

## FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, Go. BENCHOA/TA/RA/CP/MA/PT 26/9.0 of 20Taman Ram & Two others Applicant(S)

Versus

Union of India & others Respondent(S)

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Certified that the file is complete in all respects.

B. C. Wadodant & distroy  
 Signature of S.O.

13/6/12  
 Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

.....

Original Application No. 26 of 1990 (L)

Jaman Ram & two others ..... Applicants  
Versus  
Union of India & others ..... Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. K. Obayya, A.M.

( By Hon. Mr. K. Obayya, A.M. )

1. The applicants are Lower Selection Grade (LSG) Supervisors in P.M.G.'s Office Lucknow, and in this application they have prayed for a direction to the respondents to treat the applicants appointed to the identified posts of U.D.C.'s from the date of appointment of their juniors on the said posts and fix their pay in L.S.G. cadre accordingly and make payment of arrears of pay and allowances together with interest at 12% per annum.

2. The applicants who are permanent U.D.C's were appointed on ex-cadre tenure posts of Development Officer, Postal Life Insurance (DO, PLI) in the year 1982, and after completion of their tenure they reverted to their regular posts and were also given L.S.G. cadre and ~~the~~ later they became Supervisors. According to the applicants while they were working on the tenure posts of D.O., P.L.I., 10% of U.D.C.'s posts were identified as posts carrying duties and responsibilities of special nature and special pay of Rs. 35/- and later Rs. 70/- was attached to these posts. Being senior the applicants were eligible for these posts, but they were not appointed as they were on tenure posts; though they were given L.S.G., on return from deputation, their pay was fixed at a lower level than their juniors. For instance the pay of applicant no. 1 was fixed on Rs.1540/-

...2/-

while his junior Shri Pancham Ram was getting Rs. 1580/- . Similarly the pay of applicant no. 2 was fixed Rs. 1600/- while his junior Mohd. Ali was getting Rs. 1640/- . The applicants made several representations in this regard but these were rejected on the ground that the posts of U.D.C.'s which carried special pay do not constitute promotional cadre and as such, no proforma fixation of pay is permissible. The applicants assail the rejection order as arbitrary, and it is their case that but for the deputation on tenure posts, they would have ~~been~~ continued as U.D.C.'s and drawn special ~~xx~~ pay as was done by many of their colleagues including juniors

3. The respondents have opposed the case and in their return. It is pointed out that the posts of D.O., P.L.I. ~~are~~ are ex-cadre tenure posts, filled up by deputation, through selection. The applicants applied for deputation and appeared at selection test in which they ~~were~~ were successful; There after they were appointed as D.O., P.L.I. on scale of Rs. 1400-2300 , which is a higher scale than that of U.D.C. On reversion to their posts as U.D.C. they were by virtue of seniority or otherwise in ~~reserved~~ quota promoted to L.S.G. cadre. Special pay attached to certain U.D.C. Posts is given only to those who occupy those posts and perform complex nature of duties. Appointment to these identified posts is by selection and suitability and not on seniority. It is also stated that the identified U.D.C. posts are not promotional posts and only such of the U.D.C.s who are suitable are selected and posted. The applicants were on higher posts drawing more salary and there is no special pay attached to the posts of D.O., P.L.I. as such no special pay was paid to them. Also since they did not work on identified U.D.C. ~~post~~ post they were not entitled for special pay; their ~~reversion~~

6

~~xxxxxx~~ representations were considered and the same were rejected as their claims were not admissible. It is also stated that the applicants never opted to get back to the regular line of U.D.C.'s to avail the benefit of special pay.


4. The question for consideration is whether the applicants were entitled to special pay attached to certain U.D.C.'s posts, notionally or otherwise and thereby carry the benefit for pay fixation in L.S.G. cadre. There are two aspects to this. Admittedly certain U.D.C.'s posts come to be identified as those with complex nature of duties, calling for higher degree of performance confidentiality etc; and these posts were filled up not on seniority but through selection and suitability; obviously under such a scheme of things, it is open to juniors also to get selected and appointed and get the financial benefit of special pay. Seniors who are by passed cannot have a grouse against this arrangement for one reason, these identified posts are also posts of U.D.C. level only and not promotional posts or higher posts. Secondly the candidates assessed as better candidates and suitable in selection were appointed. In these circumstances the claim of the applicants for grant of special pay or benefit of the same in pay fixation in L.S.G. cadre, does not appear to be tenable; and their claim in this behalf has been rightly rejected by the administration.


5. But there is one more aspect to this, that is the applicants were entitled to not only seniority but also all the benefits that go with it in the U.D.C. cadre, this has been accepted by the respondents, and that is why they were also promoted to L.S.G. cadre and also as Supervisors. L.S.G. cadre has to be given on the basis of seniority, subject to fitness. If any juniors to the applicants were already in L.S.G. cadre, the applicants are certainly entitled for pay fixation equivalent to that of their juniors, as the applicants perhaps missed out the chance because they were on ex-cadre posts. The respondents

AB

-4-

have not explained this position clearly. In the circumstances, we direct the respondents to consider the case of the applicants for pay fixation in L.S.G. cadre and place them at a level not below than that of juniors. This has nothing to do with those in whose case higher fixation of pay was the result and consequence of their working in identified U.D.C. posts carrying special pay. In other words applicants would be entitled for higher fixation pay in L.S.G. cadre only in the event of any of their juniors appointed to L.S.G. not through the route of U.D.C. (special pay) but in the regular way on the basis of seniority. Let this consideration be done and the differential amount if any paid to the applicants within a period of 3 months. If none junior to the applicants is drawing more salary in L.S.G. cadre the applicants have the case. The application is disposed of as above. No order as to costs.

  
A.M.

  
V.C.

Lucknow

Dated : 15<sup>th</sup> March 1993

(g.s.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, MOTI MAHAL, LUCKNOW.

DATED: -----

Cause Title OA No 26/90 (C) 19

Name of Parties.

Jomon Ram & Brothers Applicant

versus

U.O.D and others Respondents.

PART -A

<u>Sl.No.</u>	<u>Description of Documents</u>	<u>Page</u>
1-	Check List <u>A</u>	<u>A1</u>
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4-	Petition Copy <u>A9</u>	<u>A23</u>
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7-	Counter Affidavit <u>A35</u>	<u>A44</u>
8-	Rejoinder Affidavit <u>A45</u>	<u>A44</u>

8/9

M.P 702/91

A45

PART -B

B46 — B80

~~For this information, the Court has received the necessary documents for consignment to record room.~~

Part -C

C81 - C100

Certified that no further action is required. The case is fit for consignment to record room.

Section Officer

Court Officer

Incharge

28-1-94

Signature of Deaf Assistant.

(RN)

P. Narayan  
24/10/1994

25/11/90 A

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Registration No. 26 of 1989 UL

APPLICANT(S) Jama Ram

RESPONDENT(S) UOL

Particulars to be examined

Endorsement as to result of examination

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

91

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with Annexures filed ?
- a) Identical with the Original ?
- b) Defective ?
- c) Wanting in Annexures
- Nos. \_\_\_\_\_ pages Nos \_\_\_\_\_ ?

YB

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

NO

14. Are the given address the registered address ?

YB

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

YB

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 ?

YB

- a) Concise ?
- b) Under distinct heads ?
- c) Numbered consecutively ?
- d) Typed in double space on one side of the paper ?

Have the particulars for interim order prayed for indicated with reasons ?

YB

18. Whether all the remedies have been exhausted.

YB

Signature/



Order - sheet.

Ar.

OA No. 26/90 (4)

31.1.90

Hon. Justice K. Nall, v.c.  
Hon. K. J. Ramani, A.M.

No one is present on behalf  
of the applicant. List admission  
on 1.3.90.

K.R.

A.M.

m.

1.3.90

Hon Justice K. Nall. v.c.  
Hon Mr. K. J. Ramani AM

Application received on behalf  
of the applicant's Counsel in case  
in application for admission on 12.4.90  
K.R.  
AM

ve

12/4/90

Hon. Mr. D. H. Agha, J.M.  
Hon Mr. P. S. Habib Mohammed, A.M.

The application is defective.  
let it be corrected first and  
then put up for admission on

22/5/90.

A.M.

Sd.

on  
CM 26/90 (4)  
filed today

J.M.  
R

for the applicant  
based on CM 26/90 (4)  
under rule 4(5)(a)  
S. F.A.

16/5

OA 26/90 (L)

A3

22/11/90

Hon. Mr. Justice K. Nath, Jc.  
Hon. Mr. M. M. Singh, Am.

Comets has not been filed and further time which was sought in M.P. No. 609/90 has also expired. However, last opportunity is given to file Comets within two weeks in default of which the case will be taken up for final hearing ex parte on 20/12/90. If the Comets is filed by the time granted, the applicant may file rejoinders on the date fixed.

H. H. L. M. VC  
Am

16

20/12/90

No Sitting Adj. to 4.2.91.

4-2-91 Hon. Mr. Justice K. Nath, VC  
Hon. Mr. K. D. Aggar, AM.

OR  
No CA filed  
11/2/91

Shri R. K. Chaudhary  
wants 2 weeks time to file  
Comets to which the applicant  
may file rejoinders within one  
week thereafter. The case may  
be listed for final hearing on 25-3-91

16

AM

VC

On 26-90C

AY

13/12/91

Hon. Justice U.C.S.V.C

list on 14.5.92  
for hearing  
✓

14.5.92

No sitting adj. to 16.7.92

140 CA filed  
50 off  
15/1/93

16.7.92

Case not-reopened adj. to  
7.9.92

pro

7.9.92

No sitting of D.M. adj. to  
27.10.92

Due to Autumn  
vacation  
case is shifted  
on 7.1.93.

S.F.O.

27/10/92

S.F.H.  
5/1/93

7-1-93

Hon. Mr. Justice U.C. Sivastava, V.C.  
Hon. Mr. K. Chayya, A.M.

Learned Counsel for the  
respondents states that he  
will file counter-affidavit  
tomorrow. Rejoinder, if any,  
may be filed within two  
weeks. list this case on  
4-2-93 for hearing.

A.M.

V.C.

OR  
Rajesh Chandra (ug)  
S.F.H.  
5/1/93

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH  
LUCKNOW

C.A. No. 26/30 1990 (L)

... 199 (TL)

Date of Deceasion

Tamam Ram & others

Petitioner.

Advocate for the  
Petitioner(s)

VERSUS

Union of India & others

Respondent.

Advocate for the  
Respondents

C O U R T

Hon'ble Mr. Justice U.C. Shrivastava

Hon'ble Mr. K. Chayya, A.M.  
(Hon. Mr. K. Chayya, A.M.)

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

Vice-Chairman / Member

25/1/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH  
LUCKNOW

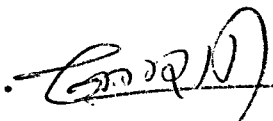
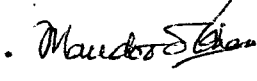
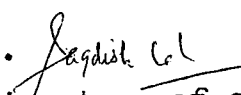
SA 28/90(4)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNAL ACT 1985.

Jaman Ram and two others ... Applicants  
. Versus  
Union of India and others ... Respondents

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3.	Annexure A-5 : True copies of order dated 9.6.88.	13
4.	Annexure A-10 : True copy of order dated 22.8.89.	14
<u>COMPIATION NO. 2</u>		
5.	Annexure A-1 : True copy of representation dated 10.12.87.	15
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1.   
2.   
3.   
Signature of applicants

FOR USE IN TRIBUNAL'S  
OFFICE :  
Date of Filing :  
or  
Date of receipt by post :  
Registration No. :

Signature  
for REGISTRAR

P.T.  
25/1/90

mailed for  
31.1.90  
M. Duly  
paw

910

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH  
LUCKNOW

8A 26/90 (L)

BETWEEN

1. Jaman Ram aged about 50 years, s/o Late Shri Harmal Ram, Section Supervisor, PMG's Office, Lucknow and r/o House No. 130, 6th Lane, Nishatganj, Lucknow-226 007.
2. Maudood Khan, aged about 45 years, s/o Shri Mahmood Khan, 20% LSG PMG's Office, Lucknow and r/o 68, Sarvodaya Nagar, Lucknow - 226 016.
3. Jagdish Lal, aged about 47 years, s/o Late Shri B.Lal Section Supervisor, PMG's Office, Lucknow and r/o C-47/1 Paper Mill Colony, Nishatganj, Lucknow-226006.

... Applicant.

Versus

1. Union of India, through the Secretary to the Ministry of Communication, Department of Posts, Government of India, New Delhi - 110 001.
2. Director General, Department of Posts, Dak Bhawan, New Delhi - 110 001.
3. The Chief Postmaster General, U.P. Circle, Lucknow - 226 001.

... Respondents.

- - - - -

Details of the application :

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

- (a) The number of the order - i) STA/A-69/Spl.Pay/3  
ii) STA/A-69/Spl.Pay/3  
iii) STA/A-69/Spl.Pay/3  
iv) STA/A-69/Spl.Pay/3
- (b) The date of the order - 21.3.88, 21.3.88,  
9.6.88 and 22.8.89
- (c) The authority which has passed the order. - The Chief Postmaster General, Lucknow and Director General, P & T, New Delhi.

2. Jurisdiction of the Tribunal :

The applicants declare that the subject matter of the order against which they want redressal is within the jurisdiction of the Tribunal.

1-Enq/172 Maudood Khan 3 *for details*

3. Limitation :

The applicants further declare that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act 1985.

4. Facts of the case :

i) That the applicants have been the permanent Upper Division Clerks (Assistants) in the office of the respondent no. 3 (Chief Postmaster General, U.P. Circle, Lucknow), and they have rendered a pretty long unblemished service without any complaint or adverse comment whatsoever.

ii) That on the basis of their satisfactory record of service, the applicants were selected and appointed to work as ex-cadre and tenure posts of the Development Officer, PLI, in the year 1982 and they worked on the said post till 10.6.86, July 1988 and 28.9.87 respectively. Their work as Development Officer, PLI was commendable.

iii) That while the applicants were working as Development Officer, PLI, certain identified posts carrying special pay in the Upper Division Clerk, fell vacant and the applicants on the basis of seniority and fitness were eligible and entitled to be appointed to those posts, which carried a special pay of Rs. 35/- initially and Rs. 70/- w.e.f. 1.1.86. These posts were identified as carrying duties and responsibilities of a complex nature than those normally expected of Upper Division Clerks, and were filled up on the basis of seniority cum fitness.

iv) That the applicants in view of their seniority

1- Encl 10) 2- Mandated 3- Forwarded

112

and fitness were entitled to be appointed to those identified posts carrying special pay, but their cases were ignored and they were not appointed to those posts apparently for the reasons that they were already appointed to perform still higher responsibility in a higher post of Development Officer, PLI, in the interest of Government work.

v) That the applicants were never considered and offered appointment against 10% identified posts of Upper Division Clerks carrying special pay of Rs. 35/- till 31.12.85 and Rs. 70/- from 1.1.86 while their juniors were appointed in violation of their claim.

vi) That the applicants were subsequently appointed to LSG (Lower Selection Grade) and 20% LSG as shown below :-

- a) Jaman Ram, LSG Supervisor w.e.f. 23.6.1986
- b) Maudood Khan, LSG 20% w.e.f. 5.7.88  
and LSG Supervisor w.e.f. 30.8.89.
- c) Jagdish Lal, LSG 20% w.e.f. 29.9.87 and  
LSG Supervisor w.e.f. 2.11.87.

vii) That on being appointed to the LSG 20% and LSG cadre in the scale of Rs. 1400/2300, the applicants were surprised to know that their pay had been fixed at a lower level than their juniors and they were made to suffer a recurring loss without any fault on their part. For instance the pay of applicant no. 1 on promotion in June, 1986, was fixed at Rs. 1540/- while his junior Shri Pancham Ram was already getting Rs. 1580/-. The name of applicant no. 1 appeared in the gradation list of UDCs at serial 76 and that of Shri Pancham Ram at serial 90. Likewise the applicant 2 was allowed

1 - *Long 10* 2 - *Maudood Khan* 3 - *Jagdish Lal*



- 1 Rs. 1600/- on promotion to LSG 20% cadre in July, 1988 while his junior Shri Mohd. Ali was already getting Rs. 1640/-. In the gradation list the name of the applicant no. 2 was at serial 56 and that of Shri Mohd. Ali at serial 58. Thus the applicants were prejudiced in fixation of pay and they were allowed less pay than what they were entitled to get in the normal course. This happened because they were not extended the benefits of special pay admissible to the identified posts which was allowed to their juniors.

viii) That the applicants preferred representations for issue of proforma certificate that they would have been appointed and worked on the identified posts of the Upper Division Clerks from the dates their juniors were appointed, had they not been deputed to work on the tenure posts of DU PLI and their pay fixed accordingly, so that they might not have been deprived of the benefits special pay and get less pay than their juniors. The details of such representations are furnished below :-

- a) Representation dated 10.12.87 to the Chief Postmaster General, U.P. Annexure A-1.
- b) Representation dated 2.1.88 to the Chief Postmaster General U.P., Annexure A-2.
- c) Representation dated 28.4.88 to the Chief Postmaster General, U.P., Annexure A-3.

The applicants also sent reminders and met the authorities personally and thereupon the Chief Postmaster, U.P. Circle vide his letters no. STA/A-69/Spl.pay/3 dated 21.3.88 and 9.6.88 intimated that grant of special pay is subject to work on the identified seat of discreditable duties and responsibilities of complex nature. It is not a promotional

1 - Encl 10) 2 - Mr. D. S. Chandra 3 - Mr. J. K. Chandra

- 5 -

cadre, proforma promotion certificate is not admissible. He did not take into consideration that the applicant's pay was reduced to a lower stage than their juniors for their no fault and and they were put to recurring loss against principles of natural justice. True copies of the orders dated 21.3.89 and 9.6.88 are Annexures A-4 A-4(A) and A-5 .

ix) That the applicants submitted representations to the Director General, P&T New Delhi and also took up the matter through the Union by their representations dated 11.10.88, 7.2.89 and 6.5.88 to which no reply was received by the applicants. True copies of representations dated 11.10.88, 7.2.89 and 6.5.88 are annexed as Annexures no. A-6, A-7 and A-8.

x) That the just and genuine request of the applicants was not given favourable consideration and not acceded to and it was turned down by the respondent no. 3 on the plea that the grant of special pay is subject to work on the identified seat of discreditable duties and responsibilities of complex nature, that it is not a promotional cadre and proforma promotion certificate is not admissible. No reply was however received from the respondent no. 2. The applicants therefore, sent registered A/D notices dated 24.7.89 to the respondents through their Counsel seeking justice in the matter. A true copy of this notice dated 24.7.89 is Annexure-9.

xi) That after much pursuances the decision of the respondent no. 2 was received vide Chief PMG UP Circle letter no. STA/A-69/Spl. pay/3 dated 22.8.89

1-Comdant 2-Deputy Comdant 3-Deputy Comdant

which is a cryptic and non-speaking order. The respondents have arbitrarily, maliciously and prejudicially rejected the claim of the applicants to be placed at par with their juniors and to allow them the benefits which were extended to and enjoyed by the junior officials. The applicants cannot be penalised for no lapse or fault on their part and they cannot be humiliated by giving less pay than their juniors. A true copy of the decision received from the respondent no. 2 through respondent no. 3 is Annexure A-10.

xii) That the applicants feel insulted and humiliated being placed at a lower stage in pay on promotion to LSG cadre and it is against all norms of justice that a senior official be disallowed the concession extended to his junior so as to put him to loss and mental strain. The applicants had all along been senior and getting more pay and it would be against all canons of justice and against rule that they should be given less pay on promotion. Allowing less pay than junior is a sort of punishment which cannot be done without valid and cogent reasons.

xiii) That the applicants feel aggrieved by the orders passed by the respondents no. 2 & 3, which are unjust, arbitrary, malicious and prejudicial.

xiv) That the applicants have now no alternative left, except to file this application before this Hon'ble Tribunal for redressal of their grievances.

5. Grounds for relief with legal provisions :

i) Because a senior official cannot be given

1-Comm 1) 2-Mandobhar 3-Segdish Lok

- 7 -

less pay than his junior in normal and similar circumstances.

ii) Because the applicants were deputed -to work on ex-cadre posts of higher scale and responsibilities as DO PLI and but for their deputation in the interest of service, they would have been appointed on the identified posts carrying special pay from the date their juniors were appointed.

iii) Because the applicants were never given option to work on the identified posts nor warned they would suffer permanently if they refused to work on the identified posts.

iv) Because it is against the principles of natural justice that a junior official getting equal or less pay in a cadre may get higher pay in a higher grade on promotion.

v) Because the applicants being permanent incumbents in Upper Division cadre are entitled to have their pay and other benefits protected while on deputation to ex-cadre post of DO, PLI and they cannot be denied the benefits which they would have otherwise drawn, had they not been deputed to ex-cadre posts of higher scale and responsibility.

vi) That it would be anomalous that the applicants be allowed to get less pay than their juniors.

#### 6. Details of the remedies exhausted :

The applicants took up the matter and submitted representations to the Authorities and also through recognised union as detailed below :

1- Enquiry 2- Mandates 3- Appeal

- a) Representation dated 10.12.87 to the Chief PMG UP Annexure A-1.
- b) Representation dated 2.1.88 to the Chief Post Master General, UP Annexure A-2.
- c) Representation dated 28.4.88 to the Chief Postmaster General, UP Annexure-3.
- d) Representation dated 11.10.88 to the Director General ~~/XXM.~~, Annexure A-6. /P&T
- e) Representation dated 7.2.89 to the Director General, P&T, Annexure-7.
- f) Representation dated 6.5.88 through Union Annexure A-8.
- g) Notice dated 24.7.89, Annexure A-9.

The representation was rejected by respondent no. 3 vide letter dated 21.3.88 and 9.6.88 and finally rejected by respondent no. 2 vide letter dated Annexures A-4, A-5 and A-10.

7. Matters not previously filed or pending with any other Court :

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which, this application has been made, before any Court or any other authority or any other Bench of the Tribunal, nor any such application, writ petition or suit is pending before any of them.

8. Relief(s) sought :

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

- i) That the respondents be commanded to treat the applicants to have been appointed to

1- *Comq 10* 2- *Mandobdhar* 3- *Jagjit Lal*

the identified posts of Upper Division Clerks from the dates from which their next junior officials were appointed and fix their pay accordingly on their appointment to the LSG cadre, as the applicants cannot draw less pay than their juniors for no fault on their part.

ii) That the arrears of pay and allowances in consequence of above be ordered to be paid to the applicants with interest at 12% per annum.

iii) That the cost of the case be allowed in favour of the applicant as against the respondents.

iv) That any other relief deemed just and proper in the circumstances of the case be allowed in favour of the applicants.

9. Interim order, if any prayed for :

No interim order is prayed for. It is however, requested that to mitigate the hardship and humiliation caused to the applicants the case be decided expeditiously.

10. The applicant is personally through the applicants' counsel.

11. Particulars of the Postal Order filed in respect of the application fee :

- a) Name of issuing Post Office : Lal bagh (Lucknow GPO)
- b) Number of the Postal order : 8- 02 428 453
- c) Date of issue : 24-1.90
- d) Post Office at which payable : Meerut 878

12. List of enclosures :

Annexures A-1 to A-8 as detailed in the Index.

VERIFICATION

We, Jaman Ram, Maudood Khan and Jagdish Lal

1- (Signature) 2- Maudood Khan 3- Jagdish Lal

- 10 -

s/o Late Shri Harmal Ram, Shri Mahmood Khap, and  
Shri B.Lal, aged about 50, 55 and 47 years working  
in LSG Grade in Postmaster General's Office, r/o  
House No. 130, 6th lane Nishatganj, Lucknow; 69  
Sarvodaya Nagar, Lucknow and C-47/1 Paper Mill Colony,  
Nishatganj, Lucknow, respectively do hereby verify  
that the contents of paras 1 to 4, 6 to 7, & 10 to 12 are  
true to our knowledge and those of paras 5, 8 & 9  
are believed to be true on legal advice and we have  
not suppressed any material fact/s.

M. Dubeey  
Adv.

1. Emra 107

2. Mahmood Khap

3. Fazil ul

Signature of applicants

Dated : 23-1.1990

Place : LUCKNOW

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW

Jaman Ram & Others vs. Union of India & Others

ANNEXURE A-4

SECRETARY/DEPARTMENT OF POSTS INDIA  
Secretary/Office of the

Shri Jaman Ram  
SS PLI A  
CO, Lucknow

DO STA/A-69/SP2 pay/3 LW 21-3-88

Sub: - Issue of Proforma Certificate  
for SPL pay to

Ref: - Your representation dated 10/2/88

Grant of special pay is not a  
promotional post. It is not  
admissible.

Recd  
23-3-88  
Jm

(L. N. Kapoor)

P. G. Ah., - 255 Posts, 36-15-9-86-10,00,000 Pads,

Attested  
True copy  
M. Dulkar  
DM

Shri Jaman Ram  
Mandoo Jham  
Jagdish Lal



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW

Jaman Ram & Others vs. Union of India & Others

ANNEXURE A-4(A)

(12)

A21

8/11/77

(12)

8/11/77

(11)

SECRETARY TO THE GOVERNMENT OF POSTS (HOD)

Secretary/Office of the

The Addl Post-Has to be issued  
Kampur 208001.

801

NO STA/A-69/Spl pay/3 LW 21-3-88

Sub: Issue of Proforma promotion  
Certificate in Spl pay. - Case of  
En. Jagdish Lal SS

Ref: - Your No AC/gaul/88 dtd 4<sup>2</sup>/88

Proforma promotion certificate for  
Spl pay is not admissible.  
The official may kindly  
be informed accordingly.

V. N. K. (Signature)

I.G.P.Ah.-255 Pcsu/86-15-9-85-10,00,000 Pds.

6/11/77  
Mandobhan  
Jagdish Lal

Noted  
True copy  
M. D. D. (Signature)  
M.D.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ,  
CIRCUIT BENCH, LUCKNOW

(13)

Arv

Jaman Ram & Others vs. Union of India & Others

ANNEXURE A-5

कोर्र-7/Corr.-7

भारतीय डाक विभाग/DEPARTMENT OF POSTS INDIA

कार्यालय/Office of the

Office of Postmaster General  
Uttar Pradesh Circle

Sri Jaman Ram  
SS PI A.  
CO, Lucknow.

No STA/A-69/Spe pay/3 Lw 9-6-88

Sub:- proforma promotion Certificate  
for spe pay.

Ref:- your representations dtd 28/4/88  
and 8/6/88.

Grant of special pay is subject to  
work on the identified list of  
discreetible duties and responsibilities  
of complex nature. It is not a  
promotional cadre. Proforma  
promotion certificate is not  
admissible.

MG/PA-25 (FOR POSTMASTER GENERAL)  
U. P. CIRCLE

10/11/88  
Mandoo Chandra  
Sagder Lal

All encl  
True copy  
M. Dutt  
ADW

14  
A23  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ,  
CIRCUIT BENCH, LUCKNOW

Jaman Ram & Others vs. Union of India & Others  
ANNEXURE A- 16

DEPARTMENT OF POSTS INDIA

From,

The Chief Postmaster General  
U.P. Circle Lucknow-226001

To

Shri Jaman Ram  
Section Supervisor (PLI)  
Circle Office, Lucknow

No. STA/A-69/Spl Pay/3

Dated 22.8.89

Sub. Grant of Special pay.

Ref. Your representation addressed to D.G. Posts, New Delhi.

Your representation has been considered carefully  
by the Director General (Posts) New Delhi and the same has  
been rejected.

sd-  
( V.N. Kapoor )

APMS (Staff)  
For Chief P.M.G.U.P. Circle  
Lucknow.

Copy to-

1. Shri Maudood Khan 20% LS G DDC, C.O. Lucknow.
2. Shri Jagdish Lal S. S. Est 'A' C.O. Lucknow.

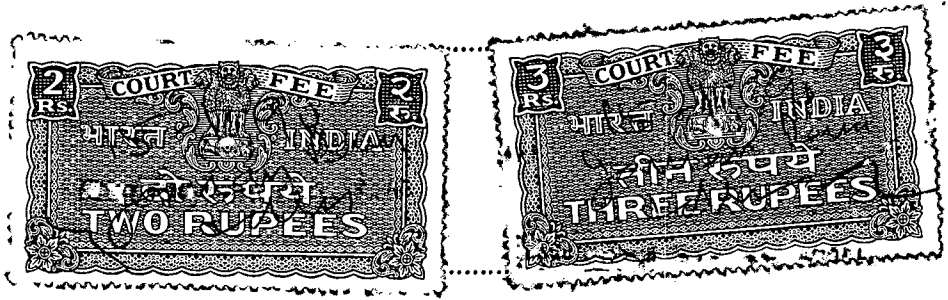
For Chief P.M. G.U.P.  
Circle, Lucknow.

*Maudood Khan*  
Jagdish Lal

Attested  
True & My  
M. Dubeey  
Adv

ब अदालत श्रीमान् C. A. T, Circuit Bench, Mehar  
[वादी अपीलान्त] महोदय  
श्री Jaman Ram & his others का बकालतनामा  
प्रतिवादी [रेस्पाडेन्ट]

174



Jaman Ram and others बनाम Uogdhis प्रतिवादी (रेस्पाडेन्ट)

न० मुकद्दमा सन् 1990 पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री B. Solomon Advocate

and Shri M. Dubey वकील महोदय  
एडवोकेट

नाम अदालत  
मुकद्दमा नं०  
नाम फरीकन

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

1- Jaman Ram & others  
2- B. Solomon Advocate  
3- Shri M. Dubey Advocate  
हस्ताक्षर (JACDISH LAL)

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 15 महीना सन् १९९० ई०

स्वीकृत

B. Solomon  
Adv.

(2) M. Dubey  
Adv.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW

Jaman Ram & Others vs. Union of India & Others

ANNEXURE A-1

A25

To,

The Post Master General,  
U.P. Circle, Lucknow-226001.

Sub:-

Issue of pro-forma promotion certificate  
in 10% U.D.C. Cadre.

Respected Sir,

I was appointed as D.O.(PLI) (Tenure post)  
in the month of Nov'1982 and worked as D.O.(PLI) upto 10.6.86.

2) During that period certain juniors to me  
were promoted and appointed as 10% U.D.C. in Circle Office, but  
my case was not considered and I have not received any orders  
in this regard.

3) I have been directly promoted in LSG  
(Supervisory Cadre) vide Circle office Memo.No.STA/43-XA/3  
dt.30.5.86 and I am working in this cadre since 23.6.86.

4) It may be stated that I would have worked as  
10% U.D.C. Circle office, but for my appointment as D.O(PLI)  
Incidentally it may be stated that no option was obtained  
from me, at the time, when my promotion to 10% U.D.C., Circle  
office was due.

(5) You are therefore requested to kindly  
issue pro-forma promotion certificate in 10% U.D.C.cadre  
in my favour, so that I may get the benefit of special pay  
in fixation of my pay in U.D.C. 10% to L.S.G. Cadre, as my  
pay was fixed from U.D.C. Cadre to L.S.G. Cadre.

An early action is requested.

Yours faithfully,

Dated: 10.12.87

(JAMAN RAM)

Section Supervisor,  
PLI 'A' Section,  
O/O the Postmaster General,  
U.P. Circle, Lucknow-226001.

Misled me by  
M. Dukhan  
NW

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ,  
CIRCUIT BENCH, LUCKNOW

(16)

Jaman Ram & Others vs. Union of India & Others

ANNEXURE A-2

P26

TO

The Postmaster General  
U.P. Circle Lucknow-226001.

THROUGH : ADDL. POSTMASTER GENERAL KANPUR

Sub : Issue of proforma promotion certificate in 10% UDC  
cadre.

Respected Sir,

I was appointed as Development Officer (PLI)  
(Tenure Post) in the month of Oct. 1982 and worked as  
D.O. (PLI) upto 28.09.1987.

2. During that period certain junior to me were  
promoted and appointed as 10% UDC in circle Office, but  
my case was not considered and I have not received my  
orders in this regard.

3. I have been promoted in 20% LSG vide Circle Office  
Memo No. STA/43-XA/87/3 dated 24.9.87 and transferred  
Kanpur as LSG Section Supervisor Kanpur vide C.O. Memo  
No. STA/43-XA/87/3 dated the 19.10.1987. I am working  
in this cadre since 02.11.1987.

4. It may be stated that I would have worked as 10%  
UDC Cadre, but for my appointment as D.O.(PLI), I  
would have got the benefit of special pay.

Incidentally it may be stated that no option was  
obtained from me at the time when my promotion to 10 %  
UDC C.O. was due.

5. You are therefore, requested to kindly issue Proforma  
promotion certificate in 10 % UDC cadre in my favour so that  
I may get the benefit of special pay in fixation of my pay  
in UDC 10% to LSG Cadre as my pay was fixed from UDC cadre  
to LSG cadre.

An early action is requested.

Yours Faithfully,

(JAGDISH LAL) 2/11/88

Section Supervisor

% Addl. PMG U.P. Kanpur-

*Agdillal*  
*Attested True copy*  
*M. Dubey*

A 27.

ANNEXURE A-3

Copy to Sri M.Khan. Circle Secy.A.I.PA. O.E.U. O/O PNG Lw, for M/A.

(18)  
A2D

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW

Jaman Ram & Others vs. Union of India & Others

ANNEXURE A-6

To,

The Director General (Posts)  
Dak Bhawan  
New Delhi-110 001.

THROUGH - PROPER CHANNEL

Subject : Case of non-posting on allowed post carrying special allowance of Rs.35/-P.M. and non-issue of certificate under "Next below rules" for fixation of pay.

Respected Sir,

The following facts are brought to your kind notice and favourable orders :-

- (1) That criterion for posting on allowed post in PMG's Office, Lucknow is the seniority cum fitness in the U.D.C. Cadre.
- (2) The applicant was pretty senior UDC and was working as Development Officer (PLI) during the period from Oct. 1982 to May 1986.
- (3) That during this period my juniors were posted against the above allowed posts carrying a special pay of Rs.35/-P.M. But unfortunately the applicant was not given a chance to work against these posts though I was working against a tenure post, not a promotional post.
- (4) That though the applicant was not given a chance to work against the above allowed post, he was promoted as Section Supervisor in the scale of Rs.1400-2300 vide Circle Office Memo No. STA/43-XA/85/3 dated 5.6.86 before completion of my tenure of Development Officer (PLI). The applicant joined as Section Supervisor on 23.6.1986 in compliance of these orders.
- (5) That on my joining as Section Supervisor I found that my juniors who did not work as Development Officer and promoted as Section Supervisor after me were getting higher pay than me due to the facts that they were first appointed against the allowed post of Rs.35/- P.M. and then promoted as Section Supervisor whereas the applicant was not given a chance to work against those allowed posts. I could not understand the circumstances under which my claim to work against the allowed post was not considered by the Circle Office.
- (6) That on receipt of Directorate O.M. No. 7(35).E-III/87 dated 1.9.87 allowing the special pay for fixation of pay in the higher post, the applicant applied to the PMG, U.P. to favour with a proforma promotion certificate against 10% UDC with special pay of Rs.35/- PM to enable me to take the special pay of Rs.35/- PM in fixation of my pay in the Section Supervisor Cadre.
- (7) That the PMG, U.P. under their Lr. No. STA/A-69/Spl/Pay/3 dated 9.6.88 (copy enclosed for ready reference) has stated that the issue of proforma promotion certificate for special pay can not be issued due to the facts that applicant actually did not work against those posts.

Contd.2...



(8) That my humble submission is that I was not ordered to work against such post and as such was deprived from the benefit taking the special pay of Rs.35/- PM in fixation of my pay in higher post. This has resulted in the anomaly that my juniors are getting higher pay than me without any fault of mine.

(9) That in the circumstances stated above the applicant may kindly be got issued a proforma promotion certificate under "Next below rules", so that I may be saved from the recurring loss due to reduction in my pay.

I shall remain ever grateful for this act of kind consideration.

Yours faithfully,

Dated 11-10-1988

Recd  
11/10/88

(JAMAN RAM)  
SECTION SUPERVISOR  
PLI 'A' SECTION  
The PWC, U.P. CIRCLE,  
LUCKNOW-226001.

Advance copy to the Director General(Posts), New Delhi-110 001 for information & necessary action.

(JAMAN RAM)

Attested  
True & my  
M. Dulant  
ADP

(20)  
A30

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ,  
CIRCUIT BENCH, LUCKNOW

Jaman Ram & Others vs. Union of India & Others

ANNEXURE A-7

To,

The Director-General,  
Department of Posts,  
Dak Bhawan,  
NEW DELHI- 110001.

Through:- PROPER CHANNEL

Dt Lucknow - 7-2-1989

Sub:- CASE OF NON POSTING IN ALLOWANCED POST CARRYING  
SPECIAL ALLOWANCE OF RS.70.00 P.M. AND NON ISSUE  
OF CERTIFICATE UNDER "NEXT BELOW RULES" FOR  
FIXATION OF PAY.

RESPECTED SIR,

The following facts are brought to your kind notice  
and favorable orders:-

1. That criteria for posting in allowed post in P.M.G. Office Lucknow is seniority cum-fitness in the U.D.C. cadre.
2. That I was pretty senior U.D.C. and was working as Development Officer (PLI) during the period from Oct. 1982 to 28 Sept 1987.
3. That during this period my juniors were posted against 10% allowed post carrying a special pay of Rs. 70/- P.M. but unfortunately I was not given chance to work against this promotional post while I was working in tenure post (not a promotional post).
4. That though I was not given a chance to work against above allowed post. I was promoted to 20% LSG in the scale of Rs. 1400 to 2300 vide Circle Office Memo No. STA/43-AA/87/3 dated 24-9-87.
5. That I found my juniors promoted to 20% LSG were getting higher pay due to the fact that they were first promoted to allowed post Rs. Rs. 70/- and then promoted to 20% LSG where as I was not given a chance to work against 10% allowance post. The circumstances under which I was not promoted to 10% allowed post is not known to me.
6. That I had applied to the P.M.G. U.P. to issue me a proforma promotion certificate against 10% U.D.C. cadre to enable me to save from the loss in my pay fixation under Directorate O.M. No. 7(35) E-III/87 dated 1-9-87 but it was refused vide his letter No. STA/A-69/Spl-Pay/3 dated 21-3-88 (copy inst. enclosed).

It is, therefore, I further request that under circumstances stated above. A proforma certificate under Next below Rules may kindly be issued to me to save me from recurring loss caused without any fault of the applicant.

Yours faithfully

(Jagdish Lal) <sup>7/2</sup>  
Section Supervisor  
Bt. A  
O/o the P.M.G., U.P. Cir  
LUCKNOW- 226001.

Received

ASMAK

7-2-89

Forwided

Alister  
me by  
M. Duley  
Doh

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ,  
CIRCUIT BENCH, LUCKNOW

21

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Jaman Ram & Others vs. Union of India & Others

ANNEXURE A- 8

Union/Pay Fixation/83

6-5-1988.

Comrade L.A. Prasad,  
Genl. Secy. (AIPADEU), CHS,  
C-1/2 Baird Road,  
New Delhi.

Sub:- Inclusion of Spl. Allowance Rs. 70/- in pay fixation of the  
Officials who are not covered under Min. of Fin. OM No.  
7(35)/E-III/87 dtd. 1-9-1987.

Dear Comrade,

.....

Kindly refer to para 3-a & b of my letter No. Nil  
dtd. 4-2-1988 drawing your kind attention in the cases of such  
officials who were neglected in getting the benefit of Spl.  
Allowance Rs. 70/- in the pay fixation. You are requested to  
keep Spl. watch in r/o following cases.

(a) The officials promoted in LSG cadre prior to 1-9-85 will  
be in financial loss in comparison to their Juniors after their  
pay fixation as Spl. Allowance of Rs. 70/- will be taken into  
account only in the cases of those officials who were promoted  
after 1-9-1985.

(b) The DOS PLI who were promoted in LSG cadre without availing  
any chance to work on Spl. allowance posts in 10% were also negle-  
cted to get the benefit of Spl. Allowance Rs. 70/- in their pay  
fixation after promotion due to the fault of the office giving  
no chance to them to work on such allowance posts while the  
juniors were posted violating the Rules.

I, therefore, request you kindly to take up above two  
cases through your good offices to save such officials from  
financial loss. A line in reply will be highly appreciated.

With best regards,

Your sincerely,

*M. J. Khan*

(MAUDOOD KHAN)

CIRCLE SECRETARY,

68, Sarvoday Nagar, Lucknow.

*Noted  
me  
M. J. Khan  
Adv*

*Maudood Khan*

Jaman Ram & Others vs. Union of India & Others

ANNEXURE A- 9

A32

NOTICE REGISTERED A.D.

From :

1. Shri Jaman Ram, aged about 50 years s/o Late Shri Harmal Ram, Section Supervisor PMG's Office, Lucknow and r/o House No. 130, 6th Lane, Nishatganj, Lucknow. 226 CC7.
2. Shri Jagdish Lal aged about 47 years, s/o Late Shri B. Lal, Section Supervisor, PMG's Office, Lucknow and r/o C-47/1 Paper Mill Colony, Nishatganj, Lucknow - 226 CC6.
3. Shri Mahmood Khan aged about 55 years, s/o Shri Mahmood Khan, 20% LSG PMG's Office Lucknow and r/o 68 Sarvodaya Nagar, Lucknow 226 016.

Through :

Shri M. Dubey, Advocate  
4th Lane, Nawaiya Ganeshganj,  
Lucknow - 226 018 (Telephone 45021)

To :

1. The Secretary to the Ministry of Communication  
Department of Posts  
Government of India  
NEW DELHI - 110 001
2. The Director General  
Department of Posts  
Dak Bhawan  
NEW DELHI - 110 001
3. The Chief Post Master General  
U.P. Circle  
LUCKNOW - 226 001

Dear Sir

Under instructions of my clients S/s Jaman Ram, Jagdish Lal and Mahmood Khan above named, I have to state as under :-

1. That my clients are the permanent Upper Division Clerks in the office of the Chief Post Master General, U.P. Circle, Lucknow, addressee no. 2 and they have put in a number of years of unblemished service in the Postal Department without any complaint or adverse comment whatsoever.
2. That my clients were selected and appointed to work on ex-cadre and tenure post of Development Officer, PLI in the year 1982 and Shri Jaman Ram worked as such till 10.6.86, Shri Jagdish Lal till 28.9.87 and Shri Mahmood Khan till July 1988. Their work as D.O. PLI was commendable.
3. That while my said clients were working as D.O. PLI certain identified posts carrying special pay in the Upper Division Cadre fell vacant and my clients on the basis of seniority and fitness were eligible and entitled to be appointed to these posts, which carried a special of Rs. 35/- initially and Rs. 70/- w.e.f. 1.1.86. These posts were identified as carrying duties and responsibilities of a complex nature higher than those normally expected of Upper Division Clerks and were to be filled in on the seniority cum fitness basis.
4. That all my clients in view of their seniority and fitness were entitled to be appointed to these identified posts carrying special pay of Rs. 35/- Rs. 70/- per month, but their cases were ignored and they were not appointed to these posts, apparently for the reasons that they were

appointed to perform still higher responsibility as D.O. PLI, in the interest of the Government work.

5. That all my aforesaid three clients were never considered and offered the appointment against 10% identified Upper Division Clerks posts carrying special pay of Rs. 35/70 per month, while their juniors were appointed in violation of their claims.

6. That my said clients were subsequently appointed to the Lower Selection Grade (Section Supervisor) on 23.6.86, 20% LSG by order dated 24.9.87 and in July, 1988 respectively.

7. That on being appointed to the LSG and 20% LSG in the scale of Rs. 1400/2300, my clients were surprised to know that their pay has been fixed at a much lower level than their juniors and they were made to suffer a recurring financial loss without any fault on their part.

8. That my clients represented to the addressees no. 2 & 3 that a proforma certificate that they would have been appointed and worked in the identified posts of upper Division Clerks from the dates from which their juniors were appointed, had they not been deputed to work in the tenure post of the D.O. PLI, be issued and their pay fixed accordingly so that they may not get in any case less than their juniors. But their just and genuine prayer has been turned out by the addressee no. 3, on the plea that the grant of special pay is subject to work on the identified seat discreditable duties and responsibilities of complex nature. It is not a promotional cadre. Proforma promotion certificate is not admissible. No reply has however, been received from addressee no. 2 by my clients.

9. That the plea and contention taken by the addressee no. 3 is wrong, prejudicial and unjust. No consideration has been made of the fact that their juniors to my clients have been allowed higher pay in LSG and 20% LSG and my clients who have all along been senior cannot be financially punished to accept a lesser pay than their juniors. This has resulted because my clients were not offered appointment in the 10% identified post of Upper Division Clerks in consideration of their seniority and fitness while they were deputed to work on a still more important, responsible and arduous tenure of D.O. PLI; and the benefits of special pay of Rs. 35/70 per month has not been allowed in their cases. It would be against all canons of justice to deprive my client of their legitimate claim and to render them to a financial loss by way of allowing them lesser pay than their juniors.

10. That my clients before knocking the doors of justice feel it their duty to request you once again to consider their cases sympathetically with a view to fix their pay in such a way that they may not get less than their immediate juniors in the LSG or 20% LSG on their promotion and may not get frustration after putting in a long, unblemished, devoted and commendable service at their credit.

I, therefore, serve this notice on you, on behalf of my clients, with the request that such action as deemed just and proper, in the facts and circumstances of the case, be taken after due and sympathetic consideration, to save my clients from degradation in pay, and humiliation by giving them lesser pay than their juniors, on their promotion to LSG and 20% LSG. The natural

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justice demands that the officials who have all along been senior should not get less pay on promotion than their juniors. The anomalous position caused in my client's cases can be saved by proforma fixation of pay after giving them benefit of 10% identified post and the special pay attached to it, on the day of their promotion to the LSG and 20% LSG. Your just and judicious consideration of the case would save my clients of the unnecessary expenses in seeking legal remedy and the department would also be saved of unwanted expenditure.

In case you fail to remedy the grievance of my clients within one month of the receipt of this notice, my clients will be left with no alternative except to seek legal remedy at your cost and responsibility.

Yours faithfully

*(Signature)*  
(M. Dubey)  
Advocate

Lucknow

Dated : July 24, 1989.

*Attested  
True & My  
M. Dubey  
Adv*

ABS



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•• Applicant

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3. That before giving previous comments it is pertinent to give the brief history of the case as detailed below:

(a) That the applicant presently a Section Supervisor of the Circle office was selected and posted as D7 FLI while he was working as UDC. The post of D7 FLI is a tenure post and carried pay of LSG Cadre pay Rs. 425-640 while Shri Jagan Rao was working D7 FLI same posts in LSG cadre fell vacant and as a result of this special pay posts also fell vacant. Since the applicant was working on higher and much beneficial post the officials junior to him were posted on special pay posts carrying special pay of Rs. 39/- in provided scale.

(b) That while working as D7 FLI the applicant did not represent for his posting on special pay post and continued to work as D7 FLI. After completion of D7 FLI's tenure he was posted in LSG cadre in C. 7. against a ST point remaining unadjusted for last three years. In this way he got early promotion in LSG cadre than those who entered in LSG cadre after working on special pay posts.



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(c) That after joining in L3 cadre the applicant represented for promotion for taking benefit of Rs. 33/- (pro-revised scale) as special pay towards pay fixation in L3 cadre, which was not advisable on the ground that posting on special pay posts is not a promotional cadre and was simultaneously rejected. A copy of guiding principles applicable in posting of officials (UPC) on identified posts carrying special pay is annex being filed herewith as Annexure -C.1 to this counter affidavit.

4. That the contents of para 1 to 4 3 of the applicant are need no comments.

5. That the contents of para 4(i) of the application are not disputed.

6. That in reply to the contents of para 4(ii) of the application it is submitted that the applicant was selected for the post of DA I.I in applying and passing of a test/interview prescribed for the post in the year 1982 and worked on the post till 10.6.1986.

7. That in reply to the contents of para 4(iii) and (iv) of the application it is submitted that an official selected for the post of DA I.I is entitled to draw the pay of L3 in the scale of Rs. 425-640

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in the pre-revised scale which was revised to Rs. 1400-2200 with effect from 1.1.1973 for tenure of 5 years. Their service is regulated as per terms and conditions applicable to the post and are required to perform the duties assigned to the post. There is, however no dispute about the UDCs identified posts carrying special pay.

But since the applicant was working on higher post (tenure basis) he had no claim over the special pay post.

7. That the contents of para 4(v) of the application are not admitted and in reply it is submitted that in the mid of tenure departmental rules do not permit to revert any D7 FLI for appointment in a post carrying special pay (lower post) as such official could not be considered in lower scale of pay as he was drawing the benefit of higher scale. Moreover, it was open to him to seek reversion from the post of D7 FLI if he wanted to avail the benefit of special pay (lower post).

8. That the contents of para 4(vi) of the application are ~~uncontested~~ not disputed.

9. That the contents of para 4(vii) of the

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application are incorrect as stated, hence denied and in reply it is submitted that the pay fixation was done keeping in view, the pay drawn by the applicant, the rules applicable at the time of fixation etc. same facts were applied to others as well whose cases have been cited.

10. That the contents of para 4(viii) of the application are incorrect as stated, hence denied and in reply it is submitted that since special pay post is not reserved for seniors above there is no question of preference promotion of the junior. Grant of special pay is subject to work in identified post which was not availed of the instant case by the applicant.

11. That at the time of making arrangements for special pay post the applicant while working in the post of D7 ELI has drawn benefits of higher scale during his tenure of 5 years. In this way no injustice has been done to him. Moreover, when the applicant (an UC candidate) completed his tenure and returned to join in clerical cadre in Scheduled Fifth point lying unadjusted since 1962 was adjusted by converting into UC as per rules and this converted point was adjusted by his promotion in

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LSC cadre. Had he not been posted in LSC cadre on return, it would have been against the principle of natural justice and also against the departmental rules applicable for C/Sr. As such there was no reason to post him on an identified post carrying special pay which was a off lower post than LSC.

12. That the contents of para 4(ii) of the application it is submitted that the representations made over made by the applicant were considered carefully by the competent authorities to whom the representations were addressed and suitable replies were also given to him in due course. The photocopies of replies given to the applicant are being filed herewith as Annexure No. C-2 & C-3 to the affidavit, respectively.

13. That the content of para 4(iii) of the application are partially admitted. It is further submitted that whatever action taken by the Department was within the purview of departmental rules. As for as reply of Paragraph no. 2 (Director General, Posts) is concerned the same was given to him on 22.0.1969. A copy of the said letter is being filed herewith as Annexure C-4 to this affidavit.

14. That the contents of para 4(iv) of the

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10. That in reply to the contents of para 3(2) of the application it is submitted that the applicant was selected for the post of DPTI equivalent to LEO in the scale of Rs. 1450-2700 on applying and qualifying.

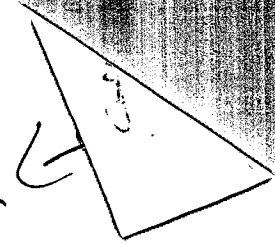
11. That in reply to the contents of para 4(2) of the application it is submitted that the post of DPTI is a tenure post of 5 years.

20. That in reply to the contents of para 5(3) of the application it is submitted that the arrangement on special pay post was made in the mid of tenure and as the petitioner was working in a higher post he was not considered.

21. That in reply to the contents of para 5(4) of the application it is submitted that the grant of special pay is subject to work in the post of special pay which carried discernible duties and responsibilities of complex nature. The applicant has never worked in the identified post of LEO carrying special pay as he worked in higher scale.

22. That in reply to the contents of para 5(5) of the application it is submitted that even after posting of a junior official on special pay post the

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The applicant did not represented for his promotion against identified post carrying special pay and continued to work as D.I. getting benefit of higher scale till completion of his tenure.

23. That in reply to the contents of para 5(6) of the application it is submitted that the special pay scale is not a promotional award and the seniority is not only the criterion for selection on the above posts but fitness is equally required.

24. That in reply to the contents of para 5(7) of the application it is submitted that in case the applicant was interested for special pay post he could have claimed sought reversion soon after his junior was posted to this post.

25. That in reply to the contents of para 5(8) of the application it is submitted that the applicant belongs to SC category and as such the adjustment of SC/T posts was made on principle of natural justice.

26. That the grounds taken by the applicant are not tenable in the eyes of law and reliefs sought by the applicant are not entitled to get any reliefs in view of the facts stated above.

27. That in view of the facts, and as stated above, the application filed by the applicant is liable to be dismissed with costs to the opposite parties.

Dependent.

Lucknow,

Dated: Feb. 1990.

Verification.

I, the above named dependent do hereby verify that the contents of para 182 of the affidavit are true to my personal knowledge, those of paragraphs 3 to 25 of the affidavit are believed to be true on the basis of information gathered and office records and those of paragraphs 26 to 27 are believed to be true on the basis of legal advice. No part of this affidavit is false and nothing material fact has been concealed.

Dependent.

Lucknow,

Dated: Feb. 1991.

I identified the dependent who has signed before me and is also personally known to me.

(VK Choudhary)  
Addl. Standing Counsel for Central Govt  
(Counsel for the 'Opp. parties).

INDIAN POSTS AND TELEGRAPHS DEPARTMENT  
OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS

NEW DELHI-110001.

No.56-7/84-SPB-I

Dated the 12 th February, 1985.

13 FEB 1985

The Postmaster General,  
U.P.Circle  
Lucknow.

226001

ANNEXURE - C-1

Subject:- Grant of special pay of Rs.35/-P.M. to the officials working in UDC cadre in the Non-Secretariat Administrative Offices-Clarification regarding.

Sir,

I am directed to refer to your letter No.STA/A-69/Sp1 par/83/3 dated the 21st of December, 1983 on the subject mentioned above and to say that since the Ministry of Finance in their earlier Office Memo.F-7(52)-E.III/78 dated the 5th of May, 1979 had not stated anything as to what criteria was to be observed in selection of officials for manning SG posts identified as carrying discernible duties, a clarification was issued by this office in our letter No. 51-21/79-SPB-I dated the 30th of August, 1979 for filling up the same on seniority-cum-fitness basis. Now that Ministry of Finance have issued fresh guidelines in their O.M.No.F-7(52)-E.III/78 dated the 29th of November, 1982 that guiding principle for filling up the SG posts will be the suitability of the official and not seniority necessarily, the provisions contained therein may be followed as orders issued by this office stand superseded. However, while assessing suitability, the claims of the senior officials should be given due consideration and overlooked only in cases where a particular senior official is not found suitable to discharge the duties of the post identified as carrying discernible duties, by the Controlling Authority. Since Selection Grade is not a regular cadre and orders clearly state that only those officials who are found suitable should be posted against those post and for promotion to LSG, UDC is the feeding cadre and promotion to LSG is made on the basis of seniority-cum-fitness, the above orders will not in any way dilute the seniority of the officials in the feeding cadre. Hence merely because a senior UDC could not be selected for manning an SG, UDC post his claim for promotion to LSG on the basis of seniority-cum-fitness not be ignored. In other words, seniority in the cadre of LSG and claims of senior officials for promotion to LSG cannot be ignored unless they are found not fit.

2. As regards a clarification sought for on the point whether an official against whom a disciplinary case under Rule 14 of CCS(CCA) Rules, 1965 is pending can be considered for induction in SG, UDC, this aspect is separately under consideration.

3. You are, meanwhile requested to furnish to this office, a copy of this office letter No.5231-SPB/83 dated 25.5.83, quoted therein to facilitate early decision on this aspect.

Yours faithfully,

*(Signature)*

(K.L.SHARMA)  
ASSTT.DIRECTOR GENERAL (SPN)

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भारतीय डाक विभाग/DEPARTMENT OF POSTS INDIA

(49)

कार्यालय/Office of the

Shri Jaman Ram  
 - SS PLI A  
 Co, Lucknow

NO STA/A-69/spl pay/3 LW 21-3-88

Sub: - Issue of proforma Certificate  
 for spl pay to

Ref: - your representation dtd 10<sup>12</sup>/8

Grant of special pay is not a  
 promotional post. It is not  
 admissible.

(V. K. Kapoor)

# ANNEXURE C-3

Sub

कोर०-७/Corr.-7

भारतीय डाक विभाग/DEPARTMENT OF POSTS INDIA

कार्यालय/Office of the

Office of Postmaster General  
Uttar Pradesh Circle

Shri Jagan Ram  
SS PLI A.

CO, Lucknow

No STA/A-69/SPE pay/3 Lw 9-6-88

Sub:- proforma promotion certificate  
for SPE pay.

Ref:- your representation dtd 28/4/88  
and 8/6/88.

Grant of special pay is subject to  
work on two identified set of  
discreetible duties and responsibilities  
of complex nature. It is not a  
promotional cadre. Proforma  
promotion certificate is not  
admissible.

MG/PA-22 For (SPE pay) (SPE pay)  
U. P. CIRCLE

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,  
CIRCUIT BENCH, LUCKNOW

O.A. No. 26 of 1990(L)

Janam Ram ... Applicant

Versus

Union of India and others ... Respondents

Fixed for 4.2.1993

REJOINDER TO THE COUNTER

I, Jaman Ram, aged about 53 years, son of late Shri Harmal Ram, Section Supervisor, P.M.G's Office, Lucknow and resident of House No. 120, 6th lane, Nisharganj, Lucknow, do hereby state on oath as under :-

1. That the deponent is the applicant in the above noted case and is well conversant with the facts deposed to in this rejoinder. The deponent has read the counter, understood its contents fully and is replying to the same.
2. That in reply to the contents of para 1 of the counter, it is stated that no authorisation letter has been filed in favour of Shri R.B. Pandey as required under rule 12 of the C.A.T. (procedure) Rules 1987. Shri R.B. Pandey is not a respondent in the case nor he is the Asstt. Postmaster General (staff) in the P.M.G's office as stated nor he was as such on 7.1.93 when a copy of the counter was given to the deponent's counsel.
3. That contents of para 2 of the counter need no comments except that Shri R.B. Pandey, either by name or by designation, is not a respondent in the

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case and he has not furnished any authority to file reply on behalf of the respondents as required under rules.

4. That in reply to the contents of para 3(a),(b) & (c), it is stated that the deponent was selected and appointed as a D.O., P.L.I. in the interest of service, which is a higher post than that of U.D.C. Had he not been deputed to work as D.O., P.L.I., he would have worked on U.D.C. post with special pay as he was sufficiently senior and having good record of service. But as the deponent was performing a higher assignment, the respondents did not like to post him on the U.D.C. post with special pay, on which his juniors were ordered to work. The deponent was <sup>never</sup> asked to choose between the post of D.O., P.L.I and U.D.C. with special pay nor his option was ever called for. The deponent did not ever forego his claim for U.D.C. with special pay. On completion of his tenure as D.O., P.L.I., when the deponent joined his regular post, he was surprised to see that his juniors were getting more pay than him, which was unjust and against equity and natural justice. The deponent preferred representations to the authorities but his grievance was not remedied. Hence, he had no alternative ~~xx~~ except to file the instant application before this Hon'ble Tribunal. The Annexure C-1 filed with the counter does not create a bar in any way to the claim of the deponent.
5. That the contents of para 4 of the counter need no reply.

*Jaiman Rana*

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6. That the contents of para 5 of the counter, not disputing the contents of para 4(i) of the application call for no reply.
7. That in reply to the contents of para 6 of the counter, it is stated that the deponent was selected and appointed to the post of D.O., P.L.I. on the ~~basis~~ basis of his meritorious services and suitability for the post after passing a test/interview in the interest of Govt. work and he cannot be made a sufferer and allowed less pay than his juniors in the original cadre of U.D.C. and on subsequent promotion to the regular cadre of lower selection grade.
8. That in reply to the contents of para 7 of the counter, it is stated that the deponent, while working in the U.D.C. cadre, was selected and appointed as D.O., P.L.I., having higher responsibility and scales of pay, in the interest of Govt. work, and he was ordinarily entitled to the ~~benefits~~ benefits admissible in his original cadre. The deponent was entitled to the ~~benefits~~ benefits of special pay granted and allowed to the officials junior to him, but as he was performing job of higher responsibility and getting more pay, his case for special pay was not considered by the respondents, but on his ceasing the tenure post he was/is entitled to be paid at least at par with his next junior, as his emoluments could not be less than his juniors for no fault of his. The contents of para 4(iii) and (iv) of the application are re-asserted.

Jaiman Ram

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9. That the contents of re-numbered para 7 of the counter are denied and in reply, it is stated that the grant of special pay to certain identified posts of U.D.C. provided a special feature, it was incumbent on the part of the respondents to call for an option from the deponent whether to work as D.O., P.L.I. or as U.D.C. with special pay and not to ignore his claim arbitrarily to his prejudice and allow junior officials the benefits of special pay. In any case, since the deponent was made to work as D.O., P.L.I. in the Govt. interest on a post of higher responsibility, he cannot, on his coming back to his regular cadre, be allowed less pay than what he would have ordinarily drawn had he not been appointed as D.O., P.L.I.. The rest of the contents of para under reply is denied and those of para (v) of the application are re-iterated.

10. That the contents of para 8 of the counter need no reply.

11. That the contents of para 9 of the counter are denied and in reply the contents of para 4(vii) of the application are re-iterated. The deponent could not be given less pay than his juniors as stated.

12. That the contents of para 10 of the counter are denied as stated and in reply the deponent re-asserts the contents of para 4(viii) of the application. It is wrong to say that the special pay is not reserved for the senior. In terms of orders annexed by the respondents as Annexure C-1 and on equity and in the interest of natural justice, a senior cannot

*Jamnan Ram*

be deprived of any benefit admissible to the post without any cogent and sufficient reason. To hit a senior official financially is not justifiable on the principles of natural justice. Had the deponent not been appointed to higher post of D.O., P.L.I., he would have been entitled to the special pay and that entitlement cannot be ignored while fixing his pay on ceasing the post of D.O., P.L.I. and coming to regular cadre less than his junior against all cannons of justice.

13. That the contents of para 11 of the counter are denied. The deponent cannot be penalised for his working on a higher post of more responsibility and cannot be allowed less pay than his junior on coming back to the regular cadre. In all fairness, he is entitled to be paid at the rate which would have been admissible to him had he not been deputed as D.O., P.L.I. in the interest of Govt. work.

14. That in reply to the contents of para 12 of the counter, it is stated that the deponent's case has not been considered by the respondents objectively and its correct perspective and the replies given vide annexures C-2 and C-3, which are already annexures A-4 and A-5 to the application and prayed to be quashed, are wrong and unjust.

15. That in reply to the contents of para 13, it is stated that the averment made is vague as it does not specify what part of the para 4(x) of the application has been admitted. It is denied that the action taken by the department was within the purview of the departmental rules. No rules have been cited. The

*Jannan Ram*

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gist of the reply of the respondent no. 2, made annexure @-4 has already been filed with the application as annexure A-10 and the same is sought to be quashed. The contents of para 4(x) of the application are re-asserted.

16. That the contents of para 14 of the counter are denied as stated. It is submitted that the deponent was not made aware of the special pay to be granted to the senior U.D.C. officials required to work on that post and no option was called for from him whether to work in the identified post or as D.O., P.L.I. for which he had already been selected and posted in the interest of Govt. work. In any case, he cannot be allowed to get less pay than his juniors and he is entitled to the pay at least equal to his next junior. The rest of the contents of the para under reply is denied and those of para 4(xi) of the application are re-iterated.

17. That the contents of para 15 of the counter are denied and those of paras 4(xii) and 4(vii) of the application and para 11 of this rejoinder are re-iterated.

18. That the contents of para 16 of the counter are denied. It is denied that the orders have been passed by the respondents within the purview of rules. No rule provides that a senior official on promotion in regular cadre would get less pay than his juniors for no fault of his. The deponent worked on a higher post with more responsibility and on completion of his tenure as D.O., P.L.I., he is entitled to get at least pay at par with his next junior

Jannan Ram



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in the interest of equity and natural justice. But this has been disallowed and the deponent has a genuine grievance. The rest of the contents of the para under reply is denied and those of para 4(xiii) of the application are re-asserted.

19. That the contents of para 17 of the counter are denied and those of para 4(xiv) of the application are re-iterated.
20. That in reply to para 18 of the counter, it is stated that on the call of the Chief Postmaster General, the deponent applied for the post of D.O., P.L.I. and he was selected and appointed on this post on merit and he cannot be made to get less pay. The contents of para 5(i) of the application are re-iterated.
21. That the contents of para 19 of the counter need no reply except what has been stated in para 5(ii) of the application.
22. That in reply to the contents of para 20 of the counter, it is stated that the deponent on account of his seniority and record of service was entitled to be posted against the identified U.D.C. post carrying special pay, but as the special pay came in the mid of tenure, the deponent's case was not considered on the plea that the deponent was working on a higher post as admitted by the respondent, but for that reason the deponent cannot be made to draw less pay on his posting in the regular cadre on vacating the post of D.O., P.L.I.. The contents of para 5(iii) of the application are re-asserted.

*Jawan Ram*

23. That the contents of para 21 of the counter are denied as stated. The deponent would have worked on the identified post of U.D.C. with special pay, but for his deputation to the ex-cadre post of D.O., P.L.I. and on his vacating that post of D.O., P.L.I. on the completion of tenure, he is entitled to the pay which he would have earned but for his deputation as D.O., P.L.I. and his pay cannot be less than his junior in the regular cadre of U.D.C. and L.S.G.. The deponent did not work on the post of U.D.C. with special pay as he was assigned a still higher responsibility of D.O., P.L.I. in the interest of Govt. work and for reason of that he cannot be made a sufferer. The contents of para 5 (4) of the application are re-stated.

24. That the contents of para 22 of the counter are denied. The deponent was not given any notice to exercise his option whether to work on the post of U.D.C. with special pay or as D.O., P.L.I. There was hardly any occasion for the deponent to make any representation as he was posted on a higher post of higher responsibility. The deponent has not claimed any benefit for the period of his deputation as D.O., P.L.I. but on vacating this post he is entitled to get the pay which he would have normally drawn and at least at par with his junior. The contents of para 5 (5) of the application are re-asserted.

25. That in reply to the contents of para 23 of the counter, it is stated that the fitness of the deponent for appointment on the identified post of U.D.C. with special pay has not been questioned. The deponent

*Jannan Ravi*

was sufficiently senior having a good record of service, but his case for U.D.C. IDENTIFIED post with special pay was not considered because of his performing a higher responsibility as D.O., P.L.I. as admitted in para 20 of the counter, but his claim for higher pay than or at least at par with his junior cannot be ignored. The deponent's case has been highly prejudiced by the respondents in allowing him less pay than his junior which has caused him genuine grievance and consequent mental agony and vexation. The contents of para 5(6) of the application are re-iterated.

26. That the contents of para 24 of the counter are denied as stated. There is no para as ~~5(6)~~ 5(7) in the application. It is, however, stated that the deponent never thought of being reduced in his pay after performing the work of higher responsibility as D.O., P.L.I. and he was never warned of this proposition, nor he was given option to choose between the two posts. In fairness and on the principles of equity and natural justice the deponent cannot be made a sufferer for his working on a higher post in the interest of the Govt. work and without prior notice. The deponent is entitled to a pay that he would have normally drawn and not less than his juniors.

27. That while denying the contents of para 25 of the counter, it is stated that there is no para as 5(8) in the application. It is submitted that the deponent belongs to S.C. community and as such too he deserves to be afforded with due justice and allowing

of pay to which he is entitled on account of his senioriy fitness and good record of service.

28. That the contents of para 26 of the counter are denied as stated. The grounds taken by the deponent are cogent, substantial and tenable and the reliefs sought for by the deponent are genuine on facts and circumstances of the case, as stated in the application and this rejoinder and they deserve to be allowed with cost and special cost against the respondents.

29. That the contents of para 27 of the counter are denied. It is wrong ~~xx~~ and prejudicial to say that the deponent's application is liable to be dismissed with costs. On the contrary, the deponent has a genuine grievance and his application deserves to be allowed with costs and special costs against the respondents and in favour of the deponent.

Lucknow :

Dated : 25.1.93

Jaiman Ram  
DEPONENT

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paras 1 to 19 of this rejoinder are true to my knowledge and those <sup>of</sup> paras 20 to 29 are believed to be true. No part of it is false and nothing material has been suppressed.

Signed and verified this 25<sup>th</sup> day of January 1993 at Lucknow.

Lucknow :

Dated : 25.1.93

I identify the deponent who has signed before me.  
M. J. Singh  
DEPONENT