

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

A
44

INDEX SHEET

CAUSE TITLE ...*OA 184*... OF ...*29*...

NAME OF THE PARTIES*C. G. Lal*..... Applicant

Versus

.....*Union of India*..... Respondent

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CERTIFICATE

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

Dated ...*14/6/2011*...

B/C destroyed on 9-5-12

Counter Signed.....

Section Officer/In charge

Signature of the
Dealing Assistant

Central Administrative Tribunal
Lucknow Bench

A/
WB

INDEX SHEET

Cause Title of 1993

Name of the Parties

184/89

Central

Applicant

Versus

U.O. I

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Part A.E.C.

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M. P.

A₃₈ to A₄₂

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Extra copy of M.P.

B. file

Petition, Annexure

B₄₃ to B₆₆

CA / RA.

8

3-8-87

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 124 of 1989(L)

APPLICANT(S) C. G. Lali

RESPONDENT(S) Union of India & others

<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1. Is the appeal competent ?	yes
2. a) Is the application in the prescribed form ?	yes
b) Is the application in paper book form ?	yes
c) Have six complete sets of the application been filed ?	Five sets have been filed
3. a) Is the appeal in time ?	yes
b) If not, by how many days it is beyond time ?	No
c) Has sufficient case for not making the application in time, been filed ?	yes
4. Has the document of authorisation/Vakalatnama been filed ?	yes
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	yes
6. Has the certified copy/copies of the order(s) against which the application is made been filed ?	yes
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	yes
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	yes
c) Are the documents referred to in (a) above neatly typed in double space ?	yes
8. Has the index of documents been filed and pagring done properly ?	yes
9. Have the chronological details of representation made and the out come of such representation been indicated in the application ?	yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ?	No

A2

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

dinesh

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. O.A. No. 184/89(L) of 198

APPELLANT
APPLICANT

C.G. Lal

VERSUS

DEFENDANT
RESPONDENT

Union of India and ors

Sl. No. of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
16/8/89	<p><u>Hon' Mr. D.K. Agrawal, J.M.</u></p> <p>Mr. P.L. Mishra, learned counsel for the applicant is present and heard.</p> <p><u>ADMIT.</u></p> <p>Issue notice to respondents to file counter affidavit within six weeks to which the applicant may file rejoinder affidavit within two weeks thereafter.</p> <p>List this case on <u>21/11/89 for orders/hearing</u> as the case may be.</p> <p style="text-align: right;">J.M.</p> <p>(sns)</p> <p>No Selong. Adj. to 3-1-90 Applicant is present in person</p> <p style="text-align: right;">21/11/89</p>	<p>N.K. 11/11/89</p> <p>Not as per order of 17/11/89</p> <p>Neither reply. Nor any counter reply. Case has been return back Submitted 1st order.</p> <p style="text-align: right;">11/11/89</p>
3/1/90	<p><u>Hon' Mr Justice Kamleshwar Nath, V.C.</u> <u>Hon' Mr K. Obayya, A.M.</u></p> <p>Shri Aril Srivastava files Vakalatnama on behalf of the Op.Ps. and requests for time to file a counter. Last opportunity to file a counter within four weeks is given. The applicant may file rejoinder within two weeks thereafter and list this case for further <u>orders on 15-2-90.</u></p> <p style="text-align: right;">A.M.</p> <p style="text-align: right;">V.C.</p> <p>(sns)</p>	

10.1.92

No sitting adjn 25.2.92
Q

28.2.92

No sitting Q.D.B. adjn 3.4.92
Q

CA Filed
SPM
JTB

3.4.92

No sitting adj to 28.5.92
Q

28.5.92

Hon Justice U.C.S, VC
Hon A B Broth, DM

Adjourned kept on record.
There is an amendment application. Amendment is found in nature. Allowed. Reply to be filed within 2 weeks. List for hearing on 24.7.92.

W

DM

VZ

Q

24.7.92

No sitting Q.D.B. adj
on 25.8.92
Q

O.R.
CA/RA have been exchanged.

25.8.92 Hon Mr. Justice U.C. Sivadas, VC
Hon Mr. K. Bayly, DM

S.F.O.

24/8/92

ly to amendment not been filed.
S.F.O.

learned counsel for respondent
prays for 3 weeks further time to file
reply to amendment application. In case
no reply is filed within this period, the
learned counsel for respondent will seek
his right to file the same. List on 19.10.92
VC

AM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

C.A. NO. 184 of 1989 199 (L)

T.A. NO. _____ 199 (TL)

Date of Deceasion 2.2.93

C.G. Dal - - - - - Petitioner.

- - - - - Advocate for the
Petitioner(s)

V E R S U S

Union of India & Others - - - - - Respondent.

- - - - - Advocate for the
Respondents

C O R A M
- - - - -

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

Hon'ble Mr. K. Obayya Member (A)

1. Whether Reporter of local papers may be allowed to see the Judgment .. ✓
2. To be referred to the reporter or not ? ✓
3. Whether their Lord Ships wish to see the fair copy of the Judgement ? ✓
4. Whether to be circulated to other benches ? ✓

Vice-Chairman / Member

(AS)

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 184 of 1989(L)

C.G. Lal Applicant

Versus

Union of India & Others Respondents

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

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

(By Hon'ble Mr. Justice U.C.Srivastava,VC)

The applicant who was appointed as Clerk in the Railway Department and was confirmed in the year 1953 in the clerical cadre. In the year 1958, he was promoted against the existing post of T.T.E. It appears that while working as Ticket Travelling Examiner certain charges of misappropriation of a sum of Rs. 101.00 in the month of June 1976 and a sum of Rs. 171.25 in the month of September 1976 were levelled for which departmental enquiry was ordered to be held against the applicant. In the enquiry, it was held that the charges against the applicant were proved and consequently, a disciplinary authority passed an order removing the applicant from service. The applicant filed a departmental appeal against the same and the General Manager took a lenient view of the matter and allowed the appeal and set-aside the removal order and after taking into consideration the overall view decided that the applicant may be re-instated but posted as an office clerk in scale Rs. 260-400(RS) and his pay may be fixed at the maximum of the scale and he should not be permitted to work on any post in which he has to deal with public, and the intervening period from the date of removal to the date of re-instatement may be treated as suspension. In case, the applicant applies for adjustment of this period against his leave account, the same may be permitted."

Consequently, the applicant was re-instated. It appears

Contd..2/-

AC

:: 2 ::

that thereafter, the question of seniority was raised and consequently, a decision was taken that the applicant's seniority will count from the date he was confirmed on 5.11.1953 and will be made senior to one Ram Chandra Srivastava. Objections in this behalf were also invited.

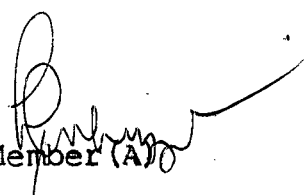
2. From the counter-affidavit, it appears that the said Ram Chandra Srivastava, also filed a representation, a copy of which has been annexed herewith. Subsequently, in the year 1989, an impugned order was passed informing him that his seniority in the clerical cadre will date back from the date he was re-instated in service. As the applicant challenged the said order on the ground that he was earlier reverted and more than one punishment was given and he continued in clerical cadre from the date he was appointed and he can not be deprived of the seniority from the date he was confirmed. The respondents have tried to justify their action that as the applicant has been re-instated on that particular date, his seniority in the clerical cadre was to be counted from that date. Even if, there is no clear statement that Ram Chandra's representation was allowed apart from saying that he filed an representation, even if his representation would have been allowed, he would have been made senior, but the applicant who was confirmed ^{on clerical cadre} in the year 1953, he could not have been deprived of seniority. Accordingly, the impugned order 2.8.1989 is quashed and the applicant will be deemed to be seniority and his seniority will count from the date he was confirmed in the service, as it was decided earlier by the Railway Administration itself in the year 1987. In view of the fact that the applicant's seniority will count from the year 1953 and not from 1984 as has been subsequently modified without ^{giving} hearing to the applicant


Contd..3/-

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:: 3 ::

to the applicant. The applicant will be entitled to all the consequential benefits. With these observations, the application is disposed of finally. No order as to costs.


Member (A)


Vice-Chairman

Lucknow Dated: 2.2.1993

(RKA)

To,

The Dy. Registrar
CAT Lucknow Bench
lucknow.

19/93

O.A. No 184/89(L)

C.G. Hall vs U.O.D. decided on
2.2.1993

Sir,

In the above noted case I am
a applicant and the case has been
decided on 2.2.93 of which copy
of Judgment is required.

A postal order of Rs 5/- (Five)

No. ^{28434/6} ~~28434/6~~ is enclosed herewith.

Kindly issue of orders for
supply of copy and attested

Yours faithfully

C.G. Hall
Dt. 1.3.93

Issue
File

F.T.
11/3/93

Deputy Registrar(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

O.A. No. 184 of 1989(L)

C.G. Lal


... Applicant

Versus

Union of India and ~~others~~ another.

... Opp. Parties

COMPILATION-A
COMPILATION-B


(P.L. MISRA)
ADVOCATE

Counsel for the Applicant,
High Court, Lucknow.
C-199, Nirala Nagar,
Lucknow.

Lucknow

Dated: 3.8.1989

C.G. Lal

*Filed for
noted for 16/8/89
3.8.89*

*May be placed before the Hon'ble
Court on 16-8-89.*

Ramesh

3/8/89

P.S. to Hon. V.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

Case No. 184 of 1989(L)

C.G. Lal

...Applicant

Versus

Union of India and another

...Opp. Parties

COMPILATION-A

Sl. No.	Description of document relied upon	Page Nos.
---------	--	-----------

- | | | |
|----|---|-----|
| 1. | Application u/s 19 of C.A.T. Act, 1985. | 1-7 |
| 2. | Power | 8 |
-

LUCKNOW

DATED: 3.8.1989

C.G. Lal

APPLICANT

[Signature]

AS

In the Central Administrative Tribunal, Lucknow Bench,
Lucknow.

Case No. 184 of 1989(L)

C.G. Lal, aged about 57 years, son of
Shri Gauri Prasad Srivastava, R/O
A-907, Indira Nagar, Lucknow.

... Applicant

Versus

1. Union of India through Secretary,
Ministry of Railway, Government of
India, New Delhi.
2. General Manager(P), Gorakhpur.
3. Divisional Railway Manager (P),
N.E.Railway, Lucknow.

...Opp.Parties

DETAILS OF APPLICATION

1. Particulars of the applicant:

- i) Name of the applicant : C.G. Lal
- ii) Name of father : Gauri Prasad Srivastava
- iii) Designation & Office : Clerk, Mandal Rly.
in which employed Prabandhak, Lucknow.
- iv) Office address : c/o Div. Rly. Manager,
Lucknow.
- v) Address for service of : As above.
all notices.

2. Particulars of the respondent:

- i) Name and/or designation: As shown above.
- ii) Office address of the : As shown above.
respondent
- iii) Address for service :: As shown above.
of all notices

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

C.G. Lal

The application is against the following order:

- (i) Order No. E/I/UG Lal/89
- (ii) Dated 28.6.89
- (iii) Passed by Div. Rly. Manager (Mirmik) Lucknow
- (iv) subject in brief- fixation of seniority

4. Jurisdiction of the Tribunal:

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

5. Limitation:

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

6. Facts of the case:

The facts of the case are given below: -

1. That the petitioner was appointed initially as Clerk in the Railway Department. He was declared confirmed on the post of Clerk in the year 1953.

2. That by virtue of his confirmation on the post of Clerk his lien was intact in the clerical cadre and therefore his seniority in the cadre is liable to be maintained for further promotions.

3. That ever since his appointment as a Clerk in the Railway Department, the work and conduct of the petitioner was found to be excellent and therefore in the year 1958 the petitioner was promoted against the existing post of T.T.E.

4. That while working as TTE certain charges

C. P. Lee.

(A10)

of misappropriation of a sum of Rs.101.00 in the month of June 76 and a sum of Rs.171.25 in the month of September 76 were levelled for which departmental inquiry was ordered to be held against the petitioner.

5. That in the departmental inquiry, the charges were said to have been proved against the petitioner and therefore as a measure of punishment a removal orders from-service were passed against the petitioner.

6. That against his removal orders, petitioner preferred an appeal and the General Manager while considering the same had passed reinstatement orders of the petitioner not on the post of TTE but on the post of Clerk. A D.O. letter written by Sri A.S.Gupta dated 14 March 1984 is annexed herewith as Annexure no.1 to this claim petition.

7. That the General Manager has reinstated the petitioner and posted him as Clerk at the maximum of the scale. So far as intervening period from the date of removal to the date of reinstatement was concerned, it was treated as suspension period which means that it was accountable for all intents and purposes towards seniority, pension and gratuity of the petitioner.

8. That as stated in the preceding paragraphs, the initial appointment of the petitioner was on the post of Clerk and he was confirmed on the said post, and hence when the petitioner was reinstated on the said post by virtue of his reversion from post of TTE, the petitioner made a representation that his seniority in the clerical cadre

e.g. Law

Au

and he be assigned the first position so that he⁴ could be considered for future promotions.

9. That the opposite party no.3 prepared the tentative seniority list and thereafter he had invited the objections from the working clerical staff in the railway department. A true copy of the letter dated July 1987 written in this respect is annexed herewith as Annexure no.2.

10. That each and every individual made objections against the said tentative seniority to be assigned to the petitioner and till todate the matter regarding seniority of the petitioner which was to be fixed over and above the existing working clerical staff is lingering.

11. That in order to delay further in fixation of the seniority of the petitioner, the opposite party no.3 had forwarded the case to opposite party no.2 and in this connection an intimation has been given to the petitioner vide letter dated 28.6.89. A true copy of which is annexed herewith as Annexure no.3.

12. That it was also informed that no intimation has been received from the Headquarters and hence no action regarding fixation of seniority of the petitioner could be taken.

13. That non-fixation of seniority of the petitioner in the clerical cadre leads to recurring financial losses to the petitioner inasmuch as that he has been forced to work on the lower post while his juniors are working on the higher grades in the clerical cadre.

C. L. Rao

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7. Relief sought-

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

- (a) to issue a direction or order to the opp. parties to fix the seniority of the petitioner in the cadre of clerks and promote him on the higher grade where juniors than the petitioner are working;
- (b) to allow the petitioner the consequential benefits by virtue of seniority and to pay him arrears of salary dues of higher post;

8. Interim order, if prayed for:

9. Details of the remedies exhausted:

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

10. Matter not pending with any other court:

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of Bank Draft/Postal order in respect of the application fee:

- 1. Name of the Bank on which drawn
- 2. Demand Draft No.

O R

- 1. No. of Indian Postal order(s) 52 795793

C. S. / 100

(A12)

6

- 2. Name of the issuing post office G.P.O Lucknow
- 3. Date of issue of postal orders 3-8-89
- 4. Post office at which payable.

12. Details of Index:

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures

Verification:-

I, C.G.Lal, son of Sri Gauri Prasad Srivastava, aged about 57 years, working as Clerk in Divl.Rly.Manager Lucknow and resident of A-907/2, Indira Nagar, Lucknow do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

C.G.Lal

Place: Lucknow

Applicant.

Date: 3 August, 1989

Signature of C.G.Lal
verified
[Signature]
3/8/89

A14

बन्धुदालत श्रीमान

सन्तुल्य श्यामोदय महोदय

वादी (मुद्दई)

मुद्दई (मुद्दालेह)

का

वकालतनामा



C. C. Lal

वादी (मुद्दई)

वनाम

Union of India

प्रतिवादी (मुद्दालेह)

Sri P. L. Mishra Del.

एडवोकेट

महोदय

Sri M. C. Mishra Del.

वकील

नाम अदालत

नं० मुकद्दमा

नाम फरीकन

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

हस्ताक्षर.....

(Chibha Gupta Lal)

साक्षी (गवाह).....

साक्षी (गवाह).....

दिनांक.....3.....

महीना.....8...../89

Accepted
22/8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

Case No. 187 of 1989 (L)

C.G. Lal

... Applicant

Versus

Union of India and another

... Opp. Parties

COMPILATION-B

Annexures

Page

1. Copy of D.O. letter dated 14.3.1984
reinstating the petitioner on the
post of Clerk 1
2. Copy of letter issued by opp.party
No.1 inviting objections for
fixation of seniority of the
petitioner. 2
3. Copy of letter dated 28.6.89
addressed to petitioner informing
him that his case for fixation
of seniority has been referred to
headquarters where it is still
pending. 3

Lucknow

Dated: 3 .8.1989

C.G. Lal

APPLICANT

The Registrar
C.A.T.
Lucknow.

In the C.A.T. Lucknow Bench Lucknow

(A/S)

Case No

of 1989

C.G. Lal

Applicant

Mandal Rail

Prabandhakans

Opp Parties

Annexure NO 1

D. HARIRAM

Ann. No 1

51

A.S. Gupta,
Addl. C.P.O.

~~Confidential~~
~~XXXXXXXXXX~~

D.O. No. E/74/Comm1./XL/VI/1.

Dated: March 14, 1984.

My dear Jain, .

Subj:- Shri C.G. Lal, Ex. TTE of Lucknow Division.

While taking a review of the court case filed by Shri C.G. Lal, against the orders of his removal from service, G.M. has given the following decisions:-

" I have gone through the case carefully. The facts of the case show prima facie the misappropriation of the amounts involved. But I also find that this has become a Court case and the Railway has to contest the same. The quantum of cash that was misappropriated is about Rs. 200/- only and it is not worthwhile a case on which the Government should spend large amount of money to contest it over for a long period. Shri C.G. Lal has appealed to me to deal with the case on compassionate ground. Taking an overall view of the situation, I now decide that Shri C.G. Lal may be re-instated but posted as an Office Clerk in scale Rs. 260-400 (RS) in Lucknow Division itself and his pay may be fixed at the maximum of the scale. He should not be permitted to work on any post in which he has to deal with public.

The intervening period from the date of removal to the date of re-instatement may be treated as suspension. In case Shri C.G. Lal applies for adjustment of this period against his leave account, the same may be permitted."

2. You may please arrange to issue office order for re-instatement of Shri C.G. Lal in accordance with GM's orders quoted above and have the same delivered to Shri C.G. Lal through a special messenger.

3. The action taken in the matter may please be intimated to the undersigned so that G.M. may be apprised of the same.

Yours sincerely,

Shri R.S. Jain,
D.R.M./A.L.Rly./Lucknow.

(A.S. Gupta)

copy of LO given to Shri B.C. Srivastava, CLA.

M.K. Dikshit

14/3/84

C.B. Lal

In the C.A.T. Bench Lucknow

AIC

Case No

of 1989

C. G. Lal

Applicant

Mandal Rail

Prabandhakars — opp Petitioners

Annexure No 2

Annex 2

पूर्वात्तर रेलवे

=====

संख्या ई 211/255/कार्यालय लिपिक/वाणिज्य/87 कार्यालय मंडल रेल प्रबन्धक(का०)
लखनऊ दिनांक जुलाई, 1987

सर्व श्री

1. राम चंद्र श्रीवास्तव, अब्दुल गफ्फार, सतगुलाल, कै०यू०बां, कायार्थि ग्रेड II

2. सच०एस०एस०श्रीवास्तव, जे०बी०उषाध्याय, कै०सी०त्रिपाठा, टी०एस०निगम,
बी०एस०श्रीवास्तव, डी०बी०मलिक, आ०एस०निगम, जी०एस०त्रिपाठी, आ०बी०कटियार,
जी०सी०राय चौधरी, रामदेव, आ०के०वर्मा, एस०के० मिश्रा, एस०एस०षण्ड़े, वी०एस०सिंह,
बी०बी०सक्सेना, कै०एस०गुप्ता, सच०बी०बाजपेई, सतीषकुमार, हर गोविन्द, बाबू, प्रधान लिपिक
3. आस०एस०सी०सिन्हा, कौटेला, आ०बी०अरो, एस०बी० षण्ड़े, श्रीमती शकुन्तला सेठ,
जगदेवसिंह, ओ०के० बनर्जी, कै०एस०इक, सैयद वजीर हसन, ए०के०मुहूर्जी,
बालेश्वर नाथ श्रीवास्तव, अन्तर आलम ।

4. आ०सी० श्रीवास्तव, एस०डी०राय, आ०एस०सिंह, एस०एस०सिद्दीकी, श्रीमती विमल
शर्मा, अरुण कुमार यादव, कु० सबा अहमद, कै०एस०रेड्डी, अरुण कुमार मौर्य, किरन
श्रीवास्तव, अनवर सलाम, कृष्ण मोहन ।

विषय:- श्री सी०जी०लाल, लिपिक(वाणिज्य) की वरीयता का मामला
XXXX

श्री लाल ने अपनी वरीयता के सम्बन्ध में आवेदन किया है कि उनकी
वरीयता उनके मौलिक कैडर में लिपिक वर्ग में रीइन्स्टेटमेंट होने के फलस्वरूप नियुक्ति
तिथि 18.5.1951 से दी जानी चाहिए ।

कर्मचारी का स्फार्डकरण लिपिक(55-130) बंद पर दिनांक 5.11.1953 को
हुआ था यह अन्तिम स्तर से निर्णय लिया गया है कि उनकी वरीयता श्री राम चंद्र
श्रीवास्तव स्थानावर्तन कायार्थि ग्रेड II के ऊपर निर्धारित की जाय ।

अतः यदि किसी को इस पर आपत्ति हो तो लिखित स्म से पत्र जारी होने
की तिथि से 15 दिन के अन्दर अपना अभिवेदन कर सकते हैं अन्यथा कोई अभिवेदन मान्य
नही होगा और यह मान लिया जायेगा कि उपरोक्त निर्णय से किसी को कोई आपत्ति
नही है ।

कृते मंडल रेल प्रबन्धक(कार्मिक)
लखनऊ

1/14787

C. G. Lal

In the C.A.T. Bench ^(AIR) ~~Ludhiana~~

Case No 1489

C.G. Lal — Applicant

Mandal Rail
Prabandhakars — opp Parties

Annexure NO 3

प्रति रत्ना

Annex NO 3

कार्यक्रम

मे २५ (कार)

मौलिक

दिनांक - 28/6/89

सं - ३/५/सी.जी. कार/३९

श्री सी.जी. कार

लिपिक

मे २५ (कार) कार्यक्रम

मौलिक

विषय :- श्री सी.जी. कार, लिपिक के वरीयता
तथा प्रसंग के संबंध में।

संदर्भ : आका ५४ दिनांक २६-६-८९

उक्त संदर्भ में आपको सूचित किया
जाता है कि आपका कस इस प्रमाण से
संबंधित है कि आपका कस इस कार्यक्रम से
कि २६-२-८८ को प्रमाणित किया गया है
इसके लिए दिया गया।

किंतु प्रमाण का निर्यात इस संबंध
में अभी तक इस कार्यक्रम को प्राप्त नहीं हुआ।

श्री सी.जी. कार (कार)
मौलिक

C.G. Lal

A182

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW.

CIVIL MISE.No. 22 of 1992 (L)

In Re:

O.A.No. 184 of 1989. (L)

C.G.Lal Applicant.

Versus

Union of India & Others Respondent.

Next Date 10-10-92

APPLICATION FOR CONDONATION OF DELAY IN FILING

25/2/92

COUNTER REPLY.

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

P R A Y E R

Wherefore, it is most respectfully prayed that

in the interest of justice, delay in filing counter reply may be condoned and counter reply may be taken on record.

10/11/92 Lucknow.

Dated. 10-1 - 1992,

Anil Srivastava
(ANIL SRIVASTAVA)
Advocate

Counsel for the Respondent.

Filed today

syw

A19

In the Central Administrative Tribunal,
Circuit Bench, Lucknow.

Registration (O.A.) No. 184 of 1989 (L)

C.G. Lal

..... Applicant/Petitioner

Versus

Union of India and others

..... Respondents/Opp.
Parties

COUNTER REPLY ON BEHALF OF ALL THE RESPONDENTS

I, S. M. N. Dslam
working as Sr Divl. Per. officer in the office
of Divisional Railway Manager, North Eastern
Railway, Ashok Marg, Lucknow, do hereby solemnly
affirm and state as under:-

1. That the official above named is working under the respondents and is fully conversant with the facts and circumstances of the applicant's case and has been authorised by the respondents to file this counter reply on their behalf.
2. That before giving parawise reply to the contents of the original application the following facts which are necessary for the proper adjudication of this case, may be brought to the knowledge of this Hon'ble Tribunal.

S. M. N. Dslam
प्रवक्ता मण्डल कार्यालय अधिकारी
पूर्वोत्तर रेलवे, २२००३

Contd.....2

A20

- 2 -

3. That while working as T.T.E. in the year 1976 certain charges of misappropriation were levelled against him and accordingly a departmental enquiry was ordered to be held against the applicant/petitioner.
4. That in the said enquiry, the charges levelled against the applicant/petitioner stood fully ~~paid~~ ^{proved} as is evident from Annexure No. 1) the original application and accordingly as a measure of punishment the applicant/petitioner was removed from service.
5. That, ~~xxxxxxxxxxxxxx~~ against his removal order the applicant/petitioner had preferred appeals and reviews, which were duly rejected by the competent authorities.
6. That, however, on sympathetic and compassionate grounds the applicant/petitioner was reinstated but posted as an office clerk (as junior clerk) in scale of Rs. 260-400 (RS) in Lucknow Division and his pay was fixed at the maximum (of junior clerk) of the said scale i.e. at Rs. 400/- per month. The applicant/petitioner was further required not to work on any post in which he has to deal with public but the intervening period from the date of removal to the date of reinstatement was to be treated as suspension (Annexure No.1).

प्रवर
मुख्य कार्यकारी अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

Contd....3

A 21

- 3 -

7. That it may be clarified here that there are two classes of office clerks. Junior office clerks grade Rs. 260-400, in which scale the petitioner/applicant was reinstated and Senior Office Clerk grade Rs. 330-560. The employees who were working as ^{senior} ~~senior~~ clerks on the date of joining of the applicant on his reinstatement in the scale of Junior Clerk grade Rs. 260-400 at pay Rs. 400/- per month i.e. at the maximum in the scale of Junior Clerk only would be senior to the applicant/petitioner and accordingly no junior person has superceded the applicant/petitioner.
8. That the only relief claimed by the applicant/petitioner in this application is to fix his seniority, which has been done even prior to his filing the present application before this Hon'ble Tribunal. A copy of order dated 2.8.1989 passed by the competent authority fixing the seniority of the applicant/petitioner is being filed herewith as Annexure No. C-1 to this reply.
9. That since no juniors to the petitioner have been promoted superceding him hence there is no question of his promotion to higher grade where his juniors have allegedly been promoted and accordingly no arrears as alleged are payable to him.

Swirle
Yat Contd....4

A22

- 4 -

10. That in view of facts mentioned in para 8 and 9 of this reply the instant application has become infructuous and deserves to be dismissed as infructuous.
 11. That the contents of paras 1 and 2 of the original application do not call for reply.
 12. That in reply to the contents of paras 3 and 4 of the original application, it is stated that final orders, fixing the seniority of the applicant/petitioner has already been passed on 2.8.89 (Annexure No. C-1 to this reply), pursuant to the said order under challenge dated 28.6.89 (Annexure No.3) hence no dispute remains to be adjudicated now by this Hon'ble Tribunal. This application has become infructuous.
 13. That the contents of para 5 of the original application do not call for reply.
- Reply to the contents of para 6 of the original application are as below:-
14. That the contents of para 6(1) of the original application are admitted.
 15. That the contents of para 6(2) of the original application are not admitted as stated. Now the applicant's current seniority is to

Contd....5

Sudhakar
प्रव. नण्डल कायदे अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

be maintained as per order dated 2.8.89 passed by the competent authority and contained in Annexure No. C-1 to this reply.

16. That in reply to the contents of para 6(3) of the original application, it is stated that the applicant/petitioner was temporarily promoted as T.T.E. only due to his, the then, seniority and not due to his excellent work.
17. That the contents of paras 6(4) and 6(5) of the original application are admitted.
18. That the contents of para 6(6) of the original application are not admitted as stated. Though the appeal and review preferred by the applicant/petitioner against his removal order were duly rejected by the competent authority, but on the applicant's subsequent appeal to the General Manager on compassionate grounds, the competent authority on compassionate grounds reinstated the applicant/petitioner on terms and conditions as stated in the order dated 14.3.84 contained in the Annexure No. 1 to the application.
19. That in reply to the contents of para 6(7), it is stated that the applicant/petitioner was reinstated on the grade of Junior clerk scale Rs. 260-400 on terms and conditions laid down in Annexure No. 1.

Contd.....6

साधुल्लेख
प्रति
महोदय को, ०१.०४.८५,
प्रतिवेदित, मुंबई

A24

- 6 -

20. That in reply to the contents of paras 6(8) and 6(9) of the original application, so far it is matter of record is admitted but the rest of the contents of the paras are denied.
21. That the contents of para 6(10) of the original application are not admitted as stated but, however, it is admitted that other employees made objections/representations against the said provisional seniority to be assigned to the applicant/petitioner. A copy of the said representation dated 30.7.87 is being filed herewith as Annexure No. C-2 to this reply.
22. That the contents of paras 6(11) to 6(13) of the original application are denied. The seniority of the applicant/petitioner had already been fixed by the competent authority vide his order dated 2.8.89 even prior to filing of the instant application.
23. That in reply to the contents of para 7 of the original application, it is stated that relief prayed for has already been granted to the applicant/petitioner. His seniority has been fixed by the competent authority. Since no juniors to the applicant/petitioner have superceded him, hence, the applicant's promotion to the higher grade, without his turn as per his revised seniority could not be entertained. Accordingly

Contd....7

SM/2/14/89
Yd2
Sd/-
Sd/-

no arrears of pay as alleged, are payable to him. In view of the above facts this application itself has become infructuous and deserves to be dismissed with costs in favour of the answering respondents and against the applicant/petitioner.

Lucknow.

Dated: 10-1-92

Smruler
प्रवर मण्डल कार्यालय अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

VERIFICATION

I, the official above named do hereby verify that the contents of para 1 of this counter reply is true to my personal knowledge and those of paras 2 to 22 of this counter reply are believed by me to be true on the basis of records and legal advice.

Lucknow

Dated: 10-1-92

Smruler
प्रवर मण्डल कार्यालय अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

पूर्वातर लेवे

सं०ई/विविध/वरीयता/ सीजी लाल/क(लूज) कार्यालय महा प्रबन्धक(का)
गोरखपुर, दि० २ - 8-1989

मंडल ले प्रबन्धक(का)
पूर्वातर लेवे,
लखनऊ

विषय:- श्री सी. जी. लाल लिपिक (950-1500)

म०रे०प्र०(वा) कार्यालय लखनऊ के
वरीयता निर्धारण के सम्बन्ध में ।

संदर्भ:- मकाधि/लखनऊ का अ०स०प०सं०
ई/सी जी स्ल/लिपिक/88 दि० 12-7-89 ।

उपर्युक्त मामले में विचार किया गया । श्री सी जी लाल
को पेशन आदि के मामले में उनकी मूल नियुक्ति तिथि से लाभ देय
होगा । उन्हें लिपिक में दि० 19-3-84 से वरीयता देय होगी ।

यह सक्षम अधिकारी के अनुमोदन से जारी किया जाता है ।

कृते महा प्रबन्धक(कार्मिक)

इलाहाबाद
अनुमोदित मसीदापण 15
दि 10/8/89

अनुमोदित
दि 10/8/89

True Copy

प्रवर
मुख्य कार्यालय, गोरखपुर
पूर्वातर लेवे, लखनऊ

Ammapure C-2 9/11/87

The Divisional Railway Manager (P),
North Eastern Railway,
LUCKNOW.

Sir,

Sub:- Seniority of Shri C.G. Lal, Clerk (Comm1).

Ref:- Your letter No. B/C.G.Lall/Vanijya Lipik/
Vanijya/87, dated 20-7-1987.

With reference to the above, I beg to submit the following, for favour of your judicious consideration please:-

That, the notice does not contain full facts, materials and circumstances under which the said Shri C.G. Lal was reinstated and how he was posted as Clerk on reinstatement in which he had no lien.

The details of his past services rendered, are appended below:-

23-5-1951 ===== Appointed as a Clerk in office of Dy. G.M.(P)/Gorakhpur.
20-2-1953 ===== Joined Gonda Office and worked as Trains Clerk.
05-11-1953 ===== Worked as G.E.C.
16-7-1956 ===== Worked as T.C. in Gonda Distt.
18-05-1959 ===== Promoted as T.T.E. in GD Distt.
14-03-1968 ===== Confirmed as T.T.E./Gonda.
13-05-1981 ===== Removed from Service.
15-03-1984 ===== Reinstated as a Clerk.
19-03-1984 ===== Joined as a Clerk in Comm1. cadre of Divl. Office/Lucknow.

That he was involved in a C.B.I./S.P.E. case for perpetrating fraud and embezzlement while working as a T.T.E./Gonda and consequently on such proved charges of corruption following a D.A.R. enquiry was removed from service under N.I.P. No. LD/SS-C/Vig/SPE/23/78, dated 13-5-1981.

That, his appeals and review petitions against the penalty of removal from service were rejected at all the levels including the Railway Board.

That, he was reinstated on purely compassionate grounds on his mercy petition as an act of clemency and

Contd...2.

True copy

Smt. S. S. S.
पुस्तकालय प्रमुख, लखनऊ
पुस्तकालय, लखनऊ

9/10 (A 28)

- - 3 - -

That, as he has been re-appointed/reinstated and posted as a clerk in scale Rs. 260-400 on Rs. 400-00, he should remain constant as clerk on Rs. 400-00 p.m. for the remaining period of his service unless his penalty is quashed or modified to his advantage by competent authority. In that case also he will go back to his parent cadre of T.T.E. and not as clerk.

That, in view of the above, it will be against all the norms of fair-play and shocking to conscience and propriety if an employee held guilty and removed from service in proved cases of corruption, fraud and embezzlement, is rewarded for his serious mis-conduct by giving him all benefits right from the date of his initial appointment while maintaining the penalty imposed upon him.

I, therefore, request your honour to consider whole case of Shri C.G. Lall dispassionately and not the case of seniority in isolation as this will do great great injustice to innocent employees and will set a dangerous precedent of indirectly rewarding a proven corrupt employee of which he is not worth. I also beg to emphatically state that the said Shri C.G. Lall is not entitled to any seniority and promotion under the circumstances of his case and that your notice as referred to above should be cancelled, rescinded or otherwise withdrawn forthwith so that the justice, equity and fairdeal may prevail.

Thanking you.

Yours faithfully,

Dated: 30-7-1987.

R. C. Saravaha
(R. C. Saravaha)
OS, Gr II
Office of DRM (C)
Lucknow

True Copy

Surul
242

A29

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

O.A. No.184 of 1991

C.G. Lal

... Applicant

Versus

Union of India & Others

... Respondents

APPLICATION FOR CONDONATION OF DELAY IN
FILING REJOINDER AFFIDAVIT

The delay in filing the rejoinder reply
is not intentional or deliberate but due to bonafide
reasons which deserve to be condoned.

PRAYER

Wherefore, it is most respectfully prayed
that in the interest of justice the delay in filing
rejoinder affidavit may be condoned and the same be
taken on record.

Lucknow

Dated: 6.4.1992

28/5/92

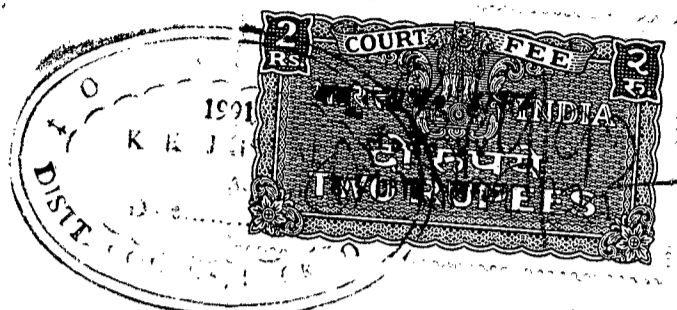
(P.L. MISRA)
ADVOCATE

COUNSEL FOR THE APPLICANT

A30

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

Regn. O.A. No.184 of 1989 (L)



C.G. Lal ... Applicant

Vs.

Union of India & Others ... Respondents

REJOINDER AFFIDAVIT ON BEHALF OF PETITIONER

I, C.G. Lal, aged about 60 years s/o
Shri Gauri Prasad Srivastava, R/O A-907, Indira
Nagar, Lucknow, the deponent do hereby state on
oath as under:

1. That the deponent is petitioner in the
above mentioned application and as such is fully
conversant with the facts of the case deposed to
hereinafter.
2. That the deponent has gone through the
contents of the counter affidavit filed by Sri S.M.N.
Islam, Senior Divisional Personnel Officer on behalf
of the opposite parties and has understood the same.
3. That in reply to para 1 of the counter
affidavit, it is stated that in the absence of any
authority on behalf of the opposite parties, it is



C.G. Lal

A31

~~stated that~~
not possible for the petitioner to admit the contents
of this para.

4. That the contents of para 2 of the
counter affidavit need no reply.

5. That in reply to the contents of para 3
of the counter affidavit, the facts stated in the
paragraph 4 of the application are re-iterated.

6. That in reply to the contents of para 4
of the counter affidavit, the facts have already
been stated in para 5 of the application.

7. That in reply to the contents of paras 5
and 6 of the counter affidavit, it is stated that
the petitioner was reinstated on the post of clerk
vide the order dated 14.3.1984, a copy of which has
been annexed as Annexure No.1 to the claim petition.
These facts have already been stated in paras 6
and 7 of the application.

8. That the contents of para 7 of the counter
affidavit in so far as they are contrary to the
averments contained in the claim petition are denied.
It is, however, further stated that the seniority
of the petitioner should have been reckoned on the
basis of his having worked on the post of clerk
earlier. Thus, while working on the post of the
clerk, the petitioner was entitled for his promotion
to the post of senior office clerk in the previous
scale of Rs.330-560 and so on.



CC/Kas

N

9. That in reply to the contents of para 8 of the counter affidavit, it is stated that the present application was filed on 3.8.89 when no decision was communicated to the petitioner in pursuance of the Office Order dated 28.6.1989 after the case was referred on 26.2.88 as stated above. In these circumstances, the claim petition was filed on 3.8.89 and the order dated 2.8.89 as contained in Annexure No.C-1 to the counter affidavit had not been communicated to the petitioner. The petitioner has come to know of the said order only through the averments contained in the counter affidavit. It is, however, further stated that the seniority of the petitioner should have been fixed on the basis of his initial appointment on the post of clerk on 18.5.1951 and thereafter his confirmation on the post of clerk on 5.11.53. It is, however, further stated that after reinstatement on the post of Junior Clerk in the maximum of scale on 19.3.84, he was entitled for his seniority as per his position as clerk and accordingly he was placed above Shri Ram Chandra Srivastava, who was junior to the petitioner in the clerical cadre. The petitioner has been advised to state that in pursuance of the order dated 14.3.84, the petitioner was reinstated and not re-employed and as such he would not lose his seniority in clerical cadre and his seniority was to be re-fixed on the basis of previous tenure of service as a clerk.

10. That the contents of para 9 of the counter affidavit are denied and it is stated that looking to the seniority of the petitioner reckoned from the date of his initial appointment and subsequent date of

A33

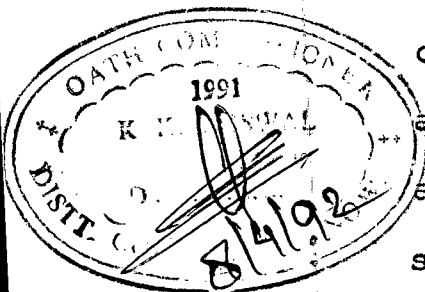
: 4 :

confirmation in the clerical grade several persons junior to the petitioner have already been promoted in the higher grade and as such, the petitioner was also entitled for his promotion and fixation of his seniority above the persons who were junior to him in clerical cadre. The seniority was accordingly fixed by means of order dated 20.3.87 and the petitioner was placed above Shri Ram Chandra Srivastava. The petitioner, therefore, is also entitled for arrears of salary.

11. That the contents of para 10 of the counter affidavit are denied. In view of the fact that the order dated 2.8.89 has been communicated ~~12x that in the content~~ to the petitioner through the averments in the counter affidavit, the petitioner is entitled to make a prayer for quashing of the said order at this stage.

12. That the contents of para 11 of the counter affidavit need no reply.

13. That in reply to the contents of para 12 of the counter affidavit, it is stated that the averments contained in paras 3 and 4 of the original application are retrospective. It is, however, further stated that the order dated 2.8.89 which has been annexed as annexure C-1 to the counter affidavit was never communicated to the petitioner, hence, the same was not challenged earlier. Since the order dated 2.8.89 has now been annexed with the counter affidavit, the petitioner has now got an opportunity to challenge the said order and the same is being



CC/10/92

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challenged before this Hon'ble Tribunal. The application has not become infructuous.

14. That the contents of paras 13 and 14 of the counter affidavit do not call for any reply.

15. That the contents of para 15 of the counter affidavit are denied. It is, however, further stated that the seniority of the petitioner has been wrongly fixed by means of order dated 2.8.1989 and that while fixing the seniority of the petitioner, the effect of his re-instatement as clerk together with the fact of his initial appointment and subsequent confirmation in the year 1951 and 1953 has not been taken into account. The order dated 2.8.1989 therefore, suffer from errors of law.

16. That the contents of para 16 of the counter affidavit are denied. As has already been stated the petitioner was promoted as TT-E on account of his excellent work.

17. That the contents of para 17 of the counter affidavit need no reply.

18. That the contents of para 18 of the counter affidavit are denied and those stated in para 6(6) of the application are reiterated. It is, however, further stated that the order dated 14.3.1984 has been passed by the



P. C. ...

(A34)

- 6 -

competent authority reinstating the petitioner as junior clerk in the maximum of its scale. After re-instatement, the petitioner has become entitled for all benefits including the seniority which has accrued to him on account of his having been confirmed on the post of clerk on 5.11.1953.

19. That the contents of para-19 of the counter affidavit need no reply.

20. That the contents of para-20 of the counter affidavit need no reply.

21. That the contents of para-21 of the counter affidavit are denied and those stated in paragraph 6(10) of the original application are re-iterated. It is, however, further stated that the petitioner was never supplied with the copy of representation submitted by Shri Ram Chandra Srivastava against the order dated 20.7.1987 and as such he did not get any opportunity to submit his case.

22. That the contents of para-22 of the counter affidavit are denied and those stated in para 6(11 to 13) of the original application are re-iterated. The seniority has wrongly been fixed by the order dated 2.8.89, which was not communicated to the petitioner earlier.



P. Ghose

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23. That the contents of paragraph-23 of the counter affidavit are denied and those stated in paragraph-7 of the original application are re-iterated. The petitioner's seniority was fixed in pursuance of the order dated 20.7.1987 and reasons were given by the appropriate authority. While passing the order dated 2.8.89, no reasons have been assigned as to why the petitioner's seniority would be reckoned from the date of his re-instatement i.e., 19.5.84 when he was already confirmed as a clerk on 5.11.1953. The petitioner, therefore, is entitled for his seniority above Shri Ram Chandra Srivastava as has been ordered by the Divisional Rail Manager (P), Lucknow. The petitioner, therefore, is entitled for all consequential benefits including promotion and arrears of salary as were admissible to him over and above Shri Ram Chandra Srivastava.

24. That the deponent has been advised to state that the application deserves to be allowed.

Lucknow dated,
2.4.1992.

C.G.Lal
DEPONENT

Verification

I, C.G.Lal, the deponent, do hereby verify that the contents of paragraphs 1 to 9-partly, 10, to 23 of this affidavit are true to my personal knowledge and those of paragraphs-9-partly and 24 also of this affidavit are beli-



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sworn by me to be true on the basis of legal advice,
that no part of it is false and nothing material
has been concealed, so help me God.

Lucknow dated,

2.4.92.

C.G. Lal
DEPONENT

I, identify the deponent who has signed
before me.

C.G. Lal
Advocate

Solemnly affirmed before me on
at 4.10 AM./P.M. by Sri C.G. Lal,
the deponent who is identified by
Sri Ramkishan Sinhasana,
Clerk to Sri P. H. Mishra
Advocate, High Court, Allahabad/Lko. Bench,
Lucknow.



I have satisfied myself by examining the
deponent that he understands the contents of
this affidavit which have been read out and
explained by me.

Solemnly affirmed before me in office today
at 4.10 PM by *C.G. Lal*
who is identified by *Ramkishan Sinhasana*
Clerk to *Sri P. H. Mishra*
I have satisfied myself by examining the
deponent that he understands the contents of
this affidavit which have been read out and
explained by him. Fee Rs. 1/-

[Signature]
Oath Commissioner.
8/4/92

[Signature]
Commissioner of Affidavit
Dist. Court Lucknow
8/4/92

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

O.A. No.184 of 1991

C.G. Lal

... Applicant

Versus

Union of India & Others

... Respondents

APPLICATION FOR CONDONATION OF DELAY IN
FILING REJOINDER AFFIDAVIT

The delay in filing the rejoinder reply
is not intentional or deliberate but due to bonafide
reasons which deserve to be condoned.

PRAYER

Wherefore, it is most respectfully prayed
that in the interest of justice the delay in filing
rejoinder affidavit may be condoned and the same be
taken on record.

Lucknow

Dated: .4.1992

(P.L. MISRA)
ADVOCATE

COUNSEL FOR THE APPLICANT

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

Regn. O.A. No.184 of 1989 (L)

C.G. Lal

... Applicant

Vs.

Union of India & Others

... Respondents

REJOINDER AFFIDAVIT ON BEHALF OF PETITIONER

I, C.G. Lal, aged about 60 years s/o
Shri Gauri Prasad Srivastava, R/O A-907, Indira
Nagar, Lucknow, the deponent do hereby state on
oath as under:

1. That the deponent is petitioner in the
above mentioned application and as such is fully
conversant with the facts of the case deposed to
hereinafter.
2. That the deponent has gone through the
contents of the counter affidavit filed by Sri S.M.N.
Islam, Senior Divisional Personnel Officer on behalf
of the opposite parties and has understood the same.
3. That in reply to para 1 of the counter
affidavit, it is stated that in the absence of any
authority on behalf of the opposite parties, it is

~~stated that~~
not possible for the petitioner to admit the contents
of this para.

4. That the contents of para 2 of the
counter affidavit need no reply.

5. That in reply to the contents of para 3
of the counter affidavit, the facts stated in the
paragraph 4 of the application are re-iterated.

6. That in reply to the contents of para 4
of the counter affidavit, the facts have already
been stated in para 5 of the application.

7. That in reply to the contents of paras 5
and 6 of the counter affidavit, it is stated that
the petitioner was reinstated on the post of clerk
vide the order dated 14.3.1984, a copy of which has
been annexed as Annexure No.1 to the claim petition.
These facts have already been stated in paras 6
and 7 of the application.

8. That the contents of para 7 of the counter
affidavit in so far as they are contrary to the
averments contained in the claim petition are denied.
It is, however, further stated that the seniority
of the petitioner should have been reckoned on the
basis of his having worked on the post of clerk
earlier. Thus, while working on the post of the
clerk, the petitioner was entitled for his promotion
to the post of senior office clerk in the previous
scale of B.330-560.

9. That in reply to the contents of para 8 of the counter affidavit, it is stated that the present application was filed on 3.8.89 when no decision was communicated to the petitioner in pursuance of the Office Order dated 28.6.1989 after the case was referred on 26.2.88 as stated above. In these circumstances, the claim petition was filed on 3.8.89 and the order dated 2.8.89 as contained in Annexure No.C-1 to the counter affidavit had not been communicated to the petitioner. The petitioner has come to know of the said order only through the averments contained in the counter affidavit. It is, however, further stated that the seniority of the petitioner should have been fixed on the basis of his initial appointment on the post of clerk on 18.5.1951 and thereafter his confirmation on the post of clerk on 5.11.53. It is, however, further stated that after reinstatement on the post of Junior Clerk in the maximum of scale on 19.3.84, he was entitled for his seniority as per his position as clerk and accordingly he was placed above Shri Ram Chandra Srivastava, who was junior to the petitioner in the clerical cadre. Then petitioner has been advised to state that in pursuance of the order dated 14.3.84, the petitioner was reinstated and not re-employed and as such he would not lose his seniority in clerical cadre and his seniority was to be re-fixed on the basis of previous tenure of service as a clerk.

10. That the contents of para 9 of the counter affidavit are denied and it is stated that looking to the seniority of the petitioner reckoned from the date of his initial appointment and subsequent date of

confirmation in the clerical grade several persons junior to the petitioner have already been promoted in the higher grade and as such, the petitioner was also entitled for his promotion and fixation of his seniority above the persons who were junior to him in clerical cadre. The seniority was accordingly fixed by means of order dated 20.3.87 and the petitioner was placed above Shri Ram Chandra Srivastava. The petitioner, therefore, is also entitled for arrears of salary.

11. That the contents of para 10 of the counter affidavit are denied. In view of the fact that the order dated 2.8.89 has been communicated

~~12x That the contents of para 10 of the counter affidavit are denied.~~
to the petitioner through the averments in the counter affidavit, the petitioner is entitled to make a prayer for quashing of the said order at this stage.

12. That the contents of para 11 of the counter affidavit need no reply.

13. That in reply to the contents of para 12 of the counter affidavit, it is stated that the averments contained in paras 3 and 4 of the original application are retrospective. It is, however, further stated that the order dated 2.8.89 which has been annexed as annexure C-1 to the counter affidavit was never communicated to the petitioner, hence, the same was not challenged earlier. Since the order dated 2.8.89 has now been annexed with the counter affidavit, the petitioner has now got an opportunity to challenge the said order and the same is being

challenged before this Hon'ble Tribunal. The application has not become infructuous.

14. That the contents of paras 13 and 14 of the counter affidavit do not call for any reply.

15. That the contents of para 15 of the counter affidavit are denied. It is, however, further stated that the seniority of the petitioner has been wrongly fixed by means of order dated 2.8.1989 and that while fixing the seniority of the petitioner, the effect of his re-instatement as clerk together with the fact of his initial appointment and subsequent confirmation in the year 1951 and 1953 has not been taken into account. The order dated 2.8.1989 therefore, suffer from errors of law.

16. That the contents of para 16 of the counter affidavit are denied. As has already been stated the petitioner was promoted as TT-E on account of his excellent work.

17. That the contents of para 17 of the counter affidavit need no reply.

18. That the contents of para 18 of the counter affidavit are denied and those stated in para 6(6) of the application are reiterated. It is, however, further stated that the order dated 14.3.1984 has been passed by the

competent authority reinstating the petitioner as junior clerk in the maximum of its scale. After re-instatement, the petitioner has become entitled for all benefits including the seniority which has accrued to him on account of his having been confirmed on the post of clerk on 5.11.1953.

19. That the contents of para-19 of the counter affidavit need no reply.

20. That the contents of para-20 of the counter affidavit need no reply.

21. That the contents of para-21 of the counter affidavit are denied and those stated in paragraph 6(10) of the original application are re-iterated. It is, however, further stated that the petitioner was never supplied with the copy of representation submitted by Shri Ram Chandra Srivastava against the order dated 20.7.1987 and as such he did not get any opportunity to submit his case.

22. That the contents of para-22 of the counter affidavit are denied and those stated in para 6(11 to 13) of the original application are re-iterated. The seniority has wrongly been fixed by the order dated 2.8.89, which was not communicated to the petitioner earlier.

23. That the contents of paragraph-23 of the counter affidavit are denied and those stated in paragraph-7 of the original application are reiterated. The petitioner's seniority was fixed in pursuance of the order dated 20.7.1937 and reasons were given by the appropriate authority. While passing the order dated 2.8.89, no reasons have been assigned as to why the petitioner's seniority would be reckoned from the date of his re-instatement i.e., 19.5.84 when he was already confirmed as a clerk on 5.11.1953. The petitioner, therefore, is entitled for his seniority above Shri Ram Chandra Srivastava as has been ordered by the Divisional Rail Manager (P), Lucknow. The petitioner, therefore, is entitled for all consequential benefits including promotion and arrears of salary as were admissible to him over and above Shri Ram Chandra Srivastava.

24. That the deponent has been advised to state that the application deserves to be allowed.

Lucknow dated,

2.4.1992.

DEPONENT

Verification

I, C.G.Lal, the deponent, do hereby verify that the contents of paragraphs 1 to 9-partly, 10, to 23 of this affidavit are true to my personal knowledge and those of paragraphs 9-partly and 24 also of this affidavit are beli-

sworn by me to be true on the basis of legal advice,
that no part of it is false and nothing material
has been concealed, so help me God.

Lucknow dated,

2.4.92.

DEPONENT

I, identify the deponent who has signed
before me.

Advocate

Solemnly affirmed before me on
at A.M./P.M. by Sri C.G.Lal,
the deponent who is identified by
Sri
Clerk to Sri
Advocate, High Court, Allahabad/Lko. Bench,
Lucknow.

I have satisfied myself by examining the
deponent that he understands the contents of
this affidavit which have been read out and
explained by me./

Oath Commissioner.

A38

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

Civil Misc. Application No. of 1992

In re:

Original Appn. No. 184 of 1989 (L)

C.G.Lal Applicant

Versus

Union of India and others Respondents

FT
220/8

APPLICATION FOR AMENDMENT OF THE
APPLICATION

The petitioner most respectfully begs
to submit as under:-

1. That the petitioner had filed an application in this Hon'ble Tribunal challenging the order dated 28.6.1989 (Annexure no.3) by means of which the matter regarding the seniority was referred to the Headquarters and no decision was taken.

Recd
AS
28/5/92

2. That the above mentioned application was filed on 3.8.89 and no counter affidavit was filed on behalf of the opposite-parties till 10.1.1992.

3. That in the counter affidavit which was filed on 10.1.1992, it has been alleged that the matter regarding seniority of the petitioner

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- 2 -

was decided by means of an order passed by the General Manager (P), North Eastern Railway, Gorakhpur on 2.8.1989 but the said order was neither communicated to the petitioner before filing the claim petition on 3.8.1989 nor has been communicated untill 10.1.1992 when he came to know of the above fact through the counter affidavit (Annexure C-3).

4. That in the circumstances stated above, the order dated 2.8.1989 could not be challenged in the application filed earlier.

5. That since the order dated 2.8.1989 is the continuation of the order dated 28.6.1989, which has been annexed as Annexure No. 3, the order dated 2.8.1989 is a consequential order and needs to be challenged in the same application.

6. That in this view of the matter, the following amendment has become necessary in the application:

7. That after 6(13) of the application, the following be added :

" 6.14 That subsequent to the filing of the claim petition before the Hon'ble Tribunal, the petitioner has come to know through Annexure C-1 to the counter affidavit that an order dated 2.8.1989 has been passed by the General Manager (P), North Eastern Railway, Gorakhpur in which the petitioner's seniority in the clerical grade is

CG. Khan

A40

- 3 -

now to be reckoned w.e.f. 19.3.1984, the date when the petitioner had joined the post of clerk after his re-instatement."

8. That a true copy of the order as referred to above is annexed as Annexure no. 4 to the application.

9. That while passing the order dated 2.8.1989 no reasons have been assigned for dis-agreeing with the earlier order passed by the Divisional Rail Manager dated 20.7.1987 by means of which the petitioner was placed above Shri Ram Chandra Srivastava taking into account his initial date of appointment as 18.5.1951 and subsequent date of confirmation as 5.11.1953.

10. That the order dated 2.8.1989 is a non-speaking order and the period of service by the petitioner between 18.5.1951 to 18.3.1984 has not been taken into account.

11. That the petitioner has been advised to state that while fixing the seniority in the clerical grade, the petitioner is entitled for his seniority from the initial date of appointment i.e., 18.5.1951 and it was accordingly fixed by the order dated 20.7.1987 which has been altered by means of order dated 2.8.1989 without assigning any cogent reason.

LGW

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-: 4 :-

12. That the order dated 2.8.1989 thus suffer from errors of law and is liable to be Quashed.

13. That in the relief clause VII, sub clause 'AA' be added as under:

"AA" To quash the order dated 2.8.1989 (Annexure-4) and restore the seniority of the petitioner as fixed by means of Office Memorandum dated 20.7.1987 passed by the Division Rail Manager (P), North Eastern, Lucknow and he be deemed to have been promoted over and above Shri Ram Chandra Srivastava entitled to all consequential benefits arising therefrom."

-: PRAYER :-

It is, therefore, that the applicant most respectfully prayed that the amendment as prayed for may kindly be allowed in the interest of justice with consequential amendments.

Luck now dated

2.4.1992.

28/5/92

P.L. Misra

(P.L.MISRA)

ADVOCATE

COUNSEL FOR THE APPLICANT

Annexure 4

A42

16 Annexure - 1

पूर्वांतर लिखे

सं0ई/विविध/वरीयता/ सीजी लाल/क(लूज) कार्यालय महा प्रबन्धक(का)
गोखपुर, दि0 2 -8-1989

मंडल लि प्रबन्धक(का)
पूर्वांतर लिखे,
लखनऊ

विषय:- श्री सी. जी. लाल लिपिक(950-1500)

मं0रै0प्र0(वा)कार्यालय लखनऊ के

वरीयता निर्धारण के सम्बन्ध में ।

पृ-14 / c

संदर्भ:- मकाधि/लखनऊ का अ0स0प0स0

ई/सी जी. स्ल/लिपिक/88 दि0 12-7-89 ।

उपर्युक्त मामले में विचार किया गया । श्री सी जी लाल
की पेशन आदि के मामले में उनकी मूल नियुक्ति तिथि से लाभ देय
होगा । उन्हें लिपिक में दि0 19-3-84 से वरीयता देय होगी ।

यह सक्षम अधिकारी के अनुमोदन से जारी किया जाता है ।

प्र.
अ. 8

चय

कृते महा प्रबन्धक(कार्मिक)

हस्ताक्षर
अनुमोदित गरीबदास 15
लखनऊ

1/8/89

1-8-89
अ. 8

30/12/89
दि 10/12/89

True Copy

प्रवर
प्रवर दलदल कार्मिक अधिकारी
पूर्वोत्तर रंगरे, लखनऊ

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

Civil Misc. Application No. of 1992

In re:

Original App. No. 184 of 1989 (L)

C.G. Lal

..... Applicant

Versus

Union of India and others

.... Respondents

APPLICATION FOR AMENDMENT OF THE

APPLICATION

The petitioner most respectfully begs
to submit as under:-

1. That the petitioner had filed an application in this Hon'ble Tribunal challenging the order dated 28.6.1989 (Annexure no.3) by means of which the matter regarding the seniority was referred to the Headquarters and no decision was taken.
2. That the above mentioned application was filed on 3.8.89 and no counter affidavit was filed on behalf of the opposite-parties till 10.1.1992.
3. That in the counter affidavit which was filed on 10.1.1992, it has been alleged that the matter regarding seniority of the petitioner

was decided by means of an order passed by the General Manager (P), North Eastern Railway, Gorakhpur on 2.8.1989 but the said order was neither communicated to the petitioner before filing the claim petition on 3.8.1989 nor has been communicated untill 10.1.1992 when he came to know of the above fact through the counter affidavit (Annexure C-3).

4. That in the circumstances stated above, the order dated 2.8.1989 could not be challenged in the application filed earlier.

5. That since the order dated 2.8.1989 is the continuation of the order dated 28.6.1989, which has been annexed as Annexure No. 3, the order dated 2.8.1989 is a consequential order and needs to be challenged in the same application.

6. That in this view of the matter, the following amendment has become necessary in the application:

7. That after 6(13) of the application, the following be added:

" 6.14 That subsequent to the filing of the claim petition before the Hon'ble Tribunal, the petitioner has come to know through Annexure C-1 to the counter affidavit that, an order dated 2.8.1989 has been passed by the General Manager (P), North Eastern Railway, Gorakhpur in which the petitioner's seniority in the clerical grade is

now to be reckoned w.e.f. 19.3.1984, the date when the petitioner had joined the post of clerk after his re-instatement."

8. That a true copy of the order as referred to above is annexed as Annexure No. 4 to the application.

9. That while passing the order dated 2.8.1989 no reasons have been assigned for dis-agreeing with the earlier order passed by the Divisional Rail Manager dated 20.7.1987 by means of which the petitioner was placed above Shri Ram Chandra Srivastava taking into account his initial date of appointment as 18.5.1951 and subsequent date of confirmation as 5.11.1953.

10. That the order dated 2.8.1989 is a non-speaking order and the period of service by the petitioner between 18.5.1951 to 18.3.1984 has not been taken into account.

11. That the petitioner has been advised to state that while fixing the seniority in the clerical grade, the petitioner is entitled for his seniority from the initial date of appointment i.e., 18.5.1951 and it was accordingly fixed by the order dated 20.7.1987 which has been altered by means of order dated 2.8.1989 without assigning any cogent reason.

-: 4 :-

12. That the order dated 28.1989 thus suffer from errors of law and is liable to be Quashed.

13. That in the relief clause VII, sub clause 'AA' be added as under:

"AA" To quash the order dated 28.1989 (Annexure-4) and restore the seniority of the petitioner as fixed by means of Office Memorandum dated 20.8.1987 passed by the Division Rail Manager (P), North Eastern, Lucknow and he be deemed to have been promoted over and above Shri Ram Chandra Srivastava entitled to all consequential benefits arising therefrom."

-: PRAYER :-

It is, therefore, that the applicant most respectfully prayed that the amendment as prayed for may kindly be allowed in the interest of justice with consequential amendments.

Lucknow dated

2.4.1992.

(P.L.MISRA)
ADVOCATE

COUNSEL FOR THE APPLICANT
