified/operated/ exhausted on the same date i.e. 19.8.86;
- (4) Shri S.C.Rastogi, who was number 6 on this panel had tendered an unequivocal refusal, some time after 19.8.86 and prior to 29.10.86(S.No.1 and 2), for the post of PI in grade Rs.425-640(RS);

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PP-5

- (5) While tendering unequivocal refusal for the post of PI in grade Rs.425-640(RS), through S.No.1, Shri S.C.Rastogi had quoted rule 20098-PII for seeking reversion in the cadre of Sr.Clerk in grade Rs.330-560 (RS);
- (6) The request of Shri S.C.Rastogi, for reversion to the post of Sr.Clerk in grade Rs.330-560(RS), was acceded to and a notice was issued to this effect through S.No.2 ;
- (7) A plain reading of the refusal of Shri S.C.Rastogi(at S.Nos2) will clearly reveal that he had sought his reversion owing to the certain domestic problems;
- (8) In compliance to the notice dated 29.10.86 (at S.No.2), Shri S.C.Rastogi had joined as Sr.Clerk in grade Rs.330-560(RS) on 29.10.86 and did not function as Personnel Inspector in grade Rs.425-640(RS) till 13.2.87(Notice at S.No.7);
- (9) After some time, Shri S.C.Rastogi, through his application dated 24.11.86, placed at S.No.5 having endorsement of the then Sr.DPO, had given a re-thought and requested for cancellation of reversion order. This time, he had placed reliance on the provisions of PS No.6814-A and 8819 in order to press his demand.
- (10) The case of Shri S.C.Rastogi was then put up to the then ADRM(T), through office note at PP-1, who had considered his request in the light of P.S.Nos.6814-A and 8819 and decided(at PP-3) as under:-
- " (a) Shri S.C.Rastogi, should continue to work as PI in grade Rs.425-640(RS);
- (b) He should be paid in grade Rs.330-560(RS) during the period he did not work as PI;
- (c) Shri Rastogi, will maintain the seniority of the panel on which his name had appeared as PI;

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Contd..PP-6

PP-6

(d) Shri Rastogi, will be entitled to grade Rs.425-640(RS) from the date he joins as PI;

(11) It appears from the notings and orders at PP-2 and PP-3 that while deciding the case of Shri S.C.Rastogi, under paras(a),(b) (c) and (d) at PP-3, the then ADRM(T) had confined his study only to the provisions of PS No.s 6814-A and 8819(copy placed at S.No.3 and 4) and had completely lost sight of another parameter of rule, which is known, in the books/terminology of 'P' branch as "effect of refusal on promotion."

(12) The decisions of the then ADRM(T) has now been challenged by the affected PIs at S.Nos.11 and 13, who have referred the PS No.7126,8876 and 8425-A in their joint representation.

(13) Since the case has become controversial, it would be in the fitness of the things to analyse the case afresh in the background of complete set-up of rules.

(14) Printed serial No.6814-A, copy placed at S.No.4, is a circulation from GM(P)/N.Rly under letter No.752F/III/Pt.V(EIId) dated 15.7.77. Amongst other things, para 3 of PS No.6814-A is relevant and runs as under:-

" As for future, Sr.Clerk shall only be allowed to opt at the time of his promotion as Personnel Inspector/Head Clerk which ever falls earlier and the option will be treated as final for future advancements."

(15) The provisions enunciated under para 3 of PS No.6814-A lay down the principles for future selections(subsequent to 15.7.77 i.e. after the date of issue of PS No. 6814-A) for the post of PI in grade Rs. 425-640(RS) laying emphasis that the options, once exercised would be final for future advancements.

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Contd..PP-7

- (16) PS No.8819(copy placed at S.No.3), which is also a circulation from GM(F)/N.Fly., bearing No.752F/III/Pt.VII-EIID dated 27.9.85 and was an outcome of an informal meeting with the General Secretaries of both the Unions, further modifies the earlier stipulations(of PS No.6814-A) to the extent that ;

Operative portion of
Para 2 of PS No.8819:-

"The matter regarding exercising the option by the Sr.Clerk of 'P' branch for promotion as PI/Hd.Clerk has been discussed with the General Secretaries of both the recognized Unions in the informal meeting with OSD/IR held on 15.4.85 and it has been decided that Sr.Clerk grade Rs.330-560(RS)(of Personnel branch) will be asked to give their willingness for appearing in the selection for the post of PI grade Rs.425-640(RS) and a final option will be taken only after their empanelment and before promotion as PI."

- (17) While resorting to the selection for the post of PI in grade Rs.425-640(RS), the aforementioned formalities were observed and only those Sr.Clerks in grade Rs.330-560(RS) were considered in the field of eligibility, who had given their willingness for the post of PI in grade Rs.425-640(RS). Further, all the eight incumbents on the panel had tendered their final option after the notification/promotion issued on 19.8.86.

- (18) The provisions of PS Nos. 6814-A and 8819, were well known to the administration as well as to the incumbents on the panel of PI. Even then, Shri S.C.Rastogi, due to the compelling personal domestic problems, had submitted his unequivocal refusal(S.No.1) and sought reversion for maintaining lien/posting as Sr.Clerk in the parent cadre (Rule 200/8-RII);

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(19) In view of the embargo (i.e. option once exercised will be final) embodied under PS No. 8819, it was not open, in any view of the matter, either for the administration or for Shri S.C. Rastogi to violate the laid down bar.

(20) At this juncture, it would be very pertinent to make study on this issue, as to whether an employee can seek reversion to his substantive post even after performing duty for some time on the post for which he was selected. And if so, what sort of consequential loss, he will suffer?

(21) Regarding treatment of refusals, being tendered by the employees after affecting their promotions, following specifications are available in Rly. Bd's letter No. F(NG) 1-76PMI/90 dated 22.9.78, docketed under GM(P)/N.Rly, PS No. 7126, given below (operative portion) in ad verbum:-

"A person who refuses promotion or seeks reversion after some period stands debarred for promotion for one year. He would, however, lose seniority position below the persons who may be promoted from the panel to which he belongs during the period of one year, when he stands debarred for promotion. He will, however, remain above the persons empanelled in the subsequent panel, if any formed during the period of one year."

(22) On a question having been raised before the Rly Board, which was in connection with the 'effect of refusal' on the event of seeking reversion (obviously after some time) after affecting promotion against a selection post, the speaking orders of Rly. Bd have been communicated under PS No. 8876, which is reproduced below in verbatim:-

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"In accordance with the instructions contained in Bd's letter No. F(NG)PM-1-66 dated 21.1.65, circulated under this office letter No. 940F/O-III (FIV) dated 17.2.65 (PS No. 2854) the person, who refuses to carry out his transfer on promotion against selection post, is debarred for promotion for one year and the staff who had been promoted before his promotion after one year will stand senior to him. If he again refused to carry out transfer on promotion for the second time his name is deleted from the panel and administration may transfer him to outstation in the same grade. He will have to appear again for the selection for empanelment and promotion to that post.

"On a question having raised as to how the case wherein the staff after getting promotion against a selection post seek reversion, should be dealt with. The matter was referred to Rly Bd, who have decided that the above instructions are also applicable in case of staff, who seek reversion after having been once promoted against selection post."

- (23) while laying down the principles in respect of "effect of refusals" for short period, para(iv) of P.S. No. 425-A, copy placed at S.No. 15, explicitly makes the situation crystal clear as under:-

"It would, however, be left to the competent authority to entertain requests from staff for postponement of promotion for every short periods on account of domestic difficulties which should be limited to a maximum period of 4 months. The employees concerned should be promoted after that period if there is a vacancy and his seniority will be fixed only from the date of his promotion."

- (24) It is, therefore, evidently clear that while deciding the fate of Shri S.C. Rastogi, in the analysis made by him at PP-2 and 3, the then ADRM(T) had inadvertently lost sight of aforementioned aspect i.e. "effect of refusal on promotion."

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(25) In this regard, it would not be out of place to mention about another set-up of directions, which have been laid down under Rly. Bd.'s letter No.E(NG)1-73-PMI/120 dated 2.2.74, circulated under PS No.6211. The copy is placed at S.No.18.

(26) Summing up all the factors of the case, it may kindly be seen that,

i) It was not open for Shri S.C.Rastogi, who was a P.I. at LKO, to seek reversion in view of the embargo provided in P.S. Nos 6814-A, 8819 and 6211.

ii) The competent authority, i.e. Sr.DPO, setting aside the application of reversion, must have initiated action under D&AR in view of the fact that, apart from the domestic problems, the escape of Shri S.C.Rastogi, from the duty of PI, ought to have been taken as refusal to duty.

iii) The competent authority i.e. Sr.DPO had accepted the request of Shri S.C.Rastogi in consonance with the clear cut provisions of PS Nos.7126 and 8876, which deals with the identical cases to that of the case of Shri S.C.Rastogi, and further ADRM(T) had allowed him promotion as PI bringing the whole issue automatically under the purview of para(iv) of PS No.8425-A, which deals with the consequential loss of seniority for deferring promotions for a short period i.e. 4 months.

iv) PS Nos. 6814-A, 8819 and 6211 may be kept in one set while PS Nos 7126, 8876 and 8425-A may be kept in another set for comparison. These two sets do not have any cross referencing of any PS of either set and also no where refrain or preclude the competent authority for accepting the refusal. In other words, as embodied under para(iv) of PS No.8425-A, it was the prerogative and judgement of the competent authority in accepting the refusal of Shri S.C.Rastogi (from one year period to a span of less than 4 month's period) for the post of PI.

(27) In view of the circumstances enumerated in foregoing paras, it may be concluded that whence the provisions of PS No.6814-A, 8819 and 6211 were not allowed to perpetuate in favour of Shri S.C. Rastogi; in order to consider his domestic problems, the another framework of rules namely PS Nos.7126, 8876 and 8425-A will have to be observed in true sense and spirit in order to afford the natural justice to the next juniors on the panel.

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(28) It was Shri S.C. Rastogi, who had enjoyed the discretion of the Competent authority i.e. Sr.DFO in order to set right his domestic problems and as such it would be Shri S.C. Rastogi, who will have to face the consequential loss of seniority as he had submitted his unequivocal refusal and had sought reversion.

(29) It is reiterated that the then ADRM(T) while making observations at PP-2 and 3 of this file, did not keep the provisions of PS Nos.7126, 8876 and 8425-A in view, although, his decisions under(a), (b), (c) and (d) have, automatically, fallen within the ambit of para(iv) of PS No.8425-A.

(30) A close examination of the orders, passed by the then ADRM(T) at PP-3 will reveal that the orders contained under Para(b) and (d) run contrary to what had been decided under para(c). In other words, how he (Shri S.C. Rastogi) could be allowed to maintain the seniority of the panel on which his name had appeared as PI (para-c) especially when, he was to be paid in grade Rs.330-560 (Sr.Clerk) during the period he did not function as PI (para-b) and none so when he was made eligible for grade Rs. 425-640 (RS) "from the date he joins as P.I."

(31) A very pertinent question arises as to how Shri Rastogi can be allowed original seniority on the panel of PI, when he had functioned as Sr.Clerk in grade Rs.330-560 (RS) and was not paid as PI after the acceptance of his refusal. As per orders of the then ADRM(T) (para-d), the date of re-joining in the cadre of PI was going to make him entitle as PI in grade Rs.425-640 (RS).

As such, Shri Rastogi will reckon his seniority in the cadre of PI in grade Rs.425-640 (RS) from 13.2.87 (S.No.7) and will be fitted below Shri Raman Kumar Sharma in terms of PS Nos.7126, 8876 and 8425-A.

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contd....

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The arguments put forth by the representationists at S.Nos.11 and 13 have, therefore, full strength and as such the matter may kindly be reviewed at the level of DEM as the earlier orders of the then ADM(T) were passed by him inadvertantly owing to the non-availability of PS Nos. 7126, 8876 and 8425-A on this file.

Submitted for orders please.

Amul 26/4/83
E6/1

SE-(TV)

27.4.83

A.P.O. (P)

D.P.O.

Sr.D.P.O.

A.D.R.M.(T)

D.R.M.

As a matter of fact, Sri SC Katagi was senior to s/Sri Ram Sharma, and Naman Sharma in the category of P1. Grade Re. 425-640 (P.S) according to merit position. He sought his reversion from the post of P1 to Sr clerk vide his application at EN/1 His request for the same was accepted vide EN/2 by the then ADM(T) as per P-3. On his subsequent request placed at EN/4 to 6 he had been allowed to continue as as P1. Wef 13-2-87 vide M's office notice at EN/7. Sri Katagi was not on bill as P1 for the period from 29-10-83 to 13-2-87

In terms of PS 8876 (EN.16) the case of Sri SC. Katagi, P1, should be dealt with like refusal on promotion. According to PS 8425A, it would however be for the competent authority

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h

18/04

To entertain request from staff for postponement of promotion for every short periods on account of domestic difficulties and other humanitarian considerations which should be limited to a maximum ^{period of} 4 months. The employees concerned should be promoted after that period if there is a vacancy and his seniority will be fixed only from the date of his promotion.

Since Shri S. C. Rastogi has been re-promoted as P.1. in Scale Rs 145-640 (PS) wef. 13-2-87 and as such he will be assigned seniority in the category of P.1. from this date only.

For orders please

DFO

Sr DFO

ADRO(T)

~~ADRO~~

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I agree with the ...
... of ... However, ...
... on 17-3-87 ...
... self ...

Sr DFO - P.1. ...

[Signature]

20/5/88

[Signature]

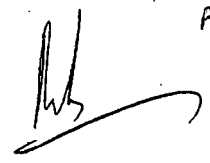
[Signature]

14/5/88

ADRO(T) ...

The decision taken by the then NDRH(T), ^{vide PP-3} had not taken into account the provisions contained in Railway Boards letter circulated vide PS 8876 ^(SN 16) & PS 7126 (SN 17).

These PSs provide for reversion after having been once promoted. Hence the contention that a person after functioning as a P.I for a few months was not authorized to give his refusal to work as P.I does not appear to be tenable. In such cases, the effect of refusal on promotion has to be applied as mentioned in PS 8876 & PS 7126. Shri Kestogi would therefore lose seniority for the period 29.10.86 to 13.2.87 and the employees promoted prior to 13.2.87 would rank senior to him in the category of P.I.

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Since the original
decision was taken by the then
ADRM (T), vide PP-3, DRM may
kindly see.

12/8/88 ADRM(T)

DRM -

Sr P 800 pl. decision

12/8/88
DRM

[Sr P 800]

Discussed with Sr P 800. I do
not see any reason to modify the
decision taken by the then ADRM(T)
in ABLam Mahomed.

13/7/88
DRM

Please reply accordingly to the 13 + 12.

13/9/88

SE-1r

SL No 32

True copy
attached

In reference to above order SL No 32
is put up for signature please, if approved
on leave.
L.D.

1998

O.A. No. 353 of 1987

48

S.C. Rastogi

..... Applicant

Versus

Union of India and others Respondents.

Annexure No. R-13

1281 GM PNM item No. 87/88

Annexure R-13

Sub: Assignment of correct seniority in the case of Sh. S.C. Rastogi, P.I., Lucknow.

A panel of P.I. was formed in LKO DM and circulated under DM, letter No. 752-E/IA/PI/selection dt. 30.7.88 and the eight selected P.I.s were assigned certain jobs out of this lot Sh. S.C. Rastogi was fixed as a member of the Factual Job Analysis team.

Sh. Rastogi requested for stationary duties for one month in view of his wife being in an advanced stage of pregnancy and his old father to undergo an operation in K.C. Medical College, LKO, during Oct. 1986. His request was turned down by Sr. DFO, LKO and he was asked to seek reversion. The poor fellow, was compelled to apply for reversion and it was accepted on 29.10.86. After having undergone the family ordeals, he applied for his reinstatement as a P.I. on 24.11.86 i.e. within a month. The reversion orders issued by the Sr. DFO, LKO were set aside by ADM, LKO with explicit orders of the maintenance of his original seniority as a P.I. under his letter No. 752-E/2A/PI/selection dt. 13.2.87 and he was posted on P.C.D.O. in E. Section, which was a stationary job, while he was prepared even for outdoor assignments. During, 1988, some P.I.s represented against his restoration with seniority and DM, LKO regretted this representation.

- 22 -

(87/89 Continue)

Thereafter NRM raised this matter at HQ level and the orders of ADM as well as those of DM, LKO were reversed. It would further be of interest to mention here that Sh. Rastogi had been paid as a P.I. during his period of reversion as he was put in P Br. P.C. Cell for fixation of pay of employees as a result of 4th Pay. Commission recommendations and he was also not paid any honorarium for which other sr. clerks were entitled and paid. He was also granted annual increment on the due date according to his original empanelment as P.I. These factors prove that Sh. Rastogi was reverted only on papers and the said reversion was never affected physically.

The Union would discuss this matter in the GM PNM meeting to ensure justice to Sh. Rastogi.

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[Handwritten signature]

O.A. No. 353 of 1987

49

S.C. Rastogi

..... Applicant

Versus

Union of India and others Respondents.

Annexure No. R-14

Northern Railway

Rahul Jha
Sr.D.P.O.

Divl.Rly.Manager's Office
Lucknow

D.O No. 752-E/1-A/PI Selection. Dated: 16/2/89

My dear Chaturvedi,

Sub: Assignment of correct seniority in the case of
Shri S.C. Rastogi, PI, Lucknow.

Ref: Your DO No. 752E/533/Pt-II/Loose E11D dated 9.2.89

As desired through your D.O. under reference, the factual position of this case is given below in chronological sequence:-

- (1) A final panel of PIs, consisting of following 8 staff, in grade Rs. 425-640(RS) was announced on 19.8.86;
 - (i) S/Shri B.V. Bajpai
 - (ii) S.N. Dass
 - (iii) Jaganat Mukherjee
 - (iv) Janardan Singh
 - (v) Mohammed Saghir
 - (vi) S.C. Rastogi
 - (vii) Arun Sharma
 - (viii) Raman Kumar Sharma
- (2) This panel was notified/operated/exhausted on the same date i.e. 19.8.86. Regarding conduct of the selection, it is pertinent to indicate that the willingness of Sr. Clerks in Grade Rs. 330-560(RS) were called for and final options were taken after the announcement of the panel in accordance with the directions embodied under PS No 8819 ;
- (3) Shri S.C. Rastogi, who was number 6 on this panel, had tendered an unequivocal refusal some-time after 19.8.86 (the date on which the panel of PI was operated) and prior to 29.10.86 (the date on which his reversion was accepted) for the post of PI in grade Rs. 425-640(RS). A photostat copy of his unequivocal refusal is enclosed herewith as Annexure-I.
- (4) After sometime, Shri S.C. Rastogi, through his application dated 24.11.86 (Annexure-II), had given a rethought and requested for cancellation of reversion orders. This time, he had placed reliance on the provisions of P.S. No. 6814-A and 8819 in order to press his demand.
- (5) The case of Shri S.C. Rastogi was then considered by the then ADRM(T), who had considered his request in the light of P.S. No. 6814-A and 8819 and decided as under:-
 - (a) Shri S.C. Rastogi, should continue to work as PI in grade Rs. 425-640(RS);
 - (b) He should be paid in grade Rs. 330-560(RS) during the period he did not work as PI;
 - (c) Shri Rastogi will maintain the seniority of the panel on which his name had appeared as PI ;

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Contd..2..

- (d) Shri Rastogi will be entitled to grade Rs. 425-640(RS) from the date he joins as PI ;
- (6) Since the seniority of Shri S.C. Rastogi was not lowered down, the affected PIs namely S/Shri Arun Sharma and Raman Kumar Sharma, who were at item No.7 and 8 respectively in the panel of PI, had represented to DRM against the orders of the then ADRM(T). The representationists had quoted P.S. No.7126,8376 and 8425-A in support of their claim.
- (7) The case of S/Shri Arun Sharma and Raman Kumar Sharma was analysed in the light of P.S. No.7126,8376 and 8425-A (Copy of relevant Pps-4 to 16 is enclosed as Annexure-III) but the DRM did not modify the orders of the then ADRM(T).
- (8) The decision of DRM was communicated to the representation endorsing a copy of Shri S.C. Rastogi, through letter No. 752E/1A/PI/Selection dated 19.9.88(Annexure-IV).
- (9) Thereafter, S/Shri Arun Sharma and Raman Kumar Sharma have got their case agitated to GM/N.Rly through the General Secretary/NRMU.
- (10) This correspondence item was dealt with at HQ's level under letter No.752E/533/Pt-II/E 11D dated 20.9.88 and the relevant case file of this office was summoned to HQ's office.
- (11) On the basis of facts and merit of the case, the matter was examined at HQ's level and CPO's decision was communicated to this office through letter No. 752-E/533/Pt-II/1008/E11D dated 17.10.88. Accordingly, all the PIs namely S/Shri Arun Sharma, Raman Kumar Sharma and S.C. Rastogi were intimated with the CPO's decision through this office letter No. 752E/1A/PI selection dated 15.11.88(Annexure-V).
- (12) Now, the URMU have agitated for assignment of seniority to Shri S.C. Rastogi through item No.87/89 of GM/FNM
- (13) So far the question of payment as PI in grade Rs. 425-640 (RS)/1400-2300(RPS) and drawal of increment as PI, during the period of reversion i.e. from 29.10.86 to 13.2.87, is concerned, the then ADRM(T) had decided that:-
" He should be paid in grade Rs.330-560(RS)during the period he did not work as PI ".
- (14) The position in this respect has been examined and it is noticed that neither the recovery of excess payment was made nor the date of increment was differed due to clerical negligence. Accordingly, the orders have been issued to affect the recovery and to differ the increment.

With best wishes,

Yours sincerely,

(Rahul Jha)

Shri G.D. Chaturvedi,
S.P.O(PC), N.Rly.,
Headquarters Office,
Baroda House,
New Delhi.

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ATTESTED

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

Cir O.A. No. 353 of 1989 (L).

S.C. Rastogi _____ Applicant.

Versus

Union of India & others _____ Respondents.

REJOINDER TO THE COUNTER REPLY FILED ON
BEHALF OF RESPONDENTS NO. 1 to 4.

I, S.C. Rastogi, aged about 36 years,
son of Sri Shyam Sunder Lal, presently working
as ~~Assistant~~ Personnel Inspector in the Office
of the Divisional Railway Manager, Northern -
Railway, Lucknow, do state as under :-

1. That the abovenamed is the applicant
in the above case and as such is fully conversant
with the facts. He has read and understood the
contents of the Counter reply filed on behalf of
respondents no. 1 to 4 and files this rejoinder
as follows :-

2. That the contents of para 1 of the counter
reply call for no remarks.

3. That the contents of para 2 of the counter
reply do not call for any reply.

Filed today

cyu

11/12

Jm

A/III

4. That the contents of para 3 of the counter reply call for no remarks.

5. That the contents of para 4 of the counter reply, in so far as they are matter of records, are not denied. The printed serials referred to in the para under reply are self explanatory to the instructions issued on the subject.

6. That the contents of para 5 of the counter reply, as stated, are denied and the averments made in para 6(d) of the application are ~~xxx~~ reiterated. It is further respectfully submitted that the submissions of the respondents are mis-leading and against instructions available on the subject.

7. That the contents of para 6 of the counter reply call for remarks.

8. That the contents of para 7 of the counter, ^{reply} in so far as they are matter of records, are not denied. It is, however, submitted that on 30.7.1986 the respondents had issued a panel of 7 candidates calling upon them to submit their options finally for the post of Personnel Inspector. The respondents, in the para under reply, have stated nothing about the said panel dated 30.7.1986 which is Annexure No. A-3 to the application.

9. That in reply to contents of para 8 of the counter reply, it is stated that the options were called for from the selected candidates

in terms of instructions contained in Printed Serial No. 8819 (Annexure No. A-2).

10. That the contents of para 9 of the counter reply, which are matter of records, are not denied. Rest are denied as stated.

It is further respectfully submitted that the applicant, for reasons and circumstances mentioned in para 6(j) of the application filed before this Hon'ble Tribunal, had personally met with respondent no. 4 with the request to post him on some stationary post for the time being like other Personnel Inspectors namely ~~S~~ Shri - Janardan Singh and respondents no. 5 and 6, who were recently promoted alongwith the applicant, or in the alternative grant him one month's leave. The request of the applicant was not acceded to by the respondent no. 4; and as such, he preferred an application (Annexure No. A-4) showing his inability to work on the said post of Personnel Inspector to the respondent No. 3 for his consideration and orders. The respondent no. 3 was the superior authority, who had approved the Pannel of Personnel Inspectors or in his behlf, it was approved by the Additional Divisional Railway - Manager, Northern Railway, Lucknow, who was also superior to respondent no. 4. The respondent no. 4, without bring^{ing} the matter to the notice of the respondent no. 3 or the Addl. Divisional Railway - Manager and without taking ~~his~~ their approval, passed the Order dated 29.10.86 (Annexure No. A-5) of applicant's reversion, which was without juris-

dition and that is why, the said order of reversion was cancelled by the Additional Divisional Railway Manager (T), Northern Railway, Lucknow vide Annexure No. A-9 to the original application and the representation (Annexure No. A-10) of respondents no. 5 and 6 was rejected by the respondent no. 3 vide Annexure No. A-11 to the original application when the full facts came to their notice. Had it been a case of reversion legally in order, the applicant would have not been promoted on the said post of Personnel Inspector within one year by order dated 13.2.1987 (Annexure No. A-9) that is after about three and half months. The validity of the said order dated 13.2.1987 (Annexure No. A-9), as a whole, has not been challenged by any respondent. Last Paragraph of Printed Serial No. 8876 (Annexure No. A-14 to the application) is self explanatory of the fact that the reversion order of the applicant was illegal and as such the instructions in the said Printed Serial were not followed by the respondents on restoring his original status.


11. That the contents of para 10 of the counter reply are denied as stated and the averments made in para 6(i) of the application are reiterated. The duties of Personnel Inspectors, as shown in Annexure No. R-5 to the counter reply, being the matter of record, are not denied.

12. That in view of averments made in para 10 of this rejoinder, the averments

~~of~~ para 11 of the counter reply are denied and the facts mentioned in paras 6(j) and 6(k) of the application are reiterated. It is further respectfully submitted that averments of paras 6(j) and 6(k) relate to personal knowledge of respondent no. 4 and as such, they must have been replied to on the basis of personal knowledge.

13. That the contents of para 12 of the counter reply, as stated, are denied and the averments made in paras 6(l) and 6(m) of the application are reiterated. The full facts have already been mentioned in para 10 of this rejoinder, which are further reiterated.

14. That the contents of para 13 of the counter reply are self contradictory, ~~and~~ misleading and wrong, hence they are denied and the averments made in para 6(n) of the application are reiterated.

 15. That the contents of para 14 of the counter reply, which are contrary to the facts mentioned in para 6(o) of the application, are denied and the averments made in para 6(o) of the application are reiterated. It is further respectfully submitted that the applicant was reverted from the post of Personnel Inspector by an illegal order passed by the respondent no. 4 without jurisdiction. It is further submitted


mitted that the representation of the respondents no. 5 and 6 was also rejected by the respondent no. 3.

16. That the contents of para 15 of the counter reply call for no remarks.

17. That the counter reply of the respondents in respect of para 6(q) of the application is evasive; and as such the averments made in the said para of the application stand admitted by the respondents.

18. That the contents of para 17 of the counter reply call for no remarks.

19. That the contents of para 18 of the counter reply, as stated, are denied and the averments made in para 6 (s) of the application are reiterated.

 It is further respectfully submitted that the impugned order contained in Annexure No. A-12 and A-16 as well as order contained in Annexure No. R-11 to the ~~rejeinder~~ counter reply have been passed behind the back of the applicant and without being given him an opportunity of showing cause. Moreover, the said orders are not speaking orders ^{whereas} the order by ~~means~~ means of which the original status of the applicant was restored, which has been filed by the respondents as Annexure No. R-12 to their

counter reply, is self indicative of its being a reasoned and speaking order.

29. That the contents of para 19 of the counter reply are wrong and misleading, hence they are denied. The impunged orders have illegally been passed without due application of mind rather under the pressure and influence of the Union. The orders, by which the applicant is aggrieved, are self explanatory of their being non speaking orders.

21. That the contents of para 20 of the counter reply, as stated, are vehemently denied and the averments made in para 6(u) of the application are reiterated. It is further submitted that the contents of para 20 of the counter reply are false and misleading.


In reply to the averments made in the para under reply that respondent no. 4 was the appointing authority and as such was competent to pass orders of applicant's reversion, it is respectfully submitted that since the panel of Personnel Inspectors was approved by the higher authority namely respondent no. 3/ Additional - Divisional Railway Manager, the respondent no. 4 was not competent to pass order of reversion without bringing the matter to their notice and taking their approval.

22. That the contents of para 21 of the counter reply, as stated, are denied and

the averments made in para 6(v) of the application are reiterated.

It is further respectfully submitted that the applicant, aggrieved by the impunged order, preferred a representation to the General Manager, Northern Railway, New Delhi on 8.12.88 which is Annexure No. A-15 to the application. The case of the applicant was finally decided vide letter dated 23.2.1989 filed as Annexure No. A-16 to the application. Thereafter, the applicant filed application under section 19 of the Administrative Tribunal Act, 1985 before this Hon'ble Tribunal in the month of December, 1989.

23. That the contents of para 22 of the counter reply are absolutely incorrect and misleading, hence they are denied and the averments made in para 6(w) of the application are reiterated. It is further respectfully submitted that the applicant has no knowledge about the pendency of alleged Union Agenda. The applicant has filed the application before this Hon'ble Tribunal strictly in accordance with the provisions of the Administrative Tribunals Act, 1985.



24. That the contents of para 23 of the counter reply are wrong and misleading, hence they are vehemently denied and the averments made in paras 6(x), 6(y) and 6(z) of the application are reiterated. The impunged orders are

wholly illegal, arbitrary and unconstitutional and as such, they are liable to be quashed by this Hon'ble Tribunal.

25. That the contents of para 24 of the counter reply call for no remarks.

26. That the contents of para 25 of the ~~app~~ counter reply are absolutely wrong, misleading and false, hence they are vehemently denied and the averments made in para 9 and 10 of the application are reiterated. The grounds put forth by the applicant are tenable and on that basis the impugned orders are liable to be quashed. The applicant is entitled to the reliefs sought for with all consequential benefits of seniority and promotions etc. The application is liable to be allowed with cost also.

Lucknow:
Dated: 25-11-1991.

Schadegi
Applicant.

Verification:

I, the above-named applicant, do hereby verify that the contents of paras 1 to 25 are correct to my knowledge and those of para 26 of this rejoinder are correct to my belief. I have not suppressed any material fact.

Lucknow:
Dated: 25-11-1991.

Schadegi
Applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW
.....

No. CAT/LKO/Ju61/ 193/194

Dated : 8/4/93

Registration No. O.A No 353/89(2)

S. E. Paslogi ----- Applicant

V E R S U S

Union of India & others ----- Respondents

✓ Sd/- Advocate, 29, Sector H, Aliganj, Lko
2nd Floor, Bhargava, Advocate, 223/1 Faizabad Road
Lucknow

44. Below notice for 22.11.83

Please take notice that the applicant above named has presented an application a copy of _____ thereof is enclosed herewith which has been registered in this Tribunal has fixed _____ day of _____ show-cause as to why the petition be not admitted. Counter may be filed within _____ weeks. Rejoinder, if any, to be filed within _____ weeks thereafter.

If, no appearance is made on your behalf, you pleader of by some one duly authorised, to Act, and plead on your behalf in the said application, it will be heard and decided in your absence. Given my hand and the seal of the Tribunal this 17th day of March 1993.



Behandys
For Dy. Registrar 17/3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCULAR BENCH

Gandhi Bhawan, Opp. Residency, Lucknow

No. CAT/Adm/Jud/

3207 to 3212

dated the 22.1.90

Registration No. 38-3 of 1990

89 (1)

~~S. C. Keslagi~~

APPLICANT

VERSUS

~~Union of India~~

RESPONDENT

① Union of India through its Ministry, Law & Public
To New Delhi

② Chief Personnel Officer, Ministry of Law & Public
New Delhi

③ D. R. M. M. Rly. Hazratganj Lucknow

④ Senior Personnel Officer, Ministry of Law & Public
Hazratganj Lucknow

Please take notice that the applicant abovenamed has
presented an application, a copy whereof is enclosed herewith,
which has been registered in this Tribunal, and the Tribunal
has fixed _____ day of _____ 1990 for the
hearing of the said application.

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

Given under my hand and the seal of the Tribunal this
_____ day of _____ 1990.

DEPUTY REGISTRAR

⑤ Sd/- Arun Sharma P. J. S.

⑥ Hazratganj Lucknow

⑦ Sd/- Arun Sharma P. J. S.

Recd. copy of letter with court's order
dt 1.1.90 passed the order

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

O.A. NO. 353 of 1989 (L)

S.C. Rastogi

.....

Applicant.

Versus

Union of India & Others

.....

Respondents.

4.1.1990

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

Hon'ble K. Chavva, A.M.

Admit.

Issue notice to 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 16.2.1990.

Sd/-

Sd/-

A.M.

V.C.

checked
dill

// True Copy //

rem/

per
Y. D. Singh, Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

(15)

GA 353/88

3.2.2000

from Mr A. V. Harrison, VC. ^{for}
from Mr A. J. L. Negi, AM

A copy of CA in d d A
be supplied by Registry
to the said Government
by letter dated 7.2.2000

AM
AM.

VC
VC