

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

C.W. 62/89

CAUSE TITLE ... OA. 2/89 ... OF

NAME OF THE PARTIES S. D. Ojha Applicant

Versus

..... Respondent

Part A.

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CERTIFICATE

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

Dated 09-6-11.

Counter Signed.....

Rajesh
23/12/2011

Sanj
Signature of the
Dealing Assistant

Section Officer/In charge

RESERVED

AS

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

O.A. No. 2/89

S.D. Ojha

Applicant

versus

Union of India & others

Respondents.

(2) O.A. No. 62/89

S.P. Saxena

Applicant.

versus

Union of India & others

Respondents.

(3) O.A. No. 358/91

P.K. Mishra

Applicant

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.)

As identical question arises in these three cases, which have been filed by I.A.S. officers, who have been promoted from the P.C.S. cadre, the same are being disposed of together.

2. The applicant in O.A. 2/89 was appointed to the U.P. Civil Service and was allotted 1962 as year of allotment. His name was included in the select list of I.A.S. by the selection committee of 1984, whereafter, he was appointed to the post of Joint Secretary(Medical and Health and Family Welfare). He was promoted to I.A.S. w.e.f. 3.8.85. He was sent for

training to Mussoorie from 29.6.87 to 24.7.87. Vide order dated 20.7.87 the applicant was reverted with immediate effect to the P.C.S. cadre post of C.S.D. in the Medical Health and Family Welfare in which he was holding senior scale post in the IAS cadre and directing him to make over the charge of the post of P.C.S. Cadre. The applicant continued ~~to~~ on the post of I.A.S. cadre even during the training ~~to~~ period, and he did not hand over the charge of his post. There was no break in the officiation of the applicant on an I.A.S. cadre till he was appointed to I.A.S. cadre in substantive capacity w.e.f. 22.7.87. He has prayed that the respondents be directed to allot 1981 as year of allotment of the applicant in the I.A.S. on the basis of his continuous officiation on I.A.S. cadre post from 3.8.85 to 21.7.87 and to quash the order dated 2.11.88 and dated 20.7.87, 14.8.87, 25.1.88, 2.3.88 and 16.6.87.

2. The applicant in O.A. No. 62/89 was appointed to U.P. Civil Service and was allotted 1962 as year of allotment and in the year 1984 was promoted to the Senior scale of I.A.S. by duly constituted Selection Committee w.e.f. 2.8.1985 in the same post in accordance with the I.A.S. cadre Rules, 1984. Vide order dated 22.7.87, the applicant and a few others were reverted to the P.C.S. cadre vide Ministry of Personnel notification but after two days yet another notification was issued. Thus this order caused a short break in the continuous

officiation of long continuity. The applicant filed representation and after rejection of the representation, he filed the application. The applicant has challenged the reversion order and has prayed that same be quashed and the respondents may be directed to treat him on the cadre of I.A.S. and his seniority also be counted from 3.8.85 in the Cadre post of I.A.S.

3. The applicant in O.A. No. 358/91 Shri P.K. Mishra was, after selection ~~was~~ appointed as P.C.S. and was assigned 1961 batch. He was also placed in the select list of the I.A.S. ~~and under I.A.S. promotion year~~ 1984 and was appointed as officiating capacity in the cadre post of I.A.S. as Joint Secretary, Finance Department of respondent No. 2. He was one of the officers who were reverted to the P.C.S. cadre vide order dated 22.7.87, although he continued to work on the same post and did not join any other post and yet by another order dated 29.7.82 he was appointed to the I.A.S. cadre.

4. Thus all the applicants were given artificial break of one day and they being deprived of the continuous officiation because of the break ~~in~~ which, according to them is illegal and cannot be done.

5. Before dealing with the contention of the applicants it may be relevant to make reference to certain rules and regulations of Indian Administrative Services Cadre Rules, 1954, Rule 8 of which reads as follows:

Appointment to cadre posts from the select list:

(1) Appointments of members of the State Civil Service from the select list to posts borne to the State Cadre or the Joint cadre of a group of states as the case may be shall be made in accordance with the provisions of rule 9 of the cadre rules. In making such appointments, the State Governments shall follow the order in which the names of such officers appear in the select list.

(2) Notwithstanding anything contained in sub regulation (1), where administrative exigencies so require, a member of the State Civil Service whose name is not included in the Select List or who is not next in order in that select list, may, subject to the aforesaid provisions of the cadre rules, be appointed to a cadre post, if the State Government is satisfied:

(i) that the vacancy is not likely to last for more than three months; or

(ii) that there is no suitable cadre officer available for filling the vacancy.

Provided that where any such appointment is made in a State, the Government shall forthwith report to the Central Government together with the reasons for making the appointment.

Provided further that where administrative exigencies so require, such appointments may be continued in a cadre post beyond a period of three months with the prior concurrence of the Central Government.

Regulation 9(3) of the I.A.S. (Cadre) Rules, 1954 reads as under:

(3) On receipt of a report under sub.rule(2) or otherwise the Central Government may direct that the State Government shall terminate the appointment of such person and appoint thereto a cadre officer, and where any direction is so issued, the State Government shall accordingly give effect thereto.

Government of India's instructions:

2.1 The Government of India have clarified the scope of Rule 9 of the Cadre rules as follows:

(b) sub rule (3) of the IAS/IPS(Cadre)Rules, 1954 is self-contained and dependant of the provisions contained in sub rules (1), (2) and (4) of the said rule. Sub rule (3) of the rule 9 of the Cadre Rules empowers the Central Government to Give directions to the State Government at any time to terminate the temporary appointment of a non-cadre officer to a cadre post, even without any report from the State Government whether the period is less than three months than six months. The words "or otherwise" occurring in sub rule (3) of Rule 9 of the Cadre Rules are of great significance in this context and leave no scope of doubt."

5. The respondents(State Govt.) has resisted the claim of the applicant stating that the proposal of the State Government was sent in April/May, 1987 for appointment of 14 Civil Services officers ^{by} ~~for~~ appointment

promotion to the I.A.S. and select list was not in accordance with promotion regulation. The Central Government ~~via~~ its letter dated 26.6.87 directed the State Government under sub rule 3 of cadre regulations to terminate the officiating appointment of the selected officers. This, according to the State Government, was in view of the law laid down by the Hon. Supreme Court in its judgment in Union of India vs. G.N. Tewari (1986 SCC (LMS) 166). On behalf of the applicant it was contended that if there is any error on the part of the central Government or State Government the officer who has officiated cannot be made to suffer in the assignment of the orders of allotment and the order by which the applicant has been deprived of period of continuous officiation, by a nominal break, was obviously malafide order.

In G.N. Tewari vs. ~~Exxxx~~ Union of India and ors (AIR 1986 SC 348) rule 9~~(ix)~~ of the cadre rules, a reference to which has already been made provides for ~~xxxxxx~~ appointment of non cadre officers only when the vacancy is not likely to last for more than three months or that there is no suitable cadre officer available for filling the ~~vacancy~~. It further provided that where in any State a person other than a cadre officer is appointed to a cadre post for a period exceeding three months, the State Government shall forthwith report the fact to the Central Govt together with the reasons for making the appointment provided that a non-select list officer or a select in the list officer who is not next in order ~~xxxx~~ select list shall be appointed to a cadre post only with the prior concurrence of the Central Government. Sub

3 of rule rule/9 provides that on receipt of a report under sub rule(2) or otherwise the Central Government may direct that the State Government shall terminate the appointment of such person and appoint there to a cadre officer, and where any ~~express~~ direction is so issued, the State Government shall accordingly give effect thereto. Rule 9 sub rule (4) provides that where a cadre post is likely to be filled by a person who is not a cadre officer for a period exceeding six months, the Central Government shall report the full facts to the Union Public Service Commission with the reasons for holding that no suitable officer is available which will be given direction to the State Government in the light of the advice to the Central Government. In G.N. Tewari(Supra) the court laid down amongst other the following proposition:

- i) the continuous officiation in the cadre post from the date of commencement of such officiation pursuant to the appointment by State Government to cadre post is in accordance with Rule 9 of the cadre rules and the same would ensure to their benefit for reckoning seniority under Rule 3(3) of the seniority Rule.
- ii) Such appointees are also entitled by reason of legalfiction contained in Explanation 2nd the Rule 3(3) (b) of the seniority Rules to have the entire period of their continuous officiation without a break in senior post

from the date of their officiating appointment till the date of their ~~affixing~~ appointment ~~fix~~ into the service counted for purposes of determining their year of allotment under Rule 3(3) (b) of the seniority Rules.

iii) ~~None~~ Neither prior approval of the Central Government to the appointment of a non cadre officer to a cadre post nor existence of a vacancy is a condition precedent to such a ppointment under Rule 9 of the cadre Rules.

iv) The failure of the Central Government to give a direction under Rule 9(3) to terminate the appointment of the respondents implies that their continuous officiation on a cadre post had the tacit approval of the Central Government particularly when as required by it State Government submitted proposal for approval of non.cadre officers on cadre post which was followed by State Government report and Central Government approval.

v) There is no provision inthe Cadre Rules empowering the Central Government to direct curtailment of period of officiation of a non-cadre officer on a cadre post for purpose of reckoning his year of allotment under Rule 3(3)(6) of the seniority Rules, Such a power can not be spelt out from Rule 9 (2) of the Cadre Rules which confers powers on the Central Government to direct termination of appointment of a non cadre officer to a cadre post.

In the instant case the names of the applicants are in the select list but they were allowed to officiate on cadre post which they continued to do but the matter was reported to the Central Government which did not agree to their continuation to hold a senior post and that is why the said order was passed. In case the Central Government would not have done so then it could have been taken as tacit approval on its behalf under rule 9(iii) of the cadre Rules the Central Government was within its power to issue directions in pursuance of which reversion order was passed and the State Government was also bound to do so as it could not have allowed these officers to continue beyond the period of 2 years as per provision of the Code Rules. It is true that the Central Government did not terminate the same, for no other reason and it was a case of notional break only, i.e. the break of one day and this was done in the interest so that the senior officer in the list who otherwise would have suffered and their seniority would have been affected. The seniority Rule 3 (3)(b) referred to above is very explicit in the case of break in service. If there is a break the entire period cannot be counted towards seniority, there being no continuity, a break even for a day, is a break putting an end to the continuity.

6. The next question there being break even then it cannot be deemed that the officiating appointment continued so as to give benefit of continuous officiation to those who have been continuing after this break and were to

be posted on the said senior post even promoted to the I.A.S. cadre. The break, in these circumstances, when they were promoted to I.A.S. cadre after break, cannot be said to be malafide or arbitrary or unfair. The reason behind the break was sound reason and was designed and calculated to do justice between senior and juniors by not affecting or reversing their positions interse. The reversion order, in the circumstances was only a consequential order. The reversion order, though formal in nature, in the circumstances cannot be said to be illegal or in violation of any law. In view of the fact that the period of continuous officiation was broken and the applicants are not entitled to count the earlier period towards seniority or continuation they have failed to make out any ground for grant of relief claimed by them. Accordingly the applications deserve to be dismissed and are so dismissed. No order as to costs.


A. M. Member.
Vice Chairman.

Shakeel/-

Lucknow. Dated: 7th January 1993

5/4/89

OR

No reply has been filed so far submitted for orders.

③

6/4/89

Hon. Justice K. Nath, V.C.

Hon. D.S. Misra, A.M.

Counter affidavit on behalf of opposite party No. 1 has not been filed. The learned counsel for opposite party No. 2 requests for time to file Counter affidavit.

Four weeks time has already been granted on 19.3.89.

Four weeks further time is granted for the purpose.

Replies may be filed within one week thereafter.

Dist for hearing on 5-5-89.

Dr

OR

V.C.

ACR

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

Hon'ble Mr D.S. Misra, A.M.

OR
Neither counsel for O.P. No. 1 & nor counsel for O.P. No. 2 has filed any reply so.

Case is subm. ~~along with O.P. No. 1~~ for orders on 6/2/89.

5/5/89

Shri V.K.Chandhary, learned counsel for respondents No. 1 & 2, requests for and is allowed four weeks time to file Counter affidavit on behalf of O.P. No. 1. Shri A.K.Bhatnagar the learned counsel for O.P. No. 2 and 3 files counter affidavit. The affidavit may file ~~rejoinder~~ affidavit, if any, within 6 weeks. List the case for final hearing on 20-7-89.

Dr
A.M.

OR
V.C.

ACR
4/5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION NO. 2 of 1989(C)

APPELLANT
APPLICANT

S. D. O.P.H.S.

DEFENDANT
RESPONDENT

VERSUS

U.O.L.

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
20/7/09	No. setting. Ady. to 16.0.09 L 20/7	
25/7/09	Hon. Justice K. Nath, V.C. The learned Counsel for the applicant and Dr. Arun Chandra Malchhip brief for opposite party No. 2 arrest present	
25/7/09	Hon. Justice K. Nath, V.C. For order see my order of date passed in O.R. No. 62/OP(L)	R V.C. O.H.

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and Date of issuance
10/11/89	<p>Hon' Mr. D.K. Agrawal, J.M.</p> <p><u>Hon' Mr. K. Obayya, A.M.</u></p> <p>Shri A.K. Bhatnagar counsel for the respondent no.2 appears and draws our attention to the order dated 16.8.89 passed in O.A. No. 62/89(L). He further states that the document in question is ready for perusal. He regrets his absence on 8.11.89. He states that he was under some misapprehension, therefore, the letter to the Chief Secretary need not be issued as ordered on 8.11.89. Put up on 5-12-89, Shri Bhatnagar will keep the document ready on the said date.</p>	
5/12/89	<p><u>Hon. Justice K. Nath, V.C.</u></p> <p><u>Hon. A. J. Ramam, A.M.</u></p> <p>The learned Counsel for the parties are present. The learned Counsel for the opposite parties produced the original letter dated 26/6/89 whose copy was sought for by the applicant. The document is not confidential and we therefore direct the opposite parties to furnish a copy thereof to the applicant today and also file a copy thereof in this case. The applicant's Counsel requests for and is allowed two weeks' time to file a rejoinder and the case be listed for final hearing on 7/12/90.</p>	<p>DKAgrawal J.M.</p> <p>CR Case is submitted for order.</p> <p>L 4/12</p> <p>R.A filed today</p> <p>L 11/12</p>

Dinosh/

LDR

Am

V.C.

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW.

XXXXXXXXXXXXXXXXXXXX M.P. No. 637/90

in

O.A. No. 2/89

9.11.90.

Hon. Mr. M.Y. Priolkar, A.M.

A3

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

Shri Radhika Raman for applicant.

Shri A.K. Bhatnagar for State of U.P.

In pursuance of order dated 10.9.90 the learned counsel for the applicant was required to furnish the addresses of respondents within 2 weeks. However, the addresses could not be furnished within the time stipulated. The learned counsel prays that the delay be condoned. The delay is condoned. Let notice be issued now, to respondents. Counter may be filed within 5 weeks, from the date of service, rejoinder within 2 weeks thereafter. List for orders on 14.1.91. This order shall govern O.A. No. 62 of 89 as well. M.P. No. 636 of 90 in O.A. 62/89 shall stand disposed of accordingly. A copy of this order may be placed on that file as well.

D.K. Agrawal

J.M.

G.K.

A.M.

Notice Issued

28-11-90

No sitting adj. to 21.2.91.

No sitting adj. to 8.4.91.

Notice of 34.0 has
been returned
15/1/91

No sitting adj. to 9.5.91.

OR
Notices were issued
on 20-11-90.

Notice of O.P. No 0
has been returned back
with postal demands "Rejected
as Petty cause".

CA 1, 2, 433 & RA 244
have filed
S. FO

28/8

Central Administrative Tribunal
Lucknow Bench, Lucknow.

ORDER SHEET

O.A./T.A. No.

Office Report

Order

A4

78-S. Case not reached adj
to 26.8.92

Boe

26.8.92

Case not reached.

Adjourned to 22.9.92.

Chancery

22.9.92

NV Siling of D.B. adj
to 12.10.92

12.10.92

No Siling of D.B. adj
to 19.10.92

19.10.92

Hn. Mr. K. Abayya - A.M.

Hn. Mr. S. N. Prasad - J.M.

Sri Sudhir Shukla learned

Counsel stated that the similar issue
has been heard by the Supreme
Court and the judgment is ~~available~~
though learned Counsel for
the applicants in 189 and O.A.
O.A. 62/89 ~~stated~~ ^{re. implications} that the facts of
this case are not similar. However
we would like to ~~say~~ that ~~as the~~
judgment in that case may involve
larger ~~challenges~~ ^{re. implications}, we consider

(075)

that all the cases be listed on
10.11.92 for hearing before which
date the decision of SC is likely to be available

J.M.

A.M.

Application under section 19 of the Administrative
Tribunal Act, 1985.

Date of Filing _____

Registration No. 2 of 1986. (C)

Signature

Registrar

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

Between

Sri S.D.Ojha aged about
about 51 years son of Sri
K.D.Ojha, presently Director,
Tribal Development, Govt. of
U.P. and Managing Director, Tarai
Anu Suchit Janjati Vikas Nigam
Ltd; Lucknow. ...

Applicant

AND

1. Union of India through the
Secretary to the Govt. of
India, Ministry of Personnel,
P.G. and Pensions (Department
of Personnel and Training),
New Delhi.

2. State of U.P. through the
Chief Secretary to the Govt.
of U.P., Appointment Depart-
ment, U.P. Civil Secretariat,

Lucknow.

Respondents

* 36 parties added as per order of Hon'ble Tribunal dated
12.4.90.

as shown on pages
(A), (B) and (C)

annexed herewith.

Amended as

ordered by

Hon'ble Tribunal. Copies or envelopes will be

sent on 18.4.90

Supplied shortly.

page no.-2/-

Counsel for the Applicant

(A)

As per orders of the Hon'ble Tribunal dated 12.4.90

the following 31 Officers are being added as Respondents

A.16

(3)	Shri Sanjeev Narv DAS. Joint Secy. to Chief Minister of Lucknow	Respondents
(4)	Shri Rohit Nandan DAS. Joint Secy. to Govt. of UP Home Deptt. Lucknow	,,
(5)	Shri Pravin Kumar DAS. Joint Secy. to Govt. of UP Industry Deptt. Lucknow	,,
(6)	Shri J.S. Deepak DAS. Deputy M.D. PICUP Lucknow	,,
(7)	Shri Neeraj Kumar Gupta DAS. Additional Registrar Cooperative Societies Lucknow	,,
(8)	Shri Sunya Pratap Singh DAS. Managing Director Gashwari Mandir Vikas Nigam Pauri Garhwal	,,
(9)	Shri Deepak Singh DAS. Mukhya Nigar Adhikari Vice Chairman Meerut Vikas Mandir Meerut	,,
(10)	Shri Arinash Kumar Srivastav DAS. Project Director cum Chief Development Officer Fazalabad	,,
(11)	Shri Rayendra Mohan Srivastav DAS. Joint Secy. Finance Deptt. of Govt. Lucknow	,,
(12)	Shri Pradeep Bhattacharya DAS. Joint Secy. Medical, Health & Family Welfare Dept. of UP Lucknow.	,,

N. Ram.
Adv.

(B) Respondents A17

(13) Shri Dushil Kumar IAS
Project Director cum
Chief Development Officer
Lucknow

(14) Shri Dinesh Singh IAS.
Managing Director,
U.P. State Brassware
Corporation, Moradabad

(15) Shri Sunil Kumar Agarwal IAS
Joint Secy to Govt. of U.P.
Institutional Finance Deptt.
Lucknow

(16) Shri Manoj Kumar IAS
Joint Development Commissioner
Gonda

(17) Shri Prabhat Kumar Jha IAS.
Joint Secy to Govt. of U.P.
Revenue Deptt, Lucknow

(18) Shri Rajiv Sharma IAS
Joint Secy to Medical
Dept U.P. Lucknow

(19) Shri Asok Kumar T. IAS.
Joint Secy to Govt. of U.P.
Labour & Exotic Deptt
Lucknow

(20) Shri Chandra Prakash IAS.
Additional Registrar Cooperative
Societies U.P. Lucknow

(21) Shri Nartej Singh IAS
C/o Secy. to Govt. U.P.
Appointment Deptt. Lucknow

(22) Shri Bipin Mohan IAS
Regional Food Controller
Moradabad

(23) Shri Sudersan Chandra Pantay IAS
District Magistrate
Firozabad

(24) Shri Sushil Deo Basaw Tripathi
Joint M.D. IAS
U.P. State Road Transport Corporation
Lucknow

(25) Shri Pavan Krishna Misra (IAS)

District Magistrate & Collector
Jalaun

Respondents

A 18

(26) Shri Hari Mohan Sarswat IAS
Joint Secy. to Govt. of
Planning Deptt Lucknow

(27) Shri Raja Ram II IAS
District Magistrate & Collector
Bijnor

(28) Sri Sri Kant Khera IAS
Addl. Commissioner
Judicial
Aligarh

(29) Shri Surendra Sarswat IAS
Joint Secy. to Home Govt of
Home (Police) Deptt Lucknow

(30) Shri Harish Chandra Soni IAS
Vice Chairman
Haridwar Development Authority
Haridwar

(31) Shri Bishambhar Nath Tiwari IAS
Joint Secy. to Govt. of
Institutional Finance Deptt
Lucknow

(32) Shri Ramesh Chandra Dwivedi IAS
Joint Secy. to Govt. of
Nagar Vikas Deptt
Lucknow

(33) Shri K.P. Singh IAS
Joint Secy. to Govt. of
Avas & Nagar Vikas Ambedkar
Lucknow

Amended
by me -
Raman
Adv.

iii) Designation and Office - Director, Tribal Development,
in which employed U.P. & Managing Director,
Tarai Anu Suchit Janjati
Vikas Nigam Ltd; Lucknow.

iv) Office address - -- do --

v) Address of service of - -- do --
Notice

2. PARTICULARS OF RESPONDENTS :-

i) The Secretary to the Govt. of India, Ministry of Personnel, P.G. and Pensions (Department of Personnel and Training), New Delhi.
shown

ii) As/~~shown~~ at (i) above.

iii) As shown at (i) above.

3. Particulars of orders against which application is made.

The application is against the following orders :-

i) Government of U.P. Niyukti Anubhag-I, order no.-7101/II-1-19/1-(5)-85 dated 20.7.1987 so far as it relates to the reversion of the Applicant from the senior scale I.A.S. cadre post of Joint Secretary to Govt. U.P., Medical Health and Family Welfare to the P.C.S. cadre post of Officer on Special Duty, in the Department of Medical Health and Family Welfare.

ii) Government of India, Department of Personal, P.G. and Training, order by which the representations dated 14.8.1987 and 25.1.1988 of the Applicant have been rejected by them after summoning the same from Respondent No.-1/2.

iii) Government of U.P. letter no.-6212/II-1-19/(5)/85-T.C. dated 2.11.1988 intimating the decision of Government of India rejecting the Applicant's representations

page no.-3/-



-: 3 :-

dated 14.8.1987 and 25.1.1988.

iv) Government of U.P. letter no.-429/2-1-19(5)-85-T.C.

dated 2.3.1988

v) Government of India letter no.-14015/35/PGAIS(i)

dated 26.6.1987 after summoning the same from Respondent No.-1/2.

4. JURISDICTION OF THE TRIBUNAL :

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

5. LIMITATION :

The Applicant further declares that the application is within limitation prescribed in section 21 of the Administrative Tribunal Act, 1985.

6. FACTS OF THE CASE :

6.1 That the Applicant was initially appointed to the U.P. Civil Service (Executive Branch) and was allotted 1962 as the year of allotment for purposes of seniority in the said service. On the basis of excellent service records the Applicant was promoted from 1.7.1978 to Special Grade post in the scale of Rs.1840-2400 which has since been revised to Rs.2050-2500 and was confirmed in that scale from 11.10.1986. The Applicant was also considered fit for promotion to the still higher post in PCS cadre in the scale of Rs.2300-2700.

6.2 The Selection Committee constituted in the year 1984 under regulation 3 of the IAS (Appointment by promotion) Regulations, 1955 adjudged the Applicant suitable and included him in the Select list of the IAS. On the

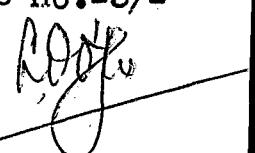
N.D.P.

basis of the induction in the Select list of the IAS the State Government appointed the Applicant to the post of Joint Secretary, Medical Health and Family Welfare which was a senior scale post of the IAS cadre with effect from 3.8.1985 vide their Notification no.-5493/II-1-4/1(8)/85 dated September 4, 1985 and Notification dated 10.9.1986. One copy of each of the said two Notifications are filed as Annexures-I Annexures-I & 2 respectively.

6.3 That while the Applicant was continuing on the said IAS cadre post that he received from the Government of U.P., Appointment Department D.O. letter no.-4904/II-Training Cell-33/1(84)/87 dated June 16, 1987 directing him to proceed to Mussorie for in service IAS Foundation Training Course from 29.6.87 to 24.7.1987 at the Lal Bahadur Shastri National Academy of Administration. letter no.-1/5/87-Trg.-III dated 2.6.1987 from the Course Director of the said Academy was received by the Applicant directing him to attend the said Training Course. One copy of each of the said letters are filed as Annexures - 3 & 4 respectively.

6.4 That during the period from 29.6.87 to 24.7.87 during the currency of the said training the Applicant simultaneously held charge of the post of Joint Secretary to U.P. Government in the Medical Health and Family Welfare and he continued to deal with the cases sent to him at Mussorie by special Messengers during the training period in the capacity of Joint Secretary to Government, Medical Health and Family Welfare. This assertion can be got verified from the Government of U.P. in Medical Health and Family Welfare Department

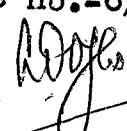
page no.-5/-



-: 5 :-

6.5 That on return from the said training course on July 25, 1987 the Applicant was surprised to receive the State Government in Appointment Department's letter no.-7101/1-19-1(5)/85 dated 20.7.1987 containing orders reverting him with immediate effect to the PCS cadre post of O.S.D. in the Medical Health and Family Welfare in which he was holding senior scale post in the IAS cadre and directing him to make over charge of the post of IAS cadre and to take over charge of the post of PCS cadre. As the Applicant continued on the said ~~next~~ IAS cadre post even during the training period between 29.6.1987 to 24.7.1987 and he did not hand over charge of his post at the time of proceeding on the said training course, the question of handing over and taking over charge of the posts ~~fix~~ in question from 20.7.1987 did not arise. It is surprising that when the Applicant was attending the IAS in service training course at Mussorie on 20.6.1987 on the date of issue of the said letter and was not physically present at Lucknow and was also holding charge of the said IAS cadre post continuously and was performing the duties attached to this post, it was absurd to ask him to hand over charge of IAS cadre post and take over charge of PCS cadre post from 20.6.1987.

6.6 That the Applicant was ~~continuing~~ continuing on the IAS cadre post of Joint Secretary to Government, Medical Health and Family Welfare without any break and as such the orders contained in the said letter dated 20.6.1987 issued by the State Government as well as the orders contained in Government of India



-: 6 :-

letter no.-14015/35/86-AIS(I) dated 16.6.1987 on the basis of which the U.P. Government letter dated 20.6. 1987 had been issued, remained unimplemented. There was therefore no break in the officiation of the Applicant on an IAS cadre post till he was appointed to the IAS cadre in substantive capacity with effect from 22.7.1987 in Government of India Notification no.-14015/35/86-AIS(I) dated 22.7.1987. One copy of the U.P. Government letter no.-7101/I-19-1(5)/85 dated 20.7.1987 and Government of India Notification no.-14015/35/86-AIS(I) dated 22.7.1987 are filed as Annexures -5&6.

Annexures -5&6. Annexures -5 & 6 respectively.

6.7 That the Applicant made a representation dated 14.8.1987 to the U.P. Government for withdrawing their orders contained in their letter dated 20.7.1987 so far as it related to his reversion from the IAS cadre post to the PCS cadre post. No reply to the said representation was received by the Applicant. A copy of the said representation dated 14.8.1987 is being filed

Annexure-7. as Annexure-7.

6.8 That the Applicant made another representation dated 25.1.1988 to the Government of India through the Govt of U.P. praying for rescinding his reversion from IAS cadre post to the PCS cadre post and to allow the benefits of his officiation on the IAS cadre post from 3.8.1985 for purposes of fixation of his seniority. The Government of U.P. in their letter no.-429/2-1-19(6)/85-TC dated 2.3.1988 informed the Applicant that as he has been appointed to the IAS cadre, the question of taking any action on his representation does not arise. One copy of the said representation

page no.-7/-

ADP

- 7 :-

dated 25.1.1988 and a copy of the Government of U.P. said letter dated 2.3.1988 are filed as Annexures-8 Annexures-8&9. & 9 respectively.

6.9 That on receipt of the U.P. Government letter dated 2.3.1988 the Applicant made another representation dated 7.5.1988 praying that his representation dated 25.1.1988 which is addressed to the Government of India and their orders thereon be obtained and he may be apprised of that decision within six weeks otherwise he would be forced to take the matter to a Court of law for enforcement of his legal and constitutional rights. The Applicant was informed in Government of U.P. letter no.-6212/II-1-19/1-(5)/85-TC dated 2.11.88 that his representations dated 14.8.1987 and 25.1.88 have been rejected by the Government of India. A copy of the said representation dated 7.5.1988 and a copy of the said letter dated 2.11.1988 of U.P. Government Annexures-10&11. are filed as Annexures -10 & 11 respectively.

6.10 That the orders of the U.P. Government dated 20.7.1987 reverting the Applicant from the IAS cadre post to the post of PCS cadre is obviously arbitrary and unsustainable in the eye of law as after August 3, 1985 on which date he was promoted and appointed to the IAS cadre not a single adverse comment has been made on his work and conduct by his superior Officers, neither any adverse entry has been recorded in his Character Roll nor any reason has been given for the reversion in the order itself. There was therefore no justification to revert the Applicant from a higher post to a lower post as it obviously amounts to reduction in rank and the impugned reversion order has also



- : 8 :-

been passed without complying with the constitutional requirements of Article 311 (2) of the Constitution of India.

6.11 That it is significant that the Applicant's ~~reversion~~ reversion order was issued on 20.7.1987 and after two days Government of India issued Notification no. 14015/35/86-AIS(1) dated 22.7.1987 appointing the Applicant to the IAS on probation followed by Govt. of U.P. letter no.-7625/II-1-19/1(5)/85-TC dated July 25, 1987 posting him on the same IAS cadre post of Joint Secretary to Govt. U.P. in Medical Health and Family Welfare, from which he had been ordered to be reverted to the post of PCS cadre only two days earlier. The arbitrary, illegal and unjustified order of reversion does not indicate the rationale which necessitated its issue when the Applicant was not at fault and no one was appointed on that post and the charge of which remained with the Applicant. The intention of the reversion order is simply to arbitrarily deny the benefit of officiation on the IAS cadre post from 3.8.1985 to 21.7.1987 in order to pull down the Applicant's seniority and year of allotment in the IAS with the ulterior motive of conferring undue benefits on the directly recruited Officers.

6.12 That in case the Applicant's reversion orders were issued by the State Government on the basis of the directions from the Government of India, Ministry Personnel, Training and Pensions, in terms of rule 9(4) of the IAS cadre Rules, 1954 on the ground that the State Government either posted to ex-cadre posts some Officers senior to the Applicant in State Civil

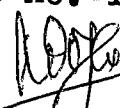
-: 9 :-

service cadre and borne in the Select list compiled in the year 1984 alongwith the Applicant or they exceeded the deputation reserve beyond the permissible limit, it was none of the fault of the Applicant who can not be made to suffer for the lapse on the part of the Government of U.P. in the Appointment Department.

6.13 That the Applicant continued to hold senior scale IAS cadre post without any break from 3.8.1985 till 21.7.1987 in officiating capacity followed by his substantive appointment to the IAS in the Government of India Notification no.-14015/35/86-AIS(1) dated July 22, 1987 he is entitled to the benefit of the said continuous officiation on the senior scale cadre post of the IAS from August 3, 1985 for purposes of year of allotment in the IAS and fixation of his seniority in the IAS according to rule 3(3)(b) of the IAS (Regulation of seniority) Rules, 1954.

6.14 That in case it was necessary to terminate the continuance of the Applicant on senior scale post of the IAS cadre on which he was appointed on 3.8.1985 in terms of rule 9(3) or 9(4) of the IAS (cadre) Rules, 1954 necessary reversion orders should have been issued after three or six months after 3.8.1985 and he should not have been allowed to continue on the said IAS cadre post till 21.7.1987 when there was not a single day break in his officiation on that senior scale IAS cadre post. The impugned reversion order is therefore wholly unjustified, unfair and against the principle of equity and fair play.

6.15 That the Hon'ble Supreme Court of India have held in



-: 10 :-

the cases of K.L.Jain and others and G.N.Tewari (SCC/L & Sy 1986 page 166) that non-approval of officiation of a State Civil Service Officer on the senior IAS cadre post by the Central Government on the basis of over utilisation of the State Deputation Reserve by the State Government was wholly illegal and contrary to the provisions of the IAS (cadre) Rules, 1954. In this case also the reversion order of the Applicant from the senior IAS scale cadre post to the post in U.P.Civil Service cadre is based on the non-approval of the Applicant's said officiation by the Central Govt. and they highly belated directions on the ground that the State Govt. over utilised the State Deputation Reserve by posting ^{on} ~~ex-cadre post~~ Applicant's such seniors in the U.P Civil Service as were inducted in the same Select list of the IAS alongwith the Applicant. The reversion order of the Applicant is therefore illegal and that the Applicant is entitled to the benefits of his continuous officiation on senior scale IAS cadre post from 3.8.86 till 21.7.1987 for purposes of year of allotment and determination of seniority in the IAS.

6.16 That the Government of India in their letter no.-140137/86-AIS(1) dated 15.7.1987 had directed all State Governments to review the cases of such Officers who were ~~promised~~ appointed to the IAS by promotion on or after October 11, 1985 (i.e. the date of Judgment of the Hon'ble Supreme Court of India in the case of G.N.Tewari and K.L.Jain) and their officiation on cadre posts has been disapproved by the Central Govt and on that basis the benefits of such officiations

page no.-11/-

Rajeev

-: 11 :-

have not been allowed to such Officers in the matter of year of allotment. The State Government have also been directed in the said letter of the Govt. of India that after making review of such cases in which any period of their officiation on IAS cadre posts have been disapproved by them a consolidated proposal for revision of their seniority be sent to them alongwith full details. The case of the Applicant is fully covered under the said letter of the Govt. of India had it appears that the Govt. of U.P. have not sent their consolidated proposals to the Govt. of India after including the Applicant's case therein. A copy of the said letter dated 15.7.1987 of the Govt. of India is filed as Annexure-12.

7. RELIEFS SOUGHT :

That in view of the facts mentioned in para-6 above, the Applicant prays that this Hon'ble Tribunal be pleased to direct the Respondents nos.-1 & 2 to allot 1981 as the year of allotment of the Applicant in the IAS on the basis of his continuous officiation on IAS cadre post from 3.8.1985 upto 21.7.1987 and also quash the under mentioned illegal orders of Respondents nos.

1 & 2 :-

- i) Government of U.P. letter no.-6212/II-1-19/(5)/85-TC dated 2.11.1988 intimating that the Applicant's representations dated 14.8.1987 and 25.1.1988 have been rejected by the Government of India.
- ii) Government of U.P. order no.-7101/II-1-19/1-(5)/~~85~~ dated 20.7.1987 so far as it relates to the reversion of the Applicant from the senior scale post of IAS cadre to the post in the PGS cadre. page no.12/-



-: 12 :-

iii) Government of India, Department of Personnel and Training letter in which they have rejected the Applicant's representations dated 14.8.1987 and 25.1.1988 after summoning the same from Respondent no.-2.

iv) Government of U.P. letter no.-429/1(5)/85-TC dated 2.3.1988.

v) Government of India letter no.-14015/35/86-AIS(1) dated 16.6.1987 after summoning the same from Respondents nos.- 1 & 2.

8.

~~DETAILS OF REMEDIES EXHAUSTED~~ INTERIM RELIEF IF PRAYED FOR :

Nil

9.

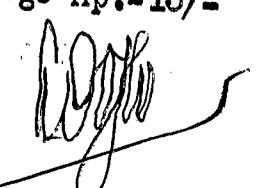
DETAILS OF REMEDIES EXHAUSTED :

The Applicant made a representation dated 14.8.1987 followed by another representation dated 25.1.1988 to the Government of India through the Government of U.P. who did not forward the same to the Government of India and intimated in their letter dated 2.3.1988 that since he has now been appointed to the IAS no action is required on his representation. The Applicant then send his letter dated 7.5.1988 to U.P. Government saying that his representation dated 14.8.1987 and 25.1.1988 be sent to the Government of India for orders. The intimation of rejection of both the representations by the Government of India was received in Government of U.P. letter dated November 2, 1988. The cause of action to file this application finally arose on 2.11.1988.

10.

MATTER NOT PENDING WITH ANY OTHER COURT ETC. :

The Applicant further declares that the matter regarding which this application has been made is not pending before any Court of law or any other authority or any page no.-13/-



-: 13 :-

Branch of the Tribunal.

11. PARTICULARS OF BANK DRAFT/POSTAL ORDER IN RESPECT OF APPLICATION FEE :

1. Number of Indian Postal Orders- No. DD 5 065968
2. Name issuing Post Office - High Court Post Office, Lucknow,
3. Date of issue of Postal orders- 2.1.1989
4. Post office at which payable- Allahabad

12. DETAILS IF INDEX :

An Index in duplicate containing details of documents relied upon is enclosed.

13. LIST OF ENCLOSURES : Annexures 1-12, Postal Order worth R. 50.00 (Rupees fifty) only and Vocal of Admonition.VERIFICATION

I, Shankar Datt Ojha son of Sri K.D.Ojha, aged about 51 years, presently working as Director, Tribal Development, U.P. and Managing Director, Tarai Anusuchit Janjati Vikas Nigam Ltd; Lucknow, do hereby verify that the contents of paras from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material fact.

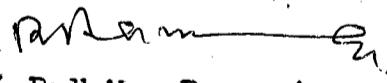


(S.D.Ojha)

Signature of Applicant.

Lucknow :

Dated : December , 1988



(Radhika Raman)

Advocate,

Council for the Applicant.

(14)
ABSI

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

Application Registration No.

of 1988

Sri S.D.Ojha

.....

Applicant

Versus

Union of India and others

.....

Respondents

LIST OF ANNEXURES

Pages

1.	Govt. of U.P. Notification No.-5993/II-14/1(8)/85 dated Sep. 4, 1985 - Annexure-1.	15
2.	Govt. of U.P. Notification No.-5993/II-164/1(8)/85 dated 10.9.1985 - Annexure-2.	16
3.	Govt. of U.P. D.O. letter no.-4904/II-Training Cell-33/1(84)/87 dated 16.6.87-Annexure-3.	17-18
4.	Director, Lal Bahadur Shastri Academy of Administration, Musoorie letter no.-1/5/87-Trg.-III dated 2.6.1987 - Annexure-4.	19-22
5.	Govt. of U.P. letter no.-7101/1-19-1(5)/85 dated 20.7.1987- Annexure-5.	23-24
6.	Govt. of India Notification no.-14015/35/86-AIS(I) dated 22.7.1987- Annexure-6.	25
7.	Applicant's representation dated 14.8.87- Annexure-7.	26-27
8.	Applicant's representation dated 25.1.88- Annexure-8.	29-30
9.	Govt. of U.P. letter no.-429/2-1-19(5)/85-TC dated 2.3.88 - Annexure-9.	39
10.	Applicant's representation dated 14.5.88- Annexure-10.	40-41
11.	Govt. of U.P. letter no.-6212/II-1-19/1-(5)/85-TC dated 2.11.1988- Annexure-11.	42
12.	Govt. of India letter no.-14014/37/86-AIS(I) dated 15.7.1987 - Annexure-12.	43-44
13.	<u>Index of documents files.</u> <u>Under the name</u>	45

Lucknow :

Dated : December , 1988

Radhika Raman
(Radhika Raman)
Advocate,

Council for the Applicant.

Annexure - 1

उत्तर प्रदेश शासन
नियुक्ति अनुभाग -।
संख्या: 5993/टो-।-८/1181/85
तारीख: दिनांक: ५ लिंग्वर, 1985.

घिक्कित
नियुक्ति

श्री शंकर दत्त ओशा, संयुक्त सचिव, उत्तर प्रदेश शासन, घिक्किता, स्वास्थ्य एवं परिवार कल्याण विभाग, लखनऊ को भाई०८०८० के वरिष्ठ वेतनमान में कार्यालय ग्रहण करने की तिथि । अर्थात् ३-८-८५ आराहन । ते आई०८०८० के अंका० नियमावली १९५४ के अन्तीम आई०८०८० के वरिष्ठ वेतनमान रु. 1200-2000 अस्थायी रूप से ग्रहण कर संयुक्त सचिव, उत्तर प्रदेश शासन, घिक्किता, स्वास्थ्य एवं परिवार कल्याण विभाग, लखनऊ नियुक्त किया गया ।

गिरीश नरायण मेहरा
सुध्य सचिव ।

संख्या: 5993।।।/टो-।-८५ तददिनांक

प्रतितिपि निम्नलिखित को सूचनार्थ प्रेषित :-

- 1- अधीक्षक गुद्रण तथा लेखान सामग्री, उत्तर प्रदेश, इलाहाबाद को उत्तर प्रदेश गजट के आगामी हिन्दी तथा उर्दू अंक में प्रकाशनार्थ ।
- 2- सचिव, भारत सरकार, कार्यिक छवि प्रशिक्षण, प्रशासनिक सुधार, लोक शिक्षायतं तथा पेशान मंत्रालय, कार्यिक एवं प्रशिक्षण विभाग, नई दिल्ली ।
- 3- सचिव, राजस्व परिषद, उत्तर प्रदेश, लखनऊ ।
- 4- महालेहारीलेहा-२।।०प्र०, जी०८०-६ अनुभाग, इलाहाबाद ।
- 5- श्री शंकर दत्त ओशा की नियुक्ति सम्बन्धीय पद पर की गई है। इस पद पर श्री ओशा को भाई०८०८० के सीनियर वेतनमान में समय-समय पर देय वेतन तथा रु. 250/- प्रतिमास का विवोष केन प्राप्त होगा ।
- 6- संवित अधिकारी ।
- 7- सचिव, उत्तर प्रदेश शासन, घिक्किता स्वास्थ्य एवं परिवार कल्याण विभाग, आंयुक्त, लखनऊ बण्डल, लखनऊ ।
- 8- जिला प्रजिस्ट्रेट, लखनऊ ।
- 9- इलाहा ग्रन्थालय, लखनऊ ।
- 10- नियुक्ति अनुभाग -५/६ ।

आगा० ते.

Ch/803

कृष्ण घिक्किता दस्तखत ।

उप सचिव ।

True Copy
attested. A. D. G.

29. 12. 88.

(16)
ASB

Annexure-2

उत्तर प्रदेश शासन
नियुक्ति अनुभाग -।

संख्या: 5993/रो-1-4/1131/35

लाइनर: दिनांक: 10 अगस्त, 1985

विज्ञप्ति

नियुक्ति

श्री गंकर दत्त ओमा की गाइडेनेशन के वरिएट लेक्यार्निंग में जर्व गर
ग्रहण करने की तिथि से संयुक्त सचिव, उत्तर प्रदेश शासन, विज्ञिता, वार्ता
समू परिवार कल्याण विभाग, लाइनर के पद पर तैयारी नियमित गारांडल विज्ञप्ति
दिनांक 4-9-85 की तृतीय पंक्ति में। अर्थात् 3-8-85 ग्राहाता।" के तथात पर
"अर्थात् 3-8-85 पूर्वाहिन।" पढ़ा जाय।

इस प्रियता इस सीमा तक लागोहित गारी जायगी।

गिरिधार नरायण मेहरा
मुख्य नियमित

संख्या: 5993/रो-1-4/ तदूदिनांक

प्रति नियमित विज्ञिता को सूचनार्थ प्रेसिया:-

- 1- अप्रील मुद्रण तथा लेखान सामग्री, उत्तर प्रदेश, ड्राइवार्ड को
उत्तर प्रदेश गजट के आगामी हिन्दी तथा रुपी रुपी में ग्राहाता।
- 2- सचिव, भारत सरकार, कार्यिक एवं प्रशिक्षण, प्रशासनिक बुद्धार्थ, लोड
विकायने तथा पेंगान मंगलवार, कार्यिक एवं प्रशिक्षण विभाग, नई दिल्ली।
- 3- सचिव, राजस्व परिवाद, उत्तर प्रदेश, लाइनर।
- 4- मानलेखाकार लेखा-212040, जी0डॉ-6 अनुभाग, ड्राइवार्ड।
श्री गंकर दत्त ओमा की नियुक्ति तात्कालिक पद पर की गई है। इस पद
पर श्री शूकर दत्त ओमा को गाइडेनेशन के विज्ञिता लेक्यार्निंग में
सम्मान एवं प्रशिक्षण पर लेते लेते तथा रुपी 250/- ग्राम पता की गई है।
- 5- संविधित अधिकारी।
- 6- सचिव, उत्तर प्रदेश शासन, विज्ञिता, स्तान्त्रिक एवं परिषार कार्यालय
विभाग।
- 7- आगुका, लाइनर मार्डेन, लाइनर।
- 8- जिला विजिस्ट्रेट, लाइनर।
- 9- दरला वेक अनुभाग।
- 10- नियुक्ति अनुभाग-5/6।

गारांडल

14/8/85

मुद्रण लियर लाइनर।

अप्रियम।

True copy
attached.
R. Gopal

29.12.88,

Annexure 3

जै० एस० दौ०पद,
संयुक्त संचिव ।

विधायक संख्या १०४९०४ / दृष्टिकोण-३३/१ (६५) वा
प्रदेश सभा विधायक विभाग

हरतार प्रिया शास्त्र
वर्षान्त दिनीक 16 जून, 1987

ਕਾਨੂੰਨ ਦਿਨੀਕ 16 ਜੂਨ, 1987

प्रिय महोदय,

मुझसे यह कहने का अपेक्षा जी गर्व है कि लेट बहादुर रामेश राजसन यह जमी देवारा भारतीय प्रश्ननिक जीव, ने प्रत्यक्ष देवा भिन्न अध्यवा प्रधारण सूची में सम्प्रसित जनित्रियों के लिये 41 की प्रारिक्षण कार्यक्रम दिनांक 29 जून, 1987 से 24 जुलाई, 1987 तक जनकपुरी भैसुन में जनित्रित हो रहा है। इस प्रारिक्षण कार्यक्रम में जनित्रित अधिकारियों का नामांकित हियो जाता है:-

1- श्री हरीश चन्द्र श्रीवास्तव, ३- उपाध्यक्ष, विद्यालय प्राधिकरण, बीट्टूद्यारा ।

2- डॉ विरहभान नाथ तिवारी, श्रीपुरात संविव, संस्कारगत वित्त विभाग ।

3- डॉ. — शैकर दत्त श्रीडास, रायपुर संचित, विनियोगांविभाग ।

4- श्री अराजके० कुंवर, निदिशक, प्रशिक्षण, राष्ट्रीय नियोजन संस्थान, रामज ।

। न्यायिक विधि की समर्पण विधि संख्या १०१३२/-

₹0250/-

3- शुद्धिकरण का व्यय है 50 250/-

पंक्ति ४०६३२/-

अराः अनुग्रह है यि कृपया अपने विभाग से संबंधित अधिकारी का
ए0632/- (स० ८० दी जन्मीस केवल) उपलब्ध करादि तथा प्रशिक्षण ऐतु
समय से अवमुक्त करने का कष्ट करें।

पूर्वदीया

(ज० स० दृष्टि)

1-नी ए०पी०सी०
सदिव, अधिरा ए० नार विकास विभाग ।

2-नी विश्वनाथ गान्धी,
समिति, प्रधानात विष्ट विभाग ।

3-नी स्था पुरी,
सदिव, निकित्सा एव स्थान्य विभाग ।

4-नी भोला नाथ तिवारी,
सदिव, निरीजन विभाग ।

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True
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copy

W. Goffe

29.12.88

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Annexure - b

DO NO. 1/5/87-TRG.III

From "ACADEMY"
Phone

Dr. Brij Pal Singh,
Course Director &
Professor of Economics

MR. BRIJ PAL SINGH 2309
MADRAS UNIVERSITY
(+91-44-4120)
LAL BAHADUR SHASTRI
NATIONAL ACADEMY OF ADMINISTRATION
(GOVERNMENT OF INDIA)
MUSSOORIE-248179

June, 1987

Dear Sir/Madam

Subs: Joining Instructions for the participants of the Fortyfirst Training Programme for Officers of the Indian Administrative Service (Promoted or on the Select List) to be held at the Academy from 29th June, 1987 to 24th July, 1987.

I have great pleasure in welcoming you to the Fortyfirst Training Programme for Officers of the Indian Administrative Service (Promoted or on the Select List) to be conducted by the Academy from 29th June, 1987 to 24th July, 1987.

2. You are requested to report directly at the "India Bhawan" Campus of the Lal Bahadur Shastri National Academy of Administration, Mussoorie on Sunday, the 28th June, 1987. Mussoorie is connected by air, rail, and road through Dehradun. There is a daily Vayudoot flight leaving New Delhi at 0600 hrs, and reaching Dehradun at 0700 hrs. There is also a second flight on Monday, Wednesday and Friday leaving New Delhi at 1340 hrs, and reaching Dehradun at 1435 hrs. For those who prefer rail travel, there is Mussoorie Express leaving (old) Delhi Railway Station at 2230 hrs, and reaching Dehradun next morning at 0845 hrs, and Doon Express leaving Lucknow at 1910 hrs, and reaching Dehradun next morning at 0815 hrs.

3. As the duration of the Course is only 4 weeks, it is imperative that you should not miss any part of it. The course starts on the morning of 29th June, 1987. I would request you, therefore, to reach Mussoorie on or before the evening of Sunday, the 28th June, 1987. It would not be possible for us to admit those officers who report after 24 hours of the commencement of the Course. You are advised to note that no leave shall be granted during the Course and you will not attend to other duties connected with your parent organisation/office during this period.

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True Copy
attested by
28.12.88

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Board and lodging for all the participants is free. The sponsoring State/Union Territory Government will, however, have to bear the following expenditure in respect of each participant, viz.

- (a) The cost of the nominees' travel to and from the Academy.
- (b) A book allowance of rupees two hundred fifty (Rs. 250/-) to cover the cost of some essential books which participants will have to purchase, in addition to the course material supplied by the Academy during the course. This sanction may be communicated before the participants report for training, to enable them to buy the books when they are at the Academy. The list of recommended books will be given to the participants on their arrival.
- (c) A 5-year subscription to the Alumni Association of the Academy and a similar subscription to 'Administrator', the professional journal of the Academy. Both these subscriptions cost Rs 132/- for the five year period. The amount may be remitted by cash or Demand Draft in favour of Alumni Association, Lal Bahadur Shastri National Academy of Administration, Mussoorie on State Bank of India, Charleville, Mussoorie through the participants.

Although the State Governments have been sanctioning a book allowance of Rs. 250/- for individual participants vide (b) above, due to the steady increase in prices, this does not go very far. We are, therefore, trying to build up a separate reference library specifically for the courses for IAS Officers (Promoted or on the Select List). The State Government may kindly remit an additional amount of Rs 250/- per participant for this purpose. This amount may be sent in cash or by Bank Draft drawn in favour of the Director (by designation), LBS National Academy of Administration, Mussoorie either by post or through the concerned participant. Any payment is delayed it results in avoidable correspondence. Please, therefore, ensure that the required amounts for Alumni Association and for reference library are remitted through the participant and, in any case, before the course concludes."

10. The Academy arranges 'Yoga Classes' and you may like to avail yourself of this facility during the period of your stay here. It would, therefore, be convenient if you bring along one pair each of shorts and T-shirts for this purpose.

11. Since the Academy is not in a position to provide transport from Dehradun to Mussoorie, you may kindly make your own transport arrangements. Kindly, also send your bio-data particulars (If you have not already done so) in the accompanying form at your earliest convenience.

....

N.D.P.

29/12/83

उत्तर प्रदेश सरकार
नियुक्ति अधिकारी -
प्रिया - 7101/दो-1-12/1/58/83
लेजन्ड : दिनांक : 120 जुलाई, 1987

Annexure-3

नियुक्ति

आधोहस्ताक्षरी को यह रुहने का नियोग हुआ है कि निम्नलिखित तालिका के स्तरम्-2 में इनित अधिकारियों, जो इस तथा आर्डरएस० के सीनियर वेतनमान में स्थानापन्ने रूप से कार्यरत हैं को तात्कालिक प्रभाव से उनके पैकूँस्त सर्वांगीसो०प्र० में प्रत्यावर्तित कर उनके नाम के सम्मुख स्तरम्-3 में इनित पदों तथा वेतनमान में नियुक्त किया जाता है :-

क्रूपांक अधिकारी का नाम व वर्तमान पद नाम

नवीन पद तथा वेतनमान जिस पर अब तैनात किए गए

1	2	3
सर्वधी		
1- एस० सी० रस्तोगी		विशेष कायाधिकारी
संयुक्त सचिव, उ०प्र० शासन, मन्त्रीमंत्री-विभाग, विभाग, लडान्जु		वित्तीय विभाग, विभाग, उ०प्र० लडान्जु, वेतनमान रु 2300-2700
2- शकदेव पुसाद त्रिपाठी		विशेष कायाधिकारी
संयुक्त सचिव, पुड्योपी कायालिय, उ०प्र० शासन, लडान्जु।		पुड्योपी कायालिय, उ०प्र० शासन, लडान्जु, वेतनमान रु 2300-2700
3- हरि पाठ्य शारण	अवकाश पर	अवकाश पर, वेतनमान रु 2300-2700
	जिलाधिकारी, पैनपुरी।	
4- डा० शांकुरदत्त ओझा		विशेष कायाधिकारी
संयुक्त सचिव, उ०प्र० शासन, विकास स्वास्थ्य एवं परिवार कल्याण विभाग, लडान्जु।		विकास स्वास्थ्य एवं परिवार कल्याण विभाग, उ०प्र० शासन, लडान्जु, वेतनमान रु 2300-2700
5- आर्डरएस० निगम		संयुक्त उद्योग नियोगी,
विकास उद्योग नियोगी, उ०प्र० कानपुर।		उ०प्र०, कानपुर वेतनमान रु 2050-2500
6- राज राम		संयुक्त सचिव, उ०प्र० शासन, नियोगीजन विभाग, लडान्जु
संयुक्त सचिव, उ०प्र० राम		वेतनमान रु 2050-2500
7- श्रीकाश छारे		अपर आयुक्त, आगरा
अपर आयुक्त, आगरा		वेतनमान रु 2050-2500
8- संरज प्रकाश सक्सेना		संयुक्त सचिव/समन्वयी
संयुक्त सचिव/समन्वयी		पुड्योपी सचिव शासना उ०प्र० शासन, लडान्जु, वेतनमान रु 2050-2500
9- हरिशचन्द्र श्रीबाल्लभ		उपाध्यक्ष, हरिद्वार, विकास प्राधिकरण, हरिद्वार।
उपाध्यक्ष, हरिद्वार विकास प्राधिकरण, हरिद्वार।		वेतनमान रु 2050-2500
10- डा० बी०एन० तिवारी		संयुक्त सचिव, उत्तर प्रदेश शासन, संस्थागत वित्त विभाग, लडान्जु, वेतनमान रु 2050-2500
संयुक्त सचिव, उ०प्र० शासन		
संस्थागत वित्त विभाग, लडान्जु		

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10/10/2018

29/12/2018

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Annexure-6

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART I SECTION 2)

No.14015/35/86-AIS(I)

Government of India

Ministry of Personnel, P.G. & Pensions
(Department of Personnel & Training)

New Delhi, the 2) July, 1987.

NOTIFICATION

In exercise of the powers conferred by sub-rule (1) of rule 8 of the Indian Administrative Service (Recruitment) Rules, 1954, read with sub-regulation (1) of regulation 9 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, the President is pleased to appoint S/Shri Surendra Chandra Raetogi, Shukh Dev Prasad Tripathi, Prem Krishna Misra, Azizul Jabbar Khan, Hari Madhava Saran, Raja Ram, Srikant Khare, Suraj Prakash Saxena, Harish Chandra Srivastava, Dr. Bishwambhar Nath Tiwari, Shankar Datt Ojha, Ram Kumar Kunwar, Gopal Krishna Shukla and Ram Sharan Varshney, members of the State Civil Service of Uttar Pradesh to the Indian Administrative Service on probation and to allocate them to the cadre of Uttar Pradesh under sub-rule (1) of rule 5 of the Indian Administrative Service (Cadre) Rules, 1954.

(Signature)

(RANJAN CHATTERJEE)

DEPUTY SECRETARY TO THE GOVT. OF INDIA.

The Manager,
Government of India Press,
Faridabad (Haryana).

No.14015/35/86-AIS(I)

New Delhi, the 2) July, 1987.

A copy is forwarded for information to the following:-

1. The Chief Secretary to the Govt. of Uttar Pradesh, Lucknow (with 14 spare copies for onward transmission to the officers concerned).
2. Accountant General, UP, Allahabad.
3. Secretary, Union Public Service Commission, New Delhi.
4. E.O. to the Government of India, New Delhi.

(Signature) 27/7/87

(RANJAN CHATTERJEE)

DEPUTY SECRETARY TO THE GOVT. OF INDIA.

INTERNAL DISTRIBUTION:-

1. OO(S), HIG(I) Section.
2. Research Officer (EM), DEPAR
3. EO(PH) Section.
4. AIS, III Section. For Public List.
10 spare copies.

Enclosure

True Copy attested
(Signature)

23/1/88

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Anubhag-1

Annexure-7

From,

Dr. S.D.Ojha,
Joint Secretary to Govt. of U.P.
Medical, Health & Family Welfare Deptt.,
LUCKNOW.

To,

The Secretary,
Appointment Department,
(Anubhag-1)
Government of U.P.,
LUCKNOW.

Dated August 14, 1987

Sir,

I have to submit that I was promoted to the senior scale of the I.A.S. in the officiating capacity vide Niyukti Vibhag, U.P. D.O.letter No.5332/ 1-1-1985, dated August 2, 1985 with subsequent notification No.3993/ 1-1-4/1(12)/85, Lucknow, dated September 4, 1985 read with the notification of even number dated September 18, 1985 and accordingly I took over charge on August 3, 1985 on the post of Joint Secretary, Medical, Health & Family Welfare, a cadre post of the I.A.S. and that since then I have been working on the said post continuously without any interruption, whatsoever. Thereafter, the Govt. of U.P. vide Niyukti Anubhag-1 D.O.letter No.1820/ 1-1-11/3/87, dated March 3, 1987 asked for my willingness to accept an offer of appointment to the I.A.S. in a substantive capacity which I accepted furnishing the requisite declarations on proforma appended to the said letter.

2. Meanwhile, I was deputed to undergo an inservice I.A.S. Foundation Training Course with effect from June 29, 1987 to July 24, 1987 under order of the Government of U.P. Niyukti Vibhag D.O.letter No.4904/ 1-1-11/3/87, dated June 16, 1987 and that of the course Director, Lal Bahadur Shastri National Academy of Administration, Government of India, Mussoorie D.O.letter No.1/5/87-Trg-III, dated June 2, 1987. In compliance with these instructions, I joined my training at Mussoorie as per the schedule. During the period of training I continued to hold charge of the post of Joint Secretary, Medical and Health and also disposed of some important and urgent files which were sent to

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SDOJH
28/12/88

-8-

me there by Special messengers from time to time.

3. However, on my return to Lucknow from the training, referred to above, I came to learn about the issuance of three communications detailed below:

(i) Order of the Government of U.P. Niyuktii Anubhag-I No. 7101/23-1-194/1(5)/85, dated 20.7.87 reverting me back to my parent post of the P.C.S. (Executive Branch) and posting me as Officer on Special Duty in the same Department of Medical and Health & Family Welfare.

(ii) Notification of the Government of India in the Ministry of Personnel, P.C. & Pension Department of Personnel & Training, New Delhi No.14015/35/86-A.I.S. (i) dated 22.7.1987, notifying my appointment to the I.A.S. in the substantive capacity and assigning me U.P. cadre, and

(iii) Order of the Government of U.P. Niyuktii Anubhag-I No. 7625/23-1-19-1(5)/85 T.C. Lucknow, dated July 23, 1987 appointing me again on the cadre post of I.A.S. i.e. Joint Secretary, Medical & Health with effect from July 22, 1987. The endorsement No.5 of this order dated July 25, 1987 seeks to direct the concerned officers to send the copies of the charge certificate to the Accountant General and the Government of U.P. in the Niyuktii Anubhag-I accordingly.

4. Since prior to my proceeding for the aforesaid training I was not relieved of my charge which I continued to hold during the period of training, the unbroken officiation in the IAS since August 3, 1985 ultimately culminated into substantive appointment with effect from the date of Government of India, notification i.e. 22.7.1987, appointing me to the IAS on probation. The order of reversion dated 20.7.1987 has, therefore, become infructuous and inoperative and as such it has lost its relevance. In these circumstances, the question of taking over charge again of the post of Joint Secretary, Medical & Health, as required in Government order dated 20.7.1987, therefore, does not arise. At this

True Copy
N. D. Joshi

28/12/88

-3-

3. It may be added that the order of reversion dated 20.7.1987 seems to have been passed at the behest of Government of India and Smacks of malafide as is simply borne by the very nature and content of endorsement it bears and as it would result in breaking my officiating in the I.A.S. for two days i.e. July 20 and 21, 1987 unlawfully.

4. For the reasons and circumstances stated above, I beg to state that the Government may reconsider the whole matter and very kindly cancel the two orders dated 20.7.1987, ^{and 25.7.1987} referred to above.

5. I shall be extremely grateful if the Government communicates to me its decision at its earliest possible convenience.

Thanking you,

Yours faithfully,


28/7/87


(Dr. S.D. OJHA)

14.8.87

Annexure - I

Annexure - D

From,

Dr. S.D.OJHA,
 Joint Secretary,
 Medical, Health & Family Welfare Department,
 Government of U.P.,
LUCKNOW.

To,

The Secretary,
 Department of Personnel & Training,
 Ministry of Personnel, P.C. & Pensions,
 Government of India,
NEW DELHI.

THROUGH- The Secretary, Appointment Department,
Government of Uttar Pradesh, LUCKNOW, U.P.

SUBJECT: Representation against U.P. Govt. Appointment Department's Order No. 7101/IL-1-19/1(B)/85/1987, dated 20.7.1987, passed with reference to Secretary, Department of Personnel, Govt. of Ind's letter No. 14015/35/86-IAS(1) dated 26.6.1987, reverting the representationist from the senior IAS Cadre post on the same post and for counting the continuous period of officiation on cadre post for the purposes of fixation of seniority in the IAS cadre.

Sir,

I have to bring to your notice the following facts for consideration and issue of orders allowing the benefit of period of continuous officiation on cadre post for fixation of seniority.

- 1- That initially I was appointed to the U.P. Civil Service (Executive Branch) and the State Government allotted 1962 as my year of allotment in the said service for the purpose of seniority.
- 2- That in the year 1985 I was working in the P.C.S. Selection Grade of Rs. 1840-2400, which has since been revised to Rs. 2050-2500.

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 attested
 M.P.

29/12/88

-2-

3. That the Selection Committee constituted for drawing up the select list for promotion to the senior scale of IAS from amongst the officers of the U.P. DCivil Service and other officers in the year 1984 must have adjudged me suitable and included my name in the said select list, which appears to have been finally approved by the Union Public Service Commission. I am making these observations because the State Government vide order contained in D.O. No. 5832/ Two-1-1985, dated 2nd August, 1985 promoted me to officiate in the Senior Scale of IAS, on the cadre post in accordance with the provisions of IAS (Cadre) Rules 1954 quoted in the order itself.
4. That in pursuance of these orders I took over charge on the post of Joint Secretary, Medical, Health & Family Welfare Department in the forenoon of August 3, 1985 on the basis of which Govt. Notifications dated September 4 and September 10, 1985 were issued (copies enclosed-Appendix "A" & "B") and since then I continued to work on the senior scale IAS cadre post and I am still continuing on that post without break.

.... 3.

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- 3 -

5. That I was deputed to undergo ^{an} inservice I.A.S. Foundation Training Course with effect from June 29, 1987 to July 24, 1987 under order of the Govt. of U.P. Appointment Department D.O. letter No. 4904/ Two Training Cell 33/1(84)/87, dated June 16, 1987 and that of the course Director, Lal Bahadur Shastri National Academy of Administration, Government of India, Mussoorie D.O. letter No. 1/5/87-Try.-III, dated June 2, 1987. In compliance with these instructions, I joined my training at Mussoorie as per the schedule. During the period of training I continued to hold charge of the cadre post of Joint Secretary Medical, Health & Family Welfare and also disposed of important and urgent files which were sent to me through the special messengers, despatched by my controlling officers from time to time.

6. That on July 25, 1987 on my return to Lucknow from the training referred to in para 5, I came to learn about the issuance of three orders detailed below:-

(i) Order of the Government of U.P. Appointment Department, section I, No: 7101/1-19-1(5), 85, dt. 20.7.87. In this letter, orders had been issued reverting me alongwith other officers from the senior scale I.A.S. cadre post to the P.C.S. cadre post without indicating the reasons for issuance of this order. *W. J. S.*

W. J. S.

.....

28/12/87

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That on 20.7.1987 neither I was physically present in Lucknow to hand over charge of I.A.S. cadre post and take over charge of the post in the P.C.S. cadre as I had been undergoing the aforesaid training course at Mussoorie, nor I was required to do so under law. The said order of reversion, therefore, remained unimplemented and I am still continuing on the said I.A.S. senior scale cadre post. That in the said order dated July 20, 1987 a letter No. 14015/35/86-AIS (I) dated 16.6.87 of the Government of India, Ministry of Personnel & Training, Administrative Reforms and Pension is mentioned. The contents of the said letter are still unknown to me.

(ii) Notification of the Government of India, Ministry of Personnel, P.C. & Pensions (Department of Personnel & Training) No. 14015/35/86-AIS (I) dated 22.7.1987 in which I alongwith other officers have been appointed to the IAS on probation and have been allotted the U.P. cadre. This notification of the Government of India has been issued two days after the issuance of the said arbitrary reversion order dated July 20, 1987, issued by the State Government.

(iii) Order of the Government of U.P. Appointment Department, Section I No. 7625/Two-1-19-/1(5)/85 T.C. dated July 25, 1987 posting the representative again on the cadre post of I.A.S. in,

RCG/4 ... 5.

28/7/88

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Joint Secretary, Medical, Health & Family
Welfare with effect from July 22, 1987.

7. That the endorsement No. 5 of the said order dated July 25, 1987 seeks to direct the concerned officers to send the copies of the Charge Certificate to the Accountant General and the Govt. of U.P. accordingly. In my particular case this direction seeks to force me unlawfully to make over charge of the I.A.S. cadre post, take over the charge of the P.C.A. Cadre post on the basis of the reversion order dated July 20, 1987 and subsequently take over charge of I.A.S. Cadre post again on a date subsequent to July 24, 1987 by when I had been at Mussoorie. Such insistence on the part of Government of U.P. and Government of India would be totally unjustified and prejudicial to my service rights.

8. That since prior to my proceeding for the aforesaid training I was not relieved of my charge of the post of Joint Secretary, Medical & Health which is in IAS cadre and which I continued to hold during the period of training also, and as such the unbroken, continuous officiation in the I.A.S. since August 3, 1985, the day I had taken over charge of IAS ultimately culminated into substantive appointment with effect from the date of Government of India notification on 22.7.1987, appointing me to the I.A.S. on probation


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Therefore, the question of taking over charge of the same cadre post afresh on the basis of the instructions contained in the said Appointment Department endorsement No. 7625(1)/IL-1-1987, dated July 25, 1987 did not arise.

9. That there was no justification to issue the said reversion order dated July 20, 1987 by the State Government as I was appointed to the IAS cadre post on August 3, 1985 after inclusion of my name in the select list of the IAS drawn up in the year 1984 and my name was also included in the subsequent select lists and I have also not been found unsuitable to hold that post. There is therefore no justification to revert me from the IAS cadre post to a post in the PCS cadre.
10. That in case the reversion orders have been issued on the basis of the directions received from the Government of India Ministry of Personnel Training, Administrative Reforms and Pension, I have to submit that if some officer senior to me in the PCS cadre and borne on the select list of the IAS alongwith me, was posted on Ex-cadre post by the State Government, I can-not be made to suffer for the failure of U.P. Government for not following the provisions of the Proviso to rule 9(2) of the IAS (cadre Rules, 1984). *(Signature)*

.....7.

(Signature)
28/12/87

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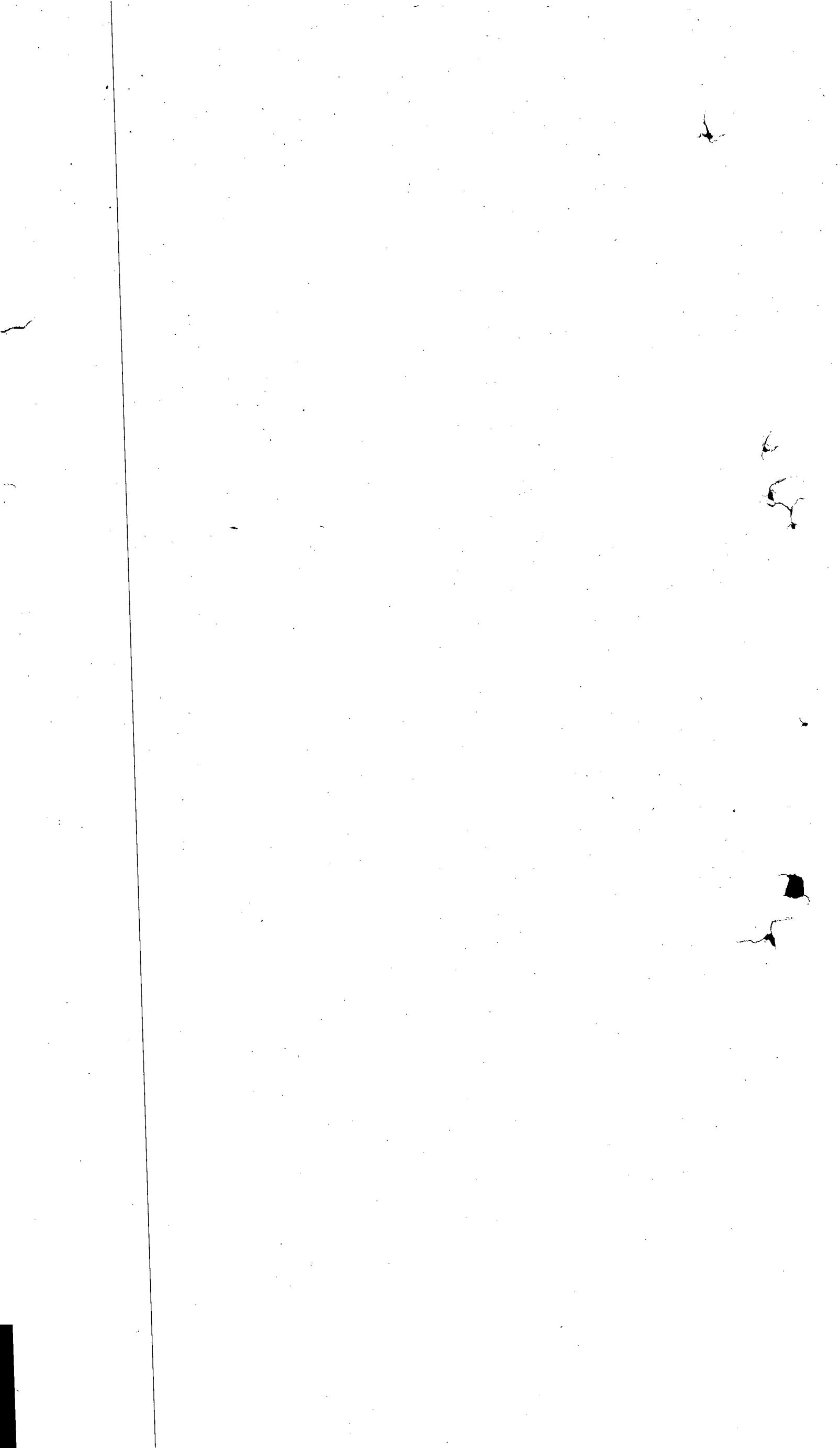
11. That since I continued to hold the senior scale IAS cadre post in an officiation capacity from 3.6.1985 till 21.7.1987 and from 22.7.1987 I was appointed to the IAS by the President of India in Government of India notification dated 22.7.1987. I cannot be deprived of the benefit of the said officiation for purposes of fixation of my seniority in the IAS.
12. That according to sub-rule (3) read with sub-rule (2) of the IAS (Cadre) Rules, 1954, if a person other than a cadre officer is appointed to a cadre post for a period exceeding three months the State Government is required to report the fact to the Central Government together with reason for making the appointment. On receipt of such report the Central Government may direct the State Govt. to terminate the appointment of such person and to appoint a cadre officer and where any such direction is so issued the State Government shall accordingly give effect thereto. Accordingly to the said provisions of the rule in case 1 a select list officer who was not next in order in the select list was appointed on the cadre post such officer has to be reverted from the IAS cadre post after three months and a cadre officer has to be appointed on such cadre post. In terms of the said provisions of the rule if at all it was necessary to revert me from IAS cadre post to yield

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14. That Govt. of India vide letter No. 14014/74/87-IAS, dated 20, August, 1987 admitting my taking over in IAS senior scale w.e.f. 22nd July, 1987 have fixed 1982 as my year of allotment which deserves to be modified giving me the benefit of long continuous officiation w.e.f. 3rd August, 1985.

15. In this context, I wish to draw your attention to Govt. of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training letter No. 14014/37/86-AIS(1), dated 15 July, 1987 on the subject of "Fixation of Seniority of officers appointed to IAS by promotion" benefit of period of officiation- review regarding" wherein it has been indicated to review the cases of these officers appointed to IAS by promotion after the 11th Oct., 1985 in the light of Hon'ble Supreme Court pronouncements mentioned therein. I most humbly plead that in my case as indicated above there has been no break in continuous officiation since 3rd August, 1985.

16. That in the circumstances the arbitrary and illegal reverision order in question deserves to be withdrawn and cancelled so that I may not be deprived of the benefits of my continuous officiation on the IAS post from 3.8.85 to 21.7.87 for purposes of determination of my seniority in the IAS. *(My)*

Abdul
29/12/98

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I, therefore, request that the impugned
reversion order communicated to me in the Appointment
Department order dated 20.7.87 be rescinded and I may
be allowed the benefits of continuous officiation w.e.f.
3rd August 1985 in the matter of fixation of seniority
and suitable orders be issued in this regard.

Enclosure: as above.

Yours faithfully,

Lucknow
January 25, 1988.

W.D.B.
(Dr. L.D. OJMA)
Joint Secy. to Govt. of U.P.
Medical, Health &
Family Welfare Department,
Lucknow

L.D.O.J.M.A.
29/1/88

(39)

Annexure-4

क्रमांक १२/१-१२/१५/८८ दस्तावेज़

Annexure-9

मी अब लिखती हूँ,
लिखती हूँ,
जान देती हूँ ।

लेखा ५

मातृ संस्कृत हाता जोड़ा,
लिखा लोड़ा जुलायांग,
लिखा लोड़ा, स्पास्त्र लोड़ा दरिबार अस्त्राय लिखा,
लोड़ा ।

पुस्तक दिनांक २-३/१२/८८

लिखा भारतीय प्राचारनिधि लेखा के लंबाय वर के प्राचारनिधि के लिख
प्राचारनिधि ।

लोटा,

मातृ उसका लिखक प्राचारनिधि दिनांक २३-१-८८ के लंबाय में
मुझ ने उसे लिखा हुआ है जो नियुक्ति अस्त्रायांग के लालौर तालाब
७/११/२-१-१२/१५/८८, दिनांक २५-१-८८ द्वारा भारतीय राज्य लिखित
लेखा में लिखी गयी है प्राचारनिधि तथा भारत भारतीय भारतीय तालाब
१५०१५/३३/१८-प्राचारनिधि ।।।, दिनांक २२ दूसरा, १९८८ द्वारा भारतीय
दिनांक २२-१-८८ के अस्त्रायांग में दरिबार के लिखित लिखा द्वारा
हुआ है। अब इसका प्राचारनिधि वर लिखी भारतीय भारतीय भारतीय भारतीय ।।।

लिखा द्वारा,

५०१५

। दूसरे लिखती हूँ ।
लिखा द्वारा

Attested true

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२८/१२/८८

प्रियजन,

उपर्युक्त शंकर दत्ता श्रीमान्
संस्कृत शोभा अनुदान
कानूनीय भारत जनसंघाया प्रत्यावेदन
एव राष्ट्रीय तथा विभिन्न सभा संघ
उत्तर प्रदेश शासन।

विषय:-

विषय तथा
नियुक्ति विभाग (अनुभाग-1)
उत्तर प्रदेश शासन।

विषय:- भारतीय प्रशासनिक सेवा के संबंधीय पद से प्रत्यावर्ति के विषय
प्रत्यावेदन।

महोदय

कृपया उपर्युक्त विषयक भेरे प्रत्यावेदन दिनांक 25. 1. 88 के उत्तर
में भेजे गये शासन के पश्च तंत्रज्ञ 429/2-1-19/1151/85 दीप्तीकृष्ण दिनांक
2. 3. 88 का संदर्भ मेंने का लक्ष्य है। इस तंत्रज्ञ में यिन्होंने लिखा है कि
उपर्युक्त दिनांक 25 जनवरी 1988 का भेरा प्रत्यावेदन भारत सरकार के
सियाटमेन्ट ग्राफ पर्सनल स्टाफ ट्रेनिंग को संबोधित था। आपके उपर्युक्त पश्च
दिनांक 2. 3. 88 के अवलोकन से यह प्रतीत होता है कि भेरा उपरिलिखित
प्रत्यावेदन भारत सरकार को भेजा नहीं गया, अपितु प्रदेश शासन के सार पर
ही नियांत्रित कर दिया गया। आप के उपरितंदमिति पश्च में भेरे प्रत्यावेदन
को भारत सरकार को अनुसारित न करने का कोई लाभ भी छिपाया नहीं
किया गया है और न ही यह तथ्य छिपाया है कि जिसके आधार पर भेरे प्रत्यावेदन
पर "किसी छार्चावाही का प्रान नहीं उठाया" जाता था गया है।

2. यह उल्लेखनीय है कि भेरे उपरिलिखित प्रत्यावेदन दिनांक 25 जनवरी,
1988 पहलियार बर नियम भेने का अधिकार केवल भारत सरकार को है
उत्तर प्रदेश शासन हसके नियांत्रण छोड़ नहीं है। आपके प्रश्नक्रम पश्च
दिनांक 2. 3. 88 से यह भी छिपाया नहीं होता कि भारत सरकार के किसी
आदेशानुसार भेरे प्रत्यावेदन दिनांक 25. 1. 88 का नियांत्रण प्रदेश शासन साथ
पर किया गया है। यहि ऐता किया गया हो तो कृपया भारत सरकार के
उस आदेश की प्रति मुझे उपलब्ध कराई काया।

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3. इस तीहमे में मुझे आपको यह भी स्पर्श दिलाना है कि मैंने इस प्रत्याखेदन 14 अगस्त 1987 को ज्ञानी तर्क्यू में आपको प्रेक्षित किया था। इस प्रत्याखेदन में यह अनुरोध किया गया कि ब्राईडो एवं एसो ने मुझे प्रत्याखित करने से तर्क्यूदित शासनदेश नियुक्ति अनुभाग-। तर्क्या 7101/दो-।-19-/-1151/85 दिनांक 20.7.1987 तथा नियुक्ति अनुभाग-। तर्क्या 7625/दो-।-19-/-1151/85 दिनांक 25 जुलाई, 1987 जिसके पूछतांकन में मेरे लिये 22 जुलाई, 1987 की रिप्रिजिन के अनुसार ब्राईडोएसो में नियुक्ति के फलस्वरूप पुनः भारतीय ग्रहण करने के आदेश अंकित हैं लोने निरसा किया जाय। दुर्भाग्यवश शासन ने मेरे उक्त प्रत्याखेदन दिनांक 14 अगस्त 1987 को आज तक निराकार नहीं किया और व उस पर लिये गये निर्णय तो मुझे अवगत ही कराया जाय।

4. ज्ञानी उपर्युक्त वर्गिका परिस्थितियों में पुनः विनाश अनुरोध है कि मेरे उपर्युक्त प्रत्याखेदन दिनांक 14 अगस्त, 1987 में अंकित प्रियोग परिस्थितियों पर कियाए जर निर्णय लिया जाय तथा मेरे अनुसर्ती प्रत्याखेदन दिनांक 25 जनवरी, 1988 को जो भारत सरकार लो सम्मोचित है भारत सरकार के आदेशार्थ इनिमध्ये अनुरोध किया जाय तथा पढ़ि मेरे इस प्रत्याखेदन दिनांक 25.1.1988 पर भारत सरकार ला कोई आदेश प्राप्त कर लिया जाए हो तो तो मुझे उपलब्ध कराया जाय। यह भी निषेद्ध है कि 6 सप्ताह तक शासन के आदेशों की प्रतीक्षा करना तदनन्तर विषय होकर मुझे अपने तेवा तर्क्यू अधिकारों की रक्षा के लिये न्यायालय की हालत लेनी बढ़ाएगी।

दिनांक: 7. 8. 1988.

राम्मन्न

Sd/। BSTD इंकर टर्टा औहा।
तमाक्त संविधि विकासा एवं
प्रोप्रेश्ट कोजाडिनेटर



29/8/88

संख्या-6212/टो-1-19/1151/85-टी.सी.०

Answer - II

प्रेषकः -

श्री कृष्ण बिहारी टण्डन,
संयुक्त सचिव,
उत्तर प्रदेश शासन।

सेवा में

✓ T.O इंकर दत्त आद्वा, आईएससो,
निदेशक, जनजाति विज्ञान संबंध
प्रबंध निदेशक, तराई जनजाति विज्ञान निगम, लखनऊ।

नियुक्ति अनुभाग - I

लम्ब्लः दिनांक २ नवम्बर, 1988.

विशेषः -

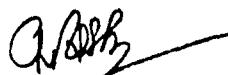
राज्य सेवा में प्रत्यावर्तन के विळद प्रत्यावर्तन।

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महोदय,

उपर्युक्त विशेषक ज्ञासनाटेश संख्या-2397111/टो-1-19/1151/85-टी.सी.०, दिनांक 11-6-1988 के क्रम में मुझे यह कहने का निदेश हुआ है कि राज्य सिविल सेवा कार्यकारी जाता। मैं आपके प्रत्यावर्तन विशेषक राज्य सरकार के आदेश संख्या-7101/टो-1-19/1151/85, दिनांक 20-7-1988 के विळद प्रत्युत आपका प्रत्यावर्तन दिनांक 14-8-1987 के 25-1-1988 भारत सरकार के विधारार्थ मूलरूप में अनुसारित किए गए थे। भारत सरकार ने सूचित किया है कि आपके उक्त प्रत्यावर्तन में किस गए अनुसोध को भारत सरकार द्वारा स्वीकार किया जाना संभव नहीं हुआ है।

मन्दीर,



कृष्ण बिहारी टण्डन।
संयुक्त सचिव।

संख्या-6212111/टो-1-1988 - तददिनांक

प्रतिलिपि श्री रंजन घटजी, उप सचिव, भारत सरकार, कार्यक्रम तथा प्रशिक्षण विभाग, नार्थ बॉर्क, नई दिल्ली को उनके पत्रांक-14015/८८-अभ्यासो०111, दिनांक 1-9-1988 के संदर्भ में सूचनार्थ प्रेषित।

True Copy
Attested
K. Bhattacharya

आद्वा से,

कृष्ण बिहारी टण्डन।
संयुक्त सचिव।

28/12/88

AGS
(H3)

Annexure-2
7710/3/2087

15/1(146)/85

87. 192

No.14014/37/86-HIS(I)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

.....
New Delhi, the 15 July, 1987

To

The Chief Secretaries of all
the State Governments.

Subject:-I.A.S.- Fixation of seniority of officers appointed to I.A.S. by promotion - Benefit of period of officiation - Review regarding.

Sir,

I am directed to say that under Explanation-I below Rule 3(3)(b) of the Indian Administrative Service (Regulation of Seniority) Rules, 1954, the period of continuous officiation of a State Civil Service Officer on a cadre post counts for the purpose of determination of his seniority in the I.A.S. from the date of inclusion of the officer's name in the select list or from the date of his officiating appointment to such senior post, whichever is later. The manner in which the non-cadre officers can be posted on cadre posts, has been prescribed in Rule 9 of the IAS (Cadre) Rules, 1954. The Government of India have been disapproving such cadre officiation of the non-cadre officers where it was noticed that either the officiating appointments on cadre posts were not given to the officers in the order in which their names appeared in the select list for the time being in force or where there was an overutilisation of the State Deputation Reserve by the State Government at that point of time, creating thereby artificial vacancies for giving cadre officiation to non-cadre officers.

2. In this connection, it may be recalled that the Hon'ble Supreme Court of India have, in their various judgements, pronounced recently, held that no powers are available with the Central Government under Rule 9 of the Cadre Rules to disapprove the officiation on cadre posts by the non-cadre officers and in fact, the Central Government are required under Rule 9(3) of the Cadre Rules to give directions to the State Government concerned for termination of such officiation on cadre posts by non-cadre officers, which is found to be violative of the provisions of the various rules and regulations. In view of these pronouncements of the Hon'ble Supreme Court of India, it is proposed to amend the IAS (Regulation of Seniority) Rules, 1954 in order to ensure that the officiation on cadre posts by the non-cadre officers is in accordance with the provisions of the Cadre Rules. However, keeping in view the pronouncements of the Supreme Court of India in this regard, it has been decided to review the cases of such officers who were appointed to I.A.S. by promotion on or after the 11th October '85, i.e. the date on which the Hon'ble Supreme Court of India dismissed the Appeals filed by the Union of India

...2/-

Re 15/1(146)/85
On 15/1/87
by M. S. D. (S. S. D.)

True Copy attested

AGS

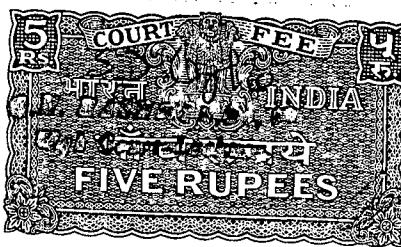
28/12/97

ब अदालत श्रीमान्
[वादी अपीलान्ट]
प्रतिवादी [रेस्पाडेन्ट]

~~Before the Hon'ble Tribunal~~

In the Central Administrative Tribunal, महोदय, A.Y. 1950
का वकालतनामा (155).
Sikandar Ali and Bench, Lucknow.

Sri Shankar Ali Bgha



वादी (अपीलान्ट)

Union of India and बनाम
another

प्रतिवादी (रेस्पाडेन्ट)

म० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा से अपनी ओर से श्री... R. K. R. ... R. K. R. ... R. K. R. ...
... M. ... M. ... M. ... M. ... वकील
महोदय
एडवोकेट

नाम अदालत	न० मुकद्दमा	फरीक्सानी

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय एवं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया बसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रूपया जमा करें या हारी विपक्षी (फरीक्सानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकर को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

Accepted

M. ...
Advocate
(RADIKA RAMAN)

साक्षी (गवाह)

हस्ताक्षर

दिनांक महीना सन् १६ ई०

स्वीकृत

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

A57

CIRCUIT BENCH, LUCKNOW

O.A. No. 2/1989

S. D. Ojha

.. Applicant

-versus-

Union of India and others ... Opp. parties

Reply
COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE PARTY NO. 1

I, M.K. Trehan

aged about 41 years, son of Late Sh. Ram Prakash

Trehan presently posted as Desk Officer

in the office of Department of Personnel

and Training AIS(I) Section, Ministry of Personnel

P.G. and Pension, New Delhi do hereby ~~solemnly~~

~~affirm and state as under:-~~

1. That the deponent is well conversant

with the facts of the case and he is filing this

counter affidavit on behalf of the Opp. party No. 1.

2. That the deponent has read and understood the

contents of application as well as the facts given herein

under in reply thereof.

3. That the contents of para 1 to 5 are formal and needs no comment.

4. That the contents of para 6.1 to 6.4 are not disputed.

5. That in reply to the contents of para 6.5 of the application it is submitted that the

Respondent no.2 has stated that the applicant was promoted temporarily to the senior scale of IAS of Rs.1200-2000 with effect from 3.8.1985.

The State Government have explained the provisions of Rule 9 of the I.A.S. Cadre Rules, 1954 under which temporary appointment of non-cadre officer to cadre post can be made. It has been rightly argued that the

Respondent no.2 terminated the officiating appointment of the applicant on 20.7.1987 in pursuance of the directions of the Respondent no.1 contained in their letter dated 26.6.1987.

6. That it is further stated that while considering proposal of the Respondent no.2 in April-May 1987 for appointment of 14 SCS Officers to the IAS by promotion, it was noted that the cadre

postings of the select list officers was not in accordance with the regulation 8 of the Promotion Regulations, reproduced below:

" Appointment to cadre posts from the Select List

(1) Appointments of members of the State Civil Service from the Select List to posts borne on the State Cadre or the Joint Cadre of a group of States as the case may be, shall be made in accordance with the provisions of rule 9 of the Cadre rules. In making such appointments, the State Governments shall follow the order in which the names of such officers appear in the Select List.

(2) Notwithstanding anything contained in sub-~~xx~~ regulation

(1) , where administrative exigencies so require, a member of the State Civil Service whose name is not included in the Select List or who is not next in order in that Select List, may, subject to the aforesaid provisions of the Cadre Rules, be appointed to a cadre post, if the State Government is satisfied -

(i) that the vacancy is not likely to last for more than three months; or

(ii) that there is no suitable cadre officer available for filling the vacancy.

Provided that where any such appointment is made in a State, the Government shall forthwith report to the Central Government together with the reasons for making the appointment.

Provided further that where administrative exigencies so require, such appointments may be continued in a cadre post beyond a period of three months with the prior concurrence of the Central Government.

7. That the Central Government had to direct the State Government to terminate the officiating appointment of the officers for the following reasons:-

(i) The provisions of the regulation 8 of the Promotion Regulations had been violated because the officiating appointment was not as per the order of the Select List. It was observed that the Senior most officer in the Select List had not been given any cadre post and the officers junior to him were holding cadre posts.

(ii) The State Government had posted some officers on cadre posts when the State Deputation Reserve was over-utilized, meaning thereby that the vacancies were artificially created in order to enable these officers to officiate on cadre posts.

(iii) The State Government did not send the requisite reports to the Central Government relating to cadre officiation of these officers, as required under rule 9 of the I.A.S. (Cadre) Rules.

8. That in terms of the judgement of the Supreme Court in the case of Shri G.N. Tiwari, an officer who had continuously officiated on a cadre post, prior to his appointment to the IAS is entitled to count that period for the purpose of determination of his seniority. In view of this, if all the recommended officers are appointed to the IAS by promotion, the result would have been that such junior officers who were officiating on cadre posts might have got higher seniority than the senior select listed officers who were not given any cadre posti

This would have resulted in an unintended benefit

to the junior officers and also loss of seniority to

the senior officers without any fault on their part.

9. That it was, therefore, considered necessary that

the officiating appointment of such officers are termin-

ated and thereafter they are appointed to the IAS

so that their seniority is fixed in accordance with the

orders of the select list. The State Government were

accordingly directed vide Government of India letter

No.14015/35/86-AIS(I) dated 26.6.1987 to terminate

the officiating appointment of the Select Listed officers

from the IAS Cadre posts immediately, in terms of rule

9(3) of the IAS(Cadre) Rules, 1954. The State Govern-

ment issued orders on 20.7.1987 terminating the

officiating appointment of 11 officers including

Shri SD Ojha with immediate effect. ~~The~~ The

applicant was appointed to the IAS by the Government

of India vide notification no.14015/35/86-AIS(I) dated

22.7.1987.

10. That the ~~remaining~~ contents of remaining

paragraphs of the application need no comments

from the answering deponent.

- 7 -

11. That the grounds taken by the applicant

are not tenable in the eyes of law.

12. That in view of the facts, reasons and

circumstances stated above, the application filed by

the applicant is liable to be dismissed with costs

to the opposite parties.

Verification.

(एम. कॉ. ट्रेहन)
(M. K. TREHAN)

Deponent डेस्क ऑफिसर
Desk Officer
कार्यालय और प्रशिक्षण विभाग
Dept. of Personnel & Training
भारत सरकार
Government of India

I, the above named deponent do hereby verify

that the contents of paragraphs 1 to 2

are true to my personal knowledge, those of paragraphs

3 to 7 and 9 to 10 are believed by me to be true

on the basis of records and information gathered and those

of paragraphs 8, 11 and 12 are also

believed by me to be true on the basis of legal advice.

facts

No part of this affidavit is false and nothing material
has been concealed.

(Signature)
Deponent
(एम. कॉ. ट्रेहन)

(M. K. TREHAN)
डेस्क ऑफिसर
Desk Officer
कार्यालय और प्रशिक्षण विभाग
Dept. of Personnel & Training
भारत सरकार
Government of India

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BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW.

Registration No. 2/89 (L)

SD Ojha
S.D. Ojha

Petitioner

vs.

Union of India & Others

Opp. Parties.

Counter affidavit/written statement
on behalf of opposite parties.



I, K. R. Tandon, aged about 57 years, S/o
late Shri M. C. Tandon, Joint Secretary to U.P.
Government, Appointment Department, U. P.

Secretariat, Lucknow, do hereby solemnly affirm and
state on oath as under :-

1. That the deponent is the Joint Secretary
to U. P. Government and has read the petition and
understood the facts.
2. That a paravise reply is given hereunder.
3. That the contents of paras 1 to 5 need no
comments.
4. That as regards para 6.1, the contents thereof
are admitted to the extent that the petitioner was
allotted 1962 as the year of allotment in P.C.S.
He was promoted ~~to~~ to the special grade of P.C.S. on
8.1.78 and not on 1.7.78 and was confirmed in the said
scale on 20.12.1984.

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5. That as regards para 6.2., it is submitted that the name of the applicant was included in the select list of 1984 of State Civil Service Officers of U. P. for promotion to I.A.S. The applicant, therefore, was promoted temporarily to the then Senior Scale of I.A.S. i.e. Rs. 1200-2000 w.e.f. 3.8.1985 vide Govt. notification Nos. 5993/2-1-4/1(18)/85 dated 4.9.85 and 5993/2-1-4/1(18)/85 dated 10.9.85 (Annexures I & II of the petition) under Rule 9 of I.A.S. (Cadre) Rules, 1954.

6. That as regards paras 6.3 and 6.4, the contents are admitted to the extent that Lal Bahadur Shastri National Academy of Administration, Mussoorie conducted 41st Training Programme for officers of the I.A.S. (Promoted or on the Select List) w.e.f. 29.6.87 to 24.7.87 and the applicant being a Select List Officer was nominated by the State Govt. in the said programme. During the period of training officers are actually not on duty but are treated to be on duty under F.R. 9 (6) (b) for purposes of pay etc. This position was made clear to the applicant vide Govt. letter No. 8305/2-1 4/1(18)/85 dated 10.10.87 (Annexure I).

7. That as regards para 6.5, it is stated that the applicant was promoted temporarily to the senior scale of I.A.S. of Rs. 1200-2000 vide Govt. Notification Nos. 5993/2-1-4/1(18)/85 dated 4.9.85 and 10.9.1985 (Annexure I/II of the petition) under para 9 of I.A.S. (Cadre) Rules, 1954 and was posted as Joint Secretary Medical, Health & Family Welfare w.e.f. 3.8.1985 F.N. After the initial period of three months, it was made clear to the A.G., U.P., Allahabad and the applicant,



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vide State Government letter No. 7609/2-1-21/2(i)/85 dated 28.1.86 (Annexure II) that if had he not been promoted to the Senior Scale of I.A.S., he would have officiated in the higher scale of P.C.S. of Rs. 2300-2700 w.e.f. the date from which the officer just junior to him was officiating in the said scale and as such the applicant is entitled to get pay in the higher scale of P.C.S. of Rs. 2300-2700 after expiry of three months of the date of temporary promotion to I.A.S. Senior Scale. Accordingly, the A.G., U.P., Allahabad, authorised the applicant to draw his pay @ Rs. 2400/- P.M. / Rs. 2500 P.M. / Rs. 2600 P.M. w.e.f. 3.11.1985 / 1.8.86 respectively as per authorities Nos. G.E. 6/3241(13) / 2394 dated 3.1.1986, G.E. 6/3241(13), dated 29.8.1986 and G.E. 6/IAS (P) / 3241-13 dated 20.8.87, copies of which are enclosed as Annexure nos. III, IV & V.



The provisions contained under Sub rules (1), (2) and (3) of rule 9 of IAS (cadre) Rules, 1954 and instructions 2.1(b) under this rule are as follows:-

9. Temporary appointment of non-cadre officers

to cadre posts - (1) A cadre post in a State may be filled by a person who is not a cadre officer if the State Government is satisfied -

- (a) that the vacancy is not likely to last for more than three months, or
- (b) that there is no suitable cadre officer available for filling the vacancy.

Provided that where a cadre post is filled by a non-select list officer, or a select officer who is not next in order in the select list, under this

Not Faded

sub rule, the State Government shall forthwith report the fact to the Central Government together with the reasons therefor.

(2) Wherein any State a person other than a Cadre officer is appointed to a cadre post for a period exceeding three months, the State Government shall forthwith report the fact to the Central Government together with the reasons for making the appointment.

Provided that a non-select list officer, or a select list officer who is not next in order in the select list, shall be appointed to a cadre post only with the prior concurrence of the Central Government.



(3) On receipt of a report under sub-rule (2) or otherwise, the Central Government may direct that the State Government shall terminate the appointment of such person and appoint thereto a cadre officer, and where any direction is so issued, the State Government shall accordingly give effect thereto.

Government of India's instructions :

2.1 The Government of India have clarified the scope of Rule 9 of the Cadre rules as follows:-

(b) Sub-rule (3) of the IAS/IPS(Cadre) Rules 1954 is self-contained and independent of the provisions contained in sub-rules (1), (2) and (4) of the said rule. Sub-rule (3) of rule 9 of the Cadre Rules empowers the Central Government to give directions to the State Government at anytime to terminate the temporary appointment of a non-cadre officer to a cadre post, even without any report from the State Government whether the period is less than three months or more than six months. The words "

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"or otherwise" occurring in sub-rule (3) of Rule 9 of the Cadre Rules are of great significance in this context and leave no scope ~~for~~ ^{for} doubt.

The Govt. of India ~~gave~~ directions to the State Govt. to terminate the officiation of the applicant and other Select list officers vide this letter no. 14015/35/IAS(1) dated 26.6.87 and accordingly orders terminating officiating appointments in the senior scale of I.A.S. of all State Civil Officers and reverting them to the post/~~pay~~ ^{pay} admissible to them in their parent P.C.S. cadre with immediate effect. were issued vide State Government order No. 7101/2-1-19/1(5)/85 dated 20.7.87 (Annexure 5 of the petition). It may be mentioned that the applicant was already drawing pay in the higher scale of P.C.S. of Rs. 2300-2700 w.e.f. 3.11.85.

8. As regards para 6.6, it is submitted that under rule 9(3) of IAS (cadre) Rules 1954, the Central Government was empowered to give directions to the State Government to terminate the temporary appointment of the applicant to Senior I.A.S. scale and the State Government complied with those orders according to the said Rule. The applicant was appointed by Government of India to I.A.S. on probation in terms of Rule 8 of I.A.S. (Recruitment) Rules, 1954 read with sub regulations (1) ~~of regulation 9~~ ^{of regulation 9} of regulation 9 of I.A.S. (Appointment by promotion) Regulation, ¹⁹⁵⁵ ~~1985~~ vide Government of India notification No. 14015/35/86-IAS(1) dated 22.7.87 (Annexure 6 of the petition) and allocated to the Cadre of U.P. under sub-rule (1)



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of rule (5) of I.A.S. (Cadre) Rules, 1954.

9. That the contents of para 6.7 are not admitted. The decision of State Government on the representation of the applicant dated 14.8.87 was intimated to him vide State Government letter no. 8305/2-1-4/(18)/85 dated 17.10.87 (Annexure-I). He was also requested to furnish charge certificate of taking over charge on probation in the I.A.S. duly countersigned by the Secy. Medical Dep'tt. U.P. Government.

10. That the contents of para 6.8 and 6.9 need no comments. The orders of the State Government and Government of India mentioned in these paras are explicit and self explanatory.

11. That As regards paras 6.10 and 6.11, the position has already been clarified in the reply to para 6.5 of the application.

12. As regards para 6.12 the reversion of the applicant to his parent cadre and his subsequent appointment to I.A.S. on probation was made in accordance with the relevant rules. The averments made in this para are therefore not admitted as such.

13. The contents of paras 6.13, 6.14, and 6.15 are not admitted. The orders for reversion of the applicant to P. C. S. Cadre with immediate effect were issued vide State Government order no. 7101/II-1-19/1(5)/85 dated 20.7.87 (Annexure 5 of the petition) in accordance with the Government of India's



V.B. Sardar

instructions received under rule 9 of I.A.S. (Cadre) Rules, 1954. The reversion was therefore wholly according to rules and as such the contention of the applicant that he officiated continuously on ~~as~~ a senior I.A.S. scale post till the date of his appointment to I.A.S. on probation is untenable.

14. As regards the averments made in para 6.16, it is submitted that the very assertion made by the applicant that he officiated continuously on a cadre post continuously till the date of his appointment to I.A.S. on probation, is wrong. As such the question of review of his case under the instructions of the Government of India dated 15.7.87 does not arise.



15. That it was in the knowledge of the petitioner that the Central Government could direct the State Government to terminate the temporary appointment of a person who is not a cadre officer and where any direction is so issued, the State Government shall accordingly give effect thereto. The impugned orders were passed accordingly under Rule 9(3) of I.A.S. (Cadre) Rules 1954. Therefore, the reliefs sought by the applicant are wholly unacceptable and as such the application deserves to be reject outright with cost to respondents.

Lebo Sardar

Lucknow:

DEFONENT

Dated: 4.5.89

VERIFICATION

I, K.B. Tandon, the above named deponent do hereby verify that the contents of paras 1 to 15 of the affidavit are true on the basis of personal knowledge and records. Nothing material has been concealed, so help me God.

Signed and verified this the 4th day of May 1989 at Lucknow

K.B. Tandon
DEPONENT

Lucknow:
Dated: 4.5.89

I identify the deponent who has signed before me.

Shri K. B. Tandon
4/5/89
(कृष्ण बहादुर जयर्जी)
अनुभाग अधिकारी,
नियुक्ति अनुभाग १
१० वी सचिवालय, लखनऊ

Serial No. 32/79
Sworn (or affirmed) by Sri K.B. Tandon, Jain
Secty. to Govt. of U.P. Appt. Deptt. U.P. Sectt. Hqrs
(who was identified by Sri K. B. Tandon, Jaggi
Section Officer, Appt. Section, I) U.P. Sectt.
on the 4th May 1989
at 7.45 P.M. in case No. Registration No. 2/89 (A)
of 7.89 in the Central Administrative
Tribunal, Lucknow Branch
opposite to the High Court, Lucknow
only.

Shri K. B. Tandon
Deputy Commissioner
of Revenue Officer
Judicial Subordinate Courts, Section 104

The deponent has read the affidavit
and understands the contents thereof

Dated 4.5.1989

Shri K. B. Tandon
Deputy Commissioner
of Revenue Officer
Judicial Subordinate Courts, Section 104

प्रेषक,

श्री कृष्ण लिंगारी टण्डन,
संयुक्त सचिव,
उत्तर प्रदेश शासन ।

81.11

सेवा में,

श्री सत्योदीपोद्धारा,
संयुक्त सचिव,
उत्तर प्रदेश शासन,
चिकित्सा, स्थास्थ एवं परिवार कल्याण विभाग,
लखनऊ ।

A 74

नियुक्ति अनुभाग-1

लम्बाड़ी दिनांक: 1/सितम्बर, 1987

विषय: आई०स०स० में पदभार ग्रहण करना ।

महोदय,

आपके उपर्युक्त विषयक पत्र दिनांक 14-8-87 के संदर्भ में गुड़े व्ह कहने का निटेश हुआ है कि आपने दिनांक 29-6-87 से मसूरी अकादमी में एक माह के प्रशिक्षण में के लिए जब प्रस्थान किया था तब आपको प्रशिक्षण पर जाने के पूर्ण कार्यालय छोड़ने का प्रयाणीक भरना चाहिए था । शासनांक संख्या: 7101/दो-1-19/1151/85, दिनांक 20-7-87 द्वारा आपको पी०८०८० के केतनगान रु० 2300-2700 में तात्कालिक प्रभाव से प्रत्यायर्तित कर विशेष कार्यालयारी, चिकित्सा, स्थास्थ एवं परिवार कल्याण विभाग के पर नियुक्त किया गया था । अतः उक्त केतनगान में कार्यालय ग्रहण प्रमाण की प्रति नियुक्ति अनुभाग-2 को सीधे भेजने का कष्ट करें, ताकि उनके द्वारा उत्तर आवश्यक कार्यवाही की जा सके ।

2- एतोपरान्त भारत सरकार ने विज्ञाप्ति संख्या: 14015/35/86-ए आई०स०१।। दिनांक 22-7-87 द्वारा आपको भारतीय प्रशासनिक सेवा परिवीधि पर नियुक्त किया गया एवं शासकीय विज्ञाप्ति संख्या: 7625/दो-1-19/1151/85 टी०८०१०, दिनांक 25-7-87 द्वारा आपको आई०स०स०१० घरिष्ठ येतनगान में संयुक्त सचिव, उप्र०शासन, चिकित्सा, स्थास्थ एवं परिवार कल्याण विभाग, लखनऊ के पद पर नियुक्त किया गया । गत एवं आप 22-7-87 से उक्त पदभार ग्रहण करने विषयक प्रभार प्रयाणी पत्र भर कर एवं सचिव, चिकित्सा विभाग से प्रतिहस्तावरित करवा कर महालेश्वार/नियुक्ति-वि भेजने का कष्ट करें ।

महोदय,

C.W.

1. कृष्ण लिंगारी टण्डन ।
संयुक्त सचिव

संख्या: 8305.11/दो-1-87 तदूदिनांक

प्रति लिपि संयुक्त सचिव, उप्र०शासन, नियुक्ति अनुभाग-2 को शा टेश संख्या: 7101/दो-1-19/1151/85, दिनांक 20-7-87 व विज्ञाप्ति संख्या: 7625/दो-1-19/1151/85 टी०८०१०, दिनांक 25-7-87 की प्रति सहित आवश्यक कार्यवाही हेतु प्रेषित ।

आधुन से,
(३)1. कृष्ण लिंगारी टण्डन ।
संयुक्त सचिव

संलग्न: 7609/दो-१२४-२१/२११/८५

प्रष्ठे,
श्री राजी व थेर,
मंगल सनिव,
उत्तर प्रदेश शासन

सेवा में

महालेखाकार लेखा-१।, उत्तर प्रदेश,
गजेटेड अधिकारी किंग बलारा-१।,
जी ०५० २/६ अनुभाग,
इलाहाबाद



दिनांक: लखनऊ: 28 जनवरी, 1986

त. १२। अनुभाग

विषय: - उत्तर प्रदेश सिविल कार्यकारी शाखा। सेवा के उच्च वेतनमान रु० २३००-२७०० में वेतन का निर्धारण।

मदोट्टय,

मुझे यह कहने का निर्देश हुआ है कि संलग्न तालिका के स्तम्भ-२ में अंकित अधिकारी जो पी०सी०एस० के विषेष वेतनमान रु० १४००-२४०० में कार्यरत थे, दिनांक २९-८-१९८४ को सम्पन्न हुई बैठक में घयन समिति द्वारा पी०सी०एस० के उच्च वेतनमान रु० २३००-२७०० में स्थानापन्न स्थ से प्रोन्नत करने हेतु अनुमोदित किये गये हैं। परन्तु इन अधिकारियों के पी०सी०एस० के उच्च वेतनमान रु० २३००-२७०० में कार्य करने से पूर्व हान्दे आई०ए०ए० के ज्येष्ठ वेतन क्रम में स्थानापन्न स्थ से प्रोन्नत कर संलग्न तालिका के स्तम्भ-५ में अंकित पद पर उसी में नीचे दी गई तिथि से नियुक्त किया गया। आई०ए०ए० राम्बर्गी नियमावली, १९५४ के नियम ९ के अधीन किसी भी अधिकारी को राज्य शासन द्वारा तीन मास के लिये आई०ए०ए० के सी नियर वेतनक्रम में स्थानापन्न स्थ से नियुक्त किया जा सकता है और यदि उसके बाद भी अधिकारी विरुद्ध स्थानापन्न स्थ से उक्त पद पर कार्य करता है तो उसकी स्थानापन्नता के सम्बन्ध में भारत सरकार का अनुमोदन आवश्यक होता है। चूंकि अभी स्थानापन्नता का अनुमोदन प्रतीक्षित है, अतः इन अधिकारियों को आई०ए०ए० के सी नियर वेतनक्रम में वेतन नहीं प्राप्त हो रहा है। चूंकि यह अधिकारी आई०ए०ए० में जाने से पूर्व पी०सी०ए० के उच्च वेतनमान रु० २३००-२७०० में प्रोन्नति के लिये अनुमोदित है, अतः आई०ए०ए० के तीन नियर वेतनक्रम में वेतन प्राप्त न होने पर क्षमा अधिकारियों को पी०सी०ए० के उच्च वेतनमान रु० २३००-२७०० में वेतन का मुण्डान किया जाना है।

तालिका

AB

क्र. सं.	अधिकारी का नाम	कर्निष्ठ अधिकारी का नाम विधयन संगीति के कार्यक्रम में दी गई श्रेष्ठता कुण्ड के अनुसार	कर्निष्ठ अधिकारी की रुप 2300-2700 के वित्तनगान में प्रोन्नति की तिथि	आर्हूप्रयोगान् त्रै प्रोन्नति द्वारा पर लाती का पद एवं उस पर नोगदान की तिथि ।
1	2	3	4	5

श्री हरिमाधव शरण श्री दयामन नारायण लेठ 17-8-1985 संयुक्त संचिद, 3040 शारन गांधी नगर राजद चिभाग प्रांतीय पद। 5-8-85 पूर्णान्दे।

श्री शंकर दत्त ओझा श्री भैंसला प्रसाद गिश 3-8-1985 संयुक्त संचिद, 3040 शारन गांधी नगर राजद चिभाग प्रांतीय पद। 3-8-85 पूर्णान्दे।

। राजीव देव ।
संयुक्त संचिद ।



Parmanand 5/6

Annexure No III

Office of the Accountant General U. P. (Accounts) II Allahabad

A77

No. GEB/3241 (13) / 2394

Dated 3-1-1986

Sri Shankar Dutt Ojha Joint Secretary, U.P. Govt.
Medical Health and Family Welfare, LUCKNOW

is entitled to draw pay/leave salary and allowances at the monthly rates shown below from the dates specified less the amounts already drawn by him and subject to usual deductions of Income Tax etc

Details From	1.2.84	13.2.84	17.84	1.8.84	1 ² / ₈₄	1.18 ⁵	1 ⁵ / ₈₅	3 ² / ₈₅	2 ⁶ / ₈₅
Subs. Pay	2300	2300	2400	2400	2400	2400	2400	2400	2400
Offg. Pay									
Personal Pay									
Spl. Pay	250	250	250	250	250	250	250	250	250
Post Gradu. Pay									
N. P. Pay									
Leave Salary									N/1
J. T. Pay									
N. P. Allow.									
H.R. Allow.	-	-	-	-	140/-	140/-	140/-	140/-	140/-
C.C. Allow.									
H. Alti. Allow.									
Convey. Allow.									
D. A.	810/-	810/-	810/-	900/-	900/-	900/-	1020/-	1020/-	1020/-
Advt. Addt. D. A.	138/-	138/-	211.50	211.50	211.50	233/-	233/-	233/-	233/-
Interim Relif	-	-	-	-	-	-	-	30/-	
Total Rs.	3448/-	3498/-	3671/-	3761/-	3901/-	3923/-	4334/-	4423/-	

TOTAL

True copy



5530/55-हरेला रु. ४८

Amendment III

56

स्थान पाठ्य पुस्तक (त०)-9.
M.S.C. (T)-9.

[दोनों स्थान पाठ्य पुस्तक (त०) का पैरा 162 और 184 (1)]
[See-Paragraphs 162 and 184(1), M.S.O.(T)]

वेतन/छुटी वेतन पर्ची
PAY/LEAVE SALARY SLIP

III
A 78

..... का कार्यालय
Office of the

तारीख २९-८-१९६६
the

उमीद/3241(13)/
सं. ४८ नं. लैट. नं. ३०३८,
राजपत्र कार्यालय, उ. कु. ११११० दिल्ली (निम्नांतर भाग)
..... को सूचित किया जाता है कि वह आदेश संख्या (वारीख लैट. नं. ३०३८)
(राजपत्र का पृष्ठ) के अधीन दी गई तारीखों से निम्नलिखित मासिक दरों पर वेतन/छुटी
वेतन और भत्ते लेने का हकदार है।

..... is informed that under Order No. dated he is entitled to draw pay/leave salary and allowances on the rates shown below from the dates specified.

व्यापक Particulars	किस तारीख से From	किस तारीख से From	किस तारीख से From	किस तारीख से From
3/85	3-11-85 Date	1-8-86 (Relief)	1-3-86 (Relief)	4-8-86
मूल वेतन Substantive pay				
स्थानापन वेतन Officiating Pay	2500/-	2500/-	2600/-	
विशेष वेतन Special pay				
छुटी वेतन Leave Salary				
महंगाई भत्ता Dearness Allowance	990/-	1080/-	1080/-	1080/-
मकान किराया भत्ता House Rent Allowance	140/-	140/-	140/-	140/-
नगर प्रतिकर भत्ता City Compensation Ad. H.R. I.A.	110/-	319.40	410.40	410.40
जमाई	3949.40	4031.40	4230.40	4230.40
Total				

प्रभाली/रुपा

Notified
8/8/66

(वारीख ३०
P. T. O.

प्रभाली
8/8/66



PART 1

Office of the Accountant General U. P. (Accounts) II Allahabad A79

No. 6111 (LSCP) / 2000-2001

Dated 20/7/1987

Sri

is entitled to draw pay/leave/salary and allowances at the monthly rates shown below from the dates specified less the amounts already drawn by him and subject to usual deductions of Income Tax etc.

Details From	1.4.86	1.5.86	1.6.86	1.7.86	1.8.86	1.9.86	1.10.86	1.11.86	1.12.86
Subs. Pay									
Offg. Pay	250/-	250/-	260/-	260/-	260/-	260/-	260/-	260/-	260/-
Personal Pay									
Spl. Pay	2/-	2/-	100/-	100/-	100/-	100/-	100/-	100/-	100/-
Post Gradu Pay									
N. P. Pay									
Leave Salary									
J. T. Pay									
N. P. Allow.									
H.R. Allow.	14/-	14/-	14/-	14/-	14/-	14/-	14/-	14/-	14/-
C.G. Allow									
H. Alti. Allow.									
Convey. Allow.									
D. A.	102/-	102/-	102/-	102/-	102/-	102/-	102/-	102/-	102/-
Addl. D. A	347.30	347.30	400.00	400.00	400.00	400.00	400.00	400.00	400.00
TOTAL	450.00	450.00	500.00						



SWARAJ

In the Hon'ble Central Administrative Tribunal

Circuit Bench Lucknow

O.A.No. 2 of 1990 (L)

A 80

S.D.Ojha

..... Applicant

Versus

Union of India and others

..... Respondents

WRITTEN STATEMENT

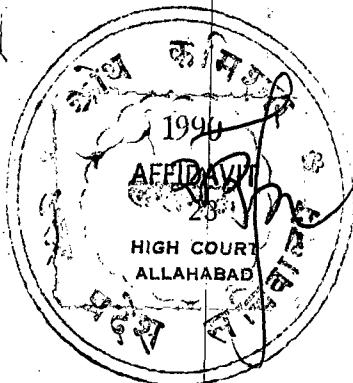
(On behalf of Respondent no.33-Sri K.P.Singh)

That the respondent no.33 has been impleaded as a party in the abovenoted application under section 19 of the Administrative Tribunal Act, 1985 and as such in so far as his seniority since already determined by the Union of India has become liable to adjudication by way of instant application, it is incumbent upon the respondent aforementioned not only to defend his case but also to highlight the same with a view to proper adjudication.

2. That the respondent no.33 was appointed, as an Assistant Town Planner in the Town and Country Planning Department of the Government of Uttar Pradesh on 9.1.1961, and on the post of Town Planner on 22.1.1964, on a regular basis in the scales of pay meant for Class-II and Class-I - P.C.S. and other officers respectively.

3. That the said respondent was promoted to the post of Senior Planner on 22.9.1975 on a regular basis with the approval of the Commission in the Selection Grade meant for PCS and other officers.

4. That the above posts covered by the Selection Grade are always



[Signature]

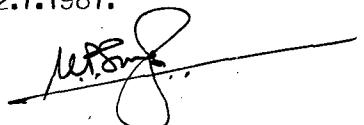
termed senior posts and considered in the context of administrative, financial and other responsibilities attached to such posts, the experience gained on the senior post aforementioned are always reckoned for determination of seniority.

5. That the respondent continued on the post of Senior Planner till 2.6.1986 when he was posted as Joint Secretary to Government, Uttar Pradesh, Housing and Urban Development Department and he has been continuing on that post from 2.6.86 till now.

6. That the respondent was selected and joined the Indian Administrative Service on 29.4.1987. As far as he is aware, the post of Joint Secretary held by him prior to his appointment in IAS and thereafter till now, is the same and nevertheless it continues to be a senior post in the cadre.

7. That para 6 of the Application under consideration of this Hon'ble Tribunal bears the facts of the case of the Applicant. The applicant has challenged his reversion but he has nowhere challenged the seniority of respondent no.33. The applicant has sought the relief of order or direction setting aside the order of reversion, to treat the applicant on IAS cadre post from 3.8.85 and count his seniority from that date.

8. That it is in the context of the contentions, averments, assertions and allegations mentioned above, the respondent has to explain his position vis-a-vis the applicant and admit, controvert or justify his year of allotment of 1981 as against the applicant having been allotted 1982 in consideration of his services having commenced in IAS against the cadre post from 22.7.1987.



9. That as is evident from the application by its number, it was filed before this Hon'ble Tribunal sometimes in 1989 and having been heard on 12.4.1990, notices have now been issued to the respondents since newly added and impleaded. However, the matter of seniority came up for detailed discussion before the Hon'ble Supreme Court again and in the Direct Recruits Class-II Engineering Officers' Association and others Vs. State of Maharashtra and others, a number of principles have since been enunciated in the judgement delivered on 2.5.1990.

10. That it will be seen that the points raised in the application under reference stand replied to a greater extent by the Hon'ble Supreme Court decision cited above. Furthermore it is also worth consideration that the 'Year of Allotment' is always determined having regard to the deemed continuous officiation in a senior post bearing genesis on that date from which the incumbent continues to hold without any break or reversion a senior post otherwise than as a purely temporary and local arrangement. In the respondent's case, however, his appointment to the post of senior planner was always on a regular basis duly approved by the U.P. Public Service Commission and it can in no case be termed ad hoc, purely temporary or a local arrangement.

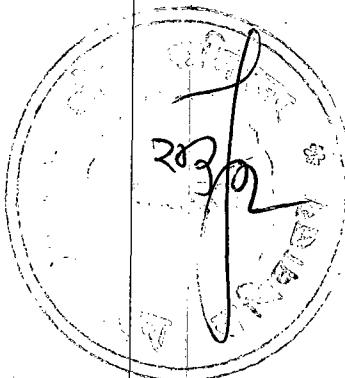
11. That in reply to the facts stated in para 6 of the application, it is stated that the applicant was promoted to officiate, in the IAS senior scale of 1200-2000 under the IAS (Cadre) Rules, on the post held by him. However, as per notification dated 5.9.85, the applicant was appointed by promotion on the said post on an ad hoc basis. The order dated 20.7.87 makes it explicit that the

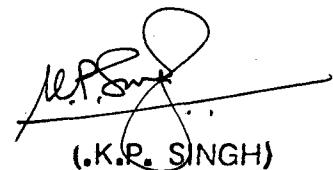


A 83

appointment of the applicant by way of promotion was simply officiating and a stop gap arrangement which could not be declared regular for certain reasons. The applicant was reverted and given a fresh appointment on a regular basis. This becomes evident from the Govt. of India G.O. dated 15.7.87, a copy whereof is filed as annexure-X to the application.

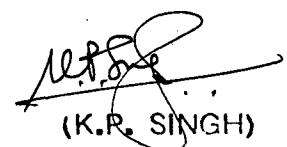
In view of the foregoing submissions, the case of the applicant is not fit for being considered for revision of his year of allotment and refixation of seniority because of his being a non-cadre officer having officiated against a senior IAS cadre post in purely stop gap arrangement, and hence the application under reply is liable to be summarily rejected.




(I.K.P. SINGH)

Verification

I, K.P.Singh-respondent no.33 do hereby verify that the contents of paras 1 to 6 of this written statement are true to my personal knowledge, para 7 is based on record and paras 8 to 11 are based on legal advice, which are believed by me to be true. Signed and verified this 31st ^{2nd} day of July, 1990.


(I.K.P. SINGH)

The respondent is known to me and
he has signed before me.

Daya Shanker Gupta
(Daya Shanker Gupta)

C.D.A.
Nagar Vikas Ambheng-3
U.P. Seelk Dha.

A Q9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

O.A.NO. 2/89(L)

S.D.Ojha.

Applicant.

Versus

Union of India and another.

Opp.Particles.

REJOINDER IN REPLY TO THE C.A./W.S. FILED ON BEHALF OF
OPPOSITE PARTIES. NO. 2

1. That the contents of paragraphs 1 to 3 of the CA/WS need no reply.

2. That the contents of paragraph 4 of the CA/WS are not disputed but it is also asserted that the deponent had also been selected for promotion to the post in the higher scale of the P.C.S. i.e. Rs.2300-2700).

3. That the contents of paragraph 5 of the CA/WS are not disputed but it is asserted that the deponent continued to officiate on the I.A.S. Senior Scale Cadre post of Joint Secretary to the Government of U.P. in the Medical, Health and Family Welfare Department, Lucknow from 3.8.1985 till 21.7.1987 without any break and was appointed to the I.A.S. by the President of India along with others with effect from 22.7.1989 vide the Government of India notification dated July 22, 1987 (Annexure - 6 of the Original Application).

4. That the contents of paragraph 6 of the CA/WS are not admitted as stated and the averments made in paragraphs 6.3 and 6.4 of the original application are true and are re-iterated.

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5. That the contents of paragraph 7 of the CA/WS are not admitted as stated and the averments made in paragraph 6.5 of the Original Application are correct and are re-iterated. It is also stated that the mere issue of the certificate in question by the State Government and the issue of pay slip by A.G., U.P. authorising the applicant to draw pay in the pay scale of Rs.2300-2700, does not affect his actual officiation on the senior scale post of I.A.S. cadre from 3.8.1985 to 21.7.1987 followed by his substantive appointment to the I.A.S. from 22.7.87 by the President of India. The provisions of the Rules and the Government of India's instructions referred to by the opposite parties need no reply. It is also stated that the direction said to have been issued by opposite party no.1 after a lapse of one year and 10 months of the commencement of actual continuous officiation of the applicant on the I.A.S. Cadre post for terminating the said actual officiation is wholly arbitrary and illegal and is liable to be quashed in the circumstances of the case. Moreover, the said directions remained un-implemented. In fact the Applicant did not actually revert to the post of Officer on Special duty in the P.C.S. Cadre as he continued to perform the duties of the I.A.S. Cadre post of Joint Secretary to Government of U.P. in Medical, Health and Family Welfare Department even during the training period at Mussoori and he had signed and disposed of various papers and passed orders in that capacity in the relevant files of that Department.

6. That in reply to paragraph 8 of the CA/WS it is stated that the provisions of the rules referred to

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by opposite parties are not denied but it is asserted that the directions ~~are~~ said to have been issued by the Government of India was wholly arbitrary as neither the applicant committed any misconduct or displayed any unbecoming conduct so as to justify his reversion to a lower post in the P.C.S. Cadre, particularly when the vacancy against which he had been officiating in I.A.S. existed. Moreover if the rules necessitated the reversion of the applicant from the I.A.S. Cadre post, he should have been reverted on the completion of three months officiation and a month or two later at best. There was no justification whatsoever to revert the ~~xxx~~ applicant after he had actually officiated on the I.A.S. Cadre post in question for over one year 10 months to the total satisfaction of his superiors. The orders issued by the State Government in matter could not be implemented in view of the circumstances stated in paragraph 6 above. The contents of paragraph 6.6 of the original Application are correct and are re-iterated.

7. That the contents of paragraph 9 of the CA/WS are not admitted as stated and the averments made in paragraph 6.7 of the original Application are correct and are re-iterated. It is, however, stated that the State Government letter No. ~~8305/1-1/1(18/85)~~ dated ~~July 20, 1985~~ ^{16/5/1-1/1(5)85-TC} ~~11/1/1-19(5)85~~ ~~October 17, 1985~~ was received much after the applicant's appointment to the I.A.S. in substantive capacity with effect from 22.7.1987.

8. That the contents of paragraph 10 of the CA/WS are not admitted as stated and the contents of paragraph 6.8 and 6.9 of the original application are factual and correct and are re-iterated.

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9. That the contents of paragraph 10 of the CA/WS are not admitted as stated and the contents of paragraphs 6.10 and 6.11 of the original application are correct and are re-asserted.

10. That the contents of paragraph 12 of the CA/WS are not admitted as stated and the averments made in paragraph 6.12 of the original application are re-iterated as correct.

11. That the contents of paragraph 13 of the CA/WS are not admitted as stated and the averments made in paragraph Nos. 6.13, 6.14 and 6.15 of the original application are correct and are re-iterated.

12. That the contents of paragraph 14 of the CA/WS are not admitted as alleged and the averments contained in paragraph 6.16 of the application are correct and are re-asserted.

13. That the contents of paragraph 15 of the CA/WS are not admitted as stated and it is stated in view of the facts and grounds mentioned in the foregoing paragraphs the application deserves to be allowed and the applicant deserves to be declared entitled to all the reliefs sought for in the original application.

LUCKNOW: DATED:

Jan 6, 1989. 1990

APPLICANT.

VERIFICATION

I, S.D.Ojha, the applicant above named do hereby

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verify that the contents of paragraphs 1 to 13 of this Rejoinder are true to my personal knowledge and belief and nothing material has been concealed.

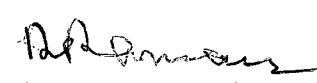
Signed and verified on this 6th day of ~~December~~,^{January} 1990 at Lucknow.

L UCKNOW: DATED:

~~1989~~
Jan 6, 1990


Applicant.

through:


(RADHIKA RAMAN)
ADVOCA TE
COUNSEL FOR THE APPLICANT

A89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,

LUCKNOW.

O.A. NO.2/1989(L).

S.D.Ojha.

...

Petitioner.

versus

Union of India and another. ...

Opp.Particles.

REJOINDER ON BEHALF OF THE APPLICANT IN REPLY TO THE
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
COUNTER AFFIDAVIT FILED ON BEHALF OF OPP OSITE PARTY NO.
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

FT
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24/2

1. That the applicant named above has read and understood the contents of the counter affidavit filed on behalf of opposite party no.1. The applicant is well acquainted with facts stated below.
2. That paragraphs 1 to 4 of the counter affidavit of opposite party no.1 need no reply.
3. That paragraph 5 of the counter affidavit does not cover reply to paragraph 6.5 of the original application. It is asserted that the applicant did not revert from the Senior IAS cadre post which he held and he continued to officiate on the said IAS Cadre post from 3.8.85 till 21.7.87 and was appointed to the IAS in substantive capacity vide Government of India Notification dated 22.7.1987 (Annexure-6 of the application). The applicant is, therefore, entitled to the benefit of officiation on the senior scale IAS Cadre post for purposes of determination of his seniority and year of allotment in the I.A.S. If the opposite



: 2 :

party no.2 appointed the applicant to the senior scale post of the IAS cadre post in Public interest and appointed officers senior to the applicant in the select list on ex-cadre posts or exceeded the deputation reserve it was none of his fault and therefore, he cannot be made to suffer in the matter of determination of his seniority and year of allotment in the IAS.

4. That in reply to paragraph 6 of the counter affidavit it is stated that if the opposite party no.2 committed any irregularity in giving officiating posting to the applicant on IAS cadre post and posted officers senior to him on ex-cadre posts, he cannot be blamed for that. When the applicant officiated on IAS cadre post from 3.8.1985 to 21.7.1987 followed by his regular appointment to the IAS from 22.7.1987 he is entitled to the benefit of the said ~~xxxix~~ officiation for determination of his seniority in the IAS and his consequent year of allotment in that service.

5. That in reply to para 7 of the counter affidavit it is stated that the reversion of the applicant from the senior scale post of the IAS on the basis of the belated directions issued by opposite party no.1 did not come into effect and as such the said officiation remained uninterrupted followed by his substantive appointment to the IAS. The said highly belated direction given by opposite party no.1 and consequent orders of opposite party no.2 reverting the applicant

COPIES

: 3 :

to the post of OSD in the PCS Scale cannot affect him adversely in the said circumstances for re-determination of his seniority and year of allotment in the IAS.

6. That in reply to paragraph 8 of the counter affidavit it is stated that the law referred to therein fully covers the case of the applicant who cannot be denied the benefit of his officiation from 3.8.85 to 21.7.1987 for determining his seniority and year of allotment in the IAS as he cannot be made to suffer ^{on the part} due to the lapse of opposite party no.2.

7. That in reply to the contents of paragraph 9 of the counter affidavit it is stated that in case the applicant was not entitled to officiate on the IAS post in August, 1985 he should not have been posted on the IAS cadre post when his ~~saxxixx~~ seniors in the select list were holding ex-cadre posts. It is also stated that in case the posting of the applicant on IAS cadre post was irregular orders terminating his officiation should have been issued by opposite party no.2 much earlier and not after two years of physical officiation. The order is issued by opposite party no. reverting the applicant from the IAS cadre post and the directions issued by opposite party no.1 in this regard have no meaning in the stated circumstances. The denial of continuous officiation of the applicant from 3.8.1985 to July 21, 1987 in the IAS cadre post for purposes of termination of his seniority and year of allotment in the IAS will be wholly illegal.

CGP

: 4 :

8. That paragraph 10 of the counter affidavit needs no reply.

9. That the contents of paragraph 11 of the counter affidavit are not admitted and it is asserted that the grounds mentioned in the application are tenable in law and the case of the applicant is fully covered by the law laid down by the Hon'ble Supreme Court of India referred to in paragraph 6 above.

10. That the contents of paragraph 12 of the counter affidavit are wholly misconceived and are emphatically denied and all the reliefs prayed for in the original application deserves to be allowed with costs.

LUCKNOW: DATED:

Feb. , 1990.

Copy
APPLICANT.VERIFICATION

I, S.D.Cjha, the applicant, above named, do hereby verify that the contents of paragraphs 1 to 10 of this rejoinder are true to my personal knowledge and belief, and nothing material has been concealed.

Signed and verified this day of February, 1990 at Lucknow.

LUCKNOW: DATED:

Feb. , 1990.

Copy
APPLICANT.

Through:

Radhika Raman
(RADHIKA RAMAN)
ADVOCATE.

A 93

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

C.M. A.M. No. Q3/90 (S)

O.A. No. 2/89 (L).

S.D.Ojha.

Applicant.

Versus

Union of India & Others.

Opp. Parties.

APPLICATION FOR AMENDING THE ORIGINAL APPLICATION.

On behalf of the applicant, above named, it is most respectfully stated as under:-

1. That under the orders of this Hon'ble Tribunal a copy of the Government of India, Ministry of Personnel Public Grievances and Pensions letter No.14015/35/86-AIS(I) dated June 26, 1989 referred to in paragraph 7 of page 5 of the CA/WS of opposite party no.2, was given to the Applicant's counsel. Due to non-availability of the said letter of the Government of India and without knowing the contents thereof R.A. in reply to the C.A./W.S. of opposite party no.2 could not be filed by the Applicant.

2. That after perusing the said letter of the Govt. of India, the Applicant is filing separately the R.A. in reply to the C.A./W.S. of opposite party no.2.

3. That it is now also considered necessary that if the application is allowed and the year of allotment and seniority of the Applicant is fixed as prayed for, it is necessary that the 31 officers who figure above the

NOGHS

A94

: 2 :

Applicant in the Gradation list of I.A.S.Cadre of U.P.,
it is necessary to implead ^{the} ~~them~~ ^{as} opposite parties no.
3 to 33 so that they may have an opportunity to make
their submissions before this Hon'ble Tribunal, if they
so like. The details of these officers are given in
Annexure - A to this application.

P R A Y E R

WHEREFORE, it is most respectfully prayed that
this Hon'ble Tribunal be pleased to allow the amendment
of the Original Application as mention in paragraph 8
above.

L UCKNOW:
Dec. —, 1989.
Jan 6, 1990

Ojha
(S.D.OJHA)
APPLICANT.

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

I, S.D.Ojha, the applicant, above do hereby
verify that the contents of paragraphs 1 to 3 of this
application are true to my personal knowledge and belief
and that I have not suppressed any material fact.

L UCKNOW:
Dec. —, 1989.
Jan. 6, 1990

Ojha
(S.D.OJHA)
APPLICANT.

I identify the ~~above~~ Applicant, who has signed
before me.

Raman
(RADHIKA RAMAN)
ADVOCATE
COUNSEL FOR THE APPLICANT.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

O.A. NO. 2/89(L) of 1989.

A95

S.D.Ojha.

Applicant.

Versus

Union of India & Others.

Opp. Parties.

ANNEXURE NO.A.

S1.No.

Name and address of officers.

Chief Minister

1. Sri Sanjiv Nair, Joint Secretary to ~~Govt.~~, U.P., Finance Department, Lucknow.
2. Sri Rohit Nandan, Joint Secretary to Govt., U.P., Home Department, Lucknow.
3. Sri Pravin Kumar, (~~Project Director~~ cum ~~Chief~~ Joint Secretary to Government, Development Officer, Moradabad), U.P. Industries Department, Lucknow.
4. Sri J.S. Deepak (Joint Secretary) Dy.M.D., PICUP Lucknow.
5. Sri Neeraj Kumar Gupta, Addl. Registrar, Co-operative Societies, Lucknow.
6. Sri Surya Pratap Singh, (~~Private Secretary to Union Minister for Communications, New Delhi~~), ~~Garhwal Mandal Vikas Nigam, Pauri Garhwal~~ Managing Director, ~~Garhwal Mandal Vikas Nigam, Pauri Garhwal~~
7. Sri Deepak Singh, M.D. ~~Garhwal Mandal Vikas Nigam, Dehradun~~, Mukhya Nager Adhikari and Vice-Chairman, ~~Narendrapur Vikas Mandir, Meerut~~.
8. Sri Avinash Kumar Srivastava (Project Director - cum-Chief Development Officer, Faizabad).
9. Sri Rajendra Mohan Srivastava, Joint Secretary, Finance Department, U.P., Lucknow.
10. Sri Pradeep Bhatnagar, Joint Secretary, ^{Medical} Health & P.W. Department, U.P., Lucknow.

: 2 :

11. Sri Susheel Kumar, Project Director-Cum-Chief Development Officer, Lucknow.

12. Sri Dinesh Singh, (~~Regional Food Controller, Jhansi~~), Managing Director, U.P. State Brassware Corporation, Moradabad.

13. Sri Sunil Kumar Agarwal, ~~Special~~ Joint Secretary to Govt. of U.P., Institutional Finance Department, Lucknow.

14. Sri Manoj Kumar, (Joint Development Commissioner, Gorakhpur).

15. Sri Prabhath Kumar Jha, ~~Addl. Director, Industry~~ Joint Secretary to Govt. U.P. ~~Bauri~~ Revenue Department, Lucknow.

16. Sri Rajiv Sharma, Joint Secretary, Medical, U.P. Lucknow.

17. Sri Ashok Kumar-III (Joint Secretary to Govt. U.P., ~~Labour~~ Lucknow and Excise Department, Lucknow).

18. Sri Chandra Prakash, ~~(Joint Secretary to Govt. U.P., Agriculture Production Commissioner Branch, Lucknow)~~ Additional Registrar, Cooperative Societies, U.P. Lucknow.

19. Sri Navtej Singh, ~~Joint Secretary to Govt., U.P. Education Department, Lucknow. Employment Department, Lucknow~~ C/o Secretary to Govt., U.P.

20. Sri Brij Mohan (Regional Food Controller, Moradabad).

21. Sri Surendra Chandra Rastogi, D.M., ~~Firozabad~~ on leave.

22. Sri Sukhdeo Prasad Tripathi, ~~M.D., U.P. State Transport Corporation, Lucknow.~~ Transport Corporation, Lucknow.

23. Sri Prem Krishna Misra, District Magistrate and Collector, Jalaun.

24. Sri Hari Madhav Saran, Joint Secretary to Govt. U.P., Planning Department, Lucknow.

: 3 :

25. Sri Raja Ram-II, District Magistrate and Collector Bahratpur.

26. Sri Srikant Khare, Additional Commissioner (Judicial) Allahabad.

27. Sri Suraj Prakash Saxena, ~~District Magistrate and Collector, Haridwar~~, Appointment Department, Lucknow.

28. Sri Satish Chandra Srivastava, Vice-Chairman, Hardwar Development Authority, Hardwar.

29. Sri Bishambhar Nath Tewari, Joint Secretary to Government of U.P., Institutional Finance Department, Lucknow.

30. Sri Ramesh Chandra Dwivedi, Joint Secretary to Government of U.P., Nagar Vikas Department, Lucknow.

31. Sri K.P. Singh, Joint Secretary to Govt. of U.P. Avas Evam Nagar Vikas Vibhag, Lucknow.

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 62 OF 1989

NAME OF THE PARTIES S.P. Saxena, Applicant

Versus

Union of India, Respondent

Part.A.

Sl.No.	Description of documents	Page
1	Order Sheet	1 to 4
2	Judgment see case No 2/89 for judgment	
3	Relition Power	5 to 38
4	Coender affidavit	39 to 45
5	Rejoinder affidavit	46 to 50
6	Short C.A.	51 to 57
7	R.A.	58 to 73
8		
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16		
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CERTIFICATE

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

Dated

Counter Signed.....

Signature of the
Dealing Assistant

Section Officer/In charge

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LOKNO.

O.A./T.A. No. 62 1989(C)

S. P. Sareen Applicant(s)

versus

U.O.2 Respondent(s)

Sr. No.	Date	Orders
1	10/3/89	Hon. Justice K. Nath, V.C. Hon. Mr. A. Debnar, A.M. The applicant's counsel points out that O.A. No 2/89 arises out of the order which is impugned in the present case. This case be connected with O.A. 2/89 <u>Admit</u> Issue notice to respondent, fixing 6-4-89 for filing C.A. list before the D.R. on that date
		A.M. V.C.
	13/3/89	<u>BR</u> Notices issued to the respondent (Hony. resp. not. fixed 6-4-89 before D.R. (T))
	5-4-89	<u>OR</u> Neither reply nor any undelivered cover received back so far.

For
Recd
order
w
19/3/

THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

(2)

REGISTRATION No. O.A.No. 62/ 89(L)
of 198
connected with O.A. no. 2/89(L)

APPELLANT
APPLICANT

S.P. Saxena

DEFENDANT
RESPONDENT

Union of India & ors

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
16/8/89	<p>Hon' Mr. D.K. Agrawal, J.M.</p> <p>The applicant in O.A. No. 62 /89(L) is not present. The information conveyed to the Tribunal is that, Shri K.M.N. Chalk is unable to represent. In the circumstances, let a notice be issued to the applicant i.e. Shri S.P. Saxena</p> <p>Shri R. Raman learned counsel appears for the applicant in O.A. No. 2/89(L), and Shri A.K. Bhatnagar L/C appears for respondent Nos. 2 & 3.</p> <p>Shri V.K. Chaudhary, L/C appears for respondent No. 1, and requests for time to file counter affidavit today itself. Let it be filed after serving a copy of the same on the applicants' counsel.</p> <p>Shri R. Raman L/C has made an application in O.A. No.2/89(L) to file rejoinder affidavit within 2 weeks time. Let the rejoinder be filed as prayed.</p> <p>The applicant in O.A. No.2/89(L) has also prayed that respondent No. 2 i.e. State of U.P. be directed to produce the letter dated 26.6.87 received from the Government of India.</p> <p>Respondent No. 2 is, therefore, directed to keep the original, as well as a copy thereof ready on the next date and we shall decide it after perusal of the letter ^{on hearing} or not respondent No. 2 as to whether the letter can be disclosed to the applicant.</p> <p>List this case on 25/10/89 for orders/hearing as the case may be.</p>	<p>In Kaurajia Deveshwar LDA-HD On behalf of S.P. Saxena Ld for 25-10-89 cmr. 16/8/89</p> <p>S. G. Kaurajia on behalf of S. P. Saxena will be on 25/10/89</p> <p>16/10/89</p>

J.M.

(sns)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION NO. 62 of 1989 (C)

APPELLANT
APPLICANT

S. P. Sircane

(3)

DEFENDANT
RESPONDENT

OD2

VERSUS

Serial
number
of order
and date

Brief Order, Mentioning Reference
if necessary

How complied
with and date
of compliance

20/10/89

Hon. Justice K. Nath, V.C.
The learned counsel for the
applicant and Dr. Dinesh
Chandrase holdip brief on behalf
of opposite party No. 2 are present.
In view of the orders dated 16-8-89
this matter will come up for
further orders on 8-11-89.
Shri V.K. Chaudhary will arrange
to furnish a copy of the permits
of the opposite party No. 1 to the
counsel for the applicant
in the meantime.

OR

As directed by the
Court's order dt. 16-8-89
notice received by
Sh. G.H. Kanayogi on
behalf of Sh. S.P.
Sircane. & he has
noted details.

Reply filed on behalf
of O.P. No. 1 duly recd
in the O.P.s.

No reply filed
in O.P. No. 62/1096

No reply on file
by O.P. No. 1 in 09/2/89

No reply filed
submitted for orders

OR
CA on behalf of
O.P. No. 1 & 2, 3 filed
Rejoinder not filed
Submitted for orders

8/11/89

The applicant has sent a request for time to
file rejoinder on the ground that the applicant
as District Magistrate, Hardoi is busy in election.
In our view the cause is sufficient. Let rejoinder
be filed within 5 weeks hereof. List this case for
further orders on 7/2/1990.

A.M.

J.M.

(sns)

R
7/11

11
2/4/90 Hon. Mr. P.S. Habib Mohammad, A.M.
 Hon Mr. J.P. Sharma, A.M.

As

The learned counsel for
 the applicant, Shri R. Raman,
 files C.M. No 83/90 for amendment.
 Allocated.

Issue notice to the newly
 added respondent returnable in
 6 weeks, thereafter.

Rejoinder filed be
 taken on record.

Set up on 10/9/90

Done

J.M.

6/9/90
 A.M. 14/9/90

OR
 - Amendment in

10-9-90 Hon'ble Justice K. Nath V.C.
 Mr. M.M. Singh - A.M.

12
 The applicant Counsel Shri R. Raman
 requests and is allowed two weeks
 time to furnish address of the
 respondents. They may be issued
 notice accordingly for filing
 C.P. within 4 weeks, after service
 of notice list for further orders
 to be on 29.10.90.

M.M. Sub.
 A.M.

OR
 V.C.

6/9/90
 k/s filed on
 behalf of O.P. 7433

OR
 As per court's order
 dt. 12.4.90, th. 4c for
 the applicant has
 incorporated amendment
 & Notices were issued
 to newly added parties
 on 23.4.90.

Notice of O.P. No 4 has
 been return back with
 postal remark "DM. B.M.H.T.
 प्रति वर्ष रजिस्ट्रेशन दर्ता देना
 31/7/90"

k/s has been filed on
 behalf of O.P. No 7 but not
 duly served on the applicant
 S.P.O.

6/9/90

3
11.91
6-1992
A.Y.
No setting Adl to 10.11.91

No. Setting adj 20.6.92
Jr

13.2.92 No. Setting adj 20.2.92
Jr

13.2.92 No. Setting adj to 20.4.92
a

20.4.92 No. setting Adl to 1.5.92

1.5.92

Mr. M. J. Joseph v. B.C. Transport
Mental, Mr. A.P. Gath. A.M.

Fix up this case for
hearing on 27.5.92

Jr

Dr. M.

W

27.5.92 Case ready adj

28.5.92

MoE

28.5.92

No. Setting adj 13.6.92
to 7.8.92

Jr

O.R.

C.A.R.A have
been exchanged

S.F.O.

J

6/8/92

AS

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

Registration No.

62 of 1989. (6)

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

Suraj Prakash Saxena, aged about 50 years,
son of Late Madan Mohan Lal Saxena, working
as District Magistrate, Hardoi, resident of
District Magistrate Residence, Hardoi.

(x) Details of four parties to be
added in this application vide
High Tribunal Order of 12.4.1986
given below:-

.... Applicant.

Versus

1. Union of India, Department of Personnel
and Training, Ministry of Personnel, P.G.
& Pension, Govt. of India, New Delhi.
2. State of Uttar Pradesh,
Secretary, Appointment Department,
Civil Secretariat, Lucknow.
3. Joint Secretary, Appointment Department,
Govt. of U.P. Secretariat, Lucknow.

Respondents 4 to 7 shown Respondents.
overleaf.

I N D E X.

Sl.No.	Description of papers.	Page Nos.
1.	Application u/s 19 of the Administrative Tribunal Act, 1985.	1 - 12
2.	Annexure No. 3, Copy of U.P. Government Order dated 20.7.1987.	13- 14
3.	Annexure No. 8, Copy of rejection of applicant's representation dated 5.12.1987 by the U.P. Govt. vide letter dated 19.11.1988.	15-
4.	Vakalatnama	16

DATED: March , 1989.
PLACE : LUCKNOW.

K. M. N. Chak

COUNSEL FOR APPLICANT.

FOR USE IN TRIBUNAL'S OFFICE:

Date of filing :

Date of receipt by post :

Registration No:

STONAMIRE OF REGISTRAR

A6

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

Registration No. of 1989.

Suraj Prakash Saxena. -----Applicant

Versus

Union of India and others. -----Respondents

1. Details of application :

- i) Name of the applicant : SURAJ PRAKASH SAXENA.
- ii) Name of father : Late Madan Mohan Lal Saxena.
- iii) Age of applicant : 50 Years
- iv) Designation and particulars of office in which employed : Distt. Magistrate, Hardoi, Indian Administrative Service, Union of India.
- v) Office address : - do -
- vi) Address for service of notice. : - do -

2. Particulars of Respondents :

- i) Union of India, Department of Personnel and Training, Ministry of Personnel, P.G. & Pension, Government of India, New Delhi.
- ii) Office address : - do -
- iii) Address for service of notice. : - do -
- iv) State of U.P. Secretary, Appointment Department, Government of U.P., Secretariat, Lucknow.
- v) Office address: - do -
- vi) Address of service:-do -

Nathuram

-2-

vii) Joint Secretary, Appointment Department,
Govt. of U.P., Secretariat, Lucknow.

viii) Office address : - do -

ix) Address for service
of notice. - do -

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

The application is against the following orders:-

i) Order No.7101/Two-1-19/1(5) 85- Annexure No.3.

ii) Date 20.7.1987.

iii) Passed by Secretary, Appointment Department, U.P.

Lucknow.

iv) Order No.6554/Two-1-19/1(5) 85 T.C. Annexure-8.

v) Passed by- Joint Secretary,
Govt. of U.P.,
Lucknow.

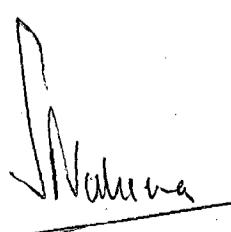
vi) Date 19.11.1988.

vii) Subject in brief:

viii) In this case the applicant has challenged the
Annexures No.3 and 8 for reverting him from
the post of cadre in Indian Administrative
Service of Union Government, New Delhi to U.P.
Civil Service (Executive Branch) in the State
Government without following the principle
contained in Articles 311(2), 14, and 16 of
the Constitution of India.

4. Jurisdiction of the Tribunal :

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


Nalini

5. Limitation:

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

6. Facts of the case:

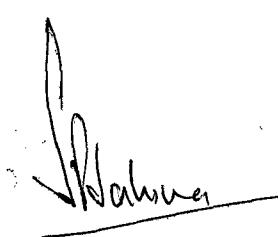
The facts of the case are given below :

6(1) That the applicant was appointed to the U.P. Civil Service (Executive Branch) and the opposite party no.2 allotted 1962 as petitioner's year of allotment in the said service for the purpose of seniority.

6(2) That in the year 1985 the applicant was working as Joint Secretary, Administrative Reforms, Department of Govt. of U.P. in P.C.S. Selection Grade of Rs.1840-2400 which has since been revised to Rs.2050-2500.

6(3) That in the year 1984 the applicant was selected for promotion to the senior scale of I.A.S. by duly constituted Selection Committee having representatives of Union Public Service Commission.

6(4) That the applicant was promoted by the State Govt. vide order contained in D.O.No.5532/Two-1-1985, dated 2nd of August, 1985 in the then

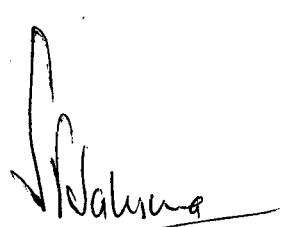
 Nahar

Senior Scale of I.A.S. on the same post in accordance with the provisions of I.A.S.(Cadre) Rules, 1954 quoted in the order itself (Annexure No.1).

6(5) That in pursuance of these orders the applicant took over charge on the promotion post in the forenoon of 3rd August, 1985 on the basis of which Govt. Notification No.5990/Two-1-4/1(15)/85, dated 5th September, 1985 was issued (copy enclosed- Annexure No.2).

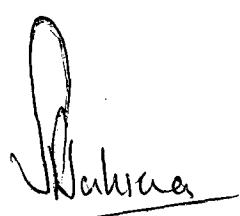
6(6) That since then the applicant had been working in the senior scale of I.A.S. Cadre post under respondent no.1 and no orders to the contrary were ever passed by respondent no.2 viz. State Govt. till 22nd July, 1987.

6(7) That to the applicant's utter surprise on 22nd July, 1987, the applicant was served with two orders simultaneously namely U.P.Govt.'s Order No.7101/Two-1-19/1(5)/85 dated 20th July, 1987 reverting the applicant on the same post in compliance with some directive issued by Govt. of India, respondent no.1 mentioned in the endorsement of the order itself, and Govt. of India, Ministry of Personnel P.C. & Pensions (Dept. of Personnel & Training)


Nalima

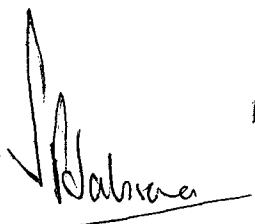
Notification No.14015/35/86-AIS(1) dated 22nd July, 1987 promoting the applicant to the Senior Scale of I.A.S. (Annexure No.3 & 4).

6(8) That it is quite strange that the order of reversion has not been a speaking order, even no reasons, grounds or motive have been shown in that order. The order itself is malafide, arbitrary one and has been passed in order to break the applicant's continuous seniority, which stands established beyond any shadow of doubt from the fact that the applicant in good faith handed over charge in pursuance of the malafide reversion order in the forenoon of 22nd July, 1987 and took over charge in pursuance of promotion order in the forenoon of 22nd July, 1987 itself, and both these charge certificates stand counter signed by the then Secretary, Administrative Reforms & Appointment Department, Govt. of Uttar Pradesh (Annexures No.5 and 6). As such there has been no break in the continuous officiation in the light of continuity been proved beyond all doubts. (The Annexure No.3 is void and is ~~now~~ not in existence and it has violated Articles 311(2), 14 and 16 of the Constitution of India because it has not followed its provision).


Nahua

6(9) That being aggrieved by the aforesaid order the applicant made a representation to the Secretary, Department of Personnel & Training Ministry of Personnel, P.G. & Pensions, Govt. of India through the Secretary, Appointment Deptt., Govt. of U.P. by his exhaustive representation dated 5.12.87 (Annexure No.7), but to applicant's utter surprise the U.P. Govt. vide their letter dated 19th November, 1988 rejected the applicant's representation in a very cursory and summary manner (Annexure No.8).

6(10) That the applicant relies on the various judgments of the Hon'ble Supreme Court of India wherein it has been held categorically that no powers are available with the Central Government under Rule 9 of the Cadre Rules to disapprove the officiation on cadre posts by the non-cadre officers. It is indeed against all fundamental principles of natural justice that while admitting officiation in I.A.S. post till the date of alleged reversion and having taken work on that post since 3rd August, 1985, the applicant has been denied the benefit of officiating period for the purposes of fixation of seniority and has been wrongly allotted the year 1982. A copy of the Circular No.14014/74/87-Aa.Bha.Sewa/(1) dated 20th August,

A handwritten signature in black ink, appearing to read "Nahar".

1987 (Annexure No.9) issued by the Govt. of India on the subject of fixation of seniority and conveyed to me vide letter of U.P; Govt. No.8829/Two-1-10/1(5)/85-TC Apptt-1 dated 13th October, 1987. A copy of Govt. of India Circular No.14014/37/86-AIS(I) dated 15th July, 1987 on the subject of fixation of seniority which desired review of cases in the light of pronouncements of Hon'ble Supreme Court, is enclosed (Annexure No.10) but the representation has been turned down without assigning any reason, compelling me to knock the doors of this Hon'ble Tribunal, Reported in 1986 (1) S.C.C.89- Union of India Vs. G.N.Tiwari and K.L.Jain, 1980, Labour Industrial Cases 735 (S.C.) - Amrik Singh Vs. Union of India.

6(11) The opposite party no.2 vide letter No.8829/Two-1-19/1(5)/85-TC.Apptt.1 dated 13th October, 1987, passed on a copy of Govt. of India, Department of Personnel, P.O. & Pensions letter no.14014/7/74/87-Aa.Bha.Seva(1) dated 20th August, 1987, whereunder treating the applicant as having taken over on 22nd July, 1987 and ignoring the period of continuous officiation since 1985, the applicant has been allotted 1982 as the year of allotment for the purpose of seniority, which should have been computed after counting the entire period of officiation for the purposes of determination of seniority.

V. Palwana

6(12) That aggrieved from the order mentioned in para 6(9) rejecting the representation of the applicant and wrongful fixation of seniority as mentioned in para 6(11) above the applicant has no alternative but to move this Hon'ble Tribunal for redresal of his grievances on the following,

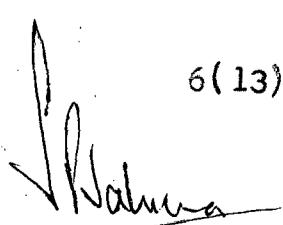
- G r o u n d s -

6(13)(a). That the order of reversion dated 20th July, 1987 passed by the State Govt. which was served on the applicant on 22nd July, 1987 and which itself admits applicant's officiation in I.A.S. before that date, being illegal, arbitrary and null and void-abnitio is not binding on the applicant.

6(13)(b). That before passing such a malafide order the applicant has not been given any opportunity to meet the matter. The order is against natural justice and equity and fair play.

6(13)(c). That applicant has been continuously working in the senior scale of I.A.S. since 1985 till today. His seniority cannot be interrupted in an arbitrary manner.

6(13)(d). That the principle of vested rights cannot be



divested, this principle of Jurisprudence has not been adhered to in applicant's case. The applicant has a vested right after his promotion to the senior scale by order dated 2nd August, 1985 which cannot be disturbed or divested arbitrarily.

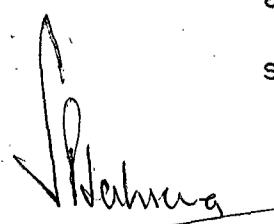
7. Details of the remedies exhausted :

The applicant declares that he has availed of all the remedies available to him under relevant service rules :-

- 1) Representation- Annexure No.7 against the applicant reversion in rank contained in Annexure No.3.
- 2) Rejection of representation contained in Annexure No.8.

8. Matter not previously filed or pending with any other court :

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court of law or any other authority or any other Bench of the Tribunal and no any such application, writ petition or suit is pending before any of them.


Nahru

9. Reliefs sought :

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

- a) to issue an order or direction setting aside the Annexures No.3 and 8 of this case;
- b) to issue an order or direction to respondents no.1 to 3 to treat the applicant on Cadre post of Indian Administrative Service from the date of his posting contained in Annexure no.2 and his seniority to be counted from 3.8.1985 in Cadre post of Indian Administrative Service.

10. Interim order, if any, prayed for :

Till the final decision of the case the respondents may be directed not to reduce in rank of the applicant from Cadre post of Indian Administrative Service to U.P.Civil Service (Executive Branch) in State Government by this Hon'ble Tribunal in view of aforesaid decisions of the Hon'ble Supreme Court of India.

11. Particulars of Postal Order in respect of application fee:

i) Name of Indian Postal Order: DD 806193

ii) Name of the issuing Post Office: Lalbagh, Lucknow

✓ Nalwana

-11-

iii) Date of issue of Postal Order : 24-2-89

iv) Post Office at which payable : *All above*

12. List of Enclosures :

1. Letter of promotion to I.A.S.

dated 2.8.1985.

2. Government Notification dated 5.9.85.

3. U.P. Govt. Order dated 20.7.87.

4. Govt. of India Order dated 22.7.87.

5. Charge Certificate which applicant
handed over on 22.7.87.

6. Charge Certificate which applicant
took over on 22.7.87.

7. Representation of applicant dated
5.12.1987.

8. Rejection of applicant's representation
dated 5.12.1987 by U.P. Government vide
letter dated 19.11.1988.

9. Circular dated 20.8.1987.

10. Government of India Circular
dated 15.7.1987.

Nalima

A 10

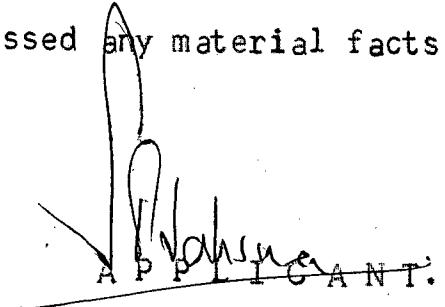
-12-

Verification.

I, Suraj Prakash Saxena, aged about years, son of late Madan Mohan Lal Saxena, working as District Magistrate, Hardoi, resident of District Magistrate Resident, Hardoi, do hereby verify that the contents of paras 1, 2, 3, 4, 5, 6, 6(1), 6(2), 6(3), 6(4), 6(5), 6(6), 6(7), 6(8), 6(9), 6(11), 6(12), 7, 9, 10, 11, 12 are true to my personal knowledge and those of paras 6(8) (only bracketed portion), 6(10), 6(13)(a), 6(13)(b), 6(13)(c), 6(13)(d), 8 are believed to be true on legal advice and that I have not suppressed any material facts.

Dated: 23.2.1989

Place: Lucknow


A P P L I C A N T.

To,

The Registrar,
Allahabad Bench,
Lucknow Circuit.

I identify the applicant who has signed before me.

K. M. N. Chak
(K.M.N.Chak)
Advocate.

Registration No.

41989.

Suraj Prakash Saxena.

Applicant. A18

Union of India & others. V.S.

Respondents.

ANNEXURE-III

उत्तर प्रदेश सरकार

नियुक्त अम्भाग -

पंचाया- 7101/दो-1-19/1858/85

लाभान्तर : दिनांक: 120 जुलाई, 1987

आदेश

अधोहस्ताक्षरी को यह कहने का निदेश हुआ है कि निम्नलिखित तालिका के स्तम्भ-2 में इगित अधिकारियों, जो इस अपय आईए०एस० के सीनियर वेतनमान में स्थानापन्न रूप से कार्यरित हैं को तात्कालिक प्रभाव से उनके पैदूँक्तन सर्वांग पी०सी०एस० में प्रत्यावर्तित कर उनके नाम के सम्मुख स्तम्भ-3 में इगित पदों तथा वेतनमान में नियुक्त किया जाता है :-

क्रमांक अधिकारी का नाम व वर्तमान पद नाम नवीन पद तथा वेतनमान जिस पर अब तेनात किए गए

1	2	3
	सरकारी	
1-	एस० सी० रस्तोगी संयुक्त सचिव, उ०प० शासन, संगतिर्ग-विकास विभाग, लाभान्तर	विशेष कार्याधिकारी पर्याप्ति विभास-विभाग, उ० प्र० लाभान्तर, वेतनमान रु० 2300-2700 ✓
2-	शाकदेव पुसांद त्रिपाठी संयुक्त सचिव, पुङ्यपत्री कार्यालय, उ० प्र० शासन, लाभान्तर।	विशेष कार्याधिकारी पुङ्यपत्री कार्यालय, उ०प० शासन, लाभान्तर, वेतनमान रु० 2300-2700 ✓
3-	हरि माधव शर्मा अवकाश पर जिलाधिकारी, भैनपुरी।	अवकाश पर, वेतनमान रु० 2300-2700 ✓
4-	डा० शंकरदत्त ओझा, संयुक्त सचिव, उ० प्र० शासन, विकास स्वास्थ्य एवं परिवार, कल्याण विभाग, लाभान्तर।	विशेष कार्याधिकारी विकित्सा स्वास्थ्य एवं परिवार कल्याण विभाग, उ० प्र० शासन, लाभान्तर, वेतनमान रु० 2300-2700 ✓
5-	आरा०एस० नियम संयुक्त उद्योग निदेशक, उ०प० कानपुर।	संयुक्त उद्योग निदेशक, उ० प्र०, कानपुर वेतनमान रु० 2050-2500
6-	राज राम, संयुक्त सचिव, उ० प्र० शासन नियोजन विभाग, लाभान्तर।	संयुक्त सचिव, उ० प्र० शासन, नियोजन विभाग, लाभान्तर वेतनमान रु० 2050-2500
7-	श्रीकान्त छारे, अपस आकृत, आगरा	अपर आयक्त, आगरा वेतनमान रु० 2050-2500
8-	सुरज प्रकाश झक्सेना संयुक्त सचिव समन्वय उ० प्र० शासन, लाभान्तर।	संयुक्त सचिव समन्वय पुङ्यपत्री सचिव शासन रु० प्र० शासन, लाभान्तर, वेतनमान रु० 2050-2500
9-	हरिशचन्द्र श्रीष्टास्तव, उपाध्यक्ष, हरिद्वार विकास प्राधिकरण, हरिद्वार।	उपाध्यक्ष, हरिद्वार, विकास प्राधिकरण, हरिद्वार, वेतनमान रु० 2050-2500
10-	डा० बी०एन० तिवारी, संयुक्त सचिव, उ० प्र० शासन, संस्थागत वित्त विभाग, लाभान्तर।	संयुक्त सचिव, उत्तर प्रदेश शासन, संस्थागत वित्त विभाग, लाभान्तर, वेतनमान रु० 2050-2500

Alfred

Walter

Identify the
opposite end into the
signed before me
K. M. M. Chah.

In the Central Administrative Tribunal, Allahabad, 15
Bench, Lucknow Circuit.
Registration No. 41989. A20

Suraj Prakash Soren. Applicant.

Union of India & others. Respondents.

ANNEXURE - VII

मुंब्युट 1654/टो-1-19/1151/85-डीप्री०

प्रेषक,

श्री कृष्ण बिहारी टण्डन,
संयुक्त तथिय
उत्तर प्रदेश झीतन।

तेवा में

श्री सरज प्रकाश सरकार,
जिलाधिकारी,
हरदोह।

नियुक्ति अनु०।

लम्बनउः दिनांक: 19 नवम्बर, 1988

किया: राज्य तेवा में प्रत्यावर्तन के विस्तृ प्रत्यावर्तन।

मानोदय,

आपके उपर्युक्त विषयक पत्र दिनांक 8-9-88 के संदर्भ में मुझे यह छहने
का निर्देश हुआ है कि राज्य तिविल तेवा (कार्यकारी झीता) में आपके
प्रत्यावर्तन विषयक राज्य सरकार के आदेश संख्या: 7101/टो-1-19/1154/85
दिनांक 20-7-87 के विस्तृ प्रत्यावर्तन आपका प्रत्यावेदन दिनांक 5-12-87
भारत सरकार के विधारायी मूलस्प में अनुकारित किया गया था। भारत
सरकार ने तूधिया किया है कि आपके उक्त प्रत्यावेदन में किस गरे अनुरोध को
भारत सरकार द्वारा स्थीकार किया जाना संभव नहीं हुआ है।

भवदीय,

CV/88

। कृष्ण बिहारी टण्डन।
संयुक्त तथिय

मुंब्युट: 6554/11/टो-१-८८ तदुदिनांक

प्रतिलिपि श्री समरेकेहन, डॉ क अधिकारी, कार्यिक तथा प्रशिक्षण
किर्माग, कार्यिक, लोक शिकायत तथा प्रेसन मंत्रालय, नार्य छाक, नई दिल्ली क
उनके पत्रांक 14015/35/86-जोभा०ते०।।।, दिनांक 31-10-88 के संदर्भ में
तूजार्य प्रेषित।

आशा है,

। कृष्ण बिहारी टण्डन।
संयुक्त तथिय

R. M. Tandem

J. S. Soren

to identify the applicant
who has signed below

बाजालत श्रीमान

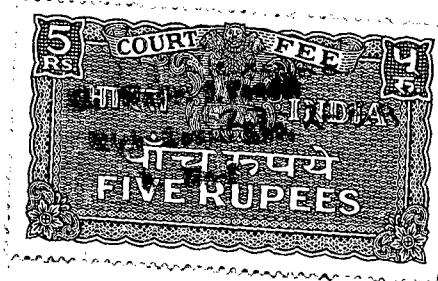
Central Administrative
Tribunal

16

महोदय

A21

वादी (मुद्र्द्दि)
मुद्र्द्दि (मुद्रालेह)



तालतनामा

Seal of the Court

नं० मुद्रमा

सन पेशी की ता०

१९ ई०

K. M. N. C. M. N.

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

वकील
35 Kanchenjunga Road, Lucknow

वकील
महोदय
एडवोकेट

को अपना वकील नियुक्त करके (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (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 वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

23-2-81

महीना

सन् १९ ई०

Accepted
K. M. N. C. M. N.
23-2-81

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

LUCKNOW CIRCUIT.

Registration No. of 1989.

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

Suraj Prakash Saxena, aged about 50 years, son of Late Madan Mohan Lal Saxena, working as District Magistrate, Hardoi, resident of District Magistrate Residence, Hardoi. ... Applicant.

Versus

1. Union of India, Department of Personnel, and Training, Ministry of Personnel, P.G. & Pension, Govt. of India, New Delhi.
2. State of Uttar Pradesh, Secretary, Appointment Department, Civil Secretariat, Lucknow.
3. Joint Secretary, Appointment Department, Govt. of U.P. Secretariat, Lucknow. ... Respondents.

I N D E X

Sl. No.	Description of papers.	Page Nos.
1.	Annexure No.1 Letter of Promotion to IAS dated 2.8.1985.	1 - 2
2.	Annexure No.2, Govt. Notification dt. 5.9.1985.	- 03
3.	Annexure No.4, Govt. of India Order dt. 22.7.87.	4 - 5
4.	Annexure No.5, Charge Certificate which the applicant handed over on 22.7.87.	06
5.	Annexure No.6, Charge Certificate which applicant tookover on 22.7.1987.	07
6.	Annexure No.7, Representation of applicant dt. 5.12.87.	8 - 11
7.	Annexure No.9, Circular dt. 20.8.1987.	12-13
8.	Annexure No.10, Govt. of India Circular dt. 15.7.87.	14-15

DATED: March, 1989.

Place: Lucknow.

K. M. N. Chok

COUNSEL FOR APPLICANT.

FOR USE IN TRIBUNAL'S OFFICE:

Date of filing :

Date of receipt by post :

Registration No:

SIGNATURE OF REGISTRAR.

Suraj Prakash Sosenia. Applicant.
Union of India & others. V.S. Respondents.

ANNEXURE - I

जांशा ०५००५३२/दो-१-१९८५

उत्तर प्रदेश शासन

नियुक्ति अनुसारग

लघानु : दिनांक : २ अगस्त, १९८५

प्रिय महोदय,

मुझसे यह कहने की आवश्या नहीं गई है कि निम्न लिखित अधिकारियों को उनके वर्तमान पद पर ही आई०र०स्त० (तांपरी) नियमावली, १९५४ के प्राविधिकानों के अधीन आई०र०स्त० के सीनियर नेतृत्वात् १००००-२००० में स्थानापन्न रूप से पुनिन्वात किया जाता है :

श्री प्रेम कृष्ण शिंग

श्री सूरभ प्रकाश सक्षेत्रा

श्री हरीश चन्द्र श्रीवास्तव

श्री वी०स्त० तिवारी

श्री शंकर दत्त ओझा

संयुक्त सचिव, वित्त विभाग

संयुक्त सचिव, प्रशासनिक दूर्घार विभाग

संयुक्त सचिव, कार्यिक विभाग

संयुक्त सचिव, संस्थागत वित्त विभाग

संयुक्त सचिव, चिकित्सा जन स्वास्थ्य एवं

परिवार कल्याण विभाग।

कृपया अपने अधीन कार्यरत संविधित अधिकारियों को तदनुसार तुरन्त कार्यालय ग्रहण करने हेतु निम्नलिखित करने का कृष्ट करें।

डा० जै०पी० शिंदे,

सचिव, वित्त विभाग।

श्री विष्वासा आनन्द

सचिव, संस्थागत वित्त विभाग।

श्री इयाम गुन्दर भरी

सचिव, चिकित्सा जन स्वास्थ्य एवं परिवार कल्याण विभाग।

प्रिय महोदय,

मुझसे उपर्युक्त अर्द्ध शोसकीय पत्र की एक प्रति आपके सुनाथों भोजने की आवश्या

नहीं गई है।

श्री भरेन्द्र मोहन

सचिव, ताचिवालय प्रशासन विभाग।

श्री इस०स्त० शास्त्र

सचिव, राज्य तंत्रित विभाग।

श्री आर० क० शिंह

रेजीडेन्ट भागुली, ५०००० शासन, नई दिल्ली।

श्री आर० पी० शिंह

सचिव, राज्यव परिषाद, ३०००० लघानु।

श्री प्रेम कृष्ण

संयुक्त सचिव, वित्त विभाग।

श्री संरज प्रकाश सक्षेत्रा

संयुक्त सचिव, प्रशासनिक दूर्घार विभाग।

श्री हरीश चन्द्र श्रीवास्तव

संयुक्त सचिव, कार्यिक विभाग।

भागदीप,

२१८१८१८१८१

हरीश चन्द्र गुप्त

भागदीप,

२१८१८१८१८१

हरीश चन्द्र गुप्त

Alka

Nahua

Identify the application
etc has been received
before me. K.M. no. 6204
23-7-89

-2-

मूल वी ०४न० तिवारी
समुक्त भाषिव, गल्थागति विद्वा विभाग ।

श्री शंकर दत्त ओझा,
समुक्त भाषिव, चिकित्सा जन स्वास्थ्य एवं परिवार कल्याण विभाग ।

प्रतिलिपि राज्यपाल के भाषिव, गुण्य गंत्री जी के भाषिव/ निजी भाषिव,
वित्त गंत्री जी के निजी भाषिव, स्वास्थ्य गंत्री जी के निजी भाषिव, गुण्य भाषिव के
निजी भाषिव तथा सूचना निदेशक, उ०प्र० शाहरान, नई दिल्ली ।

प्रतिलिपि नियुक्ति अनुभाग २, ३, ४, ५, तथा ६, भाषिवालय प्रशारान
विविध अनुभाग २, वित्त वी. मा। इरला घेला एवं रिसेप्शन आफीतर
भविधान भावन को भावी सूचनार्थ प्रेषित ।

Shah

Wahid

I identify the off. com
who he is good before
me. K. M. N. Shah
23-2-84

In the Central Administrative Tribunals, Allahabad,
Bench, Lucknow Circuit. 3

Registration No. 41989.

Surej Prakash Saxena. Applicant. A 25
Union of India & others. Vs. Respondents.

ANNEXURE-II

उत्तर प्रदेश शासन

नियुक्ति अनुमान-

संख्या: 5990/दो-1-4/1115/85

लेखानऊ : दिनांक : 5 सितम्बर, 1985

विज्ञापिता

नियुक्ति

श्री सूरज प्रकाश सक्सेना, यानुकूल सचिव, उप्रेश्वर, प्रशासनिक सुधार विभाग, लेखानऊ को आई०८०८० से ० के वरिष्ठ वेतनमान में कार्यभार ग्रहण करने की तिथि । अर्थात् ३-८-८५ पूर्वाहन । से भारतीय प्रशासनिक सेवा । संवर्ग । नियम १९५४ के नियम ७ के अधीन आई०८०८० से ० के वरिष्ठ वेतनमान । रु० १२००-२००० । में अस्थायी रूप से प्रोन्नत कर संयुक्त सचिव, उप्रेश्वर, प्रशासनिक सुधार विभाग, लेखानऊ नियुक्त किया गया ।

प्रियोग नरपाल मेहरा
गुण्डा सचिव ।

संख्या: 5990/1/दो-1-85 तद्दिनांक

प्रति लिपि निम्नलिखित को सूचनार्थ प्रेषित :-

- 1- अधीक्षक, युद्ध तथा लेखान सामग्री, उत्तर प्रदेश, इलाहाबाद को उत्तर प्रदेश गलट के गागामी हिन्ती तथा उद्धृत अंक में प्रकाशनार्थ ।
- 2- भारत सरकार, कार्यिक एवं प्रशासनिक सुधार, गोकर्णाकायत तथा पेंशन मंत्रालय, नई दिल्ली ।
- 3- सचिव, राजस्व परिषाद, उत्तर प्रदेश, लेखानऊ ।
- 4- महालेखाकार । लेखा-२। उप्रेश्वर, जी०८०-६ अनुमान, इलाहाबाद ।
- 5- संबंधित अधिकारी ।
- 6- सचिव, उप्रेश्वर, प्रशासनिक सुधार विभाग ।
- 7- आयुक्त, लेखानऊ पण्डल, लेखानऊ ।
- 8- जिला मजिस्ट्रेट, लेखानऊ ।
- 9- इरला वेक अनुमान ।
- 10- नियुक्ति अनुमान 5/6

आज्ञा से

Ans 8/80

कृष्ण मिश्री टप्पन
उप सचिव ।

Attached

↓
Nathu

I identify the
applicant who
has signed
before me
K. M. N. Chakraborty
23-2-89

In the Central Administrative Tribunal, Allahabad,
Bench, Lucknow Circuit.
Registration No. 41989. 4

Suraj Prakash Saxena. Applicant. A26
Union of India & others. VS. Respondents.

ANNEXURE-IV

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART I SECTION 2)

No. 14015/35/86-AIS(I)
Government of India
Ministry of Personnel, P.G. & Pensions
(Department of Personnel & Training)

New Delhi, the 9 July, 1987.

NOTIFICATION

In exercise of the powers conferred by sub-rule (1) of rule 8 of the Indian Administrative Service (Recruitment) Rules, 1954, read with sub-regulation (1) of regulation 9 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, the President is pleased to appoint S/Shri Surendra Chandra Rastogi, Shukh Dev Prasad Tripathi, Prem Krishna Misra, Azizul Jabbar Khan, Hari Madhava Saran, Raja Ram, Srikant Khare, Suraj Prakash Saxena, Harish Chandra Srivastava, Dr. Bishwambhar Nath Tiwari, Shankar Datt Ojha, Ram Kumar Kunwar, Gopal Krishna Shukla and Ram Sharman Varshney, members of the State Civil Service of Uttar Pradesh to the Indian Administrative Service on probation and to allocate them to the cadre of Uttar Pradesh under sub-rule (1) of rule 5 of the Indian Administrative Service (Cadre) Rules, 1954.

(Signature)

(RANJAN CHATTERJEE)
DEPUTY SECRETARY TO THE GOVT. OF INDIA.

The Manager,
Government of India Press,
Faridabad (Haryana).

No. 14015/35/86-AIS(I) New Delhi, the 9 July, 1987.

A copy is forwarded for information to the following:-

1. The Chief Secretary to the Govt. of Uttar Pradesh, Lucknow (with 14 spare copies for onward transmission to the officers concerned).
2. Accountant General, UP, Allahabad.
3. Secretary, Union Public Service Commission, New Delhi.
4. E.O. to the Government of India, New Delhi.

(Signature) 27.7.87

(RANJAN CHATTERJEE)
DEPUTY SECRETARY TO THE GOVT. OF INDIA.

INTERNAL DISTRIBUTION:-

1. DO(S), AIS(I) Section.
2. Research Officer (CM), DP&AR
3. EO(PR) Section.
4. AIS.III Section for Civil List.
10 spare copies.

Alfred

Walters

Identify the applicant who has signed before me K.M. Chakraborty
23-2-84

5
A27
भारत के राजपत्र भाग । छंड 2 में प्रकाशनार्थ
संख्या 14015/35/86-अ0भा0सै0।

भारत सरकार
कार्मिक, लोक शिक्षायत तथा पैशन मंत्रालय
कार्मिक और प्रशिक्षण विभाग।

—
नई दिल्ली-110001 दिनांक जुलाई, 1987

अधिसूचना

भारतीय प्रशासनिक सेवा पदोन्नति द्वारा नियुक्ति 1955 के विनियम 9 के उप-नियम। के साथ पठित भारतीय प्रशासनिक सेवा भेतीयनियम 1954 के नियम 8 के उप-नियम।। द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए राष्ट्रपति उत्तर प्रदेश राज्य मिशन सेवा के सदस्य सर्वश्री सुरेन्द्र चन्द्र रस्तांगी, शुभदेव प्रसाद त्रिपाठी, प्रेम कृष्ण मिश, अनीजुल जब्बार खा, हरि माधव शरण, राजा राम, श्रीकान्त खरै, सूरज प्रकाश सक्सेना, हरीश चन्द्र श्रीवास्तव, डा० क्लाम्बर नाथ तिवारी, शक्ति दत्त औद्धा, राम कुमार कुवर, गोपाल कृष्ण शुल्क और राम शरणवाष्पेय को भारतीय प्रशासन सेवा में परिवीक्षा पर नियुक्त करते हैं और उन्हें भारतीय प्रशासन सेवा संवर्ग। नियम 1954 के नियम 5 के उप-नियम।। के अधीन उत्तर प्रदेश के संवर्ग में आर्बित करते हैं।

राजन चट्टर्जी
राजन चट्टर्जी
उप-सचिव, भारत सरकार

सेवा में:

पूर्वक,
भारत सरकार मुद्रणालय
फरीदाबाद।

Alhamed

Wahena

I identify the applicant who
has signed before me.
K. M. N. Chakraborty

23-2-89

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

Registration No. 41989.

Suryaj Prakash Saxena. Applicant.

Union of India & others. Vs. Respondents.

7

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ANNEXURE - VI

टी-2278]

मानव संघर्ष दिनांक 25 जून, 1985, पृष्ठ 9 विभाग-दो, सरकारी मानवों का नियम संग्रह।
तीन-498-1

कार्यभार प्रमाणक

प्रमाणित किया जाता है कि - **तंत्रज्ञता तथिव इतमन्वया। मुख्य तथिव शाया वा**
कार्यभार भारत सरकार द्वारा विभाग-दो, सरकारी मानवों का नियम संग्रह।
दिनांक 22.7.1987 ये जाता कि इसमें बताया गया है दिनांक 22 जून 1987
को पूर्वान्तर/मुख्यमान्तर/भूत्तरान्तर में हस्तान्तरित किया गया।

अवमुक्त अधिकारी-मम-मम-मम

तूरज प्राप्ति तक्तेना 22.7.87

प्रमाणित किया जाता है कि स्थायी अग्रिम को जो आवश्यक अभिस्वीकृति मेरे पास थी उस महालेखाकार के पास भेज दिया गया है।

अवमोक्त अधिकारी-

टिप्पणी- प्रमाणक पर केवल उन्हीं अवमोक्त अधिकारियों द्वारा हस्ताक्षर किये जाने चाहिए जिनमें महालेखाकार को अभिस्वीकृति भेजी जाती है; उदाहरणार्थ वह अधिकारी जो किसी जिले में कलेक्टर के रूप में कार्यभार महण कर रहा हो, प्रमाणक पर हस्ताक्षर करेगा, किन्तु वह अधिकारी जो अधीनस्थ पद का भार प्रहण कर रहा हो और जिसके लिये अग्रिम उससे उच्चतर अधिकारी को नियमित रूप से अधिकारी द्वारा विभाग में सम्मिलित हो, इसमें हस्ताक्षर नहीं करेगा।

प्रतिलिपि अधिकारी

स्थान- लखनऊ

दिनांक 22 जून 1987

टी-2278

*वहां यह स्थानीय क्षेत्र लिखिए जिसका संबंध कार्यालय से हो और उसका उपर्युक्त पदनाम भी लिखिए, जैसे 'मेरठ' प्रभाग, 'ग्रामरा जिला', 'पश्चिमी भाग'।

प्रत्येक दशा में कार्यालय द्वारा अधिकारियों के तात्पुरता के लिये उनके हस्ताक्षरों के प्रतिरिवत स्पष्ट अक्षरों में भी लिखे जाने चाहिए।

विशेष द्रष्टव्य- प्रमाणक की एक प्रति (जिसके साथ कोई भी आवरण, ड्राफ्ट या उन नहीं होना चाहिये) हस्तान्तरण के दिन निम्नलिखित को भेजी जानी चाहिए:—

- (1) महालेखाकार, उत्तर प्रदेश, सा 0 प्र 0— अनुभाग, इलाहाबाद।
- (2) अधीकारी, नियुक्ति (क) विभाग, उत्तर प्रदेश, सचिवालय, लखनऊ।
- (3) रजिस्ट्रार, उच्च न्यायालय, आयुक्त अधिकारी विभागाध्यक्ष (जैसी भी स्थिति हो)।

XXXXXX XXXXXXXX XXXXXXXX XXXXXXXX

141 दस्ता घेठ अनुभाग।

Attached

V. Nahata

Do identify the applicant
who has signed before
me. K. M. N. Chakraborty
23-2-89

In the Central Administrative Tribunal, Allahabad,
Bench, Lucknow Circuit. 8

Registration No. 41989.

Surya Prakash Saksena. Applicant. ASD

Union of India & others. Vs. Respondents.

ANNEXURE-VII

From,

S.P. SAKSENA,
Joint Secretary,
Administrative Reforms Department-
Cum-Joint Secretary Coordination,
Chief Secretary's Branch,
Government of U.P.,
LUCKNOW.

To,

The Secretary,
Department of Personnel & Training,
Ministry of Personnel, P.G. & Pensions,
Government of India,
NEW DELHI.

Through - The Secretary, Appointment Department,
Government of Uttar Pradesh, Lucknow, U.P.

Subject : Representation against U.P. Govt. Appointment
Department's Order No. 7101/II-1-19/1 (5)85/
1987, Dated 20.7.1987, passed with reference
to Secretary, Department of Personnel, Govt.
of India Letter No. 14015/35/86-IAS(1), Dated
26.6.1987, reverting the representationist
from the senior IAS Cadre post on the same
post and for counting the continuous period
of officiation on cadre post for the purposes
of fixation of seniority in IAS cadre.

Sir,

On the sound principles of natural justice and
also in the light of some of the fundamental pronouncements
of Hon'ble Supreme Court of India regarding principles of
fixation of seniority, I have to bring to your kind notice
the following facts for consideration and issue of orders
allowing the benefit of period of continuous officiation on
cadre post for fixation of seniority.

1. That initially I was appointed to the U.P. Civil Service (Executive Branch) and the State Government allotted 1962 as my year of allotment in the said service for the purpose of seniority.
2. That in the year 1985 I was working as Joint Secretary, Administrative Reforms Department of Government of U.P. in the P.C.S. Selection Grade of Rs. 1840-2400, which has since been revised to Rs. 2050-2500.
3. That the Selection Committee constituted for drawing up the select list for promotion to the senior scale of IAS from amongst the officers of the U.P. Civil Service and other officers in the year 1984 must have adjudged me suitable and must have included my name in the said select list, which appear to have been finally approved by Union Public Service Commission.

I send by the applicant
who has signed before
me K.M. Chak
below
23-2-89

Accepted

...2

I am making these observations because the State Govt. vide order contained in D.O. No. 5532/Two-1-1985, Dated 2nd August, 1985 promoted me to officiate in the then Senior Scale of IAS, on the same post in accordance with the provisions of IAS (Cadre) Rules 1954 quoted in the order itself. 9 ABT

4. That in pursuance of these orders I took over charge on the promotion post in the forenoon of 3rd August, 1985 on the basis of which Govt. Notification No. 5990/Two-1-4/1(15)/85, Dated 5th Sept., 1985 was issued (Copy enclosed- Appendix "A").
5. Since then I continued to work on the senior scale IAS cadre post as Joint Secretary, Administrative Reform, Govt. of U.P. from August 3, 1985 onwards and I am still continuing on that post.
6. That to my utter surprise on 22nd July, 1987 I received two orders simultaneously namely U.P. Govt's order No. 7101/Two-1-19/1(5)/85, Dated 20th July, 1987 reverting me on the same post and Govt. of India, Ministry of Personnel, P.G. & Pensions (Department of Personnel & Training) Notification No. 14015/35/86-AIS(1), Dated 22nd July, 1987 promoting me to the senior scale of IAS.
7. Although no grounds for reversion had been indicated in the State Govt. orders quoted above, which presumably appeared to have been passed on ~~some~~ communication from Govt. of India quoted in the endorsement itself, but as a humble Govt. servant I complied with both the orders and after formally handing over charge vide orders dated 20th July, 1987, which as said above were received on 22nd itself, in the forenoon of 22nd July, 1987 and took over charge vide Govt. of India notification dated 22nd July, 1987 quoted above in the forenoon of 22nd July, 1987 itself. Copies of handing over and taking over charge in pursuance of these orders in the forenoon of 22nd July itself are enclosed (Appendix "B"), which have been duly countersigned by the then Secretary ~~Admn Reform~~ Appointment Department, Govt. of U.P. In view of these documents I hardly need to adduce any evidence to prove that my continuous officiation in IAS Senior Scale w.e.f. 3rd August, 1985 continued till the forenoon of 22nd July, 1987 in which I took over again in the senior scale of IAS as per Government of India latest notification. As such there has been no break in the continuous officiation in the light of continuity been proved beyond all doubts.
8. I am yet unable to know as to why after allowing me to continuously officiate since 3rd August, 1985 I was reverted by the State Govt. by virtue of an order passed behind the back and which was given effect to only on 22nd July, 1987 as has been certified by the then Secretary, Administrative Reforms Department. The continuity of officiation on all principle of fundamental justice has remained intact and working

Attested

...3

I identify the applicant who
has signed before me
K M W Shah
Adv.

on the same post such an order has no legal sanctity whatsoever. Thus it stands amply proved beyond all doubts that I continued to officiate on the same post from 3rd August, 1985 till I took over again on the basis of final notification of Govt. of India cited above. Quite naturally all orders regarding service matters become operative only from the time they are given effect to and not from the time they are passed. In the present case the order of reversion came into operation on 22nd July, 1987 forenoon & since by that time promotion orders had been received they also became operative and as such from all angles the continuity of officiation stands established without any break. The arbitrary order of reversion issued by the State Govt. has therefore become infructuous and needs to be ignored for the purposes of fixation of seniority.

9. That there was no justification to issue the said reversion order dated July 20, 1987 by the State Govt. as I was appointed to the IAS cadre post on August 3, 1985 after inclusion of my name in the select list of the IAS drawn up in the year 1984 and my name was also included in the subsequent select lists till I was notified to be appointed in the same IAS cadre post which I had been continuously holding since 1985. As such I cannot be deprived of the said officiating period for the purposes of fixation of my seniority in the IAS.
10. That on the basis of the pronouncements made by the various High Courts and Supreme Court of India it has now become a settled Law that State Civil Service Officers cannot be deprived of the benefits of their continuous officiation on IAS cadre posts for no fault of theirs.
11. That in view of the facts and circumstances enumerated above the arbitrary and illegal reversion order, which became infructuous, deserves to be overlooked and I may be given the benefits of my long continuous officiation of the IAS cadre post from 3.8.1985 till 22.7.1987 for the purposes of determination of my seniority in the IAS cadre.
12. That Govt. of India vide letter No. 14014/74/87-IAS/, dated 20 August, 1987 admitting my taking over in IAS senior scale w.e.f. 22nd July, 1987 have fixed 1982 as my year of allotment which deserves to be modified giving me the benefit of long continuous officiation w.e.f. 3rd August, 1985 proved beyond all shadow of doubts.
13. In this context I wish to draw your attention to Govt. of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training letter No. 14014/37/86-AIS(1), Dated 15 July, 1987 on the subject of "Fixation of Seniority of Officers appointed to IAS by promotion--benefit of period of officiation--review regarding", wherein it has

Attested

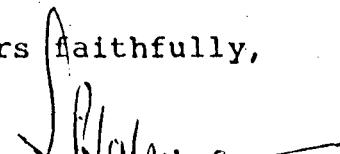
...4

Identify the
applicant who has
signed before me
K. M. N. Chakraborty
23-2-89

been indicated to review the cases of these officers appointed to IAS by promotion after the 11th Oct., 1985 in the light of Hon'ble Supreme Court pronouncements mentioned therein. I most humbly plead that in my case as indicated above there has been no break in continuous officiation since 3rd August, 1985, which stands proved to the hilt from documents relied upon, and therefore it is earnestly requested that, on grounds of natural justice and on the basis of clear facts which are evident on the face of records, I may kindly be allowed benefit of continuous officiation w.e.f. 3rd August, 1985 in the matter of fixation of my seniority and suitable orders be issued in this regards.

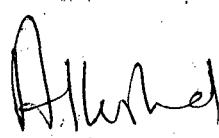
I have full hope that maintaining the highest traditions in dispensing justice this representation would be decided favourably on merits of this case. Saving me from running to Courts/Tribunals for seeking justice.

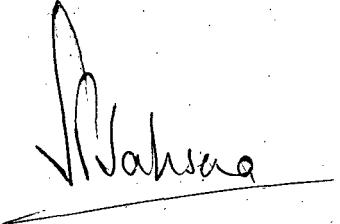
Yours faithfully,


(S. P. Saksena JS. X 118)

Encls :- As above.

- (i) Copy of State Govt.
Notification Dated
5.9.1985 (Appendix "A")
- (ii) Copies of charge certificate
duly countersigned dated
22.7.1987 (Appendix "B").


A. K. Chakraborty


S. P. Saksena

I certify the application
into has signed before
me. K. K. Chakraborty
23-2-89

In the Central Administrative Tribunal, Allahabad,
Bench, Lucknow Circuit. 12

Registration No. 41989.

Suraj Prakash Soren. Applicant. ASY
Union of India & others. VS. Respondents.

ANNEXURE - IX

संख्या: 14014/74/87-भ०भा०स०॥।।

भारत सरकार
कार्यिक, लोक शिक्षावत तथा पेंजन मंत्रालय,
कार्यिक और प्रशिक्षण विभाग।

नई दिल्ली, दिनांक 20 अगस्त, 1987

सेवा में,

मुख्य सचिव,
उत्तर प्रदेश सरकार,
नियुक्ति विभाग,
लखनऊ।

निश्चय: भारतीय प्रशासनिक सेवा में पदोन्नति द्वारा नियुक्ति किए गए उत्तर प्रदेश राज्य सिविल सेवा के अधिकारी सर्वश्री एस०सी० रस्तोगी तथा अन्य अधिकारियों की वरिष्ठता का नियतन।

महोदय,

मुझे उपर्युक्त विषय पर यह कहने का निर्देश हुआ है कि इस विभाग की अधिसूचना संख्या: 14015/35/86-भ०भा०स०॥।। द्वारा उत्तर प्रदेश राज्य सिविल सेवा के अधिकारियों की पदोन्नति द्वारा भारतीय प्रशासनिक सेवा में नियुक्ति, प्रत्येक के सामने दर्शाई गई तारीखें से की गई हैं:-

क्र०सं० अधिकारी का नाम

भारतीय प्रशासनिक सेवा में नियुक्ति
की तारीख

सर्वश्री-

1-	सुरेन्द्र चन्द्र रस्तोगी	22-7-87
2-	सुखदेव एसाद शिंधाठी	22-7-87
3-	प्रेम कृष्ण मिश्र	22-7-87
4-	अबीजुल जब्बर आन	22-7-87
5-	हरी महादेव सरण	22-7-87
6-	राजाराम	22-7-87
7-	श्रीकान्त खे	22-7-87
8-	सूरज प्रकाश सक्सेना	22-7-87
9-	हरीश चन्द्र श्रीवास्तव	22-7-87
10-	डॉ बिश्वास नाथ तिवारी	22-7-87
11-	शंकर दत्त भोद्धा	22-7-87
12-	राम कुमार कुंवर	22-7-87
13-	मोपाल कृष्ण शुक्ला	22-7-87
14-	राम शरण वाड्हेय	22-7-87
15-	श्याम नारायण सेठ	30-7-87
16-	हौंगिला प्रसाद वर्मा	30-7-87

2- वरिष्ठता नियमान्वय के नियम 313॥बी॥ के उपान्धियों के अनुसार, उनके अधिकारियों के नियरिण के प्रश्न पर जांच कर ली गई है। राज्य सरकार ने अपने दिनांक: 20-7-87 के पत्र संख्या: 6024/11-1-19/115/85 द्वारा यह सूचित किया।

Witnessed by the applicant who has signed
before me K. M. V. Chakraborty
Adm.

... 2 ..

है कि उक्त सभी भधिकारी जब ते भारतीय प्रशासनिक सेवा में नियुक्त थिए गए थे उक्त समय गैर-संवर्णीय पदों पर कार्य कर रहे थे । इसलिए भारतीय प्रशासनिक सेवा में उनके भावित्व वर्ष के निर्धारण की तारीख वह तारीख होगी जबकि भारतीय प्रशासनिक सेवा में पदोन्नति के भावार पर उनकी नियुक्ति भी गई थी ।

राज्य सरकार द्वारा भेजी गई सूचना के अनुसार, श्री बी०स०गीना । आर० भार० । १९३२। सीधी भनी के ऐसे नियुक्त भधिकारी हैं जिनकी भारतीय प्रशासनिक सेवाको नियुक्त उक्त उल्लिखित राज्य सिविल सेवा भधि का सिर्वर्ण से पूर्ण कर दी गई थी । इस बात तो ध्यान में रखते हुए, तर्वर्षी सुरेन्द्र चन्द्र रस्तोरी, सुधैव प्रसाद त्रिपाठी, प्रेम कृष्ण पिंडा, अलीजुल जब्बर शान, हरी महाटेव सरण, राजाराम, श्रीजन्त श्री, सूरज प्रकाश सर्सोना, हरीश चन्द्र श्रीनास्तव, डा०लिम्बर नाथ तिवारी, इंकर दत्त भोद्धा, राम कुमार कुंवर, गोपाल कृष्ण शुक्ला, राम शर्मा वार्षीय, राधाम नारायण सेठ तथा हौलिया प्रसात तर्पा को भारतीय प्रशासनिक सेवा में उनका भावित्व वर्ष १९८२ निर्धारित किया गया है तथा उनका नाम भारतीय प्रशासनिक सेवा के उत्तर प्रदेश संवर्ण की पदक्रम सूची में श्री बी०स०गीना । आर०भार० । १९८२। के नीचे रखा जाएगा ।

भारतीय,

४०/- सूची पात्र
डैरेक्ट भधिकारी

Alka

Alka

I identify the applicant
who has signed before
me. K M Chak
Date -

23-2-89

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

Registration No. 41989. 14

Suraj Prakash Saxena. Applicant.

Union of India & others. vs. Respondents.

A36

ANNEXURE-X

No. 14014/37/86-AIS(I)

Government of India

Ministry of Personnel, Public Grievances & Pensions 13
Department of Personnel & Training

.....
New Delhi, the 15 July, 1987

To

The Chief Secretaries of all
the State Governments.

Subject:--I.A.S.-- Fixation of seniority of officers appointed to I.A.S. by promotion or by officiation on cadre posts, benefit of period of officiation - Review regarding.

Sir,

I am directed to say that under Explanation-I below Rule 3(3)(b) of the Indian Administrative Service (Regulation of Seniority) Rules, 1954, the period of continuous officiation of a State Civil Service Officer on a cadre post counts for the purpose of determination of his seniority in the I.A.S. from the date of inclusion of the officer's name in the select list or from the date of his officiating appointment to such senior post, whichever is later. The manner in which the non-cadre officers can be posted on cadre posts, has been prescribed in Rule 9 of the IAS (Cadre) Rules, 1954. The Government of India have been disapproving such cadre officiation of the non-cadre officers where it was noticed that either the officiating appointments on cadre posts were not given to the officers in the order in which their names appeared in the select list for the time being in force or where there was an overutilisation of the State Deputation Reserve by the State Government at that point of time, creating thereby artificial vacancies for giving cadre officiation to non-cadre officers.

2. In this connection, it may be recalled that the Hon'ble Supreme Court of India have, in their various judgements, pronounced recently, held that no powers are available with the Central Government under Rule 9 of the Cadre Rules to disapprove the officiation on cadre posts by the non-cadre officers and in fact, the Central Government are required under Rule 9(3) of the Cadre Rules to give directions to the State Government concerned for termination of such officiation on cadre posts by non-cadre officers, which is found to be violative of the provisions of the various rules and regulations. In view of these pronouncements of the Hon'ble Supreme Court of India, it is proposed to amend the IAS (Regulation of Seniority) Rules, 1954 in order to ensure that the officiation on cadre posts by the non-cadre officers is in accordance with the provisions of the Cadre Rules. However, keeping in view the pronouncements of the Supreme Court of India in this regard, it has been decided to review the cases of such officers who were appointed to I.A.S. by promotion on or after the 11th October '85, i.e. the date on which the Hon'ble Supreme Court of India dismissed the Appeals filed by the Union of India

Mukund *Mohana*

I identify the applicants who does signs
before me. M. M. Chettri.

- 2 -

in the cases of S/Shri G.N.Tiwari and K.L.Jain and Others. If the officiation on cadre posts of such officers has been disapproved by the Government of India and consequently no benefit was given to them for such officiation in the matter of determination of the year of allotment in the I.A.S., their cases can be reviewed to see whether they would be entitled to a year of allotment earlier than what has already been assigned to them after counting the entire period of officiation for the purpose of determination of seniority.

3. You are, therefore, requested to review the cases of all the officers appointed to I.A.S. by promotion after the 11th October, 1985 and to see whether any period of their cadre officiation has been disapproved by the Government of India. After such a review, a consolidated proposal for revision of their seniority may please be sent to us alongwith full details. It is requested that only one consolidated proposal in respect of all such officers in your State may please be sent to us.

Yours faithfully,

(Ranjan Chatterjee)

Deputy Secretary to the Govt. of India

Copy to:-

1. U.P.S.C., New Delhi.
2. M.H.A. (UTS Section).
3. M.H.A. (IPS Section).
4. Ministry of Environment, Forests & Wild Life.

1 (D) Springer Express

A. H. Khan

V. Mahadev

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

A 39

CIRCUIT BENCH, LUCKNOW

O.A. No. 62/89.

S. P. Saxena ... Applicant

-versus-

Union of India and
others .. Opp. parties./Respondents

Reply
COUNTER ~~AFFIDAVIT~~ ON BEHALF OF RESPONDENT NO.1

16/11

I, M.K.Trehan

aged about 41 years, son of Late Sh. Ram Prakash

Trehan presently posted as Desk Officer

in the office of Department of Personnel and Training

AIS(I) Section, Ministry of Personnel P.G. and Pension,

New Delhi do hereby ~~solemnly affirm~~ and state as under:-

1. That the deponent is well conversant with the

facts of the case and he is filing this counter

affidavit on behalf of the Respondent no.1.

2. That the deponent has read and understood the

contents of application as well as the facts given herein
under in reply thereof.

3. That the contents of para 1 to 5 are formal and needs no comment.

4. That the contents of para 6.1 to 6.4 of the application need no comments from the answering deponent.

5. That in reply to the contents of para 6.5 of the application it is submitted that the Respondent no.2 has stated that the applicant was promoted temporarily to the senior scale of IAS of Rs.1200-2000 with effect from 3.8-1985. The State Government have explained the provisions of Rule 9 of the I.A.S. Cadre Rules, 1954 under which temporary appointment of non-cadre officer to cadre post can be made. It has been rightly argued that the Respondent no.2 terminated the officiating appointment of the applicant on 20.7.1987 in pursuance of the directions of the Respondent no.1 contained in their letter dated 26.6.1987.

6. That it is further stated that while considering proposal of the Respondent no.2 in April-May 1987

for appointment of 14 SCS Officers to the IAS by promotion, it was noted that the cadre posting of the select list officers was not in accordance with the regulation 8 of the Promotion Regulations, reproduced below:-

"Appointment to cadre posts from the select list-

(1) Appointments of members of the State Civil Service from the select list to posts borne on the State Cadre or the Joint Cadre of a group of States as the case may be, shall be made in accordance with the provisions of Rule -9 of the Cadre Rules. In making such appointments, the State Governments shall follow the order in which the names of such officers appear in the Select list.

(2) Notwithstanding anything contained in sub-regulation(1), where administrative exigencies so require, a member of the State Civil Service whose name is not included in the select list or who is not next in order in that select list, may, subject to the aforesaid provisions of the Cadre Rules, be appointed to a cadre post, if the State Government is satisfied -

(i) that the vacancy is not likely to last for more than three months ; or

(ii) that there is no suitable cadre officer available for filling the vacancy.

Provided that where any such appointment is made in a State, the Government shall forthwith report to the Central Government together with the reasons for making the appointment.

Provided further that where administrative exigencies so require, such appointments may be continued in a cadre post beyond a period of three months with the prior concurrence of the Central Government.

7. That the Central Government had to direct the State Government to terminated the officiating appointment of the officers for the following reasons:-

(i) The provisions of the regulation 8 of the promotion Regulations had been violated because the officiating appointment was not as per the order of the Select List. It was observed that the Senior most officer in the select List had not been given any cadre post and the officers junior to him were holding cadre posts.

(ii) The State Government had posted some officers on cadre posts when the State Deputation Reserve was over-utilised, meaning thereby that the vacancies

✓

were artificially created in order to enable these officers to officiate on cadre posts.

(iii) The State Government did not send the requisite reports to the Central Government relating to cadre officiation of these officers, as required under rule 9 of the I.A.S. (Cadre) Rules.

8. That in terms of the judgement of the Supreme Court in the case of Shri G.N. Tiwari, an officer who had continuously officiated on a cadre post, prior to his appointment to the IAS is entitled to count that period for the purpose of determination of his seniority. In view of this, if all the recommended officers are appointed to the IAS by promotion, the result would have been that such junior officers who were officiating on cadre posts might have got higher seniority than the senior select listed officers who were not given any cadre posting. This would have

✓

resulted in an unintended benefit to the junior officers and also loss of seniority to the senior officers without any fault on their part.

9. That it was, therefore, considered necessary that the officiating appointment of such officers are terminated and thereafter they are appointed to the IAS so that their seniority is fixed in accordance with the orders of the select list.

The State Government were accordingly directed vide Government of India letter No.14015/35/86-AIS(I) dated 26.6.1987 to terminate the officiating appointment of the Select Listed Officers from the IAS Cadre posts immediately, in terms of rule 9(3) of the IAS(Cadre) Rules, 1954. The State Government issued orders on 20.7.1987 terminating the officiating appointment of 11 officers including the applicant with immediate effect. The applicant was appointed to the IAS by the Government of India vide notification no.14015/35/86-AIS(I) dated 22.7.1987.

10. That the contents of remaining paragraphs

of the application need no comments from the answering deponent.

11. That the grounds taken by the applicant are not tenable in the eyes of law.

12. That in view of the facts, reasons and circumstances stated above, the application filed by the applicant is liable to be dismissed with costs to the Respondents.

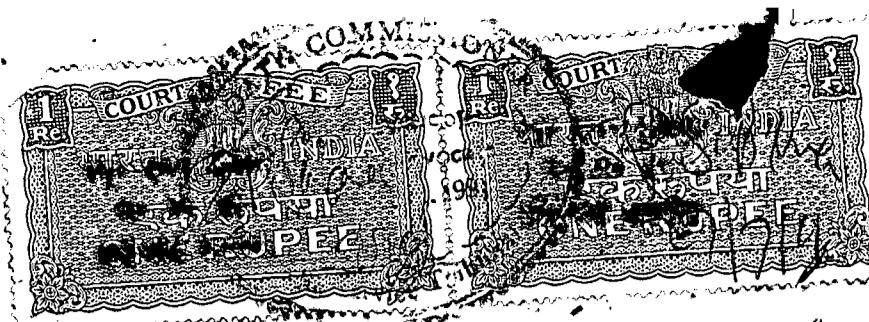
Signature
(एम० क० त्रेहन)
(M. K. TREHAN)
Deponent डेस्क अधिकारी
Desk Officer
आधिक और प्रशिक्षण विभाग
Dept. of Personnel & Training
भारत सरकार
Government of India

I, the above named deponent do hereby verify
that the contents of paragraphs 1 to 2
are true to my personal knowledge, those of paragraphs

3 to 7 and 9 to 12 are believed ~~to~~¹⁰ by me to be true
on the basis of records and information gathered
and those of paragraphs 8, 11 and 12 to
are also believed by me to be true on the basis of
legal advice. No part of this affidavit is false
and ~~to~~ nothing material facts has been concealed.

Signature
(एम० क० त्रेहन)
(M. K. TREHAN)
डेस्क अधिकारी
Desk Officer
आधिक और प्रशिक्षण विभाग
Dept. of Personnel & Training
भारत सरकार

Mr. (V.K. Trehan)
16/10/1989 (D)



In the Central Administrative Tribunal, Circuit Branch,

Lucknow,

O.A. No. 62/1989 (1)

Suraj Prakash Saksena-----Applicant

Versus

Union of India and others-----Opp. Parties.

Rejoinder Affidavit of the Applicant in reply to the

Counter reply of O. P. No. 1.

I, Suraj Prakash Saksena aged about 52 years, Son of Late Sri Madan Mohan Lal Saksena presently working on the post of Collector & District Magistrate Ghazipur do, hereby, solemnly affirm and state as under :-

- 1- That the deponent has read and understood the contents of the counter reply of O.P. No. 1 and is well conversant with the facts stated below:
- 2- That paras 1 to 4 of the counter reply need no reply.
- 3- That in reply to the Contents of Para 5 of the counter reply it is stated that though the applicant was temporarily appointed to officiate in the senior scale I.A.S. Cadre post with effect from August 3, 1985 under the provisions of rule 9 of the I.A.S. (Cadre) Rules 1953 but he continued on that post till the forenoon of July 22, 1987 and from the forenoon of July 21, 1987 itself he took over charge of the same Senior I.A.S. Cadre post on which he was temporarily appointed on August 3, 1985. There was, therefore, no break in his continuous officiation on the said senior Scale I.A.S. Cadre post followed by his regular appointment on the Senior Scale.

—2—



I.A.S. Cadre post with effect from 27.7.1987 in terms of Government of India notification No. 14015/35/86-AIS

(1) dated July 22, 1987 at Annexure IV of the original application. It is thus obvious that the directions issued by the Govt. of India in their letter No.14015/35/86-AIS

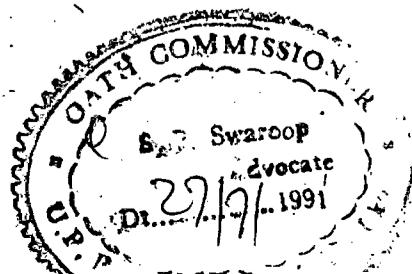
(1) dated 26.6.87 to the State Govt. were not implemented by them . The entire period of officiation of the applicant from August 3, 1985 to 21.7.87 will therefore count for fixation of his Seniority in the I.A.S. and year of allotment in that service according to rule

3 (3) (b) of the I.A.S. (Regulation of Seniority) rules, 1954. The applicant is accordingly entitled to be allotted in 1981 as his year of allotment in the I.A.S. and fixation of seniority in that service . The contentions of Respondent No. 1 to the contrary are therefore misconceived and are denied being without substance.

4- That in reply to para 6 of the counter reply 'it is none of the fault of the applicant that the state Govt. appointed him on a Senior Scale of the I.A.S. Cadre post in public interest while his seniors borne in the same select list were posted against Ex-Cadre Posts and for this lapse on the part of the State Govt., the applicant cannot be made to suffer nor he can be denied the benefits of Continuous officiation on the I.A.S. Senior scale Cadre post for assignment of year of allotment in the I.A.S. and consequent determination of Seniority in that Service as has been held by the Hon'ble Supreme Court of India in a Number of cases decided by them.

5- That in reply to the contents of para 7 of the counter reply it is again stated that the directions issued by the Govt. of India to the State Govt. to

-----3



Wahid

terminate the officiation of the applicant on the I.A.S. Senior Scale Cadre post could not be implemented and it was not proper on the part of the opposite parties to issue orders to cut short his actual officiation after about 2 years from the date he started officiating on that I.A.S. Cadre post to deprive the applicant of the benefits of his continuous officiation for assignment of his year of allotment and consequential determination of his Seniority in the I.A.S. In this connection the contents of paras 3 & 4 above may also kindly be perused.

6- That the Contents of Para 8 of the counter reply are not admitted as stated and the contents of paras 3 to 5 above are also relevant and may kindly be perused. In case any anomalous position has arisen due to the lapse of the State Govt. , and that position can be retrieved by the Central Govt., by exercising their powers under rule 3 of the All India Services (Conditions of Service Residuary Matters) rules 1960 to save such officers Senior to the applicant as were posted by the State Govt. on Ex-Cadre posts and their seniority in the I.A.S. is being adversely affected by over utilization of the deputation reserve and on account of their being posted on Ex-Cadre posts are for any other reason, and the applicant must get the benefit of long continuous officiation .

That the contents of para 9 of the counter reply it is stated that the highly directions issued by the Central Govt. to the State Govt. under 9 (3) of the I.A.S. (Cadre) rules 1954 could not be given effect to as would be clear from submission made in paras 3 to 5 above. There was , therefore, no break in continuous officiation of the applicant on the senior I.A.S. Cadre post .

8- That para 10 of the counter reply needs no reply.

9- That the contents of the paras 11 and 12 of the counter reply are wholly misconceived and are emphatically denied and it is asserted that the application deserves to be allowed with costs in view of the position stated in the foregoing paras.

Ghazipur / Luv

Wahin
Deponent

27.7.91

Verification

I, Suraj Prakash Saksena the deponent do hereby verify that the contents of para 1 to 4, 5 & 7 are true to my personal knowledge and those of para 6 & 9 there of true on the basis of legal advice and are believed by me to be true, no part of it is false. So help me God.

Ghazipur / Luv

Wahin
Deponent

27.7.91

I identify the deponent who has signed

before me .



Radhika Raman
Advocate.
Radhika Raman
Advocate, High Court and
Services Tribunals,
C-4 Sector - A - 1,
Mahanagar, LUCKNOW.

27/7/91

R.P.
R.P.
R.P.
R.P.

IN THE
BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW.

A 50

Registration No. 62/89 (L)

S. P. Saxena ----- Petitioner
VS.
Union of India & Others ----- Opp. Parties



Counteraffidavit/Written Statement
on behalf of Opp. Parties No. 2 & 3
State of U. P.

I, K. D. Tandon, aged about 57 years S/o
late Shri M. L. Tandon, Joint Secretary to U. P.
Government, Appointment Section, U. P. Civil
Secretariat, Lucknow, do hereby solemnly affirm and
state on oath as under :-

1. That the deponent is the opposite party no. 3
and has been authorised to file affidavit on behalf
of opposite party no 2.
2. That the deponent has read the petition and
understood the facts, a parawise reply is given hereunder:-
3. That the contents of paras 1 to 5 needs no
comments.
4. That the contents of paras 6(1) and 6(2) are
admitted.
5. That as regards paras 6(3), 6(4) and 6(5) it
is submitted that the name of the applicant was

W. B. Tandon

included in the select list of 1984 of State Civil Service Officers of UP for promotion to Sr. Scale of I.A.S. i.e. Rs. 1200-2000 w.e.f. 3.8.85 vide Government order/Notification No. 5532/II-1-85 dated 2.8.85 and 5990/2-1-4/1(15)/85 dated 5.9.85 respectively i.e. Annexure Ist and IInd of the petition under Rule 9 of I.A.S. (Cadre) Rules, 1954.

6. That the contents of para 6(6), 6(7) and 6(8)
as such are not admitted. The petitioner was promoted temporarily to the then Sr. Scale of I.A.S. of Rs. 1200-2000 vide Govt. orders/notification dated 2.8.85/5.9.85 respectively i.e. Annexures I & II of the petition under rule 9 of I.A.S. (Cadre) Rules, 1954 and was posted as Joint Secretary to Govt. U.P. Administrative Reforms Deptt., Lucknow. After the initial period of 3 months, the A. G. U. P., authorised the petitioner to draw his pay in the P. C. S. Scale as is evident from the A.G's pay slip Nos. G.E.6/3266(8) dated 10/85 and G.E.6/3266(8)/1990, dated 22.11.85 enclosed as Annexure I & II of the counter affidavit.

The provisions contained in sub-rules (1), (2) and (3) of Rule 9 of I.A.S. (Cadre) Rules, 1954 and instructions 2.1(b) under this Rule are as under :-

9. Temporary appointment of non-cadre officers to cadre posts - (1) A cadre post in a State may be filled by a person who is not a cadre officer if the State Government is satisfied -

(a) That the vacancy is not likely to last for more than three months, or
(b) that there is no suitable cadre officer available for filling the vacancy.

Provided that where a cadre post is filled by a non-



AS2

select list officer, or a select list officer who is not next in order in the select list, under this sub rule, the State Government shall forthwith report the fact to the Central Government together with the reasons therefor.

(2) Where in any State a person other than a cadre officer is appointed to a cadre post for a period exceeding three months, the State Government shall forthwith report the facts to the Central Government together with the reasons for making the appointment.



Provided that a non-select list officer, or a select list officer who is not next in order in the select list, shall be appointed to a cadre post only with the prior concurrence of the Central Government.

(3) On receipt of a report under sub-rule (2) or otherwise, the Central Government may direct that the State Government shall terminate the appointment of such person and appoint thereto a cadre officer, and where any direction is so issued, the State Government shall accordingly give effect thereto.

Government of India's instructions :

2.1. The Government of India have clarified the scope of rule 9 of the cadre rules as follows:-

XX

xx

xx

(b) Sub-rule (3) of the IAS/IPS (Cadre) Rules, 1954 is self contained and independent of the provisions contained in sub-rules (1), (2) and (4) of the said rule. Sub-rule (3) of rule 9 of the Cadre Rules empowers the Central Government to give directions to the State Government at any time to terminate the temporary

6.8.1944

✓

Appointment of a non-cadre officer to a cadre post, even without any report from the State Government whether the period is less than three months or more than six months. The words "or otherwise" occurring in sub-rule (3) of rule 9 of the cadre Rules are of great significance in this context and leave no scope for doubt.

Therefore, it was, in the knowledge of the applicant prior to 22.7.87 that he had been promoted temporarily, in the then Sr. Scale of I.A.S. of Rs. 1200-2000 and the Central Government could direct the State Government to terminate the temporary appointment of a person who is not a Cadre officer and where any direction is so issued, the State Government shall accordingly give effect thereto. The Government of India gave directions to the State Government to terminate the officiation of the applicant and other select list officers vide their letter No. 14015/35/86-AIS(I) dated 26.6.87 and, accordingly, orders terminating officiating appointments in the Sr. Scale of I.A.S. of such State Civil Officers including the petitioner and orders reverting them to the post admissible to them in their parent P.C.S. Cadre with immediate effect were issued vide State Government Order No. 7101/II-1-19(5)/85 dated 20.7.87 i.e. Annexure III to the petition. The applicant thereafter, was appointed by the Government of India to IAS on probation in terms of Rule 8 of I.A.S. (Recruitment) Rule 1954 read with sub-regulations (1) of regulation 9 of I.A.S. (Appointment by Promotion) Regulations, 1955 vide Government of India notification no. 14015/35/86-AIS(I) dated 22.7.87 i.e. Annexure IV to the petition and allocated to the cadre of UP under sub-rule (I) of



Left page

rule(5) of I.A.S. (Cadre) Rule 1954. It is, further submitted that there is no violation of Articles 311(2), 14 and 16 of the Constitution of India as alleged by the petitioner.

7. That as regards para 6(9) it is stated that the reversion of the applicant to his parent cadre and his subsequent appointment to I.A.S. on probation was made in accordance with the relevant rule. The averments made in this para so far relate to the rejection of the representation in cursory and summary manner are denied as wrong.

8. That the contents of paras 6(10), 6(11) and 6(12) are not admitted. The orders for reversion of the applicant to PCS cadre with immediate effect were issued vide State Government No. 7101/II-I-19/1 (5)/85 dated 20.7.87 i.e. Annexure No. III to the Petition in accordance with Government of India's instructions received under rule 9 of I.A.S. (Cadre) Rules 1954. The reversion of the applicant was, therefore, in accordance with the rules and, as such, the contentions of the applicant to the contrary that he officiated continuously on a Sr.I.A.S scale post till the date of his appointment to I.A.S. on probation is not tenable and the question of review of his case under the instructions of the Government of India contained in their letter no. 14014/37/86-IAS(I) dated 15.7.87 i.e. Annexure X of the petition does not arise.

9. That the impugned orders dated 20.7.87 i.e. Annexure No. III to the petition were issued under rule 9(3) of IAS (Cadre) Rules, 1954 and, therefore



W.H. Haider

A 55

none of the grounds taken by the petitioner in para 6(13) (a) to (d) are tenable in the eye of law. There is no force in the petition and the relief sought by the applicant are wholly unacceptable and, as such, the application deserves to be rejected out right with cost to respondents.

Lucknow: ✓
Dated: 4.5.89

Deponent

VERIFICATION

I, K. B. Tandon, the deponent named above, do hereby verify that the contents of paras 1 to 9 of the above affidavit are true to my own knowledge and basis of record. Nothing material has been concealed, so help me God.

Signed and verified on this 4th
day of May, 1989 at Lucknow.

Deponent

Lucknow: ✓
Dated: 4.5.89

Deponent

I identify the deponent who has signed before me.

Serial No. 3179
Swear ed by Smt. K. B. Tandon, Joint
Secretary to Govt. of U.P., Appt. & Sect. VD Sectt.
(who is identified by Smt. Krishna Kumar Jappi
Section Officer, Appt. & Sect. VD Sectt.
on the 4th May 1989
at 7.40 P.M. in case No. Regd. No. 62/89 (L)
of 1989 in the Central Trial Court
Lucknow Bench
Received a sum of Rs. 5/- only

अमरनाथ
4/5/89
1. हजार रुपये (१)
मनुभाव अधिकारी,
नियुक्ति तमाम १
वा १० सचिवालय, लखनऊ

Meera De
Oath Commissioner
& Section Officer
Judicial (Subordinate Courts) Section

the deponent has read the affidavit
and understands the contents thereof

Dated 4.5.1989

Meera De
4/5/89
Judicial (Subordinate Courts) Section

संस्कृता ६/ ३२६६(८)/

वेतनः अवकाशं तन् पर्वी ॥१२८॥ वाक्य संख्या ॥ ३३

जिनाक १९/८५

वर्द्धो ग्रसाद श्रीवास्तव
मुख्य लेखाकार
द्वारा: वेचस अनुभाग
२० संस्कारात्म्य, लखनऊ

OFFICE OF THE ACCOUNTANT GENERAL U.P.-I, ALLAHABAD
लखनऊ-२११००१ (पास दाखु नं-११३)

6/3256(8)/ 1990

Dated..... 3-11-19785

Sri

Sri Suraj Prakash Saxena IAS, U.P. Govt. Joint Secy. (Contd)
Chief Secy. Wing, Deptt. of Administrative Reform, Lucknow.

is entitled to draw pay/leave salary and allowances at the monthly rates shown below from the dates specified less the amounts already drawn by him and subject to usual deductions of Income Tax etc.

St. IAS Pcs

TOTAL

36481 37381 3911.50 4001.50 408330 4113.30 43301 411330 NIL ~~541001~~
~~Ref 8214 41012~~ ~~41012~~

John B. Gaedde

(बड़ी प्रसाद दी
मुख्य है
इरहा है)

ASP

In the Central Administrative Tribunal, Circuit Bench,
Lucknow.

Original Application No. 62 of 1989 (L)

Suraj Prakash Saksena Applicant

: Versus :

Union of India and others Opp. Parties.

Rejoinder of the Applicant in reply to the CA /WS
filed on behalf of OP Nos. 2 & 3.

1. That the Applicant has read and understood the contents of the Counter Affidavit filed on behalf of OP Nos. 2 and 3 and he is well acquainted with the facts ~~of~~ stated below.

2. That paras. 1 to 4 of the CA/WS need no reply.

3. That the contents of para.5 of CA/WS are vague and they do not represent the correct position. The contents of paras. 4(3), 4(4) and 4(5) of the original application are correct and are reasserted.

4. That the contents of para.6 of the CA/WS are not admitted as stated and the contents of paras.6(6), 6(7) and 6(8) of the original application are correct and are reiterated. It is also asserted that the issue of pay slip in question by the A.G., U.P. did not terminate ~~with~~ the actual officiation of the applicant in the IAS senior scale cadre post of Joint Secretary



Nathu

to Government in Administrative Reforms Department which post he actually and continuously held and performed the functions of that post till 22.7.1987 (forenoon) and from the forenoon of July 22, 1987 he was appointed to the IAS as would be evident from the charge certificate at Annexure VI and the Government of India, Ministry of Personnel P.G. & Pensions Notification No. 14015/35/86-AIS(I) dated July 22, 1987 at Annexure IV. In the circumstances, the effect of handing over charge on the forenoon of July 22, 1987 as per charge certificate at Annexure V became infructuous. There is, therefore, no break in the continuous officiation of the Applicant on the Senior Scale post of IAS Cadre. The applicant is, therefore, entitled to the benefit of continuous officiation on the Senior scale post of the IAS Cadre from August 3, 1985 to 22.7.1987 (forenoon) and he was appointed to the IAS with effect from the forenoon of 22.7.1987 for purposes of determination of his year of allotment and seniority in the IAS as would be evident from rule 3(3)(b) of IAS (Regulation of Seniority) Rules, 1954 read with Explanation 1 thereof.

Copy of the said Rule is given at Annexure R-1.

The provisions of rule 4 of the IAS (Cadre)

..... 3.

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Rules, 1954 and Government of India instructions, mentioned in para.6 of the ~~ICA~~, are ^{not} relevant in this case as the applicant should have been reverted to the post in the PCS Cadre after three months if he was not entitled to continue on the senior scale cadre post of the IAS. The orders reverting the Applicant to the post in the PCS Cadre after the applicant actually held the senior IAS & Cadre post for about two years is wholly arbitrary, illegal and unenforceable in the eye of law. In case the State Government posted an officer senior to the applicant and borne in the Select List of the IAS drawn up in the year 1954 on ex-cadre post or they exceeded the deputation reserve, it is none of the fault of the applicant who cannot be made to suffer for no fault of his.

4(1) It is also stated that when the applicant continuously officiated on the IAS Cadre post for about 2 years followed by ~~the~~ ^{his} his appointment to the IAS, he was under the impression that the State Government must have written to the Government of India to obtain their approval for the said ~~application~~ officiation on IAS cadre post. It is also asserted that the orders issued by the State Government for reverting the applicant from the IAS Cadre post was wholly arbitrary and it will be deemed to be penal without providing him an opportunity of hearing.

5. That the contents of para. 7 of the CA/WS are not ~~admissible~~ admitted and the contents of para. 6(9) of the original application are correct and are reiterated.

6. That the contents of para.8 of the CA/WS are not admitted and the contents of paras. 6(10), 6(11) and 6(12) are correct and are reiterated. It is also stated that if it was necessary to revert the Applicant from the IAS Cadre, he should have been reverted to the post in the PCS after three/six months from 3.8.1985 on which date he was posted to the IAS Cadre post. Such a belated reversion order which was also not implemented was wholly arbitrary, unfair and unjustified and is liable to be declared null and void.

7. That the contents of para.9 of the CA/WS are wholly misconceived and are denied and it is asserted that the grounds mentioned in para. 6(13) of the original application are correct and are legally tenable and the reliefs sought in the Original Application are liable to be allowed with costs.

Lucknow,

April 11/1990.

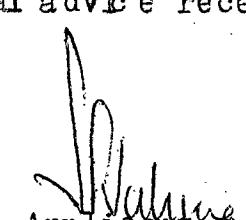

Applicant.

Verification

Verified that the contents of para.s 1 to 6 above are true to my personal knowledge, while those of para. 7 are based on legal advice received and believed to be true by me.

Lucknow,

April 11/1990.


Applicant.



A 62

In the Central Administrative Tribunal, Circuit Bench,
Lucknow.

Original Application No. 62 of 1989(L).

Suraj Prakash Saksena Applicant

: Versus :

Union of India & Others Opp. Parties.

Annexure R-1.

Extract of Rule 3(3)(b) of IAS (Regulation of Seniority)
Rules, 1954.

Rule 3(3) The year of allotment of an officer appointed
to the Service after the commencement of these rules,
shall be -

- (a)
- (b) where the officer is appointed to the
Service by promotion in accordance with
sub-rule (1) of rule 8 of the Recruitment
Rules, the year of allotment of the junior-
most among the officers recruited to the
Service in accordance with rule 7 of those
rules who officiated continuously in a senior
post from a date earlier than the date of
commencement of such officiation by the former:

Provided that the year of allotment of an officer
appointed to the Service in accordance with sub-rule
(1) of rule 8 of the Recruitment Rules who started
officiating continuously in a senior post from a date
earlier than the date on which any of the officer
recruited to the Service in accordance with rule 7
of these Rules so started officiating, shall be deter-
mined ad-hoc by the Central Government in consultation

Nahme

with State Government concerned :

Explanation 1. - In respect of an officer appointed to the Service by promotion in accordance with sub-rule (1) of rule 8 of the Recruitment Rules, the period of his continuous officiation in a senior post shall, for the purposes of determination of his seniority, count only from the date of the inclusion of his name in the Select List, or from the date of his officiating appointment to such senior post, whichever is later :

Subhramanyam



A 69

In the Central Administrative Tribunal, Circuit Bench,
Lucknow.

Original Application No. 62 of 1989 (L).



Suraj Prakash Saksena Applicant

: Versus :

Union of India & Others Opp. Parties.

Affidavit

I, Suraj Prakash Saksena, aged about 51 years, son of late Sri Madan Mohan Lal Saksena, presently working on the post of Joint Secretary to Government, U.P., Home (Police) Department, Lucknow, and residing at House No. A-339, Indira Nagar, Lucknow, do hereby solemnly affirm and state on oath as under :-

(1) That the Applicant above-named is the Applicant in the above-noted Original Application No. 62 of 1989 (L) and he is well acquainted with the facts deposed to below.

(2) That Annexure R-1 of the accompanying Rejoinder ~~Application~~ is the true copy of Rule 3(3)(b) of IAS (Regulation of Seniority) Rules, 1954.

(3) That the contents of paras. 1 to 6 of the accompanying Rejoinder ~~Application~~ are true to the personal knowledge of the Deponent and

Suraj Prakash Saksena

those of para.7 are based on legal advice received and are believed to be true by me.

Signed and verified on this the
11th day of April, 1990.

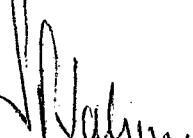
April 11th, 1990.


Nalini
Applicant-Deponent.

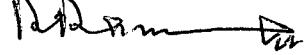
Verification

I, the above-named deponent, do hereby verify that the contents of paras. 1 to 3 of this Affidavit are true to my personal knowledge. ~~and~~ No part of it is false and nothing material has been concealed, so help me God.

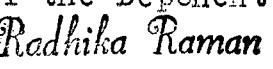
Lucknow,
April 11th, 1990.


Deponent.

I identify the above deponent who has signed before me.


(R. Raman),
Advocate.

Counsel for the Deponent.


Radhika Raman
Advocate, High Court and
Services Tribunals,
C - 4 Sector - A - 1,
Mahanagar, LUCKNOW.

ब्रह्मालतासा

In the Central Administrative Tribunal,
Circuit Bench, Lucknow

ब्रह्मालता श्रीमान

O.A. No. 62 of 1989 (L)

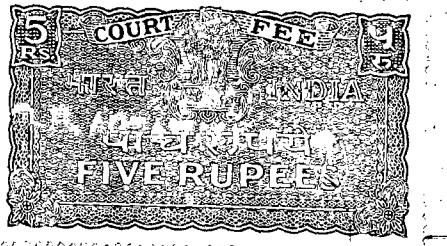
Sri S.P. Sodepur

Applicant
Gop. Parker

Union of India vs

वाद संघर्ष

तियड़ तिथि



वादी-ब्राह्मालता प्रधान-कर्तियोगी

दिशद्वा

वाद संघर्ष

प्रतिवादी उत्तरदाता विवाही-जमिसूत

वाद दा. 1 कार्य

व Sri Radhika Ramam, Advocate, & R.S. Sardas, Advocate

C-4, Sector 4, M.C.D., New Delhi

Miss S. K. N. Mukherjee

Mukherjee

मुकदमा मुन्दरी

का मिज्जानिव अपने वही न मुदर्दर करके हव इकरार कि ब्रह्मालता सूक्ष्म वज्राल दुष्ट द्वाहां दंजरिशि
मिसी दूसरे बकील अदालत 5 जिनक मिज्जानिव अने बकील ब्रौतुक मुकदमा हावा चुपुर्व करके जी
दावा व्यान कहरीर व जवाहल जवाब या कोई द रुबात किपी कि म गुआरने या जो बुलवर्वी या
जवाबदेही तहरीर तहरीर या राजीनामा या कोई तन प्रमाट दस्तावेज पेश कर या थाईस ले तोई तकल
तखल हसिल करे या राजीनामा उरे मुन्हमिर इलैंह मुकरी या जरे डिग्री में खर्नी छो इनरे अवानत
किपी किस्थ का अद्वित किया हुआ हकारा फरीकननी । मिज्जानिव हमारे व रिये गोद दस्तखत
अपने के वजरए अदालत या किपी दीगर तौर पर वसूल करेवा दोई किपी मुलिवा की मिज्जानिव
द्वामादे दाविल करे तो कायंवाही बल्ली हो अमल में लावे यह सब ए लला । कि मिल दर्दी खदाल
दारने के हमको कबूल ए मन्जूर हैं । और होया बैसूरत अदम अदावि मेहताना वदोल भाहद मुकदम को
पैसो के जिमेदान न देंगे ।

वहां चब्बलमात बतौर बकालत लिख दिये कि सदृश रहे वक्त जहां त दाय दें ।

Accepted

Radhika Ramam Accepted Pleader
Advocate, High Court, Allahabad, etc.
Services Tribunals, etc.
C-4 Sector - A - 1,
Mahanagar, LUCKNOW.

In the Hon'ble Central Administrative Tribunal

Circuit Bench Lucknow

O.A.No. 62 of 1989 (L)

A67

Suraj Prakash Saxena

..... Applicant

Versus

Union of India and others

..... Respondents

WRITTEN STATEMENT

(On behalf of Respondent no.7-Sri K.P.Singh)

That the respondent no.7 has been impleaded as a party in the abovenoted application under section 19 of the Administrative Tribunal Act, 1985 and as such in so far as his seniority since already determined by the Union of India has become liable to adjudication by way of instant application, it is incumbent upon the respondent aforementioned not only to defend his case but also to highlight the same with a view to proper adjudication.

2. That the respondent no.7 was appointed, as an Assistant Town Planner in the Town and Country Planning Department of the Government of Uttar Pradesh on 9.1.1961, and on the post of Town Planner on 22.1.1964, on a regular basis in the scales of pay meant for Class-II and Class-I - P.C.S. and other officers respectively.
3. That the said respondent was promoted to the post of Senior Planner on 22.9.1975 on a regular basis with the approval of the Commission in the Selection Grade meant for PCS and other officers.
4. That the above posts covered by the Selection Grade are always

termed senior posts and considered in the context of administrative, financial and other responsibilities attached to such posts, the experience gained on the senior post aforementioned are always reckoned for determination of seniority.

5. That the respondent continued on the post of Senior Planner till 2.6.1986 when he was posted as Joint Secretary to Government, Uttar Pradesh, Housing and Urban Development Department and he has been continuing on that post from 2.6.86 till now.

6. That the respondent was selected and joined the Indian Administrative Service on 29.4.1987. As far as he is aware, the post of Joint Secretary held by him prior to his appointment in IAS and thereafter till now, is the same and nevertheless it continues to be a senior post in the cadre.

7. That para 6 of the Application under consideration of this Hon'ble Tribunal bears the facts of the case of the Applicant. The applicant has challenged his reversion but he has nowhere challenged the seniority of respondent no.7. The applicant has sought the relief of order or direction setting aside the order of reversion, to treat the applicant on IAS cadre post from 3.8.85 and count his seniority from that date.

8. That it is in the context of the contentions, averments, assertions and allegations mentioned above, the respondent has to explain his position vis-a-vis the applicant and admit, controvert or justify his year of allotment of 1981 as against the applicant having been allotted 1982 in consideration of his services having commenced in IAS against the cadre post from 22.7.1987.

9. That as is evident from the application by its number, it was filed before this Hon'ble Tribunal sometimes in 1989 and having been heard on 12.4.1990, notices have now been issued to the respondents since newly added and impleaded. However, the matter of seniority came up for detailed discussion before the Hon'ble Supreme Court again and in the Direct Recruits Class-II Engineering Officers' Association and others Vs. State of Maharashtra and others, a number of principles have since been enunciated in the judgement delivered on 2.5.1990.

10. That it will be seen that the points raised in the application under reference stand replied to a greater extent by the Hon'ble Supreme Court decision cited above. Furthermore it is also worth consideration that the 'Year of Allotment' is always determined having regard to the deemed continuous officiation in a senior post bearing genesis on that date from which the incumbent continues to hold without any break or reversion a senior post otherwise than as a purely temporary and local arrangement. In the respondent's case, however, his appointment to the post of senior planner was always on a regular basis duly approved by the U.P. Public Service Commission and it can in no case be termed ad hoc, purely temporary or a local arrangement.

11. That in reply to the facts stated in para 6 of the application, it is stated that the applicant was promoted to officiate, in the IAS senior scale of 1200-2000 under the IAS (Cadre) Rules, on the post held by him. However, as per notification dated 5.9.85, the applicant was appointed by promotion on the said post on an ad hoc basis. The order dated 20.7.87 makes it explicit that the

appointment of the applicant by way of promotion was simply officiating and a stop gap arrangement which could not be declared regular for certain reasons. The applicant was reverted and given a fresh appointment on a regular basis. This becomes evident from the Govt. of India G.O. dated 15.7.87, a copy whereof is filed as annexure-X to the application.

In view of the foregoing submissions, the case of the applicant is not fit for being considered for revision of his year of allotment and refixation of seniority because of his being a non-cadre officer having officiated against a senior IAS cadre post in purely stop gap arrangement, and hence the application under reply is liable to be summarily rejected.

(K.P. SINGH)

Verification

I, K.P.Singh-respondent no.7 do hereby verify that the contents of paras 1 to 6 of this written statement are true to my personal knowledge, para 7 is based on record and paras 8 to 11 are based on legal advice, which are believed by me to be true. Signed and verified this day of July, 1990.

(K.P. SINGH)

A72

In the Central Administrative Tribunal, Circuit Bench,
Lucknow.

Original Application No. 62 of 1989 (L).

Suraj Prasad Saksena Applicant
: Versus :
Union of India & Others Opp. Parties.

Application for amending the Original Application

The above-named applicant most respectfully
states as under :-

(1) That Sri Radhika Raman, Advocate, whom the
Applicant has engaged as his Counsel in this case
in place of Sri K.M.N. Chak, Advocate, has advised
that it is necessary to amend the Original Application
by impleading atleast some of the officers who figure
above the Applicant in the Gradation List of Indian
Administrative Officer Service, Uttar Pradesh Cadre,
as corrected upto January 1, 1990.

(2) That 33 Officers of the IAS (U.P. Cadre)
figure above the Applicant in the current Gradation
List and these officers will be adversely affected
if the relief sought in the Original Application
is allowed.

(3) That it is necessary in the interest of
justice that the following officers be impleaded
as Opposite Parties in this Application :

Sl. No.	Serial no. of Gradation List	Name of Officer	IAS(SCS), Present posting	1	2	3	4	5
1.	386	Sri Suresh Chandra Rastogi	Promoted Magist from PCS & Coll of 1982 -tor, Faizab					

Wahing

2. 366 Sri Sanjeev Naiyyar IAS(RR) Joint Secretary
1982 to Mukhya
Mantri Ji, U.P.
Lucknow.

3. 356 Sri Brij Bhushan Promoted Addl. Resident
Chaturvedi from Commissioner,
PCS-1981 Govt. of India
New Delhi.

4. 165 Sri K.P. Singh Appointed Joint Secretary
by Special Uttar Pradesh
Section Awas Evam
Year of Vikash Vibhag,
allotment Lucknow.
1981

(4) That is necessary that the said four officers may be given an opportunity to file objection, if any, to the fixation of seniority and year of allotment of the applicant as claimed for in the Original Application.

xxx

P R A Y E R.

Wherefore, it is most respectfully prayed that this Hon'ble Tribunal be pleased to allow the amendment of the Application as mentioned above.

Dated : Lucknow,
April , 1990.

Naresh
APPLICANT.

Verification

I, the above-named applicant, do hereby verify that the contents of paras. 1 to 4 of the above application are true to my personal knowledge. No part of it is false and nothing material has been concealed.

Dated : Lucknow,
April , 1990.

Naresh
Applicant.

I identify the above applicant
who has signed before me.

Raman
(Radhika Raman),
Advocate,

Radhika Raman Counsel for the Applicant.
Advocate, High Court and
Services Tribunals,
C - 4 Sector - A - 1,
Mahanagar, LUCKNOW.