

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Lucknow-BENCH
Lucknow

1989
143 OF 1989
CAUSE TITLE O.A. (L)
T.A. (T)

Name of parties Smt. K K. Srivastava.....Applicant's.

VERSUS
Union of India.....Respondents.

N.R.Ly

Sl. No.	Particular of Documents	No. of page
<u>Part - A</u>		
1	Check list.....	A1 to A2
2	Order Sheet.....	A3 to A6
3	Final Judgment Dated..... 6/9/91	A7 to A11
4	Petition copy with power.....	A12 to A25
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①	Power A/69	
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checked
for
16/6/91

B 69 to B 122

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

Recd & checked
06/7/12
by [Signature]

50(5)

Part - C

C 123 to C 1

Recd & checked
24/1/94

10/7/89

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Seniority

Registration No. 113 of 1989 (L)

APPLICANT(S)

Prem Narain Srivastva

RESPONDENT(S)

U.O.G & others (C.M.Rly)

Particulars to be examinedEndorsement as to result of examination

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

Y

Y

Y

Two Sets

Y

Y

Y

Y

Y

Y

Y

Y

Y

Y

No

U.C.O. Bank D.D. for Rs.

dt. 25.4.89

Particulars to be ExaminedEndorsement as to result of examination

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

12. Are extra copies of the application with Annexures filed ?
 a) Identical with the Original ? *Y*
 b) Defective ? *Y*
 c) Wanting in Annexures *—*
 Nos. pages Nos ?

13. Have the file size envelopes bearing full addresses of the respondents been filed ? *No*

14. Are the given address the registered address ? *Y*

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

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

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

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

19. Whether all the remedies have been exhausted. *Y*

dinesh/

May be listed before

Count on 10/7/89

D.D.Dubey

15/6/89

S.O.(J)

O.A.143/89(L)

A3

①

10.7.89

Hon. D.K. Agrawal - J.M.

No sitting of Division Bench.

Fixed 31.8.89 for admission.

D
J.M.

Case is submitted
for admission

28/8

h/s

31/8/89.

Hon. Justice K. Nath, V.C.

On the request of the learned
Counsel for the applicant the
Case is adjourned to 13/9/89.

J.W.

V.C.

18/8

18-9-89

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

Heard Mr. S.P. Sinha counsel for the applicant.

ADMIT.

Issue notice to respondents to file counter
affidavit within 6 weeks to which the applicant
may file rejoinder, if any, within 2 weeks
thereafter.

List this case on 28-11-89 for orders/final hearing
as the case may be.

J.M.

rrm/

28-11-89

No Sittery Ady. to 2-3-90
Counsel for applicant is
present -

28/11/89

OR

NOTICES ISSUED
TO OPPOSITE
PARTIES

L
11/11/89

~~been~~ filed within the stipulated period, the Opp. Ps. will forfeit the right to file the same. In case Counter is filed, rejoinder, if any, may be filed within, 2 weeks, thereafter.

List it for Leaving on

28/6/90.

(P.M.)

(D.L.)

A.M.

P.M.

28/6/90

Hon. Mr. Justice K. Nath V.C.

OR

Hon. Mr. K. Obayya A.M.

No ca filed.

Case is submitted

for ex-parte hearing as
per court's order dt. 10.6.90

25/6

Shri S. P. Sinha is present for the petitioner and says

that the petitioner died on

14th of June, 1990. Application for substitution may be awaited. The case may be put up for further order on 30-8-90.

(A.M.)

(P.M.)

V.C.

30.6.90 Hon'ble V.C. Agrawal J.Y.
K. Obayya A.M.

MP 404/90 filed today

W.M.

OR

SG.P. 402/90 (A) filed

by the HC for the applicant for substitution
duly served on the O.P.

S. F.O.

29/6

Sri S. P. Sinha for the applicant and
Sri B. K. Shukla for the respondents.
The petitioner namely Prem Narayan
Sinha died during the pendency
of the writ petition. Therefore, the
appn. No. 402/90 has been moved by the
heirs of the petitioner for substitution.

No objection is filed against the substitution
application. Therefore, Writ. Appn. No. 402/90
is allowed. Let petition be amended within one
week hereof.

C.A. has already been filed. Let it be filed within
two weeks hereof. Listed for leaving on 16.11.90.

(A.M.)

(J.M.)

15.7.91

Hon. Mr. Kausel Kesar - V.C
 Hon Mr. T. K. Agarwal. J.M.

Counsel for the both parties
 are present. On the request of Sir
 S.P. Singh Counsel for applicant case
 it adjourned to 5.8.91 for hearing.

De

Kausel

J.M.

V.C.

2

5-8-91 Hon Mr Justice O. G. Siroslam, V.C
 Hon Mr T. Agarwal, J.M.

Arguments heard,
 Judgment reserved.

b

A.M.

V.C.

Recd copy

Indgement

S. S. Singh

Adv for

Applicant auth

17/9/81

Recd. Copy of the
 Judgment
 S. S. Singh
 17.9.91

AB

20.12.91

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

Prelip. on 4.2.92

L

4.2.92

No setting off to 10.3.92

VC

OR

M.P. 809/91 Law
 been filed for
 clarification of
 para 6 of the
 judgment.

8/20

L
9.7

26.4.92

No setting of D.B. off to
11.8.92

d

11.5.92

No setting off to 13.7.92

L

Dated: 13.7.1992.

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

Hon'ble Mr. Kox. Obayya, Member (A)

This is an application for clarification of para 6 of the judgement & order dated 6.9.1991 despite the facts that requires no ~~objection~~ clarification. Hence, this application has been unnecessarily filed and does not create any ground.

The application is accordingly rejected.

A.M.

V.C.

(RKA)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

Original Application No. 143/89

Smt. Kamlesh Kumar, widow of
Late Prem Narain Srivastava &
others

Applicants

versus

Union of India & others

Respondents.

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

Hon. Mr. K. Obayya, Admn. Member.

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

The applicant, now deceased and now represented by his four legal representatives, filed this application praying that he may be promoted in the higher grade of Rs 2000-3200 from the date his juniors i.e. respondent Nos. 5/6 have been promoted and paid difference of pay from the date of promotion of respondent 5/6 in the grade of Rs 2000-3200 and seniority of Stenographers be combined for further avenue of promotion as being done on other railways.

2. The applicant would have retired by this time from the service. Undisputed position appears to be that in the Northern Railway, the Seniority of Stenographers working in the accounts and executive unit are separate. The proximate cause of the applicant for approaching the Tribunal was that the applicant who worked for 1½ years in the office of District Controller of Stores, Alambagh, Lucknow and when, had few months only to retire,

was transferred to Northern Railway in the accounts section, New Delhi, for which he expressed his inability to join and stated that he belonged to executive branch and he would be transferred on the said post which carried higher pay scale. It appears that the seniority of Stenographers working in Extra Divisional Office, i.e. Stores Depot, Loco Workshop, Carriage and Wagon Workshop, Alambagh, Lucknow and Workshop Electrical Engineer was combined for further promotions vide G.M.'s letter dated 8.7.51.

3. In the year 1958 the applicant was posted at Delhi temporarily. The applicant's grievance is that he being senior to respondent Nos. 5 to 8, who were appointed as Typist in the grade of Rs 950-1500 in the Extra Divisional Office while the applicant was appointed in the grade of Rs 1200-2040 and they have been promoted to the grade of Rs 2000-3200 while the applicant was not promoted and he was shifted to the Accounts side, though he had his lien on the executive side. He had been requesting that he did not belong to the accounts side and such requests had been accepted and he had given the instance of one Raj Kumar, ^{who} was taken on executive side without losing his seniority and he got promotions in executive side. This averment made by the applicant, has not been refuted by the respondents in their counter reply. According to the applicant he, having qualified in all the selections, he was entitled to grade of Rs 2000-3200. In the year 1965, the petitioner was again transferred to Lucknow in Accounts side and then he could learn that the respondents have been promoted. The applicant

made representation in respect of the same but his representation was not allowed and he was transferred to Delhi on the accounts side in the grade of Rs 2000-3200 only a few months before his retirement, which he did not accept in these circumstances as he claimed right in executive side where he had a lien.

4. The respondents have resisted the claim of the applicant stating that the applicant was posted in the Accounts unit, as a result of administrative decision, though the averment made by the applicant is that no option was taken from him and no consent was taken for being shifted to accounts side and it has been further stated that the applicant was holding a lien in accounts unit, as such he cannot be transferred to any other unit and in this unit (accounts) he was sent as he was rendered surplus from DCO/AMV but the averments made by the applicant is that juniors to him ~~xxxx~~ should have been directed to report to G.M., Northern Railway, New Delhi, when the applicant was directed to report, have not been refuted and a very evasive reply has been given.

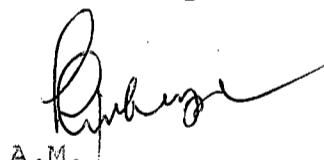
5. In the rejoinder, it has been stated that the applicant's claim from the beginning has been that the applicant was appointed against a permanent vacancy, though it was initially a temporary appointment, appears to be correct. The applicant has claimed the benefit of working 18 months continuously in the control of District Controller of Stores vide decision of the

Railway Administration dated 3.3.72. From the facts stated above, it is thus, clear that the applicant was sent to the accounts side and ~~xxx~~ belonged to the executive side. The applicant's grievance is that as a matter of fact it is the juniors who should have been declared surplus. The applicant stands uncontested. The instance which has been given by the applicant ~~Shri Raj Kumar~~ i.e. of ~~Shri Raj Kumar~~ indicates that the posts were interchangeable. The applicant belonged to the executive side. If he was sent to the accounts side where avenues of promotion were much less; where the persons junior to him got higher promotion on that side, is fully supported by the documents on record. As a matter of fact it is the junior most who should have been declared surplus and that it is interchangeable and the applicant has been claiming that he belonged to executive side and promoted to executive side in preference to his juniors. The administration's decision should not be arbitrary and should not make such classification which is not permissible. Accordingly, the plea raised by the applicant that he has not been given fair promotion is not without merit. The respondents did not consider the position of the applicant in due perspective and wrongly treated him that he had his lien on the accounts side without placing any material on the record, have banked upon their entire claim ~~with~~ which does not support the pleas which are on record. In this case a direction could have been given to the respondents not to discriminate the applicant regarding interchangeability but it will be expedient, in view of the facts

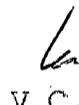
AI

of the case that an opportunity be given to the Department to consider the matter.

6. Accordingly, we direct the respondents that in Kumar case Shri Raj has been transferred to executive side the applicant shall also be given the benefit of the same and in case some of juniors/have been promoted, to applicant obviously, the applicant shall also be given promotion with effect from that date his juniors in the executive side, unless legally he was not holding lien on the accounts side and in case he is found entitled for the same benefit, which may be made, may now be notionally given but the pensionary benefits will be given to the applicant taking into consideration ^{whether} that last pay drawn would not be less than that of his juniors ⁶ the decision. Let a decision be taken within three months from the date of communication of this order by the relevant authority. The application stands disposed of finally in these terms.



A.M.



V.C.

Lucknow Dated: 6/9/91.

OA No - 143/09(C)

Date 15.6.88

Circuit Bench

Date 15.6.88

15.6.88

Before the Central Administrative Tribunal, Allahabad,
Circuit Bench at Lucknow.

Dec. 1988

Prem Narain Srivastava Applicant/Petitioner. AV

Versus.

Union of India and others Respondents.

Index.

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<u>Compilation No.1.</u>			
1.	Petition	1 to 11	
2.	Letter No. 80-ADM/C/5/17 dated 22.12.81.	11 A	
<u>Compilation No.2.</u>			
3.	Panel of stenographers issued by the Railway Service Commission, Allahabad.	12 to 12A	1
4.	Offer letter for appointment as stenographer issued by D.C.O.S., N.Rly., Alambagh, Lucknow.	13 to 13A	2.
5.	Photostat copy of G.M.(P)/ NDLS letter No.939-E/22 (Eiid) dated 12.4.57 to continue in the office of DCOS/Alambagh.	14	3.
6.	Photostat copy of application dated 12.1.57 from Sh. Prem Narain Srivastava.	15	4/I
7.	Photostat copy of application of Sh. P.N. Srivastava dated 5.12.57.	16 to 17	4/II
8.	Photostat copy of WM/Loco/CB-LKO to DCOS/LKO.	18	5
9.	Photostat copy of G.M.(P)/NDLS letter No.752-E/53-II (Eiid) dated 8.7.1957.	19	6
10.	Photostat copy of letter No.80-ADM/C/5/17 dated 22.12.81.	20	7
11.	Photostat copy of representation dated 4.1.82.	21 to 22	8
12.	Photostat copy of Reminder dated 17.10.88 to the application dated 4.1.88.	23	9

26/6/88
Signature of Counsel
for the Petitioner.

(X) Filed on 15.6.89
List before court on 10/7/89

In the Central Administrative Tribunal Allahabad
Circuit Bench at Lucknow.

Central Administrative Tribunal

Circuit Bench, Lucknow

1. Shri Krishna Kumar Srivastava widow of Late Prem Narain Srivastava, son of Late P. N. Srivastava, Date of Birth 14.3.1919 (I) Date of Filing 15.6.89 Date of Receipt by Post 15.6.89 / M/o LD-115 B Rose Marg, Alambagh 2. Shri Sudhir Kumar Srivastava, son of Late Shri H. N. Srivastava, resident of Rly. Qr. No. LD-115 B, Rose Marg, Alambagh, Lucknow Petitioner.

Substituted vide order
dated 30.9.90. Versus.

1) Union of India through the General Manager, Northern Railway, Headquarters Office, Baroda House, New Delhi.

2) General Manager (Personnel)/Chief Personnel Officer, Northern Railway, Headquarters Office, Baroda House, New Delhi.

3) Financial Adviser & Chief Accounts Officer (Administration), Northern Railway, Headquarters Office, Baroda House, New Delhi.

4) Senior Divisional Accounts Officer, Northern Railway, Divisional Railway Manager's Office, Hazratganj, Lucknow.

5) Shri K.K. Chetwani, Confidential Assistant to Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.

6) Shri R.K. Kain, Confidential Assistant to Chief Medical Officer, Northern Railway, Indoor Hospital, Hazratganj, Lucknow.

7) Shri Mohan Lal Srivastava, Confidential Assistant to Additional Divisional Railway Manager (I), Northern Railway, Hazratganj, Lucknow.

8) Shri Shyam Kishore Srivastava, Confidential Assistant to Additional Divisional Railway Manager/II, Northern Railway, Hazratganj, Lucknow Respondents.

.....

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

Order No.940-E/95 (Eiid) dated 17.12.81 of General Manager (Personnel) conveyed vide F.A. & C.A.O./Administration's letter No.80 ADM/C/5/17 dated 22.12.81 for not giving due seniority on executive side (photostat copy enclosed as Annexure 3).

2. Jurisdiction of the Tribunal :

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

Contd....2

W. Baroda

AM

3. Limitation :

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

4. Facts of the case :

4.1. That the petitioner was selected by the Railway Service Commission, Allahabad for the post of Stenographer for appointment in Lucknow, Moradabad and Allahabad Divisions/Region. The name of the applicant was at S.L. No.7 of the panel. On receipt of the advice from the General Manager (P) Northern Railway, New Delhi vide letter No.220-E/32-III(Eiid) dated 31.3.1956, the Distt. Controller of Stores, now Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow, had issued offer letter No.20-E/Pt.XI dated 21.6.56 (At Annexure 2), for appointment as stenographer in scale Rs.80-220 (now Rs.1200-2040). The petitioner had accepted the offer of the said post and was appointed as stenographer in scale Rs.80-220 on 30.6.56 in the office of the Distt. Controller of Stores, Northern Railway, Lucknow.

4.2. That Sh. H.N.Misra, stenographer was working in R.D.S.O./LKO was reverted due to disciplinary measure on punishment from R.D.S.O., Lucknow and was posted under the Control of Distt. Controller of Stores, Northern Railway, Alambagh, Lucknow. On receipt of information from R.D.S.O, for the reversion of Shri H.N. Misra, the then Distt. Controller of Stores, Alambagh, Lucknow, intimated the position to General Manager (Personnel) and requested him to post the petitioner in any offices of Lucknow as there was only one post of stenographer in Distt. Controller of Stores, Alambagh, Lucknow. The G.M.(P) replied that the question of posting the applicant will arise only when he is declared surplus from D.C.O.S., Northern Railway, Lucknow office (photostat copy enclosed as Annexure 3).

4.3. That the petitioner also requested vide his application dated 12.1.57 to G.M.(P), N.Rly., New Delhi to post him in any offices at Lucknow as juniors to him were working at Lucknow but no reply was received (photostat copy enclosed as Annexure 4^{I & II}

W. Radura

4.4. That the petitioner was spared from the office of the Distt: Controller of Stores, Northern Railway, Alambagh, Lucknow and was directed to report to G.M.(P) Northern Railway, New Delhi, for further posting, after putting 1½ years service in the office of District Controller of Stores, Alambagh, Lucknow, although juniors to him were not spared to report to G.M.(P), Northern Railway, New Delhi.

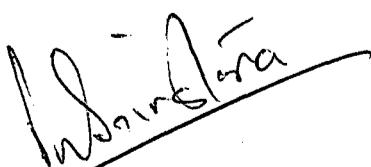
4.5 That the seniority of stenographers working in extra-divisional offices, i.e. Stores Depot, Loco Workshop & Carriage & Wagon workshop Alambagh & Workshop Electrical Engineer Lucknow was combined for further promotion vide G.M.(P)'s letter No.750-E/53-II (Eiid) dated 8.7.57 and dated (Photostat copy enclosed as Annexure 5 & 6). Thus the junior most stenographer should have been declared surplus and directed to report to G.M.(P) for further posting.

4.6 That the G.M.(P)/NDLS posted the petitioner under the control of Financial Adviser & Chief Accounts Officer, Northern Railway, New Delhi vide letter No.940-E/95(Eiid) dated 2.1.58 as temporary measure. The petitioner was given assurance that he will be posted back in executive side at Lucknow shortly.

4.7 That the promotions of the stenographer from initial grade (Rs.80-220/1200-2040) are as under :-

(i) Grade Rs.80-220/1200-2040	- posted with Asstt: grade officers.
(ii) Grade Rs.1400-2300	- with Sr. scale officers.
(iii) Grade Rs.1600-2660	- with Jr. Administrative officer.
(iv) Grade Rs.2000-3200	- with Head of the Department.

4.8 That the promotions are made by virtue of seniority and selection. The petitioner is senior to Respondents Nos. 5 to 8 by virtue of date of appointment and selections and is also empanelled for promotion to higher grade Rs.2000-3200.



Contd..4.

4.9 That the posts of higher grades in Accounts Branch are very few and are centralised in Headquarters Office, Northern Railway, New Delhi. So the petitioner had been requesting G.M.(P), N.Rly., New Delhi for his posting in executive side (non-accounts) as he originally belonged to executive side but his request had not been acceded to.

4.10. That Shri Raj Kumar, the then stenographer to F.A. & C.A.O., Northern Railway, New Delhi, Accounts hand, was taken on executive side without losing his seniority and he got promotions in executive side and has retired from there as senior scale officer.

4.11. That the seniority of stenographers of executive & Accounts, Northern Railway, is separate in Northern Railway only while it is combined in N.E. Railway and other Indian Railways. It should be combined in Northern Railway too as stenographers who are working in Accounts Branch would never get promotion in grade Rs.2000-3200 at Lucknow or in other Divisional or extra-divisional offices at different places.

4.12. That the respondents Nos. 5 to 8 were appointed as typist in grade Rs.950-1500 in extra-divisional office of Lucknow while the petitioner was appointed as stenographer in grade Rs.1200-2040 in that Unit have been promoted in scale Rs.2000-3200 in executive side .

4.13. That the avenue of promotions of the typists are two sided- one as Sr. typist and other as stenographer, and if typists qualify the test of stenography - they are posted as stenographers. The respondents Nos. 5 to 8 were originally appointed as typists and were subsequently promoted as stenographers in Rs.1200-2040 and they were junior to the applicant one grade below.

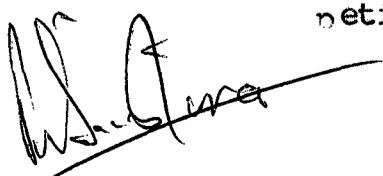
4.14. That the petitioner is entitled to get his promotion against the posts occupied by the Respondent No.5 & 6 by virtue of applicant's seniority and appointment made initially in executive side.



Contd...5

(A)

- 4.15. That the petitioner is still holding his lien in executive side, as he never received any communication for suspension of his lien from executive side. Thus he is entitled for promotion on the basis of seniority of stenographers maintained in the office of Divisional Railway Manager, N.Rly., Lucknow.
- 4.16. That the petitioner has qualified all the selections for promotions and is also selected for promotion to higher grade Rs.2000-3200, but due to non-availability of post in Accounts at Lucknow could not be promoted as stenographer in grade Rs.2000-3200.
- 4.17. That the Respondent Nos. 5 to 8 who are juniors to the petitioner have been promoted in higher grade Rs.2000-3200 whereas the petitioner is still working in grade Rs.1600-2660 under the control of Senior Divisional Accounts Officer, D.R.M.'s office, Northern Railway, Lucknow.
- 4.18. That the seniority of stenographers working under the control of Divisional Railway Manager, Northern Railway, Lucknow and other extra-divisional offices at Lucknow is combined for promotion to grade Rs.2000-3200 excepting the stenographers of Accounts Branch working in Lucknow.
- 4.19. That the respondent Nos. 5 to 8 were working in extra-divisional unit where the petitioner was also working and were very junior to the petitioner, but have been promoted in grade Rs.2000-3200.
- 4.20. That in 1965 the petitioner was again transferred to Lucknow in Accounts side and it was revealed that respondents Nos. 5 & 6 have been promoted in scale Rs.2000-3200 and posted with the officers of the grade of Head of Department in Lucknow though they were junior to the petitioner. There is no post of Head of Department at Lucknow in Accounts, thus the petitioner could not be promoted in grade Rs.2000-3200.
- 4.21. That the petitioner made representations for his posting in executive side at Lucknow because the petitioner is holding his lien in executive side at Lucknow, but authority competent to transfer the petitioner i.e. G.M.(P), N.R., New Delhi has not taken



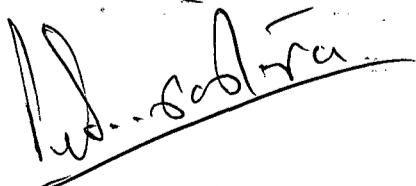
Contd...6

proper action and turned down the request of the petitioner vide letter dated 17.12.81 (photostat copy enclosed as Annexure 7).

4.22. That the stenographer, as per yardstick, is posted in higher grade Rs.2000-3200 with Head of Department and there being no post of Head of Department in Accounts Branch at Lucknow, the petitioner could not be promoted while there are 5 posts of H.O.D. in executive side i.e. D.R.M./LKO, ADRM (I)/LKO, ADRM(II)/LKO, CMS/LKO & CWM/LKO and juniors to the petitioner have been promoted at Lucknow with these officers.

4.23. That there are three posts of stenographers in grade Rs.2000-3200, in Accounts Branch Headquarters Office, New Delhi, the petitioner was promoted against one of them at New Delhi, but the petitioner is not in a position to proceed on transfer to Hd. Qrs. Office, New Delhi. He is due to be retired in 7/1990 and has to be settled at Lucknow. He has built his house in Lucknow by taking loan from Railway Administration which is being deducted from his salary every month. Children of the petitioner are also getting education at Lucknow and if he proceeds to New Delhi, education of his children will be disturbed as the syllabus of the U.P. State and Delhi State are different. Besides the petitioner will be in financial loss because of double establishments and high living cost at Delhi. He is also not keeping good health due to advanced age.

4.24. That the seniority of the stenographers in other Railways is combined with the executive and Accounts for further avenue of promotion but in the Northern Railway it is separate. Thus the stenographers of Accounts Department working in Divisional and extra-divisional office, who are senior and entitled to this grade Rs.2000-3200 are not getting their promotions due to separate seniority of Accounts and non-accounts (executive).



Contd.....7

- 4.25 That the typists who qualify the test of stenographers are promoted as stenographers departmentally and further avenue of promotion is made in stenographers cadre. The respondents Nos. 5 to 8 were appointed as typists originally but have more avenue of promotion in executive side and they being juniors to the petitioner have been promoted as stenographers in grade Rs.2000-3200.
- 4.26 That the petitioner would have been promoted as stenographer in grade Rs.2000-3200 from the date of promotion of respondent No.5 & 6 if the petitioner would have not been transferred irregularly and posted in Accounts side. He would have automatically been promoted before respondent Nos. 5 & 6 who are junior to the petitioner and this anomaly would have not arisen.
- 4.27. That the lien of the petitioner was never suspended from the executive side. Thus he is entitled for his further avenue of promotion in executive side on the basis of seniority maintained at Lucknow.
- 4.28 That the seniority of stenographers who are working in Lucknow has been combined for further promotion and they are being promoted in grade Rs.2000-3200 on the basis of this combined seniority.
- 4.29. That the petitioner was given his first appointment as per Employment Notice of Railway Service Commission Allahabad rightly i.e. in LKO as the petitioner was selected for Lucknow, Moradabad & Allahabad Division/Region being resident of U.P. Thus his transfer to Delhi was against the Employment Notice and quite irregular as juniors to the applicant were working in Lucknow at that time i.e. at the time of transfer of the applicant. (photostat copy enclosed as Annexure 1).
- 4.30. That the petitioner is at the verge of retirement and it will be irreparable loss if he is not promoted in grade Rs.2000-3200.

 Contd....8

4.31 That the intention of the Rly. Board circulated vide circulars issued from time to time is quite clear that the employees would get benefits at the time of retirement which is also clear from the restructuring of the cadre in all sides that no one is retired in lower grade unless he is declared disqualified.

4.32 That the applicant has made several representations but all in vain. The last representation dated 4.1.88 and its reminder dated 12.10.88 are enclosed as Annexure 8 & 9.

5. Grounds for relief with legal provisions :

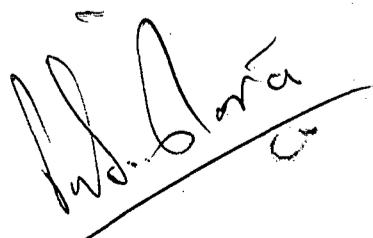
(a) Because the petitioner was originally appointed in the office of District Controller of Stores, Northern Railway, Alambagh, Lucknow against clear vacancy as other two candidates of the same R.S.C. panel at S.No.7 & 8.

(b) Because the transfer of the petitioner to Delhi was quite irregular and it was purely administrative error.

(c) Because the petitioner was entitled for his confirmation after having put in 18 months' continuous service as stenographer in the office of Distt: Controller of Stores, Northern Railway, Alambagh, Lucknow.

(d) Because if the petitioner would have been confirmed in grade Rs.80-220/1200-2040 in the office of District Controller of Stores Alambagh or in other offices where his juniors were working at Lucknow, then the question of his transfer to New Delhi would have not been arisen and he would have been automatically promoted in grade Rs.2000-3200 prior to his juniors.

(e) Because the petitioner is still holding his lien on executive side. Therefore, he is entitled to get his promotion in grade Rs.2000-3200 in executive side at Lucknow where juniors to him are working in this grade.



Contd.....9

(f) Because the seniority of stenographers of Accounts and Executive should be combined for further avenue of promotion as is being done in N.E. Railway & other Railways.

(g) Because the Railway Board have issued directives not to transfer any employee from the place of their retirement, and the petitioner is at the verge of retirement.

(h) Because the juniors to the petitioners have been promoted in grade Rs.2000-3200 at Lucknow.

(i) Because the typists who joined as typist in Railways, after the appointment of the petitioner as stenographer and promoted subsequently, as stenographers, have been promoted in grade Rs.2000-3200 with the officers of the rank of Head of Department at Lucknow.

(j) Because the petitioner is senior to the stenographers who are working with the head of Department in grade Rs.2000-3200 at Lucknow and the petitioner has been deprived of.

6. Details of remedies exhausted :

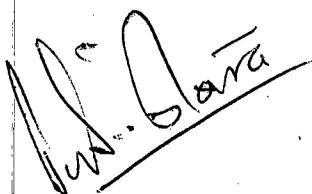
Representations made to :-

a) G.M. (#), Northern Railway, Baroda House, New Delhi vide application dated 22.1.81 (photostat copy of the decision enclosed as Annexure 7)

b) General Manager, Northern Railway, Baroda House, New Delhi vide application dated 4.1.88 & its reminder dated 12.10.88 but no reply received. (copy enclosed as Annexure 8 & 9).

7. 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 application has been made, before any court or any other authority or any other bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.



Contd...10.

8. Relief Sought :

In view of the facts mentioned in para 4 above the applicant prays for the following reliefs :-

- (a) The applicant be promoted in higher grade Rs.2000-3200 from the date of his junior Respondent No.5/6 have been promoted.
- (b) The applicant be paid difference of pay on fixation from the date of promotion of respondent No.5/6 in grade Rs.2000-3200.
- (c) Seniority of stenographers of executive & Accounts Branches be combined for further avenue of promotion as is being done on other Railways.
- (d) Any other relief which the Hon'ble Court may consider fit.

9. Interim order, if prayed for :-

Pending final decision on the application, the applicant seeks issue of the following interim order :-

- (a) The applicant be given the benefit for promotion in grade Rs.2000-3200 immediately to avoid further monetary loss as the applicant is going to be retired in 7/90.

10. The application is being submitted through counsel of the applicant.

11. Particulars of Bank Draft in respect of Application Fee :-

Bank Draft No.971491/31/89 dated 25.4.89 issued by United Commercial Bank, I.T. College Branch, Lucknow amounting to Rs.50/- (enclosed).

12. List of Enclosures.

1. Panel of Rly. Service Commission, Allahabad.
2. Offer of the Distt. Controller of Stores, Alambagh.
3. Reply of G.M.(P) dated 12.4.57 for posting of the applicant in other office.
4. Representation of the applicant for his posting in Lucknow dated 12.1.57. & 12.57 (Annex 4/1 & 4/II)
5. & 6. Decision of the G.M.(P) for separate seniority Unit at Lucknow.
7. Reply of G.M.(P) for not taking applicant on executive side.
8. Representation of the application dt. 4.1.88
9. Reminder of the applicant dated 12.10.88.

Subrahmanyam Contd...11.

In Verification.

I, Prem Narain Srivastava, S/o. late Shri H.N.Srivastava, aged about 57 years working as Confidential Assistant to Sr. Divisional Accounts Officer, Northern Railway, Divisional Railway Manager's Office Hazratganj, Lucknow, resident of Rly. Qr. No. LD-115 B, Rose Marg, Alambagh, Lucknow do hereby verify that the contents of paras No. 1 to 10 are true to my personal knowledge and are believed to be true on the legal advice and that I have not suppressed any material facts.

Signature of the Applicant,

Prem Narain Srivastava

Signature of the counsel
for the applicant.

Advocate
15/6/89

Dated : 15-6-89
Place : Lucknow.

Ref. 1A

Northern Railway
Headquarters Office
Baroda House, New Delhi

No. 80ADM/C/5/17

92-12-1981

AD4

24/12
The Senior Accounts Officer(W),
Alambagh, Lucknow.

Sub:-Representation of Sh. P. N. Srivastava stenographer
of your office.

Ref:-Your letter No. 81ADM/B/4/Rep. dated 21-10-81.

In continuation of this office letter of even No. dated 24-10-81 addressed to G.M.(P) and copy endorsed to you, a copy of GM(P)'s letter No. 940-E/95/EIID/Pt. II dated 17-12-81 on the subject cited above is sent herewith. Shri P. N. Srivastava stenographer Gr. R. 425-700(RS) of your office may please be informed accordingly.

(R. Kashyap)
Jr. Accounts Officer/Admn. IMA/As above

Copy of letter referred to above.

Sub:-As above

Ref:-Your letters No. 80ADM/6/5/17 dated 29-8-81, 2-9-81 and 24-10-81.

A similar representation from the above named employee was earlier received through Vice President URMU LKO. A copy of the reply issued to the General Secretary, New Delhi in this regard under this office letter of even No. dated 3-6-81 after examining the case at length is sent herewith for your information.

Copy of letter referred to above.

Sub:-As above

Ref:-President URMU's letter No. 81/URMU/A/cs/4 dt: 28-4-81 addressed to the CPC.

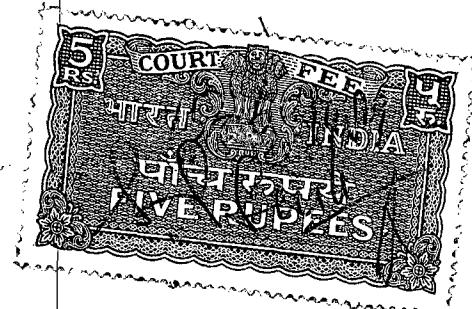
3
The request of Sh. P. N. Srivastava stenographer Gr. R. 425-700 (RS) under SAN(W)AMV/LKO for assigning him seniority from A/cs to non-Accounts unit has been examined. In this connection it is advised that the above named employee, on being rendered surplus from DCOS/ANV/LKO was posted in the A/cs unit as an Administrative decision protecting his original seniority. He holds his lien in A/cs unit which is a separate seniority group. Once his lien fixed in A/cs unit he cannot be transferred to another seniority group even on request being in intermediate grade of R. 425-700(RS) and thus he has to seek promotion to next higher grade in his accounts seniority group.

W 3/2/1982

अभिभाषक-पत्र

A 25

न्यायालय श्रीमान् In the Central Administrative
Tribunal, Allahabad
Circuit Bench at Lucknow



वाद संघ्या

From Narain Singhania

सन् १९६५ ई०

वादी

अभियोजक

प्रार्थी

अपीलार्थी

प्रतिवादी

अभियुक्त

प्रतिपक्षी

न्यायालय
वाद संघ्या
प्रकार

विरुद्ध

Min of India and others

मेरे वाद की विरुद्धी वादी की विरुद्धी हेतु पात्रशक्ति दकर तथा बचनवृद्धि होकर श्रीमान् दामोदर नाना, नानालाल एडवकेट को अपना अधिवक्ता नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ करते हैं और लिखे देता हूँ/देते हैं कि मेरी/हमारी ओर से वकील/एडवोकेट वाद प्रस्तुत करें/जवाबदावा प्रस्तुत करें वाद में ऐरवी, शपथ-पत्र, प्रमाण पत्र दाखिल करें। मेरी/हमारी ओर से कोर्ट फीस, स्टाम्प, कोर्टफीस टिकट, नकल टिकट व जनरल स्टाम्प अपने नाम/मेरे नाम से खरीद करके न्यायालय व कार्यालय में दाखिल करें। खजाने में वापस करें उसकी चेक प्राप्त करें चेक का रूपया बैंक से वसूल करें। दस्तावेज, खूराक गदाहान कार्यालय न्यायालय में दाखिल करें/वापस लेवें। मेरे/हमारे पक्ष में सन्धि पत्र दाखिल करें साक्षियों का बयान करावे विपक्ष के साक्ष्य से जिरह करें/बहस करें। मुकदमा एकपक्षीय डिप्री हो जाने पर उससे सम्बन्धित समस्त इजराय की कार्यवाही सम्पन्न करें मुकदमा अदम ऐरवी में निर्णीत हो जाने पर उसके पुर्णस्थापन का प्रार्थनापत्र प्रस्तुत करें कोई भी अंतरिम आदेश मेरे/हमारे विरुद्ध हो जाने पर उस ही मुस्तकार्क अपील निगरानी आदि प्रस्तुत करें मुकदमा डिप्री हो जाने पर उसकी नकल, तज्बीज डिप्री आदि लेवे मुकदमा हार जाने पर उसकी अपील निगरानी सम्बन्धित न्यायालय में प्रस्तुत करें वाद/अपील/निगरानी में स्थगन प्रार्थना पत्र वाद प्रबन्ध कागजों के निरीक्षण आदि प्रार्थना पत्र प्रस्तुत करें मेरी/हमारी ओर से मेरे/हमारे विरुद्ध रूपयों की डिप्री हो जाने पर उक्त रूपया अदालत में जमा करें। और मेरी/हमारी डिप्री हो जाने पर अदालत में प्रार्थना पत्र, चिक्क न्यायालय में अपने हस्ताक्षर से प्रस्तुत करें। चिक्क प्राप्त करें उसका रूपया वसूल करें। सारांश यह है कि इस वाद से सम्बन्धित हर प्रकार की कार्यवाही करें अथवा अपनी ओर से वकील/एडवोकेट नियुक्त करें यह उनका समस्त किया हुआ कार्य मेरा/हमारा किया हुआ समझा जायेगा। और मुझे/हमे हर प्रकार से मान्य होगा। लिहाजा यह अभिभाषक पत्र लिख दिया।

दिनांक १५ मास जून, सन् १९६५ ई०

Annexure I

RAILWAY SERVICE COMMISSION,
19, Albert Road, Allahabad.

.....
List of candidates who have been declared successful in the examination of Stenographers and recommended for appointment on Northern Railway in Gr. Rs. 80-220 advertised vide Employment Notice No. 17/55 Category No. (II). Their appointment will be subject to their passing the prescribed medical examination and verification of antecedents etc., by the Railway concerned. Selection by the Commission carries no guarantee of appointment.

Selection held at New Delhi on 11, 12, 18 & 19/11/55. (H. Office)

Sl. No.	Roll No.	Name	Sl. No.	Roll No.	Name
1. 202-A	Raj Kumar Patney (R)	16. 197	Atam Parkash Mehta (R)		
2. 299	Dhanesh Latt Malik (R)	17. 151	Ranbir Kumar Sharma		
3. 129	Permehwari Dass Vaish	18. 252	Jyoti Prakash Mukhopadhyaya		
4. 202	Ram Krishan Ahuja (R)	19. 257	Pindiprolu Sreenivasa Rao		
5. 31	Purshotam Bhagwan Tandon	20. 250	Basanta Kumar Moda		
6. 56	Biswanth Chakravarty	21. 91	Hukam Chand Bhatia (R)		
7. 17	Ganesh Chandra Saxena	22. 148	Om Prakash Vij (R)		
8. 99	Ashok Kumar Mehta (R)	23. 66	Satya Dev Mehin		
9. 26	Chhotey Lal Varma	24. 169	Rajpal Singh Raghava		
10. 206	Fazlay Ali Khan	25. 78	Rajendra Prakash Mittal		
11. 230	Kailash Chandra Sharma	26. 304	Ved Prakash Kohli (R)		
12. 251	Nikhil Chandra Sen	27. 164	Dharam Singh		
13. 226	Nasim Uddin	28. 155	Nanak Singh Bargotta		
14. 298	Krishna Kumar Srivastava	29. 195	Karnail Singh.		
15. 143	Abdul Sattar Ansari	30. 73	Raj Kumar Kapoor (*)		

(R) Refugee. (*) Subject to production of B.A. certificate.

(Jodhpur/Bikaner Region)

1. 255	K.S. Nagrajan	12. 29	Hari Chand Raghava
2. 24	Jasvant Lal (R)	13. 248	V. Swaminathan
3. 249	T.V. Krishnamurthy	14. 33	Bhagwati Prasad Misra
4. 13	Shankar Lal Panwar	15. 246	Dharam Parkash Sharda
5. 36	Mohan Raj Sancheti (*)	16. 35	Jotindra Kumar (*)
6. 26	Madan Mohan Lal (R)	17. 3	N.Y. Rangan
7. 23	Shiv Nandan Lall (R)	18. 5	Dev Faj Sachdeva (R)
8. 19	Govind Lal Tuteja (R)	19. 243	K.R. Bindu Madhav (**)
9. 9	Mohan Lal Pareek	20. 37	Roshan Lal (R)
10. 241	Vishnu Krishna Nilekar	21. 8	Hanmchan Chand
11. 5	Bhawan Nath Verma (*)	22. 245	Hatan Lal Wadhwa (R) (**)

(R) Refugee. (*) Subject to production of B.A. certificate.

(**) Subject to production of Inter certificate.

P.T.O.

11/11/55
S/R

13/11/55

14/11/55
2.7/11

12/11/55

Registered
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NORTHERN RAILWAY

AG) NR.GOB

No.

20 E711 A7

Office of the Dist. Controller of 81

to Ry Station... Almora

Dated... 21/6/56

To

Name... Shri Ram Narain Srivastava

Address... G/o Sir J. N. P. Kalidhal

C.O.D. Kanpur

Regarding temporary appointment

Nature of appointment... Temp. Stenographer

Grade... 80 - 5 - 120 - 8 - 200 - 10 - 220

Rate of pay per mensem... 80/- P.M.

1. I am prepared to offer you a post in Grade and rate of pay specified above plus usual Dearness Allowance subject to your passing the prescribed medical examination by an authorized Medical Officer of this Railway and (for subordinate staff only) production of your original certificates and satisfactory proof in support of your age, such as a birth or Matriculation certificate, &c.

2. It must be clearly understood that the appointment is terminable ~~on 14 days' notice on either side except that no such notice will be required on return to the absentee in whose place you may be engaged in which case your~~ ~~will automatically terminate from the day the former resumes duty. Also such notice will be required if the termination of service is due to your mental~~ physical incapacity or to your removal or dismissal for serious misconduct.

3. You will not be eligible for any pension nor any benefit under the State Railway Provident Fund or Gratuity rules or to any absentee allowances beyond those admissible to temporary employees under the rules in force from time to time during such temporary service.

4. You will be held responsible for the charge and care of Government money, goods and stores and all other property that may be entrusted to you.

5. You will be required to take an oath of allegiance to the Indian Dominion in the form prescribed below—

I, [Signature], do swear/solemnly affirm that I am a faithful and bear true allegiance to India and to the Constitution of India as by law established and that I will loyally carry out the duties of my office. So help me God.

Note.—Conscientious objectors to oath taking may strike out the word "swear" from the above declaration.

[Signature]

~~14~~

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Annexure No. 3

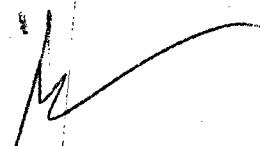
Copy of letter No. 939 E/22 (Eiid) dated 12.4.57 from the General Manager (P), Baroda House, New Delhi to the Distt. Controller of Stores, Lucknow.

Sub:- Application of Shri Prem Narain Stenog of this office for his absorption on return of Shri H.N. Misra stenographer

Ref:- Your letter No. Conf/12 of 12.1.57.

In the circumstances explained in your letter quoted above, the question of posting of Sh. Prem Narain will arise only when he is declared surplus. He should therefore continue in your office for the present.

Sd. B.L. Madhok
for General Manager (P).



Da

14/4/57
E/22
6th June 57

To

(Signature) 15 *29 Ann 4*
The General Manager (P),
Northern Railway,
Baroda House,
New Delhi.

Through :- D.C.O.S.-AMV-LKO.

Sir,

Re:-Absorption of Shri Prem Narain Srivastava
Stenographer, D.C.O.S.'s. Office, Alambagh,
Lucknow, on return of Shri H.N.Misra
from deputation.

With due respect I beg to submit, as under, for your favourable and kind consideration :-

In the Month of November, 1955 I was declared successful in the examination of stenographers and recommended for appointment on the Northern Railway by the Railway Service Commission, Allahabad, vide its panel dated 28.11.55 and my name was 7th out of the 15 candidates selected for Allahabad/Moradabad & Lucknow Region.

Accordingly I was appointed in the office of the Distt. Controller of Stores, N.Rly., Alambagh, Lucknow in the vacancy caused by the temporary deputation of Shri H.N.Misra stenographer to the Railway Research, Lucknow. It is understood that Shri H.N.Misra is expected to come back very shortly as the term of the Railway Metric Committee is going to be expired and as such my transfer from this office is obligatory.

I have settled down in Lucknow and could get accommodation to live in, after experiencing a great difficulty of more than two months due to shortage of accommodation here. If I am transferred to some other station I shall be again put into trouble as the house problem in every city is very acute. Furthermore, education of my younger brother will be discontinued and the course of his steady will be changed as the syllabus of the Lucknow University is different to that of others.

Under the circumstances, I request you to very kindly absorb me in Divisional Supdt's. Office or Extra Divisional Offices at Lucknow so that my above mentioned problems may be solved.

3-4 candidates after my name, from the same panel, have been appointed in D.S. Office Lucknow and are being appointed (as a new panel of 90 stenographers has been formed ~~xxix~~ in the month of November '56) I may be posted in some other offices at Lucknow prior to the taking over of Shri Misra here. Even if I am posted some time before the taking over of Misra here the D.C.O.S./AMV will be kind enough to relieve me as soon as the order of my posting in some other offices at Lucknow is received from your office.

Yours faithfully,

Dated : 12.1.57.

O/C.

12.1.
(Prem Narain Srivastava)
Stenographer,
D.C.O.S.'s. Office, N.Rly.,
Alambagh, Lucknow.

16
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II
A 30
Dn n expre m. 4A

The General Manager (P),
Northern Railway,
New Delhi.

Through :- Proper Channel.

Sir,

Sub:- Absorption of Shri Prem Narain
Srivastava, Stenographer.

....

I beg to submit, as under, for your favourable
and kind consideration :-

1. After being selected from the Railway Service
Commission, Allahabad, I was posted in the D.C.O.S.'s
Office at Lucknow in 1956. As the house problem in every
big city is very acute I had to face difficulty in
getting a house. However, after living in a hotel
for about 3-4 months I could get a house and could settle
down at Lucknow. When I took over here I came to know
that the post purely temporary as the permanent
stenographer who had gone on deputation to Railway Research
Centre Alambagh will come back after few months. Under
the fear that once I have settled down at Lucknow and will
be transferred to some other place, which was very
troublesome, I applied to your office vide my application
dated 12.1.57 and 11.5.57 requesting that I may be posted
in some other office at Lucknow. The DCOS/LKO had also
written that he has got no objection in sparing me even
before the permanent stenographer comes back from
deputation. But your office informed that I will be posted
when I will be rendered surplus or the exact date of
my surplus is known vide your office letter
Nos. 932 E/22 (Eiid) of 12.4.57 & E-435/G-II of 6.6.57.

2. Despite my request and difficulties explained in
the applications mentioned in Para 1 above, I was not
posted to the office of WM/Loco/CB-LKO where there were
two vacancies at the time I had applied. But candidates
very junior to me have been posted there and in D.S. Office
at Lucknow.

3. The exact date of my being surplus from this
office has been intimated by the DCOS/LKO vice his
D.O. No.15E of 4.11.57 to Shri Dev Prakash, SPO(III),
but I have not been posted so far.

4. There still exists a vacancy of stenographer in
the office of WM/Loco/CB-LKO as one stenographer has
retired there which is clear from his letter No.95E/Steno
of 18.7.57 (copy enclosed). At present a senior most
man amongst the stenographer in Gr. 80-220 of Loco Shops
is officiating in gr. 200-300 and his vacancy is lying
vacant. The post of stenographer in gr. 200-300 is a
selection post and if this man is not selected and revert
then there will be a vacancy in our unit as all the
stenographer of all extra-Divisional Offices form one
unit for the purpose of promotion to higher grade.
This has been decided by your letter No.752-E/53-II
(Eiid) of 8.7.57. I can there be very easily posted

Contd. 2

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Am. 5

Annexure M. 5

Copy of letter No.95E/Steno dated 18.7.57 from
WM/Loco/CB-LKO to DCOS/LKO and copy to others.

Sub:- Promotion of stenographers gr.80-220
to grade 200-300.

There has occurred a vacancy of stenographer
in the grade 200-300 which is a selection post and it is
proposed to hold a selection of the eligible candidates
to fill it up. It has been decided by the General Manager (F)
vide his letter No.752-E/53-II (Mid) dated 8.7.1957 that
the stenographers in grade 80-220 employed in various
extra-Divisional offices situated at Lucknow will form
one unit for the purpose of further promotion to grade
200-300. I shall, therefore, be glad if you will please
furnish this office early with the service particulars of
the permanent stenographers in grade 80-220 intimating
the number of posts permanent and temporary sanctioned
for your office in the various grades.

JK

19

Annexure No. 6
A33

Office, 1
House,
Delhi.

No. 752-E/53.II (Liid)

Dated 8th July, 1957.

The Divisional Superintendent,
Lucknow.

Sub:-Promotion of Stenographers
P.S.80-220 to grade Rs.200-300.

Ref:-Your letter No.757-E/I/IA/Steno
dated 2.7.56,

It has been decided that the Stenographers
Grade Rs.80-220 employed in the various Extra Divisional
Offices situated at Lucknow viz. Works Manager (C&W)LKG,
Works Manager (Loco), Lucknow, D.C.O.S., Lucknow and
W.E.E., Lucknow, will form one unit for purpose of
further promotion to grade Rs.200-300 against the posts
in these Offices. The stenographers working in the
Divisional Superintendent's Office, Lucknow will form a
separate group by itself.

Sd/-

for General Manager (F).

Copy to :-

1. Works Manager, (Loco), Lucknow in reference to his
D.O. letter No.8/C/57 dated 1.4.57 to Shri H.L.Chopra.
2. Works Manager (C&W), Lucknow.
3. D.C.O.S./Lucknow.
4. W.E.E., Lucknow.

be

20
Am 7
Northern Railway
Headquarters Office
Baroda House, New Delhi

No.80ADM/C/5/17

92-12-1981

A34

24/12

The Senior Accounts Officer(W),
Alambagh, Lucknow.

Sub:-Representation of Sh.P.N.Srivastava stenographer
of your office.

Ref:-Your letter No.81NM/B/4/Rep. dated 21-10-81 & 17-11-81.

In continuation of this office letter of even No. dated 24-10-81 addressed to G.M.(P) and copy endorsed to you, a copy of GM(P)'s letter No.940-E/95/EITD/Pt. II dated 17-12-81 on the subject cited above is sent herewith. Shri P.N.Srivastava stenographer Gr. Rs.425-700(RS) of your office may please be informed accordingly.

(R.Kashyap)

Jr. Accounts Officer/Admn. DA/As above

Copy of letter referred to above.

Sub:-As above

Ref:-Your letters No.80NM/6/5/17 dated 29-8-81, 2-9-81
and 24-10-81.

A similar representation from the above named employee was earlier received through vice President URMU LKO. A copy of the reply issued to the General Secretary, New Delhi in this regard under this office letter of even No. dated 3-6-81 after examining the case at length is sent herewith for your information.

Copy of letter referred to above.

Sub:-As above

Ref:-President URMU's letter No.81/URMU/A/cs/4 dt:28-4-81
addressed to the CPC.

3
The request of Sh.P.N.Srivastava stenographer Gr.Rs.425-700 (RS) under SAN(W)AMV/LKO for assigning him seniority from A/cs to non-Accounts unit has been examined. In this connection it is advised that the above named employee, on being rendered surplus from DCOS/AMV/LKO was posted in the A/cs unit as an Administrative decision protecting his original seniority. He holds his lien in A/cs unit which is a separate seniority group. Once his lien fixed in A/cs unit he cannot be transferred to another seniority group even on request being in intermediate grade of Rs.425-700(RS) and thus he has to seek promotion to next higher grade in his accounts seniority group.

3/2/82

✓

Annexure M-8
A35

The General Manager,
Northern Railway,
Baroda House,
New Delhi.

Respected Sir,

Sub:- Appeal against the decision of Personnel
Branch, N.R., Baroda House, New Delhi.

Having aggrieved with the decision of G.M.(P),
I approach your goodself with the following facts to
intervene in the matter and do justice to the applicant :-

- 1) That I was recruited through Railway Service Commission, Allahabad as Stenographer and was posted in the office of D.C.O.S./AMV-LKO (now Dy.COS) on 30.6.88 in grade Rs.80-220 by G.M.(P) as in those days selection was used to be region wise as I had applied for A/LD/MB & Lucknow Region and accordingly I was posted in Lucknow. (copy enclosed).
- 2) That after about 1½ years on coming back on reserstion of the permanent incumbent from RDSO/LKO with some D&AR case, I was directed to report to G. M.(P) office New Delhi as I was declared surplus in that office because there was no other post of steno there, whereas S/Shri Ved Prakash Bhatnagar & Rajindar Nath Anand (S.No.8 & 9 of R.S.C. Panel) who were junior to me in Lucknow were allowed to remain in Lucknow and they are still working in Lucknow Divn. As a matter of rule and in the interest of justice, junior most man i.e. Shri Anand (S.No.9) should have been directed to report to G.M.(P) for further posting. ~~and 24~~
the applicant should have been ~~fully released from LK~~
- 3) That on my reporting to G.M.(P) office I was posted in the F.A. & C.A.O., N.R., New Delhi vide G.M.(P)'s letter No.940-E/95 (Eiid) dated 3.1.1958 and since then I am working in Accounts Department. I never requested G.M.(P) for my posting in Accounts Department. I simply obeyed the orders of my posting to A/cs. Department although I had requested the Dealer to kindly post me to Lucknow as I belonged to that region, ~~whose~~ ~~and~~ ~~my~~ ~~junior~~ ~~was~~ ~~working~~ ~~there~~.
- 4) That in 1965 I was selected for promotion grade Rs.210-425 (now 1400-2300) and was transferred and posted in Sr. A/cs. Officer, N.R., Alambagh, Lucknow vide FA & CAO/Admn. S.O.O. No.332 dated 5.6.65 and since then I am working in Lucknow i.e. for about 22 years and have settled down in Lucknow and have built a house by taking advance i.e. H.B.A. from Railway.
- 5) That I am senior most steno for promotion to grade Rs.2000-3200 in A/cs. Department as well as in Lucknow Division and Workshops on executive

Contd....2

on A/cs side

6) That there is post of stenographer of grade Rs.2000-3200 in Lucknow as grade is given only to the steno/CA's attached with Level I Officers and all level I officers i.e. 4 FA & CAO are working in HQ. QCs, Office and it is not expected that level I officers will be posted in Lucknow in near future and before my retirement. I, therefore, requested that G.M.(P) to assign me seniority on the executive side according to R.S.C. panel as I originally belonged to executive side and my transfer to FA & CAO's office was in administrative convenience vide G.M.(P)'s letter No.940E/95(Eiid) dated 24.2.1958 addressed to FA & CAO (copy enclosed), so that I may get promotion in grade Rs.2000-3200 on executive side as 4-5 stenos/CAs junior to me are working on executive side in Lucknow. But the G.M.(P) has turned down my request vide his letter No.940-E/95 (Eiid) Pt.II dated 17.12.1980 conveyed vide Jr. Accounts Officer/Admn's letter No.80 AD?/C/5/17 dated 22.12.80 (copy enclosed).

7) It may be mentioned that one Shri Raj Kumar, the then CA/FA & CAO, N.R., New Delhi was taken on executive side without losing seniority of his A/cs. Department. He was purely A/cs. hand was taken by then CPO on the request of the then FA & CAO. Shri Raj Kumar retired from G.M.'s office as Sr. Scale Officer, while I originally belonged to executive side but being denied justice by not taking me on executive side and giving me promotion at Lucknow.

8) That I am empanelled man for promotion in grade Rs.2000-3200 but could not accept my promotion at Delhi at this advanced age and bad health in A/cs. side where also junior to me are working grade Rs.2000-3200.

9) That I carried out two transfer orders one from LKO to Delhi in 1958 & second from Delhi to Lucknow in 1965 but at this advanced age of 56 years it is difficult for me to leave my family and own house. I am due retirement in 7/90.

I, therefore, request your honour to

i) either combine the seniority of A/cs. & Executive as is prevalent in N.E.Rly/ or
ii) one post of grade Rs.2000-3200 may be got transferred temporarily till my retirement from A/cs. Department where my juniors are working

In this way I will get justice from your benign hands and will pray for your future prosperity and good and long life.

Yours faithfully,


(P.N. Srivastava)
C.A./Sr.D.A.O., N.R., LKO

Dated :- 4.1.'88.

Annexure M. ⁹ ~~10~~

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Advanced copy by post

The General Manager,
Northern Railway,
Baroda House,
New Delhi.

Through :- proper channel

Sub:- Representation against the decision of
'P' Branch, N.R., Baroda House, New Delhi.

Kindly refer to my representation dated 4.1.88
addressed to you against the decision of the personnel
Branch and arrange to communicate your decision.
A copy of my representation dated 4.1.88 is enclosed
for your ready reference.

Yours faithfully,

Encls:- As above.

Dated: 12.10.88.

(P. N. Srivastava)
C. A./Sr. DAO/LKO.

Counter Affidavit

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

M. P. No. M14/90 (L) A38
Miscellaneous Application No. of 1990

OA No. 143 of 1989 (L)

Prem Narain Srivastava Applicant

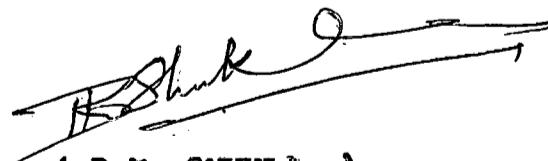
Vs.

Union of India & Others Respondents/
Opposite Parties

APPLICATION FOR ACCEPTING THE COUNTER REPLY ON RECORD

WHILE RECALLING THE ORDER, DATED 18-4-90

That for the facts, reasons and circumstances mentioned in the counter reply, it is most humbly prayed that this Hon'ble Tribunal may graciously be pleased to recall the order, dated 18-4-90 fixing ex parte hearing, and be further pleased to pass the orders for accepting the counter reply on record, as the delay in filing the counter reply is bona fide and not deliberate. Such further order which may deem fit and proper in the circumstances of the case be also passed.



(B.K. SHUKLA)

Advocate,

Counsel for Opposite Parties No. 1 to 4

LUCKNOW, DATED
June, 27, 1990

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

OA No. 143 of 1989 (L)

Prem Narain SrivastavaApplicant

vs.

Union of India & OthersRespondents

COUNTER REPLY ON BEHALF OF OPPOSITE PARTIES NO 1 to 4

I, Nomila Shanno aged about years,

son of _____ presently posted

as DYC 404 G Northern Railway,

N. Delhi Lucknow, most respectfully showeth as under:-

1. That I have been duly authorised on behalf of the respondents 1 to 4 to file the instant reply. I have carefully perused the records of the instant case, and thus fully acquainted with the facts of the case deposed below.

2. That I have read the contents of the

application under reply along with the annexures filed by the applicant, and have understood the contents thereof.

3. That the contents of paras 1, 2 and 3 need no comments.

4. That the para 4 of the application is being replied as under :

(1) That the contents of para 4.1 are not disputed because they are matter of record.

(2) That the contents of para 4.2 need no comments.

(3) That the contents of para 4.3 are not being replied because the relevant record is not traceable at present being as old as of 1957.

(4) That in reply to para 4.4, it is stated that no remarks can be offered in the absence of relevant record, as the same is not traceable at present being as old as of 1957.

(5) That in reply to para 4.5, it is stated that the contents of para under reply are admitted to the extent that the letter dated 8-7-57 was issued.

as a policy decision. Anything contrary to it is denied.

(6) That the contents of para 4.6 need no comments as the same is a matter of record.

(7) That the contents of para 4.7 are formal in nature, and therefore, need no comments.

(8) That the contents of para 4.8 are not being replied, as the relevant record is not traceable.

(9) That in reply to para 4.9 of the application, it is stated that the contents of the para under reply are denied to the extent that the applicant being rendered surplus from DCOS/AMV.

Lucknow, was posted in Accounts as an administrative decision. He holds his lien in accounts unit only being a separate unit, and as such he cannot be transferred to another unit.

(10) That the contents of para 4.10 need no comments being the matter of record.

Par 2

-4-

(11) That the contents of para 4.11 are admitted, and it is to be mentioned here that the seniority of the stenographers in Northern Railway in accounts unit and in executive side are separate right from the beginning.

(12) That the contents of para 4.12 need no comments being formal in nature.

(13) That the contents of para 4.13 need no comments being formal in nature.

(14) That the averments made in para 4.14 of the application are not admitted, as the applicant was posted in the accounts unit as an administrative decision. So it is quite natural that whatever avenues for promotion in accounts unit were made available to him, and in fact the applicant, who was initially appointed as a stenographer in grade Rs. 80-220/1200-2040, reached upto grade Rs. 1600-2660.

(15) That the contents of para 4.15 are wrong, hence vehemently denied, as per GM(P)'s letter

No. 940-S/95-II/ElID, dated 3-6-81. It was communicated to the applicant that he was in accounts unit as an administrative decision, and he holds a lien in accounts unit only. So the question of his promotion on the basis of seniority of stenographers maintained in the office of the Divisional Railway Manager, Lucknow, does not arise.

(16) That in reply to para 4.16, it is submitted that the applicant was considered for promotion in the higher grade Rs. 2000-3200, but he refused to join on the promoted post which occurred in Delhi. A true copy of the letter, dated 11-5-88, by which the petitioner refused his promotion is being annexed as Annexure No. R-1 to this reply.

(17) That in reply to para 4.17 of the application, it is stated that in the circumstances of the facts explained in the above para, it was the applicant himself who refused to join on the promoted post, and so for this railway administration cannot be blamed.

WZ

(18) That in reply to para 4.18, it is stated that it is an established policy of Northern Railway that seniority of stenographers working in executive and accounts units are separate. So the promotion of the petitioner in the higher grade was to be done in the accounts unit only, and as explained in the above para that one vacancy in the grade of Rs.2000-3200 existed in Delhi, but the petitioner refused to join it, and he himself denied his promotion.

(19) That in reply to para 4.19, it is stated that the respondents No. 5 to 8 are working in the executive side having no concern with the accounts unit.

(20) That in reply to para 4.20, it is stated that the name of the applicant was considered for promotion in the higher grade of Rs.2000-3200, but it was the petitioner himself who refused to move out of Lucknow, and for this railway administration cannot be blamed.

NQ

(21) That in reply to para 4.21, it is

stated that the points raised in this para are not admitted as the petitioner was transferred to accounts department as an administrative decision. So the question of giving him the benefits of seniority in the executive side does not arise, as he holds his lien in the accounts unit, which is a separate unit having its own rules and regulations regarding promotions/seniority and transfer etc.

(22) That in reply to para 4.22, it is stated that the averments made therein are admitted to the extent that there is no higher grade post of stenographer in grade Rs.2000-3200 in accounts department at Lucknow. However, it is to be mentioned here that the petitioner was considered for promotion in the higher grade post which existed at Headquarter Office, New Delhi, but the petitioner showed his inability to move out of Lucknow.

(23) That the contents of para 4.23 need no comments, as the same is a matter of arguement before the Hon'ble Court.

(24) That in reply to para 4.24, it is

stated that the averments made in this para are admitted to the extent that in Northern Railway the seniority of accounts unit and executive side is being maintained separately.

(25) That in reply to para 4.25, it is stated that the points raised in the para under reply are denied to the extent that the stenographers who are working in the accounts department, Northern Railway, are generally considered for promotion in the next higher grade according to the rules. In fact the petitioner was appointed as a stenographer in the grade Rs.80-220/1200-2040, now working in grade 1600-2660, and even his name was considered for higher grade Rs.2000-3200, thus it is quite clear that the avenues of promotion in accounts department are available, and so far as promotion of respondents No. 5 to 8 is concerned, they belong to the executive side. So they have to be governed according to the rules and regulations of their unit i.e. executive side, which is a separate unit.

(26) That in reply to para 4.26, it is

stated that the averments made in the para under reply are totally denied as the petitioner holds his lien in accounts department, and his transfer in the accounts department was an administrative decision. So he has to observe the promotion avenues in the accounts department. In fact the applicant/petitioner was considered for promotion in the higher grade, but he himself refused to move out of Lucknow.

(27) That in reply to para 4.27, it is stated that the ~~exemner~~ averments made therein are totally denied, as it was conveyed to the petitioner vide office letter No. 80/Adm/C/5/17, dated 22-12-81, that the applicant holds his lien in accounts unit only, where a separate seniority list is being maintained. Once his lien is fixed in accounts unit, he cannot be transferred to other units. Thus contention of the petitioner that he holds his lien in executive side is totally out of context. A true copy of letter, dated 22-12-81 is being annexed as Annexure No. R-2 to this reply.

(28) That in reply to para 4.28, it is

stated that the points raised in this para are not admitted, to the extent that the accounts department, which had its own rules and policies regarding the promotion from one grade to another grade in any category. So the petitioner who is working as a stenographer in the accounts department has to observe the avenues available for promotion in the accounts department, which are to be governed by the rules and policies for promotion in the accounts department, which is a separate unit having no combined seniority as existing in the executive side.

(29) That the contents of para 4.29 need no comments.

(30) That in reply to para 4.30, it is stated that the contents of para under reply need no comments. However, it may be mentioned here that the vacancy of stenographer in grade Rs.2000-3200 (RPS) exists in the Headquarter Office of accounts department, and as the petitioner himself has shown his inability to move out of Lucknow, the railway administration cannot be blamed for not giving him a higher grade in question.

(31) That in reply to para 4.31, it is stated that the averments made therein are denied. It is further stated that the name of the petitioner was considered for promotion in the higher grade Rs. 2000-3200, but he himself refused to join the same, because the said post was available in Headquarter Office, New Delhi. Now as the petitioner is going to retire in July 1990, he has filed the present application to seek his promotion in higher grade, so that the benefit of pension/leave encashment may be available to him at the enhanced rate.

(32) That in reply to para 4.32, it is stated that the representation, dated 4-1-88 seems to have not been received in the office.

5. That the contents of para 5 of the application are wrong, false, fabricated and baseless, hence vehemently denied. The applicant has no cause of action to file the present application. The grounds taken in the application are false, fabricated and frivolous, and are not sustainable in the eyes of law. As such the application deserves to be

PGO

-12-

dismissed throughout.

6. That the contents of para 6 of the application need no comments except to state that annexures No. 8 and 9 are not available in the office of railway administration.

7. That the contents of para 7 of the application need no comments.

8. That in reply to para 8 of the application, it is stated that the applicant does not deserve any relief as prayed. The application as such is liable to be dismissed throughout.

9. That the contents of para 9 of the application need no comments.

10. That the contents of para 10 of the application need no comments.

11. That the contents of para 11 of the application need no comments.

12. That the contents of para 12 of the application

need no comments.

13. That the above noted case was fixed before the Hon'ble Tribunal on 18-4-90. On that day, the Hon'ble Tribunal was pleased to allow 4 weeks time for filing this counter reply. The Hon'ble Tribunal was further pleased to pass the orders that in case the counter reply is not filed within the stipulated time, the railway administration shall forfeit the right to file the same. It is very humbly submitted that in the instant case the records of 1956-57 were to be searched as the same were very old, that too from Headquarter office, New Delhi. Due to the entire collection of comments and requisite papers, this reply could not be filed within the stipulated period. And vide order, dated 18-4-90, the case is fixed for ex parte hearing on 28-6-90.

14. That in the circumstances stated in the above para, it is desired in the interest of justice that this Hon'ble Tribunal may be pleased to recall the order, dated 18-4-90, and be further pleased

to pass the orders for accepting this counter
reply on record.

Baroda
DY CAO/G

Dy. Chief Accounts Officer
N. Rly. Baroda House,
New Delhi.

VERIFICATION

I, Urmila Sharma as DYCAO/G
New Delhi
Northern Railway, Lucknow, do hereby verify that
the contents of paras 1 to 14 are true
to my personal knowledge, and those of paras _____
_____ are based on the knowledge derived from
perusal of records relating to the instant case
kept in the official custody of the answering
respondents. Nothing material has been concealed,
and no part of it is false.

Signed and verified on this 25th
day of June 1990, at Lucknow, Delhi.

Baroda
(Ms. URMILA SHARMA)
Dy. Chief Accounts Officer
Dy. Baroda House,
New Delhi

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

OA No. 143 of 1989 (L)

Prem Narain Srivastava Applicant

VS.

Union of India & Others Respondents

Annexure No. R- 1

NS/3

Annexure

(41)

The F.A. & C.A.O./Admn,
N.R., Baroda House,
New Delhi.

Through :- Proper channel.

Sir,

CA/Sr.DAO/NDLS informed me on phone on date
that I am being promoted in grade Rs.2000-3200 in a
leave vacancy at Delhi. In this connection I would
request your goodself that my family circumstances
do not permit me to accept promotion out of Lucknow.

Yours Faithfully,

(P.N. Srivastava)
CA/Sr.DAO/LKO.

No. 79/Adm/36

Dated 11.5.88

Forwarded to FA & CAO/Admn. for consideration and
favourable action.

11/5
11/5
Sr. DAO/LKO.

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW
OA No. 143 of 1989 (L)
Prem Narain Srivastava Applicant
vs.
Union of India & Others..... Respondents
Annexure No. R-2

Annexure 2/21

Northern Railway
Headquarters Office
Baroda House, New Delhi

No. 804/11/C/5/17

9/12/1981

The Senior Accounts Officer (W),
Alambagh, Lucknow.

Sub:- Representation of Sh.P. N. Srivastava stenographer
of your office.

Ref:- Your letter No. 81/11/C/4/Rep. dated 21-10-81 & 17-12-81.

In continuation of this office letter of even No. dated
24-10-81 addressed to C.M. (P) and copy endorsed to you,
a copy of C.M. (P)'s letter No. 940-E/85/ETM/Pt. II dated
17-12-81 on the subject cited above is sent herewith &
Shri P.N. Srivastava stenographer Gr. P. 425-700 (RS) of
your office may please be informed accordingly.

(R. Kashyap)
Jr. Accounts Officer r/kdmn. I.A./As above

Copy of letter referred to above.

Sub:- As above

Ref:- Your letters No. 804/11/C/5/17 dated 29-8-81, 2-9-81
and 24-10-81.

A similar representation from the above named employee
was earlier received through vice President URMU LDC. A
copy of the reply issued to the General Secretary,
New Delhi in this regard under this office letter of even
No. dated 3-6-81 after examining the case at length is sent
herewith for your information.

Copy of letter referred to above.

Sub:- As above

Ref:- President URMU's letter No. 81/URMU/A/cs/4 dt. 28-1-82
addressed to the CPC.

The request of Sh.P. N. Srivastava stenographer Gr. P. 425-700
(RS) under Sec (V) ANV/IKC for assigning him seniority from
A/cs to non-Accounts unit has been examined. In this
connection it is advised that the above named employee, on
being rendered surplus from DCC/ANV/IKC was posted in the
A/cs unit as an Administrative decision protecting his
original seniority. He holds his lien in A/cs unit which
is a separate seniority group. Once his lien fixed in A/cs
unit he cannot be transferred to another seniority
group even on request being in intermediate grade of
P. 425-700 (RS) and thus he has to seek promotion to next
higher grade in his accounts seniority group.

3/2/82

Rey aider Affidant

Before the Central Administrative Tribunal, Allahabad,
Circuit Bench at Lucknow.

153

Re-Application.

In re:

Petition No. OA 143 of 1989. (L)

10

1. Smt. Kamlesh Kumar, widow of Late
Prem Narain Srivastava,

2. Sudhir Kumar Srivastava,) Sons of Late Prem
3. Sanjaya Srivastava,) Narain Srivastava.

4. Km. Seema Srivastava, daughter of
Late Prem Narain Srivastava,

All residents of C-156, Rajaji Puram,
Lucknow.

-----Applicants

Versus

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

Rejoinder to the Counter Application of
Smt.Urmila Sharma, Deputy Chief Accounts Officer
(G),Northern Railway,Baroda House,New Delhi
filed on behalf of the opp-parties No.1 to 4.

I, Smt. Krishna Kumari Srivastava, aged about 53 years, widow of Late Prem Narain Srivastava, resident of House No.C-156, Rajaji Puram, Lucknow, the deponent do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the wife of the deceased

ହରା କୁମର-ଶାକଦା

Sri Prem Narain Srivastava and is well acquainted with the facts of the aforesaid case. She has perused the counter application through the counsel and understand the contents thereof. She is making reply accordingly. She has deputed Sri Sanjaya Srivastava, son of Late Prem Narain Srivastava to contact her counsel and attend the court as and when required. She is furnishing the rejoinder with the consent of her sons S/Shri Sudhir Kumar Srivastava and Sanjaya Srivastava. She is entitled to furnish the rejoinder on behalf of Km.Seema Srivastava, daughter of Late Prem Narain Srivastava being a natural guardian.

2. That in reply to paras 1 to 3 of the counter application do not call for any comments.

3.1. That in reply to para 4(1) to 4(2) of the counter, the contents are admitted to some extent. The applicant was appointed as Stenographer scale Rs.80-220(CPC) in the Office of the District Controller of Stores, Northern Railway, Alambagh, Lucknow, vide Office Order No.E/179 dated 2.5.1956. The applicant was appointed against the permanent vacancy as the post of Stenographer was permanent. The Office Order No.E/179 dated 2.5.1956 itself explanatory that the applicant was appointed against the non-vacancy post. Photostat copy of an Office Order No.E/179 dated 2.5.1956 is enclosed and is marked as Annexure No.R-I.

3.2. That in reply to para 4(3) and 4(4) of the

कल्याण शर्मा लेखक

counter, it is submitted that the contents of these paras are denied as the Service Books and Personal Files are the permanent record and these are made available upto 5 years after the retirement of the employee. This application was filed while the applicant was in service. The respondents have furnished these remarks only to conceal the facts.

3.3. That in reply to para 4(5) of the counter, it is submitted that the seniority of Stenographers of extra Divisional Offices situated at Lucknow was combined thus the junior most Stenographer would have been declared surplus but the juniors were retained and senior was declared surplus and directed to report to General Manager (P), Baroda House, New Delhi for further orders

3.4. That in reply to para 4(6) of the counter, it is denied that it is a matter of record. Transfer from one cadre to another and one seniority unit to another seniority unit cannot be done until unless the written consent is obtained from the concerning employee. The applicant had completed 18 months continuous service under the control of District Controller of Store, Northern Railway, Alambagh, Lucknow, thus he would have been confirmed in terms of Railway Board's letter No.

dated . Photostat copy is enclosed and is marked as Annexure No. R-2.

3.5. That in reply to para 4.7 of the counter, it is submitted that the contents of said para holds good.

ज्ञानी शारदा

3.6. That in reply to para 4.8 of the counter, it is submitted that the seniority list and Service Books of respondents No.5 to 8 are self explanatory that they were juniors to the applicant.

3.7. That in reply to para 4(9) of the counter, it is submitted that the selection of Stenographers is being done through the Railway Service Commissions/ Railway Recruitment Board and the select list sent to the General Manager for their posting. It will be a desparity. The senior is posted in such a Branch where there are less chances for promotion in higher grade. Originally the applicant was posted in Executive side and later on posted in Accounts Branch without any written request or consent.

3.8. That the contents of para 4(10) of the counter hold good to some extent. The case of Sri Raj Kumar is an example that he was taken back in executive side for further avenue of promotion. Nothing has been mentioned in the counter about the transfer of Sri Raj Kumar from Accounts to Executive side.

3.9. That in reply to para 4(11) of the counter, it is submitted that the contents of said para hold good to some extent. The Railway Boards have not framed the rules in this respect. F.A. & C.A.O. is not competent to make any rule in respect of Class-III Staff. The recruitment for Accounts department is made separately. The applicant was selected for executive side for Lucknow, Moradabad and Allahabad Division, thus his posting in Account at New Delhi was—against the rule, without any written request.

3.10. That in reply to para 4(12) and 4(13) of the counter, it is submitted that the rules are framed for the benefit of Staff. In respect of opposite parties No.5 to 8, it is stated that they were much junior to the applicant even then they have been promoted in scale of Rs.2000-3200 whereas the applicant deprived off as he reached only grade Rs.1600-2660.

3.11. That in reply to para 4(14) of the counter, it is submitted that the decision was taken ex parte as the applicant was not accorded natural opportunity to exercise his option for further avenue of promotion.

3.12. That in reply to para 4(15) of the counter, it is submitted that the applicant was holding his lien in executive side as originally he was appointed in executive side and later on transferred to Accounts side without obtaining written consent thus the action was arbitrary. The Accounts Staff of Lucknow Division are working under the administrative control of Divisional Railway Manager, Northern Railway, Lucknow, thus the applicant is entitled for promotion in executive side on the basis of seniority.

3.13. That in reply to para 4(16) and 4(17) of the counter, it is submitted that the applicant had refused his promotion as his promotion was done against the leave vacancy. Afterwards he was never promoted against the non-fortunous vacancy.

3.14. That in reply to para 4(18) and 4(19) of the

गोपनीय बालादा

counter, it is submitted that the applicant was originally appointed in executive side and worked more than 18 months, thus he was entitled to be confirmed in executive side. His transfer to Accounts side was arbitrary and illegal as no natural opportunity was afforded to the applicant.

3.15. That in reply to para 4(20) of the counter, it is submitted that the applicant was promoted against the fortutions vacancy (Leave vacancy) and never promoted against the non-fortutions vacancy hence the question for refusal does not arise.

3.16. That in reply to para 4(21) of the counter, it is submitted that the applicant was selected for executive side and the General Manager (P)/ New Delhi ear marked for appointment in executive side, thus the applicant was appointed in the Office of the District Controller of Stores, Northern Railway, Lucknow and after putting more than 18 months service in executive side, the applicant was transferred to Accounts Office at New Delhi without giving natural opportunity thus he holds his lien in executive side.

3.17. That in reply to para 4(22) and 4(23) of the counter, it is submitted that the applicant was never given promotion in scale Rs.2000-3200 against the non-fortutions vacancy hence the question does not arise to show inability to move out of

कृष्ण शर्म उल्लास

Lucknow. The applicant was due to be retired from service on 31.7.1990, therefore he requested for his promotion in executive side being holding the lieu in executive as he was originally appointed in the Office of District Controller of Stores from Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow, and the incumbents posted afterwards as Stenographer in that office have now been promoted in scale Rs.2000-3200.

3.18. That in reply to para 4(24) and 4(25) of the counter, it is stated that the applicant was recruited for executive side thus his posting in Accounts is illegal. There are no such order of the Railway Board to maintain the separate seniority of the Stenographers of Accounts and executive. Where the separate recruitment is made for Accounts department, there seniority is maintained separately. The F.A. and C.A.O. has no jurisdiction to frame the rules in respect of seniority and promotion etc., in respect of Class-III staff.

3.19. That in reply to para 4(20) of the counter, it is submitted the applicant neither selected for Accounts nor originally posted in Accounts thus it cannot be said that he holds his lien in Accounts. The applicant had also not given his consent for transfer to Accounts unit thus his transfer to Accounts Unit is totally illegal and arbitrary.

3.20. That in reply to para 4(27) of the counter,

श्रीमती शतार्दिश

it is stated that the decision taken by the respondents vide letter No.80/Adm./C/5/17 dated 22.12.1981 does not cover with rule as the applicant was selected for executive and originally appointed in executive side hence his transfer to Accounts was illegal and arbitrary. The applicant aggrieved and preferred representations but those representations are still pending and disposed off as yet.

3.21. That in reply to para 4(28) of the counter, it is submitted that the Accounts department had only its own rules in respect of staff selected exclusive for Accounts department and not for the staff sent on deputation and transferred from other cadre or other unit. The applicant was transferred from executive to Accounts only to cope with the work and not permanently as no option was called for transfer to other unit.

3.22. That in reply to para 4(29) of the counter, it is submitted that the contents of para 4(29) of the original application are reiterated.

3.23. That in reply to para 4(30) of the counter, it is submitted that the contents of said para are denied as the petitioner was only considered for promotion against the fortutions vacancy and not for the non-fortutions vacancy hence the question for refusal does not arise.

3.24. That in reply to para 4(31) of the counter,

560m 21/12/81

it is submitted that the applicant was due to be retired from service in July, 1990 and juniors to him were promoted in scale Rs.2000-3200 against the clear vacancies though the applicant was ignored for promotion in scale Rs.2000-3200 thus he filed this application.

3.25. That in reply to para 4(32) of the counter, it is submitted that the representation dated 4.1.1988 routed through proper channel and the same followed with a reminder dated 12.10.1988. This representation has not yet been disposed off hence denied.

4. That in reply to para 5 of the counter, it is submitted that the contents of said para are denied. The grounds as mentioned in para 5 of the original application are reiterated. The application has been admitted on the basis of these grounds and the same is maintainable.

5. That in reply to para 6 of the counter, it is submitted that the Annexures No.8 and 9 were routed through the Senior Divisional Accounts Officer, Northern Railway, Hazratganj, Lucknow, as the applicant was performing his duty in his office. These representations have not been disposed off hence denied their acknowledgement.

6. The contents of para 7 of the counter hold good.

गोपनीय सचिव का स्वाक्षर

7. That in reply to para 8 of the counter, it is submitted that the applicant is entitled for the relief as claimed in original application in para 8.

8. The contents of paras 9, 10, 11 and 12 of the counter hold good.

9. That the contents of paras 13 and 14 need no comments as the respondents have submitted the counter.

Lucknow, dated,
4.1991

असम ग्रन्थालय
Deponent.

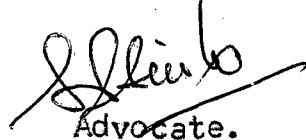
Verification.

I, Smt. Krishna Kumari Srivastava, the deponent do hereby verify that the contents of paras 1 to 5
3.28 of this rejoinder are true to my own knowledge and those of paras 4 to 5
9 are believed by me to be true on legal advice.

Signed and verified this 23rd day of April, 1991 at Lucknow.

असम ग्रन्थालय
Deponent.

I identify the deponent who has signed before me.


Advocate.

Office Order No.E/179

Dated 2.5.1956.

Shri Prem Narain Srivastava, after having declared medically fit is appointed as a temporary Stenographer on Rs.80/- P.M. in grade Rs.80-22 with effect from 30.6.56. Consequently the following arrangements are ordered from the same date viz. 30.6.56:-

1. Shri Mahesh Pd. Offig. Stenographer in gr. Rs.80-220 is reverted to his substantive post as Typist in grade. Rs.80-160 and transferred to Charbagh Depot.
2. Shri Chandra Bhan Verma, Typist-Charbagh Depot officiating in gr. 80-260 is reverted to his substantive post of Typist gr. III gr. Rs.55-130.
3. Shri K.C. Pahuja- Typist Leave Reserve working at Charbagh is transferred back to Alambagh.

Sd/-

Distt. Controller of Stores,
Alambagh, Lucknow.

Copy to the following :-

1. Workshop Accounts Officer- Alambagh.
2. Asstt. Controller of Stores- Charbagh.
3. Asstt. Supdt. General.
4. Parties concerned.

Sd/-
Distt. Controller of Stores,
Alambagh, Lucknow.

One copy
Ahered
S. S. S. S.
Ahered
28/6/56

AB6
Amesure R

NORTHERN RAILWAY

Headquarters Office,
Baroda House,
New Delhi.

No. 831-E/25-IV (EIV).

Dated: 3 -5-72.

All Divisional Superintendents and
Extra Divisional Officers,
Northern Railway.

IA & CAO(C). } Baroda House, New Delhi.
Chief Auditor. }

Copy to SPO(HQ).

Serial No. 5586.

Sub : Confirmation of staff officiating in higher grades.

A copy of Railway Board's letter No. E(NG)J-69CN5/31 dated 5.2.72 is forwarded for information and necessary action. The Board's letter dated 12.8.71 referred to therein was circulated vide this office letter No. 831-E/25-IV (EIV) dated 20.9.71 (Sl. No. 5439).

DA: As above.

Rajesh Bahadur
(Rajesh Bahadur)
For General Manager (P).

Copy to : 1. General Secretary, URMU
166-1 Railway Bunglow, Panchkula Road, New Delhi.
2. The General Secretary, NRMU,
115-E Babar Road, New Delhi.
3. Shri Ganesh Lal Sharma
Att. Genl. Secy. URMU Railway Qrt. No-35A
South Colony, Moradabad.
4. Shri J.P. Chakraborty
President NRMU, Building 25-26 Naka Hindola
Naya Ganj/Lucknow.

Copy of Rly. Bd's letter No. E(NG)J-69CN5/31 dtd. 5.2.72 from Shri Dwarka Das
Director, Estt. Rly. Board to The General Managers, All Indian Rlys. & o.t.

Sub : Confirmation of staff officiating in higher grades.

In continuation of the instructions contained in letter of even no. dt. 17.8.71 Board desire that the cases of staff who have been promoted on regular basis may be reviewed after completion of one year's continuous offg. service, even if a permanent vacancy does not exist, with a view to determining their suitability for retention in the grade. The review should be completed early and a decision to continue the employee in the offg. post or revert him, taken and implemented within a period of 18 months of offg. service. Having followed this procedure, there will be no question of denying the benefits of confirmation to an employee on completion of 3 yrs. offg. service in a clear permanent vacancy for the reason that he is not fit for confirmation.

Please acknowledge receipt.

True copy
Attedd
Officer
Adm
20/11/72

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL (HABED)
CIRCUIT BENCH, LUCKNOW

MP P. NO. 809 OF 1991 (2,

Inre:
C.A. No 143 of 1989 (L)
Smt. Kamlesh Kumar & others ... Applicants
Union of India & others ... Respondents

APPLICATION FOR CLARIFICATION OF PARA- 6
OF THE JUDGMENT & ORDER DATED 6.9.1991.

That the humble respondents 1 to 4 beg to submit as under:-

1. That this Hon'ble Tribunal was pleased to pass the judgment & order dated 6.9.1991 in the above noted case.
2. That the humble respondents 1 to 4 are confused and not in a position to properly interpret the verdicts given by this Hon'ble Tribunal in Para-6 of the aforesaid judgment.

Filed today
SAC
1912101

2.

Re

3. That, therefore, in the ends of justice it is desired that this Hon'ble Court may graciously be pleased to clarify the para-6 of the judgment & order dated 6.9.1991 so as to enable the respondents 1 to 4 to comply the same.



(B. K. SHUKLA)
ADVOCATE

COUNSEL FOR THE RESPONDENTS 1 to 4

Lucknow

Dated: 18.12.91

Before Central Administrative Tribunals Allahabad, Circuit Bench
In the Court of Lucknow.

T.A No 143 of 1989

Plaintiff
Defendant

P.N. Srivastava

Claimant
Appellant
Petitioner

Versus

Defendant
Plaintiff

Union of India & others Respondent

The President of India do hereby appoint and authorise Shri Brijesh Kumar Shukla
Railway Advocate, High Court, Lucknow

to appear, act, apply, plead in and prosecute the above described suit/appeal/proceedings on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/Pleader or any Council, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceedings against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or Compromise where by the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate of Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjust and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agrees to ratify all acts done by the aforesaid Shri Brijesh Kumar Shukla, Advocate, Lucknow
In pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed for and on behalf of the President of Indian this the 19

Accepted
B. Shukla
16.1.90.

Dated 198

11/11/89
Chief Commissioner of the Executive Officer
N. R. P. R. Rd., Baroda House, New Delhi

TO THE GENERAL SECRETARY/GENERAL SECRETARY, MARCH 1984

CHAMBER OF COMMERCE

1984-85

CHAMBER OF COMMERCE

1984-85

1984-85

2021 to 2028

143

of 1984-85

1984-85

dated 11.10.84

P. N. Sativarkar

CHAMBER OF COMMERCE

1984-85

CHAMBER OF INDIA & OTHERS

Please take notice that the entries above stand the
evidence of Application of my name to record that
which has been mentioned this General and for this

Day of 10th 1984

It is understood to date on this date, the place of
my name only mentioned in the record of your entry in
the said application, it will be bound off from 1984 to your
service.

Done under my hand and seal at the dated above

11th Day of 10 1984

① Notice issued to
P.P.'s No. 1 to 8

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT SEAT LUCKNOW

C.A. No. 143 of 1989 (L)

From **Karain Srivastava**

.....

Applicant.

Union of India & ors

.....

Respondents.

10.9.1992

Hon'ble Mr. D.L. Agarwal, J.J.

Record Mr. S.P. Sinha counsel for the applicant.

AMMENDED.

Issue notice to respondents to file counter affidavit within 6 weeks, to which the applicant may file rejoinder, if any, within 2 weeks thereafter.

List this case on 20.11.1989 for orders/final hearing as the

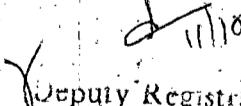
case may be.



Judicial Member

II True Copy II

(cont)


Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow