

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE.

DATED THIS THE EIGHTEENTH DECEMBER, 1986

Present: Hon'ble Mr Justice K.S. Puttaswamy

Vice Chairman

Hon'ble Mr L.H.A. Rego

Member(A)

APPLICATION NO. 369 OF 1986.

N. Puttaveerappa,  
s/o P.Nanjundappa,  
Aged 40 years,  
Working as Junior Technical Assistant  
in the Office of the Official  
Liquidator, High Court of Karnataka,  
11/2 Queens Road,  
Bangalore- 560 052.

..... Applicant

( Shri K.Haridasan Nambiar ... Advocate)

Vs.

- 1) The Union of India by the  
Secretary, for Ministry of  
Law, Justice and Company Affairs,  
New Delhi.
- 2) The Departmental Promotion Committee,  
by its Chairman, Department of  
Company Affairs, Sastry Bhavan,  
V Floor, A Wing,  
Dr.R.P.Road, New Delhi 110 001.
- 3) The Regional Director,  
Southern Region,  
Department of Company Affairs,  
Sastry Bhavan, Block IV,  
IInd Floor, 35 Haddows Road,  
Madras 600 006.
- 4) S.Balakrishnan s/o not known,  
Junior Technical Assistant,  
Office of the Registrar of Companies,  
Sastry Bhavan,  
35, Haddows Road,  
Madras 6.
- 5) A.K.Damodaran s/o not known,  
Junior Technical Assistant,  
Office of the Regional Director,  
Company Law Board, Sastry Bhavan,  
35, Haddows Road,  
Madras 6.
- 6) V.Balan s/o not known,  
Junior Technical Assistant,  
Office of the Official Liquidator,  
Kuralagam Building, Madras.

...2/-

- 7) D. Sugavanam Sastry, s/o Not known  
Junior Technical Assistant,  
Office of the Official Liquidator,  
Kuralagam Building, Madras.
- 8) L.G. Puthran,  
Senior Technical Assistant  
Office of the Registrar of Companies,  
B.W.S.S.B. Building,  
IV Floor, Cauvery Bhavan,  
District Office Compound,  
Bangalore - 560 009.
- 9) N.M.Chodry, s/o not known,  
Senior Technical Assistant,  
Office of the Registrar of Companies  
Narayan Buildings,  
Brasurne Road,  
Calcutta.
- 10) D.M.Das s/o not known, Sr. Tech Asst,  
Office of the Official Liquidator,  
Bowring Cemaee Road,  
Patna.
- 11) G.J.Bhat, s/o not known,  
Jr. Technical Asst.  
Office of the Registrar of Companies,  
Ahmedabad.  
( Shri M.S.Padmarajaiah ... Advocate) ... Respondents  
This application has come up for hearing today.

Vice Chairman made the following:-

O R D E R

In this transferred application received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985 ('the Act') the applicant has challenged letter/order No.A. 42015/7074-Admn.II dated 3-10-1975 of Government of India in the Ministry of Law, Justice and Company Affairs, Department of Company Affairs ('Department') (Annexure-K), the promotions of respondents 4 to 11 as Senior Technical Assistants ('STAs') from the cadre of Junior Technical Assistants ('JTAs').

2. On 15-~~4~~<sup>6</sup>-1962 the applicant initially joined service as LDC in the Department. On 23-3-1970 he was appointed as a JTA in the Department. While the applicant passed the departmental examination prescribed for promotion to the posts of STA in September 1976, respondents 4,5,6,7

and 8 who were juniors to him in the cadre of JTAs, passed the same earlier to him in the years 1967, 1969 or 1970 as the case may be. During the relevant period that will be noticed later, respondents 9 to 11 who were also juniors to him in the cadre of JTA, had not passed the said departmental examination.

3. The recruitment to the posts of STA, with which alone we are concerned, as also other posts in the department, are governed by the Company Law Administration (Group A,B and C posts) Recruitment Rules, 1962 ('Rules') made by the President of India under the proviso to Article 309 of the Constitution. Under the said Rules, 50 per cent of posts of STAs are earmarked for promotion which is again sub-divided into two categories as hereunder:

- (i) 25% of the posts may be filled by promotion of technical Assistant/Junior Technical Assistants who have passed the Departmental Examination and have put in atleast 3 years of service in the grade, and
- (ii) 25% of the posts may be filled in by promotion of Technical Assistants/Junior Technical Assistants who have not passed the Departmental Examination, but have put in 5 years of service in the grade. In case all the posts reserved for this category of officers cannot be filled as aforesaid, such of the remaining posts may be filled in accordance with (i) above.

The first and second categories are generally called as "examination" and "seniority" categories and both of them however, are selection posts.

4. The Rules or any other rules made by the President did not provide for regulating inter se seniority of JTAs who passed the Departmental Examination on different dates. On 3-10-1975 Government conveyed its decision to regulate the same as set out therein. On the basis of that decision and all other relevant factors, a DFC constituted

by Government considered the cases of the applicant and respondents 4 to 11 from time to time and promoted the latter against the then existing vacancies. On 5-9-1983 the applicant was promoted as STA from the 'seniority' category. But, before that he was superseded on one or the other ground and respondents 4 to 11 were promoted.

5. The applicant who initially depended on the order of Government dated 3rd October, 1975 (Annexure-K) and even sought for its enforcement however, later made an application - I.A.No. IV - on 17-9-1981 challenging its validity and the same has been allowed on 19-8-1981 by Ramajois, J. The applicant has challenged the said order as made without the authority of law and violative of Articles 14 and 16 of the Constitution.

6. The applicant has challenged his supersession and promotion of respondents 4 to 11 as contrary to the Rules and violative of Articles 14 and 16 of the Constitution.

7. In their statement of objections, respondents 1 to 3 have urged that the order made by Government on 3-10-1975 which did not violate the Rules or any other Rules was made by the Government in exercise of its executive powers and was valid. These respondents have also asserted that supersession of the applicant and the promotion of respondents 4 to 11 from time to time, was in conformity with the Rules, valid and was not violative of Articles 14 and 16 of the Constitution.

8. Shri K.Haridasan Nambiar, learned Advocate appeared for the applicant. Shri M.S.Padmarajaiah, learned Central Government Standing Counsel appeared for respondents 1 to 3.

Respondents 4 to 11 though duly served, have remained absent and are unrepresented. Shri C. Achuthan, Deputy Director, Law, Justice and Company Affairs, Madras was present on both the days the case was argued. Shri Achuthan apart from producing the relevant records rendered us very valuable assistance. We express our appreciation for the neat and thorough presentation of the case by Shri Achuthan.

9. Shri Nambiar contended that the order dated 3-10-1975 was unauthorised, contrary to the Rules and was violative of Articles 14 and 16 of the Constitution. In support of his contention, Shri Nambiar strongly relied on the ruling of the Supreme Court in GANGARAM AND OTHERS v. THE UNION OF INDIA AND OTHERS (AIR 1970 SC 2178).

10. Shri Achuthan urged that the order made by Government in exercise of its executive powers covers a field that was not covered by the Rules and therefore was valid.

11. The order made by Government on 3-10-1975 which is material reads thus:

".....The 50% promotion quota is further split up as follows:-

- (a) 25% of the vacancies are to be filled up by those who have passed the Departmental Examination and have put in 3 years' regular service as Junior Technical Asstt. and
- (b) the remaining 25% posts are to be filled up by those who have not passed the Departmental Examination but have rendered 5 years' regular service as Junior Technical Assistant.

2. The following criteria for the preparation of seniority list for the purpose of promotion to the posts of Senior Technical Assistant have been prescribed:-

- (i) There will be a general seniority list of Junior Technical Assistants containing the names of all the persons who are appointed to these posts on a regular basis (List I).
- (ii) The names of those Junior Technical Assistant who have passed the Departmental Examination will be arranged in a separate list (list II). In doing so, the inter se seniority of the Junior Technical Assistants passing in a subsequent examination will en block rank junior to those passing an earlier examination.

(iii) The name of those who do not pass the examination but have put in 5 years' regular service as Junior Technical Assistant will similarly be arranged in another list (list lll). This list will also include the names of those Junior Technical Assistants who have passed the examination but have at the same time rendered 5 years service. In other words, the name of the qualified Junior Technical Assistants with 5 years service will appear in List ll as well as in List lll.

(iv) To selections for promotion the posts of senior Technical Assistant will be made alternatively from list ll and list lll."

The first part of the order really reproduces the relevant part of the Rules providing for promotion to "examination" and "seniority" categories and, therefore, no exception whatsoever, can be taken to the same. Shri Nambiar also did not take exception to the same. Clauses (1), (3) and (4) of para 2 of the order also, which do not really hurt the applicant were not seriously challenged before us.

12. The serious challenge was only to clause (2) of para 2 of the order, which provides that those who pass the departmental examination prescribed for the post of STA, would en block be senior to those who pass the same later. According to the applicant, this provision which totally upsets the seniority in the cadre of JTAs was arbitrary, irrational and was violative of Articles 14 and 16 of the Constitution. But, before that, we must examine whether we should permit the applicant to urge the same.

13. In the original writ petition, filed before the High Court, the applicant expressly alluded to the order made by Government on 3-10-1975(Annexure-K), produced a true copy of the same and depended on the same to challenge the promotion of respondents no. 4 to 11 to the post of STA and his non-promotion to the same. But, in I.A.No.IV the applicant somersaulted and sought leave to challenge the same as violative of the Constitution. Shri Nambiar urged that in so doing, the applicant was only seeking an alternative relief and was not urging a mutually inconsistent case.

14. On the first occasion the applicant depended on the order of Government and even sought for its enforcement. In doing so, the applicant really proceeded on the assumption that the said order was a valid and legal order and was in conformity with the provisions of the Constitution and the Rules. But, in challenging the same, the applicant is now committing a volte-face and taking an inconsistent stand. The fact, that a plaintiff cannot take recourse to mutually inconsistent pleas is well-settled. What is true of a plaintiff is also true of a petitioner before the High Court or an applicant before this Tribunal. On this short ground, we cannot permit the applicant to challenge the order of Government dated 3-10-1975 (Annexure-K) which necessarily means that we should reject his challenge to the same also. But, we however do not propose to do so and proceed to examine the merits.

15. The Rules do not regulate the inter se seniority of JTAs who pass the departmental examination prescribed for the posts of STAs is not in dispute.

16. Shri Nambiar has neither referred to nor placed before us any law made by Parliament or any other rules made by the President under the proviso to Article 309 of the Constitution regulating inter se seniority. Shri Achuthan emphatically asserted that there are no Rules or law regulating the same. We have no reason to discount this statement of Shri Achuthan. What emerges from this is that there was no law regulating the inter se seniority of those who pass the departmental examination prescribed for the posts of STAs.

17. The executive powers of Government to regulate matters

is profitable to refer to a very pregnant statement made by Justice Holmes, one of the greatest Judges of the American Supreme Court in Noble State Bank -vs- C.N.Haskell considered to be one of the land mark cases (see: The Mind and Faith of Justice Holmes - Max Lerner Modern Library). In that case that great Judge in adjudging the validity of an action for a guarantee deposit by Banks under an Oklahoma legislation to safeguard depositors as offending the 14th Amendment of the American Constitution, which guaranteed equal protection of laws, in that country to its citizens which finds its place in Article 14 of our Constitution (see: para 73 page 508 of Special Courts Bills case) expressed thus:

"In answering that question we must be cautious about pressing the broad words of the Fourteenth Amendment to a drily logical extreme. Many laws which it would be vain to ask the Court to overthrow could be shown, easily enough, to transgress a scholastic interpretation of one or another of the great guaranties in the Bill of Rights."

Bearing the principles enunciated in this case we must examine the challenge of the applicant based on Articles 14 and 16 of the Constitution.

21. The object underlying departmental examination prescribed for various Departments of Government, each of which has characteristics of its own is to equip and ground the officers concerned adequately with various aspects of works unique to each Department and thereby to enable them to render public service as best as possible. Shri Achuthan had pointed out that those that pass the departmental examination prescribed for the posts of STAs were as an incentive even given two advance increments which was not rightly denied by the applicant. If the departmental examinations are held necessary and have come to stay in the functioning of a complex modern Government, then it

that are not regulated by law made by Parliament or by the Rules made by the President under the proviso to Article 309 of the Constitution is set at rest by the Supreme Court in B.N.Nagarajan and others Vs. State of Mysore and others (A.I.R. 1966 SC 1942).

18. The order has been made by Government in exercise of its executive powers. In the absence of a law made by Parliament or Rules made by the President under the proviso to Article 309 of the Constitution, Government in exercise of its executive powers was competent to regulate inter se seniority of those who pass the departmental examinations at different times.

19. On the foregoing discussion we hold that the order made by Government on 3-10-1975 was not contrary to the Rules or any other law and was within the competence of Government. With this we now proceed to examine as to whether the same is violative of Articles 14 and 16 of the Constitution or not.

20. The true scope and ambit of Article 14 has been explained by the Supreme Court in a large number of cases. In Shri Ramkrishna Dalmia And Others -vs- Justice S.R. Tendolkar and others and in Re: The Special Courts Bill, 1978 the Supreme Court reviewing all the earlier cases had re-stated the scope and ambit of Article 14 of the Constitution exhaustively. On the new dimension of Article 14 of the Constitution namely that arbitrariness was the very antithesis of rule of law enshrined in Article 14 of the Constitution first evolved in E.P. Royappa vs. State of Tamilnadu elaborated in Smt. Maneka Gandhi -vs- Union of India And Another, Ajay Hasia etc. -vs- Khalid Mujib Sehravardi And Others etc is now firmly settled. In addition to the principles enunciated in these cases by the Supreme Court, it

necessarily follows that those that pass this examination must necessarily be held to be superior to those who do not pass the same and are better equipped to discharge the duties of the post. If that is so, it would be neither illogical nor illegal to treat those who pass the examination earlier as senior to those who pass the same later. The criteria evolved by Government with the object of improving the functional efficiency of the department operate uniformly.

22. The former undoubtedly belongs to a separate and distinct class as compared to those who pass the examination later. By treating those who pass the examination earlier as senior to those who pass the same later or by treating the respective groups differently the equality clause enshrined in Article 14 of the Constitution is not violated. Even otherwise, treating those who pass the examinations earlier to those that pass the same later, is a case of valid classification and is not violative of Article 14 of the Constitution. The criteria evolved are neither arbitrary nor irrational and therefore do not offend the new dimension of Article 14 of the Constitution by the Supreme Court in *E.P.ROYAPPA vs STATE OF TAMILNADU* (AIR 1974 SC 555) and elaborated in *SMT. MANEKA GANDHI vs. UNION OF INDIA AND ANOTHER* (AIR 1978 SC 597).

22.1 In Gangaram's case on which strong reliance was placed by Shri Nambiar, the facts in brief and the question that arose for determination were these:

Recruitment to the posts of Accounts Clerks, Grade-I in Indian Railways was regulated by the Rules made thereto by direct recruitment and promotion from Accounts Clerks Grade-II. For both these categories departmental examination was prescribed. In the case of direct recruits, the Rules stipulated that their seniority would be reckoned on the date of their passing the

examinations but in the case of promotees, the Rules provided to the contrary the basis being seniority in the lower grade viz., Grade-II only. Gangaram and others who had passed departmental examination earlier but were promotees, challenged their ad hoc reversions as violative of Article 14 of the Constitution contending that their seniority should be reckoned on the date of their passing the examination and not on the basis of their seniority in their lower cadre.

22.2 In the case of direct recruits, the Rules provided, thus:

"Candidates who pass the examination in a year are ipso facto senior to those who qualify in subsequent years irrespective of their relative seniority before passing the examination."

But, in the case of promotees from Grade-II to Grade-I the rules provide thus:

"17. Subject to what is stated in paragraphs 18 and 19 below, where the passing of a departmental examination or trade test has been prescribed as a condition precedent to the promotion to a particular non-selection post, the relative seniority of the railway servants passing the examination/test in their due turn and on the same date or different dates which are treated as one continuous examination, as the case may be, shall be determined with reference to their substantive or basic seniority."

On these facts and the different provisions made between the promotees and the direct recruits, the precise question posed was somewhat the same as in this case.

22.3 A Constitution Bench of the Supreme Court speaking through Dua, J. rejected the challenge of Gangaram and others in these words:

"It is quite clear that para 49 does not confer any right to immediate promotion on those Grade II clerks who pass the qualifying Appendix 2 examination. The only benefit which accrues to them is that one hurdle is removed from their way and they become eligible for being considered for promotion to Grade I. This promotion is governed by the test of seniority-cum-suitability. All those who qualify for promotion are treated at par for this purpose and they are grouped together as constituting one class. The fact that one

person has qualified earlier in point of time does not by itself clothe him with a preferential claim to promotion as against those who qualify later. This examination is considered to be a continuous examination and as is clear from para 17, success at this examination does not constitute the basis of seniority which continues to be dependent on the substantive or basic seniority in Grade II. The question which directly arises for determination is: does the procedure laid down in these instructions violate the petitioners' right as guaranteed by Arts. 14 and 16? The State which encounters diverse problems arising from a variety of circumstances is entitled to lay down conditions of efficiency and other qualifications for securing the best service for being eligible for promotion in its different departments. In the present case the object which is sought to be achieved by the provisions reproduced earlier is the requisite efficiency in the Accounts Department of the Railway Establishment. The departmental authority is the proper judge of its requirements. The direct recruits and the promotees like the petitioners, in our opinion, clearly constitute different classes and this classification is sustainable on intelligible differentia which has a reasonable connection with the object of efficiency sought to be achieved. Promotion to Grade I is guided by the consideration of seniority-cum-merit. It is, therefore, difficult to find fault with the provision which places in one group all those Grade II clerks who have qualified by passing the Appendix 2 examination. The fact that the promotees from Grade II who have officiated for some time are not given the credit of this period when a permanent vacancy arises also does not attract the prohibition contained in Arts. 14 and 16. It does not constitute any hostile discrimination and is neither arbitrary nor unreasonable. It applies uniformly to all members of Grade II clerks who have qualified and become eligible. The onus in this case is on the petitioners to establish discrimination by showing that the classification does not rest upon any just and reasonable basis. The difference emphasised on behalf of the petitioners is too tenuous to form the basis of a serious argument. Their challenge, therefore, fails."

When the court rejected the challenge of Gangaram and others, the Court was conscientiously upholding the validity of the Rules providing for reckoning seniority in the case of direct recruits, though not in the case of the promotees. We are of the view that the true ratio of this case, has really rejected the very contention urged by the applicant before us and actually supports the respondents rather than

the applicant. In any event, this ruling rejecting the opposite challenge of the promotees on the language of the Rules does not condemn the principle evolved by Government but impliedly upholds the same and does not really assist the applicant at all.

23. On the foregoing discussion, we hold that the challenge of the applicant to the order dated 3-10-1975 is without any merit and we reject the same.

24. Shri Nambiar lastly contended that the promotion of respondents 4 to 11 on different dates and the supersession of the applicant on those dates was contrary to rules, was not based on relevant considerations and material and was violative of Article 16 of the Constitution.

25. Shri Achuthan urged that the DPC on an evaluation of the claims of the applicant and others had made its recommendations for promotions and supersession and those recommendations accepted and acted upon by the appointing authority were legal and valid.

26. We have earlier noticed that the posts of STAs are selection posts. In selection posts, merit takes precedence over seniority and seniority becomes relevant only when the promoting authority finds that the merit of two persons is equal in all respects and not otherwise. In such a case only, seniority tilts the balance in favour of the senior.

27. On an assessment of the vacancies that were in existence or likely to arise in the immediate future, the DPC constituted by Government met on 9-2-1979, 9-10-1979, 30-7-1980 and 19-6-1981 and considered the claims of all the eligible persons from the "examination" and "seniority"

categories and made its recommendations which has been accepted by the appointing authority.

28. On 9-2-1979 the DPC recommended the promotion of thirteen persons in these two categories in these words:

"MINUTES OF THE MEETING OF THE DEPARTMENTAL PROMOTION COMMITTEE REGARDING PROMOTIONS TO THE GRADE OF SENIOR TECHNICAL ASSISTANTS."

A meeting of the Departmental Promotion Committee consisting of Shri SP Ganguly, Director(Administration) as Chairman and S/shri IL Nagpal and Keshaw Prasad, Under Secretaries, as Members was held on 9 February 1979 to consider the names of eligible Junior Technical Assistants for promoting to the grade of Senior Technical Assistants. The DPC was informed that there were 13 vacancies, one was reserved for Scheduled Castes and one for Scheduled Tribes. The remaining 11 vacancies were unreserved.

2. As per the Department of Company Affairs' letter No. A 42015/70/74-Admn II dated 3 October 1975, the promotions to the posts of Senior Technical Assistants are required to be made alternately from the following lists of JTAs, which have been described as List II and List III in the said letter:

List II Those JTAs who have passed the departmental examination for promotion to the grade of STAs and have rendered at least 3 years' service as JTA.

List III Those JTAs who have or have not passed the departmental examination for promotion to the grade of STAs but have rendered at least 5 years' service as JTA.

On the above basis, 7 vacancies in the grade of STAs are required to be filled up by promoting those belonging to List II and the remaining 6 vacancies by promoting those belonging to List III. There are, in all, 26 eligible JTAs in List II. All of them were considered by the DPC. In List III, there were 57 eligible JTAs but the DPC decided to consider the first 30 names out of this list. The names of the JTAs belonging to List II and List III, who were considered by the DPC are annexed to these minutes.

3 Promotions to the posts of STA are required to be made by selection. The DPC held the view that as far as the JTAs who had passed the departmental examination were concerned, they should be considered for promotion in the order in which their names appeared in List II subject to the condition that anyone found unfit for promotion should be excluded. In other words, the DPC decided that there should be no need to categorise the JTAs belonging to this category as 'outstanding', 'very good', and 'good' and that their confidential character rolls should be seen with the only object of finding out whether they were 'fit' or 'unfit' for promotion. As regards the JTAs belonging to List III,

namely, those JTAs who had not passed the departmental examination, the DPC decided that the selection should be made by categorising them as 'outstanding'; 'very good'; 'good'; and 'not yet fit'. Except 2 JTAs, namely, S/Shri R M Saxena and DD Pande, who were categorised as 'very good' by the DPC, all other JTAs belonging to List III were categorised as 'good'.

4 On the basis outlined above, the DPC recommended the following JTAs for promotion to the grade of STAs:-

<u>S No.</u>	<u>Name</u>	<u>List II/List III</u>
1	Shri N C Das	List II
2	Shri R N Saxena	List III
3	Shri Y N Sharma	List II
4	Shri D D Pande	List III
5	Shri G C Aggarwal	List II
6	Shri B S Pradahn	List III
7	Shri R B Kurup	List II
8	Shri K Gopalakrishnan	List III
9	Shri Saeed Ahmed	List II
10	Shri D B Sharma	List III
11	Shri R S Sharma	List II
12	Shri S P Kamble (SC)	List III (Recommended for appointment against vacancy reserved for Scheduled Castes)
13	Shri M Sigamani (SC)	List II (Recommended for appointment against vacancy reserved for Scheduled Tribes)

Sd/  
S P Ganguly  
9 FEB 1979

Sd/-  
IL Nagpal  
9 FEB 1979

Sd/-  
KESHAW PRASAD  
9 FEB 1979 "

On 9-10-1979, 30-7-1980 and 19-6-1981 the DPC recommended thus:

"Minutes of the Meeting of the Departmental Promotion Committee Regarding Promotions to the Grade of Senior Technical Assistants.

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A meeting of the Departmental Promotion Committee consisting of Shri SP Ganguly, Director (Administration), as Chairman and S/Shri IL Nagpal and Keshaw Prasad, Under Secretaries, as Members was held on 9 October 1979 to consider the names of eligible Junior Technical Assistants for promotion to 4 vacancies in the Grade of Senior Technical Assistants. The DPC was informed that out of these 4 vacancies, 2 are to be filled up by promoting those JTAs who have passed, the departmental examination and have put in at least 3 years' service as JTAs. The remaining 2 vacancies are to be filled up by promoting those JTAs who have or have not passed the Departmental Examination but have rendered at least 5 years' service as JTAs. The DPC was also informed that the last person promoted to the Grade of STA was the one who belonged to 'examination' category and, therefore, the panel

in respect of the present 4 vacancies should now start with a candidate belonging to the 'seniority' category.

2. The DPC decided that the persons who were within 3 times the number of vacancies belonging to the above mentioned 2 categories should be considered for promotion. On this basis, the names of the following JTAs were considered for promotion by the DPC:-

<u>Seniority Category</u>	<u>Examination category</u>
1. Shri KA Bagde	1. Shri LG Puthran
2. Shri GJ Bhatt	2. Shri S.Balakrishnan
3. Shri N.M.Chowdhury	3. Shri A.K.Damodaran
4. Shri DM Das	4. Shri V Balan
5. Shri K Madhavan	5. Shri NM Chowdhury
6. Shri N.Puttaveerappa	6. Shri Surajit Dey

3. Going by the past practice, the DPC decided that the JTAs who had passed the departmental examination should be considered for promotion in the order in which their names appeared in List II referred to in Department of Company Affairs' letter No.'A-42015/70/74-Admn.II, dated 3 October, 1975, subject to the condition that anyone found unfit for promotion should be excluded. As regards the JTAs belonging to the seniority category, the DPC decided that the selection should be made by categorising them as 'outstanding', 'very good', 'good' and 'not yet fit'. On the basis, the DPC categorised Shri K.Madhavan as 'very good' whereas others belonging to the seniority category were categorised as 'good'.

4. The DPC has recommended the following JTAs for promotion to the grade of STAs:-

<u>S.No.</u>	<u>Name</u>	<u>Category</u>
1.	Shri K.Madhavan	Seniority
2.	Shri LG Puthran	Examination
3.	Shri KA Bagde	Seniority
4.	Shri S.Balakrishnan	Examination

Sd/- S.P.Ganguly

Sd/- I.L.Nagpal

Sd/- Keshaw Prasad. "

9 October, 1979.

No.A 23015/59/76 Admn II

MINUTES OF THE MEETING OF THE DEPARTMENTAL PROMOTION COMMITTEE REGARDING PROMOTIONS TO THE GRADE OF SENIOR TECHNICAL ASSISTANTS

A meeting of the Departmental Promotion Committee consisting of Shri SP Ganguly, Director(Administration), as Chairman and S/Shri IL Nagpal and Keshaw Prasad, Under Secretaries, as Members was held on 30 July, 1980 to consider the names of eligible Junior Technical Assistants for promotion to seven posts in the grade of Senior Technical Assistants. The Departmental Promotion Committee was informed that out of these seven vacancies, four are required to be filled up by promoting those Junior Technical Assistants who have passed the departmental examination and have put in at least three years' service as Junior Technical Assistants. The remaining three vacancies are to be filled up by promoting those Junior Technical Assistants who have or have not

passed the departmental examination but have rendered at least five years' service as Junior Technical Assistants.

2. The Departmental Promotion Committee decided that the persons who were within two times the number of vacancies belonging to the above mentioned two categories may be considered for promotion. On this basis, the names of the following Junior Technical Assistants were considered for promotion by the Departmental Promotion Committee:

EXAMINATION CATEGORY	SENIORITY CATEGORY
1. Shri S. Balakrishnan	1. Shri GJ Bhatt
2. Shri AK Damodaran	2. Shri NM Chowdhury
3. Shri V. Balan	3. Shri DM Das
4. Shri D. Sugavanam Sastri	4. Shri N. Puttaveerappa
5. Shri N.M. Chowdhury	5. Shri P. Sankunni Nair
6. Shri Surajit Bey	6. Shri A. Dharmalingam
7. Shri Atiq Ahmed	
8. Shri RK Chatterjee	

3. Going by the past practice, the Departmental Promotion Committee decided that the Junior Technical Assistants who had passed the departmental examination should be considered for promotion in the order in which their names appeared in List II referred to in the Department of Company Affairs' letter No A 42015/70/74 Admn II dated 3 October 1975 subject to the condition that anyone found unfit for promotion should be excluded. As regards the Junior Technical Assistants belonging to the seniority category, the Departmental Promotion Committee decided that the selection should be made by categorising them as 'outstanding', 'very good', 'good' and 'not yet fit'. The Departmental Promotion Committee categorised all the six persons belonging to the seniority category as 'good'.

4. The Departmental Promotion Committee has recommended the following panels from the two categories referred to above for promotion to the grade of Senior Technical Assistants:-

EXAMINATION CATEGORY	SENIORITY CATEGORY
1. Shri S. Balakrishnan	1. Shri GJ Bhatt
2. Shri A K Damodaran	2. Shri NM Chowdhury
3. Shri V Balan	3. Shri DM Das
4. Shri D. Sugavanam Sastri	

5. The Departmental Promotion Committee was informed that out of the seven vacancies, one was reserved for Scheduled Castes and one for Scheduled Tribes. Since, however, no Scheduled Caste/Scheduled Tribe Junior Technical Assistant was within the zone of the promotion in either of the two categories, namely, examination category and seniority category the Departmental Promotion Committee recommended the promotion of the persons belonging to the general category against the two reserved vacancies.

Sd/-  
(SP Ganguly)

Sd/-  
(IL Nagpal)

Sd/-  
(Keshaw Prasad) "

30 July 1980

"MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE REGARDING PROMOTIONS TO THE CATEGORY OF SENIOR TECHNICAL ASSISTANTS.

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A meeting of the Departmental Promotion Committee consisting of Shri S.P.Ganguly, Director(Admn.), Chairman and S/Shri Keshaw Prasad, Deputy Secretary and R.D. Makheeja, Under Secreyary as Members was held on 19th June, 1981 to consider the names of eligible Junior Technical Assistants for promotion in the grade of Senior Technical Assistants. The Departmental Promotion Committee was informed that presently, there are two vacancies only but four more are likely to occur in near future. Therefore, Departmental Promotion Committee decided to prepare a panel for six officials. Out of these six, three posts are required to be filled by promoting those Junior Technical Assistant, who had passed the Departmental Examination and have put in at least three years service as Junior Technical Assistants. The remaining three vacancies are to be filled up by promoting those Junior Technical Assistants, who have or have not passed the Departmental examination but have rendered at least 5 years service as Junior Technical Assistants.

2. Going by the past practice, the Departmental Promotion Committee decided that the Junior Technical Assistants, who had passed the Departmental examination should be considered for promotion in the order in which their names appeared in list II referred to in the Department of Company Affairs letter No.A-42015/70/74-Ad. II dated 3rd October, 1975 subject to the condition that anyone found unfit for promotion should be excluded. As regards the Junior Technical Assistants belonging to the seniority category, the Departmental Promotion Committee decided that the selection should be made by categorising them as "Outstanding", "Very good", "Good" and "Not yet fit". Accordingly, the Departmental Promotion Committee considered the following persons:-

Examination Category

1. Shri Atiq Ahmed
2. Shri R.K.Chatterjee
3. Shri Abani Chowdhury

Seniority Category

1. Shri G.J.Bhatt
2. Shri N.Puttaveerappa.
3. " A.Dharmalingam
4. " M.B.Gokhale
5. " O.P.Tiwari
6. " Ram Singh
7. " Puran Chand
8. " V.P.Sharma
9. " S.B.Rao
10. " G.C.Singh

3. The Departmental Promotion Committee found all the three persons in the examination category as fit for promotion. From the seniority category, the Departmental Promotion Committee categorised S/Shri A.Dharmalingam, O.P.Tiwari and Puranchand as "very good", and the balance 7 persons were categorised "good".

4. The Departmental Promotion Committee has recommended the following panels from the categories referred to above for promotion to the grade of Senior Technical Assistants:-

Examination Category

1. Shri Atiq Ahmed
2. " R.K.Chatterjee
3. " Abani Chowdhury

Seniority Category

1. Sh. A.Dharmalingam
2. " O.P.Tiwari
3. " Puran Chand

5. The Departmental Promotion Committee was informed that out of 6 vacancies/likely vacancies, one was reserved for Scheduled Castes. Since, however, no scheduled Caste Junior Technical Assistant was within the zone of promotion in either of the two categories, viz. examination category and seniority category, Departmental Promotion Committee recommended the promotion of person belonging to the general category against the reserved vacancy.

Sd/- S.P.Ganguly  
Director

Sd/- Keshaw Prasad  
Deputy Secretary

Sd/- R.D.Makheeja  
Under Secretary"

We have carefully examined these proceedings which were accepted by the appointing authority. We are of the view that in the "examination" category also, it was open to the DPC to rate the officials as "outstanding", "very good", "good" and "not fit", notwithstanding the fact that they had all passed the examination. But this infirmity, if any, does not really advance the case of the applicant. We therefore refrain to pursue this aspect any further. We find that the DPC with due regard to the requirements of law, had made an assessment of the applicant and others, recommended promotion of others and supersession of the applicant. We cannot examine these proceedings and come to a different conclusion on our own assessment as if we are a Court of appeal. We find no constitutional or legal infirmity in the proceedings of the DPC held on 9-2-1979, 9-10-1979, 30-7-1980 and 19-6-1981 or in the orders made thereon by the appointing authority to justify our interference.

....20/-