

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CA 82 T&G (L)
Cause Title of 199

Name of the parties K. S. Patra

Applicant.

Versus

Union of India

Respondents

Part A.B.C.

SI No.

Description of documents

Page.

① Check List		A1 - A2
② Order Sheet		A3 - A5
③ Judgment		A6 - A8
④ Petition Copy with Annexures		A9 - A48
⑤ Counter -		A49 - A56
⑥ Rejoinder		A57 to 65
⑦ Reply		
	<u>B. File</u>	A66 - 71

⑧

- ① Review no 642/92 order dt. 26.8.92. A1
CA 82/1989
- ② Petitions - A2 to A15
- ③ Power - A16
- ④ Affidavit - A17 to A18

B. File24/6/11

Cost fixed that no further action is required to be taken
and that the case is fit for consignment
to the record room (D)

Check on
09/11/12✓

File B.C. destroyed dt 09.5.12.

Q
27/5

V/1/87
CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

(A)

Registration No. 92 of 1989

Serial no.

2. from

APPLICANT(S)

K. S. Patri & others

RESPONDENT(S)

U.O. & another (Railways)

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ? Y
2. a) Is the application in the prescribed form ? Y
- b) Is the application in paper book form ? Y
- c) Have six complete sets of the application been filed ? Y
3. a) Is the appeal in time ? Y
- b) If not, by how many days it is beyond time ? Y
- c) Has sufficient cause for not making the application in time, been filed ? Y
4. Has the document of authorisation/ Vakalatnama been filed ? Y
5. Is the application accompanied by B.D./Postal Order for Rs.50/- Y
6. Has the certified copy/copies of the order(s) against which the application is made been filed ? Y
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? Y
- b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? Y
- c) Are the documents referred to in (a) above neatly typed in double space ? Y
8. Has the index of documents been filed and pageing done properly ? Y
9. Have the chronological details of representation made and the out come of such representation been indicated in the application ? Y
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ? Y

No. except as in
Para (8) of the

Mr. B.D. OT/A 725782 dt 25/12/88
(50/-)



<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11. Are the application/duplicate copy/spare copies signed ?	Y
12. Are extra copies of the application with Annexures filed ?	No
a) Identical with the Original ?	—
b) Defective ?	—
c) Wanting in Annexures	—
Nos. _____ pages Nos. _____ ?	—
13. Have the file size envelopes bearing full addresses of the respondents been filed ?	No.
14. Are the given address the registered address ?	Y
15. Do the names of the parties stated in the copies tally with those indicated in the application ?	Y
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?	NA
17. Are the facts of the case mentioned in item no. 6 of the application ?	Y
a) Concise ?	Y
b) Under distinct heads ?	Y
c) Numbered consecutively ?	Y
d) Typed in double space on one side of the paper ?	Y
18. Have the particulars for interim order prayed for indicated with reasons ?	Y
19. Whether all the remedies have been exhausted.	Y

dinesh/

Pls. be listed before

File the count on 17-4-89

12/4/89

J.D.R.

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 82 of 1989.(L)

APPELLANT
APPLICANT

K.S.Patra and Others

DEFENDANT
RESPONDENT

Union of India and Others.

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

17.4.89.

Hon'ble Justice K.Nath, V.C.,
Hon'ble D.S. Misra, A.M.

Heard the learned counsel for the applicant. We do not think that the case of applicant NO.1 K.S.Patra can be properly joined with the case of remaining three applicants. D.M. Bhattcharjee Nizamuddin and M.L.Ahuja. While we allow the last three named to the applicant to join the application, the prayer for joining K.S.Patra is rejected. He is of course at liberty to file an independent petition. The applicant will strike off his name from the array of the applicants.

Sd/-

A.M.

Sd/-

V.C.

17.4.89

Hon. Justice K.Nath, V.C
Hon. D.S. Misra, A.M.

Admit. Issue notice to opposite parties to file counter affidavit within four weeks to which respondent may be filed within two weeks thereafter. List for hearing on 3.7.89.

Sd/-
A.M.

Sd/-
V.C.

Notice issued by 25/4
Notices were issued to the respondents by Regd. Post on 25/4.
Neither reply nor any rejoinder filed so far.
A/c undelivered copy
Over hand been return back
so far
submitted for order
801A

today
21/4
A.M.
V.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 02 of 1989(CC)

K. S. Patnaik

APPELLANT
APPLICANT

VERSUS

DEFENDANT
RESPONDENT

02

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

20/10/89

Hon. Mr. D K Agarwal, AM
Hon. Mr. K. O. Saggi, AM

On the request of the applicant,
the case is adjourned to 17.11.90
for hearing.

IP
SM

Def
Jy

17-11-89

No sitting - Adj. to 1-2-90

Counsel for applicant is present.

GR

1-2-90

Case not reached. Adj. to 26.3.90

h
17/11/89
BCC

6/3/90

No sitting adj. to 10.10.90

C.M. 195/90
today

OR
C.R.P. 616/90
they

MP No. 616
by the 4th
applicant
in term

No sitting adj. to 27.11.90

Case not reached. Adjourned to
14.12.90 for order.

W
BCC

W/R

21

6.8.91

No setting Adli to 26.9.91

26.9.91

No setting adj to 27.11.91

de

27.11.91

No setting adj to 9.1.92

de

9.1.92

No setting Adli to 3.2.92

or
CA RA have

3.2.92

No setting adj to 6.3.92

been exchanged
Submitted for
warding

S.P.H.

8.3.92

6.3.92

Die & Strike of Astro Codes
Case adjourned to 22.4.92

Boe

22.4.92

No setting adj to 30.4.92

de

or

Case is ready
for
hearing
8.5.92

30.4.92

Case not reached adj to

18.5.92

Boe

18.5.92

Case not reached adj to
27.5.92

de

27.5.92

Case not reached adj
to 24.6.92

Boe

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL-LUCKNOW BENCH
LUCKNOW.

O.A. No. 82 of 1989.

K.S. Patra & 3 others..... Applicants.

Versus

Union of India & others..... Respondents.

Hon'ble Mr. Justice U.C. Srivastava- V.C.
Hon'ble Mr. K. Obayya - Member (A).

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

The applicants four in number Sarva Sri K.S. Patra, D.M. Bhattacharjee, Nizamuddin and M.L.-Ajuja have approached this Tribunal challenging their supercession and have prayed that they will be promoted as Chief Design Assistants with effect from 1.4.85, the date when the juniors were promoted and they may also be paid the arrears of emoluments and interest may also be paid to them from that date.

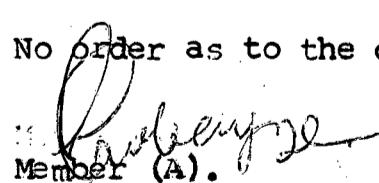
2. All these applicants working in R.D.S.O. in the grade of 550-750. In view of the Railway Board circular dated 3.7.85 cadre restructuring was to be done on the basis of scrutiny of service records. The applicant no. 2, 3 & 4 were superseded and their juniors were promoted to higher grade to the post of Chief Design Assistant in Grade Rs. 650-960. The applicant no. 1 was subsequently superseded by order dated 22.7.86 which was in continuation of earlier order. Representations were made by these applicants but the same representations were rejected and that is why the applicants have approached this tribunal.

3. The respondents have opposed the claim of the applicants and have stated that the gradation was made by the departmental Promotion committee in pursuance of the Railway Board circular dated 3.7.85 and the same read as follows " Existing classification of Post covered by these re-structuring orders

"Selection" and "Non-Selection" as the case may be remains unchanged. However, for the purpose of implementation of these orders, if an individual railway servant becomes due for promotion to only one grade above the grade of the post held by him, at present, on a regular basis, and such higher grade post is classified as a "Selection" post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based on a scrutiny of service records without holding any written and/or viva-voce tests. Under this procedure the categorisation 'outstanding' will not exist." As a result of a consideration by the Departmental promotion Committee 31 Officers were promoted and four were not promoted. It has been brought to our notice that all these persons were promoted on adhoc basis, in the very next year, obviously because vacancies were existing and they were considered ~~to~~ fit to handle this up-graded post. On behalf of the applicant this selection has been challenged and it has been contended that the record was not properly prepared. The record has been produced before us which indicates that the entries of over all 31 persons who were promoted were much better than the applicant, although the applicant earned the entry of good and very good but in the year 1984 incidently all these four were rated as average and it appears that because of this light difference between the record of all these persons, these four applicants were not up-graded. The assessment was to be made by the Departmental Promotion Committee and the difference howsoever made, was for the Departmental Promotion Committee to decide and asses and ~~no longer~~ howsoever the contention on behalf of the applicant ~~xxxxxxxxxxxx~~

is strong, it may be, these minor details or entry of one year was not to be taken into account. It is not possible for the Tribunal to re-asses the same. In this connection the powers of the court is limited, and in this connection a reference is to be made in the case of Balpat Aba Sahib Splankey Vs. S. Mahajan A.I.R. 1990 S.C. P. 434 and in the case of State Bank of India Vs. Mohd. Mynuddin S.C. 1989 and the case of U.P.S.C Vs. Hiranya Lal Deo 1988 S.C. P. 1069. Although the later case was under a particular regulation, but the position will not be different when assessment is made by the Departmental Promotion Committee. ~~Shaxa~~

4. There being no allegation of malafide or bias, as such it cannot be said that the Departmental Promotion Committee fell into an error in making the assessment. However, so far as the record is concerned the difference does not appear to be much and in particular year, there was down gradation for which it appears that no earlier notice or whatever is given to the applicant, there appears to be no reason, ~~that~~ why now the case of upgradation or higher post will not be considered and their adhoc upgradation will not be regularised. ~~XXXXXX~~ but for the above observation, the application is otherwise dismissed. No order as to the costs.


Member (A).

Vice Chairman.

Dt: June 24, 1992.
(DPS)

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

APPLICATION UNDER RULE 4(5)(a) of Central Administrative
Tribunal Rules, 1987.

The applicants beg to state as under :-

1. That the cause of action in the case of all the applicants is the same i.e. 1.7.1985 the date with effect from which all of them were superseded by the juniors.
 2. That the nature of the relief prayed for is the same i.e. the order of Reversal has been sought to be set aside and the respondents to be directed to promote the applicants with the common date i.e. 1.7.1985.
 3. That all the applicants have common interest in the matter.

It is therefore prayed that your honour may kindly
be permit the applicants to join together and file a single
application.

LiCo, 29.3.09

(R. B. SRIVASTAVA)
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
LUCKNOW

Application under 8/19 of the Administrative Tribunal

Act-1985

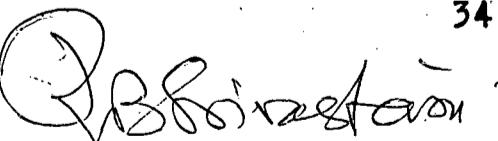
K.S.Patra and othersApplicants

Vs.

Union of India and others.....Respondents

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Signature of the
Advocate.

11

In the Central Administrative Tribunal, Lucknow Bench
Lucknow.

Between

K.S.PATRA & 3 others Applicants

Vs.

(i) Union of India
Ministry of Railways
& } Respondents.
(ii) Director General, RDSO
Lucknow }

1. Particulars of Applicants:

A. (i) Name of applicant : K.S.Patra
(ii) Name of Father : Late K.K. Patra
(iii) Age of applicant : 54 yrs. (D/Birth 1.7.1934)
(iv) Designation & : CDA Ad-hoc in
Particulars of office RDSO/LKO.
where employed.
(v) Office address : CDA Ad-hoc, M.P.Dts.
RDSO/LKO.
(vi) Address for service : Resident of C-16/2,
of Notice. Manaknagar, LKO.

B. (i) Name of Applicant : D.M. Bhattacharjee
(ii) Name of Father : Sri K.R.Bhattacharjee
(iii) Age of Applicant : 50 Yrs. (D/Birth 3.8.38)
(iv) Designation & Particulars of Office where
employed. : CDA Ad-hoc in RDSO/LKO.
(v) Office Address : CDA Ad-hoc, M.P. Dte.
RDSO/LKO.

*Filed 10/10/09
Writ 17.4.09
12.11.09
APR 6 2011
12.11.09*

(vi) Address for service : Resident of B-159/3,
of Notice Manaknagar, Lucknow.

[Signature]

C. (i) Name of Applicant : Nizamuddin
(ii) Name of Father : Late Usmani Gani
(iii) Age of Applicant : 50 Yrs (D/Birth ~~1st~~ 1.7.39)
(iv) Designation & Particulars of Office where employed.
(v) Office Address : CDA Ad-hoc, MP Dte RDSO LKO.
(vi) Address for service of Notice : Resident of A-25, Manaknagar Lucknow

D. (i) Name of Applicant : M.L.Ahuja
(ii) Name of Father : Late Jagat Narain
(iii) Age of applicant : ~~53~~ 53 Yrs. (D/Birth 3.7.35)
(iv) Designation & Particulars of Office where employed.
(v) Office Address : CDA Adhoc , MP Dte RDSO/LKO.
(vi) Address for service of Notice : Resident of B-154/1, Manaknagar Lucknow.

(2) Particulars of Respondents :-

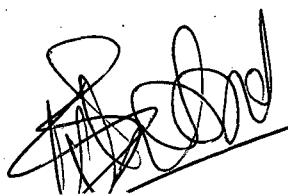
A. Name & Particulars : Union of India
of Respondent. Ministry of Railways,
Rail Bhawan, New Delhi.

B. Name & Particulars : Director General
of Respondent. RDSO Manaknagar,
Lucknow.

(3) Particulars of Orders against which

the application is made. The application is against the following orders:-

...3

- (a) (i) Order no. : Staff Posting Order No. 389
of 1985.
- (ii) Dated : 20-9-1985
- (iii) Passed by : Jt. Director Incharge,
MP Dte /RDSO
- (iv) Subject in brief : Supercession of applications
B, C & D in Cadre Restructuring
wef 1.7.85 in scale Rs. 650-960
(RS).
- (b) (i) Order No. : Staff Posting Order No. 300 of
1986 (in continuation of SPO
No. 389 of 1985)
- (ii) Dated : 22.7.1986
- (iii) Passed by : Jt. Director Incharge,
MP Dte/RDSO
- (iv) Subject in Brief : Supercession of Applicant A
(K.S.Patra) in Cadre Restructuring
wef 1.7.1985 in Scale Rs.
650-960 (RS).
- (4) Jurisdiction of Tribunal : The applicants declare that
the subject matter of the Orders
against which they want redre-
ssal is within the jurisdiction
of the Tribunal.
- (5) Limitation : The applicants further declare that the
application is within the limitations
prescribed in ~~5/21~~ of Administrative
Tribunal Act 1985, having been filled
within one year from the last order of
the Director General/RDSO dated 16.11.88
against the Joint representation made on
28.9.88/12.10.88.
- 

Further the applicant A had raised Industrial Dispute on 20.10.87 soon after his supercession when his representations dated 20.8.86 & 24.6.87 were rejected on 14.5.87 & 3.8.87 respectively, which is still pending and shall be taken back after admission of this petition as Railway Management is not willing to contest the. Case on the plea that RDSO is not an industry.

(6) Facts of the case :-

The facts of the case are given below :-

- (i) The applicants were working in the RDSO under Opp. party No. 2 as Senior Design Assts (SDAs) in Gr. Rs. 550-750(RS) vide copy/Extract of Seniority List as on 1.4.85 (Annex.1)
 - (ii) That in view of the letter of Rly. Board dated 3.7.85 (copy enclosed as Annex.2), cadre Restructing was to be done on the basis of scrutiny of Service Records.
 - (iii) That the Staff Posting Order No. 389/85 dated 20.9.85, applicants B, C & D were superseded and their juniors were promoted to higher grade to the post of Chief Design Assts (CDAs) in Gr.Rs.650-960(RS). A copy of the letter is enclosed herewith as Annex.3.
 - (iv) That the applicant A (Sri K.S. Patra) was subsequently superseded by staff Posting Order No. 300/86 dated 22.7.86 (copy enclosed as Annex-4) which was in continuation of earlier SPO No. 389/85 refered to above as Annex.3.
- [Handwritten signature]*

- (v) That the applicants A, B, C & D all had made individual representations against the supercession orders but were all rejected on the plea that they were not found suitable by the Committee appointed to assess the suitability of the candidates. Their representations are ~~held~~^{filed} as Annex. 5 to 8 and the rejection letters by the DG/RDSO, (opposite Party no.2) are Annex. 9 to 12.
- (vi) Applicant A, therefore, ^{Made} another representation for reconsideration as he was not made known the foundation of denial of benefit of Restructuring on 24.6.87 (copy enclosed as Annex.13) which too was rejected on 3.8.87 by O.P.No.2, vide his letter dated 3.8.87 (copy enclosed as Annex. 14).
- (vii) That the RDSO Administration subsequently promoted 2(Two) SC Candidates of another directorate (Research B&S) as Chief Research Assts (CRAs) as a result of cadre Restructuring vide SPO No. 330 of 1988 (copy enclosed as Annex.15) on which all the 4(Four) applicants made another joint representation on ~~28~~ 28.9.88 (copy enclosed as Annex.16) which was lost in transit. Another copy of the said application was submitted on 12.10.89 (copy enclosed as Annex. 17) for reconsideration of their case in the light of SPO No. 330/88 (Annex. 15), which too was rejected by OP No. 2 on 16.11.88 (copy enclosed as Annex.18).

(7) Details of remedies exhausted :-

The applicants A, B, C & D declare that they have availed all the remedies available to them under the relevant service rules

All the applicants had made individual representations against the supercession vide Annex. 5 to 8 which all were rejected by the OP No. 2 vide Annex. 9 to 12 on the same date i.e. 14.5.87 and later on a joint representation was made, the final rejection was made on 16.11.88 (Annex. 18).

(8) Matters not previously filed or pending with any other Court :-

Only an Industrial Dispute was raised by a Regd. Union of RDSO for the applicant A which is still pending with ALC (Central)/LKO and shall be withdrawn because RDSO Administration is not willing to contest on the plea that RDSO is not an industry & the matter does not come within the purview of the Central Industrial Tribunal.

(9) Relief(s) sought :-

In view of the facts mentioned in para 6 above, the applicants pray for the following relief.

- (a) That the orders of supercession of the applicants be set-a-side & the opposite parties be directed to promote the applicant as Chief Design Assts(CDAs) w.e.f 1.7.85, the date when the juniors were promoted.
- (b) That the Opposite Parties be further directed to pay the arrears of emoluments due on that account.
- (c) That the Opposite Parties be directed to pay interest on the amounts found due w.e.f 1.7.85 upto the date of actual payment, after the decision of this case.

(d) Any other suitable relief which the Tribunal considers just & proper in favour of the applicants.

(10) Interim relief if prayed for :-

NO Depttl. Selection be held against the existing vacancies of Chief Design Assts (CDAs) in M.P.Dte/RDSO till the final disposal of this case. The RDSO Admn. intends to hold such a selection at any time vide their staff notice no. Rectt/ES/SDA(MP) dated 23.6.88 (vide Annex. 19).

(11) Application is being presented by Counsel.

(12) Particular of Bank Draft State Bank of India in respect of application D.D.No. : _____ fee.

(13) List of Annexures :-

Annexure I Copy/extract of Seniority List of SDAs/MP Dte as on 1.4.85.

Annexure II Copy of Rly. Board's letter dated 3.7.85 for Cadre Restructuring in RDSO/LKO.

Annexure III SPO No. 389/85 dated 20.9.85

Annexure IV SPO No. 300/86 dated 22.7.86

Annexure V Representation dated 20.8.86 of K.S.Patra (with one encloser).

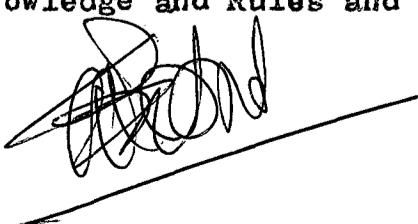
Annexure VI Representation dated 4.10.85 of DM Bhattacharjee.

Annexure VII Representation dated 23.9.85 of Nizamuddin.

Annexure VIII Representation dated 23.9.85 of M L Ahuja.

- Annexure IX Rejection Orders dated 14.5.87 against Annex 5
- Annexure X Rejection Orders dated 14.5.87 against Annex-6
- Annexure XI Rgk " " " " " Annex-7
- Annexure XII " " " " " Annex-8
- Annexure XIII Second Representation dated 24.6.87 of K.S.Patra
(with a copy of Annex-2, copy of Ed's letter
dated 5.3.86 and a cutting of News Paper
dated 8.2.87).
- Annexure XIV Second Rejection Order dated 3.8.87 against
Annex-13
- Annexure XV SPO NO. 330/88 dated 16.9.88
- Annexure XVI Joint Representation of all applicants dated
28.9.88
- Annexure XVII Joint Representation of all applicants dated
12.10.88 (Same as Annex-16).
- Annexure XVIII Final Rejection Orders dated 16.11.88 against
Annex-17.
- Annexure XIX Staff Notice No. Rectt/ES/SDA(MP) dated 23.6.88
(for holding a Deptt. Selection against existing
vacancies of CDAs in MP Dte/RDSO).
- ~~Annexure XX-~~ SPO NO 400186 Dated 26/9/86, order for Adhoc Promotion
Verification :

I K.S. Patra S/o Late K.K. Patra Aged about
54 years working as CDA, adhoc in Motive Power Directorate in
RDSO under Director General RDSO, Manaknagar, Lucknow R/o
C-16/2, Manaknagar, Lucknow do hereby verify that contents of
paras 1 to 13 of this application are true to the best of
my ~~know~~ personal knowledge and Rules and Law quoted there in



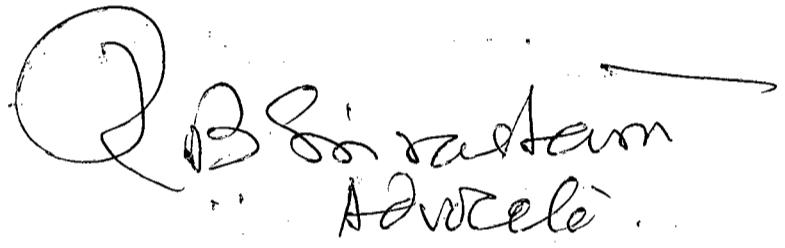
are as per Legal advice believed to be true, and
that I have not suppressed any material facts.



Signature of the Applicant.

Dated: 29.3.09

Place: LUCKNOW



Q.B. Sardam
Advocate

10
B
30

Anil B

Government of India
Ministry of Railways
Research Designs & Standards Organisation
Manak Nagar, Lucknow-11

STAFF POSTING ORDER No. 389 OF 1985

Sub:- Cadre restructuring of Group 'C' -
CDA/SDA in the MP Directorate of RDSO.

As a result of cadre reset restructuring in terms of Railway Board's letter No. PCIII/85/UPG/14 dated 3.7.85 and distribution of posts circulated under Estt. Branch's letter No. E1/S/ORG/1/UPG/Sc. Staff dated 16.8.85 for the category of CDA/SDA at the ratio of 60:40, the following promotions have been ordered in the category of Chief Design Assistant scale Rs. 650-960 (RS) w.e.f. 1.7.85:-

1. Shri Hardyal Singh as Chief Design Assistant.
2. Shri Md. Faiyazuddin -do-
3. Shri V.P. Bajaj -do-
4. Shri J.P. Mehrotra -do-
5. Shri S. Hari Rao -do-
6. Shri A.R. Dass -do-
7. Shri N.C. Chatterjee as CDA -do-
8. Shri P.E. Tongaonkar -do-
9. Shri B.K. Nayar -do-
10. Shri M. Subramanian -do-
11. Shri R.P. Rampal -do-
12. Shri S. Natrajan -do-
13. Shri T. Nandy -do-
14. Shri S. Bhattacharjee -do-
15. Shri V.S. Misra -do-
16. Shri M. Satyanarayana -do-
17. Shri S.R. Gupta -do-
18. Shri T. Alagar -do-
19. Shri K.N. Nair -do-
20. Shri H.S. Virdi -do-
21. Shri Harbhajan Singh -do-
22. Shri P.N. Seth -do-
23. Shri K.K. Roy -do-
24. Shri B.K. Gupta -do-
25. Shri H.S. Bombrah -do-
26. Shri T.S. Hanspal -do-
27. Shri H.S. Sohanpal -do-

28. Shri S.K. Chowdhury, as Chief Design Assistant (SC)
29. Shri D.S. Jhans -do-
30. Shri D.K. Ghoshal -do-
31. Shri Govind Sahai (SC) -do-

2. The promotion orders against the remaining posts of Chief Design Assistants will be issued separately.

3. Hindi version will follow.

DA:Nil.

N. N. Sehgal

(N.N. Sehgal) 20/9/85
for Jt. Director Inch. (MP)

File No. ART/91
Dated: 20.9.85.

DISTRIBUTION

JD(I/c)/MP SO/ML JDF DD/E-I DD/Admn.
PA to Dy. D.G. SO/E-III (in triplicate) Staff P/file
Staff concerned. Notice Board.

Attached

One copy

DBS:mesaw
Advocate

(II nd. Posting order.)

12

Annex 4

GOVERNMENT OF INDIA
MINISTRY OF ~~RAILWAYS~~ TRANSPORT
DEPARTMENT OF RAILWAYS
RESEARCH DESIGNS & STANDARDS ORGANISATION

Manak Nagar, Lucknow-11

STAFF POSTING ORDER NO. 300 OF 1986

Sub:- Cadre restructuring of Group 'C' -
CDA/SDA in the MP Directorate of RDSO.

In continuation of this office Staff Posting Order No. 389 of 1985 and 475 of 1985, as a result of cadre restructuring, the following promotions have been ordered in the category of Chief Design Assistant scale Rs. 650-960 (RS) w.e.f. 1.7.1985. -

KS P 1. Shri P.S. Baboota as Chief Design Assistant (Prov.)

2. Shri Y.L. Taneja -do-

3. Shri S.S. Sian -do-

4. Shri M.B.H. Siddique -do-

2. Shri M.A. Singh, SDA/MP who was officiating as CDA in the MP Dte. on adhoc basis stands reverted w.e.f. 1.7.85.

DA:Nil.

NV+eng/ 22
(N.N. Sehgal) 8c
for Jt. Director MP (I/c)

File No. ART/91
dated : 22.7.86

DISTRIBUTION

JDMP (I/c) JDMP-V JDF DD/E-I DD/Admn.
PA to Dy. DG SO/MP SO/E-III (in duplicate)
Staff concerned. Staff P/file Notice Board.
CTSA/RDSO/Lucknow.

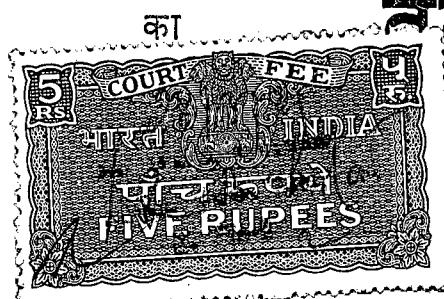
Attached
True Copy
O. D. S. J. D.
A. S. R. O.
A. S. R. O.

In the Central Administrative Tribunal (Delhi)

बजादालत श्रीमान

महोदय

वादी (मुद्र्द्दि)
मुद्र्द्दि (मुद्रालेह)



बकालतनामा

नं० मुद्रमा

सन पेशी की ता० १९ ई०

R.B. SRIVASTAVA

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Avadh Bar Association High Court, Bhopal

वकील
एडवोकेट महोदय

नम अनालत
नं० मुकद्दमा नाम कर्ता
नाम कर्ता

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

Alm. (M. L. Alm.) (NIZAMUDDIN)

3rd D. M. Bhattacharyee

हस्ताक्षर

(K. S. PATRA)

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

२९

महीना

३

सन् १९४७ ई०

Accepted
D. M. Bhattacharyee

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
LUCKNOW

Application under 8/19 of the Administrative Tribunal

Act-1985

K.S.Patra and othersApplicants

Vs.

Union of India and others.....Respondents

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Q.B. Bhatnagar

Signature of the
Advocate.

Annexure 1

Seniority list of Senior Design Assistant in Grade Rs.550/-
(RS) as on 1-4-1985 of Motive Power Directorate/RDSO/LKO.
(Copied from the list issued by Administration)

1. Sri Hardayal Singh
2. " M.A. Singh
3. " Md. Faiyazuddin
4. " V.P. Bajaj
5. " J.P. Mehrotra
6. " S. Hari Rao
7. " A.R. Dass
8. " N.C. Chatterjee
9. " P.E. Tongaonkar
10. " B.K. Nayyar
11. " M. Subramanyam
12. " D.M. Bhattacharjee
13. " R.P. Rampal
14. " S. Natrajan
15. " Avtar Singh Sandhu
16. " T. Nandy
17. " S. Bhattacharjee
18. " V.S. Misra
19. " M. Satyanarayana
20. " S.R. Gupta
21. " T. Alagar
22. " K.N. Nair
23. " H.S. Virdi
24. " Harbhajan Singh
25. " P.N. Seth
26. " K.K. Roy
27. " Md. Nizamuddin
28. " M.L. Ahuja
29. " B.K. Gupta
30. " H.S. Bombrah
31. " T.S. Hanspal
32. " H.S. Sohanpal
33. " S.K. Chaudhary (SC)
34. " D.S. Jhans
35. " D.K. Ghosal
36. " B.S. Baboota
37. " K.S. Patra
38. " Y.L. Taneja
39. " S.S. Sian
40. " MBH Siddiqui
41. " G.K. Bhagchandani
42. " S.B. Gupta
43. " N.K. Saini
44. " R.S. Madhukar
45. " Ramesh Singh

Note by applicants:-

- 1- Out of 45 ~~exam~~ employees 40 were promoted as Chief Design Asst w.e.f. 1-7-85 in different Staff Posting Orders except the 5 at Sl. Nos, 2-12-27-28 & 37 the underlined names.
- 2- This position stands as on 1-12-1988, by implementing re-structure from SDA to CDA w.e.f. 1-7-85 (as per Boards Orders dated 3-7-1985.)

Attested
True Copy
O.P. S. Dutt
Advocate

An M/s 2
14/8/85

Government of India
Ministry of Railways
Railway Board

No. PCIII/85/UPG/14

New Delhi dated 3-7-85.

The Director General,
R.D.S.O.,
Lucknow

Re: Cadre Restructuring of Group 'C' -
Scientific Staff - R.D.S.O.

.....

The restructuring of the cadre of Scientific staff of RDSO has been under consideration of the Board. The Board, with the approval of the President, have decided that the Scientific staff of RDSO should be restructured in the following manner :-

Research	Design
Chief Research Asstt. (Rs. 650-960)	60% Chief Design Asstt. (Rs. 650-960) 60%
Sr. Research Asstt. (Rs. 550-900)	40% Sr. Design Asstt. (Rs. 550-750) 40%

2. Posts in scale Rs. 700-900 operated on the Research side in certain Departments should continue as part of the percentage provision for scale Rs. 650-960. Similarly, the existing sanctions for non-sanctioned Selection grade Rs. 650-1040 will also continue as part of the percentage provision for scale Rs. 650-960.

3. The Board observe that the distribution of posts in various grades in the different Departments, both in the Research and Design Wings of the RDSO, are unequal. As a result of introduction of a common percentage for all the departments both on the Research and Design sides, action should be taken by the RDSO Administration to progressively adjust the cadre the revised percentage through annual reviews. This exercise should be done by adjustment against normal wastages in the cadre.

4. The percentage structure for this cadre will come into force with effect from 1-7-1985. Eligible staff promoted against these upgraded posts arising from the restructuring will have their fixation done under Rule 2018B(FR-22C)-RIT. The fixation will be given uniformly to all the employees w.e.f. 1-7-1985.

5.1 The existing classification of the posts covered by these restructuring orders, as "Selection" and "Non-Selection" as the case may be, remains unchanged. However, for the purpose of implementation of these orders, if an individual railway servant becomes due for promotion to only one grade above the grade of the post held by him, at present, on a regular basis, and such higher grade post is classified as a "Selection" post, the existing

#15

selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of service records without holding any written and/or viva-voce tests. Under this procedure, the categorisation 'outstanding' will not exist.

5.2 In case, however, as a result of these restructuring orders, an individual railway servant becomes due for promotion to a grade more than one grade above that of the post held by him at present on a regular basis, the benefit or the modified procedure of selection as aforesaid will be applicable only to the first such promotion (if that post happens to be a 'Selection' post), the second and subsequent promotion, if any, will be based only on the normal rules relating to filling of 'Selection' or 'Non-selection' posts as the case may be.

5.3 Vacancies existing on 1.7.1985 and those arising on that date from this cadre restructuring should be filled in the following sequence :-

- i) from panels approved on or before 30.6.1985 and current on that date; and
- ii) balance in the manner indicated in paras 5.1 & 5.2 above.

6. The existing rules and orders in regard to reservation for SC/ST will continue to apply while filling up additional vacancies in the higher grades arising as a result of restructuring.

7. In all the categories covered by this letter even though more posts in higher scales of pay have been introduced as a result of restructuring, the basic functions, duties and responsibilities, attached to these posts at present will continue, to which may be added such other duties and responsibilities as considered appropriate.

8. The Board desire that restructuring and posting of staff after due process of selection as provided for in these orders, should be completed expeditiously.

9. The requirement of funds may be assessed and incorporated in the revised estimates for 1985-86 and Budget estimates for 1986-87 under advice to Additional Director(Finance), Budget, Railway Board.

10. Hindi version will follow.

11. Please acknowledge.

Sd/-M. SEETHARAM
Addl. Director, Pay Commission,
Railway Board.

Copy to:-

The Lt. Director(Finance), RDSO, Lucknow and the Director of Audit, Northern Railway, New Delhi.

Sd/-M. SEETHARAM
Addl. Director, Pay Commission,
Railway Board.

Copy to:-

PSs/CRB, FC, ME, MM, MT, Adv(IR), Adv(F), Secretary, DE, DPC.
DS(W), JDF(E), ERB-I.....with 20 spares and PC-IV.

To,

The Director General,
R.D.S.O., Lucknow.

Am 4/85

Through Proper Channel

16
80

Sir,

Sub: Cadre restructuring of Group 'C' CDA/SDA
SDA in M.P. Directorate.

Ref: Staff Posting Order No. 300 of 1986
(File No. AHT/91 dt. 22.7.1986).

The above posting order issued as result of cadre restructuring, has done a great injustice to me which will be evident from the under mentioned facts -

- that I am working as SDA(Confirmed) and my seniority among the staff considered for restructuring was 2nd;
- that I am working in MP Dte. since 31.3.59 AN (more than 27 yrs.) to the entire satisfaction of my superiors;
- that no confidential letter was issued to me nor any adverse comment were passed on my work by my superiors;
- that I was not involved in any disciplinary action during my service;
- that in April 1986 I was awarded a cash award of Rs. 50/- with an appreciation certificate (copy enclosed for my good work during 1985-86 and
- that it was an utter surprise when the result of cadre restructuring was published in July '86 in which my name was missing, and three juniors were promoted.

2. From the above, it will be seen that I was not a candidate to be ignored in the cadre restructuring. I have to request to kindly the review the same and do justice to me.

An early action is requested.

Thanking you,

Yours faithfully,

20.8.86
(K.S. PATRA)
SDA/MP Dte./RDSO
Lucknow-226011
Dt: 20-8-86

Encel: One appreciation
certificate (copy).

Alleged
One copy
One copy
One copy
One copy



अनुसंधान अभिकल्प और मानक संगठन
रेल विभाग

प्रभाण-पत्र

रेल सप्ताह 1986

श्री के. ल्ल. पांडा, वीरण और सहायक
चालन शिक्षित निदेशालय को
वर्ष 1985-86 में उत्कृष्ट एवं सराहनीय
सेवाओं के लिए प्रशस्ति-पत्र प्रदान किया
जाता है।

रेल सप्ताह 1986

(दी० एवं श्री० शरदिया)

महानिदेशक

लगानी
दिनांक 16-4-1986

Alleged
True Copy
O. Resignation
Adj. Secy.

The Director General,
R.D.S.O.,
Lucknow.

Am Natl

Sir,

(Through proper channel)

Sub: Promotion to CDA as a result of
Caire Re-structuring.

Ref: Staff Posting Order No.389 of 20.9.86.

....

With due respect I would like to bring to your kind notice the following facts for your kind and sympathetic consideration.

Sir, I surprise to see the above posting order where my name does not take place in the list of staff promoted to CDA w.e.f. 1.7.85.

I have been working in this present post since December '68. During this period I tried my best to satisfy my superiors. It would not be out of the way in mentioning that during this period I have received three meritorious awards which are as follows:-

- i) I have been awarded Railway Week Award on 16.4.73 for meritorious services rendered by me during 1972-73 presented by the then Director General Sri M.Srinivasan. This was for my contribution in design development of Bombay Delhi Rajdhani Loco bogie and axle box with resilient thrust unit.
- ii) I have also been awarded certificate of merit in appreciation of my contribution to the design development and testing of High Speed Locomotive bogie for a speed of 160 Kmph and above on 25.2.80 presented by the then Director General Sri B.Mohanty.
- iii) I have also been awarded certificate of merit for meritorious services rendered by me during the year 1982-'83 on 15.4.83 presented by the then Director General Sri M.K.Gankhar.

I would also like to point out that during this period I was able to design and develop the fatigue testing rigs for flaxicoil bogie Mk-I and Mark-II independently. Now I have been developing the fabricated design of Co-Co trimount bogie (M.G.) independently.

I would like to bring to your kind notice that I have not received any extract of C.R. from the Administration, which appears that my C.R. may not be adverse in my case. Rather, only recently I have been appointed in Selection Grade post in the scale of Rs.550-800 w.e.f. 30.10.84.

...contd.2/-

It is pertinent to point out that for appointment/promotion to the Selection Grade post, the principle of Seniority subject to the rejection of unfit should be strictly applied for appointment to Selection Grade in terms of Railway Board's letter No. PCIII/74/MS/16 dt.7.1.76, and I have been declared fit for the Selection Grade in October, 1984. Same is the criteria for promotion to the post of CDA against Re-structuring post vide para 5.1 of Railway Board's letter No. PCIII/85/UPG/14 dated 3.7.85. I can, therefore, conclude that the exclusion of my name in the list of promotees (S.P.O. No. 339 of 1985) is an error. I would request you to kindly revoke the order and promote me as CDA w.e.f.1.7.85.

In view of the above, I would like to request you to kindly review my working and do justice to me by promoting me to the upgraded post keeping in view of my devotion to my duties and the meritorious certificates received by me in the past.

Thanking you,

Yours faithfully,

D.M.Bhattachary
(D.M.Bhattacharjee)
S.D.A./S.G., Diesol Veh. Section
Motivo Power Dte./RDSO/LKO.

Dt: 4.10.1985

Attested
True Copy
D.B. Bhattachary
Advocate

To,

The Director General,
R.D.S.O., Lucknow.

SIR,

Sub: Promotion to CDA as a result of cadre-structuring.

Ref: S.P.O. No. 530 of 20-3-1985.

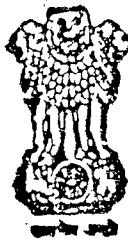
I place the following facts for your favourable consideration. I am working as SDA for the last sixteen years. As it appears the CR may not be adverse in my case as I have not received any reprimand neither so far from the administration. In the recent promotion to upgraded post my name could not find a place. Also the nature of work of the upgraded post is same as the existing SDA's and I request you to reconsider the case and justice may be given to me.

Thanking you,

Yours faithfully

S. M. S. S.
(S. M. S. S.), SDA 23/9/85
N.P.Dt.

Addressed
True Copy
S. M. S. S.
Advocate



अनुसंधान अभिकल्प और मानक संगठन
रेल विभाग

प्रमाण-पत्र

रेल सप्ताह 1986

श्री निजामउद्दीन वीरेण्ठ अभियक्त
..... चालन शक्ति निदेशालय को
वर्ष 1985-86 में उत्कृष्ट एवं सराहनीय
सेवाओं के लिए प्रशस्ति-पत्र प्रदान किया
जाता है।

Allesled
True Copy
लालमऊ
मिन्न 1.6.1986
Advocate - (श्री एग्र. राधिका)
महानगरपाल

proper Channel)

a result of

1985.

you the following

for the last sixteen
years, considering
extract of C.R.
capabilities.

your name does not
stand (upgraded)
1985.

by the Administration
id by upgraded SDAs
such, I fail to
dropped though I
L

to request you to
to me by promoting

rs faithfully

L. Ahuja
SDA/Diesel Vehical
M.P. Dte.

Allesled
True Copy
O.P. S. Mehta
Advocate.

तार : रेलमानक-लखनऊ

Telegrams: RAILMANAK-LUCKNOW



टेलीफोन

Telephones

50567 & 50017

22

भारत सरकार—रेल मंत्रालय

अनुसंधान अभिकल्प और मानक संगठन

Government of India - Ministry of Railways

RESEARCH DESIGNS & STANDARDS ORGANISATION

पत्र संख्या

Our Reference ART/91

लखनऊ-२२६०११ दिनांक

LUCKNOW-226011 Dated

14-5-87

MEMORANDUM

With reference to his application dated 4.10.85, Shri D.M. Bhattacharjee, CDA/MP Dte. is advised that the Committee appointed to assess the suitability of the candidates under restructuring scheme, found him 'Not suitable' for the post of Chief Design Assistant. On availability of a vacancy in the category of CDA, however, he has been promoted as Chief Design Asstt. on adhoc basis w.e.f. 26.9.86 till a regularly selected candidate becomes available. Since he was not found suitable for the post of CDA under restructuring scheme, his claim for regularisation as C.D.A. w.e.f. 1.7.85, does not hold good.

DA: Nil.

(V. Vasudeva)

Jt. Director/ Admin-III
for Director-General

Shri D.M. Bhattacharjee,
CDA/MP Dte., RDSO/Lucknow

Allesled.

True copy

O. Someshwar
Advocate

दाता : रेलमानक-लखनऊ

Telegrams : RAILMANAK-LUCKNOW



टेलीफोन

Telephones

50567 & 50017

20
No 11 23

भारत सरकार—रेल मंत्रालय

अनुसंधान अभियाल्प और मानक संगठन

Government of India - Ministry of Railways

RESEARCH DESIGNS & STANDARDS ORGANISATION

दत्त दस्तावेज़

Our Reference

ART/91

लखनऊ-२२६०११ दिनांक

LUCKNOW-226011 Dated 14 -5-87



MEMORANDUM

With reference to his application dated 23.9.85, Shri Nizamuddin, CDA/MP Dte. is advised that the Committee appointed to assess the suitability of the candidates under restructuring scheme, found him 'Not suitable' for the post of Chief Design Asstt. On availability of a vacancy in the category of CDA, however, he has been promoted as Chief Design Asstt. on adhoc basis w.e.f. 26.9.86 till a regularly selected candidate becomes available. Since he was not found suitable for the post of CDA under restructuring scheme, his claim for regularisation as CDA w.e.f. 1.7.85, does not hold good.

cc

(V. Vasudeva)

Jt. Director/ Admin-III
for Director-General

DA: Nil.

Shri Nizamuddin,
CDA/MP Dte.,
RDSO/Lucknow.

Attested
True Copy

Received on 15/5/87

*Q.B. Srivastava
Advocate*

तार : रेलमानक-लखनऊ
Telegrams: RAILMANAK-LUCKNOW



टेलीफोन [50567 & 50017
Telephones

21
24

RAIL-A/2

55

भारत सरकार—रेल मंत्रालय

अनुसंधान अभिकल्प और मानक संगठन

Government of India - Ministry of Railways

RESEARCH DESIGNS & STANDARDS ORGANISATION

पत्र संख्या

Our Reference ART/91

लखनऊ-२२६०११ दिनांक

LUCKNOW-226011 Dated

14-5-87

MEMORANDUM

With reference to his application dated 23.9.85, Shri M.L. Ahuja, CDA/MP Dte. is advised that the Committee appointed to assess the suitability of the candidates under restructuring scheme, found him 'Not suitable' for the post of Chief Design Asstt. On availability of a vacancy in the category of CDA, however, he has been promoted as Chief Design Asstt. on adhoc basis w.e.f. 26.9.86 till a regularly selected candidate becomes available. Since he was not found suitable for the post of CDA under restructuring scheme, his claim for regularisation as CDA w.e.f. 1.7.85, does not hold good.

(V. Vasudeva)

Jt. Director/ Admin-III
for Director-General

DA: Nil.

Shri M.L. Ahuja,
CDA/MP Dte.,
RDSO/Lucknow.

Alleskl

Truelby

OB

Bank

AN MOA/3
ONE ADVANCE COPY
ALSO SUBMITTED.

To
The Director General,
R.D.S.O.
LUCKNOW

Through Proper Channel,

(For Kind attention of Sri. VCV Chennal, DG/RDSO)

Sir,

Sub: Cadre restructuring of Group C -CDA/SDA in
Motive Power Directorate.

Ref: Your memo No. ART/91 dt. 14.5.'87 in reply
to my application dt. 20.8.'86 (copy enclosed)

I am taking the liberty to approach your kindself (in appeal) against the decision taken by our administration in my case, under reference.

2. I am in receipt of your memo dt. 14.5.'87 on 1.6.87 (I was on LAP during the entire May '87). It is noted that my application dt. 20.8.'86 was badly turned-down. Hence, in continuation of my application dt. 20.8.'86, I wish to add the following with a request to review the case in the light of the documents/facts now furnished.

3.(i) It can be seen from the Board's letter No. E(NG)I-76.CR/3 dt. 5.3.'86 (Copy enclosed) that the column relating to 'Fitness for promotion' is deemed to be delated w.e.f. 1.2.5.'85 (date decided in JCM meeting) from the Confidential reports.

(ii) The staff Posting Order No.300/86 was issued on 22.7.'86 in which my name was omitted but three juniors were there. (On date, I am superseded by about 7 juniors)

(iii) In spite of existence of Bd's orders contained in para (i) above, our administration has reviewed and assessed my suitability, under restructuring scheme, with the help of the committee, overlooking Bd's clear orders, perhaps by mistake, due to ignorance. Board's orders dated 5.3.'86 were in force fully at the time the SPO No.300/86 was issued in July '86.

4.(iv) The Board has clearly stipulated in their second para that the departmental 'Committee has to assess the fitness of an officer (employee) for promotion on the basis of various other qualitative aspects of performance and to take into account the remarks against all other columns of C.R.' Here the RDSO committee, I fear, has not followed the rulings, into-to, because it failed to take into account the main parameter, that 'I NEVER had any sort of adverse remarks, in the past, in my CR during my 32 years of Rly. service and I have qualified many departmental selections & had Ad-hoc promotions also, where the review of CR is a MUST.

26
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42

4. Further, I wish to bring it to your kind notice that, even if I am found 'Unfit for promotion' due to a bad/ adverse entry in my CR, during my Rly. career, it would have been better if the same would have been communicated to me, by our administration, for improvement in the fields I was lacking. Due to this non-intimation of any sort, by our administration, there was no way left for improvement. I am sure, you will agree that no employee is permitted to be punished whimsically without giving him a chance to improve or without framing charges against him. An employee cannot be punished for the charges he is not aware as I could not imagine the parameters taken into account nor the yard stick followed before arriving at a NEGATIVE decision against me.

5. In this connection, I enclose herewith a News paper cutting (N.I.Patrika dt. 8.2.'87 from Lucknow) which is self explanatory for your kind perusal. (Findings of a central administrative tribunal, similar to ~~our~~ own case, emphasising not to declare a man as 'Suddenly immature at the flag end of One's career'. I have completed more than 30 yrs. in Rlys).

In the end, I earnestly pray you to reconsider my case in the light of the facts explained above and pass your orders, as you deem fit and proper, at the earliest.

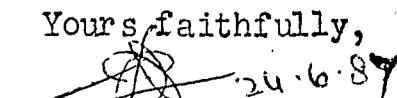
An early reply is requested.

Thanking you,

DA: Copy of:

1. My Application dt. 20.8.'86 with enclosure.
2. Boards letter dt. 5.3.'86
3. Newspaper cutting.

Yours faithfully,


(K.S. PATRA)

Dt. 24-6-'87. CDA (AD-HOC) MP Dte./RDSO Lucknow

Attested
True Copy
O B Sareen & Son
Advocates

Copy of Rly.Bd.'s letter No.E(NG)I-76.CR/3 dt.5.3.86 from addressed to the Genl. Managers, All Indian Rlys. & others.

Sub: Confidential Reports on Group 'C' staff-
Deletion of Column "Fitness for promotion".
.....

Reference Ministry of Railways letter No.E(NG)II-75-CR/1 dt.6/10.1.1977 circulating therewith revised Confidential Report Forms for non-gazetted staff.

The Staff side of the National Council (OCM) had represented that the column relating to "Fitness for promotion" should not figure in the form of Confidential Report, as it is for the Departmental promotion Committee to assess the fitness of an Officer for promotion in the basis of various other qualitative aspects of performance and taking into account the remarks against all other columns of the Confidential Report.

The matter was also discussed in the meeting of the Committee of the National Council (JCN) held on 12th May 85. As a result of the discussion, it has since been decided that the column relating to "Fitness for promotion" may be deleted in the form of Confidential Report for Group "C" staff. However, the column in section to Group 'B' will be retained.

Please acknowledge receipt of this letter.
Hindi version will follow.

Almash
True Copy
O. Bhanu Singh
Advocate

‘Official evaluation must be fair’

NEW DELHI, Feb. 7 (UNI): The central administrative tribunal has said that officers judging subordinates should do so fairly and with reasonable care and clarity so that their verdict is easily legible and intelligible.

With this observation, a two-member bench of the tribunal struck down certain adverse remarks made in the confidential reports of Mr KK Khullar, a director in the human resource development ministry's education department.

Mr SP Mukerji and Mr HP Bagchi also directed a review committee to consider the case of Mr Khullar for inclusion in the panel of joint secretaries taking his performance for the total period into account but excluding the adverse remarks passed against him for 1982 and 1983.

The tribunal noted that while the adverse remarks relating to 1983 were communicated to Mr Khullar and he had represented against them, certain other adverse remarks relating to 1982 came to light only when the tribunal inspected the petitioner's file.

In view of this, the tribunal directed the ministry to communicate these adverse remarks to Mr Khullar and decide on his representation against them within six weeks of receipt.

The remarks began with the words “it is hoped” and ended with the word “restrain” but the rest of it was illegible, the tribunal noted.

In the matter of the remarks for 1983 directed to be expunged, Ramalalabai, a railway officer had originally ordered the Tair'd of the P.D.D. awaited, but “channelisation” was deleted following the petition.

In its

the tribunal noted that the petitioner was working as director (languages) during the period in 1983. The adverse remark on April 17, 1985 was by the reporting officer, Mr VK Pandit, with additional remarks by the reviewing officer, Mrs Kapila Vatsayayan, then additional secretary, and now secretary in the department of arts.

The tribunal noted that it was conscious of the fact that any assessment of an officer's performance should be left to the reporting or the reviewing officer, and a judicial review was not warranted unless it seemed unreasonable or erroneous or mala fide.

The tribunal did not accept the petitioner's contention that the reports were mala fide because his name had not been included in the delegation for Indo-Pak joint panel in May 1983 in preference to their names.

Noting that all entries in Mr Khullar's reports had praised him highly and Mrs Vatsayayan had herself appreciated him in her remarks for the period to 1983, the tribunal said an officer cannot become “suddenly immature at the sag end of one's career.”

It said immaturity is not a sporadic or an episodic trait, but is a condition which is either congenital in the person, or is evidenced not in one year but in

रेका पुस्तकामें विपरीत टिप्पणी

संगमलाल वनाम भारत सरकार पामलम पार्टीमानस्ट्रेटिक ट्रिब्युनलने यह गवर्नर दी कि यदि किसी सरकारी कर्मचारीकी सेवा पुस्तकामें विपरीत टिप्पणी कर दी गयी है और उसकी मूचना उस कर्मचारीको नहीं है तो ऐसी टिप्पणीके आधारपर कर्मचारी पदोन्नति नहीं रोकी जा सकती है। उपरोक्त भास्तुलमें प्रार्थीकी सेवा पुस्तकामें १९८३-८४ की विपरीत टिप्पणीकी मूचना कर्मचारीको १६ अक्टूबर १९८६ को दी गयी जारीकि उसकी पदोन्नति रोकनेके आदेश १३ जुलाई १९८६ को ही हो चुके थे। ट्रिब्युनलने यह व्यवस्था दी कि यदि कोई विपरीत टिप्पणी प्रार्थीकी सेवा पुस्तकामें १९८३-८४ में हुई थी तो इसकी मूचना कर्मचारी को भिलनी चाहिए थी ताकि वह उसकी सफाईमें अपने साक्ष्य अधिकारियोंके सामने दे सकता था वह अपने कार्य सफाई लानेका प्रयत्न करता। यिनी सफाईका मौका दिये किसी कर्मचारीकी सेवा पुस्तकामें विपरीत टिप्पणी बेकार है और ऐसी टिप्पणीके आधारपर पदोन्नति रोकना व्यायके प्राकृतिक नियमोंके विरुद्ध है।

BY A Staff Reporter
Sacked staffer
CR minister



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X/12

भारत सरकार-रेल मंत्रालय
अनुसंधान अभियन्त्र और मानक संगठन
Government of India-Ministry of Railways
RESEARCH DESIGNS & STANDARDS ORGANIZATION

पत्र संख्या

Our Reference. ART/91

दिनांक

Dated. 3/8/87.

MEMORANDUM

With reference to his application dated 24/6/1987, Shri K. S. Patra, offg. CDA on ad hoc basis is informed that his appeal has been considered in detail but it is regretted that the decision communicated under this office Memo. of even number dated 14/5/87 can not be altered.

DA: Nil

(V. Vasudeva)
For Director General

Shri K. S. Patra,
CDA/MP Dte.,
RDSO/Lucknow.

3/8

Alleshd
True Copy
D. S. S. S. S. S.
Advocate

Government Of India
Ministry Of Railways
Research Design & Standards Organisation

R-18

STAFF POSTING ORDER NO. 330 OF 1988

As a result of Cadre Restructuring of non-gazetted staff in terms of Rly. Board's letter no. PCIII/85/URG/14 dated 3.7.85 and distribution of CRA/SRA posts in the ratio of 60:40 respectively, circulated vide this office letter no. E-I/S/ORG/1/URG/SR staff dated 16.8.85, the following staff belonging to reserved community are promoted against existing vacancies to officiate as Chief Research Assistant(Civil) in scale Rs.2000-3200(RS) in Civil Wings of Research Dte. w.e.f. 12.9.1988(FN) the date of declaration of their suitability.

1. Sh. Tulsi Ram, SRA/B&S posted in Research B&S.
2. Sh. Ram Chander, SRA/B&S posted in Research B&S.

NO. ART/22/1
Lucknow.
Dated: 16.9.1988

N.W.D. 16/9/88
(N.N. Sehgal) 16/9/88
for Jt. Director Admn. /3

- Distribution -

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SPO/File
Security Officer
Notice Board
Secy. CTSA
Staff concerned
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Allesed
True Copy
Ola Suresh
Adm. Staff

Ann 16

To
The Director General,
R. & S. C.,
Ludhiana.

613

(THROUGH PROPER CHANNEL)

Sub: Restructuring in M.P. Directorate (From S. D. A. to C. D. A. in Grade I, 2000-3200).

Ref: Your Staff Posting Order No. 330 of '88
(File No. ART/22/1 dated 16.9.88).

In inviting your kind attention to your above staff Posting Order No. 330 of 1988 we the five Senior Design Assistants of M.P. Directorate beg to state as under:-

1. Thanks to our R. D. S. O. Administration for its kind reconsideration, the fate of the two dropout Senior Research Assistants of B&S Research Dte. referred to in the Staff Posting Order No. 330 of '88, who were not considered suitable originally, against the restructuring post of Chief Research Assistants but now reconsidered and promoted.

2. We the five Senior Design Assistants of M.P. Directorate stationed even on 1.7.85 were dropped-out and our juniors were promoted, for the reasons best known to our Administration (we do not know the reasons and are still in dark).

3. As our Administration is kind enough and reconsidered the case of R&G Research Directorate, we earnestly request you to reconsider our case of M.P. Directorate also which falls in line with that of R&G Research Directorate.

4. The case lying in Industrial Tribunal at Lucknow (* filed by S. No. 5) could be suitably withdrawn once our case is reconsidered at par.

An early reconsideration and reply is prayed.

Thanking you,

Yours faithfully,

LUCKNOW

Dated: 28.9.88

L (M. A. Singh)

17 J 28/9/88

2. (D.M. Bhattacharjee) ³ *D.M.Bhattacharjee*

3. (Nazmuddin)

A. C. MILNE AND V.

* 54 (K. S. Patra)

of M. E. Dicastero

DUPLICATE *28.9.88*

'ORIGINAL COPY' submitted on 28.9.88 is missing somewhere, in transit. Hence 'DUPLICATE' copy now submitted. ~~28.9.88~~

A copy of 'ORIGINAL' is attached.

To
The Director General,
R. D. S. O.,
LUCKNOW.

Sir,

(THROUGH PROPER CHANNEL)

Sub: Restructuring in M.P. Directorate (From S. D. A. to C. D. A. in Grade Rs. 2000-3200).

Ref: Your Staff Posting Order No. 330 of '88 (File No. ART/22/1 dated 16.9.88).

In inviting your kind attention to your above Staff Posting Order No. 330 of 1988 we the five Senior Design Assistants of M.P. Directorate beg to state as under:-

1. Thanks to our R.D.S.O. Administration for its kind reconsideration, the fate of the two dropout Senior Research Assistants of B&S Research Dte. referred to in the Staff Posting Order No. 330 of '88, who were not considered suitable originally, against the restructuring post of Chief Research Assistants but now reconsidered and promoted.
2. We the five Senior Design Assistants of M.P. Directorate stagnated even on 1.7.85 were dropped-out and our juniors were promoted, for the reasons best known to our Administration (we do not know the reasons and are still in dark).
3. As our Administration is kind enough and reconsidered the case of B&S Research Directorate, we earnestly request you to reconsider our case of M.P. Directorate also which falls in line with that of B&S Research Directorate.
4. The case lying in Industrial Tribunal at Lucknow (* filed by S.No. 5) could be suitably withdrawn once our case is reconsidered at par.

An early reconsideration and reply is prayed.

Thanking you.

Yours faithfully,

LUCKNOW:
Dated: 28.9.88
12.10.88

1. (M. A. Singh) *sd- 28.9.88* (on leave on date)
2. (D.M. Bhattacharjee) *sd- 28.9.88* (on leave on date)
3. (Nizamuddin)
4. (M. L. Ahuja)
- * 5. (K. S. Patra)

Allesled
Tee CDP
OBServed
by ASO

OF M.P. DIRECTORATE.

Forwarded
Sd/- SK Sinha
12/10
JDS2 (MP)

Forwarded
Guru Nanak
28.9.88
JDS2
28.9.88

तार : रेल मानक-लखनऊ
Telegram : 'RAILMANAK'-LUCKNOW



16/11/88
टेलीफोन } 50507 & 60017
Telephones }

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भारत सरकार—रेल मंत्रालय

अनुसंधान अभिकल्प और मानक संगठन

Government of India—Ministry of Railways
RESEARCH DESIGNS & STANDARDS ORGANISATION

पत्र संख्या

Our Reference... ART/91

लखनऊ-226 011 दिनांक 16/11/88
LUCKNOW-226011 Date 16/11/88

MEMORANDUM

With reference to their applications dated 12/10/1988, Shri M. A. Singh, CDA/H. P. Dte. and others are informed that their cases are not similar to that of Shri Tulsi Ram and other (SC candidates) and benefit of restructuring can not be given as claimed by them.

DA: Nil

PRM/DRB-91
(N. N. Sehgal) 15/11/88
For Director General

✓ Shri M. A. Singh,
CDA (Ad hoc)/H. P. Dte.,
RDSO/Lucknow & others.

Attested

True Copy
Q. S. S. & S. S.
Advice

Anu 8/19 33
33

GOVERNMENT OF INDIA : MINISTRY OF RAILWAYS
RESEARCH DESIGNS AND STANDARDS ORGANISATION

STAFF NOTICE

14/88
A departmental selection for the post of Senior Design Asstt., scale Rs.2000-3200(RPS) for Motive Power Designs Directorate will be held on any date after a period of six (6) weeks from the date of issue of this Staff Notice. The exact date, time, venue of the selection will be notified in due course. Accordingly, the following Design Asstt.'A', scale Rs. 1600-2860(RPS) are advised to keep themselves in readiness for appearing in the said selection:-

S.No.	Names	Section/Dte. where working	Controlling officer
1.	Shri M.A.Singh	MP	JDMP(I/C)
2.	" D.M.Bhattacharya	"	"
3.	" Nizamuddin	"	"
4.	" M.L.Ahuja	"	"
5.	" K.S.Patra	"	"
6.	" N.K.Saini R.S. madhukar ED	"	"
7.	" Ramesh Singh	"	"
8.	" P.C.Chandramani	"	"
9.	" D.C.Singhal	"	"
10.	" S.Prasad	"	"
11.	" J.P.Yadav	RDSO/Insp.Cell/DLW/Varanasi	JD(I Mech)DLW
12.	" Surya Prakash	M.P.	JDMP(I/C)
13.	" A.R.Bose	"	"
14.	" Rana Singh	"	"
15.	" Rajender Kumar	"	"
16.	" S.K.Sharma	ED	JD/ED-I
17.	" Satish Chandra	M.P.	JDMP(I/C)
18.	" O.P.Chaubey	"	"
19.	" S.K.Khullar	"	"
20.	" G.S.Matharu	ED	JD/ED-I
21.	" S.C.Bhalla	MP	JDMP(I/C)
22.	" Ajit Singh	"	"
23.	" O.S.Panesar	"	"
24.	" A.C.Tripathi	"	"
25.	" Ram Lal	"	"
26.	" P.Abdul Rehman	ED	JD/ED-I
27.	" R.K.Dey	ED	"
28.	" Md.Zibrail	MP	JDMP(I/C)
29.	" P.K.Chakraborty	"	"
30.	" K.Bhattacharjee	"	"
<u>Against reserved vacancies</u>			
1/31"	R.P.Kardam(S/C)	"	"
2/32"	M.P.Verma(S/C)	"	"

2. The controlling officers are also requested to get the above contents noted by the concerned staff and a copy of the same should be sent to SO(Recrt) immediately.

DA/Nil. Alleged
Lucknow-11 True copy
Dated: 23.6.1988 *Q&S 20/6/88*
(File No. Recrt/ES/SDA (MP))
for Director General
Advocate

DISTRIBUTION: 1.JDSMP(I/C) 2.JD/ED-I, 3.SO/E-I, 4.SO(MP) 5.SO/ED
5.Staff concerned 6.Notice Board 7.CI.III Staff Assocn.

BY REGISTERED POST: The Jt.Director Inspn(Mech)/RDSO C/o., GM/DLW
Varanasi with one Spare copy for Shri J.P.Yadav.

Government of India
Ministry of Rail Transport
Department of Railways
Research Design & Standards Organisation

STAFF POSTING ORDER NO. 399 OF 1986

With the approval of DSMP, the following DAA/SDA(Prov.) are promoted as Chief Design Assistant in the scale Rs. 650-960 (RS) in the MP Directorate purely on adhoc basis effective from the dates these staff take over charge of the higher post till such time regularly selected candidates become available:-

- 1) Shri M.A. Singh, DAA is promoted w.e.f. 18.10.85 against the vacancy of Shri Sham Lal.
- ii) Shri D.M. Bhattacharjee, DAA against the vacancy of Shri K.S. Rehil
- iii) Shri Nizamuddin, DAA against the vacancy of Shri Darbara Singh
- iv) Shri M.L. Ahuja, DAA against the vacancy of Shri H.S. Sohanpal
- v) Shri K.S. Patra, DAA against the vacancy of Shri T.S. Hanspal
- vi) Shri S.B. Gupta, DAA against the vacancy of Shri S.L. Chatterjee
- vii) Shri N.K. Saini, DAA against the vacancy of Shri R.K. Gamit at Lucknow and is transferred alongwith the post to RDSO/ Inspection Cell, DLW/Varanasi. Shri Karunakar Thakur shall stand relieved from the post of Sr. Technical Asstt. on transfer back to DLW/Varanasi from the date Shri Saini reports for duty. The transfer of Shri Saini is purely on temporary basis till such time the post of Sr. Technical Assistant vice Shri Thakur is filled by duly selected candidate.

2. The above promotions are purely on adhoc basis and will not confer any claim on the staff concerned for regular promotion in future.

3. The date from which staff actually take over the charge of the higher post, except in the case of Shri M.A. Singh, may be intimated to Estt. I Section after obtaining Charge reports from the individuals for further necessary action.

File No. ART/91
Manak Nagar, Lucknow-11
Dated: 26.9.86

24/9
(N.N. Sehgal)
for Director Stds. (MP)

DISTRIBUTION

- I) JDMP(Inc.) JDMP-III JDF DD/E-I DD/Admn. SO/Admn. SO/Conf. SO/E-III (in duplicate) SO/ML Notice Board Staff concerned P/file of staff concerned.
- II) Jt. Director, Inspection Cell, RDSO/Varanasi. As soon as Shri Saini report for duty Shri Karunakar Thakur may be relieved on transfer back to DLW/Varanasi.
- III) Shri Karunakar Thakur, STA/RDSO Inspection Cell, DLW/Varanasi
- IV) The General Manager (P), DLW/Varanasi.

✓ C TCA

Alleged

True Copy
Q.B. S. Khan
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Reply on behalf of the Respondents 1 & 2

In

Registration No. 82 of 1989 (L)

K.S.Patra and others

.. Applicants

Vs.

Union of India and another

.. Respondents

I, S.Bhatia, aged about 54 years, son of late Shri U.C.Bhatia presently posted as Deputy Director/Establishment-I in the office of Research, Designs and Standards Organisation, Ministry of Railways, Lucknow most respectfully sheweth as under:

1. That I am presently posted as Deputy Director/Estt.-I in the office of Research, Designs and Standards Organisation, Ministry of Railways, Lucknow and have been duly authorised on behalf of Respondents No. 1 & 2 for filing the instant reply. I have perused the relevant records relating to the instant case and have also gone through the petition under Section 19 of the Central Administrative Tribunal Act, 1985 filed by the applicants and thus I am fully acquainted with the facts and circumstances of the case deposed below.

2. That before giving para-wise reply to the application, the Respondents crave leave of this

20/9/89
Dy. Director Establishment,
R. D. S. O., Ministry of Railways,
Alambagh, LUCKNOW-5

the categorisation 'Outstanding' will not exist'.

The applicants were due for promotion against the upgraded posts of Chief Design Assistants in scale Rs.650-960(RS) in their turn and their claims were duly considered but they were not found fit for promotion as per recommendation of the Departmental Promotion Committee which were approved by the competent authority. As such the applicants were not given promotion to the post of Chief Design Assistant in scale Rs.650-960(RS) against the upgraded posts.

4. That the contents of paras 1, 2, 3 and 4 of the petition need no comments as these are only a matter of record.

5. That in reply to the contents of para 5 of the application it is submitted that the applicants were duly replied vide this office Memoranda No. ART/91 dt. 14-5-87 (copies annexed at Annexures 9, 10, 11 and 12 of the application that they were not entitled for the post of Chief Design Assistant for the reasons given in the Memorandum dated 14-5-87. As such, the petition is time-barred and is liable to be rejected on this score alone. Moreover, the juniors who have superseded the petitioners have not been made parties in the instant case.

6. That in reply to the contents of para 6(i) of the application it is submitted that the

applicants were working as Senior Design Assistant in scale Rs.550-750(RS) in the Motive Power Directorate of R.D.S.O. on 1-7-85 but now they are working as Chief Design Assistant in scale Rs.650-960/RS on ad-hoc basis other than the upgraded posts from the dates indicated against each:

<u>Name of the applicant</u>	<u>Date from which officiating on ad hoc basis</u>
1. Sh.K.S.Patra	7-10-86
2. " D.M.Bhattacharjee	26-9-86
3. " Nizamuddin	26-9-86
4. " M.L.Ahuja	26-9-86

7. That in reply to the contents of para 6(ii) of the application it is submitted that the Railway Board vide their letter No. PC-III/85/UPG/14 dt. 3-7-85(copy annexed at Annexure-II of the application) ordered that the categories of Chief Design Assistant in scale Rs.650-960 and Senior Design Assistant in scale Rs.550-750(RS) of Scientific staff of RDSO be restructured in the ratio of 60:40 and the additional vacancies which arose as a result of such cadre restructuring be filled as per provisions of para 5.1 of the said letter, and as such the selections were done by the Departmental Promotion Committee on the scrutiny of service records/ Confidential Reports.

8. That the contents of paras 6(iii), 6(iv) of the application call for no remarks as these are matters of record. The petitioners whose cases were also considered by the Departmental Promotion Committee along with others were not found fit for the post of Chief Design Assistant. The recommendations of the DPC were approved by the competent authority.

9. That in reply to the contents of para 6(v) of the application it is submitted that as per

- P.W.D.
11. That in reply to the contents of para 6(vii) of the application it is submitted that two Scheduled Caste candidates viz. S/Shri Tulsi Ram and Ram Chander of the Research B & S Wing of the Research Directorate ~~where the petitioners are working~~ (and not of Motive Power Directorate) were promoted as Chief Research Assistants under cadre restructuring in the Research Civil Directorate. Shri Ram Chander, an S/C candidate was considered for the first time and found suitable for promotion, whereas the case of Shri Tulsi Ram, an S/C candidate was considered for promotion as Chief Research Assistant under cadre restructuring on the basis of Railway Board's letter dt. 3-7-85 but he was not found fit in the first instance. On receipt of representation his case was reviewed and on his having been found fit for promotion as Chief Research Assistant against reserved point under cadre restructuring ~~as~~ he was promoted as Chief Research Assistant w.e.f. 12-9-88 i.e. the date of declaration of his suitability. Shri K.S.Patra and others who do not belong to the reserved community also represented for review of their cases on the same lines but the competent authority observed that their cases were not similar to those of S/C candidates and as such their cases were not reviewed and they were advised of the decision vide Memorandum dated 16-11-88 (copy at Annexure 18 of the Application).
12. That the contents of paras 7 & 8 of the application do not call for any comments.

2/50

Hon'ble Tribunal to submit the following facts for proper appreciation of the case:

3.1 That the applicants were officiating as Senior Design Assistants in scale Rs.550-750(RS) in the Motive Power Directorate of RDSO. As a result of Cadre restructuring ordered by Railway Board, some posts of Senior Design Assistant scale Rs.550-750(RS) in the Motive Power Directorate of RDSO were upgraded to the higher scale of Rs.650-960(RS) with the designation as Chief Design Assistant w.e.f. 1-7-85. While issuing the orders for upgradation of posts on percentage basis, the Railway Board in para 5.1 of their letter No. PCIII/85/UPG/14 dt. 3-7-85 (copy at annexure II of the application) have stated as under:-

"The existing classification of the posts covered by these restructuring orders, as "Selection" and "Non-selection" as the case may be, remains unchanged. However, for the purpose of implementation of these orders, if an individual railway servant becomes due for promotion to only one grade above the grade of the post held by him, at present, on a regular basis, and such higher grade post is classified as a "Selection" post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of service records without holding any written and/or viva-voce tests. Under this procedure,

**/ when certain posts were upgraded as Chief Design Assistants


the categorisation 'Outstanding' will not exist'.

The applicants were due for promotion against the upgraded posts of Chief Design Assistants in scale Rs.650-960(RS) in their turn and their claims were duly considered but they were not found fit for promotion as per recommendation of the Departmental Promotion Committee which were approved by the competent authority. As such the applicants were not given promotion to the post of Chief Design Assistant in scale Rs.650-960(RS) against the upgraded posts.

4. That the contents of paras 1, 2, 3 and 4 of the petition need no comments as these are only a matter of record.

5. That in reply to the contents of para 5 of the application it is submitted that the applicants were duly replied vide this office Memorandum No. ART/91 dt. 14-5-87 (copies annexed at Annexures 9, 10, 11 and 12 of the application that they were not entitled for the post of Chief Design Assistant for the reasons given in the Memorandum dated 14-5-87. As such, the petition is time-barred and is liable to be rejected on this score alone. Moreover, the juniors who have superseded the petitioners have not been made parties in the instant case.

6. That in reply to the contents of para 6(i) of the application it is submitted that the

applicants were working as Senior Design Assistant in scale Rs.550-750(RS) in the Motive Power Directorate of R.D.S.O. on 1-7-85 but now they are working as Chief Design Assistant in scale Rs.650-960/RS on ad-hoc basis other than the upgraded posts from the dates indicated against each:

<u>Name of the applicant</u>	<u>Date from which officiating on ad hoc basis</u>
1. Sh.K.S.Patra	7-10-86
2. " D.M.Bhattacharjee	26-9-86
3. " Nizamuddin	26-9-86
4. " M.L.Ahuja	26-9-86

7. That in reply to the contents of para 6(ii) of the application it is submitted that the Railway Board vide their letter No. PC-III/85/UPG/14 dt. 3-7-85 (copy annexed at Annexure-II of the application) ordered that the categories of Chief Design Assistant in scale Rs.650-960 and Senior Design Assistant in scale Rs.550-750(RS) of Scientific staff of RDSO ~~to~~ be restructured in the ratio of 60:40 and the additional vacancies which arose as a result of such cadre restructuring be filled as per provisions of para 5.1 of the said letter, and as such the selections were done by the Departmental Promotion Committee on the scrutiny of service records/ Confidential Reports.

8. That the contents of paras 6(iii), 6(iv) of the application call for no remarks as these are matters of record. The petitioners whose cases were also considered by the Departmental Promotion Committee along with others were not found fit for the post of Chief Design Assistant. The recommendations of the DPC were approved by the competent authority.

9. That in reply to the contents of para 6(v) of the application it is submitted that as per

provision of para 5.1 of the Railway Board's letter No. PC-III/85/UPG/14 dt. 3-7-85 (copy at Annexure-II of the Application) the service records of the applicants alongwith others were duly scrutinised by the Departmental Promotion Committee appointed for this purpose by the competent authority and according to the recommendations of the said committee which were approved by the competent authority the applicants were not found suitable for the post of Chief Design Assistant in scale Rs.650-960 and as such the applicants were not promoted to the post of Chief Design Assistant in scale Rs.650-960(RS) under the cadre restructuring orders. However, they have been subsequently considered for promotion to the post of Chief Design Asstt. in scale Rs.650-960 on ad-hoc basis with effect from the dates shown in para 6 above against the posts other than upgraded posts. The rest of the position regarding their representation is admitted.

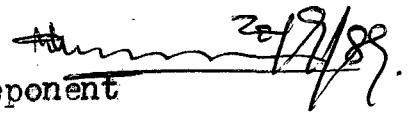
10. That in reply to the contents of para 6(vi) of the application it is stated that the representation of the Applicant 'A' viz. Shri K.S.Patra was considered in detail and the decision communicated under this office Memorandum number ART/91 dt. 14-5-87. The petitioner/applicant was again informed of the decision vide Office Memorandum No. ART/91 dt. 3-8-87 (copy already annexed at Annexure 14 of the application).

**/ and these ad-hoc arrangements will terminate as soon as regular selected candidates are available.

13. That in reply to the contents of para 9 of the application it is submitted that the reliefs sought in this application are not sustainable in law as their cases were considered by the DPC but they were not found fit and as such the applicants are not entitled for any reliefs claimed and the instant application is liable to be dismissed.

14. That in reply to the contents of para 10 of the application it is stated that the proposed selection for filling in the posts of Chief Design Assistant is intended for filling up of vacancies which have arisen due to retirement/promotion etc. of the staff and are not connected with the against which the Applicants have preferred their claim cadre restructuring/and as such holding of selection for these posts has no relevancy to the reliefs sought by the applicants. Such selections were not held due to some clarifications being sought from the Railway Board but now with the receipt of the Railway Board's reply, selections are being arranged shortly and the candidature of all the along with others four applicants will be considered. As such, interim relief sought by the applicants is not sustainable in law and as such it is liable to be rejected.

15. That the contents of paras 11, 12 and 13 of the application call for no comments.


Deponent

Dy. Director Establishment,
D. S. O., Ministry of Railways,
Alambagh, LUCKNOW.

Verification

I, S.Bhatia, Dy.Director/Establishment-I,
R.D.S.O. (Ministry of Railways), Lucknow do
hereby verify that the contents of para 1 of the
instant reply are true to my personal knowledge
and belief and those of paras 2 to 15 are based
on knowledge derived from the perusal of the
available records relating to the instant cases
kept in the official custody of the Respondents.
Nothing material has been concealed and nothing
stated therein are false.

Verified this 20th day of August, 1989
at Lucknow.

Self

20/8/89
Deponent

Dy. Director Establishment
R. D. S. O., Ministry of Railways
Alambagh, LUCKNOW

In the Hon'ble Central Administrative Tribunal , Allahabad.
Circuit Bench - Lucknow.

Rejoinder to Counter-reply of Respondents 1 & 2
in
Case No. OA 82/1989 (L)

K.S.Patra & 3 othersApplicants
Vs.

Union of India & anotherRespondents.

Para-wise reply to the Respondents' Counter-affidavit--

1. Paras 1&2 of Counter needs no reply.
2. In reply to para 3.1 of the counter, it is averred that the applicants are " confirmed" as Senior Design Assts. in Grade Rs.550 - 750 (RS) of MP Dte, much before 1.7.1985 i.e. the date of implementation of Restructuring in RDSO and not merely "officiating" as wrongly alleged.
3. Para 4 of counter needs no comments.
4. In reply to para 5 of counter , it is admitted that our applications were duly replied on 14.5.1987 (Annex-IX to XII) but the applicants have jointly moved an application(s) (Annex-XVI & XVII) for review, on the analogy of review granted to SC candidates, vide RDSO's SPO No. 330/1988 (Annex - XV) which was turned-down on 16.11.88 (Annex-XVIII).

Secondly, an Industrial Dispute was raised in favour of applicant No. 1 (K.S.Patra) on 15/20.10.1987 after receiving RDSO's replies of 14.5.87 & 3.8.87 (Annex-IX & XIV).

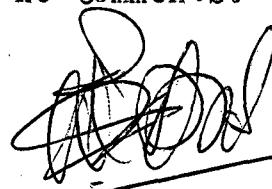
(Now, the said Indl. Dispute was duly withdrawn by the applicant No. 1 (K.S.Patra) on 1.5.89 after the present application in C.A.T./Lucknow)

Hence, the application is not "time-barred" as alleged.

5. Contents of paras 6 to 10 of the counter are not disputed except that the applicants were superseded, by juniors, without giving a "Show-Cause Notice" or without "assigning any reason" for their supersession.
6. In reply to para 11 of the counter, the applicants beg to state that the relevant "Service Rules" in force in RDSO, are "Same" for all of its Directorates.

Cadre Restructuring was implemented in RDSO wef. 1.7.1985 whereas the SC Candidates of Research (B&S) Directorate were promoted, after the so called "REVIEW", in August 1988 i.e. after more than 3 years from 1.7.1985. On the same analogy, the review should have been granted to the petitioners.

7. As regards para 12 of the counter, the averments of paras 7 & 8 of application are reiterated.
8. In reply to para 13 of the counter, the averments of para 9 of the application are reiterated.
"Compensation for 'mental torture' may kindly be allowed".
9. In reply to para 14 of the counter, the applicants reiterate the "Interim Relief" claimed in para 10 of the application.
10. Para 15 of the counter needs no comments.


6.X.89
(K.S.PATRA)

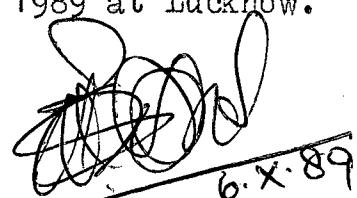
Applicant No. 1

PG
60

VERIFICATION

I, K.S.Patra S/o Late K.K.Patra aged 55 years, presently working as Chief Design Asstt. (ad-hoc) in MP Directorate of RDSO and resident of C - 16/2, Manaknagar, Lucknow do hereby verify that the contents of this rejoinder to counter-reply, are true to the best of my personal knowledge & legal-advice and that I have not suppressed any material fact.

Verified this 6th day of October, 1989 at Lucknow.


6.X.89
(K.S.PATRA)
Applicant No. 1

8/6 ✓

In the Hon'ble Central Administrative Tribunal, Allahabad.
Circuit Bench - Lucknow.

Rejoinder to Counter-reply of Respondents 1 & 2

in

Case No. OA 82/1989 (L)

K.S.Patra & 3 othersApplicants

vs.

Union of India & anotherRespondents.

Para-wise reply to the Respondents' Counter-affidavit—

1. Paras 1&2 of Counter needs no reply.
2. In reply to para 3.1 of the counter, it is averred that the applicants are "confirmed" as Senior Design Assts. in Grade Rs.550 - 750 (RS) of MP Dte, much before 1.7.1985 i.e. the date of implementation of Restructuring in RDSO and not merely "officiating" as wrongly alleged.
3. Para 4 of counter needs no comments.
4. In reply to para 5 of counter, it is admitted that our applications were duly replied on 14.5.1987 (Annex-IX to XII) but the applicants have jointly moved an application(s) (Annex-XVI & XVII) for review, on the analogy of review granted to SC candidates, vide RDSO's SPO No. 330/1988 (Annex - XV) which was turned-down on 16.11.88 (Annex-XVIII).

Secondly, an Industrial Dispute was raised in favour of applicant No. 1 (K.S.Patra) on 15/20.10.1987 after receiving RDSO's replies of 14.5.87 & 3.8.87 (Annex-IX & XIV).

(Now, the said Indl. Dispute was duly withdrawn by the applicant No. 1 (K.S.Patra) on 1.5.89 after the present application in C.A.T./Lucknow)

Hence, the application is not "time-barred" as alleged.

5. Contents of paras 6 to 10 of the counter are not disputed except that the applicants were superseded, by juniors, without giving a "Show-Cause Notice" or without "assigning any reason" for their supersession.
6. In reply to para 11 of the counter, the applicants beg to state that the relevant "Service Rules" in force in RDSO, are "Same" for all of its Directorates.

VERIFICATION

I, K.S.Patra S/o Late K.K.Patra aged 55 years, presently working as Chief Design Asstt. (ad-hoc) in MP Directorate of EDSO and resident of C - 16/2, Manaknagar, Lucknow do hereby verify that the contents of this rejoinder to counter-reply, are true to the best of my personal knowledge & legal-advice and that I have not suppressed any material fact.

Verified this 6th day of October, 1989 at Lucknow.


6.X.89
(K.S.PATRA)
Applicant No. 1

Cadre Restructuring was implemented in RDSO wef. 1.7.1985 whereas the SC Candidates of Research (B&S) Directorate were promoted, after the so called "REVIEW", in August 1988 i.e. after more than 3 years from 1.7.1985. On the same analogy, the review should have been granted to the petitioners.

7. As regards para 12 of the counter, the averments of paras 7 & 8 of application are reiterated.
8. In reply to para 13 of the counter, the averments of para 9 of the application are reiterated.
"Compensation for 'mental torture' may kindly be allowed".
9. In reply to para 14 of the counter, the applicants reiterate the "Interim Relief" claimed in para 10 of the application.
10. Para 15 of the counter needs no comments.



6.X.89
(K.S.PATRA)

Applicant No. 1

VERIFICATION

I, K.S.Patra S/o Late K.K.Patra aged 55 years, presently working as Chief Design Asstt. (ad-hoc) in MP Directorate of RDSO and resident of C - 16/2, Manaknagar, Lucknow do hereby verify that the contents of this rejoinder to counter-reply, are true to the best of my personal knowledge & legal-advice and that I have not suppressed any material fact.

Verified this 6th day of October, 1989 at Lucknow.


6.X.89
(K.S.PATRA)
Applicant No. 1

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

REPLY TO MISC.APPLICATION NO.616 of 1990

IN

O.A.No.82 of 1989(L)

K.S.Patra & others Applicants.
Vs.
Union of India and others..... Respondents.

I, S.Bhatia, S/O late Shri U.C.Bhatia aged about 55 years presently posted as Deputy Director(Estt-I) in the Office of Research,Designs and Standards Organisation (Ministry of Railways) Lucknow do hereby solemnly state as under:-

1. That the Officer above named is presently posted as Dy.Director(Estt-I) in the Office of Research,Designs and Standards Organisation(hereinafter called as RDSO) Lucknow and has been duly authorised on behalf of respondents for filing the instant reply. The officer above named has carefully perused the available relevant records relating to the instant case and has also gone through the petition and the Misc.application filed by the Applicant and has understood the contents thereof and thus he is fully acquainted with the facts and circumstances of the case deposed below:-
2. That the contents of para 1 of Misc.application do not call for comments.
3. That in reply to the contents of para 2, it is submitted that the remarks already offered in para 3 of the Counter affidavit are reiterated.
4. That the contents of para 3 do not call for comments.
5. That in reply to the contents of paras 4&5 of the application it is submitted that the petitioner and others

ज्यू निदेशक स्थापना - १
अनुसंधान अधिकार और मानक संगठन,
रेल मंत्रालय, लखनऊ - 226011

were called for departmental selection for the post of Senior Design Assistant, scale Rs.2000-3200 in the Motive Power Directorate of RDSO and has no relevancy with the upgraded posts against which the Petitioners have filed the application as O.A.No.82 of 1989 in this Hon'ble Tribunal.

6. That in reply to the contents of para 6, it is stated that the applicant was replied vide this office Memorandum No. Rectt/ES/SDA(MP) dt.5.10.90 (copy annexed and marked as Annexure C-1).

7. That in reply to the contents of para 7, it is stated that the selection was fixed on 8th and 9th October 1990 to the convenience of the members of the Selection committee and the allegation that it was deliberately fixed on these dates is emphatically denied. It may however be submitted that no hearing took place on 10.10.90.

8. That since the selection has already been conducted and inspite of the written advice given to the Petitioner vide Memorandum dt.5.10.90, he failed to avail of the opportunity and did not appear in the Selection. The Misc. application has become infructuous and is liable to be dismissed.

VERIFICATION

I, S.Bhatia, Dy.Director(Estt-I) RDSO, Lucknow do hereby verify that the contents of para 1 of the instant reply are true to my personal knowledge and belief and those of paras 2 to 8 are based on knowledge derived from the perusal of the official records of the instant case kept in the official custody of the answering Respondents and legal advice. Nothing material has been concealed and nothing stated herein are false.

Verified this 10th day of December 1990 at Lucknow.

13/12/90
S.Bhatia
Deponent.

उप निदेशक स्थापना - 1
शतुर्संधान शिक्षकलय और मानक संगठन,
गो मंत्रालय, लखनऊ - 226011

Annexure C-1

S. no. 22

8/6

Ro. Recd/ES/SDA(MP)

5.10.90

MEMORANDUM

With reference to his application dated 20.9.90 Shri K.S.Patra, Design Asstt.'A'(IP) is informed that his request for postponement of departmental selection for the post of Senior Design Assistant, scale Rs.2000-3200 (RPS) has been considered and he is advised that in his own interest and risk he must appear in the selection for the said post on the appointed date i.e. 8th & 9th October, 1990, failing which administration will not hold any other selection separately for him and he will forfeit his chance of appearing in the selection.

DA/Min.

(O.M.Dubey)
for Director General

Shri K.S.Patra,
SDA(Adhoc)/IP Dte.
RDO/Lucknow.

Recd.

(K.S.Patra)
5 X 90

10/10/90

dated

उप निदेशक स्थापना - ।
बनुसंघाल अभिकल्प और मानक संगठन,
रेल मंत्रालय, लखनऊ - 226011

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW

Registration No. 82 of 1989

Between

K.S.Patra and others .. Applicants

Vs.

Union of India and others .. Respondents

PRELIMINARY OBJECTIONS

I, S.Bhatia, s/o late Shri U.C.Bhatia, aged about 54 years presently posted as Deputy Director/Estt-I in the office of Research, Designs and Standards Organisation, Ministry of Railways, Lucknow most respectfully shoverth as under:-

1. That I am presently posted as Deputy Director/Estt-I in the office of R.D.S.O. Ministry of Railways, Lucknow and have been duly authorised on behalf of Respondents 1 & 2 ~~maximum~~ for filing the instant ^{objection} case and have also gone through the petition under Section 19 of the CAT Act, 1985 filed by the applicants and thus I am fully acquainted with the facts and circumstances of the case deposed below.
2. That the main relief claimed by applicant in his application is that he should be promoted as Chief Design Assistant in scale Rs.650-960(RS) w.e.f. 1-7-85 against which his representation

Recd City
O/S Director
Paritala
22-9-89

18/8/89
By. Director Establishment,
R. D. S. O., Ministry of Railways,
Amanbagh, LUCKNOW-5

was rejected on 14-5-87 and appeal was finally rejected on 3-8-87 vide Annexure No. 14 to the application while the applicant preferred this application only in the year 1989 i.e. beyond one year limitation period.

3. That since the applicants have not specifically challenged the Staff Posting Order No. 330 of 1988 contained in Annexure 15 to the application, also because the applicants belong to Motive Power Directorate while promotion vide Annexure 15 was given to employees of B&S Research Wing of the Research Directorate hence the rejection of applicant's representation vide Annexure 18 cannot give them fresh cause of action as a matter is quite different.

4. That the applicants have also not impleaded the persons who would be affected by the relief claimed by applicants.

Wherefore the answering respondents crave leave of this Hon'ble Tribunal to raise the following 'preliminary objections' which may kindly be decided before taking up the case on merits:

- A. Whether this application is barred by time?
- B. Whether this application suffers from non-impleadment of necessary parties?
- C. Whether this application is maintainable on ground of availability of alternative remedy?

Lucknow,

Dt. 22-8-89.

22/8/89
Respondent
By. Director Establishment,
B. D. S. O., Ministry of Railways
Almora, LUCKNOW-6

VERIFICATION

I, S.Bhatia, Dy. Director Establishment-I,
R.D.S.O., Ministry of Railways, Lucknow do hereby
verify that the contents of para 1 of the instant
reply are true to my personal knowledge and belief
and those of paras 2 to 4 are based on knowledge
derived from the perusal of the available records
relating to the instant case and legal advice.
Nothing material has been concealed and nothing
stated therein are false.

LUCKNOW
Dated: 22-8-89.

22/8/89
Respondent
Dy. Director Establishment,
R. D. S. O., Ministry of Railways,
Abadpur, Lucknow

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

Review Application No.642/92

Inre

O.A. No.82/1989

K.S.Patra & 3 others

Applicants

versus

Union of India & others.

Respondents.

Hon. Mr. Justice U.C. Srivastava V.C.
Hon. Mr. K. Obayya, Adm. Member.

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

This review application is directed against our judgment and order dated 24.6.92 by which the O.A. was dismissed but with certain observations. The case was heard and disposed of after hearing the counsel for the parties. The scope of review application is limited. It does not mean rehearing and reconsidering the arguments as some matter however the same are differently worded. The same Bench cannot sit in appeal over its earlier judgment which can be done by a superior court. The selection was made by D.P.C. and no ground having been pleaded or if pleaded established which could have resulted in setting aside the ~~gross~~ assessment made by D.P.C. , there is hardly any ground for review. There is no error much less than an error apparent on the face of the record, as such the review application has no substance and is rejected.


Adm. Member.

Lucknow: Dated: 26/8/92


Vice Chairman.

Shakeel/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.

REVIEW APPLICATION

642/92

Central Admin. Trib. Lucknow

in re

Circuit Bench, Lucknow

O.A. No: 82/1989

Date of Filing 27.7.92

Date of Receipt by Post.....

K.S. Patra & 3 others

..... Applicant.

Versus.

Union of India & others.

..... Respondents.

Sl.No.	Index Description of documents filed	Pages
1.	Review Application	1 & 5
2.	Copy of the judgement dated 24.6.92 Annexure 1	6 to 8
3.	Copy of S.P.O.No;18/1991 dated 28.1.91 Annexure 2	9 - 10
4.	Copy of representation dated 29.6.92 Annexure 3	11 - 13
5.	Vakalatnama.	14
6.	Affidavit	15-16

Lucknow:

July 24, 1992

R.S. Mital
Advocate.

Counsel for Applicant.

R.S. Mital

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.

O.A. NO. 82 of 1989

K. S. Patra & 3 others

.... Applicants.

Versus.

Union of India & others

.... Respondents

Review Petition of applicant K.S. Patra under Rule 17 of
Central Administrative Tribunal (Procedure) Rule 1987
against the judgement and order dated 24.6.92 in the above
Noted application.

The applicant, named above most respectfully begs to state as under:-

1. That following reliefs were sought for through the the original application.
 - (a) That the orders of supersession of the applicants be set aside and the opposite parties be directed to promote the applicants as Chief Design Assistant w.e.f. 1.7.85, the date when the juniors were promoted.
 - (b) That the opposite parties be further directed to pay the arrears of emoluments due on that account.
 - (c) That the opposite parties be directed to pay interest on the amounts found due w.e.f. 1.7.85 upto the date of actual payment, after the decision of this case.
2. That the Judgement & order was passed on 24.6.92 and the operative position of the judgement is as under:

PARA 4: "There being no allegation or malafide or bias, as it cannot be said that the Departmental Promotion Committee fell into an error in making assessment. However, so far as the record is concerned, the difference does not appear to be much and in particular year, there was down-gradation for which it appears that no earlier notice or whatever is



2/2

given to the applicant, there appears to be no reason why now the case of upgradation or higher post will not be considered and their ad-hoc upgradation will not be regularised, but for the the above observation, the application is dismissed. No order as to costs."

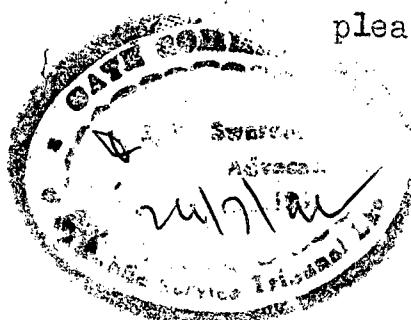
A copy of the Judgement dated 24.6.92 is being enclosed as Annexure. 1 of this review petition.

3. That the Hon'ble Tribunal after perusing the minutes of Select Committee had stated as under on order sheet dated 24.4.91.

"The question involved in this case is as to whether the petitioners were entitled to be upgraded vide order of Railway Board dated 3.7.85. For this purpose we called for the minutes of Select Committee. The same were not complete in as much as it did not disclose as to why the Petitioners were ~~not~~ reprehended. The reasons have not been recorded in the papers shown to us. Therefore, let the documentary evidence be produced before us to enable us to judge that the procedure of the Selection Committee were not arbitrary in superseeding the petitioners".

The Hon'ble Tribunal in para 3 of the Judgement were also pleased to observe as under:-

"Although the applicant earned the entry of good and ~~very~~ very good but in the year 1984 incidently all these four were rated as 'average' & it appears that because of this slight difference between the records of all these persons, these four applicants were not upgraded. The assessment



[Handwritten signature]

The assessment was to be made by DPC & the difference however made was for D.P.C. to decide & assess and however the contention on behalf of the applicant is strong, it may be these minor details or entry of one year was not to be taken into account. It is not possible for Tribunal to re-assess the same."

It thus becomes manifestly clear that the D.P.C. had definitely committed a grave error by not including the names of the applicants in the select list. It has also been stated in para 4 of the Judgement that the applicant was not given any notice for entry of a particular year & difference does not appear to be much. From above it transpires that:-

- (i) The D.P.C. had not given any reasons for superseeding the applicant in their proceedings.
 - (ii) No notice of particular year (1984) was given to the applicant. It is well settled law that any adverse/otherwise remarks are not communicated to the employee, they cannot be read against him in consideration of promotion for higher post and every administrative action has to be fair and equitous. The D.P.C. had not dealt with the applicant fairly & equitably with the result that the applicant could not be promoted to the regular post of Chief Designs Assistant. The method of selection was seniority cum fitness and the Committee while considering the case of applicant did not apply their mind and did not act reasonably in superseeding the claims of the applicant because he had earned good & very good entries also in previous years.
- 4/-



[Handwritten signature]

and the Hon'ble Tribunal have also held that the difference being 'minor' should not have been considered against the applicant. When the D.P.C. had not passed any reasoned order or had committed an error of assessment in respect of applicant, the Hon'ble Tribunal can certainly interfere. The claims of promotion of the applicant is further substantiated by the fact that the applicant was considered fit in 1986 and was given ad-hoc promotion.

4. That the relief granted by the Hon'ble Tribunal could not benefit or cover the case of the applicant as on the date of the judgement the applicant was not working as Ad hoc Chief Design Assistant. He had already been downgraded on 28.3.91 and reverted as Senior Design Assistant. A copy of the order dated 28.1.91 is being filed as Annexure 2. The position was not brought before the Hon'ble Tribunal on account of the fact that original relief sought for setting aside the supersession orders and granting promotion on the post of Chief Design Assistant w.e.f.1.7.85.


R. P. Swanson
Advocate
M/1/10

That in view of the relief granted by the Hon'ble Tribunal and the fact that due to ceasure of  the applicant on ad-hoc promotion, the question of his regularisation on the ad-hoc post does not arise

5. That the applicant after receiving the copy of judgement dated 24.6.92 represented to the Director General/R.D.S.O. on 29.6.92 and insisted that the the case of the applicant be referred to Select Committee for passing suitable orders in his case. Since the applicant has not been favoured

with any response to his representation, he has no other alternative except to file this review petition for modifying the judgement to enable the the applicant to receive the benefit of the the relief granted by the Hon'ble Tribunal.

A copy of the representation dated 29.6.92 is being filed as Annexure 3 of this review Petition.

6. That this review application is being filed within one month of the receipt of the judgement, therefore, it is within limitation.

P R A Y E R.
= = = = =

WHEREFORE, it is most graciously prayed that Hon'ble Tribunal may kindly grant the following reliefs by modifying the judgement dated 24.6.92 by including the directions to the following effect: -

- (i) That the respondents may be directed to Convene a Review ~~Particulars~~ Committee to ~~be~~ consider the case of the applicant for promotion to the post of Chief Design Assistant from the date his juniors were promoted (1.7.85) without taking into consideration the minor difference for 1984 for which neither any notice was issued to the applicant nor he was ever intimated about the same.

Lucknow:

Dated: 24th July, 1992

(K.S. PATRA)
Applicant.

R. S. Srivastava
(R.S. Srivastava)
Through ~~Hari~~ Hari Har Saran
Advocate.

Counsel for Applicant.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL-LUCKNOW BENCH
LUCKNOW.

O.A. No. 82 of 1989.

K.S. Patra & 3 others..... Applicants.

Versus

Union of India & others..... Respondents.

Hon'ble Mr. Justice U.C.Srivastava- V.C.
Hon'ble Mr. K. Obayya - Member (A),

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

The applicants four in number Sarva Sri

K.S. Patra, D.M. Bhattacharjee, Hizamuddin and M.L. Ajuja have approached this Tribunal challenging their supercession and have prayed that they will be promoted as Chief Design Assistants with effect from 1.8.85, the date when the juniors were promoted and they may also be paid the arrears of emoluments and interest may also be paid to them from that date.

2. All these applicants working in R.D.S.O. in the grade of 550-750, in view of the Railway Board circular dated 3.7.85 cadre restructuring was to be done on the basis of scrutiny of service records. The applicant no. 2, 3 & 4 were superseded and their juniors were promoted to higher grade to the post of Chief Design Assistant in Grade Rs. 650-950. The applicant no. 1 was subsequently superseded by order dated 22.7.86 which was in continuation of earlier order. Representations were made by these applicants but the same representations were rejected and that is why the applicants have approached this tribunal.

3. The respondents have opposed the claim of the applicants and have stated that the gradation was made by the departmental promotion committee in pursuance of the Railway Board circular dated 3.7.85 and the same read as follows " Existing classification of Post covered by these re-structuring orders

Attached
True Copy
Respondent
Advocate

[Signature]

"Selection" and "Non-Selection" as the case may be remains unchanged. However, for the purpose of implementation of these orders, if an individual railway servant becomes due for promotion to only one grade above the grade of the post held by him, at present, on a regular basis, and such higher grade post is classified as a "Selection" post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based on a scrutiny of service records without holding any written and/or viva-voce tests. Under this procedure the categorisation 'outstanding' will not exist." As a result of a consideration by the Departmental promotion Committee 31 Officers were promoted and four were not promoted. It has been brought to our notice that all these persons were promoted on adhoc basis, in the very next year obviously because vacancies were existing and they were considered to fit to handle this up-graded post. On behalf of the applicant this selection has been challenged and it has been contended that the record was not properly prepared. The record has been produced before us which indicates that the entries of over all 31 persons who were promoted were much better than the applicant, although the applicant earned the entry of good and very good but in the year 1984 incidently all these four were rated as average and it appears that because of this light difference between the record of all these persons, these four applicants were not up-graded. The assessment was to be made by the Departmental Promotion Committee and the difference however made, was for the Departmental Promotion Committee Committed to decide and asses and ~~long~~ however the contention on behalf of the applicant

Attled

True Copy

R. Somvra

Advocate

is strong, it may be, these minor details or entry of one year was not to be taken into account. It is not possible for the Tribunal to re-asses the same. In this connection the powers of the court is limited, and in this connection a reference is to be made in the case of Balpat Aba Sahib Sglenkey vs. S. Mehejan A.I.R. 1990 S.C. P. 434 and in the case of State Bank of India vs. Mohd. Mynuddin S.C. 1989 and the case of U.P.C.C. vs. Hirenay Lal Dc 1988 S.C. P. 1069. Although the later case was under a particular regulation, but the position will not be different when assessment is made by the Departmental Promotion Committee.

4. There being no allegation of malafide or bias, as such it cannot be said that the Departmental Promotion Committee fell into an error in making the assessment. However, so far as the record is concerned the difference does not appear to be much and in particular year, there was down gradation for which it appears that no earlier notice or whatever is given to the applicant, there appears to be no reason, that why now the case of upgradation or higher post will not be considered and their adhoc upgradation will not be regularised. ~~REGULARISATION~~ but for the above observation, the application is otherwise dismissed No order as to the costs.

Alleged
True Copy

Resent
Advocate

Vice Chairman.

Dt: June 24, 1992.
(DPS)

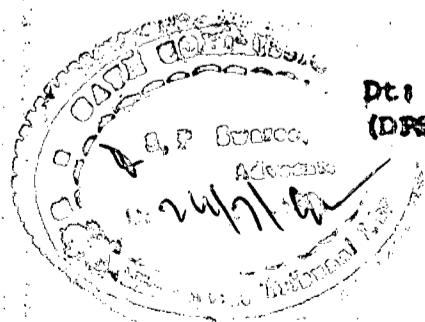
T2115, Cols

26/6/92
Deputy Regd.
Central Administrative T.

Lucknow Bench.

1/2/92

[Signature]



Government of India
 Ministry of Railways
Research Designs and Standards Organisation

STAFF POSTING ORDER NO. 18 OF 1991

As a result of Departmental Selection for the post of Chief Design Assistant scale Rs. 2000-3200 held on 8/9.10.90 and 20/21-12-90 for MP Dte. and on their empanelment, the following staff who are already officiating as Chief Design Assistant on adhoc basis are allowed to continue to officiate as such on regular basis w.e.f. 8.1.91 i.e. date of declaration of the result:-

- 1) Shri D.M. Bhattacharya
- ii) Shri Rana Singh
- iii) Shri Rajendra Kumar
- iv) Shri Satish Chandra
- v) Shri O.P. Chaubey
- vi) Shri S.K. Khullar
- vii) Shri A.K. Karar (SC)

2. The following Senior Design Assistants who have also been placed on the panel for the post of Chief Design Asstt. are promoted as Chief Design Assistant scale Rs. 2000-3200 (RPS) from the date they take over charge of higher post:-

- i) Shri S.C. Bhalla
- ii) Shri S.K. Sharma - At present offg. as CDA in ED Dte. on tenure basis.
- iii) Shri O.S. Panesar
- iv) Shri A.C. Tripathi
- v) Shri Ram Lal
- vi) Shri P. Abdul Rehman - At present offg. as CDA in ED Dte. on tenure basis.
- vii) Shri R.K. Dey : -do- : -do-

3. The date from which the staff actually take over charge of the higher post may please be intimated to Estt-I Section for further necessary action. They will be entitled for officiating pay and allowances in respect of higher post on completion of 22 days continuous service. The above staff are further informed that their officiating pay will be fixed in higher grade in terms of Rule 1316 (FR-22/C)R-II initially. They can, however, give option within one month from the date of issue of this Posting Order for fixation of their pay initially in the manner as provided under Rule 1313(a)(i)(FR-22)/R-II which may be refixed on the basis of provision of Rule 1316 (FR-22/C)R-II on the date of accrual of next increment in the lower grade.

4. The following Sr. Design Assistants, who are officiating as Chief Design Assistant on adhoc basis and could not find place in the panel are reverted w.e.f. 28.1.91 to the post of

Allied
 Time copy
 Resent

10

Sr. Design Assistants:-

- i) Shri Nizamuddin
- ii) Shri M.L. Ahuja
- iii) Shri K.S. Patra
- iv) Shri D.C. Singhal
- v) Shri J.P. Yadav - The post of CIA against which Sh. Yadav was officiating has been down graded and operated as SDA scale Rs. 1600-2660 w.e.f. 28.1.91 till further orders. This post is in operation in the Inspection Cell at D L W / Varanasi.
- vi) Shri Surya Prakash
- vii) Shri A.R. Bose
- viii) Shri R.P. Kardam (SC)

5. As the panel is provisional, the promotion of staff as mentioned in para 1 & 2 above is also provisional.

(This issues with the approval of DSMP)

DA:Nil.

File No. ART/91

Date: 28.1.91

Manak Nagar, Lucknow-11

16-28/1
(M.L. Malhotra)
for Jt. Director Stds. (I/c)

16-28/1

DISTRIBUTION

JDMP(I/c) JDMP-III Dir (Fin.) DD/E-I DD/E-II SO/Admn.
SO/E-III (in duplicate) SO/Confld. SO/MP Staff concerned
Notice Board CTSA/RDSO P/file of Staff concerned.

Director (ED) - It is requested that immediate arrangement may please be made to relieve S/Shri S.K. Sharma, P. Abdul Rehman and R.K. Dey to enable them to join MP Dte. as Chief Design Assistant.

*Attested
True copy
Resonam
Advocate*



To

115
Annexure 3
B/M

The Director General,
R.D.S.O.,
Lucknow.

Sir;

Sub:- Prayer for reconsideration of promotion.

Ref:- Case No. CA-62/89(L) of Central Administrative Tribunal/Lucknow decided on 24-6-1992 filed by K.S.Patra & others Vs UCT & others.

I am enclosing a copy of Judgement of the above case, I earnestly beg to state as under:-

1. I was stagnating at the maximum of the scale on the post of SDA/MP when the Cadre Restructuring Orders dated 3-7-85 were issued by the Railway Board.
2. In view of the said orders, a Selection Committee was formed to scrutinise the Service Records and to promote all the eligible candidates, on the basis of its findings.
3. I have not earned any adverse remarks so far, nor any ever communicated to me.
4. To my utter surprise, my name (alongwith three others who joined me in the above OA before CAT/Lucknow) was not there amongst the selected.
5. On my representations, our Administration replied to the effect:
"The Committee appointed to asses the suitability of the candidates under Cadre Restructuring Scheme, found him not suitable for the post of CDA/MP"
6. The supersession was intimated to me on 22-7-86 and subsequently myself with other three who joined me in CAT/Lucknow were promoted on ad-hoc basis as CDA/MP w.e.f. 26-9-86 i.e. after two months from 22-7-86.

Our last application dated 12-10-86 (this one was submitted jointly) we have requested you to REVIEW our case on the analogy of the cases of Sri Tulsi Ram and Shri Ram Chander, SRA/Res. RDS. (both belonging to Reserved Community) who were not found suitable in the first instance but later the Committee found them fit and were promoted (vide SFO No. 330/87).

Our representation for the same action as above, was not allowed and review was not ordered though there is no reservation for SC/ST under Restructuring Scheme as per the Judgement in Case Nos. 414/87, 432/87 & 468/87 filed before CAT/Allahabad by Shri N.K.Saini, Sh. N.L.Jhamla and Sh. N.K.Verma (all belong to RDSO/Lucknow).

E/12

8. The CAT/Lucknow sent for our Service Record's and after perusing the same observed:-

"The Record has been produced before us which indicated that the entries of over all 31 persons who were promoted were much better than the applicant, although the applicant earned the entry of 'good & very good' but in the year 1984 incidentally all these four were rated as 'average' and it appears that because of this 'light' difference between the record of all these persons, these four applicants were not upgraded".

9. The CAT/Lucknow relying on the observations of Supreme Court in Dulpat Abasahib Selankee & others Vs Dr. B.S. Mahajan & others, AIR 1990 SC P 434 (1990 SCC(L&S)80) wherein it is stated:-

"It is not the function of the Court to hear appeals over the decisions of Selection Committee & to scrutinize the relative merits of the candidates"

Again in UPSC Vs Hiranyalal Dev 1988 SC P 1069 (1988 SCC (CRI) 484) it is observed:-

"Proper orders for Tribunal or Court would be to direct the Selection Committee to reconsider the impugned select list on merits.

and finally in

State Bank of India & others Vs Md. Mohinuddin SC 1989 (1987 SCC (L&S) 464) wherein it was observed:-

"Decision of Selection Committee should not ordinarily be interfered with by Court unless it is vitiated by malafide or bias. Court should direct the authorities to consider the case of the aggrieved officers for promotion".

10. Considering the record and subsequent promotion on adhoc basis, the Tribunal in its Judgement annexed herewith observed:-

"However, so far as the record is concerned the difference does not appear to be much, and in a particular year, there was down gradation, for which it appears that no earlier notice or whatever is given to the applicant, there appears to be no reason why now the case of upgradation or higher post will not be considered and their adhoc upgradation will not be regularised."



Attested
One copy
R. S. SINGHOPAL
Advocate

PRAYER

13

In view of the above observations, it is most humbly
prayed that the cases of mine (who is retiring within a
day or two -due on 30-6-92) and two others barring S.M.
D.M.Bhattacharjee who was since been promoted on regular
basis, be referred to the Selection Committee for which
suitable orders, keeping in view the instructions
contained in Railway Board's No. PC/II/74/MS/16 dated
7-1-76 which states that:-

"The principle of seniority subject to the rejection
of UNEIT should be strictly applied, for appointment
to Selection Grade."

An early kind order is solicited.

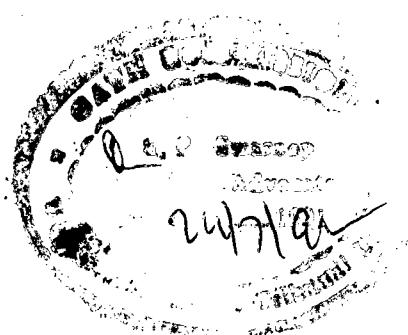
Thanking you,

Yours faithfully,

K.S. Patra
14.6.92
(K.S.PATRA)

S.D.A
M.P.Dte., RDSO

Attested
True copy
Ramtoha
Advocate



D.B.

ब अदालत श्रीमान

[वादी] अपीलान्ट

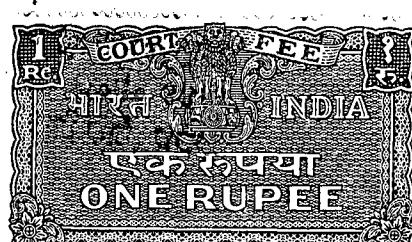
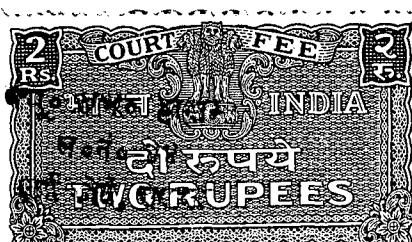
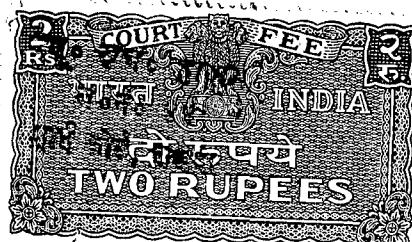
प्रतिवादी [रेस्पान्डेन्ट] K.S. Paloo & 3 Others

In the Central Administrative Tribunal
Lucknow Bench - Lucknow

Review Application No. .../1992 महोदय

in OA No 82/1989 का वकालतनामा

Applicants



Union of India & Others : वकालतनामा प्रतिवादी (रेस्पान्डेन्ट) Respondents

मुकदमा नं०

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री Shri Hari Har Saran, Advocate

& RS. Savasthia, Advocate

एडवोकेट
महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा कों गई वह सब कार्यवाही हमको सर्वशा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहेंगा लगभग मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह

Accepted

वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

(Hari Har Saran)
Advocate

हस्ताक्षर

Accepted
Respondent
Advocate
साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६ ई०

15

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Review Petition Under Rule 17 of Central Administrative
Tribunal (Procedure) Rule 1987.

in

O.A. No: 82 of 1989.



K.S. Patra & 3 others

Versus.

& others. Respondents.

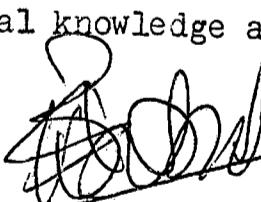
A F F I D A V I T

I, K.S. Patra, aged about 59 years S/o Late K.K. Patra resident of C-16/2 Manaknagar, Lucknow do hereby solemnly affirm and state on oath as under:-

- 1) That the deponent is the applicant in the accompanying review application and is well acquainted with the facts depo below.
2. That the contents of paras 1 to 6 of the accompag re application are true to my personal knowledge and be of the deponent.

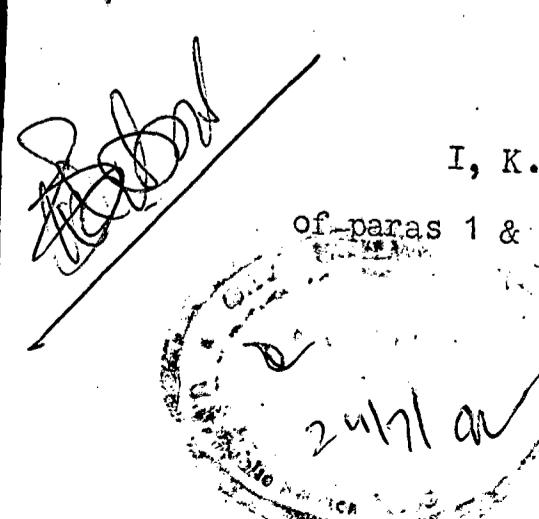
Lucknow:

Dated: July 24, 1992.


K. S. PATRA)
Deponent.

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

I, K. S. Patra, deponent do hereby verify that the contents of paras 1 & 2 of this affidavit are true to my personal knowledge.

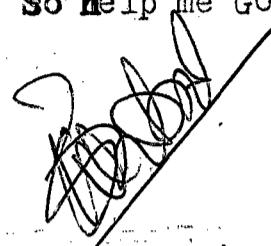


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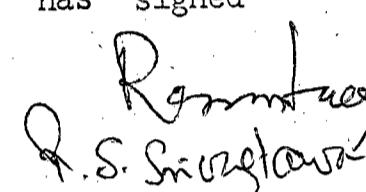
and belief. No part of it is false. So help me God.

Lucknow:

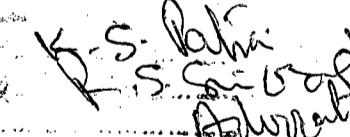
July, 24, 1992

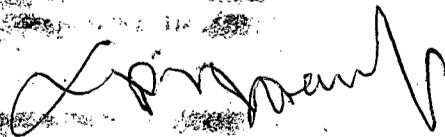

(K. S. PATRA)
Deponent.

I identify the deponent who has signed
before me.


(R. S. SRIVASTAVA)
Advocate.




K. S. Patra
S. Srivastava
Advocate



24/7/92