

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

Cause Title O.A. 209 of 1989 (C)Name of the parties M. L. Kurool

Applicant.

Versus

Union of India

Respondents.

Part A.B.C.

Description of documents

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(218/1989) | A6 |
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~~Bench Copy~~ ~~01-04~~

Check

24/6/2011

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

24/6/2011

Rg

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

21.8.89

Registration No. 209 of 1989(L)

APPLICANT(S) Mohan Lal Kureel

RESPONDENT(S) Union of India

<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?	NA
	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 paging done properly ?	yes
9.	Have the chronological details of representation made and the outcome 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

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:: 2 ::

Endorsement as to result of examination

Particulars to be Examined

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

yes

yes

yes

No

No

No

yes

yes

yes

yes

yes

yes

yes

yes

yes

yes

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

A3

REGISTRATION No. 209 of 1989 (L)

APPELLANT
APPLICANT

Mohan Lal Kureel

VERSUS

DEFENDANT
RESPONDENT

Union of India & others

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How copy is with of cl
22.9.89	<p><u>Hon'ble Mr. D.K. Agrawal, J.M.</u></p> <p>Shri P.N. Bajpai counsel for the applicant heard.</p> <p><u>Admit.</u></p> <p>Issue notice to respondents to file counter affidavit within 6 weeks to which the applicant may file rejoinder affidavit within two weeks thereafter.</p> <p>List on <u>4.12.89</u> for orders/hearing as the case may be.</p> <p>rrm/ J.M.</p> <p>For Justice K. Math, VC Hon. K. J. Roman, AM.</p> <p>On application for time to file counter the opposite parties are given four weeks time. The applicant may file rejoinder within two weeks thereafter and the case be listed for final hearing on 15/1/90.</p>	<p>How copy is with of cl</p> <p>C-7</p> <p>pick up copy</p> <p>21/10/89</p> <p>OR</p> <p>Notices were issued on 27.9.89.</p> <p>Neither reply nor any unsent reply. Verma has been return back to far.</p> <p>Submitted for order</p> <p>h/ 1/11/89</p> <p>OR</p> <p>No reply filed</p> <p>h/ 12/1/89</p>

See original order on main petition

4/12/89

AM

VC

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(AU)

In the Central Administrative Tribunal
Additional Bench- Allahabad
Circuit Bench - Lucknow.
Registration no. 29 of 1989(L)

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 21.8.89
Date of Receipt by Post

Deputy Registrar(J)

Mohan Lal Kureel ... Applocant
Vs.
Union of India & Others Respondent

COMPILATION - A

COMPILATION- B

Dated: 7.8.1989

P. B. S. Jha
COUNSEL FOR THE
APPLICANT.

16, Bharonji Road,
Lucknow.

*Filed today
Noted for 22-9-89
P. B. S. Jha
21-8-89*

मोहन लाल कुरील

AS

In the Central Administrative Tribunal

Additional Bench - Allahabad

Circuit Bench - Lucknow.

Registration no. 209 of 1989(L)

Mohan Lal Kureel ... Applicant.

Vs.

The Union of India & Others ... Respondents.

COMPILATION - A

Sl. no.	Description of documents	Page nos.
1.	Application u/S 19 of Central Administrative Tribunal Act.	: 1 - 10
2.	Impunged orders	: Nil
3.	Power	71
4.		

Lucknow

Dated: 7.8.89

मोहन लाल कुरील
Applicant.

[Signature]

AB

In the Central Administrative Tribunal
Additional Bench - Allahabad
Circuit Bench - Lucknow.

Registration no. 209 of 1989(L)

PARTIES NAME

Monan Lal Kureel, aged about 39 years, S/O
Sri Late Churai, R/O Mohalla East Birhana,
Near Ballu Dass Kothi - Lucknow.

.... Applicant

Vs.

1. The Union of India, Ministry of Health
& Family Welfare, through the secretary of
the Department, New Delhi.
2. The Director, of Central Govt. Health
Scheme, Nirman Phawan, New Delhi.
3. The Dy. Director, Central Govt. Health
Services, Rana Pratap Marg, Lucknow.

... Opp. parties.

मोहन लाल कुरेल
Applicant.

Dated: 7.8.89

J. B. Jha

A7

In the Central Administrative Tribunal
Additional Bench -Allahabad
Circuit Bench - Lucknow.

Mohan Lal Kureel , aged about 39 years, S/O
Sri Late Churai , R/O Mohalla East Birhan,
Near Ballu Dass Kothi- Lucknow.

... Petitioner.

Vs.

1. The Union of India , Ministry of Health & Family Welfare, through the Secretary of the Department, New Delhi.
2. The Director, of Central Govt. Health Scheme, Nirman Bhawan, New Delhi.
3. The Dy. Director, Central Govt. Health Services, Rana Pratap Marg, Lucknow.

... Opp. Parties.

DETAILS OF APPLICATION

1. Particulars of the Applicant.
 - (i) Name of the Applicant :Mohan Lal Kureel
 - (ii) Name of Father/
Husband :Late Churai
 - (iii) Designation &
Office in which employed :Packer-Office of
Dy. Director,
Central Govt.
Health Scheme
Services, Lucknow.
 - (iv) Office Address :AS above.
 - (v) Address for service
of all notices :AS above.

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~~RMX~~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.

3. LIMITATION

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

4. FACTS OF THE CASE

(i) The facts of the case are given below:-

That the applicant was appointed on the post of Packer in the office of the O.P.No.3 by the then Chief Medical Officer, now known as Dy. Director, Central Govt. Health Scheme Lucknow. on 17.3.1979. He has been confirmed as such in the year 1981-82.

(ii) That the work and conduct of the Petitioner remained always satisfactory and there is no complaint against him from any corner. The Character Roll is blotless.

(iii) That the Petitioner is a scheduled cast candidate. He was appointed in the quota reserved for S.C. Candidate. He is entitled to get the benefit of the quota reserved for S.C. candidates in the matter of ~~promotion~~ Promotion on the post of Class 3rd Cadre.

(iv) That the 15% posts of clerical cadre are reserved for class 4th employees

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who are high school and have 5 years experience on the post of class 4th employees. The Educational qualification of the Applicant is High school and he has knowledge of Typing. He has experience of more than 9 years services in the class 4th cadre. The knowledge of typing is essential for the post of typist. The applicant is qualified in all respects.

(v) That there is a G.O. dated 27.11.72 in which the procedure is given for promotion of the schedule caste candidates. The criteria is seniority subject to rejection on unfit. The promotion will be made by the selection committee on the basis of the service record and there is no need of any written test or interview. The G.O. is published in the 'Brochure' on reservation for schedule cast and schedule tribes in services Six Addition 1982- at Page -205. The copy of the G.O. is filed herewith as Annexure-1 to this Application.

(vi) That the O.P.No.3 had given the promotion to 3 candidates since 1984 on the post of clerk, on regular basis. Besides these 3 candidates the promotion has been given on adhoc basis to 3 persons. All the six promoted candidates are general candidates. The quota reserved for S.C. candidates has not been taken into consideration at the time of promoting these persons.

(vii) That the examination was held for the post of class 3rd in the year 1984, in which the applicant was also permitted to appear, but he was knowingly declared as failed as the

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then O.P.No.3 was interested in promotion of general candidates. The Applicant again appeared in the examination held in the year 1985, but he was declared as failed again.

(viii) That the applicant alone was eligible and competent Schedule Caste candidate in the Office of the O.P.No.3 amongst the Schedule class candidates to get the promotion.

(ix) That the applicant was entitled to get one post out of 3 in the year 1984, being the schedule caste candidate. There was no question of any competition as the applicant was only candidate for the posts reserved for S.C. candidates. The similar position was in the year 1985, but the Petitioner has been ignored, due to the reasons known to the Opp. parties concerned.

(x) That there is a G.O. dated 30.9.83 in which the directions have been issued to promote the S.C. candidates on adhoc basis, if they are not found fit in the examination, and they may be given 5 chances to appear in the examination. The copy of G.O. has been issued along with the letter dated 1.12.83 issued by the under Secretary, Ministry of health and family welfare. The letter & G.O. is filed herewith as Annexure-2 to this Petition.

(xi) That the Govt. orders issued from time to time on the subject have been violated in case of the applicant.

(xii) That according to the Govt. orders the first post may be given to the S.C. candi-

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candidate and the 4th post will go to the Schedule Tribe candidate. It is also provided that if the suitable candidate of reserved quota are not available, the posts will not be filled up by promotion/ appointment of general candidates. The posts will carry forward in the subsequent years. The relevant G.O. is filed herewith as Annexure-3 to this Petition.

(Xiii) That the Applicant moved an application to the O.P.No.3 on 3.4.87 in which the request was made to give the promotion to the applicant on the post of clerk, on the basis of seniority-cum fitness. Nothing has been done. The copy of the Application Annexure-4 to this Petition.

(xiv) That the petitioner is regularly requesting to the Opp. parties for getting the promotion but no fruitful result has come out. -The applicant is filing herewith application dated 16.4.87, 17.1.89, 23.6.89, and 13.7.89 as Annexures-5, 6, 7, & 8 to the Application.

(Xv) That the post of S.C. candidate is being carried forward uptill now, but it could not be filled up by giving the promotion to Applicant. The reasons are known to the applicant.

(DVI) That the O.P. 3 constituted a Departmental Selection Committee in the year 1987 in which one candidate has been given the regular appointment who was declared successful in the examination held in the year 1985. The Committee has further come

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to the conclusion that the post of S.C. candidates will be filled up at an early date. Now more than 2 years have been passed but the posts has not been filled up uptill now.

(XVII) That the discrimination has been done with the applicant and the provisions of Art.14 & 16 of the constitution of India have been violated.

(XVIII) That the promotion of the applicant can not be withheld in any manner. The post is still in existence, & the applicant is entitled to get this post.

(XIX) That the O.P.No.3 wants to fill up the post by Direct recruitment and he had already requested to the Staff Selection Commission Allahabad to send the name for appointment.

(XX) That the applicant will suffer a great irreparable loss if the post will be filled up by direct recruitment. There will be no post for promotion of the Applicant in future.

(XXI) That the applicant further wants to point out that he is senior most class 4th employee in the office of the O.P.No.3. In this way he is also entitled to get the promotion against the post for general candidates.

(XXI) That the applicant has already been harassed much but he may not be harassed further by giving the appointment to the directly recruited candidates.

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~~(XXIII)~~5. Grounds for Reliefs with legal provisions

(i) That the applicant is fully qualified for getting the promotion on the post of clerk or any other class 3rd post under the Opp.par-ties.

(ii) That the applicant is a schedule cast candidate and is entitled to get the benefit of quota reserved for S.C. candidate in the matter of promotion.

(iii) That the applicant is senior most class 4th employee in the office of the O.P.No. 3. He is entitled to get the promotion on the posts reserved for S.C. Candidates and also against the general posts.

(iv) That the provisions of Art. 14 & 16 of the constitution of India have been violated. The discrimination has been done by giving the promotion to the juniors.

(v) That the Govt. orders issued from time to time for the benefit of the S.C. candidates have been violated, and have not been followed in considering the promotion of the applicant.

(vi) That the posts reserved for S.C. candidate is still in existence and the applicant deserves promotion on that post.

(vii) That the O.P.No.3 has promoted 6 persons since 1984 amongst the class 4th employees, but the S.C. candidates have not been promoted.

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(viii) That the O.P.No.3 could not fillup the posts by direct recruitment, as it relates as promotional post.

(Vix) That according to the Govt. order the post will go to the S.C. candidates and the same post is being carried forward uptill now.

- (x) That there will be no post for the applicant if the post will be filledup by direct recruitment.

(xi) That the directions are liable to be issued to the O.P.No.3 not to fillup the post by direct recruitment.

6. DETAILS OF THE REMEDIES EXHAUSTED

(i) That the applicant has moved several application to the Opp. parties for getting the promotion on the class 3rd post. The applications are Annexures -4 to 8, of this application. Now no departmental remedy is available.

(7i) WHETHER THE MATTER IS PENDING OR THE SAME WAS FILED PREVIOUSLY

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.

8. RELIEFS SOUGHT

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

(a) That the the applicant may be declared entitled to get the promotion on the class

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3rd post in the quota reserved for class 4th employees, being senior most in the class 4th cadre without any further delay.

(b) That the applicant may be declared entitled to get the promotion on the class 3rd post in the quota reserved for S.C. candidates

(c) That the applicant may be ordered to be promoted on the class 3rd post, w.e.f. the date fixed by this Hon'ble Tribunal and the consequential benefits may also be allowed.

(d) That the cost of the application may be awarded to the applicant.

(e) That any other relief which this Hon'ble Tribunal deems fit and proper may be awarded to the applicant.

9. INTERIM ORDER IF PRAYED FOR

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

(a) That the Opp. parties may be directed not to fill up the posts of S.C. candidates by direct recruitment, during the pendency of application.

10. PARTICULARS OF BANK DRAFT/POST ORDER IN RESPECT OF THE APPLICATION FEE:

(a) Number of Indian Postal Order(s)

DD 798349
4

(b) Name of the issuing post office

9-8-89
Anand, LK

(c) Date of issue of postal Order(s)

9-8-89

(d) Post Office at which payable.

G.P.O. LK / Secd.

Applicant.

Dated: 7.8.89

A/6

VERIFICATION.

I, Mohan Lal Kureel aged about 39 years S/O Late Churai, working as Packer, under the O.P. No.3 do hereby verify that the contents of paras 1 to 9 are true to my personal knowledge & belief, & that I have not suppressed any material facts.

Signed and verified today this the 7th day of August, 1989, at Lucknow.

Place- Lucknow.

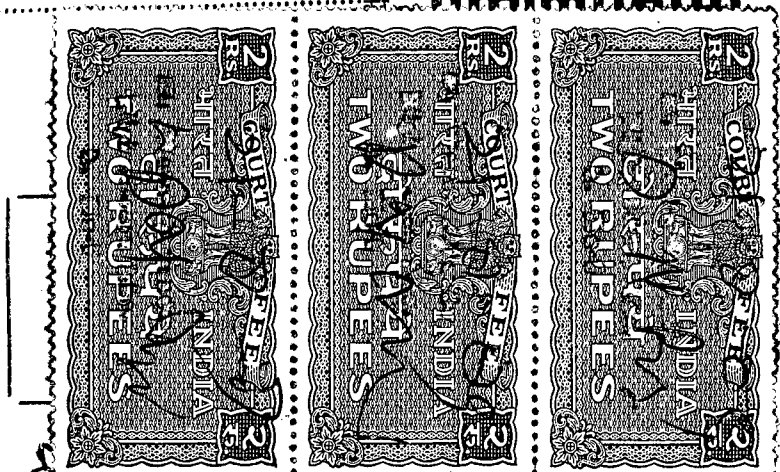
Dated: 7.8.1989

मोहनलाल कुरील
Applicant.

ब अदालत श्रीमान In... The Central Administration Tribunal महोदय
 वृद्धी अपीलान्त
 प्रतिवादी रेस्पाडेन्ट श्री
 बकालतनामा

M. L. Husel

The Union of



बनाम

प्रतिवादी (रेस्पाडेन्ट)

नं० मुकद्दमा

सन्

पेशी की ता०

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री प्रयाग नारायण बाजपेई
 ऐडवोकेट एवं श्री कार्तिकेय बाजपेई ऐडवोकेट भैरो जी
 रोड, लखनऊ महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिये यह बकालतनामा लिख दिया प्रमाण रहे और समय पर काम आये।

हस्ताक्षर श्री प्रयाग नारायण बाजपेई

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 14 महीना 8 सन् १९८९ ई०

Accepted.
 R. M. Jha
 16-8-89

(A/8)

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

O. A. No. of 1989 (L)

Mohan Lal Kureel, Petitioner.
Versus
The Union of India. & others .. Opp. Parties.

Compilation- B

S. No.	Particulars of papers	Page No.	Annex. No.
1.	Petition G. O. D. 27.11.72	1-2	1
2.	Letter Dated 1.12.83	3-4	2
3.	Proceedure of Rosters	5-7	3
4.	Appln. D. 3.4.87	6	4
5.	Appln. D. 13.7.89	7-8	5
6.	Appln. D. 23.6.89	9	6
7.	Appln. Dated 18.1.89	10	7
8.	Appln. D. 16.4.87	11	8
9.	Vakalatnama	12	

Dated :- 14.8.89.

(P.N. Bajpai)
Advocate,
Counsel for the
petitioner.

In the Central Administrative Tribunal Addl
Member All India Service, Central Bench Lucknow
Mohan Lal Kureel
The Union of India

vs.

Answer No. 1

app p

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Department of Personnel O.M. No. 27/2/71-Estt.(SCT), dated 27th November, 1972 to all Ministries etc.

Subject:—Reservations for Scheduled Castes and Scheduled Tribes in posts filled by promotion—Promotions on the basis of seniority subject to fitness.

The undersigned is directed to refer to para 2-C of the Ministry of Home Affairs O.M. No. 1/12/67-Estt.(C) dated the 11th July 1968 according to which there is no reservation for Scheduled Castes and Scheduled Tribes in appointments made by promotion on the basis of seniority subject to fitness, although cases involving supersession of Scheduled Castes and Scheduled Tribes officers in Class I and Class II appointments are required to be submitted for prior approval to the Minister or Deputy Minister concerned and cases of supersession in Class III and Class IV appointments have to be reported within a month to the Minister or Deputy Minister concerned for information.

2. The policy in regard to reservations for Scheduled Castes and Scheduled Tribes officers in posts filled by promotion on the basis of seniority subject to fitness has now been reviewed and it has been decided, in supersession of the orders contained in the aforesaid para 2-C of the O.M. dated 11th July, 1968, that there will be reservation at 15% for Scheduled Castes and 7½% for Scheduled Tribes in promotions made on the basis of seniority subject to fitness, in appointments to all Class I, Class II, Class III and Class IV posts in grades or services in which the element of direct recruitment, if any, does not exceed 50 per cent.

3. The procedure to be followed where promotions are made on the basis of seniority subject to fitness has been laid down in paragraph 1B of Ministry of Home Affairs O.M. No. 1/9/58-RPS, dated the 16th May, 1959, which provides that in such cases a decision has to be taken on the suitability of each individual officer for such promotion although there is no need for a comparative evaluation of their respective merits and that a decision on the fitness or the unfitness of an officer for promotion should be taken by the Departmental Promotion Committee instead of by an individual officer. While, therefore, referring proposals to the Departmental Promotion Committee for promotion on the basis of seniority subject to fitness in respect of vacancies expected to arise during a year, the following procedure may be followed to give effect to the decision mentioned in paragraph 2 above:—

- (i) A separate 40-point roster to determine the number of reserved vacancies in a year should be followed on the lines of the roster prescribed in Annexure I to the Ministry of Home Affairs O.M. No. 1/11/69-Estt.(SCT), dated the 22nd April, 1970, in which points 1, 8, 14, 22, 28 and 36 are reserved for Scheduled Castes and points 4, 17 and 31 are reserved for Scheduled Tribes.
- (ii) Wherever according to the points in the roster there are any vacancies reserved for Scheduled Castes and Scheduled Tribes, separate lists should be drawn up of the eligible Scheduled Castes or the Scheduled Tribes officers, as the case may be, arranged in order of their *inter-se* seniority in the main list.
- (iii) The Scheduled Castes and Scheduled Tribes officers should be adjudged by the Departmental Promotion Committee separately in regard to their fitness.
- (iv) When the Select Lists of officers in the general category and those belonging to Scheduled Castes and Scheduled Tribes have been prepared by the Departmental Promotion Committee, these should be merged into a combined Select List in which the names of all the selected officers, general as well as those belonging to Scheduled Castes and Scheduled Tribes, are arranged in the order of their *inter-se* seniority in the original seniority list of the category or grade from which the promotion is being made. This combined select list should thereafter be followed for making promotions in vacancies as and when they arise during the year.
- (v) The select list thus prepared would normally be operative for a period of one year, but this period may be extended by six months to enable

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True copy
attested.

P. Mohan
14-8-89

such of the officers included therein, as could not be appointed to the higher posts during the normal period of one year, to be appointed during the extended period.

(vi) If the number of eligible candidates belonging to Scheduled Castes/ Scheduled Tribes found fit for promotion falls short of the number of vacancies reserved for either of them during the year, the extent of such shortfall should be reported to this Department along with proposals, if any, for dereservation of vacancies in respect of which the shortfall has occurred. If on a scrutiny of the data furnished in this regard, any dereservation is agreed to by this Department, the vacancy so dereserved may be filled up by another candidate included in the combined select list subject to the instructions contained in the Ministry of Home Affairs O.M. No. 27/25/68-Est.(SCT) dated the 25th March, 1970, in respect of carry-forward of such reserved vacancy for the subsequent three recruitment years and exchange of vacancies between Scheduled Castes and Scheduled Tribes in the last year to which the reserved vacancies are carried forward.

4. The above instructions take effect from the date of issue of these orders except where a Select List, if any, for promotion by seniority subject to fitness has already been prepared by a Departmental Promotion Committee and approved by the appropriate authority before the date of issue of these orders.

5. The Ministry of Finance, etc. are requested kindly to bring the above decisions to the notice of all Attached and Subordinate Offices under them and semi-Government and Autonomous Bodies with which they are administratively concerned.

6. In so far as officers serving under Indian Audit & Accounts Department are concerned, separate orders will issue in due course.

Department of Personnel & Administrative Reforms O.M. No. 10/41/73-Estt.(SCT), dated 20th July, 1974 to all Ministries etc.

Subject:—Reservations for Scheduled Castes and Scheduled Tribes in posts filled by promotion—Promotions by selection to Class II, within Class II and upto the lowest rung of Class I.

The question whether the scheme of reservations for candidates belonging to Scheduled Castes and Scheduled Tribes in promotions by selection should be extended to posts in Class II services and beyond, and if so to what extent, has been under the consideration of Government. It has now been decided, in supersession of the orders contained in paragraph 2B(a) of the Ministry of Home Affairs O.M. No. 1/12/67-Estt.(C) dated the 11th July, 1968 that there will be reservations at 15% and 7½% of the vacancies for Scheduled Castes and Scheduled Tribes respectively in promotions made by selection from Class III to Class II, within Class II and from Class II to the lowest rung or category in Class I, in grades or services in which the element of direct recruitment, if any, does not exceed 50%.

2. The following instructions will apply to the filling up of vacancies reserved for Scheduled Castes and Scheduled Tribes in terms of the instructions contained in this Office Memorandum:—

(i) Selection against vacancies reserved for Scheduled Castes and Scheduled Tribes will be made only from among those Scheduled Castes/Scheduled Tribes officers who are within the normal zone of consideration.

(ii) If candidates from Scheduled Castes and Scheduled Tribes obtain on the basis of merit with due regard to seniority, on the same basis as others, less number of vacancies than that reserved for them, the difference should be made up by selecting candidates of these communities who are in the zone of consideration irrespective of merit but who are considered fit for promotion.

(iii) A Select List should then be prepared in which the names of all the selected officers, general as well as those belonging to Scheduled Castes

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Subject:

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Attst.

14-8-89

In the Central Administrative Tribunal Addl. Bench

Allahabad, Circuit Bench Lucknow

Mohan Lal Kureel

Applicant

The Union of India

vs.

Appellee

Answer No 2

(A2)

No.A.14019/2/83-SC/ST Cell
Government Of India
Ministry of Health & Family Welfare,
New Delhi, the 1st Dec. 83.

OFFICE MEMORANDUM

Subject:- Ad hoc promotion-consideration of cases of SC/ST
employees further clarification.

The undersigned is directed to refer to this Ministry's
O.M. of even number dated the 4th May, 1983 forwarding a copy
of the Deptt. of P.&A.R.O.M.No. 36011/14/83-Estt(SCT) dated the
30th April 1983 on the above subject and to say that further
clarification has been received from Deptt. of P.&A.R. vide
their O.M. No. 36011/14083 Estt.(SCT) dated herewith for
information and necessary action.

Sd/-

(J.C.Dutt)

Under Secretary to the
Govt. Of India.

To,

All Offices/Sections/Desk/Cells in the Ministry of
Health & Family Welfare.

P.P.&A.P. Ministry of Health & Family welfare Dte.
C.H.S./General Section(150 Copies).

True copy
attached
P. M. S. P.
14-8-83

In the Central Administrative Tribunal Addl Bench
Allahabad, Circuit Bench Lucknow
Mohan Lal Kureel
The Union of India
vs.
Applicant
App. No.

A22

Copy of O.M. NO 36011/14/83-Estt(SCT) dated 30.4.83.
1983 from Deptt. of P.M.A.R. regarding ad-hoc promotion considera-
tion of cases of scheduled caste/scheduled tribes employees
further clarification.

RECEIVED

The undersigned is directed to refer to the Department
of Personnel & A.R.O.M. No. 36011/14/83-Estt(SCT) Dt. 30.4.83 on.
the subject mentioned above. A doubt has a list from which
scheduled caste/scheduled tribes candidates should be located
for ad-hoc promotion.

2. It has now been decided that the Sc/St candidates who
are within the number of actual vacancies should be considered
in accordance with their general seniority on the principle of
seniority cum-fitness and if they are not adjudged unfit, they
should all be promoted on ad-hoc basis. If however, the number
of Sc/St candidates found fit within the range of actual
vacancies is less than the total vacancies identified as following
to their share then should be located by going down the seniority
list but within 5 times the numbers of vacancies, subject of
course, to their eligibility and fitness.

3. Ministry of Finance etc. required to bring the contents of
this O.M. to the notice of all their attached and subordinate
offices.

4. Hindi version is enclosed.

मोहन लाल कुरील

True Copy

Atty Gen.

P. M. Rao

14-8-87

In the Central Administrative Tribunal Addl Bench
 Allahabad, Circuit Bench Lucknow
 Mohan Lal Kureel Applicant
 The Union of India vs. Appellee
Annexure No 3

CHAPTER 4

ROSTERS

4.1 Model rosters

To give proper effect to the reservations prescribed, every appointing authority should treat vacancies as 'reserved' or 'unreserved' according to a model roster each of 40/100 points, as described below—

(i) Direct recruitment made on an all-India basis:

(a) by open competition i.e. through the UPSC or by means of open competitive test held by any other authority—as in the roster consisting of 40 points as given in Appendix 1. (For reservation of 15 per cent for SC and 7½ per cent for S.T.)

(b) otherwise than by open competition—as in roster consisting of 40 points as given in Appendix 2. (For reservation of 16/2/3 per cent for SC and 7½ per cent for S.T.)

(ii) Direct recruitment to Group-C & D (Class III & IV) posts normally attracting candidates from a locality or a region—according to a roster consisting of 100 points as given in Appendix 3. (For percentages of reservation fixed generally in proportion to the population of Scheduled Castes and Scheduled Tribes in the respective States/Union Territories)

(iii) Promotions to which reservations apply—[para 2.1 (iii)] according to a separate roster on the same pattern as in Appendix 1. (For reservation of 15 per cent for SC and 7½ per cent for S.T.) (For percentages of reservation fixed generally in proportion to the population of Scheduled Castes and Scheduled Tribes in the respective States/Union Territories).

4.2 The actual number of vacancies to be reserved for Scheduled Castes and Scheduled Tribes in any recruitment

MHA OM
 No. 1/11/
 69-Est-
 (SCT), dt.
 22-4-70,
 Deptt. of
 Person-
 nel & A.R.
 O.M.S.
 No.
 1/3/72.
 Est-
 (SCT)
 dated
 12-3-1973,
 and
 No.
 1/3/72.
 Est-
 (SCT)
 dated
 15-5-1974.

Deptt. of
 Person-
 nel & A.R.
 O.M. No.
 16/3/73.

महेश लाल कुरील

True copy
 Attached.

14-8-83

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Est-
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dated
27-12-
1977.
Superce-
ded. by
DOP&AR.
M. No.
36012/
3/78-
Est-
(SCT)
dated
9-2-82

should be determined on the basis of the points in the roster and also taking into account the reservations brought forward from the previous year the total number of reservations should not exceed 50 per cent of the total number of vacancies filled in that year.

MHA O.M. 4.3 Maintenance of rosters
No.

31/10/
63-SCT

(1), dated
27-3-63
and 2-5-63.

The rosters for posts filled by direct recruitment will be maintained as follows:—

- (i) A common roster should be maintained for permanent appointments and temporary appointments likely to become permanent or to continue indefinitely.
- (ii) A separate roster should be maintained for purely temporary appointments of 45 days or more but which have no chance whatever of becoming permanent or continuing indefinitely.
- (iii) A temporary post included in the roster at the time of initial appointment when converted into a permanent post later will not after such conversion be shown again in that roster but will be treated as reserved or unreserved according to the point at which it fell when it was initially filled.
- (iv) Permanent vacancies which occur due to death, retirement, resignation or for any other reason and which are also physical vacancies will be shown in the roster at (i) above and reservation determined accordingly.

4.4 The roster will be maintained in a register* in the form given in Appendix 4. Detailed instructions for maintenance of roster are given in Appendix 5. A hypothetical illustration of a roster is given in Appendix 6.

4.5 The Liaison Officers nominated in the Ministries/ Departments and in offices under the Heads of Departments will conduct annual inspection of rosters in the respective offices under their charge. The proforma for inspection of

*for details please see appendices 4, 5, 6, and 7 of the Brochure.

अनुसंधान विभाग

True copy
Submitted.
14-8-89

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(3)

ANNEXURE I

Model Roster for posts filled by direct recruitment on all India basis by open competition.

Point in the Roster	Whether unreserved or reserved for	Point in the Roster	Whether unreserved or reserved for
1.	Scheduled Castes	21.	Scheduled Tribes
2.	Unreserved	22.	Unreserved
3.	Unreserved	23.	Unreserved
4.	Scheduled Tribes	24.	Unreserved
5.	Unreserved	25.	Scheduled Castes
6.	Unreserved	26.	Unreserved
7.	Unreserved	27.	Unreserved
8.	Unreserved	28.	Unreserved
9.	Scheduled Castes	29.	Unreserved
10.	Unreserved	30.	Unreserved
11.	Unreserved	31.	Unreserved
12.	Unreserved	32.	Unreserved
13.	Unreserved	33.	Scheduled Castes
14.	Unreserved	34.	Unreserved
15.	Unreserved	35.	Unreserved
16.	Unreserved	36.	Unreserved
17.	Scheduled Castes	37.	Unreserved
18.	Unreserved	38.	Unreserved
19.	Unreserved	39.	Unreserved
20.	Unreserved	40.	Unreserved

NOTE.— If there are only two vacancies to be filled on a particular occasion, not more than one may be treated as reserved and if there be only one vacancy, it should be treated as unreserved. If, on this account a reserved point is treated as unreserved, the reservation may be carried forward to the subsequent two recruitment years.

माधव लाल उरुल

True copy
 attested.
 P. S. Rao
 14-0-89

In the Central Administrative Tribunal Addl. Bench
Allahabad, Circuit Bench Lucknow
Mohan Lal Kuriel
vs.
The Union of India

Applicant

Appellee

Answer No. 4

A26

सेवा में,

मुख्य चिकित्सा अधिकारी,
केंद्रीय सरकार स्वास्थ्य योजना,
9-ए, राणा प्रताप मार्ग, लखनऊ।

महोदय,

विशिष्ट सूत्रों से यह ज्ञात हुआ है कि आपके अधीनस्थ के 0 स 0 स्वा 0
यो 0, लखनऊ में अवर श्रेणी लिपिक के कुछ पद रिक्त हैं जिनमें से एक पद
अनुसूचित जाति वर्ग के लिए भी आरक्षित है और वे पद विभागीय वर्ग
"घ" कर्मचारियों में से पदोन्नति के माध्यम से भरे जाने हैं।

मैं अनुसूचित जाति वर्ग का सदस्य हूँ। आपके अधीनस्थ पद पर
पद पर दिनांक 17 मार्च, 1979 से नियमित कर्मचारी के रूप में कार्यरत हूँ।
मैं एक स्थायी कर्मचारी हूँ। यहाँ पर कार्यरत अनुसूचित जाति वर्ग के
"घ" श्रेणी के कर्मचारियों में सबसे वरिष्ठ एवं योग्य हूँ। मेरी शैक्षिक योग्यता
हाई स्कूल है। हिन्दी टंकण का ज्ञान है।

अतः विनम्र निवेदन है कि अवर श्रेणी लिपिक के उपरोक्त पद
पर प्रार्थी को वरिष्ठता व योग्यता क्रम से सीनियोरिटी - कम-फिटनेस
आधार पर प्रोन्नत किया जाए।

प्रार्थी आपका अभारी होगा।

प्रार्थी,

मोहन लाल कुरील

॥ मोहन लाल कुरील ॥

पद पर
केंद्रीय सरकार स्वास्थ्य योजना,
लखनऊ।

दिनांक- 3 अप्रैल, 1987.

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Attached

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Despatcher
Central Govt. Health Scheme
LUCKNOW

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मोहन लाल कुरील

In the Central Administrative Tribunal Adol. Bench
 Allahabad, Circuit Bench Lucknow
 Mohan Lal Kureel _____ Applicant
 The Union of India _____ Appellee
Answer No 5

A27

सेवा में,

उप निदेशक,
 केन्द्रीय सरकार स्वास्थ्य योजना,
 9-ए, राणा प्रताप मार्ग, लखनऊ

विषय:- अनुचित जाति वर्ग के कोटे के अन्तर्गत स्तर श्रेणी
 लिपिक पद पर पदोन्नति।

महोदय,

मैं अपनी पदोन्नति के सम्बन्ध में आपको कई वर्षों से
 उनके पृथक् पत्र देता आ रहा हूँ। दिनांक 23-6-89 के पृथक्
 पत्र में विस्तृत विवरण दे चुका हूँ कि आपके अधिनियम वर्ष 1984
 से कृत कः खगर्हा के सामान्य श्रेणी के कर्मचारियों की पदोन्नति
 स्तर श्रेणी लिपिक के पदों पर की गयी है। मैं उन समस्त कर्मचारियों
 से बरिष्ठ स्थान रहने के साथ-साथ अनुचित जाति का बरिष्ठ
 खगर्हा कर्मचारी हूँ केवल उन्हीं के लिये अनुचित जाति वर्ग
 के कोटे में विभागीय पदोन्नति द्वारा भरे जाने वाले स्तर श्रेणी
 लिपिक के कई पद रिक्त होने के बावजूद मेरी पदोन्नति नहीं
 की गयी है और न ही आज तक कोई मेरे पृथक् पत्र का उत्तर
 ही दिया गया है। जबकि इस सम्बन्ध में आपको दिनांक 3-4-87
 16-4-87, 12-1-89 एवं 23-6-89 के पृथक् पत्र दे चुका हूँ
 परन्तु दुर्भाग्यवश मैं अभी भी पदोन्नति नहीं को जा रही है।

विशिष्ट सूत्रों से यह बात हुआ है कि वर्ष 1987 में
 विभागीय पदोन्नति समिति द्वारा भी अनुचित जाति के कोटे
 को भरे जाने का प्रस्ताव पास किया गया था- जैसा कि तत्कालीन
 मुख्य विधिक अधिकारी डा० पी०बी०डी चौधरी ने बताया था
 कि अनुचित जाति के पद को भरे देने के लिए शीघ्र ही कार्यवाही की
 जायेगी परन्तु ऐसी कोई भी कार्यवाही नहीं की गयी जिससे मेरी
 पदोन्नति हो सकती।

कोर्ट में प्रस्तुत किया

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यह भी ज्ञात हुआ है कि विभागीय पदोन्नति द्वारा भरे जाने वाले छतर श्रेणी लिपिक के अनुचित जाति एवं अनुचित जन-जाति कोटे के स्थान को सीधी भती द्वारा भरने के उद्देश्य से आने वाले कर्मचारों चयन आयोग, इलाहाबाद को उनके द्वारा चयनित उम्मीदवारों के नाम मांगने के लिए अभी हाल ही में पत्र लिखा है इससे यह स्पष्ट है कि विभाग में के०स०स्व०वा०वा०, क०स०उ०, उपनि०, अनु०जाति एवं अनु०जनजाति के वर्गीकृत कर्मचारियों को भी मेरी पदोन्नति का हित मिला जाएगा। जबकि नियमनसार सामान्य श्रेणी के वर्गीकृत के 6 कर्मचारियों की पदोन्नति छतर श्रेणी लिपिक के पद पर की गयी है तो अनुचित के वर्गीकृत के दो कर्मचारियों की एक अनुचित जन जाति के वर्गीकृत के एक कर्मचारियों की पदोन्नति की जानी चाहिए भी परन्तु ऐसा नहीं किया गया है जो शरत्कीर्ण नियमों का सुला उल्लंघन है।

अतः आगे पुनः निवेदन है कि मेरी पदोन्नति अनुचित जाति के लिए रिक्त छतर श्रेणी लिपिक पद पर अतिरिक्त की जाए और कर्मचारी चयन आयोग, इलाहाबाद को अप द्वारा हाल ही में भेजे गए सीधी भती के अभ्यर्थी का नाम मांगने का पत्र वापस लिया जाए अर्थात् उस पत्र को भिरकत किए जाने का पत्र कर्मचारी चयन आयोग इलाहाबाद को लिखा जाए तथा निम्नांकित को मेरे पार्श्व पत्र को संलग्नित किया जाये जिससे मुझे समुचित न्याय मिल सके। यदि इस पत्र की पूर्ति से 10 दिन के अंदर मेरी जाउगा।

मेहनत लाल करील

केन्द्रीय सरकार का मुख्य योजना

पुनिलिपि:- निम्नांकित को उचित मा. के द्वारा अवकाश के आश में पुनिलिपि एवं अगुम पुनिलिपि समस्त को पुनिलिपि।

1. निदेश के०स०स्व०वा०वा० निर्माण भवन, नई दिल्ली।
2. उपनि०, पुनिलिपि 11 के०स०स्व०वा०वा० निर्माण भवन नई दिल्ली
3. एम० निदेश के०स०स्व०वा०वा०, कर्मचारी चयन आयोग, छतर श्रेणी, इलाहाबाद।
4. आयोग अनु०जा० एवं अनु०जनजाति आयोग, नर०के०पुरम्, नई दिल्ली।
5. सचिव, उ०भा० के०स०स्व०वा०वा० के०स०उ०, मा०पु०, रा०को ल०पु०।

संलग्नक: 4

भारतीय
मेहनत लाल करील
के०स०स्व०वा०वा०, क०स०उ०

13-7-89
Deputy
Chief Health
Officer
UNION

Deputy
Chief Health
Officer
UNION

मेहनत लाल करील

14-8-89

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1944 more than 1000.

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DATE: - 1944

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Page 100

मै अपनी प्रो-नैट्रि के दिनांक ३-४-७१

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4. उपर्युक्त पैरा 2 में जिस दो सामान्य उन्मुखताओं की प्रशंसा की गयी थी उनमें तथा पैरा 3 में जिस बार सामान्य उन्मुखताओं की प्रशंसा की गयी थी में से एक को निम्नलिखित किया जा चुका है परन्तु इसे प्रशंसा का कोई नाम नहीं दिया गया है।

[illegible]

निम्नाङ्कित यदि विभागीय परीक्षा में कल्याण के पुनर्निर्धार
समाप्ति के पुनर्निर्धारों के साथ परीक्षा में उत्तीर्ण हो जाते हैं उन्हें
अन्य जातियों के साथ परीक्षा में बैठने का अधिकार है। अन्य जातियों के पुनर्निर्धारों
के साथ परीक्षा काटने की जाति यादवों की परीक्षा में 10% भाग
जातियों के साथ परीक्षा में बैठने का अधिकार है जो निम्न है।

[illegible]

प्रार्थ. मोहनलाल शुक्ल

1-10-1944

संलग्न ३
तारीख 23/6/89

SECRET

১. জেলা প্রশাসক, জেলা প্রশাসন, ঢাকা।
 ২. জেলা প্রশাসক, জেলা প্রশাসন, ঢাকা।
 ৩. জেলা প্রশাসক, জেলা প্রশাসন, ঢাকা।
 ৪. জেলা প্রশাসক, জেলা প্রশাসন, ঢাকা।
 ৫. জেলা প্রশাসক, জেলা প্রশাসন, ঢাকা।

In the Central Administrative Tribunal Delhi Bench
 Allahabad, Circuit Bench Lucknow
 Mohan Lal Kureel Applicant
 The Union of India vs.
 App. No. 7

A30

सेवा में,

श्रीमान उप निदेशक
 केन्द्रीय सरकार स्वास्थ्य योजना
 9 ई, राणा प्रताप मार्ग
 लखनऊ ।
 =====

महोदय,

सविनय निवेदन है कि प्रार्थी आपके अधीन-चक्र के पद पर लगभग 10 वर्ष से कार्य कर रहा है। अनुसूचित का सदस्य प्रार्थी हाई स्कूल पास होने के साथ हिन्दी टाईप आदि जानता है। प्रार्थी ने विभागीय लिपिक जो कि चतुर्थ श्रेणी कर्मचारियों में से होने थे अपना प्रार्थना पत्र दिया था लेकिन प्रार्थी प्रोन्नति नहीं की गई जबकि उनमें से एक पद अनुसूचित जाति के सदस्य द्वारा ही भरा जाना था लेकिन मेरा प्रार्थनापत्र होते हुए भी दिनांक 21-4-87 को समिति ने यह पद सामान्य सदस्य द्वारा भर लिखा।

तत्कालीन मुख्य चिकित्सा अधिकारी महोदय ने इस सम्बन्ध में बताया कि अनुसूचित जाति के पद को भरने के लिए जल्दी ही परीक्षा कराई जायेगी लेकिन दो साल बीत गये और अभी तक कोई परीक्षा नहीं ली गई।

अतः श्रीमान जी से निवेदन है कि अनुसूचित जाति के पद को भरने के लिए शीघ्र ही अनुसूचित जाति की विभागीय परीक्षा लेने की कृपा करें ताकि प्रार्थी उसमें सम्मिलित हो सके और लिपिक होने का मौका मिल सके।

प्रार्थी -

मोहन लाल कुरील

! मोहन लाल कुरील !

! ~~मोहन~~ !

दीनार नर साहस

CA 2007/3

दिनांक 17-1-89

Central
 18/1/89

मोहन लाल कुरील

True copy

stamped

Dr. Mohan

16-08-89

In the Central Administrative Tribunal Addl. Bench
Allahabad, Circuit Bench Lucknow
Mohan Lal Kuriel _____ Applicant (A31)
The Union of India _____ Opposite
Answer No. 8

सेवा में,

मुख्य शिक्षिता अधिकारी/अध्यक्ष, डी०पी०सी०,
विभागीय प्रोन्नति समिति
केन्द्रीय सरकार स्वास्थ्य योजना,
लखनऊ।

विषय:- अवर जेनी लिपिक पद पर प्रोन्नति के सम्बन्ध में।

महोदय,

मेरे दिनांक 3 अप्रैल, 1987 को उपरोक्त विषय पर एक प्रार्थना-
पत्र आपके प्रस्तुत किया था जिसके द्वारा आपसे यह निवेदन किया
था कि आपके अधीनस्थ रिक्त अवर जेनी लिपिक पदों में से जो
अनुसूचित जाति वर्ग के लिए आरक्षित स्थान है उसके लिए मेरा नाम
विचार किया जाय परन्तु अभी तक उस पर कोई कार्रवाई नहीं की
गई है और न ही मुझे सूचित किया गया है।

Despatcher
Central Govt. Health Scheme
LUCKNOW
21
20-4

प्रार्थी को विशिष्ट सूत्रों से यह ज्ञात हुआ है कि दिनांक
21 अप्रैल, 1987 को विभागीय प्रोन्नति समिति की बैठक आपके
अध्यक्षता में सम्पन्न हो रही है। अतः निवेदन है कि कृपया मेरी
प्रोन्नति पेंकर पद से अवर जेनी लिपिक पद हेतु की जाए।

समुचितन्याय की प्रत्याशा में,

Bye.

38

4.16/4/87

दिनांक-16-4-1987

भवदीय,

मोहन लाल कुरील
मोहन लाल कुरील

केन्द्रीय सरकार स्वास्थ्य योजना,
लखनऊ।

प्रतिलिपि:-

1. डा० सी०पी०सिंह, सदस्य विभागीय प्रोन्नति समिति,
के०स०स्वा०यो०, लखनऊ।
2. डा० जे०के०, जेन. सदस्य, वि०प्रो०स०, के०स०स्वा०यो०, लखनऊ।
3. श्री सत्य देव, सदस्य वि०प्रो०स०, के०स०स्वा०यो०, लखनऊ/ भास्कर
प्रशिक्षण कार्यालय, लखनऊ।
4. डा० एस० कटुवती, सदस्य वि०प्रो०स०, के०स०स्वा०यो०, लखनऊ।

True copy
attached.

14.8.89

मोहन लाल कुरील

SL No 20

A32

In the Hon'ble High Court of Central Administrative
Tribunal, Circuit Bench, Lucknow.

C.M. Appln. No. 153 of 1990 (L) /
Union of India & others ... Opp. parties

Inre:

O.A. No. 209 of 1989 (L)
Mohan Lal Kuril ... Applicant.

Vs.

Union of India & others ... Opp. Parties.

APPLICATION FOR CONDONATION OF DELAY

The opp. parties abovenamed begs to state as under :-

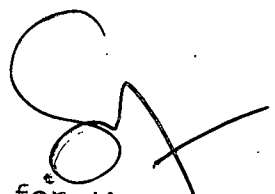
1. That the counter affidavit to the application
could not be filed within time as relevant information
was not available.

2. That filing of the counter affidavit
is necessary in the interest of justice.

3. That the counter affidavit is now ready
and is being filed herewith.

Wherefore, it is most respectfully prayed that
delay in filing the counter affidavit may be condoned and
the same may be ~~brought on~~ accepted and brought on the
record.

Lucknow : Dated
March 16, 1990


Counsel for the Opp. parties.

PT
L
16/3/90

1433

Before the Central Administrative Tribunal,
Circuit Bench, Lucknow.

Counter Affidavit on behalf of
opposite party No. 1, 2 and 3

Inre:

W.A. No. 209 of 1989 (L)

Mohan Lal Kuril

... Applicant.

Vs.


Union of India & others

... Opp. Parties.

I, Dr. SITESH CHANDRA DUTTA, aged about,
53 years, son of Late Girindra Ch. Dutta,
working as Deputy Director, Central Government,
Health Scheme, Rana Pratap Marg, Lucknow, the
deponent do hereby solemnly affirm and state
on oath as under :-

1. That the deponent is Deputy Director, Central
Government, Rana Pratap Marg, Lucknow, and as such he
is fully conversant with the facts deposed to hereinafter.

2. That the deponent has read the application
filed by the applicant and has fully understood the
contents thereof.


Dy. Director
C.G.H.S., Lucknow


P24

3. That the contents of paragraphs 1 to 3 of the application need no reply.

4. That the contents of paragraph 4(i) to (iv) of the application need no reply except that as per recruitment rules the post of L.D.C. to be filled up 90% from direct recruitment and 10% by promotion from Class -4 employees based on departmental examination. It is wrong to state that 15% ~~reserved~~ reservation has been made in L.D.C. category for promotion of Class-4 employees.

5. That in reply to the contents of paragraph 4 (v) of the application, it is submitted that ~~the~~ as per Govt. Order annexed with the application as Annexure-1 by the applicant, the ~~Scheduled Caste~~ quota ~~of~~ for scheduled caste in promotion is 15% minning thereby that in 10% reserved for promotion from amongst Class-4 employees the quota of scheduled caste is 15%. A true copy of the relevant rules is being annexed herewith as Annexure A-1 to this counter affidavit.

6. That the contents of paragraph 4 (vi) of the application are as stated not admitted. Under the provisions of Recruitment Rules out of 17 sanctioned post of L.D.C. in the year 1984, 2 posts were filled by promotion based on departmental examination from Class-4 employees as per recruitment rules of the post and 3rd candidate senior most of the panel of 1985 who was working as ad-hoc L.D.C. was regularised on 21.4.1987. The petitioner appeared in the examination but could not qualified the departmental test.


Dy. Director
C.G.H.S., Lucknow

135


- 3 -

7. That the contents of paragraph 4(vii) of the application are wrong hence denied. Infact there were only 17 post of L.D.C. sanctioned in the year 1984. According to service rules only 10% posts were reserved for promotion, 10% of 17 posts amounted to 1.7 as such only 2 posts were to be filled up by promotion through departmental examination. The quota of scheduled caste was 15% of 2 posts which was negligible and one post could not be reserved for scheduled caste candidate. However the applicant was allowed to appear in the examination as he could compete in general category but he could not do so.

8. That the contents of paragraph 4 (viii) of the application as stated not admitted. However, it is submitted that when ever the vacancy for ~~schd~~- scheduled caste candidate will be available, the applicant ~~has~~ will be given chance to appear in the examination in accordance with the service rule.

9. That the contents of paragraph 4 (ix) of the application are also not admitted. Infact ~~that~~ as stated above in ~~para~~ preceeding para were existing for promotion by departmental examination the year 1984 not 3 posts as mentioned by him. As per recruitment rules, the departmenbal examination was required.

10. That in reply to the contents of paragraph 4 (x) of the ~~ur~~ application, it is submitted that the G.O. dated 30.9.1983 as annexure no. 3 by the petitioner


Dy. I.
G.O. S. Lucknow

A36

- 4 -


not applicable in the subject case as there were only 2 posts to be filled by Group-'D' employees based on departmentalexamination not on the principles of seniority cum fitness and G.O. under reference not directs so. It is further submitted that as soon as the post ~~is~~ for scheduled caste quota will be available, the applicant will be given chance in accordance with the service rules.

11.. That the contents of paragraph 4 (xi) of the application are wrong hence denied.

12. That the contents of paragraph 4 (xii) of the a pplication are wrong hence denied. It is further submitted that the Annexure No. 3 produced by the applicant has been ammended and 100points roster is maintained where point no. 2 reserved for schedule caste not Ist as stated in application.

13. That in reply to the contents of paragraph 4 (xiii), ~~xxiii~~ (xiv) and(xv) of the application, it is stated that as already submitted in foregoing paras ~~the~~^{no} post is available of 10% quota which may be filled from Group-'D' employees as at present there are 21 posts sanctioned out of which 10% posts have been filled from Group 'D'. It is further submitted that the promotion can not be made other wise then ~~in~~ in accordance with the service rules.

14. That in reply to the contents of paragraph 4 (xvi) of the application, it is submitted that as per provisions of recruitment rules and decision


Dy. Director
C.G.H.S., Lucknow

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- 5 -

of D.P.C. on 30.8.1989 10% quota of departmental candidates filled from group 'D' employees so question of departmental candidate of Scheduled Caste category does not arise till the vacancy of the 10% quota ^{under} available.

15. That the contents of paragraph 4 (xvii) of the application are denied. It is submitted that the provisions of Article 14 and 16 of the Constitution of India have not been violated and no discrimination has been done with the petitioner as alleged.

16. That the contents of paragraph 4 (xviii) of the application are denied. It is submitted that the post is not available at present as stated above.

17. That in reply to the contents of paragraph 4 (xix) of the application, it is submitted that as per recruitment rules 90% posts of L.D.C. are to be filled ~~not~~ from direct recruitment for which competent authority is Staff Selection Committee. The posts reserved for Scheduled Caste/Scheduled Tribe candidates were to be filled from direct recruitment ~~so~~ under "Special recruitment Drive for Scheduled Caste/Scheduled Tribe as per instructions of Government which has been filled from them on recommendations of Staff Selection Committee.


Dy. Director
C.G.H.S., Lucknow

18. That the contents of paragraph 4 (xx) of the application are not admitted. The applicant will not suffer any loss as stated by him and presumption of future also not correct.

1130

19. That the contents of paragraph 4 (xxi) of the application next to above which is wrongly been figured as 4 (xxi) instead of (xxii) are denied. As stated above the case is liable to be dismissed with costs. It is also submitted that the applicant neither qualified the test of L.D.C. nor ^{other} ~~the~~ post of Group-C are available to suit his qualification exists in the office of the respondent no. 3.


20. That the contents of paragraph 5 (1) to (xi) of the application are not admitted. None of the grounds tenable in law. The writ petition has no force and the same is liable to be dismissed with costs.

21. That in reply to the contents of paragraph 6 (i) of the application, it is submitted that the applicant can not be given promotion without passing departmental examination as provided in the service and rules/also without availability of the posts.

22. That the contents of paragraph 7 of the application need no reply.

23. That in reply to the contents of paragraph 8 of the application, it is submitted that none of the reliefs are liable to be granted. The application devoid of merits and is liable to be rejected with costs.

24. That in view of the above mentioned facts and reasons, the applicant is not entitled for any reliefs.


Dy. Director
C.S.R.S. Lucknow

A29

- 7 -

25. That the contents of paragraph 10 of the application need no reply.

Lucknow : Dated

Dec. 4th, 1989



Deponent.

Dy. Director

C.S.I.S., Lucknow

I, the abovenamed deponent do hereby verify that the contents of paras 1 and 2

are true to my own knowledge, those of paras 3, 6, 22 and 25

are based on legal records which I believed to be true and those of paras 23 and 24 are based on legal advice. No part of it is false and nothing material has been concealed.

Lucknow : Dated

Dec. 4th, 1989



Deponent.

Dy. Director

I identify the deponent who has signed before me.

one

Notification No. F.4-100/73-CCHS Dated 19.2.74

RECRUITMENT RULES POLICIA III (MINISTERIAL) POST
UNDER S.O.S. S. DEPT.

No. of post	of satisfaction	Scale of pay	Whether Selection or Non-selection.	Age for direct Recd.	Qualification
-------------	-----------------	--------------	-------------------------------------	----------------------	---------------

2.	3.	4.	5.	6.	7.
----	----	----	----	----	----

I.D.C.	General Central Services Class-III Non-Gazetted Ministerial	Rs. 260-6-300-15 6-326-8-366-15 8-390-10-400.	Selection	18-25	Matriculation or equivalent qualification.
--------	---	---	-----------	-------	--

Notification No. F.4-100/73-CCHS Dated 19.2.74

Staff Nurse	Non-Ministerial	Rs. 425-640	Not Applicable	20-35 Years	1. Matriculation 2. Registered A Grade Nurse 3. Midwife. Desirable: One Year Experience.
-------------	-----------------	-------------	----------------	-------------	---

one

Age and educational qualifications prescribed for direct recruitment. apply in the cases of promotion.

Period of probation; if any

Method of recruitment whether by direct or by promotion or by deputation/transfer and percentage of the vacancy to be filled by various method.

Assessments by promotion/ deputation/ transfer grade from which promotion/ deputation/ transfer to be made.

Is DPO exists, what is its composition. Circumstance in which DPO is to be consulted in matters.

8. 9. 10. 11. 12. 13.

Educational qualification:-
Age :- Relaxable upto 40 years (45 years for Scheduled Caste/scheduled tribe employees) for departmental candidates.

Two Years

90% by direct recruitment 10% by promotion based on Departmental Examination confined to class IV employees who have passed Matric Examination and have rendered five years of service in that grade.

Class IV employees.

Class III D.P.C.

Not Applicable.

Not Applicable

Two Years

100% by direct rectt.

Not Applicable

N.A.

N.A.

Handwritten signature

(Aur)

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

C.M. 173/90(L)

O. A. No. 209 (1) of 1989

F.F :- 3.8.90

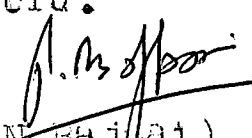
Mohan Lal Kureel Applicant.

Versus

The Union of India & others ... Opp. Parties.

In the above noted application the rejoinder affidavit is filed herewith. The copy has already been served on the Opp. parties. It may be taken on record.

Dated :- 21.3.90


(P.N. Bajpai)
ADVOCATE.
Counsel for the
applicant.

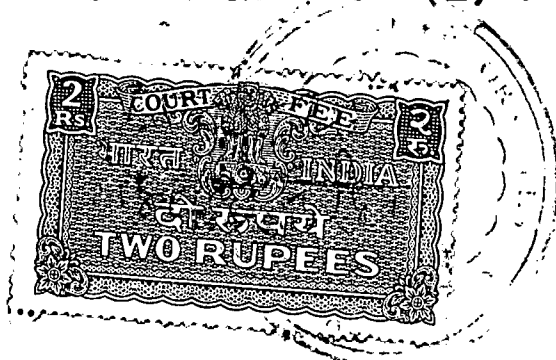
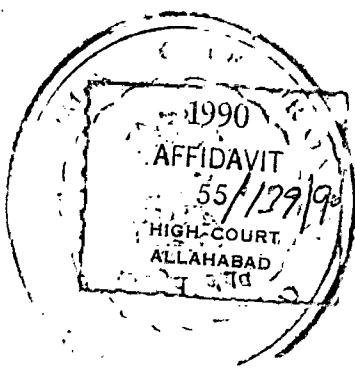
Filed today
Sd/-
21/3/90

AWB

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

O. A. No. 209-(L) of 1989

F.C. 3-8-90



Mohan Lal Kureel

...

Applicant.

Versus

The Union of India & others ... Opp. Parties.

Rejoinder Affidavit.

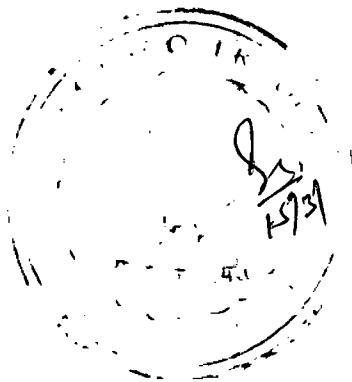
I, Mohan Lal Kureel aged about 39 years, son of Sri Late Churai R/o mohalla East Birhana Near Balloo Das Kothi Lucknow do hereby solemnly affirm as under :-

1. That the contents of para 1 to 3 of the C.A. needs no reply.

2. That the contents of para 4 of the C.A. are admitted with modification that the quota is now 15 % and not 10% as alleged in para under reply.

3. That the contents of para 5 of the C.A. are argumentative and will be argued at the time of arguments.

4. That the contents of para 6 of the C.A. are denied. The contents of para 4 (vi) of the petition are reiterated. The petitioner being senior most in the cadre of Class Ivth



मोहन लाल कुरील

Aru

was entitled to get the adhoc promotion. There was no necessity of any examination for adhoc promotion. The discrimination has been done with the petitioner in the matter of promotion of juniors. The deponent was knowingly declared as failed in the examination of 1985.

5. That the contents of para 7 of the C.A. are denied. The deponent was entitled to get the benefit of quota reserved for S.C. candidate. The deponent was knowingly declare as failed due to the mala fide intention. Further the contents of para 4 (VIII) of the Application are reiterated.

6. That the contents of para 8 of the C.A. are denied. The deponent was only candidate of reserved quota to get the promotion but the quota has been denied.

7. That the contents of para 9 of the C.A. are denied. The contents of para 4 (IX) of the application are reiterated. The Opp. parties have tried to misguide the Hon'ble Tribunal through the contents of para under reply. Three promotions were made in the year 1984.

8. That the contents of para 10 of the C.A. are denied. The contents of Para 4 (X) of the application are reiterated. The Arbitrary promotion were made and the seniority of the deponent was ignored.

9. That the contents of para 11 of the

18/12/84
महोदय जी

¶ 3.

415

C.A. are denied. The contents of para 4 (xi) of the Application are reiterated.

10. That the contents of para 12 of the C.A. are denied. The contents of para 4 (xii) of the Application are reiterated. The Roster referred in para under reply has not been filed alongwith the C.A. , hence proper reply is not possible.

11. That the contents of para 13 of the C.A. are denied. The contents of para 4 (xiii, ~~xxx~~ xiv , xv) of the application are reiterated. The deponent is not claiming the promotion against the services rules.

12. That the contents of para 14 of the C.A. are denied. The contents of para 4 (xvi) of the Application are reiterated. The quota is not complete. The Petitioner is entitled to get the benefit of the quota reserved for the S.C. candidates.

13. That the contents of para 15 of the C.A. are denied. The contents of para 4 (xvii) of the Application are reiterated. The provisions of Art. 14 & 16 of the Constitution of India have been violated.

14. That the contents of para 16 of the C.A. are denied. The contents of para 4 (xviii) of the application are reiterated. The post was vacant but no selection was made.

15. That the contents of para 17 of the C.A. are denied. The contents of para 4 (xix) of the Application are reiterated. The Departmental

15/12/2014

Page 6

4.

Selection Committee did not consider the quota reserved for the S.C. candidates.

16. That the contents of para 18 of the C.A. are denied. The deponent will suffer a great irreparable loss. Further the contents of para 4 (xx) of the Application are reiterated.

17. That the contents of para 19 of the C.A. are denied. The Petition is liable to be allowed with cost. As already stated above the deponent was knowingly declared as failed.

18. That the contents of para 20 of the C.A. are denied. The application is liable to be allowed on the basis of the grounds taken in the application.

19. That the contents of para 21 of the C.A. are denied. The deponent was actually passed, but he has been declared as failed knowingly.

20. That the contents of para 22 of the C.A. needs no reply.

21. That the contents of para 23 of the C.A. are denied. The deponent is entitled to get the reliefs claimed. The application is liable to be allowed with cost.

22. That the contents of para 24 of the C.A. are denied. The deponent is entitled to get the reliefs claimed.

23. That the contents of para 25 of the C.A. needs no reply.

Dated:

ਮੋਹਨ ਲਾਲ ਚੌਰੀਆ

Deponent.


5.

Verification.

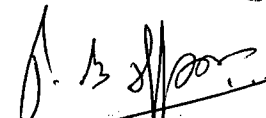
I, the above named deponent do hereby verify that the contents of paras 1 to 6, 12, & 19 of the R.A. are true to my knowledge and the contents of paras 7 to 11, 13 to 18 and 20 to 23 of the R.A. are true to my belief. Nothing material has been concealed and no part of it is false, so help me God.

Signed and verified today this the 15.3.90 in the Court Compound at Lucknow.

Dated: 15.3.1990




Deponent.

I identify the deponent who has signed before me.


(P.N. Bajpai)
Advocate.

Solemnly affirmed before me on 15.3.90 at 9.40 A.M. / P.M. By Sri Mohan Lal Kureel, the above named deponent who is identified by Sri P.N. Bajpai, Advocate, High Court of Judicature at Allahabad, (Lucknow Bench) Lucknow.

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



SHYAM NARAYAN
JUDICIAL COMMISSIONER
Allahabad
Lucknow Bench

55/129

15/3/90

In the Central Administrative Tribunal Allahabad.

O.A. Circuit — Bench Lucknow.
No. 209 of 19 89. (4)

..... Mohan Lal Kureel
Petitioners
Appellant
Applicant

VERSUS

..... Union of India and Others
Respondent
Opposit Party

I/we ^{resp. no 1 to 3} ~~resp. no 1 to 3~~ in the above matter hereby appoint and retain
SHRI ~~XXXXXX~~ ~~XXXXXX~~ ~~XXXXXX~~, Advocate High Court, Lucknow
to appear, act and plead for me / us in the above matter and to conduct/prosecute and defend
the same in all interlocutory or miscellaneous proceedings connected with the same or with
any decree or order passed therein, appeals and or other proceedings there from and also in
proceedings for review of judgment and for leave to appeal to Supreme Court and to obtain
return of any documents filed therein, or receive any money which may be payable to me / us.

2. I / We further authorise him to appoint and instruct any other legal practitioner
authorising him to exercise the powers and authorities hereby conferred upon the Advocate
whenever he may think fit to do so.

3. I/We hereby authorised him/them on my/our behalf to enter into a compromise in the
above matter, to execute any decree order therein, to appeal from any decree / order therein
and to appeal, to act, add to plead in such appeal or in any appeal preferred by any other
party from any decree / order therein.

4. I/We agree that if/we fail to pay the fees agreed upon or to give due instruction at
all stages he / they is are at liberty to retire from the case and recover all amount due to
him / them and retain all my/our monies till such are paid.

5. And I / we, the undersigned do hereby agree to ratify and confirm all acts done by
the Advocate or his substitute in the matter as my own acts, as if done by me / us to all
intents and purposee.

Executed by me/ us this day of 19 at

Sitesh Ch Sarkar
Signature Dy Director
before me Central Govt Health
 Scheme

Executant's are personally known to me he has / they have / signed

Satisfied as to the identity of executant's signature/s.

(where the executant/s is / are illiterate blind or unaquainted with the language of vakalat)

Certified that the content were explained to the executant/s in my presence
in.....the language known to him / them who appear/s perfectly to
understand the same and has / have signed in my presence.

Accepted

Sony 4/12/89
~~XXXXXX~~ (I. M. Qudus)
Advocate

Additional Standing Counsel
Central Government
High Court, Allahabad, Lucknow Bench
Counsel for Applicant/Respondents
No.....

Registered A/D

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

Gandhi Bhawan, Opp. Residency
Lucknow - 226 001

(Registration No. _____ of 198)

No. CAT/LKO/Jld/CB/

dated . _____

APPLICANT(S)

VERSUS

RESPONDENT(S)

Please take notice that the applicant above named
has prescribed an application a copy whereof is enclosed
herewith which has been registered in this Tribunal and has
fixed _____ day of _____ 198 .
for _____

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

Given under my hand and the seal of the Tribunal
this _____ day of _____ 198 .

dinesh/

For DEPUTY REGISTRAR

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

O.A. No.209 of 1989 (L)

M.L. Kureel

.....

Applicant.

Versus

Union of India & ors

.....

Respondents.

22.9.1989

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

Shri P.N. Bajpai counsel for the applicant heard.

Admit.

Issue notice to respondents to file counter affidavit within six weeks to which the applicant may file rejoinder affidavit within two weeks thereafter.

List on 4.12.1989 for orders/hearing as the case may be.

Sd/-

Judicial Member

// True Copy //

rm/

**Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow**



*checked
22/9*

22/9/89

8/9

Bu3

Central Administrative Tribunal
Circuit Bench Lucknow.
O.A.NO.209 of 1989(L)

M.L.Kureel Applicant/petitioner
Versus
Union of India Respondents

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

Hon'ble Mr.A.B.Gorthi, A.M.

Dated: 5.7.91.



Learned counsel for the applicant states that the applicant has now been promoted and the relief ~~is~~ claimed by him has been granted and as such the application has become infructuous.

The application is dismissed as infructuous.

A.M.

V.C.

// True copy //

R.S.M.

AND
Section Officer
Central Administrative Tribunal
Circuit Bench
LUCKNOW

Central Administrative Tribunal
Circuit Bench Lucknow.
O.A.NO.209 of 1989(L)

2044

M.L.Kureel Applicant/petitioner
Versus
Union of India Respondents

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

Hon'ble Mr. A.B. Gorthi, A.M.

Dated: 5.7.91.



Learned counsel for the applicant states that the applicant has now been promoted and the relief ~~stated~~ claimed by him has been granted and as such the application has become infructuous.

The application is dismissed as infructuous.

A.M.

V.C.

// True copy //

R.S.M.

[Signature]
Section Officer
Central Administrative Tribunal
Circuit Bench
LUCKNOW

checked by
h