

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

SEARCHED..... INDEXED..... SERIALIZED..... FILED.....
LOA/TA/RA/CP/MA/PT 414 of 209 4

D. S. Ranu.....Applicant(S)

U. S. G. & others Versus Respondent(S)

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
1 -	Judentr.	10-2-90
2 -	Order Sheet	A 5
3 -	Favor	A 9
4 -	A 14 Complete Revision	A 1
		159

Certified that the file is complete in all respects.

.....
Signature of John

Signature of Deal. Hand

B. C. Bidney and

12-6-12

Der myn
Prof. Dr. A. M.

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

O.A. No. 414/90

Lucknow this the 10th day of Feb., 2000.

HON. MR. A.V. HARIDASAN, V.C.

HON. MR. J.L. NEGI, MEMBER(A)

D.S. Ram, aged about 49 years, son of Sri Dwarika Prasad resident of 509/95 Old Hyderabad, Lucknow.

Applicant.

By Advocate Shri R.C. Singh.

versus

1. Union of India through the Secretary, Ministry of Information and Broadcasting, New Delhi.
2. Chief Engineer (North Zone), All India Radio and Doordarshan, Jamnagar House New Delhi.
3. The Station Director All India Radio, Lucknow.
4. Sri Bachan Khan, Senior Engineering Assistant, T.V. Relay Centre, Rampur.
5. Sri R.C. Sharma, Senior Engineering Assistant, All India Radio, Jaipur.

Respondents.

None for respondents.

O R D E R (ORAL)

BY A.V. HARIDASAN, V.C.

The applicant who was appointed as Mechanic (subsequently designated as Technician) on 1.11.1963 in All India Radio was transferred to All India Radio (North Zone) Varanasi at his own request w.e.f. 20.10.65. The respondent Nos. 4 and 5 were appointed as Technical grade II w.e.f. 30.10.65 and 2.11.65 respectively in the North Zone after transfer of the applicant and they were junior to the applicant. The applicant and respondents 4 and 5 were considered by the D.P.C.

for promotion to the post of Senior Technician in September, 1973 and they were promoted also. The grievance of the applicant is that in seniority list of Senior Technicians circulated on 1.1.84, the respondents 4 and 5 were assigned seniority position 184 and 185 while the applicant was placed at Sr.No.188. Aggrieved by that, the applicant made representation. However, in the meanwhile the applicant made representation. However, in the meanwhile the applicant, as also the respondents were promoted to the next higher grade of Engineering Assistant in the year 1985. The respondents were promoted earlier and the applicant was promoted later. The respondents 4 and 5 were promoted as Senior Engineering Assistants in February, 1990 but the applicant was not so promoted. Therefore, the applicant, aggrieved by the supersession in seniority and non promotion along-with his juniors has filed this application for quashing the impugned seniority list and to direct the respondents 1 to 3 to issue a fresh seniority position to him and to promote the applicant on the post of Engineering Assistant consequent upon the revision of the seniority as also to consider him for further promotion as Senior Engineering Assistants accordingly, with all consequential benefits.

2. The respondents have filed a reply statement and an additional reply statement. The contentions raised in the reply can be briefly stated as follows. Though the DPC in the panel for promotion as Sr. Technicians placed the applicant at Sl.No.10 and respondents 4&5 at Sl.No.12 and 13 as there was no vacancy at Varanasi

contd....

where the applicant opted, the respondents 4&5 were along with others promoted by order dated 7.9.93 and the applicant was promoted and posted by order dated 9.10.73. A seniority list of Sr.Technicians (Annexure.R.7) was circulated in June, 1974. In that Seniority List the applicant was placed at Sl.No.217 while the respondents 4&5 were placed at Sl.No.213 and 214 respectively. As only one discrepancy regarding not noting the technical qualification of the applicant in the seniority list this was corrected by Annexure.R.9 and this was within the knowledge of the applicant. The applicant did not raise any objection regarding the placement of the respondents 4&5 above him in the seniority list circulated on 15.6.74. Therefore, the contention of the applicant that the seniority list was circulated for the first time only in the year 1984 is not true to facts. Basing on the seniority list in the grade of Sr.Technicians the respondents 4&5 were promoted as Engineering Assistants and Sr.Engineering Assistants ahead of the applicant. The applicant, therefore, is not entitled to rake up the settled question of seniority after a lapse of two decades. The application is therefore, not maintainable and the applicant does not deserve any claim, submits the respondents.

3. The applicant has filed a rejoinder stating that the seniority list said to have been circulated in the year 1974 has not come to his notice.

contd...

4. On a careful consideration of the pleadings and documents and on hearing the learned counsel of the parties, we are of the considered view that the applicant is not entitled to rake up the issue of seniority which was settled way back in the year 1974. May be because of the reason that the applicant was posted later than respondents 4&5 as Senior Technicians the applicant should not have been placed junior to them in the seniority list as the applicant was placed above respondents 4&5 in the panel prepared by the Departmental Promotion Committee. But when the seniority list was circulated in the year 1974 the applicant should have raised that issue and got the grievances redressed. He did not do so. Even according to the applicant Respondents 4&5 were promoted as Engineering Assistants ahead of the applicant. Even at that time the applicant did not seek to challenge their promotion and his non-promotion. Even according to the applicant he came across the seniority list in the year 1984. Though he had made representations, this application has been filed only in the year 1990. If the applicant was aggrieved by the wrong placement in the seniority list in the year 1984 and if he did not get any favourable reply to his representation rejecting the grievances, he should have filed an original application within one year after waiting for a reply to the representation for six months. This has not been done. As the respondents

contd...

✓

4&5 were promoted as Engineering Assistants before the applicant was so promoted, the applicant cannot now claim that he should be promoted as Sr.Engineering Assistant ahead of them. By not being vigilant of his rights and not agitating the issue of seniority at the appropriate time, the applicant's remedy as also the rights regarding seniority has been lost by limitation. Therefore, we are of the considered view that the application deserves to be dismissed.

5. In the result, in the light of what is stated above, the application is dismissed leaving the parties to bear their costs.

Dated the 10th day of February, 2000


J.L.NEGI
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

sa.

(17)

OA No 414/90

11.01.2000

No sitting of D.B. case is
adjn to 10.02.2000 for

CR
Pleadings
are complete
hearing
10/02/2000

Y
BSC

10/02/2000

Hon'ble VC (J) (A.Y.H.)
Hon'ble M(A) (J.L.N.)

Sas R.C. Singla counsel for applicant.

Reord. Argument concluded. Order

dictated in open court.

OK
Order dt 10.2.2000
dictated on 21.2.2000
AB

Y
BSC 10/02

VAKALATNAMA

In the High Court of Judicature at Allahabad

SITTING AT LUCKNOW.

Shri D.S. Ramu

Petitioner / Appellants

VERSUS

Govt. of India & others.

Respondant

No. 414

of 1990.

I/we the undersigned do hereby nominate and appoint Dr. Ashok Nigam

3, Sapru Marg, Lucknow

and Shri

F.J
26/7

Advocate, to

be counsel in the above matter and for me / us and on my / our behalf to appear, plead, act and answer in the above Court or any appellate Court or any Court to which the business is transfer in the above matter and to sign and file petitions, statements accounts, exhibits, compromises or other documents whatsoever in connection with the said matter arising there from and also to apply for and receive ~~and receive~~ copies of documents, depositions etc. etc. and to apply for issue of summons and other writs or subpoena and to apply for and get issued any arrest, attachment or other execution warrant or order and to conduct any proceeding that may arise thereout and to apply for and receive payment of any or all sums or submit the above matter to arbitration.

Provided, however, that if any part of the Advocate's fee remains unpaid before the first hearing of the case or if any hearing of the case be fixed beyond the limits of the town; then, and in such an event my / our said Advocate shall not be bound to appear before the court and if my / our said Advocate does appear in the said case he shall be entitled to an outstation fee and other expenses of travelling, lodging etc. Provided ALSO that if the case be dismissed by default or if it be proceeded ex parte, the said advocate (s) shall not be held responsible for the same. And all whatever my / our said advocate (s) shall lawfully do, I do here by agree to and shall in future ratify and confirm.

From 21/7/90 (M)

राजेश कुमार से

R.K.S. M

अधीक्ष वस्ता

Superintending Engineer

All India Radio

Lucknow

ACCEPTED For Petitioner/Respondent No. _____.

Dr. Ashok Nigam 26/7/93
(Dr. ASHOK NIGAM)
ADVOCATE

1. Advocate

2. Advocate

Signature of Client फैसल निरेशक

Station Director

आकाशवाणी लख

All India Radio, Lu

CA 61479/2000

(16)

21-7-99

Hon'ble Mr. D.C. Verma, J.M.
Hon'ble Mr. A.K. Misra, A.M.

None for the parties.

List for hearing on 01-9-99,

A.M.

J.M.

01-09-99.

case not reached. Adm to

15-11-99

Y

B.O.C.

OK
Pleading are
complet
B.M.

15-11-99

Hon'ble Mr. D.C. Verma - J.M.
Hon'ble Mr. A.K. Misra - A.M.

None for the parties.

List for hearing on

08/12/99

A.M.

J.M.

8/12/99

Hon'ble Mr. D.C. Verma, J.M.
Hon'ble Mr. A.K. Misra, A.M.

Sh. R.C. Singh for applicant. Ven.
Asha Chowdhary for respondent.
List for hearing on 11/1/2000.

A.M.

J.M.

(1)

CA 414/90 4

21-10-97

Hon. Mr. V. K. Seth, A.M.
Hon. Mr. D C. Verma, J.M.

Sh. A. P. Singh, learned hol-
der for Sh. R. C. Singh, learned
counsel for applicant.
Sh. K. K. Shukla, appearing for
Rm. A. Choudhary, learned
counsel for respondents
lays for adjournment.

List on 15-12-97 for
hearing.

J.M.

AM

DR

15-12-97

No. 3114/90 before
05.2.98

Proc

5/2/98

Hon. Mr. V. K. Seth, A.M.
Hon. Mr. D C. Verma, J.M.

Sh. A. P. Singh for Sh. R. C. Singh
for applicant. Rm. A. Choudhary
for respondent is on leave

List on 8/1/98 for
hearing.

J.M.

AM

01-3-98

No. 3114/90 before
12-5-98

to
See

(11)

04/09/96

2-4-96 Case on 1. serial adjourned 13-5-96

L
Boe

13-5-96

Hon. Mr. V. K. Seth, A.M.
Hon. Mr. D.C. Verma, J.M.

Q. R.C. Singh, learned
counsel for applicant. Mr.
A. Chaudhary, for respond-
ents. As prayed for adjourn-
ment on 08-7-96 for
hearing.

R

J.M.

VK
A.M.

07-96

M/s Salimgal D. M. adjourned
27-8-96

Boe

27-8-96

Hon'ble Mr. V. K. Seth A.M.
Hon'ble Dr. R. K. Saxena J.M.

For applicant : Shri R. C. Singh
For respondents : Mr. A. Chaudhary is
on leave.

list on 26-9-96.

J.M.

VK
A.M.

10

24.8.95

Hon. Mr. V. K. Seth A.M.
Hon. Mr. D. C. Verma S.M.

~~Off
Notes~~

on the regal. of Gauri
to apply. on. before 13.10.95

J.M.

V.K.
A.M.

13/10/95

Hon. Mr. V. K. Seth A.M.
Hon. Mr. D. C. Verma J.M.

for applicant Sh. R. C. Singh
for respondent: Mr. A. Chakraborty
Mr. Chakraborty seeks adjournment
on account of non availability
of his paper Bure.

List on 27/11/95.

J.M.

V.K.
A.M.

27/11/95

Hon. Mr. Justice B. C. Saksena, V.C.
Hon. Mr. V. K. Seth, A.M.

The learned counsel for the
applicant has sent written
slip.
List on 10/12/95.

V.K.
A.M.

B.C.
V.C.

10.1.96

Case on - marked w/for
to 20.2.96

Boe

20.2.96

Due to Sadhak et al. I.C. Supn.
New before 01.4.96

J.
Boe

(8) O.A. No. 414/90

(33) 22/8/90

~~22/8/90~~ Hon. Mr. Justice B. C. Saksena, V. C.
Hon. Mr. K. R. Anthikumar, A. M.

On the request on behalf
of the learned counsel for the
applicant, the case is
adjourned. List on
14-9-90 for hearing.

(contd)

W.
A.M.

for
V.C.

(34) 14.9.90

Convene after the adjournment
on 25.10.90

10
Dec

C.A. & R.R.
filed:
S. F. H.
24/10/90

(35)

25/10/90

Hon. Mr. V.K. Seth, A.M.
Hon. Mr. S.C. Verma, J.M.

The request has been received
on behalf of Dr. A. Kishan for
adjournment on the ground that
he is out of station.

Fix on 12/11/90 for hearing.

✓
S. F. H.
12/10/90

S.

J.M.

A.M.

(36)

12.11.90

No hearing on 12.11.90
13.11.90

Dec.

(6)

21) 16.3.93

No. 51/93 adjourned
to 15.4.93

22)

15.4.93

No sitting of D.B. adjourned
to 4.5.93.

~~SL~~

~~13/4/93~~

OL

~~SCRA~~

~~SL~~

~~13/5/93~~

23) 4.5.93

No. 51/93 adjourned
to 26.7.93

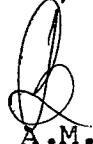
24)

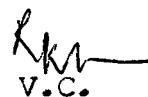
26/7/93

Hon. Mr. Justice R.K. Verma, V.C.
Hon. Mr. B.K. Singh, A.M.

Dr. Ashok Nigam has filed power
on behalf of the respondents. He
seeks time. List this case on

28/8/93.


A.M.


V.C.

No. 51/93 adjourned to
11.10.93

28/8/93

26) 11.10.93

No. 51/93 adjourned
to 3.12.93

28/10/93

27) 3.12.93

6/2 and - reach off
to 24.1.94

28/10/93

OL
SCRA
SL
13/11/93
21/11/93

Sl. No.	Date	Office Report	Orders
⑨	14.10.91	D.R.	Both the parties are present. Respondent to file counter by 31/10/91.
⑩	31.10.91	D.R.	Both the parties are present. Applicant desires to file Rejoinder by 28/11/91.
⑪	28.11.91	D.R.	Both the parties are present. Counsel for applicant desires to file Rejoinder by 30/12/91.
⑫	30.12.91	D.R.	Rejoinder has been filed on 29/11/91. Case is listed for final hearing on 7/1/92 before the Hon'ble Bench.
		A.R.O. 7-2-92 S.P.	No Siling adjd 20352
⑬	23.3.92	Nursing of D.R. adjd 21.3.92	

OR
CR, D.R. home
Court arranged
submit at
for hearing
S.P.
26/3

10.1.91

1

No sitting Adi to 30-1-91

30.1.91.

No site if Ad to 13.2.91.

$$\begin{array}{r} 3) \\ 13.291 \\ \hline 4 \\ \hline 8.291 \end{array}$$

No setting Adi to 18.2.91.
No setting Adi to 6.3.91.

AA

11

1

68

Mr. V. K. Chudhury
files power on behalf
of C.R.S.
S.C.A

on 9
~~Op. 9~~
Notice issued OP 2
Op. 9
Op. 1
31/12/1981

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Recd
Date 18/12/90

Deputy Registrar (P)

Registration No. 414 of 1990 (C)

591
18/12

APPLICANT(S) Shri D. S. Rain

RESPONDENT(S) Union of India & others

Particulars to be examined

Endorsement as to result of examination

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

Particulars to be Examined

Endorsement as to result of examination

1.	Are the application/duplicate copy/spare copies signed ?	4. Sets
	Are extra copies of the application with Annexures filed ?	yes
	a) Identical with the Original ?	
	b) Defective ?	
	c) Wanting in Annexures	yes
	No. of pages Nos. ?	
	Are the file size envelopes bearing full addresses of the respondents been filed ?	
14.	Are the given address the registered address ?	N.A.
15.	Do the names of the parties stated in the copies tally with those indicated in the application ?	yes
16.	Are the translations certified to be true or supported by an Affidavit affirming that they are true ?	yes
	Are the facts of the case mentioned in item no. 6 of the application ?	N.A.
	Concise ?	97em
	Under distinct heads ?	
	Numbered consecutively ?	
	typed in double space on one side of the paper ?	25g
	Particulars for interim relief indicated with	yes
	the remedies have stated.	yes

Put up before the Hon.

Bench, on 10/9, for orders

7176
18/11/1966

Before the Central Administrative Tribunal,
Circuit Bench, Lucknow.

Original Application No. 414 of 1990. (C)
Application Under Section 19 of the Administrative
Tribunal's Act, 1985.

D.S. Ram Applicant
Versus
Union of India and others. ... Respondents.

Index

Sl. No. Description of Documents relied upon. Page Nos.

Compilation No.1

1. Application. 1 to 18
2. Annexure No. A-2 Extract from the Seniority list of Senior Technician as out July 1983. 19 to 21
3. Vakulatnama 22

Compilation No.2.

1. Annexure No. A-1 Extract from the seniority list of Technicians as out on 1.1.1984. 23 to 25
2. Annexure No. A-3. Photostat copy of relevant extract from Volume III of Doordarshan Manual. 26 to 33
3. Annexure No. A-4. A true copy of application dated XXXX 4.4.1984. 34 to 35
4. Annexure No. A-5. A true copy of application dated 1.1.85. 36 to 37
5. Annexure No. A-6. A true copy of letter dated 12.12.85. 38 to 39
6. Annexure No. A-7. A true copy of letter dated 27.11.85, along with the representation dated 24.12.85. 40 to 42
7. Annexure No. A-8. A true copy of letter dated 16.4.87 43

D.S. Ram

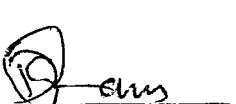
Sl. No. Description of Documents relied upon. Page nos.

8.	<u>Annexure No. A-9.</u> A true copy of representation dated 20.9.1988.	44 to 45
9.	<u>Annexure No. A-10.</u> A photostat copy of Annexure representation dated 23.12.88.	46
10.	<u>Annexure No. A-11.</u> A photostat copy of letter dated 1.4.1989.	47 to 48
11.	<u>Annexure No. A-12.</u> A photostat copy of letter dated 21.8.1989.	49 to 53
12.	<u>Annexure No. A-13.</u> A photostat copy of representation dated 6.9.1989.	54 to 55
13.	<u>Annexure No. A-14.</u> A photostat copy of letter dated 5.9.1989.	56 to 57
14.	<u>Annexure No. A-15.</u> A photostat copy of representation dated 16.9.89	58
15.	<u>Annexure No. A-16.</u> A photostat copy of letter dated 10.11.1989.	59
16.	<u>Annexure No. A-17.</u> A photostat copy of representation on 28.12.1989.	60

For use in Tribunal's Office.


Signature of the Applicant.

Date of filing
or
Date of receipt by post
Registration No.


Signature
For Registrar.

3
In the Central Administrative
Circuit Bench, Lucknow

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing C. No. 18/12/90
Date of Receipt by Post 18/12/90
S. No. 18/12/90
Deputy Registrar

Original Application No. 414 of 1990 (L) 18/12

D.S. Ram, aged about 49 years, son of Sri DWARIKA PD, resident of 509/95, Old Hyderabad, Lucknow (employed as Engineering Assistant in All India Radio, Lucknow) Applicant.

Versus

1. Union of India, through the Secretary, Ministry of Information and Broadcasting, New Delhi-110001.
2. Chief Engineer (North Zone), All India Radio and Doordarshan, Hennagar House, Shah Jahan Road, New Delhi-110011.
3. The Station Director, All India Radio, Lucknow.
4. Sri Bachan Khan, Senior Engineering Assistant, T.V. Relay Centre, Rampur.
5. Sri R.C. Sharma, Senior Engineering Assistant, All India Radio, Jaipur.

... Respondents.

DETAILS OF APPLICATION.

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

This application is directed against the application No. XXXXXXXXX assignment of seniority of the

D. Chauhan

applicant on the post of Senior Technician or wrongfully and illegally below the respondent Nos. 4 and 5 (Annexure No.A-2) and consequently and further promotion posts of Engineering Assistants and rejection of the representation of the applicant.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of the order against which he wants redressal is ~~not~~ within the jurisdiction of the Tribunal.

3. Limitation :

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

However, the applicant prays that the delay in filing this application may kindly be conconed under the provisions of sub section (3) of Section 21 of the Administrative Tribunals Act, 1985 for the facts and reasons stated in para below :

4. Facts of the case.

The facts of the case are given below :

(4.01) That the applicant was appointed as Mechanic (Subsequently designated as Technician) on 1.11.1963 in Western Project Circle, All India Radio (hereinafter referred to as the A.I.R.) Bombar. The Applicant was transferred to A.I.R. (North Zone) at Varanasi at his own request on 29.10.1965 and the Respondent No.4 was appointed as Technician on 30.10.65 and the respondent No.5 was appointed as Technician

Raw

on 2.11.1965.

(4.02) That a departmental promotion Committee was held during Sept. 1973 and the applicant as well as Respondents Nos. 4 and 5 were considered, alongwith others, for promotion to the post of Senior Technician . It may be statedhere that promotion criteria for the post of Senior Technician is seniority-cum-fitness . However, till then seniority list of Technicians. But the applicant who had joined as Technician in A.I.R. (North Zone) prior to appointment of Respondent Nos. 4 and 5 was senior to both of them. It may also be stated here that the seniority of Technicians is prepared on Zone basis. The applicant, having been found suitable by the D.P.C., was promoted to the post of Senior Technician and joined the said post on 6.11.1973.

(4.03) That the seniority list of Technicians in the Northern Zone as on 1.7.1983 was circulated on 1.1.1984. In this seniority list, the applicant is at Seniorl No.81,whereas the respondent nos. 4 and 5 are at Serial Nos.^{83 and} 184, respectively. An extract from the Seniority list of Techinicians is being annexed as Annexure No.A-1.

(4-04) That the seniority list of senior Technicians in the Northern Zone as on 1.7.1983 was also circulated on 1.1.1984. That the seniority of the applicant vis-a-vis Respondent nos. 4 and 5 on the post of Senior Technician should have been fixed in the order in which their names appeared in the seniority list of Technicians , but to utter surprise of the applicant, he was placed at serial No.188, whereas Respondent nos. 4 and 5 were placed at serial nos. 184

Q. 202

6

Respondent nos. 4 and 5 were placed at serial no.s 184 and 185, respectively. The applicant failed to understand the reason for this illegal and arbitrary assignment of Seniority on the post of Senior Technician, more so when the applicant as well as respondent nos. 4 and 5 were considered by the same D.P.C. and promoted during the same year. It may also be stated here that the work and conduct of the applicant was in no way inferior to the respondent nos. 4 and 5. However, it may be pertinent to mention here that the applicant is the Unit Secretary of All India Radio Technical Employees Association, Lucknow Unit (now Lucknow as All India Radio and Doordarshan Technical Employees Association). Prior to his transfer to Lucknow, the applicant was secretary of Varanasi Unit from prior to 1973. The applicant is also a member of the Central Working Committee of the Association ^{for} of the last 5 years. It appears that the Respondent no.2 was annoyed with the applicant due to union activities and the applicant was deliberately assigned seniority on the post of Senior Technician below the respondent nos. 4 and 5 just to chastise the applicant. An extract from the impugned seniority list of Senior Technicians is being annexed as Annexure No.A-2.

(@-05) That volume III of Doordarshan Manual deals with the Administration, Accounts and Programmes. Appendix relating to Senior Technician provides for the mode of recruitment as 100 % by promotion falling which by transfer. A perusal of the Appendix reveals that the post of Senior Technician is not a Selection post. A photostat copy of the relevant

S. Chauhan

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extract from volume III of Deoordarshan Manual is being annexed as Annexure No. A-3.

(4.06) That Rule 21 of the Doordarshan Manual, Volume III (hereinafter referred to as the Manual) deals with the D.P.C. sub. Rule (vi) or Rule 21 of the Manual, which deals with promotion to non selection post, is reproduced below :-

" (vi) For promotion to non selection posts (i.e. Seniority-cum-fitness) D.P.C. categorises the officials as " fit" or " Not yet fit " for promotion on the basis of assessment of their records of officials considered service. " fit" are placed in the panel in the order of their seniority."

(4.07) That Rule 22 of the Manual deals with the Seniority. Sub Rule (II) of Rule 28, which provides the principle of determining seniority in the case of promotees, is reproduced below :

" (ii) The relative seniority of persons promoted for selection posts shall be determined in the order of selection. For promotion on seniority-cum-fitness basis, their interse seniority in the lower grade will be followed".

(4.08) That it is obvious that the applicant should have been assigned the same seniority vis-a-vis respondent nos. 4 and 5 on the post of senior Technician, as was assigned in the lower grade of Technician and their assigning of seniority to the applicant

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below the respondents 4 and 5 , on the post of Senior Technician, is wholly arbitrary and unreasonable and violative of Articles 14 and 16 of the Constitution , besides being contrary to the provisions of Rules 21 (vi) and 22(11) of the Manual.

(4-09) That the applicant submitted an application on 4.4.1984 to the Respondent No.2 for correction of the Seniority list of Senior Technician. In his application, the applicant had specifically indicated the names of juniors to him on the post of Senior Technician who were assigned seniority before him on the post of Senior Technician. A true copy of the application dated 4.4.1984 is being annexed as Annexure No.A-4. It may be stated here that prior to ~~subm~~ submission of the application dated 4.4.1984, the applicant had requested orally, several times, to the respondent no.2 and was assured of correction, but when no action was taken in this regard he had submitted the application in writing. However, no reply was received by the applicant ~~for~~ for a considerable time and as such he sent reminders on 28.7.1984, 21.8.1984, 29.11.1984, 1.1.1985, but no reply, whatsoever, was received. A true copy of the application dated 1.1.1985 is being annexed as Annexure No.A-5.

(4-10) That the applicant was promoted to the post of Engineering Assistant on 25.6.1985 and working on the said post since then. It may be stated here that as per appendix to the Manual, the post of Engineering Assistant is a non selection post and the

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method of recruitment for the post is as under :

- (A) 80 % by direct recruitment.
- (B) 10 % by promotion.
- (C) 10 % through limited departmental competitive examination.

It may also be clarified that the applicant as well as the respondent Nos. 4 and 5 were promoted on the post of Engineering Assistant under promotion quota of 10 % and none had appeared in the limited departmental competitive examination against 10 % quota. However, due to wrong assignment of seniority to the applicant on the post of Senior Technician, he has been promoted subsequent to the respondent Nos. 4 and 5 and assigned seniority on the post of Engineering Assistant after the respondent nos. 4 and 5.

(4.11) That the seniority list of Engineering Assistant was circulated by the Superintending Engineer A.I.R. Lucknow vide letter No. Lko-11(7)/85-E dated 12.12.1985. A true copy of letter dated 12.12.1985 is being annexed as Annexure NoA-6. It has been mentioned in the letter that each Engineering Assistant has been assigned an Employment number. This Employment Number has, however, not been fixed on the basis of their initial appointment but on the basis of their relative seniority on the post of Senior Technician. The applicant submitted a representation against the Seniority of Engineering Assistant on 24.12.1985 to the respondent no.2, through proper channels. This representation was forwarded to the respondent no.2 by

 [Signature]

the Superintending Engineer, A.I.R. Lucknow vide letter no. Lko-11(7)/85-E dated 27.12.1985. A true copy of letter dated 27.12.1985, alongwith the representation dated 24.12.1985, is being annexed as Annexure No. A-7. Here it may also be stated that basis the submission of representation, the applicant submitted a reminder on 16.4.1987 for early correction of the seniority list. A true copy of the letter dated 16.4.1987 is being annexed as Annexure No. A-8.

(4.12) That as already stated that the respondent's were annoyed with the applicant due to his interest and being Secretary of the Union. Due to the annoyance, the respondent no.2 extended the probationary period of the applicant on the post of Engineering Assistant contrary to the provision of Article 202 of C.S.R. despite the fact that there is no provision for extension of probationary period in the Manual and the period of probation is two years. This shows strong prejudice and bias against the applicant and the respondents are harassing the applicant and deliberately causing him loss and injury in the service career. It may be stated here that the applicant has an unblamished record of service and no adverse entry has been given to him.

(4.13) That the applicant had submitted a reminder on 22.8.1988. However, , no action was taken in this regard. Instead, the seniority list of Engineering Assistant was again circulated vide letter No. A-20/14/88-E.P.C. dated 2.9.1988 showing the applicant junior to the respondent nos. 4 and 5. The applicant submitted a representation to the respondent No.2 against this seniority list on 20.9.88,

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a true copy of which is being annexed as
Annexure No. A-9.

(4.14) That the applicant submitted a representation to the respondent no.2, through proper channels, on 23.12.1988. As his all previous representations had failed to evoke any response, the applicant endorsed a copy of this representation to the Secretary, Department of Public Grievances and Pension, New Delhi. A Photostat copy of the representation dated 23.12.1988 is being annexed as Annexure No. A-10. This representation was forwarded to the respondent No.1, as intimation by Ministry of Personal, Public Grievances and Pensions vide their letter No. F. No. 54394/3/M/B/PG-89 dated 27.2.1989. The applicant submitted yet another representation on 3.3.1989 to the respondent no.2, endorsing copy thereof to the Secretary, Department of Administrative Reforms and Public Grievances, New Delhi.

(4.15) That for the first time, it was intimated to the applicant by the Director, Doordarshan Kendra, Lucknow vide letter No. TV (Lko)21(173) 86-S/T dated 1.4.1989 that the respondent No.2 had intimated that the case of the applicant was being examined and a reply will be sent shortly vide their letter No. A-20/14/88-EPC dated 1.3.1989. A photostat copy of the letter dated 1.4.1989, along with the enclosures, is being annexed as Annexure No. A-11. Here it may be stated that the applicant has been making representations repeatedly since 1984, but it took the respondent no.2 more than 5 years to reply that the matter was being examined. In


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fact the respondent no.2 was not interested in deciding the matter early, but was delaying it inordinately without any reason.

(4.16) That when no decision was received for more than 3 months, the applicant sent a representation on 2.6.1989, through proper channels, praying for early decision. Again, the applicant sent a reminder on 3.8.1989 to the Department of Administration Reforms and Public Grievances, through proper Channels and requested for early revise of the seniority list.

(4.17) That the seniority list of Engineering Assistant was again circulated vide respondent No.2's letter No. A-19/14/89-EPC dated 21.8.1989. In this seniority list, the seniority of the applicant vis-a-vis respondent Nos. 4 and 5 was shown as under : -

Sl. No.	NAME	Seniority Position		Employ- ment. No.
		New	Old	
(a)	D.S. Ram (Applicant)	160	1551	21205
(b)	Bachan Khan Respondent No. 4	120	1511	21200
(c)	R.C. Sharma Respondent No.5	130	1521	21202

A photostat copy of the letter dated 21.8.1989 together with the true copy of extract from the Seniority list is being annexed as Annexure No. A-12. The applicant, therefore, submitted a representation to the respondent no.2 on 6.9.1989 and prayed for early correction of the seniority list. A photostate copy of the representation dated 6.9.1989 is being annexed as Annexure No. A-13.

(4.18) That it was intimated by the respondent no.2 vide his letter no. A-20/16/8889-EPC dated



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5.9.1989 (received on 16.9.1989) that the seniority of the applicant has been correctly fixed. In this letter it was intimated that while the applicant was promoted on the post of Senior Technician vide order dated 20.10.1973, the respondent Nos. 4 and 5 were promoted ~~via~~ order dated 7.9.1973. A photostat^m copy of the letter dated 5.9.1989 is being annexed as Annexure No. A-14. As already stated, the applicant as well as the respondent nos. 4 and 5 were considered by the same D.P.C. and promoted in 1973, there was no occasion for the respondent no.2 to issue promotion order of respondent nos. 4 and 5 prior to the issuance of promotion order of the applicant. Moreover, this fact was not made known to the applicant earlier. The applicant, therefore, submitted a fresh representation to the respondent no.2 on 16.9.1989 reconsideration of the matter. A copy of the representation dated 16.9.1989 is being annexed as Annexure No. A-15.

(4.19) That as it has been intimated by the respondent no.2 vide his letter No.A-20/14/89/E.P.C. dated 10.11.1989 that the seniority of the applicant as senior Technician is shown correctly. A copy of this letter was communicated ~~via~~ endorsement No.TV (Lko) 21 (173)/86-S/I/1670 dated 18.12.1989(received by the applicant on 20.12.1989). It is mentioned that relevant D.P.C. minutes in respect of promotions from the cadre of Technicians to the cadre of Senior Technicians for the year 1973 are not traceable. The

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case has been examined by scrutinising the available details. It has further been stated that since a junior person can not be offered promotion before offering promotion to his senior in a particular category it can be inferred that there were lists "A" and "B" prepared on the basis of merit and that name of Sri D.S. Ram (applicant) figured in the "B" list. The applicant has to state that the inference drawn is without basis and contrary to the provisions of Rules 21(vi) of the Manual and it is after thought. A photostat copy of the letter dated 10.11.1989 is being annexed as Annexure No.A-16. In this letter it was also pointed out that the applicant had not pointed out the discrepancy when the seniority list of senior Technician was prepared and circulated after the 1973 D.P.C.

(4.20) That the applicant submitted representation again on 28.12.1989 to the respondent no.2 through proper channels, a photostat copy of which is being annexed as Annexure No.A-17. In his representation the applicant has clearly stated that no seniority list of technician as well as Senior Technician was circulated before July 1983, hence there was no question of pointing out discrepancies. It was also stated that seniority list issued in July 1983 was given to the applicant in the month of January 1989. The applicant once again requested for correction of seniority list. A copy of the very same application was given to the Respondent no.2 on 10.1.1990. The applicant visited the office of Respondent no.2 on 16.4.1990 and, on demand, handed over one copy of each

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of the documents exchanged between him and the deponent, and was assured by the present incumbent and his Assistant Sri B.S. Saxena, that the matter will be reconsidered very soon and decision will be communicated, but no decision has been communicated till today.

(4.21) That meanwhile the respondent nos. 4 and 5 have been further promoted to the post of Senior Engineering Assistant during February 1990 and have joined the said promoted post in May 1990, but the applicant has still not been promoted. Thus the injustice done to him in 1973 is being perpetuated and the applicant is being made to suffer due to Union activities because of which the respondents are highly prejudiced and biased.

(4.22) That it is obvious that there has been no inordinate delay on the part of applicant in performing this application before this Hon'ble Tribunal. The applicant has been sincerely persuming the departmental authorities for correction of the seniority list, and but the same has been rejected finally during November 1989 and decision was communicated vide endorsement dated 18.12.1989 (received by the applicant on 20.12.1989). The present application is, therefore, within limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1985. However, if this Hon'ble Tribunal finds that the present application is beyond the limitation, the applicant prays that delay in filing this application may kindly be condoned under the provisions of sub section (3) of Section 21 of the Administrative Tribuna

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Act, 1985. The applicant prays for bonafide.

5. Grounds for relief with legal provisions.:

- (A) Because the applicant is senior to the Respondent Nos. 4 and 5 on the post of Technician.
- (B) Because the post of Senior Technician is a non selection post to be filled by promotion on seniority -cu- fitness basis.
- (C) Because the applicant as well as Respondent Nos. 4 and 5 were considered by the same D.P.C. during 1973 and promoted accordingly to the post of Senior Technician, as such their seniority in lower grade should have been followed.
- (D) Because the work and conduct of the applicant is inway inferior to the Respondent nos. 4 and 5 and he has been awarded no adverse entry in his career.
- (E) Because the assignment of Seniority on the post of Senior Technician is contrary to the provision of Rules 21 and 22, of the Manual.
- (F) Because the Respondent no.2 has wrongly and arbitrarily assigned lower seniority to the applicant vis-a-vis respondent nos. 4 and 5, which is violative of Articles 14 and 16 of the Constitution.

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G. Because the respondents are highly prejudiced and biased with the applicant.

(H) Because the wrong assigning of seniority to the applicant on the post of Senior technician has resulted into wrongful determination of his seniority on promotion to the post of Engineering Assistant vis-a-vis respondent nos. 4 and 5.

(I) Because the repeated representations of the applicant have not been considered properly.

(J) Because the respondent No.2 has drawn the inference wrongly without basis and the injustice is being perpetuated.

6. Details of remedies exhausted :

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

7. Matter not previously filed or pending with any Court.

The applicant further declares that 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 of any other authority or any other Bench of the Tribunal nor any other Bench of the Tribunal nor any other such application, writ petition or suit is pending before any of them.

8. Reliefs sought :

In view of the facts mentioned in para 4 above,

the applicant prays for the following relief(s) :-

- (a) issue of the writ, order or direction in the nature of CERTIORARI quashing the impugned Seniority list of Senior Technician, contained in Annexure No.A-2 after summoning the original from the Respondent No.2.
- (b) issue a writ, order or direction in the nature of MANDAMUS commanding the Respondents Nos. 1 to 3 to issue a fresh Seniority list of Senior Technician, assigning correct seniority position of the applicant.
- (c) issue a writ, order or direction in the nature of MANDAMUS commanding the respondents Nos. 1 to 3 to determine the seniority of the applicant on the promoted post of Engineering Assistant, consequent upon revision of Seniority of Senior Technician.
- (d) issue a writ, order or direction in the nature of MANDAMUS commanding the respondents Nos. 1 and 2 to consider the case of the applicant for promotion to the post of Senior Engineering Assistant accordingly on PRIORITY.
- (e) Issue any other writ, order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.
- (f) allow this application with Cost.

¶ 9. Interim order, if any prayed for :

Pending final decision on the application, the applicant seeks the following interim relief :

 The applicant may be considered for promotion

to the post of Senior Engineering Assistant without further delay and without prejudice to his right to claim promotion from the date his two juniors (Respondent Nos. 4 and 5) have been promoted to the post of Senior Engineering Assistant.

10. Not applicable.

11. Particulars of Bank Drafts/Postal Order filled in respect of the application fee.

State Bank of India, High Court Branch, Lucknow Demand ~~ex~~ Draft No. OT/AB 285939 dated 16.12.1990 for Rs.50/- only, drawn in favour of Registrar, Central Administrative Tribunal, Allahabad.

12. List of enclosures.

1. Annexure A-1.

to to

17 Annexure No A-17.

Lucknow Dated:

December 18th, 1990.


Signature of the Applicant

VERIFICATION

I, D.S. Ram, son of Sri Dwarika Prasad, aged about 49 years, working as Engineering Assistant in the office of All India Radio, Lucknow, resident of 509/95, Old Hyderabad, Lucknow, do hereby verify that the contents of paras, 1, 4.01, 4.02, 4.03, 4.04, 4.05, 4.06, 4.07, 4.09, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.22 (partly)

6, 7, 8, 9, 10, 11 and 12 are true to my personal knowledge and paras 2, 3, 4.08, 4.02(partly) and 5 believed to be true on legal advice and that I have not suppressed any material facts.

Dated December 18th, 1990.

Place Lucknow.

Signature of the applicant

To,

The Registrar,
Central Administrative Tribunal, Allahabad,
Circuit Bench, Lucknow.

18.12.90

A. C. Singh
Adv.

19 Before the Central Administrative Tribunal, Allahabad
Circuit Bench, Lucknow,
O. A. No. of 1990(L)

D.S. Ram

Union of India and others
Vs.

Respondents

ANNEXURE NO. A-2

SENIORITY LIST OF SENIOR TECHNICIANS IN THE NORTHERN ZONE AS ON 1-7-1983.

Sl.	W.A.M.B. No. OF THE GOVERN- MENT SERVANT	Qualifi- cations.	Date of Birth.	Date of entry.	Date of continuous entry.	Present posting.	Remarks.
1.	Sh. I. D. Mangat	Under Matric.	10.9.32	29.1.49	29.1.49	EA, Jammu.	4.12.43
2.	Sh. Mohd. Hussain	Other	"	"	21.6.30	13.11.48	13.5.52 EA CLS, Srinagar. Permanent R.S. 13.11.49.
3.	Sh. A. N. Kaul.	B.A.	"	"	7.6.30	8.5.53	EA, Jammu Pmt.R/Supr. 8.5.53
4.	Sh. Inderjit Singh Rai.	9th Class	"	22.5.33	21.10.48	21.10.48 EA, Srinagar R/Supr.	
5.	Sh. H. C. Sharma.	Metric.	"	1-1-28	22.3.44	7-9-54 SEA, TV Delhi	Pmt.Sr.Tech. W.e.f.1-1-56.
6.	Sh. J. D. Sehgal	Matric(Engg) 4 yrs.Dip.Cert.	"	6-12-46	22.10.54 EA, Ranchi	Pmt.Sr.Tech. W.e.f.1-1-56.	

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Sh. J. S. Singh. Upto 9th Class
I.C. C. A. M. D. 1/1/1900
Rtd

1.	2.	3.	4.	5.	6.	7.	8.	9.
✓ 170. Sh. M.L. Luther.	Matric, M.L. Luther.	Matric, Other	10.10.38	14.10.58	10.8.73	<u>EA, Jaipur.</u>	<u>Int. Tech.</u>	
✓ 171. Sh. K. Goswami.	Matric, ITI Fitter.	Matric, Mirenan Certificate.	24.8.42	4.10.65	26.5.73	<u>EA, Tech. Bikaner.</u>	-do-	
✓ 172. Sh. G.L. Shoree.	H.S. Radio Mech.	Trade Training Elect. Tech.	15.7.42	6.10.65	3.6.73	-do- Mathura.	-do-	
✓ 173. Sh. Chandi Prasad.	7th Certi. Gr. II Elect.	7th Certi. Gr. II Elect.	19.9.41	22.10.65	13.8.73	<u>EA, Tech. B.P. Unit.</u>	-do- 27.10.72	
✓ 174. Sh. J. K. Khanna.	Matric, ITI.	Matric, ITI.	"	8.8.46	22.10.65	3.8.73	-do- CPS, Delhi.	-do-
✓ 175. Sh. Surinder Sukhdev.	9th, NTC Fitter, S/C	9th, NTC Fitter, S/C	25.8.38	26.10.65	6.8.73	-do- Aligarh.	-do-	
✓ 176. Sh. Yad Ram.	8th, NTC Fitter, S/C	10.7.41	26.8.65	19.10.73	-do- R/Deptt.	-do-		
✓ 177. Sh. A. P. Singh.	Matric.	Other.	6.11.41	22.11.63	23.11.73	-do- CBS, Delhi.	-do- 18.1.69	
✓ 178. Sh. T.C. Kularia.	5th.	"	7.8.39	9.12.63	1.10.73	-do- AIR, Bikaner.	-do-	
✓ 179. Sh. V.M. Verma.	Matric, Fitter.	"	24.10.37	6.6.64	22.3.74	-do- Jullundur.	-do- 27.10.72	
✓ 180. Sh. O.P. Sharma.	H.S.	"	15.11.39	17.8.65	22.9.73	<u>EA, U.P.K.</u>	-do-	
✓ 181. Sh. G. H. Nandasaz.	Matric, ITI Elect.	Upto 8th Class. S/T	5.10.41	19.9.60	19.10.65	<u>EA, CLS, Srinagar.</u>	<u>Ex. 2110</u>	
✓ 182. Sh. Nar Singh Bhan.	Inter. Fitter.	"	1.3.42	12.10.65	15.9.73	<u>EA, Tech. TV, Kanpur.</u>	-do-	
✓ 183. Sh. Khen Chand.	Upto 8th Class. S/T	5.10.41	19.9.60	19.10.65	-do- B.P.U.	-do-		
✓ 184. Sh. Bachan Khan.	9th Class.	Other.	3.3.40	3.4.64	30.10.65	-do- Rampur	-do- 28.10.72	

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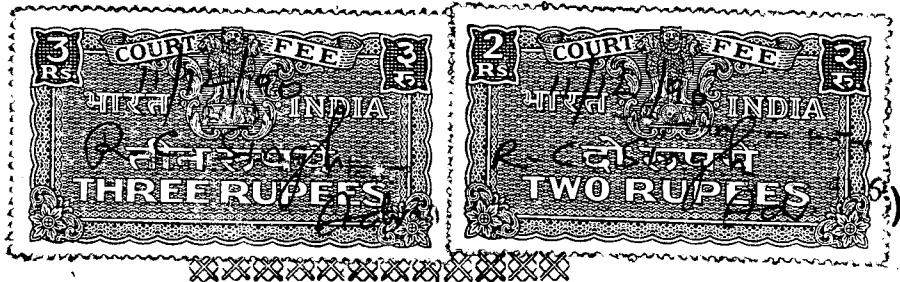
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13-8-85

14/

(22)

Before the Central Administrative Tribunal, Allahabad
 ब अदालत श्रीमान Circuit Bench, Lucknow महोदय
 (बादो अपोलाइट) श्री D.S. Ram का विवरण लातनासा
 प्रतिवादी [रेस्पाइट] O.A. No. 01/1990(L)



D. S. Ram

VS.

Union of India and Others (प्रतिवादी रेस्पाइट)

न० मुकदमा

सन्

पेशी की ता०

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R. C. Singh, Advocate

ऊपर लिखे मुकदमा में अपनी ओर से श्री

(Registration No. U.P. 2388 of 1987)

व. ५१२/२९, ८th Lane, Nishatganj, Lucknow

वकील

महोदय

एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लोटाव या हमारी ओर से डिगरी जारी करावें और रूपया बसूल करें वा सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकदमा उठावे या कोई रूपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेके 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 हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिसमेंदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

नाम अदालत न० मुकदमा ताम परिवेत

D.S. Ram

हस्ताक्षर

Q.M. 21/2
11/12/90

साक्षी (गवाह) साक्षी (गवाह)
 दिनांक 11th December सन् १९९० ई०

स्वीकृत

D.S. Ram
11/12/90

Before the Central Administrative Tribunal, Allahabad
Circuit Bench, Lucknow
O. A. No. of 1990(L)

D.S. Ram
Vs.
Union of India and others

Respondents

Applicant

ANNEXURE NO. A-1

SENIORITY LIST OF TECHNICIANS IN THE NORTHERN ZONE AS ON 1-7-1982.

S. No.	Name	Qualifications (Edn./Tech.)	Colony/	Date of entry	Date of Concurrence into Govt. Service	Present Posting	Present Grade
1.	Sh. Kedar Nath	Under Matric.	Other	20.5.29	29.1.45	29.1.49 23.12.74	Sr. Tech. Jharkhand 4.7.52
2.	Sh. Ali Mond	"	"	5.8.33	30.3.49	30.3.49 30.12.50	do, S.D. Srinagar- do 30.2.50
3.	Sh. Aziz	"	"	23.8.29	23.8.50	23.8.50 25.3.76	do, TV, Srinagar- do 22.8.50
4.	Sh. Md. Ghaffar	do	"	25.4.32	7.1.49	18.2.51 21.6.75	do, SD, Srinagar- do 18.5.51
5.	Sh. Sudinder Nath	do	"	24.6.31	13.8.49	16.12.74 do, Jharkhand	do 13.9.51
6.	Sh. Abdul Rehman-II	Matric.	"	21.7.28	13.4.51	13.3.54 23.3.72	do, TV, Srinagar- do 31.10.56
7.	Sh. D. Singh	"	"	4.1.24	29.5.52	29.7.52 10.12.74	do, Jharkhand
8.	S/C	3.7.34	IX.	6.5.59	6.5.59	do, SD, Delhi, Brit. Tech. 1.3.63	
9.	Sh. Yashwant Dayal	"	"	21.9.30	15.12.54	24.10.61 do, JC, CR (M)	5.6.67
10.	Sh. Pritam Singh	Matric Elect.	"	10.8.38	23.12.67	23.12.67 EA, AER, Jullundur, do	

	1.	2.	3.	4.	5.	6.
170.	Sh. S.K. Gupta.	Metric, NTC, Elect. Other	18.4.41	16.1.65	15.9.65	EL, AL, Silla. Plt. Tech.
171.	Sh. Ranji Lal.	8th Class.	3/0	13.7.41	9.8.61	21.9.65 Sr. Tech, BPU, Gurdaspur.
172.	Sh. P.P. Bugga.	Metric.	Other	10.10.38	14.10.58	30.9.65 RA, J. T. Gurdaspur.
173.	Sh. Babu Lal Suthar.	Metric, Cert. of Comp. Wireless.	24.8.42	4.10.65	4.10.65	Sr. Tech, Bikaner. -do-
174.	Sh. Arun Kumar Gojwari.	Metric, ITI Fitter Cul-Mech. Course.	15.7.42	6.10.65	6.10.65	RA, J. T. Gurdaspur. -do-
175.	Sh. Girdhari Lal	H.S. Trade Test Radio Mech. Trg. in Elect. Tech. iron S.S.I.	8.8.41	12.10.65	12.10.65	do, DDK, Amritsar. -do-
176.	Sh. Nar Singh Bher.	Inter, Dis. in Fitter.	1.3.42	12.10.65	12.10.65	do, TV, Kanpur. -do-
177.	Sh. Khan Chand.	Upto 8th Class.	5,10.41	19.9.60	19.4.65 S. do, BPU, J. T. Gurdaspur.	-do-
178.	Sh. Chandan Parashad.	7th Class, Cert. of Elect. Gd. I.I.	19.9.41	22.10.65	22.10.65	-do-, BPU. -do-
179.	Sh. Dharmesh Kumar.	Metric ITI Passed	8.3.46	22.10.65	22.10.65	-do-, GBS, Delhi. -do-
180.	Sh. Surendra Kumar.	9th Class, NTC Fitter	25.3.33	26.10.65	25.10.65	-do-, M. I. T. -do-
181.	Sh. Dal Singh Raniwar.	Fitter. Other	2.12.41	1.11.65	26.10.65	-do-, TV, Jalandhar. -do-
182.	Sh. Jai Kishan.	Metric	3.1.39	6.12.60	3.12.63	3.12.63 RA, J. T. Gurdaspur. -do-
183.	Sh. Bachan Khan.	IX. Class.	3.3.40	30.10.65	30.10.65	30.10.65 RA, J. T. Gurdaspur. -do-

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T. C. Chawla

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186	Sh. Ranesh Chander Sharma, Hr. Sec. Cert. Other	7.1.42	2.11.65	2.1.65	Sr. Tech. Jalandhar	Pt. Tech. 15
253	Sh. Gurnail Singh, 9th Class Cert. of S/C	15.10.38	15.11.65	15.11.65	-do-, IV, Delhi.	-do-5, 5, 73
254	Sh. G.L. Bala					
255	Sh. Lachman Keshwani, Matric, ITI Wiresman	5.10.39	2.12.65	2.12.65	-do-, Ajmer.	-do-2, 3, 74
256	Sh. Kirpa Ram, 4th Class, Cert. of Elect. Workman	12.2.28	16.7.53	31.7.74	-do-, TV, Delhi.	-do-31.75
257	Sh. Phool Chand Sharma, Matric, MTC Elect. Cert. of Comp. Cl. II (Elect.)	9.10.43	15.12.65	2.3.74	EA, -do-	-do-
258	Sh. Davinder Singh, Matric, Cert. of Comp. Elect. Cl. II	10.10.42	18.12.65	18.12.65	EA, CE(NZ)	-do-21.4.75
259	Sh. Shiva Nand, 27.5.28	19.4.55 (in AIR)	23.12.65	23.12.65	Sr. Tech. DDU, 31.8.74	-do-
260	Sh. K.K. Rojwanshi, Hr. Sec. ITI Elect.	22.8.45	7.1.66	7.1.66 (AIR) EA, AIR, Jalandhar, 1.5.74	-do-	
261	Sh. Pritam Singh, IX, ITI, Fitter. S/C	6.2.44	14.1.66	14.1.66 (AIR)	-do-, TVAriatgarh, 15.1.73	-do-
262	Sh. S. S. Paul, Inter. S/C	10.4.38	18.1.66	18.1.66 (AIR)	-do-, Lucknow.	-do-
263	Sh. Kartar Singh, Middle, MTC, Fitter, Other. 7.10.42	22.1.65	22-1-65	22-1-65	Sr. Tech. Kingsway, -do-	4-9-74
264	Sh. Net Ram, Xth, class, Cert. of S/C	5.7.43	27.1.66	27.1.66 (AIR)	-do-	21.4.75

T.C.
18/12/90

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Before the Central Administrative Tribunal, Allahabad
Circuit Bench, Lucknow
O. A. No. of 1990 (L) 28
D.S. Ram ... Applicant 26
Vs. ... Respondents
Union of India and others
ANNEXURE NO. A-3

दूरदर्शन मैनुअल
DOORDARSHAN MANUAL

खण्ड III
VOLUME III
परिशिष्ट पुस्तका
BOOK OF APPENDICES

प्रशासन, लेखा और कार्यक्रम
ADMINISTRATION, ACCOUNTS & PROGRAMMES



दूरदर्शन
Doordarshan

दूरदर्शन महानिदेशालय
DIRECTORATE GENERAL DOORDARSHAN

D. Ram

T. C.
T. C. Agjl
D.D.
18/12/90

ESTABLISHMENT MATTERS

Name of Post	No. of Posts	Classification	Scale of Pay	Whether selection or non-selection post.	Period of probation	Method of recruitment whether by direct recruitment or by promotion or by deputation/ transfer & Percentage of the vacancies to be filled by various methods.	In case of recruitment by promotion/ transfer/ deputation grades from which promotion/ deputation/ transfer to be made.	If a DPC exists, what is its composition.
1	2	3	4	5	6	7	8	9
Senior Engineering Assistant	608 as on 7.74)	General Central Services Class II Non-Gazetted	Revised. Rs. 550- 900.	Non Selection.	two years.	By promotion on seniority cum-fitness-basis.	Promotion Engineering Assistant, with atleast 3 years approved service in the grade.	Class II Departmental Promotion Committee

DUTIES

1. Shift-incharge at Control Rooms, handling into three simultaneous transmission channels.
2. Recording and Dubbing-Maintenance and operations.
3. Transmission duties at Master Switching Room.
4. Shift-incharge at each Medium power transmitter or a group of LPTs at a single location and shift duties at HPTs.
5. Assisting Senior Staff in Maintenance, installation Engineering Administration and other technical activities as may be assigned to him.

T. C.
R. C. Singh
Adv.
18/12/90

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S.No.	Name of Post	Number of Posts	Classification	Scale of Pay	Whether Selection post or non-selection posts.	Age limit for direct recruits	Educational & other qualifications required for direct recruitments.
1	2	3	4	5	6	7	8
1.	Engineering Assistant	1564	General Central Service Group 'C' non-Gazetted non-Ministerial.	Rs. 425-15-500-EB-15-560-20-640-EB-20-700-25-750.	Non-selection.	18-25 Years Relaxable upto 35 years for Government Servants.	<p>Essential Three year Diploma in Radio/Telecommunications/Electrical/Electronics/Electrical Communication Engineering recognised by the Governments of India.</p> <p>Or,</p> <p>Degree with physics as one of the subjects from a recognised University.</p> <p>Or,</p> <p>Degree in Electrical Engineering from a recognised University or equivalent degree.</p> <p>Or,</p> <p>Diploma in Sound Recording and Sound Engineering awarded by the Film and I.V. Institute of India, Pune.</p> <p>Desirable Knowledge of Wireless or Radio Engineering.</p>

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T.C.
R.C. Singh
Adm.
18/1/90

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ESTABLISHMENT MATTERS

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Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees.	Period of probation if any.	Method of recruitment, whether by direct recruitment or by promotion or by deputation/ Transfer and percentage of the vacancies to be filled by various methods.	In case of recruitment by promotion/ deputation/ transfer grades from which promotion/deputation/transfer to be made.	If a Departmental promotion Committee exists, what is its, composition.	Circumstances in which UPSC is to be consulted in making recruitment.
8	9	10	11	12	13
N.A.	Two Years	80% by direct recruitment. 10% by promotion 10% through limited departmental competitive examination.	Promotion from amongst combined cadre of Senior Technician, Radio Technician and technical Supervisor in the All India Radio with five years total service in the Grade or in a higher grade. Limited departmental competitive Examination from amongst combined cadre of Senior Technician, in the All India Radio with five years total service in the grade of Mast technicians/diesel technicians who have put in 8 years of regular service in the grade.	(1) Director (Engineering) dealing with administration as— CHAIRMAN (2) An Engineering officer of the level of Deputy Director (Eng) from All India Radio/ Doordarshan dealing with administration as— MEMBER (3) An officer or another Department of appropriate level having requisite technical competence. as— MEMBER	N.A.

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R. C. Engl
Adv.
18/12/90

Particulars of the posts.			Method of recruitment and percentage of vacancies to be filled up by.			
1	2	3	4	5	6	7
Sr. Technician	Classification Character and status of the post.	Scale of pay of the Post.	Direct recruitment.	Promotion Selection.	Transfers	100% by the promotion failing which by transfer. The promotion & transfer will be adhered to on zonal basis: Provided that transfer from one zone to another will be permissible only on the written request of the official concerned so transferred and on his agreeing to give his consent in writing that he has no objection to being treated as Junior to all the Sr. Technicians already in the zone on the date of his joining the new zone.

T.C.
Re: engl Adv.
18/12/90

Qualifications etc. for direct recruitment			Qualifications etc. for recruitment by Promotion/Transfer.		
Age limit	Educational & other qualifications required	Period of probation	Whether age & educational qualifications for direct recruitment will apply in case of recruitment by promotions/transfer	Grades/sources from which promotion/transfer is to be made	No. of Posts
8	9	10	11	12	13
		Two Years		Promotion Mechanics, with three yrs experience in the grade Transfer Persons working in similar and equivalent grade from another zone.	414

DUTIES

Same as Technician
 He is expected to handle particularly complex jobs at the discretion of his superior officers. In addition he will operate Tape duplicating Machines

DPC Composition

- (i) Director (Engineering) dealing Administration -- Chairman
- (ii) An Engineering Officer of the level of Dy. Director (Engg.) from All India Radio/Doordarshan dealing with Administration -- Member
- (iii) An Officer of another Department of appropriate level having requisite competence -- Member

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 T.C. Engg.
 Adv.
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S.No.	Name of Post	Number of Posts	Classification	Scale of Pay	Whether Selection post or non-selection posts.	Age limit for direct recruits	Educational & other qualifications required for direct recruitments.
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1	2	3	4	5	6	7	8
3.	Technician	690	General Central Service Group 'C' Non-Gazetted Non-Ministerial	Rs. 330-8-370-10-400-EB-10-480.	Not Applicable.	18-25 years (Relaxable upto 35 years for Govt. Servants).	Matriculate or equivalent and (a) A two-year trade certificate from an I.T.I. in Radio or Electronics or Electrician with one year practical experience after obtaining the certificate. or (b) A one-year Trade certificate from an I.T.I., as Air Conditioning and Refrigeration Mechanics with two years experience after obtaining the certificate. or, (c) A certificate of competency or a Diploma from recognised Institution for wemen Mechanics or electrician or Fitter Mechanic subject to the condition that the candidate possesses suitable Electrical licence with at least two years experience in a reputable workshop in one of the following: 1. Lathe Work 2. Carpentry 3. Electric Wiring Soldering 4. Internal Combustion Engine. 5. Fitting & Plumbing

Param

T. C.
R. C. Fazil
Adr.
18/12/90

Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees.	Period of probation if any.	Method of recruitment, whether by direct recruitment or by promotion or by deputation/ Transfer and percentage of the vacancies to be filled by various methods.	In case of recruitment by promotion/ deputation/ transfer grades from which promotion/deputation/transfer to be made.	If a Departmental promotion Committee exists, what is its, composition.	Circumstances in which UPSC is to be consulted in making recruitment.
9	10	11	12	13	14
Not Applicable	Two years	By direct recruitment failing which by transfer.	Transfer persons working in analogous or equivalent posts from other zones of All India Radio.	(1) Head of the office (or an officer of appropriate level nominated by him) —Chairman (2) Officer(s) of the Station/Office familiar with the work of the post to which recruitment is being made—Member (3) An Officer of another Department of appropriate level having requisite technical competence —Member	Not Applicable.

R. J. am

*T. C.
T. C. Engil
Adv.
18/12/90*

Annexure No.A-4.

Before the Central Administrative Tribunal,
Circuit Bench, Lucknow.

Original Application No. of 1990

D.S. Ramx Applicant

Versus

Union of India and others. .. Respondents.

Annexure No.A-4.

The Chier Engineer (North Zone)
All India Radio,
Jnanagar House Huments,
New Delhi-110011.

(Through Porper Channel)

Subject: Correction in Senior Technician's
Seniority List.

Sir,

This has reference to your Seniority List of Senior Technician circulated by our office on 1.1.84 I have to offer the following few lines for your consideration and orders:-

- (1) That in all cases the date of joining as Technician is the same as date of joining as Senior Technician, Due to this one can not make out who is Senior to another incumbent.
- (2) That due to this discrepancy it is impossible to make correct assessment of seniority of Senior Technicians.
- (3) That in my case, I accepted the offer for the post of Senior Technician as soon as I got it for the first time but even then quite a few Juniors are shown above me in the Seniority list of Senior Technicians and thereby I feel, I am a looser as far as my seniority in senior technician Cadre is concered.

T.C.
R.C.S.A. 18/12/90



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4. I cite few cases as follow for your perusal which are self-explanatory.

	<u>Joining date as Technician.</u>	<u>Joint date as Sr. Technician.</u>
1. A.P. Singh	22.11.63	23.11.73
2. V.M. Verma	6.6.64	22.3.74
3. Bachan Khan	20.10.65	14.9.73
4. Gurmel Singh	15.11.65	12.10.73
5. Pritam Singh	14.1.66	30.10.73
6. D.S. Ram	29.10.65	6.11.73

Under the above cited facts it is requested that necessary corrections may please be incorporated the Seniority List and fresh seniority list may please be got prepared and circulated to all concerned.

Thanking you,

Yours faithfully,

Sd/ .. D.S. Ram
Senior Technician
Doordarshan Kendra, Lucknow.

Dated:
4th April, 1984.

True copy:

E.S. Sajid
Adv.
18/12/90

Before the Central Administrative Tribunal,
Circuit Bench, Lucknow.

Original Application No. or 1990
D.S. Ram Applicant.
Versus
Union of India and others. .. Respondents.

Annexure No.A-5.

To,

The Chief Engineer (North Zone),
Akashvani & Doordarshan,
Jannagar House,
New Delhi- 110011.

(Through Proper Channel)

Sub : Application for correction in Seniority
list of Senior Technician.

Sir,

This has reference to the Seniority list of
Senior Technician circulated by your office on 1.1.84
in this connection I have to submit as under:-

2. I joined as Mechanic/Technician on 1.11.63(AN)
at W.P.C. Bombay. I was transferred from W.P.C. Bombay
and joined A.I.R. Varanasi on 29.10.65 (G.M.) I got
promotion as Senior Technician at AIR Varanasi on
6.11.73 (F.N.) from A.I.R. Varanasi I was transferred
to Lucknow DDK on 22.6.77 in the same capacity.

3. Shri Bachan Khan (Senior Technician) who had
joined as Mechanic/Technician on 30.10.65, has been
shown above me in the Seniority list of Technician
referred to above in para 1. In the seniority list of
Technicians he is shown junior to me. It is not
understandable, how he has been shown senior to me in
the list of Senior Technician.

D.S. Ram

T.C.

*Recd. by
Achv.
18/12/90*

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4. It is, therefore, requested that my seniority may kindly be corrected and my name may please be shown above Shri Bachan Khan, Senior Technician.

Thanking you in anticipation.

Yours faithfully,

Sd/ . D.S. Ram
Senior Technician
Doordarshan Kendra, Lucknow.

Lucknow:
Dated 1st January, 85.

True copy:

(-c. copy)
Adv.
18/12/85

Before the Central Administrative Tribunal,
Circuit Bench. Lucknow.

Original Application No. of 1990
D.S. Ram Applicant.
Versus
Union of India and others. .. Respondents.

Annexure No.A-6.

Government of India
All India Radio, Lucknow.

No.LKO- 11(7)/85-8 Dated 12.12.85

Subject: Seniority list of Engineering
Assistants.

Chief Engineer (North Zons) has brought and a seniority list of Engineering Assistant. The list contained names of all the Engineering Assistants who had joined North Zone from the time, the cadre of Engineering Assistant was introduced. A copy of the seniority list is kept in the Administrative Section with Administrative officer. One ^{more} Copy of the seniority list is kept with Sri S.C. Mishra, Station Engineer. The following persons are advised to go through the list and discrepancies if any, noticed in the list may be intimated to the undersigned in the form of a representation to be forwarded to Chief Engineer (North Zone). The representation, if any, should reach the undersigned by 24th December, 85. The officials are also requested to sign in taken of their having seen the list.

Sham
The seniority of those Engineering Assistants who were recruited on Zonal & Regional basis is given as per their rank in various selected panels. Each Engineering Assistant has been assigned an Employment Number. This

T.C. Singh Adw/12/90

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has been indicated in ~~extra~~ column 6, This number is to be noted carefully as the same is to be quoted in all future correspondence regarding service matters.

To all concerned Officers.

Encl. List.

Sd/...
(G.C. Pande)
Superintending Engineer.

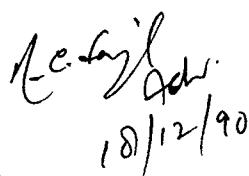
Copy to:-

1. The Chief Engineer (North Zone), (by name Sri J.K. Gupta, Dy. Director Engineering), Akashwani and Doordarshan, Jamnagar House (hument), Shahjahan Road, New Delhi with reference to a memo No. A-20/15/85-D.P.C. dated 5.12.85.
- (ii) The Administrative Officer, A.I.R. Lucknow.
- (iii) The station Officer, A.I.R. Lucknow with a request to obtain the signatures of persons in taken or having seen the list.



Superintending Engineer.

True Copy:


A.C. Sajid
18/12/90

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Before the Central Administrative Tribunal,
Circuit Bench, Lucknow.

Original Application No. of 1990.
D.S. Ram. Applicant
Versus
Union of India and others. Respondents.

Annexure No.A-7.

GOVERNMENT OF INDIA
ALL INDIA RADIO : LUCKNOW

No. Lko-11(7)/85-E

Dated: 27.12.85

The Chief Engineer (North Zone),
Akashvani & Doordarshan,
Jannagar House (Hutments),
Shahjahan Road,
New Delhi.

Subject: Seniority list of Engineering
Assistants.

Sir,

Further to this endorsement of even no. dated 12.12.85 on the above subject enclosed please find a copy of representation submitted by Sri D.S. Ram, Engineering Assistant (Serial No.1551, Employment no. 21205) regarding his seniority in the list.

This is the only representation in as so far as this office is concerned.

Encl: 1 sheet.

Yours faithfully,
Sd/ G.C. Pande),
Superintending Engineer.

Copy to:-

1. Sri D.S. Ram, Engineering Assistant, All India Radio, Lucknow.

True Copy:

1-1-1
10/12/90

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To,

The Chief Engineer (North Zone),
All India Radio,
Jammagar House Apartments.
New Delhi-110011.

Through Proper Channel.

Subject: Correction ~~as~~ in Engineering Assistants
Seniority, list.

Sir,

With reference to your Office seniority list No. 20/14/85-E.P.C. dated 31.8.85 in connection with my Seniority I have to state as under :-

As I have joined as a Mechanic/Technician on 1.11.63 (A.N.) at W.P.C. Bombay, I have transferred from W.P.C. Bombay and Joined A.I.R. Varanasi on 29.10.65 on the same post I have got promotion as Sr. Technician on 6.11.73 and joined at A.I.R. Varanasi. I have again transferred from A.I.R. Varanasi to DDK. Lucknow on 22.8.77 on the same post.

I have been promoted as Engineering Assistant and joined A.I.R. Lucknow on 25th June, 1985. It is submitted for kind information that, Sri Bachan Khan (Engg. Assistant) was joined as a Mechanic/Technician on 30.10.65. He has been shown Junior to me in the Seniority list of Technician Sri Bachan Khan has also been shown junior, to me in the Seniority List of Sr. Technician circulated in 1981. But Sri Bachan Khan has been shown Senior to me in the Seniority list of Sr. Technician Circulated in 1983.

Q. Amz
I have also submitted a representation regarding my Seniority on 29.7.84. But as action has been taken by your office.

T.C.
R.C. Singh
Joh.
18/12/90

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Moreover Sri R.C. Sharma is also junior to me as technician. He has joined as Mechanic/technician on 2.11.85. He has also shown senior to me in the seniority list as Engineering Assistant, Keeping in view of the above.

It is therefore requested that my Seniority may please be fixed in the proper place of the Engineering Assistants.

Thanking you,



Dated 12.12.85
24.12.85

Yours faithfully,

Sd/ . D.S. Ram
Engineering Assistant,
All India Radio, Lucknow.

True Copy.:

Ac-ccy J. John
18/12/90

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(43)

Before The Central Administrative Tribunal,
Circuit Bench, Lucknow.

Original Application No. of 1990.

D.S. Ram Applicant

Versus

Union of India and others. ... Respondents.

Annexure No. A-8.

To,

The Chief Engineer (NZ)
Akashvani & Doordarshan,
Jamnagar House (Hutments)
Shahjahan Road,
New Delhi- 110011.

Through Proper Channel:

Subj: Correction in seniority list of Engineering Assistants.

Sir,

Kindly refer to my representation dated 24.12.85 regarding my request for the correction in seniority list of Sr. Technicians & Engineering Assistants.

I would like to further enlighten your kind honour that S/Srhi Bachan Khan and R.C. Sharma are shown in seniority list at 21201 and 21202 respectively & I was shown at 21205. Sri Bachan Khan & R.C. Sharma joined this organisation as Technician on 30.10.65 and 2.11.65 respectively and I joined on 29.10.65 at A.I.R. Varanasi as Technician on transfer from W.F.C. Bombay.

From the above, it is evident that my name must have gone up instead of showing me in the lower position. I would personally feel grateful if the seniority list be changed accordingly & I may be informed at the earliest.

Thanking you,

Dated: 16.1.1990
Place: Lucknow.

T.C. Rayil
Adm

Yours faithfully
S/o. D.S. Ram,

Engineering Asstt. DDK. Lucknow
16/1/90

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Before the Central Administrative Tribunal,
circuit Bench, Lucknow.

Original Application No. or 1990.

D.S. Ram Applicant.

Versus

Union of India and others. .. Respondents.

Annexure No. A-9.

To,

The Chief Engineer,
Office of the Chief Engineer (North Zone),
Akashvani and Doordarshan,
Jannagar House (Shajahan Road),
New Delhi- 110011.

Sir,

Kindly refer to your letter No. A-20/14/88-EP C dated 2.9.88 regarding circulation of seniority list of Engineering Assistants in the North Zone upto 30.9.87. In this connection I beg to submit as under for immediate necessary correction in the seniority list :-

1. That S/Sri Bachan Khan, R.C. Sharma, Gurnail Singh and Preetam Singh as Technician were junior to me but in the above list shown as senior vide S.No. 290-1511, 300-1521, 310-1531 and 320-1541. This discrepancy may please be rectified.
2. That I had already represented to your goodself regarding showing me junior in the seniority list of Sr. Technician against the above officials. I am sorry that inspite of several reminders no reply has so far been received from your good office since 1984. I shall be

T. C.
R.C. Singh
Adv.
18/12/90

D. Ram

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grateful if a line in reply how juniors superseeded me in service, may please be given to me.

3. In the end, I would request your honour to kindly look into the matter personally and correct the list accordingly under intimation to me at the earliest.

Thanking you,

D.S. Ram

Dated:
20.8.88

Yours faithfully,

Sd/ . D.S. Ram
Engineering Assistant.
Doordashan Kendra,
Lucknow.

True Copy:-

A. S. S.
Adri
10/12/90

Before the Central Administrative Tribunal, Allahabad
Circuit Bench, Lucknow
O. A. No. 46
of 1990 (L)

D.S. Ram

vs.

Union of India and others

--- Applicant

--- Respondents

ANNEXURE NO. A-10

To

The Secretary,
Department of Public Grievances & Pension,
Ministry of Home Affairs,
New Delhi-110001.

THROUGH PROPER CHANNEL

Subject: Seniority list of Engineering Assistant - correction thereof.

Sir,

I beg to submit that at present I am employed as Engineering Assistant, Doordarshan Kendra, Lucknow. I represented to the Chief Engineer, (North Zone) Akashwani and Doordarshan, Jannagar House, Shahjahan Road, New Delhi, vide my application dated 22.8.88 and 20.9.88 to make correction in the seniority list of Engineering Assistants (copies enclosed for ready reference). But so far, nothing has been heard.

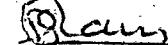
2. I beg to apprise of the following facts for your consideration and favourable orders:

- i) That S/Shri Bachan Khan and R.C.Sharma who joined this organisation as Technicians on 30.10.65 and 2.11.65 respectively, whereas I joined on 29.10.65 at AIR, Varanasi as technician on transfer from W.P.C. Bombay, were much junior in service to me, but they were shown in the said list senior than myself.
- ii) That I would like to point out towards Doordarshan Manual Vol.III, Page No.60, para-21 of the DPC sub para VI of establishment matters, which clearly lays down that the lower cadre seniority will be carried forward in the senior grade also in the case of promotion (A photo copy of the said page attached herewith).

In the end I would request your goodself to take up the matter with the above department to revise the seniority list immediately so as to provide proper justice in my case. If it is not revised, I have to suffer and may be put to loss. Therefore, I solicit your valuable advice to get the matter settled at an early date.

Thanking you,

Yours faithfully,



(D.S. Ram) 24/12/88

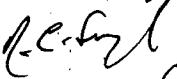
Engineering Assistant
Doordarshan Kendra,
Lucknow.

Advance copy forwarded to the Secretary, Department of Public Grievances & Pension, New Delhi for immediate action in the matter.

(D.S. Ram)

1. Copy to Chief Engineer, Northern Zone, Akashwani & Doordarshan New Delhi.
2. Copy to Secretary, Ministry of I&B, New Delhi for suitable action.

T.C.



(D.S. Ram)

Adv
18/12/90

Before the Central Administrative Tribunal, Allahabad
Circuit Bench, Lucknow
O. A. No. 47
of 1990 (L)

D.S. Ram

vs.

Union of India and others

--- Applicant

--- Respondents

ANNEXURE NO. A-11

BHARAT SARKAR
DOORDARSHAN KENDRA
LUCKNOW

No. TV(LKO)21(173)86-S/T

Dated 1-4-1989

MEMO

Reference his letter dated 3-3-89 regarding
correction of seniority list of Engg. Asstt., Sri
D.S. Ram, E.A. is hereby inform that CE(NZ), New
Delhi vide their letter No. A-20/14/88-EPC dated 1-3-89
has intimated that his case is being examined and a
reply will be sent shortly.

15/4/89
(Srinath)
Administrative Officer
for Director

15/4/89
Sri D.S. Ram,
Engineering Asstt.
Doordarshan Kendra,
Lucknow.

*T.C.
T.C. Engg.
A.D.
18/12/90*

GOVERNMENT OF INDIA
OFFICE OF THE CHIEF ENGINEER(NORTH ZONE)
AKASHVANI & DOORDARSHAN

(48)

50
F77
10/3

JAMNAGAR HOUSE: SHAHJAHAN ROAD
NEW DELHI-110011.

No. A-20/14/38/EPC/

Dated the, 1.3.1989

The Director,
Doordarshan Kendra,
5, Mira Bai Marg,
LUCKNOW. (U.P.)

SUBJECT:- Seniority List of Engineering Assistants in North
Zone of Akashvani & Doordarshan as on 30.9.1987.

Sir,

This has reference to your letter No. TV(LKO) 21(17)/86-S/T/11398 dated 22.9.1988 forwarding therewith the representations of S/s. D.S. Ram, V.K. Anil, Ganga Ram and Ramji Dubey, Engineering Assistants pointing out discrepancy in the Seniority List of Engineering Assistants circulated vide this office letter of even number dated 2.9.1988.

In this connection it may be mentioned that the seniority in the cadre of Engineering Assistant is being fixed on the basis of one's rank in the panel and not on the basis of date of joining. As S/s. V.K. Anil, Ganga Ram and Ramji Dubey, Engineering Assistants belongs to reserved category, they were given appointment out of turn but their seniority has been correctly fixed on the basis of their rank in the Select Panel. They may be informed accordingly.

The case of Shri D.S. Ram, Engineering Assistant is being examined and a reply will be sent shortly.

Yours faithfully,

D.S. Ram

V.K. Gupta

(V.K. GUPTA)
DEPUTY DIRECTOR ENGINEERING,
for CHIEF ENGINEER (N.Z.)

T.C.
A.C. Singh
D.S.
18/12/98

Before the Central Administrative Tribunal, Allahabad
Circuit Bench, Lucknow
O. A. No. 4990(L) 49

D.S. Ram

vs.

Union of India and others

--- Applicant

--- Respondents

ANNEXURE NO. A-12

GOVERNMENT OF INDIA
OFFICE OF THE CHIEF ENGINEER (NORTH ZONE)
AKASHVANI & DOORDARSHAN

JAMIAJAGAR HOUSE, SHAJHAN ROAD,
NEW DELHI - 110 11.

No. A-19/14/89-EPC

DATED: - 19/08/90

SUB:- Seniority list of EA of North Zone.

Enclosed Please find a copy of the seniority list of E.A. in the North Zone as on 28.02.89. It is requested that the contents of this list may please be brought to the notice of all those persons whose names appear in the list. Any error or omission may please be brought to the notice of the undersigned latest by 15.09.89 giving clearly the S.NO., Name & Emp. No. of this seniority list of the person under-dispute.

In case no error/omission is found a Nil report may be sent to this office. If no comments received in this regard by the due date, it will be assumed that the seniority list is correct and this will be effective in future also. All the employees should note that in future their correspondence regarding service matters to Zonal Office including Promotion/ Posting/Transfer etc. may code their Emp. No. which will be easy to identify the candidate otherwise it will be very difficult to locate the employees details.

V. K. GUPTA
Deputy Director (Engg.)
for CHIEF ENGINEER (NORTH ZONE)

Copy to :-

1. D.G., A.I.R. (By name Sh. B.S. Jain, DE(A), TV(A) Section) Akashvani Bhawan, New Delhi.
2. D.G. Doordarshan (By name Sh. B.C. Sandhu, DE(A), Mandi House, New Delhi.
3. All Station/Kendras of All India Radio/Doordarshan of North Zone.
4. All L.P.T.V.s/TVRCs in North Zone.
5. President, AIR Technical Employees Association, Post Box No. 736, Gole Market, New Delhi-110001.
6. President, AIR Engineering Employees Association, Post Box. No. 422, Gole Market, New Delhi-110001.
7. Chief Engineer (AVM), O/O CE (NZ), AIR & TV, N.DELHI.
8. Sh. Ayodhya Pershad, DE(A), O/O CE (NZ).
9. C.R. Cell (Smt. Joseph, P.A.) O/O CE (NZ).
10. Guard File.
11. Computer Section, O/O CE (NZ).
12. Control Room, B.H. Parliament st. New Delhi.

NS:- SENIORITY LISTS OF SEA, EAS, SR.TECH., & TECHS. MAY
KINDLY ALSO BE CIRCULATED AMONGST ALL THE STAFF.

S.N. CHOUDHARY
05.08.90

* * *

T. C.
R.C. Singh
18/08/90

Before the Central

0.4

D.S. Ram

Union of India and

OFFICE OF THE CHIEF ENGINEER (N
SENIORITY LIST OF ENGINEERING
20/14/89-EPC/-

Sl.	Sr.No.	Name	Qualification	Expt.
1.	2.	3.	4.	5.
1.	1249	Smt. Seema Bhattacharjee	Dip. in Electronics 11531	11-0
2.	1251	Sh. D.S. KAPOOR	High School (21155)	35
3.	1257	Ram Prakash	Dip. in Electronics Sinha (11537)	10
4.	1390	" Umesh Chandra	Dip. in Elect. Engg. (11636)	10
5.	1397	" Inderjit	Dip. in Electronics (11641)	63
6.	1398	" Anil Khandelwal	B.Sc (phy) (11642)	64

D.S. Ram

T.C.

S.N. Choudhury

18/11/90

(51)

52

- : 16 : -

1	2	3	4	5	6	7	8	9	10	11
✓ 120 1511 Sh. Bachan Khan 2122C		9th, Class	4C.02.35	54.04.03 65.20.30	ST.73.09.14 EA.85.03.30	65.10.30 72.10.28	Tech		AIR, PAMPUR	
✓ 121. 1512 " N.D. Purohit (21253)	Xtr.III	44.08.14	71.06.02	ST.71.06.02 SE.77.03.29 EA.85.09.17	TECH				AIR, JODHPUR	
✓ 122. 1513 " Neelam Singh (11853)	Dip. in Electronics	62.01.03	85.01.05	EA.85.01.05 SEA. 88.11.30			S/C	AIR, KANPUR		
✓ 123. 1514 " C.V.N. Anthony (11623)	Edu.Dip.in Electronics	44.07.31	85.01.05	EA.85.01.07			Ex.	SD, DELHI		
✓ 124. 1515 " Amog Kumar (11644)	Dip.in Elect.Engg.	62.16.13	84.12.27	EA.84.12.27 SEA.			S/C	DDK, SRINAGAR		
✓ 125. 1516 " Piar Chandra (11845)	Edu.Dip.in Electronics	40.08.15	84.12.26	EA.84.12.26			Ex.	AIR, SIKKIM		
✓ 126. 1517 " K.S. Rup Rai (11853)	Edu.Dip.in Electronics	42.06.16	84.12.19	EA.84.12.19			Ex.	DDK, JALANDHAR		
✓ 127. 1518 " D.K. Kyes (11854)	Edu.Dip.in Elect.Engg.	46.12.31	84.12.15	EA.84.12.15			Ex.	AIR, BIKANER		

T.C. Singh

18/12/90

10/12/90

-17-

1	2	3	4	5	6	7	8	9	10	11
128	1519	Sh. Santa Ranjan L.E.E.		62.05.09	84.12.29	EA 84.12.29 SEA	-	S/C	DDK, Srinagar	
129	1520	Sh. Lalit Lal	Dip In Electronics	64.10.04	85.01.31	EA 85.01.31 SEA 85.02.23	-	S/C	TVRC, Pauri	
130	1521	Sh. R.C. Sharma	HS/Cert.of Comp. Wireman	42.01.07	65.11.02	EA 65.11.02 SEA 73.02.13 EA 85.04.16	Tech - AIR, Jaipur			
			ITI, Elect.				72.02.18			AIR, Allahabad
131	1522	Sh. Satnam Singh	8th, ITI Fitter	46.09.15	69.01.20	T 69.01.20 ST 76.10.30 EA 85.09.04	Tech - AIR, Udaipur			
							75.12.10			AI.T.G.U.H.
132	1523	S.K. Paul	Equ. Dip. In Electronics	43.04.12	85.05.01	E.A. 85.05.01	-	Ex.	DRY. M. M. F. R. P. G. C. I.	87.08.14
133	1524	Sh. Ram Murti	Dip. In Elec59.02.01 Engg.		84.12.29	EA 84.12.29 SEA 89.02.24	-	S/C	DDK, Lucknow	
134	1525	Sh. Ananad Babu	Dip. In Electronics	63.02.05	84.12.27	EA 84.12.27 SEA	-	S/C	CE (R&D) Delhi	
135	1526	Sh. Rajinder Prasad	Equ. Dip. in Electronics	45.05.11	84.12.29	E.A. 84.12.29	-	Ex	DDK, Delhi	

T.C. Relegh
18/1/80

15/1/80

- : 21 : -

	1	2	3	4	5	6	7	8	9	10	11
160.	1551	S/o D.S. Ram (2125)	Master, Fitter	41.14.02	63.11.01 65.10.29	T.63.11.01 T.52.11.06 TA.85.06.25	Tech. TP&ES	DDK, LUCKNOW	-	(53)	
161.	1552	" R.K.M. Yadav (2125)	VIIth, Wremen	44.07.01	64.10.10	T.64.10.10 ST.75.05.07 EA.85.10.04	TVRC, VARANASI	-	-	(54)	
162.	1553	" Prave Lai (11930)	Direct. Engg.	55.09.09	85.02.16	EA.85.02.16 SE.85.01.28	S/C	AIR, RAMPUR	-	(55)	
163.	1554	" S. Sharma (11931)	Engg (P.H.Y)	62.11.02	85.01.01	EA.85.01.02 SE.85.01.02	DR. TERTH	-	-	(56)	
164.	1555	M/s. Shehzad Bano	Direct. in Electronics	63.07.01	85.01.28	EA.85.01.28 SE.85.01.28	PH	AIR, LUCKNOW	Passenger W.E. 5. 86.09.30	(57)	
165.	1556	S/o P. Singh (11932)	Direct. in Engg	63.02.04	84.12.28	EA.85.12.28 SE.85.11.29	S/C	TVRC, BISSAR	-	(58)	
166.	1557	Kum. Champa Devi (11933)	Direct. in Electronics	63.04.07	84.12.20	EA.85.12.20 SE.85.11.29	S/C	DDK, KASAULI	-	(59)	
167.	1558	S/o K. Azad (11934)	Equ. Disp. in Electronics	48.05.06	84.12.20	EA.84.12.20	Ex.	SD, DELHI	-	(60)	

T.C. Singh Adhi
18/12/90

13
Bem

D.S. Ram

vs.

Union of India and others

56 Applicant

Respondents
 ANNEXURE NO. A-1/3

तीया में:-

मुख्य अभियन्ता। उत्तरी धैर्य

आकाशवाणी एवं दूरदर्शन,

जागनगर हाऊस, शाहजहां रोड़

नई दिल्ली।

मुख्य अभियन्ता। उत्तरी धैर्य

प्रियजन:- उत्तरी धैर्य में उत्तरी अभियन्ता की वरिष्ठतुयी।

आपके धारन संख्या स- 19/14/89-इंपीओ ० दिनांक 21/8/89

जो कि उपरोक्त विषय पर आधारित है। इस पत्र के साथ वरिष्ठता सूची
 संलग्न की गई है। उसके बारे में निम्न नियेदन है:-

- 1- यह कि मेरा नाम डी०स०रा म० कुमांक 160 पुराना कुमांक 155।
 एवं रोजगार संख्या 21205 पर अंकित है।
- 2- यह कि वरिष्ठता सूची कालम संख्या ६ एवं ७ के अन्तर्गत इस विभाग
 में कार्यभार ग्रहण करने की तिथि १/११/६३ द्वायी गई है जो कि
 परिचयी धैर्य में दर्शक ही है। उत्तरी धैर्य में जब मैंने कार्यभार -
 ग्रहण किया उसकी तिथि नहीं द्वायी गई है जबकि मैंने उत्तरी धैर्य
 के अन्तर्गत आकाशवाणी पाराण्डी में दिनांक 29/१०/६५ को तकनीशियन
 विभाग के पद पर स्थानान्तरण होकर कार्यभार ग्रहण किया था।
 इसका उल्लेख कहाँ नहीं है। कृपया इस श्रूटियों को तुरन्त सुन्धारा
 जाए। यदि आप उपरोक्त श्रूटि को देखना चाहें तो तकनीशियन की
 वरिष्ठता सूची का अल्पांकन करें।
- 3- यह कि मेरी वरिष्ठता सूची तकनीशियन थी बचन खान कुमांक 120
 पुराना कुमांक 151। रोजगार संख्या 21210 से ज्यादा है वयोंकि
 ब्रा खान मुझसे कानून है। इनकी तकनीशियन पदभार ग्रहण तिथि
 ३०/१०/६५ है जबकि मैंने दिनांक 29/१०/६५ को बंद भार ग्रहण
 किया था। तदीय ब्रो आरो सौ० शंकर कुमांक 130 पुराना 152।
 रोजगार संख्या 21202 मा तकनीशियन वरिष्ठता सूची के अन्तर्गत
 मुझसे कानून है। इनकी पदभार ग्रहण तिथि २/११/६५ है।
- 4- यह कि उपरोक्त अभियन्ता संहायकों की वरिष्ठता सूची जो कि
 पहले दी जा चुकी है मैंने उसे उत्तरी धैर्य करने हेतु कई बार प्रार्थना
 पत्र भेजा परन्तु किसीले रहा।

T. C.

L.C. Singh
 Adv.

(8/12/90)

—2/

१२६

5- यह फॉर्म दिनांक 1/4/1989 पत्र संख्या टी.वी. ४८५२१८१७३-८६-
सर./टी. के द्वारा निवेशक दूरदर्शन बेन्ट्रु ने मुझे सूचित किया था कि
इस संघर्ष में उचित कार्यवाही को जा रही है। परन्तु अभी तक कोई
कार्यवाही नहीं हुई और वरिष्ठता सूची घोषित गलत बनी हुई है
इस संघर्ष में यह भी कहना है कि गुण्य अभियन्ता उत्तरी क्षेत्र नई
दिल्ली ने पत्र संख्या स-२०/१५/८८-४००००००००० दिनांक 1/3/89
के द्वारा निवेशक दूरदर्शन को लिया था कि इस संघर्ष में शीघ्र ही
कार्यवाही कर मुझे सूचित किया जाएगा।

6- यह कि समस्त प्रूटियाँ तकनीशियन से वरिष्ठ तकनीशियन की सूची
जारी दरते समय हुई है। अतः प्रथम वरिष्ठ तकनीशियन की —
वरिष्ठता सूचि ठीक की जाए। तदानुसार अभियन्त्रकी सहायकों ली
सूची स्थितः ठीक हो जायेगी।

उपरोक्त तथ्यों से स्पष्ट है कि जो वरिष्ठता
सूची जारी की गई है वह प्रूटिपूर्ण है तथा उसे तुरन्ते ठीक किया जाए।
चूंकि मैं इस संघर्ष में सन् 1984 से लोगों द्वारा वरिष्ठता सूची ठीक करने वेतु
लिये रहा हूँ। परन्तु आपके कार्यालय द्वारा कोई कार्यवाही अभी तक नहीं
हुई। अतः यदि वरिष्ठता सूची ठीक करके मुझे ३० दिन के अन्दर न सूचित
किया गया तो बिल्कुल मुझे कानूनी कार्यवाही करनी पड़ेगी जिसका
समस्त उत्तरदायित्व आप पर होगा।

संधन्यवाद

दिनांक 6/9/89

Param

भवदीप

५.०८.८९

५. डी. स. राम।

संख्या २१२०५

अभियन्त्रक तहायक

दूरदर्शन बेन्ट्रु, लखनऊ।

T.C.
P.C. Singh
Ach.
18/12/90

Before the Central Administrative Tribunal, Allahabad
(Circuit Bench, Lucknow)
O. A. No. of 1990 (L)

56

D.S. Ram

vs.

Union of India and others

SB - Applicant

Respondents
ANNEXURE NO. A-14

मारता सरकार

कायाचिय: मुख्य अधिकारी। उत्तरी क्षेत्र।

आकाशवाणी एवं दूरदर्शन।

जागमगर छात्र, शाहजहां रोड,
नई दिल्ली - 110011.

क्रमांक: ४-२०/१४/८९-शीर्षी

दिनांक: ५ जिलाम्बात, 1989.

महानिकायालय,

मामत: श्री पी. पी. छात्र, अनुमाग अधिकारी।

दूरदर्शन,

कोपरनिक्ष सार्ग,

मण्डी छात्र,

नई दिल्ली - 110001.

विषय:-

श्री डी.एस. राम, वरिष्ठ ताकनीशियन की सरिष्ठता
हितान्वेन्ती।

तार्दम :-

आपका ज्ञापन संख्या ३२/१/८९-एस-५ दिनांक
10.04.89.

महोदय,

मूल्या इस कायाचिय के संलग्नस्थापा पत्र दिनांक 25/26-4-89
जौर उपरोक्त पत्र एवं विषय एवं तार्दम में सह ग्रम करें।

श्री डी.एस. राम, अधियान्त्रिकी सहायता, दूरदर्शन केन्द्र,
लखनऊ द्वारा प्रत्युत अभियेदन श्री इस कायाचिय में विस्तारपूर्वक वर्णन की
गई है। तथ्य निम्नवत है :-

१।

श्री डी.एस. राम इस कायाचिय के आदेश संख्या जारी [उ.के. १/१८/७३-एस/२५०१] दिनांक 20.10.73 के द्वारा
ताकनीशियन से वरिष्ठ ताकनीशियन के पद पर पदोन्नति किए
गए थे।

२।

पर्याप्त सम्पत्ति वाल और श्रीक जारी शर्मा इस कायाचिय के
आदेश संख्या जारी [उ.के. १/१८/७३-एस दिनांक
७/९/७३ के द्वारा ताकनीशियन से वरिष्ठ ताकनीशियन के पद
पर पदोन्नति किए गए थे।

Received on 16/6/90

T. C.

U. C. S. S.

Gebr.
(9/12/90)

59

-: 2 :-

हत्ता प्रशार दिनांक 31/3/85 की परिहळता सूची में प्रदर्शित

* श्री डी.एस. राम की परिहळता स्थिति सही है।

कृपया श्री डी.एस. राम, अभियान्त्रिकी तहायक, दूरदर्शन केन्द्र,

* लखनऊ छो छतकी जानकारी देने का ज्ञान करें।

प्रत्येक सहित।

मध्यदीय,

॥ श्री० फ० गुप्ता ॥

उप-मिश्राक [अभिरो]

कृते मुख्य अभियन्ता उत्तरी छत्र।

प्रतिविधि प्राप्ति :-

1. महानिषेधालय, आकाशवाणी, नई दिल्ली उनके पत्र संख्या 3/2/89-एस-4[प] 25 दिनांक 17/10/89 का संदर्भ निम्न तुरंत आकाशवाणी तात्कालीकी रूपरूपारी संघ छो अधिकारी जानकारी देने का ज्ञान करें।

अधीक्षण अभियन्ता, दूरदर्शन केन्द्र, लखनऊ, उत्तर प्रदेश गृहनार्थ।

15 Jan

कृते मुख्य अभियन्ता उत्तरी छत्र।

T. C.
K. C. G.
Adr.
18/12/90

D.S. Ram

vs.

Union of India and others

190 (L)

Applicant

--- Respondent

ANNEXURE NO. A-15

उचित गोदायम टीटा

१६४ ३

बुध अग्रिमन्ता ॥ ३०४०॥
आठाशपाठी एवं द्वादशनि
आग्रन्त छात्रा, शात्रज्ञा' रौढ
नई दिल्ली - ॥ १००१॥

ਪਿਆਰੇ:- ਬਹਿਤ ਤਕਨੀਗਿਣ ਲਾ ਬਹਿਤਾ ਫਿਲੀਪੇਤੀ ।

बालोद्य.

आपका पत्र शुभार्थः स-20/14/89-झूपी प्री ० दिनार्थ ५/९/८९
जो फि उपरोक्त विषय पर धा प्राप्त हुआ । इस तर्थ से निम्न निवेदन हैः-

- १- यह कि आपके द्वारा परिष्कार के सम्बन्ध में बोला गया फ्रं अस्पष्ट तथा लिप्तर्थों के विवरीत है। सम्भवतः भैरो द्वारा दिये गये आवेदनों को ठोक से देखा नहीं गया।
- २- यह कि जब भैरव द्वारा परिष्कार था तो भैरा पदोन्नति आदेश धारा में तथा भी उच्चान धारा भी आर.सी. इर्मा द्वा पहले पर्याँ बोला गया लूपया द्वारे स्पष्ट हरे।
- ३- यह कि आकाशधारी / दूरदृशि भैरुवल के उन्नार जो परिष्कार अनिवार्य है परिष्कार त्रिमूँ भैरवी जानी जाती है लूपया दूरदृशि भैरुवल धार्त्त्रीय लूपया के पेज नहीं ६० पर्याँ २५ (V) २५ पर्याँ २२ पर्याँ को देते। इसी अस्पष्ट है कि आदेशों की आगे पाठे बोले से परिष्कार कुग में लौर्ड प्रभाव नहीं पहुँचा चाहिए। इस ऐरीय छावनीय के अनुभित लक्षन शियन पद पर छार्ड भार लूपय करने की चित्ति ते परिष्कार कुग द्वा अधिनोडन करना चाहिए।

निरेद्दन है कि उपरोक्ता तथ्यों को देखो हुए परायक्ता सुधी
अधिकार्य सुधारी जाय तथा ये सुधिता किया जाय म्हान सूक्ष्मा होगी ।

SUPPLY

दिनांक: 16/9/09

ମୁଦ୍ରଣ

St. 288 288

ੴ ਪ੍ਰੀ. ਪੰਨਾ ਰਾ

आम्बु लघायण

गुरुत्वादीसः—

ਅਧਿਧ ਪਾਨਿਲ ਪਥਕਿ ਤ੍ਰੀਵਾਲੀਵ ਏਨਚ ਪੇਂਨ ਪ੍ਰੰਤਾਵਾਹ ਤਥਦਾਰ ਏਟੇਲ ਕਵਨ ਰਾਂਤਦ
ਮਾਰ੍ਗ ਨਵੀਂ ਦਿੱਲੀ । ਕੌ ਛਾ ਨਕੋਦਨ ਹੈ ਸਾਧ ਕੋਈ ਜਾ ਰਹੀ ਹੈ ਕਿ ਸੁਧਾ
ਅਧਿਧਸਤਾ ਆਵੰਗਵਾਧੀ/ ਦੁਰਖਾਨੀ । ਪ੍ਰਤਿਲਿਪਿ ਗੰਭੀਰ ਹੈ ਕਿ ਜਾ ਮੇਲਾ ਜਾਧਾ ਏਵ
ਧਿਲੂਲ ਹਵਾਂ ਦੁਧੀਂ ਦੁਧੀਂ ਪਰ ਆਧਾਰਿਤ ਕਹੀਂ ਹੈ ਵ੍ਯੂਹਾਂ ਆਧ ਸ਼ਹਿਰ ਕਿਵਿਧ ਭਾ
ਅਕਾਲੀਭਵ ਭਾ ਨਿਰੀ ਲੈਂਦੀ ਹੈ ।

छौ. एस. राय

1. *Neuro*

John

18/12/90

Before the Central Administrative Tribunal, Allahabad
Circuit Bench, Lucknow
O. A. No. 1990 (L)

59

D.S. Ram

vs.

Union of India and others

--- Applicant

--- Respondent

ANNEXURE NO. A-16

(47)

Government of India
Office of the Chief Engineer (North Zone)
Akashvani & Doordarshan

Jamnagar House, Shahjahan Road
New Delhi-110011.

No. A-20/14/89/EPC

Dated: 10.11.89

The Director General,
(By name, Shri P.P. Haldar, S.O.O.)
Doordarshan,
Mandi House,
Coper Nicus Marg,
NEW DELHI-110001.

Sub:- Discrepancy in the Seniority of Shri D.S. Ram,
EA in the cadre of Senior Technician.

Reft:- Directorate Office Memorandum No. 32/1/89-SIV
dated 26.9.89.

Sir.

As stated by Shri D.S. Ram his name has been shown senior to S/Shri Bachan Khan and R.C. Sharma in the seniority list of Technicians prepared and circulated at that time. Shri D.S. Ram has represented pointing out discrepancy in his seniority in the cadre of Senior Technicians and consequently in the cadre of Engineering Assistants. It may be added that Shri D.S. Ram has not pointed out the discrepancy when the seniority list of Senior Technicians was prepared and circulated after the 1973 D.P.C.

The relevant DPC Minutes in respect of promotions from the cadre of Technicians to the cadre of Senior Technicians for the year 1973 are not traceable in spite of best efforts. As such, the case has been examined by scrutinizing the available details viz the relevant promotion orders (copy enclosed) and entries in the service books of S/Shri D.S. Ram, Bachchan Khan and R.C. Sharma. It may kindly be seen that there are two separate promotion orders no. RE(H)/1(16)/73-dated 7.9.73 and even no. dated 20.10.73 and inter-se seniority in each of these promotion orders is maintained as shown in the side remarks. Since a junior person can not be offered promotion before offering promotion to his senior in a particular select panel, it can be inferred that there were lists 'A' & 'B' prepared on the basis of merit and the name of Shri D.S. Ram figured in the 'B' list. As such the seniority of Shri D.S. Ram as Senior Technician is shown correctly.

Yours faithfully,

(V.S. Saxena)
Director Engineering
for Chief Engineer (I.Z.)

BHARAT SARKAR
DOORDARSHAN KENDRA: LUCKNOW

No. TV(LKO)21(173)/86-S/T (47) Dated 18-12-1989

Copy forwarded to Sri D.S. Ram, Engg. Asstt. DDUK,
Lucknow for information.

T. C.
R. S. Chatterjee
Sr. Administrative Officer
For Director

18/12/90

Before the Central Administrative Tribunal, Allahabad
Circuit Bench, Lucknow
O. A. No. of 1990 (L) 62 60

D.S. Ram

vs.

Union of India and others

--- Applicant

--- Respondents
ANNEXURE NO. A-17

To,

The Chief Engineer (NZ)
Akashwani & Doordarshan,
Jannagar House,
Shahjahan Road,
NEW DELHI-110011.

Through - Proper Channel.

SUBJECT : Discrepancy in the seniority of Shri D.S.Ram,
EA in the cadre of Senior Technician.

Sir,

Kindly refer to your letter No. 4-20/14/89/EPC
dated 10.11.89 in regard to the above. In this connection,
I have to submit as under:-

1. That no seniority list of Technician and Senior
Technician was circulated before July 1983, hence the question
of pointing out discrepancies does not arise. It is also
worth mentioning that the seniority list issued in July 1983 was
given to me in the month of January 1984.
2. That the seniority list of Technician circulated by
your good office was correct and I was shown senior to S/Shri
Becchan Khan and R.C.Sinha. It is not understood as how my seniority
was shown below in the rank of Senior technician while I was
senior to them in the rank of Technician. It is not the violation
of rules?
3. That the point for deciding the seniority cannot be
inferred on the basis of two A & B seniority lists. Only my name
was not included in the first seniority list i.e. as per seniority
list of junior grade? I think my name was knowingly given in B
seniority to ham my service career otherwise there was no
question for issuing two lists in one and similar grade. Now, my
name should be given in 'A' seniority list through issuing a
corrigendum.
4. That the employment nos. are given as per date of joining
while entering into Govt. services, the above employees joined the
govt. service after my joining. This error may also please be
rectified.

10/11/90

D.S. Ram

It is requested that the seniority list may please be
corrected at an early date under intimation to me so that I may
get due promotion in the grade.

Thanking you,

Yours faithfully,

D.S. Ram 10/11/90
(D.S. RAM)
E.A.
DOORDARSHAN KENDRA
LUCKNOW

The Director General,
(By name, Shri P.P. Haldar, S.C.)
Doordarshan,
Mandi House,
Coper Nicus Marg,
NEW DELHI-110001.

T.C.
R.C. 18/12/90

Adv.
18/12/90

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

M. P. 640/91 (L)
O.A. NO. 414 of 1990(L)

D.T. 31-10-91

D.S. Ram

Applicant

-versus-

Union of India and others v. Respondents.

APPLICATION FOR CONDONATION OF DELAY
IN FILING THE WRITTEN STATEMENT.

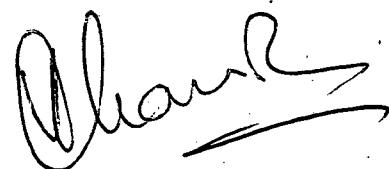
The Respondents above named begs to submit

as under:-

1. That the counter affidavit/written statement could not be filed earlier due to some administrative reasons and now the counter affidavit is ready for filing. It is therefore requested that the accompanying counter reply/written statement may kindly be taken on record after condoning the delay in filing the same.

P R A Y E R.

Wherefore it is most humbly prayed that this Hon'ble Tribunal may be pleased to accept the accompanying written statement and taken on record in the ends of justice.



(VK Chaudhari)
Addl. Standing Counsel for Central Govt.
(Counsel for the Respondents)

Lucknow,

Dated. 6th Aug. 1991.

64
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW.

O.A. NO. 414/1990 (L)

D. S. Ram

....

Applicant

Versus

Union of India and others

....

Respondents

Date of hearing : 19-8-1991.

WRITTEN STATEMENT ON BEHALF OF RESPONDENTS NO. 1, 2 & 3.

The respondents Nos. 1, 2 & 3 beg to submit as under :-

1. That the contents of paras 1 to 3 of the application are formal and as such need no comments.
2. That the contents of para 4.01 of the application are matter of facts and as such need no comments from the answering respondents.
3. That in reply to the contents of para 4.02 of the application it is submitted that presently the criteria for promotion of Technicians to the cadre of Senior Technicians is seniority-cum-fitness, as quoted by the applicant. The minutes of the D.P.C. are not traceable inspite of best efforts. As such the criteria followed by D.P.C. is not known. The factual position is that the two lists of promotees were issued vide

65

this Office Order dated 7-9-1973 and 20-10-1973

annexed as ANNEXURE - II and ANNEXURE-III respectively.

The seniority list of Technicians as on 9-1-79 is

annexed as ANNEXURE - I. It can be seen from the

first list of promotees that they are not strictly

according to the seniority in the cadre of the

Technicians. However, all the incumbents in the

second list are strictly in order of seniority in

the cadre of Technicians. Had the applicant raised

this point in the year 1979, the remedial measures

could have been taken and the grievance would have

not arisen.

4. That the contents of para 4.03 of the

application need no comments.

5. That in reply to the contents of para 4.04 of

the application, it is stated that the comments given

against para 4.02 of the application are reiterated and

it is further submitted that the contention of the

applicant that his seniority has been lowered/down-graded

.....3/-

W

due to Association activities is without any basis.

The seniority is based on the position of an incumbent in the "SELECT PANEL" of promotees.

6. That in reply to the contents of para Nos.

4.05, 4.06, 4.07 and 4.08 of the application it is submitted that the rules position quoted in these paragraphs were applicable at that time. Since the minutes of the D.P.C. are not available, the criteria followed at that time is not known.

7. That the contents of para 4.09 of the

application need no comments.

8. That in reply to the contents of para 4.10 of the application it is submitted that S/Shri Bachan Khan, R. C. Sharma and the applicant were promoted to the post of Engineering Assistant against 10 % Seniority-Cum-Fitness quota. The inter-se-seniority of the applicant and the respondents No.4 & 5 in the cadre of Engineering Senior Technicians was maintained in the cadre of Engineering Assistants as per the promotion orders annexed as ANNEX-III.

9. That in reply to the contents of para 4.11 of the application it is submitted that an employment number is assigned to each of the Engineering Employees initially

at the entry stage viz. Technician or Engineering Assistant as the case may be. These employment numbers, introduced in 1984 were initially allotted to the engineering employees in the various cadres at that time in accordance with their seniority in the cadre in which they figured. As such the employment numbers allotted to the applicant and the respondents No. 4 & 5 were based on their seniority position in the cadre of Senior Technician. The employment number once allotted is not changed on transfer / promotion.

10. That in reply to the contents of para 4.12 of the application it is submitted that regarding extension of the probationary period of the applicant, it may be stated that respondent No. 2 is not concerned with the extension of probationary period. The Assessment Reports, during the probation period are written by the concerned Engineering Officers at the Stations of posting and are based on the assessed performance of the probationer at that Centre. The contention that the applicant's probation period was extended by the Respondent No. 2 due to annoyance with the applicant is without any basis.

(Signature)

11. That in reply to the contents of para 4.13 to 4.22 of the application it is submitted that as stated in paragraph 3 above, the minutes of the D.P.C. meeting held for the promotion of Technicians to the cadre of Senior Technicians for the year 1973 are not traceable inspite of repeated efforts and the case has been scrutinised by referring to the available records. In other words, position stated under para 4 above may be deemed as repeated. The seniority of the applicant has been fixed as per the promotion orders issued on 20-10-1973, a copy of which is annexed as ANNEXURE - III. The applicant has also not represented regarding his seniority after two promotion lists were issued. A photo copy of the relevant portion of the seniority list issued in 1979 is already enclosed as ANNEXURE - I to this affidavit for perusal. The applicant has since been promoted to the post of Senior Engineering Assistant in his turn vide Office Order No.2/91 (File No.A-28/13/90/EPC) dated 8-1-1991.

12. That the reliefs sought for by the applicant under para 5 of the application are not admissible and the applicant is not entitled to get any relief/reliefs in view of the facts and circumstances stated in the foregoing paragraphs. That the grounds taken by the applicant in this paragraph are not tenable in the eyes of law.

13. That the contents of para 6 & 7 of the application are matter of records and as such no comments are required.

14. That the reliefs sought for by the applicant under para 8 of his application are not admissible and the applicant is not entitled to get any relief / reliefs in view of the facts and the circumstances stated in the preceding paragraphs.

15. That in reply to the contents of para 9 of the application it is submitted that the applicant is not entitled to get any interim order as applied in this paragraph in view of the facts stated above.



16. That the contents of para 10 to 12 are matter

of records and as such need no comments.

17. That in view of the facts, reason and circumstances

stated in the foregoing paragraphs, the application filed by the

applicant is liable to be dismissed with costs to the answering

respondents.

R. K. SINGH

(R. K. SINGH)

SUPERINTENDING ENGINEER

ALL INDIA RADIO, LUCKNOW

(FOR RESPONDENTS 1, 2 & 3)

Dated : 22.10.91

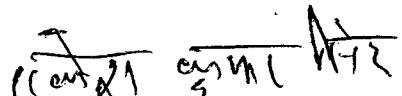
Continued -
on page 8.

7

VERIFICATION

I, R. K. Singh, aged about 42 years, son of Late
Shri L. P. Singh at present posted as Superintending
Engineer, All India Radio, Lucknow do hereby verify
that the contents of paragraphs 1 to 2
are true to my personal knowledge, those of paragraphs
3 to 11, 13 & 15 are believed by me to be
true on the basis of records and information gathered
and those of paragraphs 12, 14 to 16 & 17 are also
believed by me to be true on the basis of legal advice.

Signed and verified this day of August, 1991 at
Lucknow.


(R. K. SINGH)

SUPERINTENDING ENGINEER

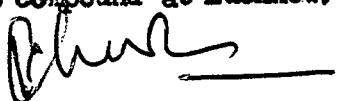
ALL INDIA RADIO, LUCKNOW

(FOR RESPONDENTS 1, 2 & 3)

LUCKNOW.

DATED : 22/10/91

I identify the deponent who has signed before
me and is also personally known to me and signed on _____
at _____ am/pm in the Court compound at Lucknow.


(V.K. CHAUDHARI)
ADIL STANDING COUNSEL FOR CENTRAL GOVT.
(COUNSEL FOR RESPONDENT 1, 2 & 3).

Annexure - I

"Seniority List of Technician as
RE(N) 1/20/79-S dated 4-6-1979" No 49.1.3979

A) ~~more than 1~~

4. 3. S.R.Nagpal Inter, Other 6-4-40 4-11-63 4-11-63 Sr.Tech.Kanpur Pmt.18-1-69

44. Surjit Singh Elect.Gd.II High School 7-10-39 8-11-63 8-11-63 -do-RE(N) A.R. -do-

45. Abhaj Pal Singh Matric " 6-11-41 22-11-63 22-11-63 -do-CBS,Delhi -do-

46. N.K.Siddi Certi.of Comp." 26-3-38 9-12-63 9-12-63 -do-RE(N) A.R. -do-

47. T.C.Kularia In wiring. " 7-6-39 9-12-63 1-10-73 -do-CBS,Jaipur -do-

48. Tarseen Singh " 7-6-39 9-12-63 11-12-63 -do- Kingsway -do-

49. A.S.Dua trade of Fitter 11-12-63 11-12-63 -do- Matric,Certi.Other 15-5-39 20-12-63 20-12-63 EA,Rohtak -do-

50. Surjeet Lal Bhatia Of Com.in elect. supervisor 20-12-63 -do- 6th,Certi.of " 7-11-41 21-12-63 21-12-63 -Sr.Tech.RE(N) -do-

51. Joginder Pal Comp.for Wireman: Mech. " 7-11-41 21-12-63 21-12-63 -Sr.Tech.RE(N) -do-

52. Lal Chand Bajaj Hr.Sec. " 10-3-43 2-1-64 2-1-64 -do-, Amritsar -do-20-5-72

53. M.A.Bahadur 3rd " 3-6-42 15-1-64 15-1-64 -do-TV, -do-

54. T.K.Khazanchi 9th " 16-7-37 15-2-62 7-2-64 -do-TV, Srinagar -do-

55. Kuldip Singh 9th " 5-7-43 11-6-62 7-2-64 -do-SJ,Delhi -do-

56. Chander Parkash Up to 9th,Dip. " 10-3-41 16-3-64 16-3-64 -do-SJ, Srinagar -do-
In Craftsman ship(Fitter) 8/C4-1-32 18-4-64 18-4-64 Sr.Tech.RE(N) Pmt.Tech.27-10-72
Matric,Certi. Of Comp.in Wiring Class I. Jr.High School Others 5-2-41 5-5-64 5-5-64 -do- Lucknow -do-

57. Shyam Dutt Pant Dip.in Fitter (ITI) -do-

1.	2.	3.
58.	S/Sh.Kesar Singh	Under Matric
69.	Virendra Mohan Verma	Matric,Dip. in Fitter TD.
60.	Raje Lal	3rd Class
61.	Harjit Singh	Matric
62.	Ram Sarup Narang	Matric, Comp. in wiring Cl.I
63.	Balbir Singh	Under Matric
64.	Sukhdev Singh	Matric, Certi. in Elec.Certi Comp.in Wirin
65.	Harbhajan Singh	Up to 8th Cl. NTC Fitter.
66.	Balbir Singh	Matric,Elec.S
67.	Mohinder Singh Thiend.	Matric
68.	Devi Lal	Hr.Sec. ITI Wireman
69.	B.R.Kwatra	Middle, ITI C
70.	Sewak Singh	Fitter High School NTC from ITI
71.	Bal Krishan	7th Class,Cer of Comp.in wiring Cl.II
72.	Dinesh Chandra Thanvi	Matric, ITI Fitter
73.	Hukmi Chand Jangid	8th Class, ITI Fitter.

73

(cont 2) 3/11/1995

1. 2. 3. 4. 5. 6. 7. 8. 9.

74. S/Sh. Om Prakash Sharma High School Other 15-11-39 17-8-65 17-8-65 Sr. Rank King Singh, Pt. Tech. 27-10-1982

75. P.N. Sadhu 9th Class 15-6-42 17-8-65 17-8-65 -do- TV, Srinagar -do-

76. Abdul Rehman Lone 8th Class 25-6-39 7-1-58 23-8-65 -do- SD, Srinagar -do-

77. Yash Ram 8th Class S/6 30-7-41 19-10-63 24-8-65 -do- R/Dept. N.D.P.L. -do-

78. H.R. Dhyani NTC Fitter Matric, NTC, Flec. Other 7-1-3926-8-65 26-8-65 -do- Khampur, Delhi -do-

79. Bharat Kumar Matric, NTC in " 25-4-39-27-8-65 27-8-65 -do- RE(N) A.R. Dilk -do-

Radio Mech. Radio Technical

Course.

80. Ghulam Hassan Matric, Attended " 27-7-45 27-8-65 27-8-65 -do- L.R. -do-

Nardasaz

81. Rabh Singh Matric(Fail) Certi. " 17-6-40 27-7-61 8-9-65 -do- TV, Deini -do-

of Comp. Cl. II (Ele)

82. Kundan Lal Matric, Certi. In " 8-11-41 8-9-65 8-9-65 -do- TV Jullundur -do-

Fitter, Trad. 8th Class, ITI 5-1-44 13-9-65 13-9-65 -do- B.P. Unit Bilk -do-

83. Satish Kumar Fitter H.S. Fail, Permit of Wireman Matric, NTC 18-4-41 16-1-65 15-9-65 -do- Simla -do-

84. Shiv Narain Pd. Elect. 1-7-39 14-9-65 14-9-65 -do- Varanasi -do-

85. S.K. Gupta 8th Class S/6 13-7-41 9-8-61 21-9-65 -do- B.P. Unit -do-

86. Ranji Lal Matric Other 10-10-3814-10-58 30-9-65 -do- Kingsway -do-

87. P.P. Bagga Matric Other 10-10-3814-10-58 30-9-65 -do- -do-

88. Babu Lal Suthar Matric, Certi. in " 24-8-42 4-10-65 4-10-65 -do- Bikaner -do-

of Comp. Wireman. Matric, ITI Fitter " 15-7-42 6-10-65 6-10-65 -do- Mathematics -do-

89. Arun Kumar Goswami Matric, ITI Fitter " 15-7-42 6-10-65 6-10-65 -do- Mathematics -do-

Course

Printed by M.T. M.T.

	1.	2.	3.	4.	5.	6.	7.	8.	9.
90.	S/ Sh. Girdhari Lal	H.S., Trade Test Other 8-8-41	12-10-65	12-10-65	Sr.Tech.	ES, Jaipur	Radio Mech. Trg.	Pat. Tech. 27-10-72.	
91.	Narsingh Bhan	Inter, Dip. in Fitter	1-3-42	12-10-65	12-10-65	-do-	TV, Kanpur	-do-	
92.	Kile Chand	Up to 8th Class	n	5-10-41	19-9-60	19-10-65	-do-	B.P.U.	-do-
93.	Chandi Prasad	7th Class Certif. n	19-9-41	22-10-65	22-10-65	-do-	B.P.U.	-do-	
94.	Dhanesh Kumar	Matric, ITI	n	8-8-46	22-10-65	22-10-65	-do-	ES, Delhi	-do-
95.	Khana	Fassed.							
	Surendra Sukhdev	9th Class, NTC S/C	25-8-38	26-10-65	26-10-65	-do-	Aligarh	-do-	
	Dal Singh Ram	Fitter							
96.	Jai Kishan	Inter, Fitter Other	2-12-41	1-11-63	29-10-65	-do-	TV, Lucknow	-do-	
97.		Matric	n	3-1-39	6-12-60	3-12-73	-do-	TV, Lucknow	-do-
98.	Bachan Khan	IX Class	n	3-3-40	3-4-64	30-10-65	-do-	Rampur Fnt. Tech. 28-10-72	-do-
99.	Ramesh Chander	Hr. Sec. Certi. n	7-1-42	2-11-65	2-11-65	-do-	Jaipur Fnt. Tech. 18-2-73.		
100.	Sharma	of Comp. (Wireman)							
	Gurmail Singh	ITI Elect.							
		9th Class, Carti. S/C	15-10-38	15-11-65	15-11-65	-do-	TV, Amritsar Fnt. Tech. 6-6-73.		
		of ITI, Wireman							
101.	G.L. Bala	Matric, Dip. in Other	2-5-40	16-11-65	16-11-65	-do-	Jaipur	-do-	
102.	Lachman Kewani	Fitter							
		Matric, ITI	n	5-10-39	2-12-65	2-12-65	-do-	Ajmer	-do-
		Wireman							
103.	Kirra Ram	4th Class, Certi. n	12-2-28	16-7-53	31-7-74	-do-	TV Delhi	-do-	
		of Elec. Workman.							
104.	Rhoot Chand Sharma	Matric, NTC Elect.	9-10-43	15-12-65	2-8-74	-do-	DSTS(T) AIR Delhi	-do-	
		Certi. of Com.							
		Class II(Elec.).							

(Total 211)

Annexure - I (contd.)

	1.	2.	3.	4.	5.	6.	7.	8.	9.
105.	S/Su. Navender Singh	Matric Certd. Other	10-10-42	18-12-65	18-12-65	Sr.Tech.RE(N)	Pmt	T-81	4-75.
		of Compt.Elect.							
106.	Sriya Nand								
107.	K.K.Rajvanshi	Hr.Sec.III	Matric	22-8-45	7-1-66	23-12-65 (in A.I.R.)	31-8-74	Sr.Tech.RE(N)	-do-
108.	Fritam Singh	IX, M	Fitter	S/C	6-2-44	14-1-66	1-5-74	-do-	-do-
109.	S.S.Paul	Inter		S/C	18-4-38	18-1-66	18-1-66 27-1-75	-do-	-do-
110.	Kartar Singh	Middle, NTC	Other	7-10-42	22-1-66	22-1-66 4-9-74	-do-	TV, Lucknow	-do-
111.	Net Raq	Xth Class Cert. or S/C	5-7-43	27-1-66	27-1-66 13-11-73	-do-	Kingway, Delhi	-do-	-do-
		Compt.Elect.							
		Class-II NTC in							
112.	Kul Bhushan Gupta	Matric, NTC, Other	H/Fitter	7-6-43	1-2-66	1-2-66 30-9-74	-do-	RE(N) Delhi	-do-
113.	Khuswant Singh	H/School, DIP.	in Fitter	28-6-41	8-2-66	8-2-66	-do-	Alahabad	-do-
114.	Rakesh Kumar Saxena	Matric, Dip. in		20-11-45	11-2-66	11-2-66 22-11-75	-do-	R/Dept.t.Delhi	-do-
115.	N.S.Samar	Radio Mech.		Xtn Class, NTC	S/C	25-9-42	8-5-64 (AN) 25-2-66 22-7-74	-do-	-do-
116.	Maheesh Chander	Matric							
117.	Sanadhyा C.S.Bhatia	Other	Matric, Trade	5-11-42	7-12-64	7-12-64 FA, Udaipur	-do-	Matric, Trade	10-2-43
			Test.Elec.	17-8-65	17-8-65	17-8-65	-do-	Sr.Tech.Kingsway	-do-

RE AK

UNDER CERTIFICATION OF POSING.

CONTROLLER OF INDIA
OFFICE OF THE DIRECTOR OF RADIO,
All India Radio, Janpath House, Nutanagar,
Shahjahan Road, New Delhi-11.

No. 11.1(16.73-S)

7th Sept. 1973.

O.D.R.

Subject - Promotion to the post of Sr. Technician(Sr.Jechnic).

On the recommendation of the Departmental Promotion Committee the following technicians approved for promotion to the post of Senior Technician or appointed as Senior Technicians as Seniority at the following offices/centres shown against their names:-

Serial No.	Name	Present Post	Post	Remarks
45	1. Sh. Gurud Lal Singh	Technician, AIR, New Delhi.	Technician, AIR, New Delhi.	against post under Installation group.
46 (47)	2. Sh. T. C. Kularia	Technician, AIR, Srinagar	Technician, AIR, Srinagar	vice Sh. Brijjal transferred.
59	3. Sh. Virendra Lohani Verma	Technician, AIR, Jullundur	Technician, AIR, Jullundur	vice Shri Curbachan Singh promoted.
74	4. Sh. O.P. Prakash Choudhary	Technician, AIR, New Delhi.	Technician, AIR, New Delhi.	against post under Installation group.
77	5. Sh. Yatinder Singh	Technician, AIR, New Delhi.	Technician, AIR, New Delhi.	do.
80	6. Sh. Md. Hassan Haidar	Technician, AIR, Srinagar	Technician, AIR, Srinagar	against newly created post.
91	7. Sh. Lakhbir Singh	Technician, AIR, Lucknow	Technician, AIR, Lucknow	vice Sh. P. R. R. Jain promoted.
92	8. Sh. Kishan Chand	Technician, AIR, New Delhi.	Technician, AIR, New Delhi.	vice Sh. Swaran Singh transferred.
98	9. Sh. Bachchon Khan	Technician, AIR, Raipur	Technician, AIR, Raipur	vice Shri Ram Baran transferred.
99	10. Sh. H. C. Sharma	Technician, AIR, Raipur	Technician, AIR, Raipur	vice Sh. H. C. Sharma promoted.
105	11. Sh. Gurmail Singh	Technician, AIR, New Delhi	Technician, AIR, New Delhi	against newly created post.
108	12. Sh. Bipin Singh	Technician, AIR, New Delhi	Technician, AIR, New Delhi	against newly created post.
122	13. Sh. Shiv Prasad	Technician, AIR, New Delhi	Technician, AIR, New Delhi	do.

** Serial Nos. shown in the Seniority List of Technicians as on 9.1.79 circulated vide this Office Memo No. RE (M) 1000/79-3 dated 10.9.79.

Placed on file

posting of the above officials have been ordered according to the options exercised by them for a place of posting on promotion.

A refusal at this stage will be taken a serious note of and will entail disciplinary action.

Order of appointment may be issued to the above officials (with a copy to this office) by the heads of offices/ centres where the officials are posted on promotion. The officials will be on probation for a period of 2 years from the dates of their appointments as Sr. Technician.

Before delivering the orders of appointment it may please be ensured that no departmental proceedings are pending or contemplated against the officials concerned debarring them from this promotion.

Their dates of relief/joining may be intimated to this office for record.

sd/-
(H.L. MISHRA)
ACCOUNTS OFFICER
For Regional Engineer (H)

Cop. to:-

1. Admin. Section, office of R.E.(H), AIR, New Delhi.
2. SD, AIR, Bikaner. 3. SD, AIR, Julliyadr.
4. Dr. Director, TV (Ariastar), Aravalli Bhawan, New Delhi.
5. SD, Television Centre, AIR, Amritsar.
6. The Director, TV Centre, AIR, Srinagar (J&K)
7. SD, AIR, Buchanan & Co., New AIR, Ajigarh.
8. SD, AIR, Ranchi. 10. Research Engineer, AIR, IP Estate, N-Delhi
11. The Director T&MS, AIR, PTO Building, New Delhi.
12. The Director, TV Centre, AIR, New Delhi.
13. The SD, Radio Kashmir, Srinagar (J&K)
14. The " - in - C, HPC, AIR, Kingsway, Delhi-9.
15. SD, AIR, Jaipur. 16. SD, AIR, New Delhi.
17. The Secy, AIR Tech. Engg. Association Control Room
BH, N-Delhi.
18. The Secy, AIR non-Gazetted Engg. Association BH, Post Box
No. 422 New Delhi-1. 19. The DC, AIR (S-IV) Sec, New Delhi.
20. The DC, T&MS (Unit), New Delhi. 21. Dy. DS (E)
22. Head Clerk. 23. Spare copies - 5.

sd/-
For Regional Engineer

Attestation
Done today

BSR
Station Engineer
All India Radio
RAMPUR

Attested to be true copy

Chetan

Final copy AIR

(Annexure - III)

Under Certificate of Posting

67

Annexure
Government of India
Office of the Regional Engineer (North)
All India Radio: Jamnagar House, Hutmants
Shahjahan Road, New Delhi-11

(N) 1 (16) / 73-s/25011

dated the 20th Oct. 1973

ORDER

Subject:- Promotion to the post of Sr. Technician (Sr. Mechanic).

On the recommendation of departmental Promotion Committee the Seniority following Technicians approved for promotion to the post of Sr. Technician are appointed as Sr. Technicians at the following offices/centres shown against their names:-

S.No.	Name	Station from	Station to	Remarks	19
1. 6	2.	3.	4.	5.	
1.	Sh. Jai Lal	Kingsway	Kingsway	Vice Sh. Sriram Sharma promoted	
2.	Sh. Dalsinger Ram Varanasi	Varanasi	Vice Sh. Ram Chander Transferred	or	
3.	Sh. Jai Kishan	Kingsway	RE (N)	Under I.G.	
4.	Sh. H.S. Zoph	Jaipur	Rampur	Against the post created vide DG, AIR Order No. A-11013/102/72-SVI (i) dt. 3-5-73	
5.	Sh. G.L. Bala	Lucknow	Aligarh	Vice Sh. S.L. Bhatia Transferred	
6.	Sh. Lashman Keshwani	Ajmer (Jaipur)	Udaipur	Against the post created vide DG, AIR Order No. A-11013/102/72-SVI dt. 3-5-73	
7.	Sh. Net Ram	Lucknow	RE (N)	Under I.G.	
8.	Sh. A.K. Duggal	SD, Simla	U.M.S.	Vice Sh. Sohan Lal Transferred	
9.	Sh. Prahlad Kumar TV, Delhi Kapila,	Jullundur	Simla	Vice Sh. Gurdas Singh promoted	

Posting of the above officials have been ordered according to the options exercised by them for a place of posting on promotion.

A refusal at this stage will be taken serious note of and will entail disciplinary action.

Order of appointment may be issued to the above officials (with a copy to this office) by the hands of offices/centres where the officials are posted on promotion. The officials will be on probation for a period of 2 years from the dates of their appointment as Sr. Technician.

Before delivering the orders of appointment it may please be ensured that no departmental proceedings are pending or contemplated against the officials concerned debarring them from this promotion.

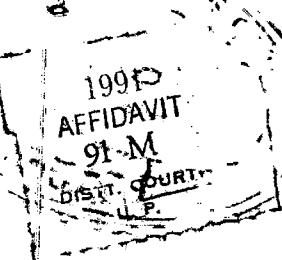
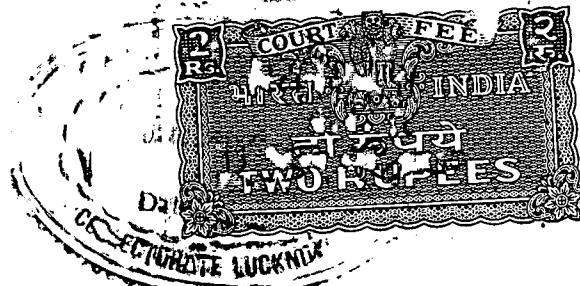
Their dates of relief/joining may be intimated to this office for record.

Sd/-

for Regional Engineer (North)

** Serial Nos shown in the Seniority List of Technician as on 9.1.1979 circulated vide this Office Memo. No. RE (N) 1 (20) / 79-S dated 4.6.1979.

Attested to be
true copy
Abhishek



82

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

Original Application No. 414 of 1990

F.F. 30.12.1991

D.S. Ram Applicant

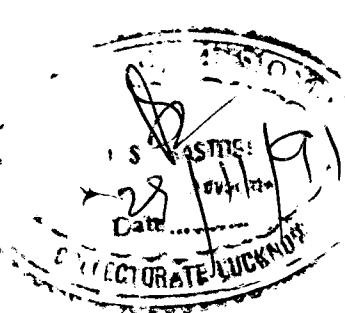
versus

Union of India & others Respondents

REJOINDER AFFIDAVIT

I, D.S. Ram, aged about 50 years, son of Sri Dwarika Prasad, resident of 508/95, Old Hyderabad, Lucknow, the deponent, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the applicant in the above described Original Application and as such he is fully acquainted with the facts and circumstances of the case.
2. That the deponent has read and understood the contents of the written statement filed on behalf of the Respondents Nos. 1, 2 & 3 (hereinafter referred to as the W.S.) and its rejoinder is being filed hereunder.
3. That the contents of para 1 of the W.S. need no reply.
4. That the contents of para 2 of the W.S. need no reply.
5. That the contents of para 3 of the W.S. are not admitted as stated. The Respondents have not stated as to what criteria was to be followed as per rules for promotion to the post of Senior Technician. In the absence of anything to the contrary, the criteria of 'Seniority cum fitness' was required to be followed and it was not open for the D.P.C. to follow any other criteria. It is not understood as to how the



Filed today
Smt. S.
29/12/91

(Smt. S.)

83

- 2 -

same D.P.C. could follow two different criteria, one of seniority as evident from Annexure III to the W.S. and one not according to seniority. A perusal of Annexure II of the W.S. would reveal that its copy was not endorsed to the applicant nor to the All India Radio, Varanasi, where the applicant was serving at the relevant time, as such the applicant could ~~not~~ not arise any objection to the promotion list contained in Annexure II. As far as the alleged seniority list of Technician contained in Annexure I to the W.S., the same was never circulated to the applicant, hence the same is denied for want of knowledge. However, the applicant is not aggrieved by the alleged seniority list contained in Annexure I to the W.S. as the same pertains to the post of Technician and name of the applicant is correctly shown at serial no. 96, whereas the names of Respondents Nos. 4 and 5 are shown at serial No. 98 and 99, respectively. As such there was no occasion to raise any point in the year 1979, as alleged.



6. That the contents of para 4 of the W.S. need no reply.

7. That the contents of para 5 of the W.S. are not admitted as stated and the contents of para 4.04 of the original application are reiterated as true. The alleged 'Select panel' of promotees has not been filed by the answering respondents and if there is any such panel, the same is wholly arbitrary, illegal and contrary to the statutory rules.

8. That the contents of para 6 of the W.S. are not admitted, as stated. Since the rule position quoted in paras 4.05, 4.06, 4.07 and 4.08 of the Original Application were, admittedly, applicable at that time, there was no

Sharma

occasion for the D.P.C. for not following the laid down criteria and the recommendations of the D.P.C. ~~are~~ ^{are} vitiated and bad in the eyes of law, being illegal and arbitrary and contrary to the rules.

9. That the contents of para 7 of the W.S. need no reply.

10. That the contents of para 8 of the W.S. are not admitted as stated and those of para 4.10 of the original Application are reiterated as true. The seniority of the applicant on the post of Senior Technician having been wrongly determined, the applicant was promoted subsequently and assigned position lower than the Respondent Nos. 4 and 5 in the Seniority List for the post of Engineering Assistant as the Respondent No. 2 did not take any action to correct the seniority list of Senior Technician. The seniority was to be determined according to the rules and not ^{according to} the promotion order contained in Annexure III to the W.S., as alleged.

11. That the contents of para 9 of the W.S. are not admitted as stated. The Respondents 1 to 3 should have corrected the seniority list before allotment of Employment Number.

12. That the contents of para 10 of the W.S. are not admitted as stated and the contents of para 4.12 of the Original Application are reiterated as true. The Respondent No. 2 should have applied his mind before the extending the probationary period, but the order was passed for extending the probationary period in utter disregard of the rules, due to bias and prejudice.

13. That the contents of para 11 of the W.S. are not admitted and those of paras 4.13 and 4.14 of the Original Application are reiterated as true. The Seniority was to be determined according to the rules and not in accordance with the arrangement of names in the promotion order. As already stated the recommendations of the D.P.C. were vitiated being illegal, arbitrary and contrary to the rules. There was no occasion for the applicant to represent after the issue of two promotion orders, as apparently the promotion order contained in Annexure II to the W.S. was not in his knowledge. The applicant's promotions to the posts of ~~the~~ Engineering Assistant and Senior Engineering Assistant have been delayed because of the incorrect fixation of seniority on the post of Technician.

14. That the contents of para 12 of the W.S. are denied as wrong and misconceived and those of para 5 of the Original Application are reiterated as true.

15. That the contents of para 13 of the W.S. need no reply.

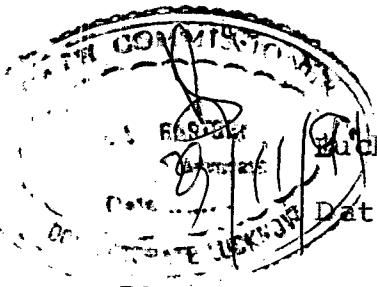
16. That the contents of para 14 of the W.S. are denied as wrong and misconceived and those of para 8 of the Original Application are reiterated as true. The applicant is entitled to get the reliefs prayed ~~for~~ in para 8 of the Original Application.

17. That the contents of para 15 of the W.S. are denied as wrong and misconceived and those of para 9 of the Original Application are reiterated as true. However, in view of the fact that the applicant has

- 5 -

already been promoted to the post of Senior Engineering Assistant vide office order no. 2/91 (File No. A-23/13/90/EPC) dated 8.1.1991, no order need be passed by way of interim relief.

18. That the contents of para 16 of the W.S. need no reply.
19. That the contents of para 17 of the W.S. are denied as wrong baseless and misconceived. In view of the facts already stated in the Original Application and this rejoinder affidavit, the application of the applicant is liable to be allowed with cost.



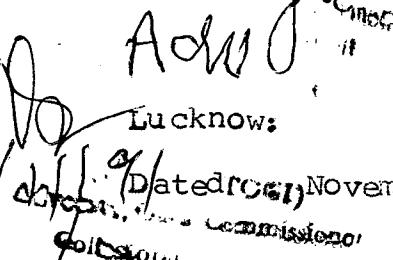
DEPONENT.

Lucknow:

Dated : November 29, 1991.

VERIFICATION

I, the deponent abovenamed, do hereby verify that the contents of paras 1,2,3,4,5,6,7, (partly),8 (partly),9,10 (partly),11,12 (partly),13,15,17 & 18 of this affidavit are true to my personal knowledge and those of paras 7 (partly), 8 (partly),10 (partly),12 (partly),14,16 and 19 are believed to be true on the basis of legal advice. No part of it is false and nothing material has been suppressed.



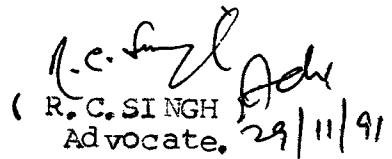
DEPONENT.

Lucknow:

Dated : November 29, 1991.

IDENTIFICATION

I identify the deponent who has signed above in my presence.



(R.C. SINGH, Advocate)
29/11/91

87

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

O.A. NO. 414 of 1990(L)

D.S. Ram (Shri Dalsinger Ram) .. Applicant

-versus-

Union of India and others .. Respondents

APPLICATION FOR CONDONATION OF DELAY.

....

The respondents above named begs to submit as
under:-

PT
219/11

The counter affidavit could not file
earlier by the Respondent due to certain administrative
reasons and now the counter affidavit in the above
case is ready and is being filed along with this
application which may kindly be taken on record
after condoning the delay in filing the counter
affidavit within the stipulated time.

P R A Y E R.

Wherefore it is most humbly prayed
that this Hon'ble Tribunal may be pleased to
take the counter affidavit on record after condoning
the delay in the ends of justice.

(VK Chaudhary)
Addl. Standing Counsel for Central Govt
(Counsel for the Respondents)

Lucknow,

Dated: Nov. 1992.

88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

O.A. NO. 414 OF 1990 (L) :

D. S. Ram (Shri Dalsinger Ram) Applicant

versus

Union of India and others Respondents

DATE OF NEXT HEARING : 22-9-1992.

AMENDED WRITTEN STATEMENT ON

BEHALF OF RESPONDENTS NO. 1, 2 AND 3.

I, R. K. Singh, son of Late Shri L. P. Singh, aged about 43 years, working as Superintending Engineer at All India Radio, Lucknow, do hereby solemnly affirm and state as under :

1. That in my official capacity, I am well conversant with the facts and circumstances of the case.

2. That I am authorised and competent to file this amended reply on behalf of Respondents No. 1, 2 and 3.

I have read the application and understood its contents, save as has expressly been admitted herein, all contentions / allegations of the applicant as made in the application shall be deemed to have been denied.

.... 2/-

राकेश कर्मसु 1992
R. K. Singh
अधिकारी सुनियोजन
Superintendent of Broadcast
राष्ट्रीय रेडियो टेलीविजन
लखनऊ, U.P.

PARAWISE AMENDED REPLY ON MERITS :-

The respondents No. 1, 2 & 3 beg to re-submit as under :-

1. The contents of Para 1 to 3 of the original application are formal and as such need no reply.
- 4.1 That the contents of para 4.1 of the application are matter of facts and as such need no reply from the answering respondents.
- 4.2 It is a matter of fact that criteria for promotion from the cadre of Technician to the cadre of Senior Technician is Seniority-cum-Fitness, as quoted by the applicant.

The file dealing with transfer of Senior Technicians for the year 1973 has since been located and hence necessary to file this amended reply stating that :

The D.P.C. has strictly drawn a Panel as per Seniority-cum-fitness as per Recruitment Rules. Shri D. S. Ram (Dalsinger Ram) is placed in the approved panel

(ANNEXURE R/1) at S.No. 10 which is above the names of

S/Shri Bachchan Khan and Ramesh Chandra Sharma(R.C. Sharma)
Superintending Engineer
आम्राजवंशी/All India Radio
लखनऊ/Lucknow.

whose names appear at S.No. 12 and 13 respectively.

The postings were made as per the options

90

exercised by all the concerned Technicians and this fact has been clearly recorded in the promotion order.

There was no post vacant at the Stations opted by the applicant when the postings on 3rd Sept. 1973 (ANNEXURE R/2) were decided. Therefore, his name was not included in the Promotion Order (ANNEXURE R/3) dated 7-9-1973. The promotion order issued on 7-9-1973 is strictly in accordance with the seniority in the cadre of Technicians and ranking in the Panel (ANNEXURE R/1) and Roster Points (ANNEXURE R/4) provided the vacancies were available at the Stations opted by them.

Subsequently a post has come up at Varanasi opted by the applicant by transferring a Senior Technician to West Zone. Postings in respect of 9 persons were decided on 9-10-1973 (ANNEXURE R/5) and their orders were accordingly issued on 20-10-1973 (ANNEXURE R/6).

Seniority of all incumbents has been fixed strictly as per Roster Point while promotion order has been issued strictly as per their ranking in the approved panel. This fact can be verified from ANNEXURE R/8. Shri

(Signature)
राकेश कुमार सिंह
R.K. SINGH
अधिकारी (टेक्निकल)
Superintending Engineer
आकाशधनी/All India Radio
लखनऊ/Lucknow.

Yad Ram, belonging to S/C category appears at S.No. 5 in the promotion order dated 7-9-73 but has been placed at

(9)

S.No. 203 in the seniority list circulated in June, 1974

above the name of Shri A. P. Singh, S.No. 204, first in promotion order dated 7-9-73 at S.No. 1.

4.3 The petitioner is trying to mislead the Hon'ble Tribunal by giving an incorrect statement that the seniority list has been circulated for the first time on 1-1-1984 only whereas the real fact is that the seniority list had been circulated in June, 74 vide CE(NZ)'s Circular No. RE(N)1(20)/74/S dated 13/15-6-1974 vide ANNEXURE R/7. In the seniority list (ANNEXURE R/8) Shri D. S. Ram (Shri Dalsinger Ram) has been placed at S.No. 217 while Shri Bachchan Khan and R. C. Sharma have been placed at S.No. 213 and 214 respectively. The seniority list has been seen by Shri D. S. Ram and he has agreed to its correctness except some discrepancy in his technical qualification. This fact can be verified from ANNEXURE R/9. His statement that the seniority list has been circulated for the first time in 1984 is with malafide

*राकेश कमार सिंह
R.K. SINGH
बायोग्राफर
Superintending Engineer
आकाशवाणी/All India Radio
लखनऊ/Lucknow.*

intension since he knows very well that time limit for preserving the D.P.C. Minutes is 10 years only and so the requisite records would have been destroyed by the Department there after.

4.4 Statement made by Shri D. S. Ram in para 4.2 and 4.3 of his application is nothing but mere repetition.

92

Having already confirmed the correctness of his seniority in 1974 itself, he cannot raise objection after 10 years, i.e. in 1984 and that too by giving wrong versions and distorting the real facts.

It is re-iterated that his seniority has been rightly fixed and as such the applicant should have accepted it gracefully instead of trying to mislead this Hon'ble Tribunal without any cause of action.

4.5 to 4.7 :

The contents of these paras need no reply. Doordarshan Manual did not exist in the year, 1973 and as such making any reference to it is totally irrelevant and meaningless.

(Signature)
4.8 : The seniority has been rightly fixed as per the instructions applicable at that time and as such there is no scope at all to raise any objection about its correctness.

राकेश कुमार सिंह
R.K. SINGH
अधिकारी अधिकारी
Superintending Engineer 4.9 : The contents of this para do not require
राजकाशगार/All India Radio
हैदराबाद/Lucknow.

any comments.

4.10 to 4.12 :

The contents made in these paras of the application need no reply since the seniority of Shri D.S. Ram in the cadre of Senior Technician has been rightly -

93

fixed and he has confirmed of its correctness in 1974.

4.13 & 4.22 :

The position already explained in respect of these paras in our earlier reply vide para 4.2 and 4.3 is re-iterated. Any change in his seniority would result in in-justice to all others who were promoted along with him. The real fact is that there is no cause of action at all and the applicant cannot have any grievance since his seniority has been fixed rightly and the correctness of which has already been confirmed by him in 1974 itself.

5-A. The contents made in this para need no reply.

5-B. The contents made in this para need no reply.

5-C. The petitioner could not be promoted before Respondent No. 4 & 5 since there was no post vacant at the Stations as per option exercised by him. The seniority has been correctly fixed and the applicant has confirmed of its correctness in 1974 immediately after issue of the Promotion Order. The seniority list has been subsequently circulated

in 1976 and 1979.

5-D. The contents made in this para need no reply.

5-E. Seniority of the applicant has been rightly

94

fixed as per instructions applicable at that time.

5-F. The contents of this para are mere repetition and need no further comments.

6 & 7 : The contents of these paras need no reply.

8 & 9 : The applicant is not entitled to any relief in view of the factual position stated in the preceding paragraphs.

10 & 12 : The contents of these paras are matter of records and hence need no reply.

PRAYER

In view of the facts, reasons and circumstances explained in the preceding paras of the amended reply, it is most humbly prayed that the application of the applicant may please be dismissed forthwith

solemnly affirmed before me in my office in the name of the Court, being without any cause of action, legal force

and devoid of merit.

Given this day of

Commissioner of Affidavits
Court Compound, Lucknow
Date.....

राकेश कुमार सिंह

R. K. SINGH (R. K. SINGH)

अधीदेश अधिकारी

Superintending Engineer

आकाशवाणी/All India Radio

लखनऊ/Lucknow.

(FOR RESPONDENTS NO. 1, 2 & 3)

95

VERIFICATION

I, R. K. Singh, aged about 43 years, son of Late Shri L. P. Singh, at present posted as Superintending Engineer, All India Radio, Lucknow, do hereby verify that the contents of this amended reply are true to my knowledge, belief and information as derived from official records and nothing has been concealed therefrom.

Signed and verified this day _____ of _____, 1992, at Lucknow.

(R. K. SINGH)

R. K. SINGH

SUPERINTENDING ENGINEER

Superintending Engineer, ALL INDIA RADIO, LUCKNOW.

All India Radio

Lucknow

(FOR RESPONDENTS NO. 1, 2 & 3)

LUCKNOW.
Court Compound, Lucknow.
Dated: 8
Oct. 1992

I, identify the deponent who has signed before me and is also personally known to me and signed on 21/10/92 at 5:20 AM/PM in the Court Compound at Lucknow.

(V. K. CHAUDHARI)

ADDL. STANDING COUNSEL FOR CENTRAL GOVERNMENT

(COUNSEL FOR RESPONDENTS NO. 1, 2 & 3)

SENIOR TECHNICIANS IN NORTHERN REGION

<u>Name</u>	<u>Where working</u>	<u>Option(s)</u>	<u>Page</u>
P 1. Shrawan Pal Singh ✓	TAPES	Delhi	203/c
P 2. " T.C. Kularia ✓	Bikaner	Bikaner, Jaipur-Ajmer, Delhi and Jodhpur.	176/c
P 3. " Virendra Mehan Verma Jull.		Amritsar, Jullundur & Chandigarh.	174/c
P 4. " Om Prakash Sharma RE(N)		Delhi, Mathura, Aligarh, Kanpur and Lucknow, Jaipur-Ai-	152/c
P 5. " Yad Ram ✓	R.Deptt.	Delhi	206/c
P 6. " Ghulam Haasan ✓	Srinagar	Srinagar, Leh & Delhi	136/c
P 7. " Jai Lal ✓	Kingsway	Delhi	202/c
P 8. " Narsingh Bhan ✓	Lucknow	Lucknow, Kanpur, Aligarh and Rampur.	176/c
P 9. " Khem Chand ✓	Kingsway	Delhi, Mathura, Aligarh	198/c
P 10. " Delsingar Ram ✓	Varanasi	Varanasi, Kanpur, Lucknow Gorakhpur, Allahabad & Aligarh	180/c
P 11. " Jai Kishan ✓	Kingsway	Delhi	200/c
P 12. " Bachchan Khan ✓	Rampur	Rampur, Delhi, Srinagar & Lucknow.	158
P 13. " Remesh Chander ✓	Jaipur Sharma.	Jaipur-Ajmer, Jodhpur & Udaipur.	191
P 14. " Gurmail Singh ✓	TV Delhi	Delhi	22
P 15. " G.L. Bala ✓	Lucknow	Lucknow, Allahabad, Aligarh, Kanpur & Varanasi	175
P 16. " Lachman Keshwani Ajmer		Ajmer, Udaipur, Indr & Delhi.	
P 17. " Kirpa Ram ✓	TV Delhi	Delhi	22
P 18. " Phool Chand Sharma STS(T)		Delhi, Jaipur	156
P 19. " Divender Singh	Delhi	Delhi	231
P 20. " Shiva Nand	Delhi	Delhi	232
P 21. " K.K. Rajavanshi	Jaipur	Jaipur-Ajmer, Bikaner, Udaipur, Delhi & any other Station in the Zone.	182
P 22. " Pritam Singh ✓	Delhi	Delhi, Amritsar, Jammu & Chandigarh	223
P 23. " Kartar Singh ✓	RE(B)	Delhi	155/c
P 24. " Net Ram ✓	Lucknow	Delhi	183/c
P 25. " Kulbhushan Gupta	Directorate	Delhi	193/c
P 26. " Kushwant Singh	Allahabad	Allahabad	182/c
P 27. " Ramesh Kumar Suxena	R.Deptt. Delhi		204/c
P 28. " N.S. Samar ✓	RE(N)	Delhi	173/c
P 29. " A.K. Dugal ✓	Simla	Simla, Delhi, Mathura & Chandigarh	218/c
P 30. " Musam Lal	Jammu	Jammu	170/c
P 31. " Shiv Prasad ✓	TV Delhi	Delhi	223/c
P 32. " Ram Pal	Kingsway	Delhi	199/c
P 33. " Parlad Kumar Kapile ✓	TV Delhi	Delhi, Chandigarh, Jullundur & Amritsar	220/c
P 34. " Banwari Lal Shukla Khanpur		Jammu, Delhi, Simla & Mathura.	225/c
P 35. " Brugesh Kumar	RE(N)	Delhi	154/c

संस्कृत

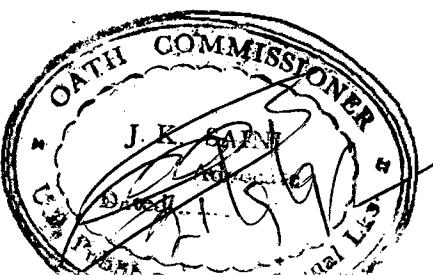
राकेश कुमार सिंह

R.K. SINGH

लोकल अधिकारी

Supervising Engineer

आकाशवाणी, All India Radio



(3) The case of promotions/transfers of Technicians to the post of Sr. Technician was discussed in this room today the 3rd Sept., 1973. DRG(M) and A.O. were present. The following transfer/promotions were decided:-

Sr. No.	Roster No.	Position in list	Name	Where working	Where posted	Remarks
1.	S/c ✓	S.No.5	Sh.Yad Ram	R. Dep't.	DRG(M)	under IC
2.	U/r ✓	1	Sh.A.P.Singh	T.P.D	do	do
3.	U/r ✓	2	Sh.T.C.Kularia	Bikaner	Bikaner vice DRG(M)	
4.	S/T ✓	31	Sh.Shiv Prasad	TV Delhi	TV(A mritsar) New Delhi	
5.	U/r ✓	3	Sh.V.M.Verma	Jullundur	TV Jullundur	
6.	U/r ✓	4	Sh.O.P.Sharma	RE(M)	RE(M)	
7.	S/c ✓	14	Sh.Gurmail Singh	TV Delhi	TV(Amrit Sarai)	
8.	U/r ✓	6	Sh.Mohammed	SD, Srinagar	SD, Srinagar	
				Hassan Namdasaz	TV Srinagar	
9.	U/r ✓	7	Sh.Mars Singh	Lucknow	Lucknow	
10.	U/r ✓	8	Sh.Khem Chand	Kinnoway	Aligarh (Delhi)	
11.	U/r ✓	12	Sh.Bach Khan	in Ranpur	Ranpur	
12.	U/r ✓	13	Sh. C	in Ipur.	Jai	

Officials at Sr. No. 11 in the DPC list
Page 1/4 have been skipped as no post vacant.
Sr. Technician is available in Delhi the place for which
they have opted for promotion as Sr. Technician.

Transfer
1. Sh.Bach Khan, A.T.R, Aligarh
Sr. T. technician
Submit please.

Seal
3-9-73.

to have to revise the present
संस्थापन
कानून अनुसार
कानून अनुसार

राकेश कुमार सिंह
R.K. SINGH
आधिकारी अधिकारी
Superintendent Engineer
आज्ञायक, All India Radio
लखनऊ, Lucknow.



FS 07 SMTWTF 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17

Annexure B2

Stm. 173 (Issue)

UNDER CERTIFICATE OF POST

GOVERNMENT OF INDIA
Office of the Regional Engineer (North)
All India Radio : Jamnagar House Hutsments,
Shahjahan Road, New Delhi-11.

No. REN. 1 (16) / 73-S/ 2984

Dated the 7th September, 1973.

ORDER

Object:- Promotion to the post of Sr. Technician (Sr. Mechanic).

On the recommendation of the Departmental Promotion Committee
the following Technicians approved for Promotion to the post of Senior
Technician are appointed as Senior Technicians at the following
offices/centres shown against their names:-

No.	Name	Station from	Station to	Remarks
1	Sh. Anand Pal Singh	T&PES, AIR, New Delhi.	RE (N), AIR, New Delhi.	against post under Installa- tion Group.
2	Sh. T. C. Kularia	AIR, Bikaner	AIR, Bikaner	vice Sh. Hari Lal transferred.
3	Sh. Virendra Mohan Verma	AIR, Jullundur	AIR, Jullundur	vice Shri Gurbachan Singh Promoted.
4	Sh. Om Prakash Sharma	RE (N), AIR New Delhi.	RE (N), AIR, New Delhi.	against post under Installation Group.
5	Sh. Yad Ram	R. Deptt., AIR, New Delhi.	RE (N), AIR, New Delhi.	-do-
6	Sh. Ghulam Nassan Nundasas.	SD, Srinagar	TV Centre, AIR, Srinagar	against newly created post.
7	Sh. Narsingh Khan	AIR, Lucknow	AIR, Lucknow.	vice Sh. P. R. Rajan Promoted.
8	Sh. Kiem Chand	HPT, Kingsway, Delhi-9.	AIR, Aligarh	vice Sh. Swaran Singh transferred
9	Sh. K. Khan	Rampur	AIR, Rampur	vice Shri Ram Baran transferred

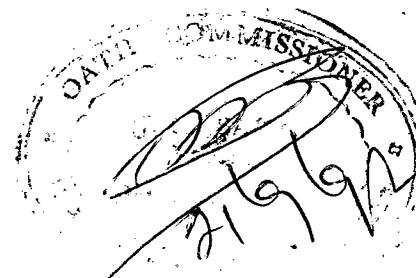
राकेश कुमार सिंह

R. K. SINGH

Engineer-in-Charge

Supervising Engineer
All India Radio

Shahjahan Road



(2) 98 (195)

MODEL ROSTER FOR POSTS FILLED BY DIRECT RECRUITMENT
ON ALL INDIA BASIS OTHERWISE BY OPEN COMPETITION.

Point in the Roster:	Whether reserved or <u>unreserved.</u>	Point in the Roster	Whether unreserved or reserved.
1. ✓	S/o	21 ✓	U/r
2. ✓	U/r	22 ✓	U/r
3. ✓	U/r	23 ✓	U/r
4. ✓	S/T	24 ✓	U/r
5. ✓	U/r	25 ✓	S/E ✓
6. ✓	U/r	26 ✓	U/r
7. ✓	S/C	27 ✓	U/r
8. ✓	U/r	28 ✓	U/r
9. ✓	U/r	29 ✓	U/R
10. ✓	U/r	30 ✓	U/r
11. ✓	U/r	31 ✓	S/T, U/r
12. ✓	U/r	32 ✓	U/R
13. ✓	S/C	33 ✓	U/r
14. ✓	U/r	34 ✓	U/r
15. ✓	U/r	35 ✓	U/r
16. ✓	U/r	36 ✓	S/E
17. ✓	S/T	37 ✓	U/R
18. ✓	U/r	38 ✓	U/r
19. ✓	U/r	39 ✓	U/r
20. ✓	S/C	40 ✓	U/r

Note: 1. In every third cycle of the above roster, the 37th point will be treated as unreserved.

2. If there are only two vacancies to be filled in a particular year not more than one may be treated as reserved and if there be only one vacancy it shall be treated as unreserved. If on this account a reserved point is treated as unreserved, the reservation may be carried forward to the subsequent three years.

संस्थापित

२००८ वृत्ति अंक

राकेश कुमार सिंह

R.K. SINGH

इंजीनियर अधिकारी

Superior Engineering

आकाशवाणी/All India Radio

लखनऊ/Lucknow.

१००८ वृत्ति अंक

The case of promotions/transfers of technicians to the post of sr. technician was discussed in RR's room today the 8th October, 1973. DRB(M), A.R.E(W) and A.Q. were also present. The following transfers/postings were decided.

99
DRB(M)

R/5

Sr.No.	Roster point.	Position in the list.	Name	Where working	Where posted.	Remarks.
1.	14 (u/R)	7	Sh.Jai Lal	Kingsway	Kingsway	vice Shri Giriraj Sharma promoted
2.	15 (u/R)	10	Sh.Dalsingh Varughesi Varughesi Ram	Varughesi Ram	Varughesi Ram	Vice Shri Ram G. transferred to W.S under I.G.
3.	16 (u/R)	11	Sh.Jai Kishan	Kingsway	RE(N)	against newly post vide NG or A-11013/102/72 dt. 3.5.1973.
4.	17 (s/T)	17	Sh.H.S.Zeph	Jaipur	Udaipur	vice Sh.B.L.Bhatt transferred.
5.	18 (u/R)	18	Sh.G.L.Bala	Lucknow	Aligarh	Under I.G.
6.	19 (u/R)	18	Sh.Lachchhwan	Aligarh	RE(H)	do
			Kewaani	Lucknow	RE(H)	

संस्थापित

प्रमाणित दस्तावेज़

राकेश कमार सिंह

R.K. SINGH

इंजीनियर

Superior Engineering

आकाशवाणी - All India Radio

लखनऊ/Lucknow

DRB(M)
R/5

UNDER CERTIFICATE OF POSTING

Amherst. - C2

GOVERNMENT OF INDIA
OFFICE OF THE REGIONAL ENGINEER (NORTH)
ALL INDIA RADIO: JAMNAGAR HOUSE, HUMBERS,
SHAHJAHAN ROAD, NEW DELHI-11.

RE(N)1(16)/73-S/2509-28 Dated the, 20th October, 1973.

O R D E R

Subject:- Promotion to the post of Senior Technician (Sr.Mechanic).

On the recommendation of the Departmental Promotion Committee the following Technicians approved for promotion to the post of Senior Technician are appointed as Senior Technicians at the following offices/centres shown against their names:-

No.	Name	Station From.	Station to.	Remarks.
1	2	3	4	5
1.	Shri Jai Lal	Kingsway	Kingsway	Vice Sh. Sriram Sharma promoted.
2.	Shri Dalsinger Ram	Varanasi	Varanasi	Vice Sh. Ram Chander Transferred.
3.	Shri Jai Kishan	Kingsway	RE (N)	Under I.G.
4.	Shri H.S.Zeph	Jaipur	Rampur Udaipur Vidarbha Nepal Vidarbha Nepal	Against the post created vide DG, ATR Order No. A-T1013/10 72-SVI(i) dt. 3.5.73.
5.	Shri G.L.Bala	Lucknow	Aligarh	Vice Shri S.L.Bhat Transferred.
6.	Shri Lachman Keshwani	Ajmer	Udaipur	Against the post created vide DG, ATR Order No. A-T1013/10 102/72-SVI(i) dt. 3.5.73.
7.	Shri Net Ram	Lucknow	RE (N)	Under I.G.

Posting of the above officials have been ordered according to the options exercised by them for a place of posting & promotion.

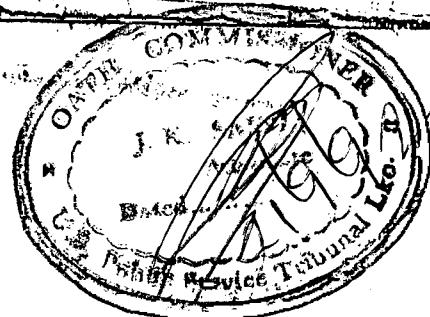
A refusal at this stage will be taken a serious note and will entail disciplinary action.

contd... P. 2.

સરખાયા

राजेन्द्र कुमार सिंह
R.R. SINGH

অসম প্রদেশ
Superintendent of Education
অসম প্রদেশ ইণ্ডিয়া ১০



15. Name
No.

10 ✓

1

2

1. Sh. G. L. Bhanuagar
2. Sh. Mohd. Hussain
3. Sh. Sarwa Pand
4. Sh. K. C. Nath
5. Sh. B. Dhani Ram
6. Sh. Ali Mohi
7. Sh. Girdhari Lal
8. Sh. Abdul Ariz
9. Sh. Gulia Khan
10. Sh. Mohd. Ismail
11. Sh. Abdul Ghaffar
12. Sh. Suraiya Patel

Government of India
Office of the Regional Engineer (North)
All India Radio, Jamnagar House, Hutsments

RE(N)1(20)/74/S

New Delhi-11, the 13th June, 1974.

15
101
RJ
Heads of All AIR Stations/Offices
in the Northern Region.

Subject:- Seniority lists of Technicians and Sr. Technicians
of the Northern Region of All India Radio.

Sir,

The seniority lists of Technicians and Sr. Technicians circulated earlier to the Stations/Offices in the Northern Region has been revised in order to accommodate the staff of Community Listening Scheme of J&K in the cadres to which they have been equated under the orders of Ministry of Information & Broadcasting, New Delhi vide letter No.A-301/15/72-B(D) dated 12.2.74. The staff so equated to various cadres has been given seniority taking into consideration the length of their services in the cadres they are presently working. The categories of Community Listening Scheme staff in the posts to which they have been equated are given below:-

1. Chief Supervisor
2. Radio Supervisor
3. Mate-cum-charger

....Engineering Assistant.
....Senior Technician
....Technician.

The particulars of the staff of the Community Listening Scheme J&K have been compiled from the information furnished by Station Directors Radio Kashmir Srinagar/Jammu. They are, however requested to re-examine the lists with reference to the particulars of CIS staff from the records available with them.

Certain changes in the list have been made in the light of Deptt. of Personnel O.M. No.9/3/72-estt. (D) dated 22.2.72 forwarded under DG, AIR Memo. No.7/2/72-Soor dated 13.2.73 regarding fixation of seniority prior and after 21.12.1959. Consequently certain officials would find their position changed in these lists, but this had to be done in view of the Deptt. of Personnel O.M. referred to above. The Heads of Stations/Offices are requested to check the particulars of the staff working with them with their service records and intimate the discrepancies if any, to this office. These lists may also be circulated to each and every member of the staff concerned and the representation, if made by the individuals forwarded to this office for necessary action.

This office intends to hold the DPC for promotion of Technicians/Sr. Technicians to higher cadres on the basis of their position in these lists. The Heads of Stations/Offices may, therefore, kindly confirm that the names of all the staff in these two cadres working at their stations/offices have been included in these lists and particulars given therein are correct. In case no information is received on the above points upto 30th June, 1974 in this office, it will be presumed that there are no discrepancies to be reported from your station office.

21/6/74
R.K.Singh
contd.. P. 2.



रामेश कामर सिंह
R.K. SINGH
Superintendent Engineer
आकाशधन/All India Radio
लखनऊ/Lucknow.

14-

24

1

2

2

13.9	13.8.65	13.9.65	10.7.73	Varensi	14-14
153. Shri. S. S. Patel	VII, Cert. ITI Fitter Other	14.9.65	10.7.73		-do-EL
154. Shri. V. Nandan Patel	High School, Patel of V. Nandan Patel	14.7.39	13.8.73	S.14.11.1	16.
155. Shri. J. C. Patel	Matric, NTC Elect.	18.4.41	13.8.73	B.P. Unit	QP. Kha
156. Shri. J. C. Patel	S/8	13.7.41	13.8	Kingsway	Pmt. Cl
157. Shri. J. C. Patel	Other	10.10.58	10	Kingsway	1.
158. Shri. J. C. Patel	Metric	24.8.42	4.10.65	26.1.73	Bikarai.
159. Shri. J. C. Patel	Metric, Cert. of Comp. in Vineet N. Patel	15.7.42	6.10.65	3.6.73	-do-6.
160. Shri. J. C. Patel	Metric, ITI Fitter	8.8.41	12.10.65	3.9.73	TV Amitsar -do-1
161. Shri. J. C. Patel	High School, Trade test in Radio Mech., Training, in Electrical Tech.	19.1.41	22.10.65	13.8.73	B.P. Unit
162. Shri. J. C. Patel	ITI Cert. in Elect. Gd. II	8.8.46	22.10.65	3.8.73	RE(N)
163. Shri. J. C. Patel	ITI Metric, ITI Fitter, NTC Fitter	28.8.38	26.10.65	11.8.73	Milesh
164. Shri. J. C. Patel	S/C				-do-6
165. Shri. J. C. Patel	ITI, NTC Fitter	10.7.41	26.8.65	19.10.73	RE(N)
166. Shri. J. C. Patel	Other	6.11.41	22.11.63	23.11.73	CBS, Delhi
167. Shri. J. C. Patel	Patric	7.6.39	9.12.63	1.10.73	Bikaner
168. Shri. J. C. Patel	V	12.3.41	24.3.66	TV Delhi	QP. Toc
169. Shri. J. C. Patel	S/1			Jullundur	-do-1
170. Shri. J. C. Patel	Dip. in Fitter Other	24.10.52	6.6.64	22.3.74	REN
171. Shri. J. C. Patel	Patric, Dip. in Fitter Other	15.11.39	17.8.65	22.9.73	do-1
172. Shri. J. C. Patel	High School	15.10.38	15.11.65	12.10.73	TV Delhi
173. Shri. J. C. Patel	Cert. of ITI Whiteman-S/C	27.7.45	27.8.65	19.9.73	Grinager
174. Shri. J. C. Patel	Attended ITI Elect. Other	1.3.42	12.10.65	1.3.42	Lucknow
175. Shri. J. C. Patel	ITI Fitter	1.3.42	1.3.42	1.3.42	Other

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Supplementary

Annexure Ch 6 LA

(6) The Regional Engineer (N),
 (Shri H.L. Malhotra, Accounts Officer by name)
 All India Radio,
 Jamnagar House Apartments,
 New Delhi-11.

(10) 9/8/74

Permanent FCC
 13.9.51.

Sub : Seniority list of Technicians and Senior
 Technician of the Northern Region of
 All India Radio.

Ref : Your circular letter No. RE(N)1(20)/74-S/14375,
 dated 13/15th June, 1974.

Sir,

The seniority list of Technician and Sr. Technician
 has been circulated at this centre. The following discrepancies
 have been noticed which may kindly be rectified at your end:-

Sl. No.	Name of candidate	Col. No.	Discrepancies
217 page 15.	Shri D.S. Ram, Sr. Technician.	3	His Technical qualification is "Certificate of competency from Govt. Pilot Workshop, Azamgarh, U.P. for Fitting; which may kindly be added at your end.
220 page 16.	Shri Kalim Ahmed, Technician.	6	His date of 1st appoint. in AIR is 1.11.63 (A.N.), which may kindly be added at your end.
		9	He has since been declared Q.P. w.e.f. 14.6.74 as Technician, which may kindly be shown at your end.

In this connection it is stated S/ Shri Jagdish Prasad and Kanhaiya Lal have been appointed as Technician at this centre. The names of the following officials may kindly be included in the list which will be published later. The details are given as under:-

Col. 1	Col. 2.	Col. 3.	Col. 4.	Col. 5	Col. 6	Col. 7.	Col. 8	Col. 9	Col. 10	Col. 11	Col. 12
1. Shri Jagdish Prasad, Technician.	High School, Other	Wireman -	7.1.41	19.6.60							
		Permit.									
2. Shri Kanhaiya Lal, Technician.	IX Class pass.	17.9.83	Varanasi	Other	7.7.43	9.12.63					

रामेश कुमार सिंह
 R.K. SINGH

Superintendent Engineer
 All India Radio

STATION ENGINEER
 GOMAR 1881 All India Radio Varanasi

Ansari 4.7.

Sh. Surinder Nath Under Matri

12.

106

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,

LUCKNOW.

Misc. Appn. No. 5 of 1993

In Re:

Original Application No. 414 of 1990.

RF. 7.1.93

D.S.Ram.

...Applicant

Versus

Union of India and others.

...Respondents.

APPLICATION FOR CONDONATION OF DELAY IN FILING THE REJOINDER AFFIDAVIT.

F.T.
4-1-93
The applicant, abovenamed, most respectfully
bigs to submit as under:-

(1) That the Rejoinder Affidavit in the above
case could not be filed earlier due to certain unavoidable
reasons.

(2) ^{the} That delay in filing the rejoinder affidavit
is not deliberate and the same is liable to be condoned
being bonafide.

WHEREFORE, it is respectfully prayed that
this Hon'ble Tribunal may kindly be pleased to condone
the delay in filing the rejoinder affidavit and accept
the same on record.


(R.C.SINGH)

Advocate

Lucknow:

Counsel for the Applicant

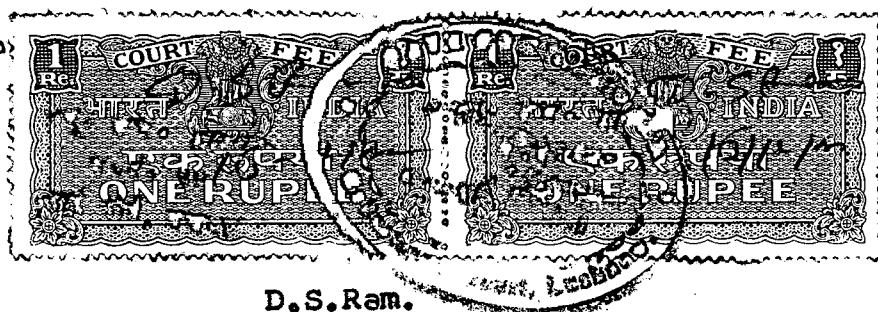
Dated: January 4th, 1993.

(107)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,

LUCKNOW.

Original Application No.414 of 1990.



D.S.Ram.

...Applicant

Versus

Union of India and others.

...Respondents.

REJOINDER AFFIDAVIT
(to the amended written statement.)

I, D.S.Ram, aged about 51 years,

son of Sri Dwarika Prasad, resident

of 508/95, Old Hyderabad, Lucknow,

the deponent, do hereby solemnly

affirm and state on oath as under:-

1. That the deponent is the applicant in the above described original application and as such he is fully acquainted with the facts and circumstances of the case.

D.S.Ram

2. That the deponent has read and understood the contents of the amended written statement filed on behalf of Respondents 1, 2 and 3(hereinafter referred to as the AddlW.S.) and its rejoinder is being filed hereunder.



108

- 2 -

3. That the contents of para 1 of the Addl. Written Statement need no reply.

4. That in reply to the contents of para 2 of the Addl.W.S. it is stated that the contents of various paragraphs have been replied/rebutted at appropriate places. The deemed denial of the contents of the original application as mentioned in para under reply are vague denial and hence not capable of any specific reply.

5. That the contents of para 3 ~~of xth~~(renumbered as para 1) of the Addl.W.S. need no reply.

6. That the contents of para 4.1 of the Addl. W.S. need no reply.

7. That the contents of para 4.2 of the Addl. W.S. are not admitted as stated. Admittedly the

deponent was found fit and recommended by the D.P.C.

for promotion to the post of Senior Technician.

Evidently the deponent was placed in the approved panel at Sl.No.10 whereas Sri Bachchan Khan and Sri

Ramesh Chandra Sharma were placed in the Panel at

Sl.Nos. 12 and 13 respectively as such the deponent could not have been placed below Sri Khan and Sharma



in the seniority list of senior technician. Mere giving option for a particular station (Varanasi) as choice place of posting cannot alter the seniority position.

Moreover, before issuing the alleged promotion order dated 7.9.1983 and before excluding the name of the deponent therefrom, the respondents should have clarified the position and obtained the consent of the deponent. It is incorrect that the seniority of all incumbants (senior technician) has been fixed strictly as per roster point as alleged. Had it been so the name of the deponent would have appeared in the seniority list before the names of S/Sri Bachchan Khan and Ramesh Chandra Sharma.

8. That the contents of para 4.3 of the Addl. W.S. are denied as incorrect. The alleged seniority list circulated in June 1974 vide C.E.(North Zone)'s Circular No.RE(N)1(20)/74/S dated 13/15.6.1974 is not in the knowledge of the deponent hence denied. The Respondents have also not stated as to how the name of the deponent was placed at Sl.No.217 while the names of S/Sri Bachchan Khan and Ramesh Chandra Sharma were placed at Sl.Nos.213 and 214 respectively when admittedly the D.P.C. had placed the name of the deponent in the selected panel above the names of S/Sri Khan and Sharma. It is incorrect that the alleged seniority

Qam

P. C. Bhattacharya
15.12.1983
Smt. Babita

100
15.12.1983
Smt. Babita

list was seen by the deponent and he agreed to its correctness. It appears that the minor discrepancies in the seniority list were raised by the Station Engineer All India Radio, Varanasi on the basis of records. Since the F.P.C. minutes were not against the deponent there was no question of not raising any objection regarding his seniority position by the deponent. Moreover, as admitted by the Respondents themselves the name of the deponent was placed in the approved panel above the names of S/Sri Khan and Sharma as such the deponent could not have gained by not making the representation against incorrect fixation of his seniority. The allegation of malafide intention against the deponent is wholly baseless and unfounded.

9. That the contents of para 4.4 of the Addl. W.S. are not admitted as stated. As already mentioned in the preceding paragraph the alleged seniority list circulated in June 1974 is not in the knowledge of the deponent nor he has raised the alleged minor discrepancies. It is also not clear as to why the Respondents could not take this plea in earlier written statement as well as could not intimate to the deponent in response to the various representations made by the deponent since 1984. The seniority of the deponent has not been rightly fixed in the grade of senior



Technician and as such the grievance of the deponent is just and proper.

10. That the contents of paras 4.5 to 4.7 of the Addl.W.S. are not admitted as stated. It is not disputed that the Door Darshan Manual did not exist in the year 1973 but it is also a fact that the recruitment Rules for the post of Senior Technician were notified vide Govt. of India, Ministry of Information and Broadcasting Notification No.16/20/69-B(D) dated 30.3.1970 which were incorporated in the A.I.R. Manual and subsequently also incorporated in Door Darshan Manual. The same recruitment rules which were notified in 1970 are still in force.

11. That the contents of para 4.8 of the Addl. W.S. are denied as wrong, baseless and misconceived. The seniority of the deponent on the post of senior technician has not been fixed correctly which also resulted into incorrect fixation of seniority of the deponent on the post of Engineering Assistant, and Senior Engineer Assistant.

12. That the contents of para 4.9 of the Addl. W.S. need no reply.



112

- 6 -

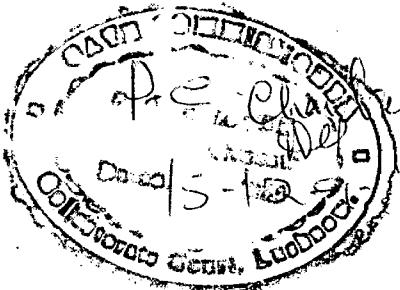
13. That the contents of paras 4.10 to 4.12 of the Addl.W.S. are not admitted as stated. It is specifically denied that the seniority of the deponent in the cadre of senior Technician has been rightly and the deponent has confirmed to its correctness in 1974. As stated in the preceding paragraph the deponent has not seen the alleged seniority list circulated in 1974.

14. That the contents of paras 4.13 to 4.22 of the Addl.W.S. are denied as wrong, baseless and misconceived. As already stated the seniority of the deponent in the cadre of Senior Technician has not been correctly fixed and he has not seen the seniority list allegedly circulated during June 1974.

15. That the contents of para 5A of the Addl. W.S. need no reply.

16. That the contents of para 5B of the Addl. W.S. need no reply.

17. That the contents of para 5c of the Addl. W.S. are not admitted as stated. The issuance of the posting order of the deponent subsequent to the posting order of Respondent No.4 and 15 cannot change the seniority position. As already stated the seniority



of the deponent in the cadre of senior Technician has not been fixed correctly and the deponent has not seen the seniority list allegedly circulated in June 1974. Further no such seniority list alleged to have been circulated subsequently in 1976 and 1979 are not in the knowledge of the deponent hence denied.

18. That the contents of para 5-D of the Addl. W.S. need no reply.

19. That in reply to the contents of para 5E of the Addl.W.S. contents of para 17 above are reiterated as true.

20. That in reply to the contents of para 5F of the Addl.W.S. it is stated that in view of what has been stated in the preceding paragraphs no further comments need be offered.

21. That the contents of paras 6 and 7 of the Addl.W.S. need no reply.

22. That the contents of paras 8 and 9 of the Addl.W.S. are denied as wrong and misconceived. The deponent is entitled to the reliefs claimed in paras 8 and 9 of the O.A. The O.A. of the deponent is liable

to be allowed with cost.

23. That the contents of paras 10 to 12 of the

Addl.W.S. need no reply.

Qam

Deponent

Lucknow:

Dated: December 15, 1992.

VERIFICATION

I, the deponent abovenamed, do hereby verify that the contents of paras 1 to 10, 12 to 16, 17(partly), 18 to 21 and 23 of this affidavit are true to my personal knowledge and those of paras 11, 17(partly) and 22 are believed to be true on the basis of legal advice. No part of it is false and nothing material has been concealed.

Qam

Lucknow:

Deponent

Dated: December 15, 1992.

IDENTIFICATION

I identify the deponent who has signed

P.N. A. above in my presence.

R.C.S. Singh
(R.C.SINGH)
Advocate

Deponent
Identified by Sh
Name to Sh
I have
sponsered
to affid
Date

P.C. Chaudhary
Advocate

Deponent
Date

(115)

In the Central Administration Tribunal, Lucknow.

O. A. No. 387/92

Dated : 10. 08. 92

K. K. Suri & Others _____ Applicants

Versus

Union of India & Others _____ Respondents.

Fixed on 22-9-99

Written Statement of final arguments of applicant I (K. K. Suri) in support of submissions already on record.

May it please your lordships :

1. (a) It is respectfully submitted that the staff of Railway Accounts department are granted incentive from the date of passing the Appendix-III A examination till the date of promotion to the eligible post, till 31. 12. 72, it was paid at different rates of enhanced increments. That mode of payment was replaced by granting a special pay WEF 1. 1. 73 at the rate of Rs. 20/- for the 1st year after passing and Rs. 35/- from 2nd year onward but effective from 22. 8. 78. This incentive is also taken into account for the purpose of fixation of pay at the time of promotion to the post of Section Officer (A/cs) etc.
- (b) The incentive by way of Enhanced increment was included in the basic pay annually but limited to maximum pay of Scale (Para 641, 645 of IREM-1968); whereas the special pay Incentive stands separately in addition to Basic Pay and is admissible over and above the maximum pay of the Scale. The original scheme worked harsh and prejudicial to the interest of qualified staff whose pay including incentive could not exceed the maximum stage of the pay scale. In contrast the Revised Scheme ensures that pay plus Special Pay may exceed

the maximum stage of the pay scale till the date of promotion so that incentive Special pay remains available for counting towards fixation of pay on promotion .

b. (i) Secondly, the incentive increments having been merged with the pay had the effect of reaching to the maximum pay of the appropriate Scale earlier than otherwise normal date, but then causing premature block^{at} at maximum pay till promotion. Resultantly, the amount of incentive paid would start falling down to NIL at the rate of one increment per year of forced stagnation.

(c) The applicant was adversely hit because the incentive amount of Rs. 44/- being paid to him since 8.5.70 was merged into Basic pay while fixing his pay in the Revised Scale in 1974 (effective from 1.1.73) and continued to be treated as such even after replacement of the old procedure by the Revised Scheme in 1976 made applicable from 1.1.1973 . As his pay reached to the maximum stage on 1.1.74 , earlier than normal date of 1.5.77 , he had to face premature stagnation for four years. Resultantly the incentive amount of Rs. 44/- fell down to NIL. Thus he was not paid any incentive from 1.5.77 to 16.3.78 and again on his promotion to the post of Section Officer (A/cs) on 17.3.78, no amount of incentive was taken into account for the purpose of fixing pay in promotional grade (Refer Para 14 and 23 of O.A. and Para 8 of Rejinder along with Annexure VIII).

2. Main legal points supporting merit of the case

(a) That the applicant qualified in 1965 under old scheme but promoted in 1978 under revised scheme . It was unfair and unreasonable to treat his case under ^{Non-existing} old rule and its procedure from 1.1.73 when the revised rule of incentive

came into operation in replacement. No option was allowed to be exercised for either retaining the old scheme or opting the new one at any stage. This unilateral action of the Railway Board was arbitrary and against the principle of natural Justice. (Prem Kumar Verma vs U.O.I - analogous -)
1998 S.C.C.(L+S) 1376

Not only that
(b) That even as two sets of Rules relating to the incentive were wrongly operated on and after 1.1.73 and applicant was treated under the procedure which was more drastic and prejudicial to his interest, the procedure applied in his case is liable to be struck off as infringing ART 14 of the Constitution. In other words, the applicant and such of the persons who passed before 1973 but were promoted after 1973 stood on the same platform with those who passed the Exam after 1.1.73. Thus the differentiation made between two groups of similarly situated employees which was not governed by any principle is violative of constitutional provisions,

(Para 49, 50 + 54 of Case no "1983 S.C.C.(L+S) 145" relied upon.) Kt 23/3/98
(c) That the incentive amount of Rs. 44/- availed by the applicant from 8.5.70 to 31.12.74 was a matter of his vested right which was taken away, before promotion, unlawfully. So in this context, the Respondents have also violated applicant's right guaranteed by ART 14 and 16 {Refer para 24 in the case "1997 S.C.C. (L+S) 1527" decided by apex Court on 25.7.97}.

3. Arguments against the position taken by Respondents.

(a) The impugned letter filed as annexure I states that the enhanced rate of Special pay/incentive of Rs. 35/- will be effective from 22.9.79 so the question of NATIONAL fixation of pay of those promoted prior to this date does not arise. On the other hand it has been stated in written notes of

arguments before the Honourable Tribunal that no relief is due to the applicant as he had already enjoyed Rs. 44/- which is more than Rs. 35 /-. This contention/averment is based on half truth and does not reflect the whole facts explained in 1(c) above , so rendering it forceless.

The incentive Rs. 44/- enjoyed by the applicant had already become NIL before promotion for ~~no fault on his part~~ because he was treated under an nonexistent rule. He was therefore deprived of the second benefit of counting incentive amount towards fixation of pay in promotional grade on 17.3.78 . It is further pleaded that such a National fixation of pay as denied in this case had already been allowed in a similar case decided by the Tribunal vide annexure X of 2/1989 to O.A. Then why injustice to the applicant who claimed Rs. 35/- notionally which is lesser than Rs. 44/- already taken away illegally. There is no claim for arrears of salary before the cut-off date of 22.9.79.

(b) The respondents ought to have regularized his pay through a fitment between enhanced increments ~~have~~ and Special Pay in terms of Para(B) of their own letter dated 13.7.69 (annexure IV) . Unfortunately the said provision was reversed in 1990. In this context, reliance is further placed upon a decided case on the similar point cited as "P. S. Sawhney VSUOI (1996- Supreme Court cases-879)".

In the light of submission made in Para 1 to 3 above, it is prayed that this 6 years old O.A. may be decided on merit and reliefs prayed for be allowed on the basis of Documents on record including this one.

Lucknow :-

Date :- 23/3/99

ekansh
(K. K. Suri)

Applicant No. I
in O.A.

J. S. Suri
R. B. Pandey
B

119

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH - LUCKNOW

O.A. No. 387/92 Dated 10-8-1992

K.K. Suri & Others Vs. U.O.I. & others.

WRITTEN ARGUMENTS ON BEHALF OF APPLICANT NO.1 IN SUPPORT OF
ORAL ARGUMENTS MADE IN PERSON WITH THE PERMISSION OF HON TRIBUNAL.

MAY IT PLEASE YOUR LORDSHIPS.

It is respectfully submitted that these are the written arguments of Applicant No 1 in this case further to detail arguments already filed by the learned counsel for all the Applicants which may also be taken note of and considered before deciding this case.

Copies of the relied upon decided cases referred hereinafter are also filed herewith for perusal. It would be fruitful to mention the facts of the case in brief for appreciation of the points involved.

1. ADMITTED FACTS.

(a) The clerks, sub head, stock verifiers etc ^{who} belong to A/Cs department of Indian Railway are being granted incentive on passing APP III A Exam at different rates vide Para 641, 645 of IREM, 1968 (Statutory provision) read with Railway Board letter marked Annexure R II with CA para 7.

Initially it was paid in the shape of Enhanced increment from 1932 to 1972. But no Incentive increment was admissible to qualified staff after their reaching the maximum pay of the time scale vide para 642 IREM 1968 as contended in para 4(6) of O.A. This mode of payment of Incentive was replaced in 10/76 by grant of a fixed special pay (Qualifying pay) @ Rs.20/- P.M wef 1-1-1973 for the 1st year and Rs.35/- from the second year of passing the exam, but made effective wef 22-9-1979. The present rate of this SPL pay is Rs.70/- wef 1-1-1986.

120

(b) The Applicant No. 1 (K.K.Suri) who passed the said departmental APP.III A exam in 2/1965 was granted enhanced increment @ Rs.15/- instead of normal rate of Rs.8/- P.M and was paid total accumulated incentive upto Rs.44/- (Rs.7/- x 6 yrs + Rs2/-) during the period from 2/65 to 8/5/1970 till he reached the maximum pay of the clerical scale of Rs.130-300 (Authorized).

(c) Therefore ^{after} he was not Eligible for any further Incentive and remained stagnated for more than 2 yrs when his pay was fixed in corresponding revised scale of Rs.330-560 for the same clerical post. He again reached the maximum pay of Rs.560-0 on 1-1-1974, remained stagnated at the maximum stage for four years till his promotion to the higher post of Section Officer (A/Cs) on 17-3-1978; when his pay was fixed at Rs.580/- in scale 500-900, under normal Rules, by taking his pay at Rs.560/- in the lower grade of Accounts clerk gr. I.

(d) It is note worthy fact that the Incentive in the shape of Special pay is allowed in addition to maximum pay of the time-scale in terms of its definition in fundamental Rule 9(26) of Railway Establishment Code II and it is also taken into Account for fixation of pay on promotion vide para 4 of Railway Board letter of 1976 filed as Annexure II to O.A.

2. FACTS NOT DISPUTED BY RESPONDENTS TO BE TAKEN AS ADMITTED

The following documentary facts not denied specifically by the Respondents shall be taken to be admitted in terms of order XXV of the Supreme Court Rules 1966.

(a) The G.M. Northern Railway's letter dated 29-1-1977 to Railway Board admits that the Scheme of payment of Incentive in the shape of SPL pay have created Discrimination in the fixation of pay of a senior employee on promotion because he is not entitled to any benefit after reaching the maximum of the clerical scale of Rs.330-560 (Revised scale). (Annexure VII to para 3 of the Rejoinder).

(b) The comparative data of pay particulars of Applicant No. 1 and junior indicating Elements of Discrimination as contained in para 4 (8 + 9) of O.A. has been shown in Annexure VIII to para 8 of R.A. The factual accuracy of it has not been disputed.

(c) The letter dated 2-7-91 written in case of K.K.Suri, Applicant, by his Head of office to Head of Department is marked as Annexure IX to para 13 of R.A. It highlights the basic difference in the operation of two modes of Incentive resulting into Discrimination in fixation of pay on promotion against those who passed APP. III A Exam, prior to 31-12-72 and promoted after 1-1-1973. It has not been disputed.

(d) The benefit of Notional fixation from the date of promotion has already been extended to U.D.C's, of other departments (vide Railway Board's, letter of 12-8-1989 marked as Annexure X to para 9 of R.A. (para 10 of O.A) who were placed in a similar situation in which the Applicant is placed. It has not been denied.

3. GRIEVANCES OF THE APPLICANT

The applicant is aggrieved that while drawing Incentive Rs.44/- in the shape of enhanced increment his pay inclusive of Incentive was limited to the maximum stage of Rs.560/- in the scale of Rs. 330-560; whereas in case of those drawing incentive of Rs.35/- as Special pay, their pay plus incentive exceeded to Rs.595/- (560 + 35). Thus those who passed APP. III A Exam in later years after 1-1-73 were drawing Rs.35/- more in Emoluments.

Further damaging result of the above difference of Rs.35/- was that on promotion to the post of Section Officer(A/Cs) he was fixed at lower stage whereas those who passed years after were fixed at higher stage (as explained in para 14 of O.A and 15 of R.A), because the Incentive paid to him was not taken into

consideration over and above the maximum stage of Rs.560/- for the purpose of fixation on promotion on 17-3-1978. The Applicant like other aggrieved staff have been seeking justice departmently but the Railway Board ultimately denied redressal of the grievance stating that benefit of Notional fixation could not be extended to those who were qualified prior to 1-1-73 and were promoted between 1-1-73 and 22-9-79. The impugned letter is filed as Annexure I to O.A.

4. MAIN LEGAL POINTS SUPPORTING THE CASE OF APPLICANT

(A) The said incentive, irrespective of its rates and modes of payment carries with it two benefits. Firstly it increases the pay from the date of qualifying departmental examination to the date of promotion. Secondly it is also taken into consideration for fixation of pay on promotion. Since it is attached with the condition of passing the APP.III.A Examination the staff drawing this incentive form a class for the purpose of awaiting its two benefits uniformly. But this principle was not observed.

Here it is emphasized that introduction of revised mode of payment in the shape of Special pay wef 1-1-73 was not a new benefit. It replaced the old system of payment of enhanced increments with the object of giving a fixed and equal amount to all the qualified staff even though after their reaching the maximum pay.

(B) The revised mode of Special pay wef 1-1-73 as modified w.e.f. 22-9-1979 divided the qualified staff into two groups viz the Applicant and others who had already qualified prior to 1-1-1973 and promoted between 1-1-73 and 22-9-1979. In the case of applicant who belongs to first group, his pay after 1-1-1974 (inclusive of Incentive of enhanced increment) did not exceed the maximum of pay scale. However the position of staff falling under second group was different and more advantageous in as much as in their case, pay plus incentive of SPL pay would exceed the maximum of pay scale; meaning thereby that even after reaching the maximum of the scale they would be entitled to draw SPL pay

to the extent of Rs.35/- In other words the scale of pay of Rs.330-560 became the scale of Rs.330 - 595 (pay + SPL pay) (Pritam Singh IAS Vs. UOI (para 28) 1990 (2) SLJ-CAT-58(CH) and C.C.Padmanabhan Vs. DOPI (para 18,20 & 22) 1981 SCC (L&S)

439). *3/ The said grouping was artificial and arbitrary having no rational nexus to object sought to be achieved by the revised Scheme of SPL pay incentive.* Such a classification amounts to hostile Discrimination which led to a further second resultant Discrimination in fixation of pay on promotion (as contended in para 14 of O.A.) depriving the applicant benefit of incentive to be counted towards fixation of his pay on 17-3-78.

(C) It is note worthy that Revised Scheme of payment of incentive Special pay came into force wef 1-1-1973 after replacing the old scheme. The Applicants were still awaiting promotion on 1-1-73 and were promoted during 1976, 1977 and 1978. They should have been provided the twin benefits carried by Revised incentive of SPL pay being similarly situated Appendix III A qualified clerks. There was only one rule relating to this *Incentive paid to 2* Incentive in operation after 1-1-1973 but the Applicant was *With a harsh procedure* treated *under old rule* which was substantially different and prejudicial as argued here in above. Such an action of the Railway Board was not governed by any principle (Bhandari Vs. I.T.D.C. AIR 1987 SC III referred). It is pleaded that seniors who were more resourceful and diligent in passing Appendix III examination earlier prior to 1-1-1973 can not be penalized by denying the benefits of more favourable scheme after applying two yard-sticks to Equals similarly circumstanced *after 1-1-73* (E.Sarasian Vs. U.O.I. CAT-Madras para 16).

(D) It is further pleaded that in Service matters, merit, experience, qualification or nature of duties and responsibilities can be the proper basis for classification. But none of these factors is involved in this case. When all the relevant factors viz scale of pay, seniority, cadre, departmental qualification are the same, Applicants can not be treated

differently in the matter of drawl of salary as clerk as well as ⁱⁿ fixation of pay on promotion after 1-1-73. 3

(E) As already mentioned in para 2 above, the case of the Applicants has got the documentary support vide Annexures VII to X, but the Railway Board failed to appreciate the reason and arbitrarily denied the legal relief of Notional fixation while such a relief has already been provided to U.D.Cs of other executive departments in implementation of a Judgement of Honourable C.A.Tribunal. This action of the authority is unfair, unreasonable, punitive and discriminatory hence the Reliefs prayed for under Article 14 & 16 of C.O.I may kindly be granted by this Tribunal. (D.S.Nakara Vs. U.O.I (para 15, 32, 42 & 50) 1983 S.C.C. (L&S) 145).

5. ARGUMENTS AGAINST PARA (3) OF THE WRITTEN ARGUMENTS OF RESPONDENTS DATED 15-7-93.

(A) The opposite party opposed the O.A. on the ground that the Applicant promoted before 22-9-79 had already enjoyed the benefit of Rs. 44/- Incentive which was more than Rs.35/- as such he is not entitled to any relief. It is simply a half-truth. The whole truth is that the applicant was drawing Rs. 44/-, Yet his pay plus Rs. 44/- were restricted to ^{was Compelled to} maximum of pay and he ^{remained} stagnated for four years ² after 1-1-74; meaning thereby that he lost Rs.60/- (4 yrs x Rs. 15/- annual increment) in pay because of differential (^{merger of Incentive into Basic Pay}) treatment given to him and the gain of Rs. 44/- became NIL eventually. The fact is that he would have drawn the maximum pay of Rs.560/- in scale 330-560 on 1-5-77 in normal course even if he had not been granted any incentive. The Respondents conveniently compared the quantum of Incentive but not the nature and quality of two modes of Incentives which is the real issue in this case leading to discrimination at two stages i.e. (1) 1-1-75 to 16-3-78, the period served as U.D.C (A/Cs) and (2) on 17-3-78 on promotion. (Annexure initially VIII to R.A) The Discrimination was there even if he had

not been promoted from the clerical post. The O/party did not deny these hard facts and rather tried to evade the real issue. The crucial points are that whatever benefits were given to the applicant, these became nullified on account of ^{Compelled by} stagnation and rendered NON-Existent before promotion.

(B) It is submitted that if Respondents consider that the applicant has enjoyed more benefit, they may withdraw the incentive of Rs. 44/- in the shape of enhanced increments and extend a lesser amount of Rs. 35/- in the shape of SPL pay. This has already been contended in other words vide para 4 (23) read with ground No V (ii) of O.A. It is surprising

why this adjustment as proposed is not accepted to them ^{in order to regulate my pay as US CAF and on promotion as S.O.CAF to remove Discretionary.}

(C) It is reiterated at the cost of repetition that Applicant is not claiming Rs. 35/- in addition to whatever has been granted. Since Incentive of Rs. 44/- drawn by him is his legal right and can not be withdrawn or recovered, the same should be excluded from his pay from 28-2-65 to 8-5-70 as ^{like SPL pay} separate element ³ and then Rs. 35/- out of Rs. 44/- may be counted towards fixation on his promotion to the post of S.O. (A/Cs) notionaly.

(D) It is pleaded that Notional fixation on promotion w.e.f. 17-3-1978 is claimed as equitable relief because the SPL pay of Rs. 35/- was made effective from the second year of passing the examination as on 22-9-79 though the applicant was paid more than Rs. 35/- as incentive. ³ There is no claim for payment of arrears of salary prior to 22-9-1979.

6. THE CASE OF BHARAT BHUSHAN VS. U.O.I. RELIED UPON BY OPS DISTINGUISHED.

The respondents have relied upon the above case filed as annexure ³ R.I to counter affidavit in order to justified by the rejection of Applicant's representation but the facts and issue raised in that case are quite distinguishable from

this case as under;

(a) The short issue vide para 4 of the Judgement in that case is whether Bharat Bhushan ^{was} entitled to SPL pay of Rs. 35/- wef 1-1-1973. The Tribunal held that he was not entitled to it, since SPL pay of Rs. 35/- was effective from 22-9-79. He qualified in Dec 1970 and was in receipt of Rs. 21/- as incentive. Contrary to these facts, the Applicant was in receipt of Rs. 44/- before 1-1-73 and claimed Notional fixation on promotion wef 17-3-1978 after taking into consideration the incentive amount of Rs 35/- out of Rs 44/- already paid.

(b) Shri Bharat Bhushan nowhere raised the point of procedural discrimination that his pay + Incentive did not exceed the maximum of his pay or his incentive was not counted for fixation as is the issue involved in our case. On the contrary the Tribunal further held in that case that the question of Discrimination also does not arise as the admissible rate of Special pay is uniformly applicable to all ... (Operative para - page 8 of the Judgement).

(c) The ground of rejection of the representation of the applicant is different from the grounds on the basis of which the O.A. of Bharat Bhushan was dismissed. Hence the cited case is not applicable to this case because facts and issues are not identical.

7. ARGUMENTS AGAINST PRELIMINARY OBJECTION OF LIMITATION.

Further to whatever has been given in the written arguments submitted by our learned Counsel, the following additional arguments are advanced in the light of a few more judicial decisions on the point of limitation.

(a) As stated in para 4 (16) to (20) of O.A. the matter of SPL pay incentive was considered by Rly Board time and again during the whole period from 10/76 to 1990 without resolving the issues. Merely because the competent authority took 14 yrs to arrive at a final decision, the applicant cannot be denied

127

justice, for no fault of his, on the grounds of delay.

(b) While the Railway Board was issuing circulars, incomplete and contradictory, giving piece-meal treatment to the subject, Representations from staff/references from recognized Unions and Zonal Railways continued against the Discrimination created by various orders on a policy matter affecting service conditions. In view of it the limitation would start after one year from the date of Rejection of the representation on merit. (Dwarka Nath Sharma Vs. U.O.I. 1989 (2) S.C.C. 225 para 12).

(c) The benefits of Incentive for passing departmental examination are provided under statutory provisions vide para 641, 642 and 645 of Indian Railway Establishment manual 1968. When the revised scheme of payment of Incentive as Special pay is attacked being discriminatory, the position is precisely the same as if a Law/
^{to applicants} Rule is attacked as being discriminatory, consequently. The Applicants affected by the said scheme suffer every day. Thus the wrong policy decision of Railway Board contained in various circulars is a continuing wrong which can be challenged at any time. Therefore the limitation provided under Section 21 (2) does not apply to this case, as alleged, in view of judicial verdicts as below;

1. G.K. Shemava Vs. U.O.I. 1989 (1) S.L.J. CAT (BAN) 1 para 35, 36 & 38.
2. Kamlesh Jain (SMT) Vs. U.O.I. (1994) 26 ATC 888-Jaipur.

(d) The Adminstrative instructions of Govt provide that Non-Statutory representations for redressal of grievance should be made through Head of office/Department, as the case may be, to the authority competent to deal with the matter. The Applicant firstly aggrieved by the circular of 28-4-80 sought removal of discrimination in fixation of pay. The representation dated 31-7-80 submitted by Applicant 1 is filed as Annexure XIII,

it was not replied. When legal relief was not provided ultimately by the Railway Board, the applicant having recurring cause of action represented again in 11/90 against the sixth circular letter containing final policy ~~decision~~ orders. This representation was entertained, examined, considered on merits and rejected in 8/91. The rejection was not on the grounds of delay or on the plea of rejection of any such earlier representation. The impugned letter clearly states that the benefit of Notional fixation of pay to those promoted between 1-1-73 and 22-9-79 can not be allowed because the enhanced special pay of Rs. 35/- was effective from 22-9-79. The rejection of this representation is admitted in opening para of C.A. It is argued that the department is at liberty to entertain representation of staff at any stage and once it has chosen to do so and rejected the representation on merits, the limitation is to run from the date of final rejection. This O.A. filed within one year from the date of rejection of the representation is not barred by time. The following are the cases, relied upon.

- A. B.Kumar Vs. UOI - 1989 (1) SLJ (CAT) 1 ND para 11 & 12.
- B. Harbinder Lali Vs. C.A.G. 1988 ATC 567 HYD para 3.
- C. O.A No. 257 of 1991 (L) A.K.Sinha Vs. UOI & Ors para 8 of Judgement dated 18-9-1995 (unreported).

(e) It has been admitted by Respondents 2 and 4 vide their letters (Annexure VII & IX) that policy orders of Railway Board created anomalies due to grant of SPL pay Incentive to juniors wef 1-1-73/ 22-9-79 and the seniors like applicants suffered both in emoluments as also in fixation of pay on promotion prior to 22-9-79. The Applicants have a genuine grievance and were pursuing their case diligently till final

rejection of their representations. They are still suffering in retiring pension. In this view of the facts of case the plea of limitation does not apply to applicants who have a recurring cause of action for this O.A. filed within one year on 10-8-92. Cases relied upon in this regards are as below:-

- A. A Segyanathan Vs. DPO S.Railway - 1992 S.C.C. (L&S) 665 para 4 and 5.
- B. E.Sarasian Vs. Secy Board of Direct Taxes (1991) 17 ATC-673 MAD para 8 & 9.
- C. Madhukar Morcey Vs. UOI (1989) 11-ATC-726-JAB.
- D. S.V. Rama Krishnan Vs. UOI (1993) 24-ATC-Bombay.

8. DISTINGUISHABLE FACTS OF CASES RELIED UPON BY RESPONDENTS

(a) In first decided case of Dev Raj Vs. UOI, the applicant transferred in 1971 was given final reply in 1974. He was again informed in 1985 that his request had been finally rejected in 1974. His last representation was not rejected on merit.

(b) In another case of G.D.Sarate decided in 7/1986, The representation was rejected on 12-8-1977. He was making further applications which were not replied or rejected, it was held, such unilateral action after rejection of first representation by the department did not extend the period of limitation.

(c) In the third cited case of V.S.Raghwan, the cause of action arose in 1973 and first representation was made seven years thereafter. It appeared that his first and subsequent representations were disposed of only on 3-10-85 without going into the merit of the case. Further more the applicant relied on a decision of the Supreme Court in a case of which the facts were not similar. In this decided case, Neither there was any challenge to a rule, a wrong policy/scheme nor the applicant therein have a recurring

130

cause of action.

It is therefore pleaded that there is no substance in the alleged objection of limitation as raised by respondents as the facts of reliedupon cases are quite different and distinguishable from the facts of this case.

The Hon'ble Tribunal is prayed to decide the case on merits in the interest of justice as this O.A. has been filed in time as argued from various angles.

9. Coming to Reliefs prayed for in the O.A. it is submitted the case of the applicant stand fully proved, legally as well as factually as argued in para 1 to 6 above. As such the Tribunal may be pleased to grant all the Reliefs including cost including cost of the case and the interest on arrears due. It is further prayed that the Respondents be directed to implement the Judgement within 3 months if the applicant is granted reliefs asked for. The applicant is a retired person, aged 64 years and has already suffered much.

LUCKNOW

Dated: -12-1996

Krishan Kumar Suri

(KRISHAN KUMAR SURI)

APPLICANT 1 in O.A.

No. 387/92.

R B Pandey Suri

1376. SUPREME COURT CASES (LABOUR AND SERVICES) 1998 SCC (L&S) 10 to the Army Postal Service, his case was covered under Section 14(1)(a) of the Administrative Tribunals Act. In that view of the matter, the High Court was right in rejecting the writ petition filed by the appellant, whereas the Central Administrative Tribunal erroneously accepted the claim of the appellant that he is an army personnel. We, therefore, uphold the judgment and order of the High Court dismissing the writ petition filed by the appellant. Since the appellant while holding a civil post was working in the Army Postal Service on deputation, the Central Administrative Tribunal had jurisdiction to entertain and decide the original application filed by the appellant. We accordingly set aside the order dated 31-1-1997 passed by the Central Administrative Tribunal, Principal Bench, New Delhi, and remand the case to it to decide expeditiously Original Application No. 1647 of 1996 of the appellant, on merits.

10. Consequently, Civil Appeal No. 556 of 1998 is dismissed and Civil Appeal No. 557 of 1998 is allowed. There shall be no order as to costs.

1998 Supreme Court Cases (L&S) 1376

(BEFORE G.B. PATTANAIK AND S.P. KURDUKAR, JJ.)

PREM KUMAR VERMA AND ANOTHER

Appellants

UNION OF INDIA AND OTHERS

Respondents

Civil Appeal No. 2250 of 1997, decided on April 15, 1998

Service Rules — Amendment of — Operation of pre-amended and post-amended rule — Pre-amended rule, held on facts, was to operate in a case where selection process for Depot Storekeepers for the vacancies was completed before amendment — Railway Establishment Manual, Para 303(a) [as it stood before 1990 amendment] — Seniority — Criteria — Merit in examination held after training — Statute Law — Amendment — Prospective operation — Administrative Law — Subordinate legislation — Rules — Amendment of — Prospective or retrospective

Vacancies arose prior to July 1989 for which Railway Recruitment Board selected candidates on 11-7-1989. Selected candidates were sent for training in four different batches. Relevant portion of para 303(a) of the Railway Establishment Manual prescribed the following criterion for fixation of seniority: "Candidates who were sent for initial training to training schools will rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of the training period before posted against working posts." This provision was later on amended in 1990 and in 1993 when it was laid down, subject to certain exceptions, that candidates sent for training in a later batch were to rank junior to those sent in an earlier batch.

Held:

The posts fell vacant prior to July 1989. The process of selection was completed and the Recruitment Board selected candidates on 11-7-1989. The amendment which was introduced on 5-5-1990 and further amendment of 1993 will have no application and it is the unamended para 303(a), as it stood on 11-7-1989, that would govern the case of inter se seniority. According to para 303, where candidates are required to undergo some training after being selected through Railway Service Commission or any other recruiting authority, their seniority is determined on the basis of respective merit in the examination held at the end of the training period and where candidates do not have to undergo any training, the seniority is determined on the basis of merit assigned by the Commission or other recruiting authority. The candidates, in the present case, had to

undergo training in batches. Their seniority has rightly been determined on the basis of their respective merit obtained in the examination held at the end of the training period. The Tribunal committed an error by altering the seniority on the basis of a rule which was not in existence on the date the vacancies arose and on the date when the selection was completed. (Para 5)

Appeal allowed

K-H-M/ATC/19731/CLA

Suggested Case Finder Search Text (*inter alia*):

seniority "inter se" rules amend*

The Judgment of the Court was delivered by

PATTANAIK, J.— This appeal is directed against the order of the Central Administrative Tribunal, Chandigarh Bench dated 20-10-1995, in OA No. 470 of 1994. The question for consideration is whether the *inter se* seniority of the appellants had been rightly determined by the Railway authorities as per para 303(a) of the Railway Establishment Manual (hereinafter referred to as "the Manual") and was illegally interfered with by the Tribunal on the basis of a provision which came into existence subsequently.

2. Admittedly, vacancy arose in the post of Depot Storekeeper Grade III in Rail Coach Factory, Kapurthala, in July 1989, and advertisement inviting applications for the said posts had been issued by the competent authority. The Railway Recruitment Board Jammu-Tawi selected 29 candidates on 11-7-1989. Under the rules the candidates are required to undergo training. The 29 candidates thus selected were sent for training in four different batches and after completion of their training started discharging their duties as Depot Storekeeper. The Railway authorities drew up the seniority list of the said 20 Depot Storekeepers in accordance with para 303(a) of the Manual, as it stood prior to its amendment on the basis of the merit obtained at the examination held at the end of the training period. Respondents 5 to 9 filed a representation on 3-8-1992 challenging the seniority list. That representation having been rejected by the Government they approached the Central Administrative Tribunal contending *inter alia* that since they were sent for training in the first batch itself and completed the training much earlier than the other batch of personnel they are entitled to be declared senior to others. The appellants contested before the Tribunal both on the ground that the application is grossly barred by time and also on the ground that the seniority *inter se* has been rightly determined in accordance with para 303(a) of the Manual and consequently the respective merit after the end of the training is the determining factor and earlier in point of time for getting the training is immaterial. The Tribunal, however, came to hold that Respondents 5 to 9 having successfully completed the training before the present appellants and other respondents, said 5 to 9 who were applicants before the Tribunal, would rank senior.

3. Mrs Shyamla Pappu, learned Senior Counsel appearing for the appellants, contended that when recruitment to a cadre under the Railways is made through the Railway Service Commission then the seniority of such recruits has to be determined in accordance with para 303. She further contended that vacancy having arisen in July 1989, process of selection for the same having started and completed on 11-7-1989, the relevant provision, as it stood then, would govern the *inter se* seniority and not the amended provision. Under the pre-amended provision it is the order of merit obtained at the examination held at the end of the training period which determines the *inter se* seniority and the appellants having obtained higher merit at the examination held at the end of the training has rightly been shown senior

Comparison of increment and SP1 pay, different
Effect on pay drawn before maximum and after max
P.S. SAWHNEY v. UNION OF INDIA 879 max

1996 Supreme Court Cases (L&S) 879

(BEFORE K. RAMASWAMY AND B.L. HANSARIA, J.J.)

133

Appellant;

a P.S. SAWHNEY

Versus

UNION OF INDIA AND OTHERS

Respondents.

Civil Appeal No. 1525 of 1994[†], decided on February 7, 1996

b A. Pay — Special pay and annual increment — Fitment — Special pay of appellant having been merged with revised time scale of pay, appellant becoming entitled to claim fitment at a higher rate of pay — Accordingly, Supreme Court in its earlier decision in *P.S. Sawhney v. R.K. Aggarwal*, (1988) 1 SCC 353 ordering that appellant's "pay from Nov. 1978 would be revised and fixed at Rs 2000 plus Rs 100 and with the annual increment it would go on increasing at the rate of Rs 100 per year" — Order of the Court clarified in the present appeal stating that granting annual increment would mean that so long as the appellant does not reach the maximum of the appropriate pay scale prescribed, from time to time, he would be entitled to the annual increment @ Rs 100 and thereafter it would form as a special pay — When the pay scale reaches the maximum after computation of the annual increment of Rs 100, till further revision is effected, it would form a special pay and would not form part of the pay scales — However, this rule would not be applicable to others

c P.S. Sawhney v. R.K. Aggarwal, (1988) 1 SCC 353 : 1988 SCC (L&S) 297 : (1987) 5 ATC 366, clarified

d B. Allowances — Local allowances — Directions issued by Govt. that option given to switch over to the pay scale of Central Govt. from Punjab pay scale was irrespective of the local allowances — Local allowances admissible as per Central Govt. pay scale — Central Govt. providing allowance of Rs 20 while Punjab Rules providing Rs 100 — Appellant contending that he, having not given the option, was entitled to the local allowance on a par with the Punjab Govt. employees — Held, contention not sustainable — Deduction of Rs 80 per mensem was consistent with the directions issued by the Govt.

e Appeal allowed

R-M/15831/SLA

f Advocates who appeared in this case :

Appellant in person.

Ms Kanwaljit Kochar and Ms Rani Chhabra, Advocates, for the Respondents.

g Chronological list of cases cited

in para(s)

1. (1988) 1 SCC 353 : 1988 SCC (L&S) 297 : (1987) 5 ATC 366, *P.S. Sawhney v. R.K. Aggarwal*

2

6. The appeals are accordingly allowed and the OAs stand dismissed, but in the circumstances, without costs. However, if any amounts have already been paid pursuant to the orders of the Tribunal, the same may not be recovered from them.

[CONNECTED CASE]

(BEFORE J.S. VERMA AND K. VENKATASWAMI, JJ.)

UNION OF INDIA AND OTHERS

134
Appellants;

Versus

b SUKANTI AND ANOTHER

Respondents.

Civil Appeals Nos. ... of 1996, decided on July 30, 1996

ORDER

1. Leave granted.

2. These appeals by special leave are against the Tribunal's order directing payment of family pension to the widows of certain casual workers, who had not been regularised in service and had died in 1978, 1976 and 1974 respectively. In view of the decision of this Court in *Ram Kumar v. Union of India*¹ (SCR at p. 144) it is clear that no retiral benefit is available to casual labourers of this kind. The impugned order of the Tribunal being contrary to this decision has to be set aside. We order accordingly. The appeals are accordingly allowed. No costs.

✓ *Five judges Constitution Bench.*
1997 Supreme Court Cases (L&S) 1527

(BEFORE J.S. VERMA, C.J. AND M.M. PUNCHHI, S.C. AGRAWAL,
DR A.S. ANAND AND S.P. BHARUCHA, JJ.)

CHAIRMAN, RAILWAY BOARD AND OTHERS

Appellants;

Versus

C.R. RANGADHAMAIAH AND OTHERS

Respondents.

(Civil Appeals Nos. 4174-82 of 1995¹ with SLPs (C) Nos. 5939 of 1994 and C.As. Nos. 5607, 5703 and 5698 of 1995 Etc., decided on July 25, 1997

A. Service Rules — Retrospective amendment affecting vested or accrued rights of government employees — If invalid — Retrospective amendment of statutory rules, adversely affecting pension of employees who already stood retired on the date of the notification, held, invalid — Railway Establishment Code, Rr. 2544 and 2301 — Pension — Retrospective reduction of — Non-permissibility — Railway Services (Revised Pay) Rules, 1973 — Constitution of India, Art. 309 proviso

See
Para
16
to
24

B. Constitution of India — Arts. 19(1)(f) & 31(1) [since deleted w.e.f. 20-6-1979 by Forty-fourth Amendment] and Art. 300-A — Right to property — Deprivation of — Reduction of pension by two notifications issued on 5-12-1988 which were effective retrospectively from 1-1-1973 and 1-4-1979 — Held, though Arts. 19(1)(f) and 31(1) were not in existence on the date of the notifications, they were in existence on the dates when the notifications came into effect retrospectively and so challenge can be based on them — Pensioners' right to property was therefore violated by the notifications

C. Constitution of India — Arts. 14 and 16 — Pension as admissible under the rules in force at the time of retirement — Retrospective reduction of pension — Held, is

From the Judgment and Order dated 16-12-1993 of the Central Administrative Tribunal, Bangalore in Original Applications Nos. 395-403 of 1991

Rule 2544 as it stood on the date of retirement. The impugned notifications therefore reduce the amount of pension to which the respondents were entitled according to the rules applicable at the time of their retirement and their accrued or vested right is adversely affected by the impugned notifications.

Pension is no longer treated as bounty. It is valuable right vested in a government servant. It is true that on 5-12-1988 when the impugned notifications were issued, right to property guaranteed under Articles 31(1) and 19(1)(f) were not available since the said provisions in the Constitution stood omitted with effect from 20-6-1979 by virtue of the Constitution (Forty-fourth Amendment) Act, 1978 but the impugned notifications were made effective retrospectively w.e.f. 1-1-1973 and 1-4-1979 respectively on which dates, the rights guaranteed under Articles 31(1) and 19(1)(f) were available. Both the notifications in so far as they have been given retrospective operation are, therefore, violative of the rights then guaranteed under Articles 19(1) and 31(1) of the Constitution.

(Paras 26 and 34)

Deokinandan Prasad v. State of Bihar, (1971) 2 SCC 330: 1971 Supp SCR 634; *D.S. Nakara v.*

Union of India, (1983) 1 SCC 305: 1983 SCC (L&S) 145: (1983) 2 SCR 165; *Salabuddin*

Mohamed Yunus v. State of A.P., 1984 Supp SCC 399: 1985 SCC (L&S) 53: (1985) 1 SCR

930, relied on

Besides, the amendments, insofar as they have been given retrospective operation, are also violative of rights guaranteed under Articles 14 and 16 of the Constitution because they are unreasonable and arbitrary. They have the effect of reducing the amount of pension that had become payable to the employees who had already retired from

service on the date of issuance of the impugned notifications, in accordance with Rule 2544 of the Railway Establishment Code, as it stood at the time of retirement.

(Para 33)

Suggested Case Finder Search Text (*inter alia*):

service rule* amend* retro*

D. Service Rules — Retrospective amendment — When it can be said to be taking

away accrued or vested right of an employee — Statute Law — Retrospective amendment — Validity — Constitution of India, Art. 309 proviso — Words and Phrases — “Accrued right”, “Vested right” — Explained

Held:

A rule which operates *in futuro* so as to govern future rights of those already in service cannot be assailed on the ground of retrospectivity as being violative of

Articles 14 and 16 of the Constitution but a rule which seeks to reverse from an anterior date, a benefit which has been granted or availed, e.g. promotion or pay scale, can be assailed as being violative of Articles 14 and 16 of the Constitution to the extent it operates retrospectively.

(Para 20)

K. Narayanan v. State of Karnataka, 1994 Supp (1) SCC 44: 1994 SCC (L&S) 392: (1994) 26 ATC 724, relied on

The expressions “vested rights” or “accrued rights” are used in the context of a right flowing under the relevant rule which was sought to be altered with effect from an anterior date and thereby taking away the benefits available under the rule in force at that time. Such an amendment having retrospective operation which has the effect of taking away a benefit already available to the employee under the existing rule is arbitrary, discriminatory, and violative of the rights guaranteed under Articles 14 and 16 of the Constitution.

(Para 24)

State of Gujarat v. Raman Lal Keshav Lal Soni, (1983) 2 SCC 33: 1983 SCC (L&S) 231: (1983) 2 SCR 287; *B.S. Yadav v. State of Haryana*, 1980 Supp SCC 524: 1981 SCC (L&S) 343: (1981) 1 SCR 1024; *T.R. Kapur v. State of Haryana*, 1986 Supp SCC 584: (1987) 2 ATC 595: (1987) 1 SCR 584; *Union of India v. Tushar Ranjan Mohanty*, (1994) 5 SCC 450:

a 16. It is no doubt true that once a person joins service under the Government the relationship between him and the Government is in the nature of status rather than contractual and the terms of his service while he is in employment are governed by statute or statutory rules, which may be unilaterally altered without the consent of the employees. It has been so held by this Court in *Roshan Lal Tandon*³ and *State of J&K v. Triloki Nath Khosa*¹⁰ (SCR at pp. 779, 780 : SCC p. 29, para 16). It may, however, be mentioned that in *Roshan Lal Tandon*³ the petitioner was invoking his rights under the contract of service and the said contention was rejected by the Court with the observation:

b "We are, therefore, of the opinion that the petitioner has no vested contractual right in regard to the terms of his service and that the counsel for the petitioner has been unable to make good his submission on this aspect of the case." [p. 196] (emphasis supplied)

c 17. In *B.S. Vadera*⁴ it has been held that the rules under the proviso to Article 309 have effect subject to the provisions of the Act made by the appropriate legislature under the main part of Article 309, if the appropriate legislature has passed an Act under Article 309 and in the absence of any Act of the appropriate legislature on the matter the rules made under the proviso to Article 309 are to have full effect both prospectively and retrospectively. Since the power of the appropriate legislature to enact a law under Article 309 has to be exercised subject to the provisions of the Constitution, the power to make rules under the proviso to Article 309 has to be exercised subject to the provisions of the Constitution. The Court has, therefore, said:

e "... Apart from the limitations, pointed out above, there is none other, imposed by the proviso to Article 309, regarding the ambit of the operation of such rules. In other words, the rules, unless they can be impeached on grounds such as breach of Part III, or any other constitutional provision, must be enforced, if made by the appropriate authority." (p. 585)

f 18. This means that even though the President, in exercise of his power under the proviso to Article 309, can make rules which may have prospective or retrospective operation, the said rules may be open to challenge on the ground of violation of the provisions of the Constitution, including the Fundamental Rights contained in Part III of the Constitution.

f 19. In *Triloki Nath Khosa*¹⁰ rules had been framed altering the criterion of eligibility for promotion from the post of Assistant Engineer to the post of Executive Engineer and the same were challenged on the ground of retrospectivity by the Assistant Engineers who were in service on the date of making of these rules. Rejecting the said contention, this Court said: (SCC pp. 28-29, para 16)

g "16. ... It is wrong to characterise the operation of a service rule as retrospective for the reason that it applies to existing employees. A rule which classifies such employees for promotional purposes, undoubtedly operates on those who entered service before the framing of the rule but it operates in futuro, in the sense that it governs the future right of promotion of those who are already in service. The impugned rules do not recall a promotion already made or reduce a pay scale already granted. They provide for a classification by prescribing a qualitative standard, the measure of that standard being educational

attainment. Whether a classification founded on such a consideration suffers from a discriminatory vice is another matter which we will presently consider but surely, the rule cannot first be assumed to be retrospective and then be struck down for the reason that it violates the guarantee of equal opportunity by extending its arms over the past. If rules governing conditions of service cannot ever operate to the prejudice of those who are already in service, the age of superannuation should have remained immutable and schemes of compulsory retirement in public interest ought to have founded on the rock of retroactivity. But such is not the implication of service rules nor is it their true description to say that because they affect existing employees they are retrospective."

(20) It can, therefore, be said that a rule which operates in futuro so as to govern future rights of those already in service cannot be assailed on the ground of retroactivity as being violative of Articles 14 and 16 of the Constitution, but a rule which seeks to reverse from an anterior date a benefit which has been granted or availed of, e.g., promotion or pay scale, can be assailed as being violative of Articles 14 and 16 of the Constitution to the extent it operates retrospectively.

21. In *B.S. Yadav v. State of Haryana*¹¹ a Constitution Bench of this Court, while holding that the power exercised by the Governor under the proviso to Article 309 partakes the characteristics of the legislative, not executive, power and it is open to him to give retrospective operation to the rules made under that provision, has said that when the retrospective effect extends over a long period, the date from which the rules are made to operate must be shown to bear, either from the face of the rules or by extrinsic evidence, reasonable nexus with the provisions contained in the rules. (SCR p. 1068 : SCC p. 557, para 76)

(22) In *State of Gujarat v. Raman Lal Keshav Lal Soni*¹² decided by a Constitution Bench of the Court, the question was whether the status of ex-ministerial employees who had been allocated to the Panchayat service as Secretaries, Officers and Servants of Gram and Nagar Panchayats under the Gujarat Panchayat Act, 1961 as government servants could be extinguished by making retrospective amendment of the said Act in 1978. Striking down the said amendment on the ground that it offended Articles 311 and 14 of the Constitution, this Court said: (SCC p. 62, para 52)

"52. ... The legislature is undoubtedly competent to legislate with retrospective effect to take away or impair any vested right acquired under existing laws but since the laws are made under a written Constitution, and have to conform to the do's and don'ts of the Constitution, neither prospective nor retrospective laws can be made so as to contravene Fundamental Rights. The law must satisfy the requirements of the Constitution today taking into account the accrued or acquired rights of the parties today. The law cannot say, twenty years ago the parties had no rights, therefore, the requirements of the Constitution will be satisfied if the law is dated back by twenty years. We are concerned with today's rights and not yesterday's. A legislature cannot legislate today with reference to a situation that obtained twenty years ago and ignore the march of events and the constitutional rights accrued in the course of the twenty years. That would be most arbitrary, unreasonable and a negation of history."

a 23. The said decision in *Raman Lal Keshav Lal Soni*⁵ of the Constitution Bench of this Court has been followed by various Division Benches of this Court. (See *K.C. Arora v. State of Haryana*⁶; *T.R. Kapur v. State of Haryana*¹²; *P.D. Aggarwal v. State of U.P.*⁸; *K. Narayanan v. State of Karnataka*⁹; *Union of India v. Tushar Ranjan Mohanty*¹³ and *K. Ravindranath Pai v. State of Karnataka*¹⁴.)

b 24. In many of these decisions the expressions "vested rights" or "accrued rights" have been used while striking down the impugned provisions which had been given retrospective operation so as to have an adverse effect in the matter of promotion, seniority, substantive appointment, etc., of the employees. The said expressions have been used in the context of a right flowing under the relevant rule which was sought to be altered with effect from an anterior date and thereby taking away the benefits available under the rule in force at that time. It has been held that such an amendment having retrospective operation which has the effect of taking away a benefit already available to the employee under the existing rule is arbitrary, discriminatory and violative of the rights guaranteed under Articles 14 and 16 of the Constitution. We are unable to hold that these decisions are not in consonance with the decisions in *Roshan Lal Tandon*³, *B.S. Yadav*⁴ and *Raman Lal Keshav Lal Soni*⁵.

c 25. In these cases we are concerned with the pension payable to the employees after their retirement. The respondents were no longer in service on the date of issuance of the impugned notifications. The amendments in the rules are not restricted in their application in futuro. The amendments apply to employees who had already retired and were no longer in service on the date the impugned notifications were issued.

d 26. In *Deokinandan Prasad v. State of Bihar*¹⁵ decided by a Constitution Bench it has been laid down: (SCC p. 343, para 31)

e "31. ... pension is not to be treated as a bounty payable on the sweet will and pleasure of the Government and that the right to superannuation pension including its amount is a valuable right vesting in a government servant." [p. 152] (emphasis supplied)

f In that case the right to receive pension was treated as property under Articles 31(1) and 19(1)(f) of the Constitution.

g 27. In *D.S. Nakara v. Union of India*¹⁶ this Court, after taking note of the decision in *Deokinandan Prasad*¹⁵, has said: (SCC p. 323, paras 28 and 29)

h 28. Pension to civil employees of the Government and the defence personnel as administered in India appears to be a compensation for service rendered in the past. However, as held in *Dodge v. Board of Education*¹⁷ a pension is closely akin to wages in that it consists of payment provided by an employer, is paid in consideration of past service and serves the purpose of helping the recipient meet the expenses of living.

12 1986 Supp SCC 584 : (1987) 2 ATC 595 : (1987) 1 SCR 584

13 (1994) 5 SCC 450 : 1994 SCC (L&S) 1118 : (1994) 27 ATC 892

14 1995 Supp (2) SCC 246 : 1995 SCC (L&S) 792 : (1995) 30 ATC 69

15 (1971) 2 SCC 330 : 1971 Supp SCR 634

16 (1983) 1 SCC 305 : 1983 SCC (L&S) 145 : (1983) 2 SCR 165

17 302 US 74 : 82 L Ed 57 (1937)

V-VI
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159

See Book on
C 09 - Dr. Basu
C 09 - Dr. Basu
APT 309 - rule making
power of president -

(1) Two rules with
different procedure -
at a time. One is
prejudicial to the
Appellants, hence
Appellants can not
exist with
APT 14 & 16 (A). *see para 4*

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O. P. BHANDARI v. I. T. D. C. LTD

541

compliance with the instructions given to him when he was under suspension. These reimbursements will be subject to the checks as envisaged in the rules on conveyance hire. The petition is allowed with costs.

1986 Administrative Tribunal Cases 541

Supreme Court of India

(BEFORE M.P. THAKKAR AND S. NATARAJAN, JJ.)

O.P. BHANDARI

Appellant ;

Versus

INDIAN TOURISM DEVELOPMENT
CORPN. LTD. AND OTHERS

Respondents.

Civil Appeal No. 1969 of 1986†,
decided on September 26, 1986

Labour and Services — Termination of service — Notice or pay — Termination of service of confirmed employee by giving 90 days' notice or pay in lieu thereof — Rules regarding, of public sector undertakings covered by Article 12 or of Government departments, held, violative of Articles 14 and 16 — Rule 31(v) of Indian Tourism Development Corporation (Conduct, Discipline and Appeal) Rules, 1978, held, unconstitutional — However, persons holding high level managerial posts constitute a class distinct from other employees, and if such persons are considered to be unsuitable because of lack of integrity or unsatisfactory performance, rule for termination of their services on that ground may be valid — Constitution of India, Articles 14 and 16

Constitution of India — Article 12 — Indian Tourism Development Corporation Ltd. covered by definition of State under (Para 3)

Held :

The rules of public sector undertakings covered by Article 12 which provide for termination of services of employees by merely giving notice or pay in lieu of notice cannot co-exist with Articles 14 and 16(1). Such a rule has the effect of setting at naught the guarantee enshrined in Articles 14 and 16. The tenure of service of a citizen who takes up employment with the State cannot be made to depend on the pleasure or whim of the competent authority unguided by any principle or policy. The authorities cannot be invested with such uncontrolled and arbitrary powers. Provincialism, casteism, nepotism, religious fanaticism and several other obnoxious factors may in that case freely operate in the mind of the competent authority in deciding whom to retain and whom to get rid of. These dangers are real and not imaginary in organisations where there is a confluence of employees streaming in from different States. Such a rule is capable of robbing an employee of his dignity, and making him a supine person whose destiny is at the mercy of the concerned

†From the Judgment and Order dated September 26, 1984 of the Delhi High Court in Civil Writ Petition No. 2329 of 1984

140

authority. Under the circumstances the rule in question must be held to be unconstitutional and void. Accordingly, Rule 31(v) of the ITDC Rules which provides for termination of the services of the employees of the respondent-Corporation simply by giving 90 days' notice or by payment of salary for the notice period in lieu of such notice, deserves to be quashed. (Paras 4 and 5)

✓ Central Inland Water Transport Corporation Ltd. v. Brojoi Nath Ganguly, (1986) 3 SCC 156 : 1986 SCC (L&S) 429 ; W.B. State Electricity Board v. Desh Bandhu Ghosh, (1985) 3 SCC 116 : 1985 SCC (L&S) 607 : (1985) 2 SCR 1014, followed

However, Rule 31 is extremely wide in its coverage as it includes all categories of employees viz. the workmen, the office staff as well as the management staff. Insofar as the workmen and the office staff are concerned, the quashing of Rule 31 does not pose any problem. But it is in public interest that public sector undertakings or their Boards of Directors are not compelled and obliged to entrust their managements, to personnel in whom, on reasonable grounds, they have no trust or faith and with whom they are in a bona fide manner unable to function harmoniously as a team working arm-in-arm with success. Such a situation can be remedied by enacting a regulation permitting the termination of the employment of an employee belonging to higher managerial cadre, if the undertaking has reason to believe, that his performance is unsatisfactory or inadequate, or there is a bona fide suspicion about his integrity, these being factors which cannot be called into aid to subject him to a disciplinary proceeding. If termination is made, under such a rule or regulation, perhaps it may not violate Articles 14 and 16(1) inasmuch as the factor operating in the case of such an employee will place him in a class by himself and the classification would have sufficient nexus with the object sought to be achieved. Of course it is for the concerned authorities to tackle the sensitive problem after due deliberation. (Paras 5 and 7)

Labour and Services — Relief — Reinstatement or compensation — Court's discretion — Factors to be considered in deciding — In case of illegal termination of service of high managerial cadre employee for unsatisfactory performance or lack of integrity, compensation in lieu of reinstatement may be more appropriate

Labour and Services — Compensation — Quantum of compensation to be awarded — Having regard to 8 years' service left at the time of illegal termination as also other factors, held, compensation equivalent to 3.33 years' salary including allowances besides provident fund and retirement benefits as well as costs would be proper — Employee entitled to benefit of Section 89 of Income Tax Act, 1961 in case employer resorts to Section 192 of that Act

Held :

Although in cases of workmen and 'white collar' employees reinstatement would be a rule and compensation in lieu thereof an exception, but as regards the high level managerial cadre, the matter deserves to be viewed from an altogether different perspective — a larger perspective which must take into account the demands of national interest and the resultant compulsion to ensure the success of the public sector in its competitive coexistence with the private sector. The public sector can never fulfil its life aim or successfully vie with the private sector if it is compelled and obliged to entrust its management on

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incapable or inefficient personnel in whom it has no trust or faith and with whom it cannot function harmoniously. These factors have to be taken into account by the court at the time of passing the consequential order, for the court has full discretion in the matter of granting relief, and the court can sculpture the relief to suit the needs of the matter at hand. The court, if satisfied that ends of justice so demand, can certainly direct that the employer shall have the option not to reinstate provided the employer pays reasonable compensation as indicated by the court.

(Paras 6 and 7)

In the present case the relations between the respondent-Corporation and the appellant (Manager of a hotel run by the Corporation) appeared to be strained beyond the point of no return. The trade union of the employees had lodged a strong protest and even held out a threat of strike, in the context of some acts of the appellant. Such unrest among the workmen is likely to have a prejudicial effect on the working of the undertaking which would prima facie be detrimental to the larger national interest. Moreover, reinstatement would perhaps be not even in the interest of the appellant as he cannot give his best in the less-than-cordial atmosphere. Thus both sides will be unhappy and miserable. These are valid reasons for concluding that compensation in lieu of reinstatement, and not reinstatement, is warranted in the circumstances of the present case.

(Para 8)

In the facts and circumstances of the present case and having regard to various factors, it must be held that compensation equivalent to 3.33 years' salary (including allowances as admissible) on the basis of the last pay and allowances drawn by the appellant would be a reasonable amount to award in lieu of reinstatement. [The Court accordingly issued suitable directions.]

(Para 10)

R-M/7504/CLA

Advocates who appeared in this case:

Gobinda Mukhoty, Senior Advocate (K.G. Bhagat and Mahabir Singh, Advocates, with him), for the Appellant;
G.B. Pai, Senior Advocate (O.C. Mathur, Miss Meera Mathur, D.N. Mishra and S. Sukumaran, Advocates, with him), for the Respondents.

The Judgment of the Court was delivered by

THAKKAR, J.—A CAT-scan of this appeal reveals three problems, viz. :

- I. Whether a rule or regulation framed by a public sector undertaking which is an authority under the control of Government of India and is a 'State' within the parameters of Article 12 of the Constitution of India empowering the employer to terminate the services of an employee by giving notice of the prescribed period or payment of salary for the notice period in lieu of such notice is constitutional?
- II. If it is unconstitutional, whether the employee whose services are terminated under the said rule or regulation is always and invariably entitled to reinstatement? Whether option to pay

142

compensation in lieu of reinstatement can be given to the employer in fit cases?

III. What would be the appropriate amount to be reasonably awarded in lieu of reinstatement?

2. These are the questions which call for answers in this appeal¹.

3. Undisputed are the following facts, the same being incapable of being disputed :

(1) The respondent-Corporation (ITDC) is 'State' within the parameters of Article 12 of the Constitution of India is being an instrumentality of the State as per the law enunciated by this Court in *Central Inland Water Transport Corp. Ltd. v. Brojo Nath Ganguly* and *Central Inland Water Transport Corp. Ltd. v. Tarun Kanti Sengupta*².

(2) Appellant was an employee of the respondent-Corporation holding the post of Manager of Hotel Ranjit, New Delhi, at the material time when his services were terminated by the impugned order.³

(3) Services of the appellant were terminated in exercise of powers under Rule 31(v) of the ITDC Conduct, Discipline and Appeal Rules, 1978, (ITDC Rules) by giving pay for 3 months in lieu of 3 months' notice⁴ under the said rule.

4. Rule 31(v) of the ITDC Rules, the constitutional validity of which is questioned from the platform of Articles 14 and 16(1) of the Constitution of India, provides :

31. *Termination of services.*—The services of an employee may be terminated by giving such notice or notice pay as may be prescribed in the contract of service in the following manner :

(v) of an employee who has completed his probationary period and who has been confirmed or deemed to be confirmed by giving him 90 days' notice or pay in lieu thereof.

This rule cannot co-exist with Articles 14 and 16(1) of the Constitution of India. The said rule must therefore die, so that the fundamental

1. By Special Leave arising out of W.P. No. 2329 of 1984 dismissed by the High Court of Delhi summarily by its order dated September 26, 1984
2. (1986) 3 SCC 156 : 1986 SCC (L&S) 429
3. Annexure P-10, Memorandum No. P-B(OP)-22 dated September 18, 1984
4. Memorandum No. P-B(OP)-22 dated September 18, 1984 :

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O. P. BHANDARI v. I. T. D. C. LTD.

545

rights guaranteed by the aforesaid constitutional provisions remain alive. For, otherwise, the guarantee enshrined in Articles 14 and 16 of the Constitution can be set at naught simply by framing a rule authorizing termination of an employee by merely giving a notice. In order to uphold the validity of the rule in question it will have to be held that the tenure of service of a citizen who takes up employment with the State will depend on the pleasure or whim of the competent authority unguided by any principle or policy. And that the services of an employee can be terminated though there is no rational ground for doing so, even arbitrarily or capriciously. To uphold this right is to accord a "magna carta" to the authorities invested with these powers to practise uncontrolled discrimination at their pleasure and caprice on considerations not necessarily based on the welfare of the organisation but possibly based on personal likes and dislikes, personal preference and prejudices. An employee may be retained solely on the ground that he is a sycophant and indulges in flattery, whereas the services of one who is meritorious (but who is wanting in the art of sycophancy and temperamentally incapable of indulging in flattery) may be terminated. The power may be exercised even on the unarticulated ground that the former belongs to the same religious faith or is the disciple of the same religious teacher or holds opinions congenial to him. The power may be exercised depending on whether or not the concerned employee belongs to the same region, or to the same caste as that of the authority exercising the power, of course without saying so. Such power may be exercised even in order to make way for another employee who is a favourite of the concerned authority. Provincialism, casteism, nepotism, religious fanaticism, and several other obnoxious factors may in that case freely operate in the mind of the competent authority on deciding whom to retain and whom to get rid of. And these dangers are not imaginary ones. They are very much real in organisations where there is a confluence of employees streaming in from different States. Such a rule is capable of robbing an employee of his dignity, and making him a supine person whose destiny is at the mercy of the concerned authority (whom he must humour) notwithstanding the constitutional guarantee enshrined in Articles 14 and 16 of the Constitution of India. To hold otherwise is to hold that the fundamental right embedded in Articles 14 and 16(1) is a mere paper tiger and that it is so ethereal that it can be nullified or eschewed by a simple device of framing a

In accordance with Rule 31(v) of ITDC Conduct, Discipline and Appeal Rules, 1978, you are hereby paid three months pay in lieu of notice and a cheque No. 089988 dated September 18, 1984 drawn on State Bank of India, New Delhi, representing a sum of Rs 7950 (Rupees Seven Thousand Nine Hundred and Fifty only) is enclosed

rule which authorizes termination of the service of an employee by merely giving a notice of termination. Under the circumstances the rule in question must be held to be unconstitutional and void. This Court has struck down similar rules in similar situations. In *W.B. State Electricity Board v. Desh Bandhu Ghosh*⁶, Chinnappa Reddy, J. speaking for a three Judge Bench of this Court has observed that a (similar) regulation⁶ authorizing the termination of the services of a permanent employee, by serving three months' notice or on payment of salary for the corresponding period in lieu thereof, was *ex facie* "totally arbitrary" and "capable of vicious discrimination". And that it was a naked "hire and fire" rule and parallel of which was to be found only in the "Henry VIII clause" which deserved to be banished altogether from employer-employee relationship. The regulation thus offended Article 14 of the Constitution of India and deserved to be struck down on that account. In *Central Inland Water Transport Corpn. Ltd. v. Brojo Nath Ganguly* and *Central Inland Water Transport Corpn. Ltd. v. Tarun Kanti Sengupta*⁷ a Division Bench of this Court has struck down a similar rule⁷ insofar as it authorized termination of employment by serving a notice thereunder as being violative of Article 14 of the Constitution of India, *inter alia*, inasmuch as it was capable of being selectively applied in a vicious manner by recourse to 'pick and choose' formula.

5. There is, under the circumstances, no escape from the conclusion that Rule 31(v) of the aforesaid ITDC Rules which provides for termination of the services of the employees of the respondent-Corporation simply by giving 90 days' notice or by payment of salary for the notice period in lieu of such notice, deserves to be quashed. As the occasion so demands, we feel constrained to place in focus and highlight an important dimension of the matter. The impugned regulation is extremely wide in its coverage in the sense that it embraces the 'blue collar' workmen, the 'white collar' employees, as also the

5. (1985) 2 SCR 1014 : (1985) 3 SCC 116 : 1985 SCC (L&S) 607
6. Regulation 34 of Regulations framed by West Bengal State Electricity Board reading thus :

34. In case of a permanent employee, his services may be terminated by serving three months' notice or on payment of salary for the corresponding period in lieu thereof

7. Rule 9(i) of Service, Discipline and Appeal Rules of 1979 of Central Inland Water Transport Corporation Ltd. reading :

9. **Termination of employment for acts other than misdemeanour.**—

- (i) The employment of a permanent employee shall be subject to termination "on three months' notice on either side. The notice shall be in writing on either side. The company may pay the equivalent of three months' basic pay and dearness allowance, if any, in lieu of notice or may deduct a like amount when the employee has failed to give due notice

'gold collar' (managerial cadre) employees of the undertaking. Insofar as the 'blue collar' and 'white collar' employees are concerned, the quashing does not pose any problem. Insofar as the 'gold collar' (managerial cadre) employees are concerned, the consequence of quashing of the regulation calls for some reflection. In the private sector, the managerial cadre of employees is altogether excluded from the purview of the Industrial Disputes Act and similar labour legislations. The private sector can cut the dead-wood and get rid of a managerial cadre employee in case he is considered to be wanting in performance or in integrity. Not so the public sector under a rule similar to the impugned rule. Public sector undertakings may under the circumstances be exposed to irreversible damage at the hands of a 'gold collar' employee (belonging to a high managerial cadre) on account of the faulty policy decisions or on account of lack of efficiency or probity of such an employee. The very existence of the undertaking may be endangered beyond recall. Neither the capitalist world nor the communist world (where an employee has to face a death sentence if a charge of corruption is established) feels handicapped or helpless and countenances such a situation. Not being able to perform as per expectation or failure to rise to the expectations or failure to measure up to the demands of the office is not misconduct. Such an employee cannot thus be replaced at all. If this situation were to be tolerated by an undertaking merely because it belongs to the public sector, it would be most unfortunate not only for the undertaking but also for the Nation. The public sector is perched on the commanding heights of the National Economy. Failure of the public sector might well wreck the National Economy. On the other hand the success of the public sector means prosperity for the collective community (and not for an individual Industrial House). The profits it makes in one unit can enable it to run a losing unit, as also to develop or expand the existing units, and start new units, so as to generate more employment and produce more goods and services for the community. The public sector need not therefore be encumbered with unnecessary shackles or made lame. It is wondered whether such a situation can be remedied by enacting a regulation permitting the termination of the employment of employee belonging to higher managerial cadre, if the undertaking has reason to believe, that his performance is unsatisfactory or inadequate, or there is a bona fide suspicion about his integrity, these being factors which cannot be called into aid to subject him to a disciplinary proceeding. If termination is made, under such a rule or regulation, perhaps it may not attract the vice of arbitrariness or discrimination condemned by Articles 14 and 16(1) of the Constitution of India, inasmuch as the factor operating in the case of such an employee will place him in a class by himself and the classification would have sufficient nexus with the object sought

to be achieved. Of course it is for the concerned authorities to tackle the sensitive problem after due deliberation. We need say no more.

6. Time is now ripe to turn to the next question as to whether it is obligatory to direct reinstatement when the concerned regulation is found to be void. In the sphere of employer-employee relations in public sector undertakings, to which Article 12 of the Constitution of India is attracted, it cannot be posited that reinstatement must invariably follow as a consequence of holding that an order of termination of service of an employee is void. No doubt in regard to 'blue collar' workmen and 'white collar' employees other than those belonging to the managerial or similar high level cadre, reinstatement would be a rule, and compensation in lieu thereof a rare exception. Insofar as the high level managerial cadre is concerned, the matter deserves to be viewed from an altogether different perspective — a larger perspective which must take into account the demands of National Interest and the resultant compulsion to ensure the success of the public sector in its competitive co-existence with the private sector. The public sector can never fulfill its life aim or successfully vie with the private sector if it is not managed by capable and efficient personnel with unimpeachable integrity and the requisite vision, who enjoy the fullest confidence of the 'policy-makers' of such undertakings. Then and then only can the public sector undertaking achieve the goals of

- (1) maximum production for the benefit of the community,
- (2) social justice for workers, consumers and the people, and
- (3) reasonable return on the public funds invested in the undertaking.

7. It is in public interest that such undertakings or their Boards of Directors are not compelled and obliged to entrust their management to personnel in whom, on reasonable grounds, they have no trust or faith and with whom they are in a bona fide manner unable to function harmoniously as a team working arm-in-arm with success in the aforesaid three-dimensional sense as their common goal. These factors have to be taken into account by the court at the time of passing the consequential order, for the court has full discretion in the matter of granting relief, and the court can sculpture the relief to suit the needs of the matter at hand. The court, if satisfied that ends of justice so demand, can certainly direct that the employer shall have the option not to reinstate provided the employer pays reasonable compensation as indicated by the court.

8. So far as the facts of this case are concerned, we are satisfied that this is a fit case for granting compensation in lieu of reinstatement, instead of granting 'reinstatement'. For, it cannot be said that the

apprehension voiced by the respondent-Corporation as regards the negative consequences of reinstatement is unreasonable. We do not propose to pronounce on the validity or otherwise of the allegations and counter-allegations made by the parties in their respective affidavits. Suffice it to say that the relations between the parties appear to have been strained beyond the point of no return. The trade union of the employees has lodged a strong protest and even held out a threat of strike, in the context of some acts of the appellant. Such unrest among the workmen is likely to have a prejudicial effect on the working of the undertaking which would *prima facie* be detrimental to the larger national interest, not to speak of detriment to the interest of concerned undertaking. We are not impressed by the submission that the union is virtually a company's union. In any case such disputed questions of facts cannot be resolved in this forum. We are *prima facie* satisfied that the apprehension is not ill-founded. What is more, reinstatement is perhaps not even in the interest of the appellant as he cannot give his best in the less-than-cordial atmosphere and it will also result in misery to him, let alone the other side. Neither the undertaking nor the appellant can improve their image or performance, or, achieve success. In fact it appears to us that both sides will be unhappy and miserable. These are valid reasons for concluding that compensation in lieu of reinstatement, and not reinstatement, is warranted in the circumstances of the present case.

9. Counsel for the appellant having forcefully pressed the claim for reinstatement, has contended that in case the Court is disinclined to order reinstatement, the appellant ought to be awarded the full salary and allowances which would have accrued to him till the date of his superannuation which is more than 8 years away. We think it would be unreasonable to award 8 years' salary and allowances, as lump sum compensation in lieu of reinstatement. We consider it unreasonable because—

- (i) To do so would tantamount to paying to the appellant *every month* 20 per cent **over and above** what he would have earned if he was continued in service *without doing any work* as the lump sum payment of 8 years' salary invested at 15 per cent interest (it being the current rate of interest) would yield a monthly recurring amount equivalent to his current monthly salary '*plus*' 20 per cent.
- (ii) To do so would be tantamount to paying to him his present salary etc. plus 20 per cent more every month *not only till his date of retirement but till his death* (if he lives longer) and also *to his heirs thereafter, in perpetuity*.
- (iii) Besides, the corpus of the lump sum amount so paid as compensation would remain with him intact.

Obvious it is, therefore, that the Court would be conferring a 'bonanza' on him and not compensating him by accepting this formula. The submission, accordingly, deserves to be repelled unhesitatingly.

10. In our considered opinion, compensation equivalent to 3.33 years' salary (including allowances as admissible) on the basis of the last pay and allowances drawn by the appellant would be a reasonable amount to award in lieu of reinstatement taking into account the following factors viz. :

- (1) The corpus if invested at the prevailing rate of interest (15 per cent) will yield 50 per cent of the annual salary and allowances. In other words every year he will get 50 per cent of what he would have earned by way of salary and allowances with four additional advantages :
 - (i) He will be getting this amount without working.
 - (ii) He can work somewhere else and can earn annually whatever he is worth over and above, getting 50 per cent of the salary he would have earned.
 - (iii) If he had been reinstated he would have earned the salary only up to the date of superannuation (up to 55, 58 or 60 as the case may be) unless he died earlier. As against this 50 per cent he would be getting annually he would get not only beyond the date of superannuation, for his lifetime (if he lives longer), but even his heirs would get it in perpetuity after his demise.
 - (iv) The corpus of lump sum compensation would remain intact, in any event.

No doubt he will not have the advantage of further promotion, but then what are his prospects, given in the present relationship ? Besides, the chances of promotion can be set off against the risk of a departmental disciplinary proceeding. Factors (i), (ii), (iii) and (iv) are of such great significance that compensation on the basis of 50 per cent of his annual salary and allowances is much more to his advantage. We are thus satisfied that compensation in lieu of reinstatement on the aforesaid basis is more than reasonable. We, therefore, direct that :

- I. The respondent-Corporation shall reinstate the appellant with full back-wages (including usual allowances), or, at its option,
- II. The respondent-Corporation shall pay to the appellant :
 - (1) Salary including usual allowances for the period commencing from the date of termination of his service under the impugned order till the date of payment of compensation equivalent to 3.33 years' salary including usual allowances to him.

(2) Provident Fund amount payable to the appellant and retirement benefits computed as on the date of payment as per clause 1 shall be paid to him within 3 months from the said date.

III. The appellant shall vacate and make over possession of the premises provided to the appellant by the respondent-Company before the expiry of 3 months from the date of this order or within one month of the day on which payment under clause II is made, whichever is later.

IV. Respondent shall pay the costs to the appellant.

V. Interim order shall stand vacated subject to the direction embodied in clause III.

VI. Since the amount is being paid in one lump sum, it is likely that the employer may take recourse to Section 192 of the Income Tax Act, 1961 which provides that any person responsible for paying any income chargeable under the head 'Salaries', shall, at the time of payment, deduct income tax on the amount payable at the average rate of income computed on the basis of the rates in force for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year. If, therefore, the employer proceeds to deduct income tax as provided by Section 192, we would like to make it abundantly clear that the appellant would be entitled to relief under Section 89 of the Income Tax Act which provides that where by reason of any portion of assessee's salary being paid in arrears or in advance by reason of his having received in any one financial year salary for more than 12 months or a payment which under the provisions of clause (3) of Section 17 is a profit in lieu of salary, his income is assessed at a higher rate than that it would otherwise have been assessed, the Income Tax Officer shall on an application made to him in this behalf grant such relief as may be prescribed. The prescribed relief is set out in Rule 21-A of the Income Tax Rules. The appellant is entitled to relief under Section 89 because compensation herein awarded includes salary which has been in arrears as also the compensation in lieu of reinstatement and the relief should be given as provided by Section 89 of the Income Tax Act read with Rule 21-A of the Income Tax Rules. The appellant is indisputably entitled to the same. If any application is required to be made, the appellant may submit the same to the competent authority and the Corporation shall, through its Tax Consultant, assist the appellant for obtaining the relief.

11. The appeal is allowed. The order of the High Court is set aside. Order in the aforesaid terms is passed.

1986 Administrative Tribunal Cases 552

Supreme Court of India.

(BEFORE M.P. THAKKAR AND K.N. SINGH, JJ.)

DIRECTOR-GENERAL, TELECOMMUNICATION
AND ANOTHER .. Appellants;

Versus

T.N. PEETHAMBARAM .. Respondent.

Civil Appeal No. 3141 of 1986†,
decided on September 19, 1986

Labour and Services — Appointment — Examination — Qualifying marks — "Minimum pass marks in the examination" prescribed under rule — Whether the minimum so prescribed should be in aggregate or in each subject — Held, in absence of word 'aggregate' in the rule that word cannot be introduced under guise of interpretation — Since the rule does not specify different passing standard for 'each' subject, the prescribed minimum passing standard must mean minimum in each subject as well as minimum in aggregate — Telegraph Engineering Service (Group 'B') Recruitment Rules, 1981, Appendix III Rule 2 — Interpretation of Statutes — Universities

Appeal allowed

R-M/7495/CLA

Advocates who appeared in this case :

G. Ramaswamy, Additional Solicitor-General (P. Parmeshwaran and R.P. Srivastava, Advocates, with him), for the Appellants ;
Harish N. Salve, Rajiv K. Garg, N.D. Garg and N. Safaya, Advocates, for the Respondent.

The Judgment of the Court was delivered by

THAKKAR, J.—'Fails' in one subject, but 'passes' the examination ! It is not a tongue-in-the-cheek remark, for, passing an examination does not mean passing or securing the minimum passing marks in each subject or item of examination provided the candidate secures the minimum passing marks in aggregate, and he is entitled to be declared as having passed the examination according to the Central Administrative Tribunal (Tribunal hereafter), Hyderabad, which has upheld the aforesaid proposition canvassed by the respondent. The validity of this view is in focus before this Court in the present appeal by special leave.

2. Rule 2 in Appendix III of the Telegraph Engineering Service (Group 'B') Recruitment Rules, 1981, for Limited Departmental Qualifying Examination, in the context of which the controversy has

†From the Judgment and Order dated March 6, 1986 of the Central Administrative Tribunal, Madras in Transferred Application No. 479 of 1986

Rly. Board/13

(3)

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Annexure X

Copy of letter No. PCIII/79/SP/1/UDC dt. 2.8.89 from N. Gopalakrishnan, Executive Director Pay Commission-II, Railway Board, Ministry of Railways, Government of India, to the General Managers & others.

Reorder Part
No 21

Sub.-: Grant of Special Pay of Rs. 35/- per month to the Upper Division Clerks in the non-Secretariat administrative offices - question whether this amount should be taken into account in the fixation of pay on promotion - Decision regarding.

PS No 9459

...

Reference is invited to this Ministry's letter of even number dated 27.11.87 under which the special pay of Rs. 35/- p.m. paid to Upper Division Clerks has been allowed for fixation of pay on promotion w.e.f. 1.9.85. Aggrieved by this decision, a number of UDCs, who while drawing special pay of Rs. 35/- p.m. were promoted to higher posts prior to 1.9.85 and whose pay on promotion was fixed without taking into account the special pay of Rs. 35/-, filed a petition before CAT claiming that their pay should also be fixed taking into account the special pay of Rs. 35/- as their juniors who have been promoted after 1.9.85 are getting higher pay.

The judgement of CAT delivered in this case has been examined in consultation with Ministry of Finance and it has been decided that pay of those UDCs who were drawing special pay of Rs. 35/- in terms of this Ministry's letter No. PCIII/79/SP/1/UDC dt. 11.7.79 and were promoted to higher posts prior to 1.9.85 and who fulfil the conditions mentioned in this Ministry's letter No. PCIII/79/SP/1/UDC dt. 27.11.87 may be re-fixed on notional basis from the date of their promotion by taking the special pay of Rs. 35/- into account and the actual benefit may be allowed to them only from 1.9.85 without payment of any arrears.

KD/11.8.89*

79 to 85 91st 1944-87
fix benefit-Rupees

Circulated with GM(P) circular
no 56 E/255-93 XI v (PC) dated 16-8-89

CENTRAL ADMINISTRATIVE TRIBUNAL

(Chandigarh Bench)

O.A.no. 369 CH of 1987

Decided on 20-3-1989

CORAM

The Hon'ble Mr. Justice J.D.Jain, Vice Chairman.
The Hon'ble Mr. V.S.Bhir, Administrative Member.

Pritam Singh, IAS Director Consolidation Punjab -Applicant

Versus

Union of India & Others.

-Respondents

(i) XXXXXXXXXX
(ii) XXXXXXXXXX
(iii) XXXXXXXXXX
(iv) XXXXXXXXXX
(v) XXXXXXXXXX
(vi) XXXXXXXXXX
(vii) XXXXXXXXXX

(viii) IAS (pay) Rules, Rule 9 (3)-Discrimination-Rule provides pay plus special pay not to exceed maximum of scale in SS/JA grade but in case of selection grade it could exceed the maximum-Held this was a hostile discrimination barred by Article 14/16 and that the earlier part of rule relating to SS/JAG quashed.

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JUDGMENT

J.D.Jain, Vice Chairman- Since common question of law and fact are involved in both the above mentioned applications under Section 19 of the Administrative Tribunals Act (for short the 'Act'), we dispose of the same for the sake of convenience by this common judgement.

1-27, XXXXXXXXXXXXXXX
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28. Under Schedule-III B-Posts carrying in the senior time scale of IAS under the State Governments including posts carrying special pays in addition to pay in the time scale, it was provided that the number of posts in the Selection Grade in a State Cadre shall be equal to 20 percent of the total number of senior posts in the State reduced by the number of posts carrying pay above the senior time-scale in the State subject to a minimum of 15 percent of the senior post in the State. Under clause (2) the State Government is competent to grant a special pay for any of the posts specified in that part of the Schedule either individually or with reference to a group of such posts. Clause (3) empowers the State Government concerned under clause (2) to sanction the amount of Special pay from time to time as indicated therein. However under the proviso that pay in the selection grade together with special pay, if any shall be subject to a ceiling of Rs. 2450/- per month. Under Rule 9 of the Amendment

Pay Rules, Clause (3) has been substituted by new clause which provides that;

"The amount of any special pay which may be sanctioned by the State Government under clause (2) shall be Rs. 200, Rs. 300, Rs. 400, Rs. 450 or Rs. 500, as may, from time to time, be determined by the State Government concerned.

Provided that pay plus special pay shall not exceed the maximum of the pay scale to which special pay is attached.

Provided further that the pay in selection grade together with special pay shall not exceed Rs. 6150/- per month".

Evidently the result of this provision would be that while in the case of senior time scale and junior Administrative Grade officers, the special pay shall merge in their salaries so as not to exceed the maximum of the pay scale the position of officers in selection grade, maximum of which is Rs. 5700/- would be totally different and more advantageous inasmuch as in their cases, pay in selection grade together with special pay shall not exceed Rs. 6150/- per month meaning thereby that even after reaching the maximum of the selection grade, such officers would be entitled to special pay to the extent of Rs. 450/- per month. This amounts to hostile discrimination. The law is well settled dis well-settled that Article 14 strikes at arbitrariness in executive/administrative/legislative action because any action that is arbitrary must necessarily involve the negation of equality. Article 14 forbids class legislation but permits reasonable classification for the purpose of legislation which classification must satisfy the twin test that classification is founded on intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group and that differentia must have a rational nexus to the object to be achieved by the statute in question. Legislative and executive action may accordingly be sustained if it satisfies the twin tests of reasonable classification and the rational principle correlated to the object sought to be achieved. In service matters merit or experience could be the proper basis for classification to promote efficiency in administration. Apart from that higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is very common in career service. There may be selection grade, senior time scale or super time scale based on seniority-cum-merit etc. The differentiation so made will not amount to discrimination, but special pay is in the very nature of things attached to a post and not the incumbent of the post. Apparently there is no rational basis for differentiating between officers who are in the senior time scale/ senior Administrative Grade and officers who are in the selection grade of the IAS in the matter of special pay. Thus the

aforesaid provision violates doctrine of equality enshrined in Articles 14 and 16 of the Constitution. Hence in order to ensure equality of treatment between two sets of officers the first proviso to clause (3) of Schedule-III of pay Rules under the heading "B-post carrying in the senior time scale of IAS under the state Governments etc, including posts carrying special pay in addition to pay in the time scale as amended by Rule 9 of the pay (amended)Rules, cannot be sustained and is liable to be quashed being violative of Articles 14 and 16 of the Constitution.

29. xxxxxxxxxxxxxx
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The respondents shall comply with this order of ours within six months from today. Under the circumstances, no order is made as to costs.

Application allowed

True copy.
K. K. Suri
Applicant No 1
(K. K. Suri)