

## FORM NO. 21

(See rule 114).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, .....BENCH  
OA/TA/RA/CP/MA/PT 100/96 of 20.....

D. C. Mishra.....Applicant(S)

Versus

W. O. S. ....Respondent(S)

## INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
1	Check list	1 to 2
2	Order sheet	3 to 5
3	Judgment	6 to 10
4.	Petition	11 to 25
5.	Annexures	26 to 42
6.	Power	43
7.	Counter	44 to 56
8.	Rejoinder	57 to 67

Certified that the file is complete in all respects

B & file needed to destroy  
for order to be

Signature of S.O.

Court  
22/6/12

Signature of Deal. Hand

## CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

R

24-82

Registration No. 160 of 1969 90(4)

APPLICANT(S) D. C. MARK

REPRESENTANT(S) O. O.

Particulars to be examinedEndorsement as to result of examination

1. Is the application correct ? 15

a) Is the application in the prescribed form ? 4

b) Is the application in paper back form ? 4

c) Have sub-comp. etc. acts of the application been filed ? 2 sets

3. Is the appeal in time ? 4

If not, by how many days it is beyond time ? 4

4. Has sufficient time for not making the application in time, been filed ? 4

5. Has the document of authorisation, been filed ? 4

6. Is the application accompanied by S.O./Police Order for Rs. 50/- 4

7. Has the certified copy/ copies of the order(s) against which the application is made been filed ? 4

8. Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed ? 4

a) Have the documents referred to in (a) above duly attested by a Gazetted Officer and sealed accordingly ? 4

b) Are the documents referred to in (a) above neatly typed in double space ? 4

9. Has the index of documents been filed and paginated properly ? 4

10. Have the chronological details of representation made and the outcome of such representation been indicated in the application ? 4

11. Is the authority shown in the application pending before any court of Law or any other Board or Tribunal ? No

Particulars to be ExaminedEndorsement as to result of examination

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

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

13. Have the file size envelopes bearing full addresses of the respondents been filed ? N

14. Are the given address the registered address ? Y

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

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

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

18. Have the particulars for interim order prayed for indicated with reasons ? No

19. Whether all the remedies have been exhausted. Y

dinesh/

Brief Order, mentioning Reference  
if necessaryReason  
with and  
date of  
compliance

5-4-50

Hon. K. Naidu, V.C.

Hon. K. T. Raman, A.M.

Issue notice to respondent(s) to show cause why the application be not admitted first for admission on 17-5-50 or on which date the application will be disposed of finally.

WRC

Mr.

AM

V.C.

Notice  
on  
10-4-50

7-5-50

Hon. Justice K. Naidu, V.C.

Hon. K. T. Raman, A.M.

Issue notice to final hearing on 29-5-50  
int for final hearing on 29-5-50

AM

V.C.

(6)

25-7-50. Honorable Mr. Justice K. Naidu, V.C.  
" " K. Obayya, A.M.

Sri Amil Prasad appears on  
behalf of all the respondents and  
for same he is allowed three weeks  
time to file C.A. It may be filed  
within one week thereafter. Listed for  
final hearing & orders on 29-7-50.

Dinesh

(A.M.)

28

(V.C.)

OR

No cause  
SFC

25/7/50

R  
Notices  
issued on  
Neither  
nor any un-  
replied  
nor been  
replied  
(6)

On 25-7-50  
filed power on  
of the setdt.  
No reply filed  
SFC

L

25/7/50

(2)

(A)

C-A 100/90

(9)

7-2-91 Hon. Mr. Justice K. Natarajan  
Hon. Mr. K. Jayaram A.M.

Shri Vinay Shankar for applicant  
Shri Prabh Sivarama for Respondent.

Orders contained in Annexure 3

have been challenged in this petition.  
The main grievance is that while under  
the judgement of the Tribunal the  
applicant considers himself to be  
entitled to be regularised with effect  
from 1-7-81, he has actually been  
regularised with effect from 1-1-84  
on the ground that he would be  
superceding his erstwhile senior.  
We would like to seek the relevant

Recd. before our seniority lost and have a clear  
statement of the position by the Pet.  
to consider this part of Annexure

K. F. Pathak M.A.  
on 13/2/91  
The Respondents are directed to  
produce the relevant list along  
with Supplementary Counter in which  
they would ~~explain~~ <sup>explain</sup> the situation  
indicated in Annexure No. 3. The  
case be listed for final hearing  
on 11-3-91. A copy of this order may be given to  
both Counsel within 24 hours.

A

V.C.

(10)

A

A M

11.3.91

No sitting adj. to 20.3.91.

(11) 10.3.91

No sittings adj. to 4.4.91

4.4.91

case not reached adj.  
to 6.5.91

D.O.C.

ORDER SHEET

(AS)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD.

D.A. NO. 100 OF 1990 (L)  
S.C. Minister vs. U.O. 9.

Sl.No.	Date	Office Report	Orders
1	2	3	4
			<p><u>31-7-91</u> Judgment delivered delivered today. the application is disposed of with direction contained in judgment. there will be no order as to costs.</p> <p style="text-align: right;">[Signature]</p>

PANKAJ/

P.T.O.

(Ae)

GENERAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH

Registration O.A. No.100 of 1990(L)

Dinesh Chandra Mishra ..... Applicant

Versus

Union of India & Others..... Respondents

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

Hon. Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant who was a Junior Ticket Inspector posted at Varanasi has approached this Tribunal praying that the respondents may be directed to regularise his services on post of Head Ticket Collector with effect from 1.7.81 with all consequential benefits of the promotion to the higher post and that he may be given promotion to the post of Chief Inspector of Tickets with effect from 1.1.1984. Earlier the applicant was holding the post of Head T.C. on 20.7.81 & vide order dated 23.12.82 he was reverted to the post of Ticket Collector. The applicant filed a writ Petition No.10 of 1982 in the High Court of Lucknow Bench against his reversion order from the post of Head Ticket Collector which was subsequently transferred to this Tribunal and this ~~Hon'ble~~ Tribunal after hearing the parties allowed the petition by quashing the reversion order dated 23.12.82 and also issued direction to the respondents to regularise the services of the applicant on the post of Head Ticket Collector in accordance with law with all other consequential benefits vide its judgement dated 24.10.89.

The Tribunal held that there was no manner of doubt that the applicant cannot be called upon to appear in the written test for the purpose of regularisation on the upgraded post of Head T.C. ~~िक्टि~~ as he has already completed 18 months of adhoc service on that post prior to the date of examination. The reversion order was quashed. Thereafter the applicant was regularised on the post of Head T.C. with effect from 1.1.84 and not from 1.7.81 on which date he completed 18 months of service. The applicant was given promotion to the post of Junior Ticket Inspector on 2.2.90 which order is said to have been passed in compliance with the direction given by this Tribunal referred to above. The applicant has alleged that the persons who have been promoted on the post of Head T.C. in grade of Rs.425-640 vide its order dated 23.12.82 and other persons who have been promoted on the post of Senior Inspector of Tickets in the same grade with effect from 3.3.84 much after the promotion of the applicant and who have been promoted in the higher grade and at present they are working on the post of Chief Inspector of Tickets in the grade Rs.700-900 (Rs 2000-3200) with effect from 1.1.84. He has specifically mentioned that the name of U.R. Tiwari who was promoted on the post of Head T.C. w.e.f. 23.12.87 was again promoted to the post of Chief Inspector of Tickets in the grade of Rs.700-900 (RS 2000-3200) w.e.f. 28.5.85 who is junior and promoted to the post of Head T.C. after regularisation of the applicant. The grievance of the applicant is that the Railway Board Circular dated 13.8.59 has provided the guidelines and basis of fixation of seniority of non-gazetted staff in

*Selection* ~~non-regularisation~~ post providing therein that staff once promoted against the vacancy which is fortuitous he should be considered as senior in that grade to all other persons who are subsequently promoted.

2. The respondents in their reply have stated that the applicant was promoted to the post of Junior Inspector of Tickets strictly as per his turn on seniority list without superseding his erstwhile seniors consequent upon his regularisation on the post of Head T.C. As per seniority the applicant stands at Sl.No.6. In compliance of the Tribunal's judgement the services of the applicant were regularised and all the consequential benefits were given to him. So far as the promotional post is concerned, it has been stated that the Chief Inspector of Tickets was a selection post and the applicant was called to appear in the said selection. He did not appear and he could not be promoted unless he qualifies in the selection for the said post. It is also relevant to mention that on the Division where the applicant is working, the adhoc promotion of Head T.C. against the panel of 1.1.79 had already been finalised hence there was no vacancy to regularise the applicant in the grade of Rs.425-640 prior to 1.1.84. As a result of upgrading of vacancies, the said post became available only on 1.1.84 and accordingly the applicant's services were regularised w.e.f. 1.1.84. So far as Shri U.R.Tiwari is concerned, it is stated that he was promoted as Head T.C. w.e.f. 23.12.87 and again promoted to the post of Chief Inspector of Tickets w.e.f. 28.5.84 i.e. prior to 23.12.87, this is simply not possible.

It appears that the respondents who have not denied that persons who were promoted as Head T.C. on 23.12.82 and those who were promoted to the post of Senior Inspector much after the promotion of the applicant promoted to the higher grade has not been denied but only evasive reply has been given taking the benefit of the typing mistake instead of 23.12.82 it has been typed out as 23.12.87 which is on the record of respondents. The respondents have stressed that the applicant has been regularised under the orders of the Tribunal. It is stated on behalf of the applicant that Shri S.P.Srivastava was promoted alongwith him to the post of Head T.C. on 25.2.81 in which the applicant was promoted against the clear vacancy of one Shri G.P. Srivastava but Shri S.P.Srivastava was promoted temporarily as officiating but ~~Shri S.P.Srivastava~~ was promoted to the post of Chief Inspector of Ticket in the year 1984 but the claim of the applicant was denied arbitrarily by the Railway Administration. Regarding non-availability of the Chief Inspector of Tickets, it is wrong to say that there was no vacancy of the post of Chief Inspector of Tickets but the true fact is that one Shri Y.B.Misra vide order dated 8.6.90 has been appointed as Chief Inspector of Tickets on adhoc basis.

3. From the facts it has been stated that it is quite clear that the order of the Tribunal was not faithfully observed. As a matter of fact the applicant was to be regularised after completion of 18 months and there is no justification whatsoever either factually or legally to postpone the matter and promote the applicant after three years. After completion of 18 months/<sup>of Adhoc service</sup> the applicant is entitled to be regularised on

Ans

the adhoc post and he should have been considered for higher promotional post. There was no provision for the higher post to appear in the examination for any test. The applicant did not appear in the test obviously on the ground that he was not required to appear in any test. The fact also makes it clear that the respondents have not stated correctly as to what promotional post was available inasmuch as one person has been promoted in the year 1990. His junior has also been promoted earlier than him. Thus the applicant has not been given fair, just and proper treatment. In this way, the application deserves to be allowed and the respondents are directed to give promotion to the applicant to the post of Head Ticket Collector just after completion of 18 months of adhoc service i.e. from the year 1981 and also to promote the applicant to the higher post in case any junior has been promoted. Obviously the applicant shall be promoted with effect from the date his junior has been promoted. The applicant's seniority will be fixed after regularisation his services with effect from the year 1981. Let a decision be taken in this regard finally within a period of three months. With the above direction this application is disposed of finally. There will be no order as to costs.

*Janayns*  
Member (A)

*h*  
Vice Chairman

8 Aug 6 1  
Dated the 31 July, 1991.

Date of filing: 2-4-90  
Date of Rec'd: 2-4-90  
(PL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW.

Claim Petition No. 100 of 1990 (L)

Dinesh Chandra Misra .. .... Applicant.

Versus

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

I N D E X

Sl. No.	Particulars	Page Nos.
1	2	3

1. Memo of Application 1 to 15

1. Annexure No. 1: Copy of Judgment & 14 to 18  
order dated 24.10.89  
passed by this Hon'ble  
Tribunal.

3. Annexure No. 2: Copy of Circular dt. 19 to 20  
29.7.1985 of the  
Railway Board regar-  
ding promotions.

4. Annexure No. 3: IMPUGNED NOTICE dated 21 to 22  
2.2.1990 regarding  
promotion of the  
applicant.

5. Annexure No. 4: Copy of order dated 23 to 24  
23.12.1982.

6. Annexure No. 5: Copy of order dated 25 to 26  
3.3.1984 regarding  
promotion of Sri  
U. R. Tewari.

7. Annexure No. 6: Copy of order dated 27 to 28  
28.6.1984 regarding  
promotion of Sri U. R.  
Tewari.

8. Annexure No. 7: Copy of Circular dated 29  
13.8.1959.

9. Annexure No. 8: Copy of representation 30 to 33

Noted for  
5/4/90.

Khavcer  
2/4/90

/ 2 /

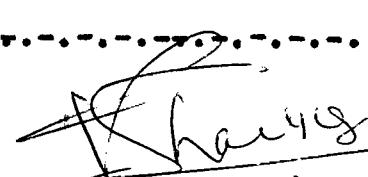
1 2 3

10. Bank Draft/Postal Order

11. Vakalatnama

Lucknow:Dated:

April 2, 1990.

  
( VINAY SHANKER )  
ADVOCATE  
COUNSEL FOR THE APPLICANT/  
PETITIONERS.

Date of File 2-4-90  
Date of Recd

Deputy Regd. No. 13

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW.

Claim Petition No. 160 of 1990. (4)

Dinesh Chandra Misra aged about 49 years  
son of Sri Laxmi Narayan Misra resident  
of 14, Hardoi Marg, Lucknow.

.... Applicant/  
Petitioner.

Versus

1. Union of India through General Manager,  
Northern Railway, Baroda House, New  
Delhi.
2. Divisional Railway Manager, Northern  
Railway, Hazratganj, Lucknow.
3. Senior Divisional Personnel Officer,  
Divisional Railway Manager's Office,  
Northern Railway, Hazratganj, Lucknow.

.... Respondents/  
Opp. Parties.

thru S. C.

DETAILS OF APPLICATION

1. Particulars of applicant:

- (a) Name of applicant : Dinesh Chandra Misra
- (b) Name of father : Laxmi Narayan Misra

(c) Designation and Office in which employed. : Junior Ticket Inspector, Northern Railway, Presently posted at Varanasi under the employment of Opp. Parties Nos 2 and 3 respectively

(d) Office address : Dinesh Chandra Misra, Junior Ticket Inspector, Northern Railway, Varanasi.

(e) Permanent address : Dinesh Chandra Misra, 14, Hardoi Margh Chowk, Lucknow.

**2.**

**2. Particulars of the respondents:**

(a) Name and/or designation of the respondents

- (i) Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
- (ii) Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
- (iii) Senior Divisional Personnel Officer, Divisional Railway Manager's Office, Northern Railway, Hazratganj, Lucknow.

**(b) Office address of the respondents:**

As above.

**(c) Address for services of all notices:**

As above.

3. Particulars of orders against which application is made:

Fixation of seniority and promotion order dated 2.2.1990 passed by the opposite party no. 3.

4. Jurisdiction of this Hon'ble Tribunal:

The applicant declares that the subject matter of the order against which he wasnt redressal is within jurisdiction of this Hon'ble Tribunal.

5. Limitation:

The applicant declares that the application is within limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985 as the order under challange is of 2.2.1990.

6. Facts of the case:

Facts of the case are as under:

(a) That the present claim petition is directed against the order of fixation of seniority and also promotion to the post of Junior Inspector of Tickets passed by Senior Divisional Personnel Officer, Lucknow on 2.2.1990.

(b) That one writ petition No. 10 of

(PLG)

1982 was filed by the petitioner in the Hon'ble High Court at Lucknow Bench, Lucknow against his reversion order from the post of Head Ticket Collector passed by the opposite parties, which was subsequently transferred to this Hon'ble Tribunal and this Hon'ble Tribunal after hearing of both the parties was pleased to allow the petition of the petitioner by quashing his reversion order dated 23.12.1982 and also issued direction to the opposite parties to regularise the services of the petitioner-applicant on the post of Head Ticket Collector in accordance with law with all other consequential benefits vide its judgment dated 24.10.1989. A photo copy of the said judgment is filed herewith as Annexure No. 1 to this claim petition.

(c) That it was admitted case of the both the parties in the earlier T.A. Case No. 1105 of 1987 that petitioner was promoted as Head Ticket Collector against upgraded post at Sultanpur with effect from 1.1.1990 amongst other persons and as per circular dated 29.7.1985 his services should be regularised on the post of Head Ticket Collector after completing of 18 months of continuous service and as such the petitioner was entitled to be regularised on the post of Head Ticket Collector just on the date of his completion of his 18 months continuous service i.e. with effect from 1.7.1981. This fact has

*Hukka*

PTT

already been discussed by this Hon'ble Tribunal in para 8 and 9 of its judgment and there was no dispute between the parties on this point. To clear more a photo copy of the said circular is filed herewith as Annexure No. 2 to this claim petition.

(d) That the opposite parties issued a notice on 2nd February, 1990 in which the applicant has been given promotion to the post of Junior Inspector of Ticket in grade Rs. 550-750 (R.S. 1600-2660) and posted the applicant at Varanasi. The said promotion order said to has been passed in ~~xx~~ compliance to the direction of this Hon'ble Tribunal dated 24.10.1989 i.e. annexure no. 1 to this claim petition.

It is further submitted that the services of the applicant have been regularised by the opposite parties on the post of Head Ticket Collector w.e.f. 1.1.1984 in grade of Rs. 425-640 and further he has been promoted to the post of Junior Chief Inspector of Tickets w.e.f. 2.2.1990.

It is further submitted that as per the circular dated 29.7.1985 which has been realised by this Hon'ble Tribunal in its judgment dated 24.10.1989 and also it was admitted case of the parties in T.A. No. 10 of 1982 that petitioner was promoted on the post of Head

triumph

(P.D.)

Ticket Collector w.e.f. 1.1.1980 and after completion of his 18 months regular service on the said post he was entitled for regularisation on the said post w.e.f. 1.7.1981 with all further consequential benefits, but the opposite parties have failed to comply with the said circular and also with the direction of this Hon'ble Tribunal which is quiet illegal and unjust. A photo stat copy of the said promotion order dated 2.2.1990 is filed herewith as Annexure No. 3 to this claim petition.

(e) That as per the direction of this Hon'ble Tribunal and also findings given therein by this Hon'ble Tribunal on the basis of the admission made by the opposite parties for the application of the said circular dated 29.7.1985, his services should be regularised on the post of Head Ticket Collector w.e.f. 1.7.1981 and subsequently should be given further consequential benefits for the promotion to the higher post and should be placed in grade Rs. 700-900 (R.S. 2000-3200) on the post of Chief Inspector of Tickets from the date of regularisation with the others w.e.f. 1.1.1984.

*Amisa.*

(f) That it is noteworthy to mention here that the persons who have been promoted on the post of Head Ticket Collector in Grade Rs. 425-640 vide its order dated 23 December, 1982 and other persons who have been promoted

on the post of Senior Inspector of Tickets in the same grade w.e.f. 3.3.1984 much after promotion of the applicant ~~which~~ who have been promoted in the higher grade and at present they are working on the post of Chief Inspector of Tickets in grade Rs. 700-900 (R.S. 2000-3200) since about 1.1.1984.

It is also noteworthy to mention here that Sri U.R. Tiwari who are promoted on the post of Head Ticket Collector w.e.f. 23.12.1987 and was again promoted to the post of Chief Inspector of Tickets in grade Rs. 700-900 (R.S. 2000-3200) w.e.f. 28.5.1985 who was and is admittedly junior to the petitioner and is promoted to the post of Head Ticket Collector after the regularisation of the applicant-petitioner dated 1.7.1981. Photo copy of the said promotion orders dated 23.12.1982, 3.3.1984 and 28.6.1984 respectively are filed herewith as Annexure Nos.4, 5 and 6 to this claim petition.

(g) That it will not be out of place to mention here that the Railway Board has issued a circular No. E(N.G.)/55-S.R.-6-7, dated 13 August, 1959 has provided the guidelines and basis of fixation of seniority of non-gazetted staff in ~~some~~ non-cancellation post providing staff therein that/once promoted against the vacancy which is fructuous he should be considered as senior in that grade to all other persons who

*Subba*

are subsequently promoted, according to this circular and the applicant should be placed in senior to those persons who has been subsequently promoted to the higher post and his services should be regularised in that grade prior to the persons promoted later on, and as such the applicant is entitled for its regularisation on the post of Head Ticket Collector w.e.f. 1.7.1981, but the opposite parties has committed irregularity and illegality in not regularisation the services of the applicant on the ~~maxis~~ post of Head Ticket Collector w.e.f. 1.7.1981. A copy of the said circular is filed herewith as Annexure No. 7 to this claim petition.

(h) That on the basis of the averments made in the foregoing paragraphs, it is ample clear that the persons promoted after the regularisation of the applicant on the post of Head Ticket Collector have been given promotion to the post of Chief Inspector of Tickets from 28.5.1984, but inspite of clear directions and findings of this Hon'ble Tribunal and also the circular dated 29.7.1985 and 15th August, 1959, the ~~opposite~~ neither the services of the applicant-petitioner on the ~~maxis~~ post of Head Ticket Collector in grade 425-640 have been regularised w.e.f. 1.7.1981 i.e. the date of completion of 18 months regular services from the date of promotion dated 1.1.1980 nor have been given promoted to

*Trilok Singh*

the post of Chief Inspector of Tickets for which the applicant-petitioner has been declared legally entitled for promotion by this Hon'ble Tribunal, and as such the opposite parties have acted in a very arbitrary manner and have committed illegality in not complying the guidelines of the circulars issued by the Railway Board and also the findings of this Hon'ble Tribunal.

(i) That against the said illegal action of the opposite parties the applicant made an representation to the Divisional Railway Manager, Hazratganj, Lucknow on 1.3.1990 requesting therein that on the basis of the findings of this Hon'ble Tribunal and also on the basis of the circular mentioned above his services on the post of Head Ticket Collector should be regularised w.e.f. 1.7.1981 and further he may be declared promoted to the post of Chief Inspector of Tickets w.e.f. 1.1.1984 being the senior most person promoted on the post of Head Ticket Collector, but till date the applicant nothing has been heard from the side of the opposite parties, hence necessity of the present claim petition before this Hon'ble Tribunal. A photo copy of the said representation is filed herewith as Annexure No. 8 to this claim petition.

7. Relief soughts:

In view of the facts mentioned in

the foregoing paragraphs, the applicant prays for the following reliefs:

That on the basis of the grounds mentioned hereinafter, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to direct the opposite parties nos. 1 to 3 to regularise the services of the applicant on the post of Head Ticket Collector with effect from 1.7.1981 with all consequential benefits of the promotion to the higher post and further the applicant may be given promotion to the post of Chief Inspector of Tickets with effect from 1.1.1984.

AND

To pass any other order or direction in favour of the applicant which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case

Arvinda

AND

Cost of the petition may also be awarded in favour of the applicant.

#### G r o u n d s

(a) Because the opposite parties have committed illegality in not regularising the services of the applicant on the post of Head Ticket Collector w.e.f.

1.7.1981 inspite of clear findings of this Hon'ble Tribunal's order dated 24.10.1989.

(b) Because the ~~findings~~ opposite parties have committed illegality in not complying and following the guidelines of the Railway Board's circular dated 13th August, 1959 and 29th July, 1985 by not regularising the service of the petitioner from the date of completion of 18 months regular service i.e. 1.7.1981.

(c) Because the opposite parties have failed to give promotion to the applicant on the post of Chief Inspector of Tickets <sup>thus</sup> w.e.f. 1.1.1984 and have committed illegality and arbitrariness.

(d) Because the Railway Administration has discriminated the applicant from the other employees in not promoting to him on the post of Chief Inspector of Tickets along with other and have thus violated the principles of Article 14 and 16 of the Constitution of India.

(e) Because the action of the opposite parties are totally based on surmises and conjectures, and as such can not be said to be illegal action on their part.

(f) Because the said regularisation and promotion order dated 2.2.1990 has been passed by the opposite parties under colourable exercises of powers.

8. Details of remedies existed:

The applicant declared that he made a representation against the said regularisation notice dated 2.2.1990 which has not been decided by the opposite parties.

9. Matter is not pending with any other court or Tribunal of the applicant.

10. Particulars of postal order/Bank Draft in respect of the application fee:

(i) Postal Order No. BO241426  
Dated 2.4.90

11. Details of index:

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

12. List of enclosures: and Demand draft; and Vakalatnama.

Lucknow:Dated;

April 2<sup>nd</sup>, 1990.

To .....  
Applicant.

Verification

I, Dinesh Chandra Misra aged

about 49 years son of Sri Laxmi Narayan Misra resident of 14, Hardoi Marg, ~~Kank~~ Chowk, Lucknow, do hereby verify that the contents of paragraphs 1 to 12 of this application are true to my personnal knowledge and believe, and that I have not suppressed any material fact.

Signed and verified this on 24<sup>th</sup> day of April, 1990 at Lucknow.

H. Misra

Applicant.

THROUGH:

V. Sh. Lawyer  
( Vinay Shunker )

Advocate.

Counsel for the Applicant.

Before the Central Administrative Tribunal, Allahabad.  
Circuit Bench, Lucknow.  
C.P. No. of 1990.

Dinesh Chandra Misra Vs. Union of India & others

ANNEXURE No. 1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
Circuit Bench at Lucknow  
Registration T.A. No. 1105 of 1987

{ Writ Petition No. 10 of 1982 of the  
High Court of Judicature at Allahabad,  
( Lucknow Bench ) }

Dinesh Chandra Misra .... Applicant  
Versus

Union of India & Others ..... Opposite Parties.

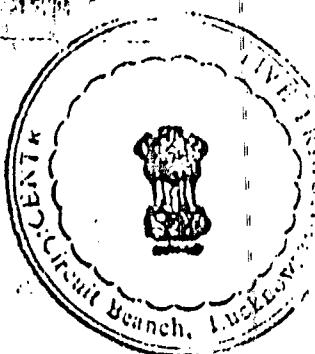
Hon. Justice K. Nath, V.C.

Hon. K. Ohayya, A.M.

(By Hon. Justice K. Nath, V.C.)

The writ petition described above has been received by transfer under Section 29 of the Administrative Tribunals Act XIII of 1985 for disposal by this Bench. The prayer is to quash a suitability test examination held on 20.7.82 and an order of reversion of the applicant passed on 23.12.82, Annexure-9 in consequence of the test from the post of Head Ticket Collector to the post of Ticket Collector.

2. In para 4 of the application and corresponding para 4 of the Counter Affidavit, it is admitted by both the parties that the applicant, while working as a Ticket Collector in a substantive capacity, was promoted on ad hoc basis with effect from 1.1.80 to the post of Head Ticket Collector. Similarly, it is admitted in para 8 of the affidavit of both the parties that an order dated 24.11.81 was passed by the D.P.O. promoting the applicant on ad hoc basis with immediate effect, alongwith some other persons, to the post of Head Ticket Collector against an upgraded existing vacancy.



Amusa

3. However in course of time the applicant, alongwith others, was called upon to appear at a test for regular selection to the post of Head Ticket Collector. The applicant appeared at the test on 20th July, 1982 under protest. He was declared unsuccessful hence by the impugned order dated 23.12.82, Annexure-9 he was reverted to the post of Ticket Collector.

4. The applicant's case is that according to the decision of the Railway Board contained in Annexure-5 and a scheme for upgradation of various selection posts with instructions contained in Annexure-1, it was not permissible to hold a written test for regularization of promotions on upgraded posts. The test, therefore, was without jurisdiction and the order of applicant's reversion was illegal. It is further contended that, according to those instructions, the applicant was entitled to be regularised on the basis of his having completed more than 18 months of service of Head Ticket Collector since after 1.1.1980.

5. According to the opposite parties, however, the benefit of automatic regularization after 18 months of service did not apply to cases of employees working on ad hoc basis on selection posts. It is said that the applicable orders are contained in Annexure-C1 dated 15.1.66 and not Annexure-5 dated 3.3.72.

*to L. M. S.*  
6. We have heard the learned counsel for both the parties and have gone through the materials on record. According to Annexure-C1 dated 15.1.66, persons who were officiating for more than 18 months could be reverted for unsatisfactory work only after following the procedure prescribed

for taking disciplinary action. The circular went on to say that that protection was available only to those persons who had been empanelled (in selection posts) or who had passed the suitability test (in non selection posts). Admittedly, the applicant had not been empanelled and therefore he could not get benefit of Annexure-C1. Annexure-5 dated 3.3.72 mentions that cases of staff promoted on regular basis should be reviewed after one year of continuous officiation with a view to determine their suitability for retention in the grade. It was further directed that the review of decision ought to be taken during the first eighteen months of officiating service and that on that procedure being followed there would be no question of denying confirmation on completion of two years of officiating service in clear permanent vacancy for reason of unfitness for confirmation. On the face of it, this decision applies to persons who are promoted on regular basis. Admittedly, the applicant was promoted not on regular basis but on adhoc basis. Annexure-5 therefore could not bring any benefit to him.

7. However, Annexure-1 is a later letter of the Railway Board conveying its decision in respect of upgradation of various selection posts. The letter would show that a decision had been taken for upgradation of various selection posts with effect from 1.1.79 and for expeditious implementation thereof, had directed that written test be dispensed with for filling up the upgraded posts. It is noticeable that while the letter went on to say that selection test would continue to be



12  
R29

held in respect of regular posts, it was decided in unmistakable terms to dispense with the written test for filling up the upgraded posts with the specific object of avoiding delay in implementation of the upgradation scheme. The decision went on to say that it would not be cited as a precedent, signifying that that was a one time relaxation. The closing paragraph of Annexure-1 re-emphasized to make special efforts to fill up the upgraded posts on 'top priority basis'.

8. As already mentioned, it is the admitted case of both the parties in para 8 of their affidavits that the applicant had been given ad hoc promotion in the upgraded post of Head Ticket Collector on 1.1.80. By the time when the impugned reversion order dated 23.12.82 was passed he had already put in more than two years and 11 months of service. It was not expected, therefore, in the light of Annexure-1, that the applicant should have been required to appear at a written test for filling up the post held by him.

9. If there was any doubt in this regard, it appears to have been dispelled by a circular dated 29.7.85, Annexure-S1 setting out that, among others, Head Ticket Collectors who had worked on ad hoc basis between 1979 and 31.12.83 pending finalization of selection/suitability test may be regularised from the date of their completing 18 months ad hoc service against regular posts for the purpose of their seniority for promotion to the next higher grade.

*Curia*



10. On a consideration of those decisions of the Railway Board and the facts of the present case, there is no manner of doubt that the applicant could not be called upon to appear at a written test for the purposes of regularization to the upgraded post of Head Ticket Collector and that since he had already completed 18 months of ad hoc service on that post prior to the holding of the examination, he ought to have been regularised without being called to appear at the test. The order of reversion dated 23.12.82 contained in Annexure-9 therefore must be quashed.

11. The application is allowed and the order dated 23.12.82, Annexure-9 of the reversion of the applicant is quashed. The opposite parties are directed to regularise ~~forwards~~ the services of the applicant as Head Ticket Collector in accordance with law. They shall also grant to him such consequential benefits as may be admissible to the applicant. Opposite parties will comply with this directions within three months from the date of receipt of the copy of this order. Parties shall bear their costs.

*h. amica* Certified True copy

A.H.

24/10/83

*Udhu*  
24-10-83  
Secretary Registrar  
Central Administrative Tribunal  
Lucknow Bench,  
Lucknow

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW.

Claim Petition No. of 1990.

----

Dinesh Chandra Misra .. .... Applicant.

Versus

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

-----  
ANNEXURE No. 2

A copy of G.M. (P), Northern Railway, New Delhi letter No. 522-E/15 (EIC) Loose dated 29.7.85 is reproduced below for your information and giving wide publicity amongst the staff.

Sd/-  
(V.P. Sharma)  
Divl. Secretary.

Copy of G.M. (P) NDLS Letter as quoted above:

Sub.: Implementation of Cadre-restructuring in the Ticket Checking Staff.

Ref.: This office circular letter of even number dated 25.6.1985 addressed to DRMpALD and copy to all other DRMs.

----

In this office circular letter under reference, it was decided that all these STE grade Rs. 425-640 who had worked on adhoc basis during 1979 to 1984 in the absence of finalisation of selection may be regularised after they had completed 18 months service against regular vacancies from the date of their completing 18 months.

to misra  
Against the decision issued in this circular letter under reference, the General, Secretary, NRMU represented that there had been similar cases in the categories of Hd. TCRs and conductors Grade Rs. 425-640 as well where either selections had not been completed in the case of Hd. TCRs grade Rs. 425-640 or suitability

(X) ✓  
/ 20/

through viva-voce test in the case of Conductors Grade Rs. 425-640 for sufficient long time with the result that the staff of these categories also continued to work against regular vacancies on ~~the~~ adhoc basis.

The matter has again been examined and it has been decided that the staff of all above mentioned three categories viz. Hd. TCRs, STEs and Conductors grade 425-640 who work on adhoc basis against regular vacancies during the period 1979 to 31.12.83 pending finalisation of the selection/suitability test ~~through~~ through viva-voce may be regularised from the date of their completing 18 months adhoc service against regular posts for the purpose of their seniority for promotion to the next higher grade.

Sd/- (Bhagwan Dass)  
For General Manager.

TRUE COPY

*Amisa.*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW.

Claim Petition No. of 2990.

—  
Dinesh Chandra Misra .. .... Applicant.

Versus

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

—  
ANNEXURE No. 3

Amisa

Northern Railway

No.E/6/8/Hd.TC/Court

Divisional Office,  
Lucknow. Dt. 2 Feb. '90.

NOTICE

The Hon'ble Central Administrative Tribunal, Lucknow in TA No. 1105 of 1987 passed the following orders:-

- 1) "Order of reversion of applicant Sri D.C. Misra Adhoc Offtg. Hd. TC Gr. Rs. 425-640(RS)/ Rs.1400-2300(RPS) at Lucknow issued through notice No.757-3-6/8-Hd.TC Dt. 23.12.1982 is quashed"
- ii) "It further directed to regularise the services of Sr. D.C. Misra as Hd. Ticket Collector in accordance with law,"
- iii) "It also directed to grant Sri D.C. Misra such consequential benefits as may be admissible to him."

Complying with the above orders of the Hon'ble CAT/Lucknow in accordance with law Sri L.C. Misra adhoc Offtg. Hd. TC Gr. Rs. 425-640 (RS) against a selection post stands regularised in the upgraded post of Hd. Ticket Collector Gr. Rs. 425-640(RS) as a result of restructuring of Cadre w.e.f. 1.1.84 as per his turn on the basis of his seniority in Gr. Rs. 330-560(RS) and record of service without requiring him to undergo selection comprised of written test and viva-coce. This regularisation of services against upgraded post is in accordance with law i.e. as per his turn on seniority list without superseding his seniority while seniors, consequent upon his regularisation in selection post of Hd. TC Gr. Rs. 425-640 (RS/Rs. 1400-2300(RPS) and reckoning seniority in the cadre of Hd. TC Gr. Rs. 425-640(RS)/Rs. 1400-2300(RPS) accordingly, he stands in turn for promotion to the post of Junior Inspector Tickets Gr. Rs. 550-750(RS)/Rs.1600-2660(RPS) a non-selection post to be filled in the basis of seniority cum suitability. Accordingly he is promoted to the post of JIT Gr. Rs. 550-750(RS)/Rs.1600-2660(RPS) and posted as JIT line/BSB granting him consequential benefits as admissible to him.

This notification is issued in compliance with the directions of Hon'ble CAT/Lucknow as aforesaid.

Sr. Divl. Personnel Officer,  
Lucknow.

Copy forwarded for information and necessary action to:-

1. SS/LKO and BSB
2. DCIT/LKO and BSB.
3. Sr. DAO/NR/Lucknow.
4. Supdt/Bill, LKO
5. CLA/DRM/NR/LKO.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

Claim Petition No. of 1990.

Dinesh Chandra Misra.. .... Applicant.

Versus

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

ANNEXURE No. 4

D. Misra

## NORTHERN RAILWAY.

No. 757 d/8-M. T.C.

Divisional Office,  
Lucknow, Dt/ 25 Dec 1982.Notice.

The following changes are hereby ordered to have immediate effect :-

I. The undernoted staff Offtg. on Ad-hoc basis as Hd. T.Cs in Gr. Rs. 425-640 (RS) are reverted to their substantive post of T.T.E. Scale Rs. 350-560 (RS) and posted at Lucknow.

Sl. No. Name	Designation.	Station	Posting on Reversion at
1. V.S. Misra.	Offtg. Hd. T.C.	PBH	
2. Sat. Sushila Devi.	-do-	LKO	Lucknow.
3. Shri Sunder Lal.	-do-	BBK	
4. D.C. Misra.	-do-	LKO	

II. The undernoted staff who has been selected for the post of Hd. T.C. scale Rs. 425-640 (RS) are temporary appointed to officiate as Hd. T.C. and posted at the stations noted against each, if

Sl. No. Name	Designation.	Station	Posted at	Remarks.
1. U.R. Tewari.	Offtg. Hd. T.C.	KEI	KEI	
2. Ahd. Amin.	-do-	FD	FD	
3. R.S. Ahluwalia.	-do-	BSB	BSB	
4. Puran Lal.	TTE.	LKO	LKO	Against an existing vacancy.
5. M.R. Kovid S/C	Offtg. Hd. T.C	FD	FD	
6. S.K.L. Trivedi.	TTE.	LKO	LKO	Against an existing vacancy.
7. A.P. Singh.	Offtg. Hd. T.C.	SHG	SHG	
8. R.P. Singh.	TTE.	LKO	LKO	Vice Smt. Sushila Devi reverted as TTE.
9. R.P. Dubey.	TTE.	LKO	LKO	Vice. Sri D.C. Misra reverted as TTE.
10. R.K. Singh.	Offtg. Hd. T.C.	RBL	RBL	
11. M.H. Anwar.	TTE.	LKO	ON	Vice Shri B.D. Tewari Rotjrod.
12. M. Kajuor (ST).	Offtg. Hd. T.C.	BSB	BSB	
13. S.K. Tripathi.	TTE	FD	DBA	Vice Sri Sunderlal reverted as TTE.
14. Prem Dass S/C	Offtg. Hd. T.C	LKO	LKO	
15. J.P. N. Upadhyaya.	TTE	FD	BSB	Against an existing vacancy.
16. Arun Sapru.	TTE	FD	PBH	Vice Shri V.S. Misra reverted as TTE.

Contd...  
  
*To be continued*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

Claim Petition No. of 1990.

—  
Dinesh Chandra Misra .. .... Applicant.

Versus

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

—  
ANNEXURE No. 5

D. Chandra

Notes

As a result of the Selection held for the post of Grade 425-640 (R.S.) on 15.6.83 and 22.10.83, the following aspirants, who have been placed on the panel at promoted as Grade 425-640 (R.S.) and posted at the station showing against each :-

1. Jari S.I. Alan	Adm	425-640
	212/100	
2. " Ranjeet Singh	SI/	425
3. " C. Anisullah	SI/IKO	425, LKO
4. " Tara Rd.	TE/LKO	425, LKO
5. " K.L. Singh	TE/ESB	425, ESB
6. " Balram Misra	Offt, Admoc STO/BSB	425/BSB
7. " D.P. Samra	- do -	SI/BSB
8. " Copal Kishore	TE, LKO	SI, LKO
9. " R.S. Sinha	Off. Rd. 425, BSB	425/BSB - 1. 425
<u>Notes</u>		
10. " J.M. Maiti	- do -	425, LKO
11. " U.P. Basi	- do -	SI/BSB
12. " D.C. Kar	- do -	SI/BSB
13. " J.M. Gulati	- do -	- do -
14. " Brinda Ram (S/C)	- do -	- do -
15. " Kanchan Ram (S/C)	- do -	- do -

This has approval of 425/BSB/BSB/...

N.B. : The item No. 1 to 15, except item No. 13, have already been coming in these entries, but are regular since in Grade 425-640 (R.S.)

Copy to Adm/BSB SS/LKO. SS/RD Sr. Adm/LKO and Adm/Pay Bill Lucknow

1000000

2/- Dr. 500000

LKO

500000

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

Claim Petition No. of 1990.

Dinesh Chandra Misra .. .... Applicant.

Versus

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

ANNEXURE No. 6

transcript

NO. 161-I/G-S-IV.

Divisional Office  
Lucknow Dist. U.P.

NOTIFICATION

Is a result of selection of Inspector oficket, Sr. No. 700400 (A.M.) held from 26.4.84 to 28.4.84 the following Candidates are selected and placed on the panel :-

1.	Sri Sheo Baran Pd.	S/C.	SIT/LKO
2.	" Babajin Chaydhary	S/C	SIT/LKO
3.	" D.P. Singh		SIT/BSB
4.	" S.P. Srivastava		HI TC/FD
5.	" K. Khan		SIT/BSB
6.	" G.P. Mahavineh	S/C	Conductor/LKO
7.	" D.S. Rajvrat		SIT/Head. Office.
8.	" T.N. Srivastava		SIT/BSB
9.	" S.K. Gupta		SIT/LKO
10.	" K.L. Pandon		Conductor/LKO
11.	" U. T. Tiwari		SIT/BSB
12.	" Itaf Hussain		SIT/BSB
13.	" P.M. Singh		SIT/BSB
14.	" Rajpati Ram	S/C	SIT/BSB
15.	" H.N. Mishra		SIT/BSB
16.	" K.P. Singh		Conductor/LKO
17.	" K.K. Sachdeva		- as -
18.	" S.N. Srivastava		- as -

This is a provisional panel.

Divisional Recruitment Officer,  
N. Rly. Lucknow.

Copy to :-

- (1) SIT/LKO, FD, BM, BSB,
- (2) SIT/Raili,
- (3) U.C.O. (G), H.I. Ms. Office, N. Rly, Lucknow, U.P. 226011
- (4) SIT, 1000/BSB
- (5) U.D. Ray Bill, BSB.....

(P35)

21-

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CURCIT BENCH, LUCKNOW.

Claim Petition No. of 1990.

Dinesh Chandra Misra .. .... Applicant.  
Union of India & others .. .... Opp. Parties.

ANNEXURE No. 7

Railway Board's letter No. E(NG)55 SR 6-7 dt. 13.8.1959.

Sub.: Fixation of seniority of non-gazetted staff in  
non selection posts.

The Board have had under consideration the question of laying down a uniform procedure for determination of seniority of staff who are promoted to non-selection posts after passing a departmental examination or a trade test. After considering the procedure already being followed by the Railway Administrations, the Board have decided that as a general rule the senior most candidate should be promoted to a higher non-selection post, subject to his suitability. One promoted against a vacancy which is fortuitous, he should be considered as senior in that grade to all others who are subsequently promoted. The suitability of a candidate for promotion should be judged on the date of the vacancy in the ~~maximum~~ higher grades, or, as close to it as possible.

Most Railways are, already following the above principles, where there is radical divergence, the Board desire you to alter the rules to conform broadly to the above principles.

TRUE COPY

*Amrit*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,

CIRCUIT BENCH, LUCKNOW

Claim Petition No. of 1990.

Dinesh Chandra Misra .. .... Applicant

versus

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

ANNEXURE No. 8

REPRESENTATION AGAINST PROMOTION ORDER E/6/8/HTC/  
Court, DATED 2.2.1990.

To,

The Divisional Railway Manager,  
Northern Railway,  
Hazratganj, Lucknow

Dear Sir,

Ref. : Regularisation of service of the applicant as Head Ticket Collector on the upgraded post from 1.1.79 and further to give promotional benefits to the hither post w.e.f. 1.1.1984 as per judgment of the Hon'ble Administrative Tribunal (Central Govt.) Sitting at Lucknow, dated 24.10.1989.

With reference to your letter dated 2.2.1990 regarding my (the applicant) regularisation on the post of Head Ticket Collector w.e.f. 1.1.1984 and also promotion to the post of Junior Inspector of Ticket, I have to submit as under :-

*Dinesh*

1. That one upgraded post of Head Ticket Collector was vacant from 1.1.1979 at Sultanpur on which the applicant was promoted w.e.f. 1.1.1980 and continue to work on the said post till the date of the judgment of the Hon'ble Tribunal. In the Hon'ble Tribunal the petitioner has challenged his reversion order issued by the Railway Administration dated 13.12.1982 which was quashed by the Hon'ble Tribunal

with the direction to the Railway Administration that the services of the applicant will be regularised on the post of Head Ticket Collector with all consequential benefits as admissible to the applicant.

2. That it was also admitted by the Railway Administration before the Hon'ble Tribunal that the applicant was promoted against the upgraded post of Head Ticket Collector w.e.f. 1.1.1980 and as per circular dated 27.7.1985, the applicant was entitled for regularisation on the post of Head Ticket Collector on the date of completion of 18 months continue services on the upgraded post, and as such he was entitled for regularisation as Head Ticket Collector w.e.f. 1.7.1981 and on this fact the Hon'ble Tribunal was pleased to direct the Railway Administration to regularise the service of the applicant on the post of Head Ticket Collector w.e.f. 1.7.1981 in terms of Railway Board's circular dated 29.7.1985.

3. That here it will not out of place to mention about the Railway Board's letter No. E(NG)/55 SS 6/7 dated 13.8.1959, the applicant is entitled for regularisation of his services and also for fixation of his seniority from the date of vacancy of the post of Head Ticket Collector w.e.f. 1st January, 1979 on which he was promoted w.e.f. 1.1.1980. The said circular further provides that the persons promoted on the upgraded post later on, but the post was vacant from much earlier then he will be entitled to be considered as senior in that post to all other persons subsequently promoted. In view of the said circular the applicant is entitled for regularisation of and fixation of his

*Subm.*

All

seniority as Head Ticket Collector w.e.f. 1.1.79 otherwise w.e.f. 1.7.1981 as per orders of the Hon'ble Tribunal dated 24.10.1989.

4. That surprisingly enough that inspite of the orders of the Hon'ble Tribunal the applicants's services have been regularised on the postof Head Ticket Collector w.e.f. 1.1.1984 on that post and he has been given promotion to the next higher grade i.e. Junior Inspector of Ticket which has been absolutely against the spirit of the Hon'ble Tribunal's judgment and also against the guidelines of the circular mentioned above.

5. That it will not be out of place to mention here that after thepromotion of the applicant to the post of Head Ticket Collector w.e.f. 1.1.1980 subsequently several persons were promoted on the post of Head Ticket Collector or STE vide order dated 23.12.1982 and 3.3.1984 and were promoted to the post of Chief Inspector of Tickets vide order dated 28.5.1985, but the applicant being senior most person as Head Ticket Collector have not been given promotion on the post of Chief Inspector of Tickets w.e.f. 1.1.1984 which is clearly illegal and unjust action on the part of Railway Administration. To more clarify the position the promotion orders passed subsequently to the promotion of the applicant in Grade 425-640(R.S.). Photo copy of the said list are enclosed alongwith this application for kind consideration of your goodself.

*H. Tewari*

Further Sri H. U.R. Tewari who were promoted as Head Ticket Collector on 23.12.1982 was promoted to the post of Chief Inspector of Tickets w.e.f. 28.5.1984 who was admittedly junior to the applicant. The applicant has been victimised by the Railway Administration by

not promoting him to the post of Chief Inspector of Tickets before Mr. U.R. Tewari.

6. That on the basis of the above facts the applicant most respectfully request your goodself to consider the case of the applicant in terms of the circulars mentioned above and also judgment of the Hon'ble Tribunal dated 24.10.1989 and regularise the services of the applicant on the post of Head Ticket Collector w.e.f. 1.7.1981 with all consequential benefits of the promotion to the higher post and he may be declared promoted to the post of Chief Inspector of Tickets w.e.f. 1.1.1984 being the senior most person promoted subsequently on the post of Ticket Collector then the applicant which is clear from the list mentioned above and filed alongwith this application within a period of 3 weeks from the date of this representation to avoid any further displeasure to your goodself.

Hoping for due consideration.

Thanking you.

Yours faithfully,

Encl. As above.

Sd/-

( D.C. Misra )  
Junior Inspector of Tickets  
Varanasi.

Lucknow:Dated:

2nd.1.3.1990.

TRUE COPY

*To Mr. Misra*

बायदालत श्रीमान

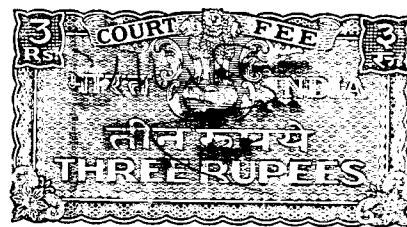
Before C. J. L. L. L. १२३

महोदय

वादी (मुद्दई)  
मुद्दई (मुद्दलेह)

Claimant  
का

वकालतनामा



D. C. M. 29 Court  
U. O. E. बनाम विमल शनीर प्रतिवादी (रेस्पान्डेन्ट)

नं० मुद्दमा

सन पेशी की ता०

१९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

VIMAL SHANIEER

वकील

एडवोकेट महोदय

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

अदालत  
नं० मुकद्दमा फरीकसानी  
नाम

हस्ताक्षर Shanier

Witness  
Advocate  
साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

21/4/40

महीना

सन् १९ ई०

(P.M.)

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

O.A. No. 100 of 1990 (L)

Dinesh Chandra Misra

.....Applicant.

Versus

Union of India

..... Respondent.

COUNTER REPLY ON BEHALF OF ALL THE RESPONDENTS

*I D. N. Tirpathi* working as  
Ass'tt Personnel Oficer in the  
office of Divisional Railway Manager, Northern  
Railway, Hazratganj, Lucknow do hereby solemnly  
affirm and state as under:-

1. That the official abovenamed is working under the respondents and is fully conversant with the facts and circumstances of the Applicant's case and has been authorised by the respondents to file this counter reply on their behalf.
2. That the contents of paras 1 to 5 of the original application do not call for comments.

Contd....2

That reply to the contents of para 6 of the original application are as below:-

3. That the contents of para 6(a) of the original application do not call for comments.
4. That in reply to the contents of para 6(b) of the original application, it is stated that this Hon'ble Tribunal vide its judgement dated 24.10.89 quashed, the reversion order dated 23.12.82 of the applicant and directed the opposite parties to regularise the services of the applicant as Head Ticket Collector in accordance with law with all consequential benefits, i.e. as per departmental rules.
5. That the contents of para 6(c) of the original application are not admitted as alleged. As per the judgement dated 24.10.89 of the Hon'ble Tribunal the reversion order dated 23.12.82 of the applicant was treated to be quashed and as per directions of the Hon'ble Tribunal the seniority of the applicant was assigned and as per his such seniority ~~of the~~ the applicant was ~~assigned~~ given his due promotion. As would be clear from a perusal

Asstt. Personnel Officer  
W. R. I. K.C.

of Annexure No. 3 dated 2.2.90 the applicant was duly promoted to the post of Junior Inspector of Tickets (JIT) grade Rs. 550-750(RS)/Rs. 1600-2660 (RPS) strictly as per his turn on seniority list without superceding his erstwhile seniors consequent upon his regularisation in selection of Head Ticket Collector grade Rs. 425-640 (RS)/Rs. 1400-2300(RPS). As per seniority the applicant stands at ~~xx~~ serial No. 6. A copy of panel list dated 30.8.80 and a copy of applicant's promotion order to the post of Head Ticket Collector are being filed herewith as Annexure No. C-1 and C-2 to this counter reply.

6. That in reply to the contents of paras 6(d) and 6(e) of the original application, so far it is matter of record are admitted but rest of the contents of the para are denied. Only in compliance of this Hon'ble Tribunal's judgement dated 24.10.89 the services of the applicant in the grade of Head Ticket Collector were regularised and all consequential benefits available under the rules inaccordance with law were duly given to him. Since the post of Junior Inspector of Ticket was a non-selection post hence in compliance of

Asstt. Personal Officer  
J. R. Lko

this Hon'ble Tribunal's judgement the applicant was duly promoted to the said post as per his seniority. Now the next promotional post of the applicant is Chief Inspector of Tickets (CIT) grade Rs. 700-900/2000-3200 which is a selection post. The channel of the promotion as provided by the Railway Board is being filed herewith as Annexure No. C-3 to this counter reply. Since the post of Chief Inspector of Tickets being a selection post and was to be filled by a positive act of selection consisting of a written test and viva voce test, the applicant was duly called to appear in the said selection. A copy of letter dated 13.7.90 calling the candidates including the applicant to appear in the said selection is being filed herewith as annexure No. C-4 to this counter reply. The applicant for the reasons best known to him did not appear in the said selection despite opportunity being given to him. It is further clarified that no staff could be promoted to the said post of Chief Inspector of Tickets unless he successfully qualifies the selection for the said post. It is also relevant to mention here that on the Division

Urgent  
All Personnel Office  
B. B. Lko

in which the applicant is working, the ad-hoc promotion of Head Ticket Collectors against the panel of 1.1.79 had already been finalised hence there ~~is~~ was no vacancy to regularise the applicant in grade Rs. 425-640(RS) prior to 1.1.84. As a result of upgrading of vacancies, the said post became available only on 1.1.84, and accordingly the applicant's services were regularised in the grade Rs. 425-640 w.e.f. 1.1.84. It is further stated that the said circular filed by the applicant is not applicable in this case because in the division in which the applicant is working the selection against upgradation of 1.1.79 had already been finalised. The said circular would only be applicable on those divisions where the selection of 1.1.79 was not finalised.

7. That the contents of para 6(f) of the original application are not admitted as alleged. As already stated in the preceding paragraph the post of Chief Inspector of Ticket is a selection post and without successfully qualifying the <sup>some</sup> one can not be promoted to the said post. It may also be pointed out here that as specifically stated in the para under reply that Shri U.R. Tiwari was promoted as Head Ticked

*GL*  
Asstt. Personnel Officer  
N R Lko

Collector w.e.f. 23.12.87 and again promoted to the post of Chief Inspector of Tickets w.e.f. 28.5.84 i.e. prior to 23.12.87, this is simply not possible.

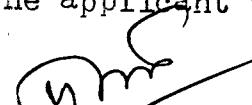
8. That the contents of paras 6(g) and 6(h) of original application are not admitted as alleged. As already explained in the preceding paragraph the applicant's services were regularised in grade Rs. 425-640 even without his appearing in the selection for the said post and he was also duly given the consequential benefits. The post of Chief Inspector of Ticket being a selection post, the applicant can not be promoted to the said post unless he qualifies the selection. The applicant has already been issued notice to appear in the selection but the applicant did not prefer to appear in the said selection.
9. That the contents of para 6(i) of the original application are admitted. The applicant was regularised in grade Rs. 425-640 (RS) against the first available vacancy as on 1.1.84. Since the selection/promotion against the vacancies of 1.1.79

Ass't. Personnel Officer  
N. R. ITC

Contd.....7

were already finalised hence there was not a single vacancy prior to 1.1.84 and therefore, the applicant could not be promoted prior to 1.1.84. He was duly given his next promotion to the post of Junior Inspector of Ticket which is a non-selection post but the applicant could not be promoted to the next higher post of Chief Inspector of Tickets because he did not appear and qualified the selection for the said post.

10. That in view of the facts and reasons stated herein above the applicant is not entitled to any relief rather this application itself is liable to be dismissed in favour of the answering ~~and~~ ~~against~~ respondents and against the applicant with costs.

  
Asstt. Personnel Officer  
N. R. Lko.

Lucknow: Dated:

20.9.1990

VERIFICATION

I, the official abovenamed do hereby verify that the contents of para 1 of the counter reply is true to my personal knowledge and those of paras 2 to 10 of the counter reply are believed by me to be true on the basis of records and legal advice.

Lucknow.

Dated: 20.9.90

  
Asstt. Personnel Officer  
N. R. Lko.

Annexure No C-1

(AS)

(2)

Ref. 11B/8-111.

Notice.

Due to revised % in the different categories of Tickets  
Checking branch, the following posts have been upgraded in scale  
R. 425-640(RS).

1) Conductors in grade = 3 at LKO in lieu of TTEs in scale  
R. 425-640(RS) = 7 at LKO )  
2) STEs in grade = 7 at BSB )  
R. 425-640(RS) = 2 at FD )  
16 -do-  
3) Hd. TCs in grade = 1 at FD ) in lieu of TCs in scale  
R. 425-640(RS) = 1 at SLN ) R. 260-400(RS)  
= 1 at PRG )  
= 1 at KEI )  
4

As a result of the above the undernoted promotion  
orders in scale R. 425-640(RS) are hereby issued on Adhoc basis  
to have immediate effect:-

Sl. No.	Name	Present Desig. & station of working.	Promoted in scale Rs. 425-640(RS) as & posted at.	Remarks.
1.	S/Shri F.P.Singh	TTE/FD	Conductor/LKO	Against upgraded pos -do-
2.	H.S.Sharma	TTE Hd. Qrs.	-do-	-do-
	F.K.Mukherjee	Squad NDLS	-do-	-do-
	R.L.Khankhun	-do-	STE/LKO ✓	-do-
	G. N. Ligam	TTE/LKO	-do- ✓	-do-
	S. Dubey	-do-	-do- ✓	-do-
	M. Singh	TTE/FD	STE/FD ✓	-do-
	ullah	TTE/LKO	STE/LKO ✓	-do-
	S. Sinha	TTE/BSB	STE/FD ✓	-do-
	N.N. wasthi	TTE/LKO	STE/LKO ✓	-do-
	D. Lal Mehta	TTE Hd. Qr.	-do-	-do-
		Squad NDLS	-do-	-do-
		-do-	-do- ✓	-do-
		TTE/BSB	-do-	-do-
		-do-	-do- ✓	-do-
		-do-	-do- ✓	-do-
				Against vacancy.
12.	Inder Kumar			-do-
13.	P.M. Srivastava			-do-
4.	O.P. Bassi			-do-
	Bachha Tewari			-do-

-12-

AS2

S/Shri			
16. Brinda Kali	SIT/ISB	STE/ISB ✓	His basis is here upgrade.
17. Kanchan Ram	TTE/BSB	STE/BSB ✓	upgrade.
18. Pachkauri Ram	TTE/BSB	STE/ISB ✓	
19. S.B. Singh	-do-	-do-	
20. Izzhar Alam	Hd.TC/BSB	STE/BSB ✓	
21. Smt.S.K.Devi <sup>W</sup>	TTE/BSB	STE/BSB ✓	Against upgr.
22. Sh. Balram Misra	-do-	-do-	-do-
23. Kewal Krishan	TTE/FD	Hd.TC/FD ✓	Against upgraded pos.
24. H.L.Pandey	TTE/LKO	Hd.TC/SLN ✓	-do-
25. T.N.Srivastava	Hd.TC/PBH	Hd.TC/PRG ✓	-do-
			at his own request a will not be eligible for free transfer pass, J/leave or transfer allowan
26. U.R.Tewari.	TTE/BSB	Hd.TC/PEI	Against upgrade.
27. B.B.Mukerjee	TTE/BSB	Hd.TC/BSB	Against vacan
28. K.N.Singh	-do-	-do-	-do-
29. M.R.Kovid	TTE/FD. (SC)	Hd.TC/SHG	Against the va
30. Prem Dass (K.P)	TTE/FD(SC)	Hd.TC/LKO ✓	Against the vacan of Sh.J.I.Singh
31. Mathias Kujur	TTE/LKO(ST)	Hd.TC/PBH ✓	Against the vacan Sh. T.N.Srivastava transferred.

This has the approval of Sr.DPO/LKO.

Note:

1. Since the promotions of 'STEs & Hd.TCs' are against upgradation of % basis, they will have to do the same duties as at present i.e. STEs will have to man the sleeper coaches and Hd.TCs will have to do the duties of TCs if necessary.
- ii. The promotion orders of item Nos. 2, 3, 11 & 12 are subject to their being free from SPE/Vig/DAR cases, if any.

They will only be eligible for promotion in grade R. 425-640(RS) when they will join Lucknow division.

ATTESTED

TRUE COPY

L.P.C. and other service particulars be sent direct to senior subordinates concerned advising this office.

*1  
V.K. 20/2/81*  
Sr. Divl. Personnel Officer,  
Lucknow.

Copy for information and necessary action to:-

1. Station Supdt. Lucknow & Varanasi.
2. Station Masters. FD. SLN. PRG. KEI. FPH. SH.
3. Divl. CIT LKO.
4. CIT (Stn.) LKO, CIT/FD & CIT/Varanasi.
5. Sr. DAO/LKO.
6. AS/Pay Bill Lucknow.
7. G.M.(P) & ACO(T) Hd.Qrs. Office, Baroda House, New Delhi.

agjiwan.  
3/8

*V*  
ATTENDED

IN COPY

Annexure No C-2

(P.S.)

(172)

NORTHERN

.Y.

Divisional Office,  
Lucknow, the 24 Novr. '80.

No. 181 E6/8-III.

NOTICE.

The refusal of the under-noted TEs in scale Rs.330-560(HS) to go on promotion as Hd.T.Cs in scale Rs.425-640(RS) is hereby accepted for a period of one year from the dates noted against each. During this period juniors thus promoted will rank senior to them.

S.No.	Name.	Desig. & Stn.	Dt. from which refusal accepted.
1.	Sh. Kewal Krishan	TTE/FD	29.9.80
2.	Sh. K.N. Singh	TTE/BSB	5.9.80
3.	Sh. H.L. Pandey	T.E/LKO	23.9.80

The following promotion orders are hereby issued to have immediate effect ~~on Ad-Hoc basis~~.

S.No.	Name.	Present Desig. and Stn.	Promoted & posted as Hd.TC at Scale Rs.425-640.	Remarks.
1.	Sh.R.S. Ahluwalia	TTE/BSB	Hd.TC/BSB.	Against vacanc
2.	Sh.Mohd. Alim Khan	TTE/LKO	Hd.TC/BSB	-do-
3.	Sh.A.P. Singh	TTE/BSB	Hd.TC/SHG	-do-
4.	Sh.M.R. Kovga	TTE/FD	Hd.TC/Night/FD	-do-
5.	Sh.A.P. Singh	TTE/LKO	Hd.TC/PBH	Vice Sh.M.Kujw transferred.
6.	Sh.D.C. Misra	Hd.TC/LKO	Hd.TC/SLN	Against vacanc
7.	Sh. Mathus Kujur	Hd.TC/PBH	Hd.TC/BSB	-do-

This has the approval of Sr.D.P.O./Lucknow.

Item No.7 will not be eligible for free transfer passes, joining leave or transfer allowance.

LP& other service particulars be sent direct to S.Ms concerned  
advising this office. 24 NOV 1980

TRUE COPY

Copy for information and necessary action to:-

1. The Station Supt., Lucknow/Varanasi.
2. The S.Ms, PBH, SLN, FD & SHG.
3. The Sr.L.A.O./Lucknow.
4. The A.S.(Pay Bill)/Lucknow.

(K.K. Mehta)

for Sr.Divl. Personnel Officer,  
Lucknow.

(K.K.)  
20/11/80

Annexure No C-3

15

## CHANNEL OF PROMOTION OF TICKET CHECKING STAFF.

Class IV (Group D), staff of Transportation & Commercial Department with three years of service in the Deptt. up to 33½% of the vacancies. By positive act of Departmental selection (written Test & Viva-Voce Test).

Direct recruitment through P. Recruitment Board, compass ground, etc. and qualifying prescribed training from Zonal Training School, Chandausi upto 66/3 % of vacancies.

Ticket Collector  
Grs. Rs.260-400(RS)/Rs.950-1500(RPS)

### Non-Selection (Seniority-cum-suitability)

Senior Ticket Collector  
Gr. Rs. 330-560 (FS)/Rs. 120-2040 (RPS)

**Non-selection.**  
(On the basis of seniority-cum-suitability -  
Status promotion)

" Senior Ticket Examiner  
G. Rs.; 330-560 (RS) / Rs. 1200-2040 (RPs)

\*\* By positive act of selection and forming a common panel of three categories of Hd. TCRs, Hd. TTE & Conductor subject to passing P 6 A pre-requisites course and then deploy as under.

" Head Ticket Collector  
Gr. Rs. 425-640 (RS) / Rs. 1400-2300 (RPS)

Head Ticket Examiner  
G. R. Rs. 425-640 (RS) / Rs. 1400-2300 (RPS)

Conductor  
Rs. 425-640 (PS) / Rs. 1400-2300 (RPS)

Junior Inspector (Ticket)  
Gr Rs. 550-750 (P.S.)/Rs. 1600-2660 (R.P.S.)

Gr Rs. 550-750 (Rs)/Rs. 1600-2660 (RPS).  
Positive act of selection (Written test & Viva-Voce Test).

Chief Inspector ( Ticket )  
G. r. Rs. 700-900 (Rs) / Rs. 2000-3000 (Rs)

- Railway Board's letter No.E(NG) I-75 CFP/28, dated 27/30-9-75.
- Railway Board's letter No.E(NG) I-85/PM3-18, dated 28-7-87 in consultation with both the Federations.

This Channel is issued in consultation with both the recognised Unions.

Annexure No C-4

उत्तर है

म. रु. 7575/618/वयन/90

दिनांक 13.7.70

न्यायिक वाराणसी  
निवास

कृष्णा

मुख्य टिक्कट निरीक्षा नं 2006.32.वयन/उ.नो.स्त्रौम् वयन द्वेष  
विष्मितिभित्ति भव्यादिर्दि दो दिनांक 21.7.70 ते द्वातः 18 बड़े वर्ष वै  
प्रबन्धाल कार्यालय उद्देश्य, नवाकृति तिवित्ति पूर्व वरोत्ता द्वेष उपस्थिति दीना है।

.....

.....

1. श्री जे.पा.वारद्वाज तदैव युवति टिक्कट निरीक्षा वाराणसी

2. आद्यतः ग्रन्थवानिमा

3. युवति वाल

4. एम.एम.एस. रमेश टिक्कट निरीक्षा

5. वारद्वाज शिंदे तं० युवति

6. श्री विजय शिंदे तं० युवति

7. रमेश शिंदे तान्दु टिक्कट निरीक्षा

8. वैष्णव शिंदे

9. अरुण शिंदे

10. योगेश शिंदे

11. दीप्ति शिंदे

12. एकादश युवति

13. द्यूरसंगत्युत्तमेनिमा

14. जातीय निकार

15. दीप्ति शिंदे

16. दीप्ति शिंदे

17. एगाली दीप्ति युवति

18. रमेश शिंदे

19. रमेश शिंदे

20. रमेश शिंदे

21. रमेश शिंदे

22. दीप्ति शिंदे

निवास

ATTESTED

1. एगाली दीप्ति युवति

2. रमेश शिंदे

3. रमेश शिंदे

4. रमेश शिंदे

5. दीप्ति शिंदे

मुख्य निवास भव्यादिर्दि को स्पष्ट कर दें कि वह युवति वाराणसी द्वातः दस्तृ द्वेष युवति दीना उन्मुक्तिभित्ति रखें तो इन्होंने उत्तरदायम् भूत्यं दीना होगी

निवास 16/7/70

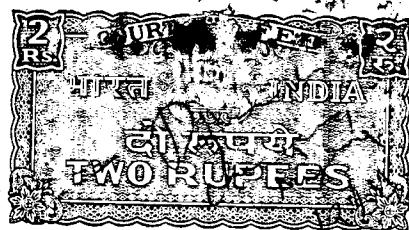
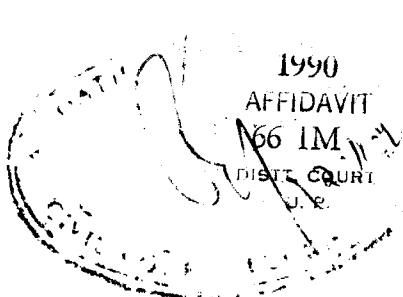
दूसरे मण्डल का चिन्ह छापि

उपरोक्त निवास

(ASX)

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

O. A. No. 100 of 1990(L)



Dinesh Chandra Misra .. .. Applicant

Versus

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

Rejoinder affidavit on behalf of the  
applicant to the counter affidavit  
filed by the opposite parties.

I, Dinesh Chandra Misra, aged about 49 years  
son of Sri Laxmi Narain Misra, resident of 14, Hardoi  
Road, Chowk, Lucknow, do hereby solemnly affirm and  
state on oath as under : -

1. That the deponent himself is applicant in the above  
noted claim petition and as such he is fully  
conversant with the facts of the case deposed herein.

2. That the contents of paras 1 to 3 of the counter  
affidavit under reply do not call for any comments.

3. That the contents of para 4 of the counter affidavit  
under reply do not call for any comment.

It is further submitted that this Hon'ble Tribunal vide its judgment dated 24. 10. 1989 was pleased to allow the claim petition of the deponent with the direction that the services of the applicant - deponent as Head Ticket Collector will be regularised in accordance with law, with all consequential benefits and it is nowhere mention that the services of the deponent will be regularised as per departmental rules.

4. That the contents of para 5 of the counter affidavit under reply are wrong hence denied, and the contents of para 6 (c) of the claim petition are reiterated. It is further submitted that as per the Circular of Railway Board dated 29. 7.1985 ( contained in Annexure -2 to the claim petition ) which was discussed by this Hon'ble Court in its judgment dated 24. 10. 1989 and on which both the parties were agreed , which provides that after completion of 18 months continuous services on the post of Head Ticket Collector , the services deemed to be regularised of the applicant - deponent and in the light of that circular , the deponent was entitled to get his services regularised on the post of Head Ticket Collector with effect from 1. 7. 1981 as he has completed 18 months continuous services from the date of his promotion from 1. 1. 1980, and as such it is wrong to say by the opposite party in their counter affidavit that the services of the applicant - deponent was regularised in accordance with law and rules but the true fact is that the services of the applicant have been regularised by the opposite parties with

ASG

effect from 1.1.1984 as Head Ticket Collector which is clearly against the direction and judgement of this Hon'ble Tribunal and also against the spirit of the circular dated 29. 7. 85 (Annexure No 1 to the claim petition. )

5. That the contents of para 6 of the counter affidavit under reply are wrong hence denied, and those the contents of paras 6 (D) and (E) of the claim petition are reiterated. It is further submitted that as per the judgment and direction of this Hon'ble Tribunal and also on the basis of the admission made by the opposite party regarding the applicability of the circular dated 28 29.7.85 the services of the deponent should be regularised on the post of Head Ticket Collector with effect from 1. 7. 81 and subsequently should be given further promotion to the higher post and should be placed in the grade of Rs.700 - 900 (2000 -3200) on the post of Chief Inspector of Ticket from the date of regularisation with effect from 1. 1. 84. It is further submitted that the post of Chief Inspector of Ticket was not selection post in the year 1984 when so many junior persons to the deponent were promoted and the deponent was left for the said promotion only <sup>of own</sup> the ground that he was not regularised on the post of Head Ticket Collector , otherwise he ought to be promoted <sup>as</sup> alongwith the other persons, in the year 1984.

12/11/85

True copy

It is further submitted that the deponent was never called to appear in any test or interview for the promotion to the post of Chief Inspector of Ticket, as alleged in the para under reply by the opposite party. Further it is also wrong to say that the vacancy of the post on which the deponent was working was filled up by promoting other persons, but the true fact is that in accordance with the stay order granted by the Hon'ble High Court, Lucknow Bench, Lucknow, the petition was allowed to continue on his post of Head Ticket Collector vide order of the opposite party no. 2 dated 13.4.83 and was continuing on the said post till the judgment of the earlier claim petition. i.e.

24. 10.1989, hence it is wrong to say that the post of deponent i.e. Head Ticket Collector was filed by the opposite parties. A true copy of the said letter dated 13. 4. 1983 is filed herewith as Annexure No R-1. It is also wrong to say that the circular dated 29. 7.85 is not applicable to the deponent's case but the true fact is that the Railway Administration has already admitted the application of the said circular in the earlier claim petition and on which the judgment of this Hon'ble Court is based, and once the Railway Administration has admitted the said circular now they can't deny the said circular.

6. That the contents of para 7 of the ~~claim~~ counter affidavit under reply are wrong and hence denied.

The Deponent  
Date: 12/11/89

(P)

xxxxxx That the claim is rejected It is further submitted that ~~the~~ vide annexures no. 4, 5 and 6 of the claim petition it is clear that the persons promoted to the post of Head Ticket Collector after the promotion of the deponent were promoted to the post of Chief Inspector of Ticket in the year 1984 but the deponent being senior to them was denied to the said promotion, which is against the spirit and clear direction passed by this Hon'ble Tribunal in its judgment dated 24. 10. 1989. Further to clarify more the deponent alongwith one Sri S.P.Srivastava was promoted to the post of Head Ticket Collector vide orders dated 25. 2. 1981 in which the deponent was promoted against the clear vacancy ~~caused~~ of one Sri G.P.Srivastava but Sri S.P.Srivastava was promoted temporarily as officiating which clearly shows that the deponent was promoted to the post of Head Ticket Collector against the permanent clear vacancy while Sri S.P.Srivastava was promoted ~~as~~ on officiating, but Sri S.P.Srivastava was given promotion to the post of Chief Inspector of Tidet in the year 1984 but the claim pf the deponent was denied arbitrarily by the Railway Administration, which is clear illegal and arbitrary <sup>action</sup> ~~on the part~~ of the opposite party. A ~~true~~ copy of the said promotion order dated 25. 2. 1981 is filed herewith as Annexure No. R-2 to this claim petition. Further Sri U.R.Tewari was also promoted to the post of Head Ticket Collector with effect from 23. 12. 1982 and was given promotion to the post of Chief Inspector of Tickets without

12.11.89

MANOJ

The Tribunal

(62)

facing any selection process, with effect from 28th May, 1984 .

7. That the contents of para 8 of the counter affidavit under reply are wrong and hence denied, and those the contents of paras 6 (g) and (h) of the claim petition are reiterated. It is further submitted that in the year 1984 since when the ~~applicant~~ was entitled for promotion to the post of Chief Inspector of Tickets alongwith the other persons there was no provision for qualifying any test or interview for the said post as several persons junior to the deponent were promoted to the said post without facing any selection process, moreover the deponent was never called for appearing in any test for promotion to the post of Chief Inspector of Ticket as alleged by the opposite party and the allegation are completely wrong hence denied.
  
8. That the contents of para 9 of the counter affidavit under reply are totally wrong hence denied. It is further submitted that when the illegal order of reversal passed by Railway Administration was declared null and void by this Hon'ble Tribunal and was quashed treating the same as never exist, it is bounded duty of the Railway Administration to provide proper seniority and also give the deponent all consequence benefit and the deponent is not at all concerned whether there is any vacancy ~~is~~ existing or not. It is also wrong to say that prior to 1.1.84 there was no vacancy of Head Ticket Collector but the true

Attested

fact is that the deponent was holding a post of Head Ticket Collector against the clear vacancy with effect from 1. 1. 1980 and the said post was never fallen vacant as the deponent was continuing on the said post till 2. 2. 1990 when his promotion order was issued by the Railway Administration to the post of Junior Inspector of Tickets. It is also wrong to say that there is no vacancy of Chief Inspector of Tickets but the true fact is that there are several post available with the Railway Administration and the Railway Administration vide its letter / order dated 8. 6. 1990 has promoted once Sri Y.B. Misra as Chief Inspector of Tickets on adhoc basis which clearly indicates the false statement of the opposite party and also arbitrary attitude towards the deponent denying his legitimate and legal rights for promotion to the said post prior to any body else in accordance with the direction of this Hon'ble Tribunal and also ~~it is not fixed~~ showed that the opposite party are stating false statement before this Hon'ble Tribunal and also are hiding the true position about the post and vacancies of Chief Inspector of Tickets. A true copy of the said promotion order dated 8. 6. 1990 is filed herewith as Annexure No. R-3.

That the contents of paras 10 of the counter affidavit under reply are wrong and misconceived and are denied. Further the deponent is entitled for the relief claimed in his claim petition and the claim petition deserve to be allowed with costs against the opposite party.

*Deponent.*

Lucknow: Dated 12.11.90

## Verification

I, the above named deponent do hereby verify that the contents of paras 1 to 8 — of this counter affidavit are g true to my own knowledge being based on records and those of paras — 9 — are believed by me to be true on the basis of the legal advice. No part of this affidavit is false and nothing material has been concealed. So help me God.

Signed and verified this 12 day of November  
1890 at Lucknow.

—turner

Deponent.

I identify the deponent who has signed  
before me. *C*

~~( Vinay Shanker )~~  
Advocate.

7-10 B.M. C.M. 66 I.M. ( Vinay S  
Advocate )  
Dinesh chandrapurkar  
Wazir shankar

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

Annexure No.R-1  
in  
O.A. No. 100 of 1990 (L)

Dinesh Chandra Misra .. . . . . Applicant

Versus

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

---

Northern Railway

Divisional Office,  
Lucknow.

No. E6/8-Hd.TC/Court.

Dt. 13 April, 1983

Notice

1. Consequent upon Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, stay orders Sri D.C.Misra offtg.Hd.TC/Lucknow Cr.Rs.425-640 in ad-hoc arrangement under orders of reversion as TTE/Lucknow is allowed to continue on the present post with the provision that in case of decision otherwise, the excess amount paid will be recovered.
2. Sri K.K.Verma offtg.Hd.TC/JNU grade Rs.425-640(Rs) in ad-hoc arrangement and under orders of transfer to Lucknow is reverted to his substantive post of TTE/Lucknow grade Rs.330-560(Rs) and posted at Lucknow.

Advise movements.

Sd/-  
Divisional Personal Officer,  
Lucknow.

Copy to :

1. The station Supdt.Lucknow.
2. The station Master, Jaunpur.
3. The DCIT/Lucknow.
4. The Sr.DAO/Lucknow.
5. The Supdt.Pay Bill in office.
6. The CLA in office.

for Information and necessary action.

TRUE COPY

In the Ron'sle Central Administrative Tribunal

Circuit Bench; Lucknow.

---  
Annexure No. R-2

in  
O.A. No. 100 of 1990 (L)

Dinesh Chandra Misra .. Applicant  
Vs.

Union of India and others .. Opp. Parties.

-----  
NORTHERN RAILWAY.

Divisional Office, Lucknow.

No, 181E6/8-TC(i) Dt. 25. 2. 81.

NOTICE.

The undernoted transfer and promotion orders are hereby issued to have immediate effect :-

1. Sri D.C.Misra, Head TC/SLN in scale Rs.425-640(Rs) is hereby transferred at his own request and posted as Head TC at Lucknow against the vacancy of Sri G.P.Srivastava.
2. Sri S.P.Srivastava TC/FD in scale Rs.330-560(Rs) is temporarily promoted to officiate as Head TC in scale Rs.425-640(Rs) and posted at SLM vice item 1 above.

Item No. 1 will not be eligible for free transfer pass joining leave or transfer allowance and item no.(2) will get transfer allowance of Rs.150/-only.

Item No. 1 & 2 has the approval of Sr.DPO.

LPC and other service particulars be sent direct to SMs concerned advising this office.

Sd/- K.K.Mehta  
for Sr. Divl. Personal Officer,  
Lucknow.

Copy forwarded for information and necessary action to :-

1. Station Supdt.Lucknow.
2. Station Master, SLM & FD
3. Sr DAO/Lucknow.
4. A .S.(Pay Bill)

TRUE COPY

12.11.90

In the Hon'ble Central Administrative Tribunal  
Circuit Bench; Lucknow.

---  
Annexure No. R-3  
in  
O.A. No. 100 of 1990(L)

Dinesh Chandra Misra .. .. Applicant.  
Vs.

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

----  
NORTHERN RAILWAY

No. 757-E/6/Selection/CIT/90. Divisional Office, Lucknow.  
Dt. 8. 6. 90

NOTICE

Shri Y. B. Misra, Conductor / Lucknow is  
appointed to officiate as CIT Gr. Rs.2000 - 3200 (RPS)  
Purely on adhoc basis and posted under SS/LKO  
against vacancy.

Copy to :

1. Station Supdt./Lucknow.  
2. Supdt./Pay Bill.  
3. Sr. D.C.S./Lucknow.  
4. Sr. D.A.O./Lucknow.

TRUE COPY

Sd/-  
Sr. Divl. Personal Officer,  
Lucknow.

