

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT67/92.....of 20.....

V.S.L. Sri Varsha.....Applicant(S)

Versus

U.C.E. 67/92.....Respondent(S)

INDEX SHEET

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5 -	Recd	A60.
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Certified that the file is complete in all respects.

B.C. Mehta d. not destroy

Signature of S.O.

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

25/2/90

Registration No. 167 of 1989 C.I.APPLICANT(S) V.S.L. SinhatarRESPONDENT(S) U.O.RParticulars of the applicationEndorsement as to result of examination

1. Is the application complete ? Ys
2. a) Is the application in the prescribed form ? Ys
b) Is the application in paper back form ?
c) Have six complete sets of the application been filed ?
3. a) Is the appeal in time ? Ys
b) If not, by how many days it is beyond time ?
c) Has sufficient cause for not filing the application in time, been filed ?
4. Has the document of authorisation/declaration been filed ? Ys
5. Is the application accompanied by C.O./Postal Order for Rs.50/- Ys
6. Has the certified copy/copies of the office(s) against which the application is made been filed ? Ys
7. a) Have the copies of the documents relied upon by the applicant, and mentioned in the application, been filed ?
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and signed accordingly ?
c) Are the documents referred to in (a) above neatly typed in double space ?
8. Has the annex of documents been filed and pasting done properly ? Ys
9. Have the biographical details of representation made and the cut copy of such representation been indicated in the application ? Ys
10. Is the matter raised in the application pending before any court of law or any other Panel of Tribunal ? RC

Particulars to be Examined

Result of examination

11. Are the application/duplicate copy/space copies signed ?
12. Are extra copies of the application with Annexures filed ?
a) Identical with the Original ?
b) Defective ?
c) Wanting in Annexures

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

Y

14. Are the given address the registered address ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?
17. Are the facts of the case mentioned in item no. 6 of the application ?

Y

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

Y

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

Y

19. Whether all the remedies have been exhausted.

Y

Ans/

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD/C.B. LUCKNOW

C.1

No. 67

OF 1990 R,

1/2

Shri V. S. L. Srivastava vs. Union of India & others

Sl. No.	Date	Office Report	Orders
6	26.3.91	D. R.	<p>Applicant's side is absent. Respondent's side is present. Respondent did not file counter till today. O.P. to file counter by 26/3/91.</p> <p>AKS 22/2/91 SO.</p>
7	26.3.91	D. R.	<p>Respondent's side is present. Applicant is absent today. Counter has not been filed till today. O.P. is directed to file it by 26.4.91.</p>
8	26.4.91	D. R.	<p>Applicant's side is present. Sri K.N. Misra counsel for O.P. No. 3 desires to file counter by 8/7/91.</p>

1

7/1/90

File (L)

X1

See
original order
in
main petition

Issue notice to the respondents
List for admission on 8.5.90

or
Notice issued
13/3/90

JN

2

8/5/90

Hon. Mr. D.K. Agrawal, J.B.
Hon. Mr. K. Obayye, A.M.

OR

Notices were issued
on 13.3.90

The counsel for the respondent
request for time to file counter
affidavit. Allowed. Let Counter affidavit
be filed within 6 weeks and
rebinded, if any, within 2 weeks
thereafter

Notice of O.P. no

3 has been return
back with postal
remark "O.P. 2-5/1/90
TC. still pending in O.P."

13/3/90

7/5/90

List it for hearing on 11/1/90

D.M.

D.C.

J.

OR

Notice of O.P. No. 3

has been return back
with postal remark

"O.P. 2-5/1/90 TC"

"O



APPELLATE T. JIBNAL

O.A. NO 533/23/7

199 (L)

T.A. NO

P.K. Mishra vs Union of India

O.A. NO 67/50

Date of Decision

V. S. I. Srivastava

PETITIONER.

Shri T. H. Gupta &

Advocate for the Petitioner

Shri P. K. Sinha

VERSUS

Union of India & Others

RESPONDENT.

Shri B. V. Srivastava

Advocate for the Respondent

CORAM:

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

The Hon'ble Mr. K. S. Bagchi, Adm Member

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

Vice-Chairman/Member

THE STATE ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH.

LUCKNOW

(1) O.A. No. 533/87

P.K.Mishra

Applicant

versus

Union of India & others

Respondents.

(2) O.A. No. 67/90

V.S.L.Srivastava

Applicant

versus

Union of India & others

Respondents.

Shri P.N. Gupta

Shri P.K.Sinha Counsel for the applicants.

Shri A.V. Srivastava—counsel for Respondents.

COURT

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

Hon. Mr. K. Odayya, M.C. Member.

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

These two applications are in respect of a particular section one party claiming the said post and the other claiming the same, pleading that the other one is not entitled to the same. Both the applications have been bunched together and are being decided together.

2. The applicant Shri P.K.Mishra filed the said application before the Tribunal which was allowed exclusively and per pendat at the order passed by the Director of P.S.I., K.D.S.O. Lucknow dated 11.4.86 be quashed and the K.D.S.O. through its Director General be directed to consider the applicant for the departmental selection for the post of I.A.S.O. (public liaison) and the

for respondent No. 2 be also directed not to revert the applicant as it would adversely affect him and would result in penal consequence pending departmental selection to the post of A.D.O. By amendment it has been prayed that the Tribunal be pleased to hold the decision of the qualification in the col. 8 of the impugned R&P rules for promotion to the post of Assistant Documentation Officer (Publication) as arbitrary and the same be read down so the effect that the said R&P rules be read ignoring the discriminatory part of the said col. 8 as the same is violative of Article 14 of the Constitution.

3. The applicant of the second application Shri V.S.L.Srivastava has challenged the promotion of the applicant in the first case on the ground that the respondent No.2 has no right to promote an unqualified candidate according to Recruitment Rules even on adhoc basis. He has prayed that the order dated 21.8.87 and 12.7.89 permitting Shri P.K. Mishra to appear in the supplementary examination to the post of A.D.O. in A.D.O.C. be quashed and a suitable order or direction be issued to respondent No. 2 to revert Shri P.K. Mishra, on his substantive post of Chief Documentation Officer (adhoc). and a further direction to be issued to respondent No. 2 to promote the applicant as A.D.O. on adhoc basis till such time the results of the selection conducted in this regard are not finalised. No a directive be issued to

Respondent No. 2 to regularise the selected candidate on 5.5.84 i.e. the date of enforcement of rules as the delay of holding the selection is on their part.

4. The facts in brief are that Suri P.K. Mishra who was recruited as Junior Research Assistant (Documentation) in April, 1965 in accordance with Recruitment and Promotion Rules of Group I-II technical staff of the Research Directorate in the Research Designs and Standards Organisation and was promoted as Senior Research Assistant (Documentation) in 1966 through departmental selection committee. His designation, vide memo dated 5.6.74 was changed as Chief Documentation Assistant. The S.I. P.K. Mishra was promoted as Chief Research Assistant (Documentation) in 1978 through departmental selection committee and after written and viva voce test. He was promoted on adhoc basis on 23.1.1984 as Assistant Documentation Assistant (Library). This promotion on adhoc basis was made pending finalization and issuance of statutory rules known as Research Designs and Standards Organization (Group A and B) Recruitment Rules, 1984(hereinafter referred to as Recruitment Rules) which were published vide notification dated 28.5.84. In column 8 of the Schedule I for the post of Assistant Documentation Officer, the educational qualification has been prescribed as follows:

"But must possess at least Bachelor's degree or equivalent diploma in library Science of a recognized university or equivalent."

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prior to the said 14.9.1984 no such qualification existed. As a result a selection committee was going on to take place in pursuance of the said notification the applicant Shri P.K. Mishra failed to appear in the exam, and subsequently he was called for a series of interrogations on the merit of his own claim in the said exam itself.

The applicant of the lower application Shri V.K. Srivastava qualified having B.Sc & B.Lib. Science and was posted as Chief Documentation Assistant (scale Rs 2000-3200) in the office of R.D.O. and next higher post is of Assistant Documentation Officer (Rs 2000-3500) which post is a Group 'B' post. As per the notification before applicant he is the senior most ad hoc post candidate as per recruitment rules of 1984. Pursuant to the Vice Order dated 13.8.88 due selection to the post of R.D.O. in R.D.O. immediately as per recruitment rules. In the mean time it appears that Shri P.K. Mishra was promoted to the post of R.D.O. on adhoc basis on 23.7.86 after the decision to make the appointment was made. As the said Shri P.K. Mishra was promoted on adhoc basis, Suspension No. 1 i.e. the ad hoc by board, ~~which~~ is desired to know is why the unqualified person's adhoc appointment was made while the qualified persons were available. As the said Shri P.K. Mishra was not re-selected, the process of selection also did not start and as per allegations because of pressure the appointment 'D. 2' who was the R.D.O. notified the selection and the said Shri P.K. Mishra was not qualified.

for selection. The said selection was postponed to 14.15 July and again postponed to 11th September 1986 and then again postponed to 29.6.87 and 30.6.87. A fresh list of eligible candidates was circulated and in it the name of Shri P.K. Mishra was not mentioned as he did not fulfil the qualification. The applicant, who passed the examination was interviewed but the result of the same was not declared. It was thereafter that the said Shri P.K. Mishra filed the above mentioned application as his name was not included therein and this Tribunal passed the order that he should not be reverted and permitted to take the examination. But Shri P.K. Mishra did not appear in the examination and was on medical leave and the interim order was vacated on 19.1.87 and consequently examination took place on 24/25.8.87 and in the Supplementary examination he was allowed to appear although the interim order had already been vacated. The applicant made representation against the same and the supplementary examination was postponed and vide staff notice dated 9.2.89 the result of one post out of two was declared and one Ganesh Prasad was empanelled for the post of A.S.O. and he was posted even without holding the supplementary examination. Again supplementary exam. was notified on 24.7.89 and Shri P.K. Mishra was allowed in the same and he was interviewed but the final result has not yet been declared. The applicant has challenged the acts of the respondents as first they

wrongly promoted Shri P.K. Mishra on adhoc basis ~~and~~ when he was not qualified and this adhoc promotion after violating the recruitment rules, which came in force on 5.5.84 and they managed to continue him on the post and did not revert him despite the Board's directions and he was not qualified, nor there was any interim relief.

5. The facts, as stated above indicate undoubtedly coming into force of the rules, without taking into consideration the qualification, the said Shri P.K. Mishra was promoted on adhoc basis despite Railway Board letter and he was not revert and he was allowed to continue even if there was no interim order and supplementary test was taken. It may be that the respondents were interested in him. The case is not going to be decided merely because the respondents were interested in a particular person but on the ground whether Shri P.K. Mishra was qualified to be appointed, when the statutory rules in force provide that the qualified candidates are available and if qualified candidates who should be given appointment failing which some arrangement can be made but in this case the law, practice and principle was not being followed on behalf of Shri P.K. Mishra it has been a case that notwithstanding that the earlier rules Shri P.K. Mishra should have been promoted on the post. A reference has been made to the case of P.K. Mishra and others vs. State of U.P. and 1987 (1987) 310 (L.R.) in which it has been held that

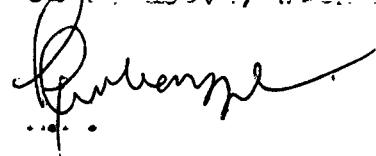
by
v. sec right can or be taken away/retrospective
amendment o. statute or statutory rules arbitrarily
and un-reasonably such changes are subject to judicial
review. The above case does not help the applicant
Shri P.K. Misra in any manner. The court it repeats
the legal position. No one can claim protection as a
right but one can claim that he may be considered for
promotion the rules provide for the same and in the
instant case it is not the case of either of the parties
that the vacancy of which the selection was to be made,
was existing as it existed before his appointment and
in case appointment would have been the question of
applicability of no rules would have arisen. The
date was made in July 1986.

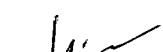
6. In the case of S. S. Desai versus Union of India
and others (1990 A.C.C (L.R) 231) wherein it was held
that rule framed under Article 309 amended requiring
engineering degree qualification for promotion from
mechanical engineer (Mentor) to Sir Censor (M.S)-Consequently
all those diploma holders in engineering who was eligible
under the unamended rule, were ineligible under the
amended rule. It was held that the amended rule is valid
merely because it is made in account of appellant's stance
of protection of his right to be considered for promotion
it cannot be said to have a retrospective effect.
Practically the same position arises in this case.

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7. As it always open to the rule can be disposed of under Article 226 prospective or not the rule can be challenged on a technical ground that it is arbitrary and violates Article 14 of the Constitution of India. In this case the rule is perfectly clear. The joint Secretary P.A. Mihira is not qualified to eligible to hold the said post as he was ineligible and not being entitled to appear in the examination, there was no question of supplementary examination when the Interim order was issued. Accordingly the application of Sri P.A. Mihira vs. Union of India (W. 532/87) is dismissed and the respondents are directed to delete the result within a period of one month from the date of receipt of a copy of this order and in case the applicant of W.L.D. 67/90 succeeds, he will be given appointment as first the vacancy for which examination took place and the result will be that he will continue the position which he is working.

8. Both the above applications are disposed of above, with no order as to costs.





V.C.

Lucknow, 22nd April 1992.

Shrivastava

75/17/83
12th Mar 1983
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

OA 67/90 (S)

B E T W E E N

Shri V.S.L.SrivastavaApplicant

Versus

Union of India and others Respondents.

UNDER RULE 9

The documents and Paper Book

I N D E X

S.No.	Particulars	Pages
1.	Application / Petition	1 to 19
2.	Annexure No.A-1: Photostat copy of Gazette of India, Part II dated 5.5.84.	
3.	Annexure No.A-2: Photostat copy of promotion order dated 23.10.84 of respondent no. 3.	
4.	Annexure No.A-3: Photostat copy of letter No.ERBI/77/44/24-Vol. III Part dated 13.8.85.	
5.	Annexure No.A-4: Photostat copy of letter No.ERBI/77/44/24 Vol. III dated 28.7.86.	
6.	Annexure No.A-5: Photostat copy of the Staff Notice No.EII/ES/RR/0(Lib) dated 9.4.86.	
7.	Annexure No.A-6: Photostat copy of the Memorandum No.EIII/ES/PR/0(Lib) dated 11.4.86.	
8.	Annexure No.A-7: Photostat copy of Letter No.DG/RDSO's Staff Notice No.EII/ES/PR/0(Lib) dated 18.5.87.	
9.	Annexure No.A-8: Photostat copy of the Hon'ble Tribunal's Order dated 25.6.87 as well as order dated 10.7.87 passed in Case No.533/1987 by Hon'ble Tribunal Allahabad.	

D. Singh

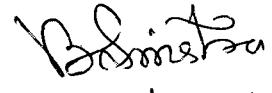
(ii)

10. Annexure No. A-9: Photostat copy of Staff Notice No. EII/ES/PR/0(Lib) dated 10.8.87.
11. Annexure No. A-10: True copy of applicant's representation dated 13.8.87.
12. Annexure No. A-11: Photostat copy of Staff Notice No. EII/ES/PR/0(Lib) dated 21.8.87.
13. Annexure No. A-12: Photostat copy of the Staff Notice No. EII/ES/PR/0(Lib) (Pt) dated 9.2.89.
14. Annexure No. A-13: Photostat copy of Staff Notice No. EII/ES/PR/0(Lib) Lucknow dated 12.7.89.
15. Annexure No. A-14: Photostat copy of the applicant's representation dated 27.3.89.
16. Power of the counsel.

Place: Lucknow.

Dated 28/2/90


(T.N. GUPTA)
Advocate
Counsel for the applicant.



Administrative
Court Bench, L.A.
Date of Filing 20/2/90
Date of Receipt by P
1
Deputy Registrar (J)

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT, 1985.

Date of Filing 20-2-90

Registration No. CA 67 of 90 (1)

Signature _____

Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, LUCKNOW.

Shri V.S.L.Srivastava.....Applicant.

Versus

1. Union of India Through: The Secretary, Railway Board.
2. Research Designs & Standards Organisation (RDSO) Through: The Director General.
3. Shri P.K.Misra, Assistant Documentation Officer (Pub) (adhoc) Research Designs & Standards Organisation (RDSO), Manak Nagar, Lucknow-226 011.

..... Respondents.

DETAILS OF APPLICATION:

I. Particulars of the Applicant:

Shri V.S.L.Srivastava,
S/o Late Sri Sharda Prasad,
aged 48 years, r/o House No. 555 Kha/2K/7,
Bhola Khera, Alambagh, Lucknow.

II. Particulars of the Respondents:

1. Union of India Through: The Secretary, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi.
2. Research Designs & Standards Organisation Through: Its Director General, Manak Nagar, Lucknow-226011.
3. Shri P.K.Misra, Asstt.Documentation Officer (Pub) (adhoc) Research Designs & Standards Organisation (RDSO), Manak Nagar, Lucknow-226011.

R. Tava

III. Particulars of the order against which application is made:

Staff Notice Nos. EII/ES/PR/O(Lib) dated 10.8.87 and 12.7.89 of Respondent No. 2 permitting Shri P.K.Misra, Respondent No. 3, Asstt. Documentation Officer (adhoc) to appear in the supplementary examination for the selection of the two posts of Asstt. Documentation Officer who is not qualified according to enforced recruitment Rules for the post.

IV. Jurisdiction of the Tribunal:

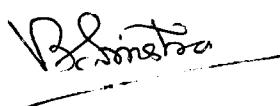
The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

V. Limitation:

The Applicant further declares that the application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act, 1985.

VI. Facts of the Case:

1. That Research Designs & Standards Organisation (RDSO) of the Ministry of Railways, is one of the premier research and development institution of the country ~~xxxx~~ and functions as advisers and consultant to the Indian Railways and other railway users in technical matters.
2. That the applicant is having the qualification of B.Sc., M.Lib.Sc. and at present posted as Chief



Documentation Assistant (Grade Rs. 2000-3200 RPS) in the office of Research Designs & Standards Organisation (RDSO), Ministry of Railways, Lucknow which is a post falling in Group C (Class III). The applicant is continuing to hold this post since 7.11.1984 on regular basis.

3. That the next channel of promotion of the applicant is to the post of Assistant Documentation Officer (Grade Rs. 2000-3500 RPS) which is a post falling in Group B (Class II).

4. That there are two Group B (Class II) posts of Assistant Documentation Officers in the Documentation, Library & Publication Wing of RDSO - One is designated as Assistant Documentation Officer/Library and another as Assistant Documentation Officer/Publication for administrative convenience.

5. That the Recruitment Rules - 1984 for the post of Assistant Documentation Officer (ADO) were notified by the Railway Board vide their notification No. ERBI/77/44/24 Vol. III dated 10.4.84 and came in force w.e.f. 5th May, 1984 after their publication in the Gazette of India, Part II, Section 3, Sub-section (i) dated 5.5.84, a true copy of which is annexed as Annexure A-1. These Recruitment Rules of 1984 have been made by the President of India in terms of the proviso to Article 309 of the Constitution of India and accordingly the same have the statutory force. These

Admin

Rules further supersedes all the existing circulars and orders on the subject and do not suffer from any legal infirmity.

6. That these Recruitment Rules of 1984 for the post of Assistant Documentation Officer in RDSO prescribes a qualification of Bachelor's degree and degree or equivalent diploma in Library Science of a recognised university for the departmental candidates to be considered for selection to the post of ADO.

7. That it is further stated that the Documentation, Library and Publication Wing in RDSO is a wing wherein taking into account the services offered in the Research & Development, a Degree in Library Science or equivalent Diploma has been found to be most essential qualification by the Union Public Service Commission.

8. That the applicant is the seniormost qualified departmental candidate as per Recruitment Rules of 1984 who is continuously awaiting for his adhoc/regular promotion to the post of ADO.

9. That the DG/RDSO, Respondent no. 2, vide their OPO No.73 of 1984 arbitrarily, irregularly and illegally promoted one Shri P.K.Misra, Chief Documentation Assistant to the post of ADO on adhoc basis w.e.f. 23.10.1984. Sri Misra is not having the requisite qualification of 'Degree or equivalent Diploma in Library Science' as prescribed in the Recruitment Rules

P.K.Misra

1/9

for the departmental candidates. This promotion of Sri Misra has been done ignoring the claim of the applicant who is a seniormost qualified candidate as per Recruitment Rules. This irregular ~~pa~~ promotion was done from 23.10.84 i.e. after the enforcement of recruitment rules of 1984 for the post (5.5.84), a true copy of his promotion order is placed as Annexure A-2.

10. That the Railways Board, the respondent no.1, vide their letter No.ERBI/77/44/24-Vol. III Part dated 13.8.85 ordered that the selection to the post of ADO in RDSO be held immediately as per Recruitment Rules, a true copy of this letter is annexed as Annexure A-3 to this application.

11. That on coming to know the irregular and illegal promotion of Shri P.K.Misra, the respondent no.3, to the post of ADO, Railway Board, the respondent no.1 vide their letter No.ERBI/77/44/24 Vol. III dated 28.7.86 to DG/RDSO desired to know as to why adhoc appointment of unqualified persons were made when qualified persons were available and why adhoc arrangements were continued so long and had issued directions for taking necessary action to rectify the mistake. In this connection a true copy of the above referred letter is being filed herewith as Annexure A-4 to this application.

12. That even on the directions issued by the Railway Board, the respondent no.1, as mentioned in

D. Misra

Para above, DG/RDSO respondent no. 2 did not revert Shri P.K.Misra, respondent no.3, to his substantive post of Chief Doc. Asstt. but continued his promotion to the post of ADO ignoring the fact that the qualified candidates as per Recruitment Rules like the applicant are available for adhoc/regular promotion to the post of ADO. It is also pointed out that the applicant is the seniormost qualified candidate according to Recruitment Rules after Shri Suresh Prakash who is already officiating as ADO on adhoc basis.

13. That the DG/RDSO, respondent no.2, in order to continue the irregular and illegal adhoc promotion of unqualified candidate Shri P.K.Misra, respondent no.3, to the post of ADO took no interest in holding the selection as per Recruitment Rules otherwise he would have been reverted back to his substantive post of CDA on the availability of selected candidates and he would have not been allowed to appear in the selection because he was not having the requisite qualification of "Degree or equivalent Diploma in Library Science" as prescribed in the Recruitment Rules for the post.

14. That on being pressurised by the qualified candidates for holding the selection for the post of ADO, ultimately DG/RDSO, the respondent no.2, notified the dates of selection (10th and 11th June 1986), syllabus and list of eligible candidates vide his Staff Notice No.EII/ES/PR/C(Lib) dated 9.4.86. Shri

V. B. Somasundaram

P.K.Misra, the respondent no. 3, who was not qualified in terms of Recruitment Rules of 1984 was not called for the selection, a true copy of this Staff Notice is annexed herewith as Annexure A-5 to this application.

15. That DG/RDSO, the respondent no. 2, vide his Memorandum No. EII/ES/PR/0(Lib) dated 11.4.86, informed Shri P.K.Misra, the respondent no. 3, that as per Recruitment and Promotion (R & P) Rules, he is not eligible for consideration for the post of ADO as the possessing of atleast Bachelor's Degree and Degree or equivalent Diploma in Library Science of a recognised University or equivalent is a must in the case of promotees. Therefore, his name has not been included in the list of eligible candidates circulated under Staff Notice No. EII/ES/PR/0(Lib) dated 9.4.86. A true copy of this Memo is placed as Annexure A-6 to this application.

16. That this selection scheduled to be held on 10th & 11th June 1986 was postponed by DG/RDSO, respondent no. 2 to 14th & 15th July, 1986 vide his staff notice no. EII/ES/PR/0(Lib) dated 6.6.86 and further postponed till further advice vide his staff notice No. EII/ES/PR/0/(Lib) dated 11.7.86. DG/RDSO, the respondent no. 2, again fixed this selection on 10.9.86 and 11.9.86 vide his staff notice no. EII/ES/PR/0(Lib) dated 20.8.86 but again postponed till further advice vide staff notice no. EII/ES/PR/0(Lib) dated 10.9.86. This selection was again fixed for 29.6.87 and 30.6.87 vide DG/RDSO's

R.S. Sinha

staff notice No.EII/ES/PR/O(Lib) dated 18.5.87 and a fresh list of seven eligible candidates was also circulated (annexure-II of this staff notice) but again Shri P.K.Misra's, the respondent no.3, name was not included as he is not having the required qualification as prescribed in the Recruitment Rules for the post. A true copy of this staff notice is annexed as Annexure-A-7 to this application.

17. That finally the written examination of the selection was held on 29th and 30th June, 1987. The applicant after passing in this written examination was interviewed by the selection board on 28th August, 1987 but the final result of which is yet to be declared.

18. That DG/RDSO, respondent no.2, was deliberately avoiding to hold this selection in order to save the reversion of unqualified candidate Shri P.K. Misra, respondent no.3, to whom he had promoted irregularly and illegally on adhoc basis overlooking the claims of qualified candidates. This statement is confirmed by the fact that first the selection was at all not fixed for more than two years from the enforcement of Recruitment Rules and when date was fixed it was postponed four times after fixing the same initially in June 1986 as is evident from para above.

19. That Shri P.K.Misra, the respondent no.3, filed an application (No.533 of 1987) in the Central Administrative ~~Exis~~ Tribunal, Allahabad against the non-inclusion of his name in the list of eligible candidate.

D. S. Joshi

for selection to be held for the post of ADO in RDSO and reasons communicated to him by DG/RDSO, respondent no. 2, vide his Memo No. EII/ES/PR/0(Lib) dated 11.4.86.

20. That Hon'ble Tribunal while admitting this case vide their Order dated 25.6.87 also ordered that meanwhile applicant (Shri P.K.Misra, respondent no. 3) shall not be reverted and he will be permitted to appear in the selection which is going to be held for the post of ADO and the result of the same shall be subject to the orders passed in this case. A true copy of this Order of Hon'ble Tribunal is placed at Annexure A-8 to this application.

21. That in Para (LV) of his application filed in CAT/Allahabad referred to in Para 6, Shri P.K.Misra, respondent no. 3, has mentioned that concerned authorities of RDSO has suggested him to obtain the orders from CAT only then he could be permitted to appear in the selection being held for the post of ADO on ~~29x8~~ 29.6.87 and 30.6.87.

22. That DG/RDSO, respondent no. 2, asked Shri P.K.Misra respondent no. 3 to appear in the selection being held on 29.6.87 and 30.6.87 for the post of ADO as ordered by CAT/MLD vide their Orders dated 25.6.87. But instead of appearing in the selection Shri P.K.Misra, respondent no. 3, ~~pxpx~~ reported sick and submitted a medical certificate issued by ADO/RDSO Health Unit in

R.D.Misra

X/61

in support of sickness. His absence from the selection on medical grounds cannot be condoned as the medical certificate was not issued by Railway Divisional Medical Officer (DMO) and was not having the specific remarks that "the fact was known to him (Doctor) that the candidate has to appear in the selection" as prevalent in the Indian Railways.

23. That Hon'ble Tribunal/Allahabad vide their orders dated 10.7.87 vacated their stay order granted vide their orders dated 25.6.87, on a reply filed by respondents to the show-cause notice, true copy of which has already been annexed as Annexure A-8 above.

24. That in order to protect his interest the applicant got impleaded himself on 31.8.87 in the case No.533 of 1987 filed by Shri P.K.Misra, respondent no.3, in the CAT/Allahabad.

25. That the DG/RDSO, respondent no.2, notified the supplementary selection to the main selection (held on 29.6.87 and 30.6.87) on 24.8.87 and 25.8.87 vide their staff notice no.EII/ES/PR/0(Lib) dated 10.8.87. In this supplementary selection Shri P.K.Misra, respondent no.3, was directed to appear inspite of the fact that the stay order granted by Hon'ble Tribunal in this regard was already vacated by their orders dated 10.7.87. A true copy of this Staff Notice is annexed as Annexure A-9 to this application.

26. That on this most unlawful action of the

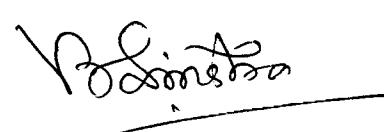

P. K. Misra

DG/RDSO, the respondent no. 2, the applicant gave a representation dated 13.8.87 to him against the same, a true copy of which is annexed as Annexure A-10 to this application.

27. That DG/RDSO, respondent no. 2, on getting this representation of the applicant postponed the supplementary selection scheduled to be held on 24.8.87 and 25.8.87 till further advice vide his staff notice No. EII/ES/PR/0(Lib) dated 21.8.87. A true copy of this staff notice is annexed as Annexure A-11 to this application.

28. That the DG/RDSO, the respondent no. 2, vide his staff notice no. EII/ES/PR/0(Lib) dated 9.2.89 declared the result of one ^{post} out of two posts of ADO for which selection was held on 29th and 30th June 87, and impaneled Shri Suresh Prakash for promotion to the post of ADO and he has been posted as ADO on regular basis vide DG/RDSO's, respondent no. 2, OPO No. 12 of 1989 w.e.f. 9.2.1989. This was done even without holding the supplementary selection. A true copy of the staff notice is placed as Annexure A-12 to this application.

29. That the DG/RDSO, the respondent no. 2, again ~~20x~~ fixed the continuation supplementary examination for the post of ADO on 24.7.89 vide their staff notice No. EII/ES/PR/0(Lib) dated 12.7.89 and Shri P.K.Misra the respondent no. 3, was illegally asked to appear in the same. The written examination of this supplementary was held on



24.7.89. It is understood that Shri P.K.Misra, the respondent no. 3, has been interviewed also on 13.12.1989 but the final result has not been declared. A true copy of this staff notice is placed as Annexure A-1

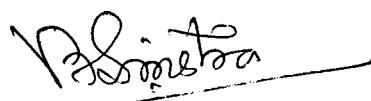
30. That the applicant gave again another representation against this order on 27.3.89 to DG/RDSO but with no effect. A true copy of the said representation is enclosed as Annexure A-14 to this application.

31. That the applicant fears that the DG/RDSO, respondent no. 2 will make all efforts to pass Shri P.K. Misra, the respondent no. 3 in the supplementary examination in order to hide his own misdeeds done so far in this case.

32. ~~xx~~ That from the above facts it is clear that the DG/RDSO, respondent no. 2 has neither followed the Recruitment Rules for the post framed by Railway Board in consultation with Union Public Service Commission and Ministry of Legal Affairs etc. enforced w.e.f. 5.5.84 ~~and~~ nor followed the orders issued by Railway Board for holding the selection as per Recruitment Rules for reverting Shri P.K.Misra, the respondent no. 3 vide their letter no. ERBI/77/44/24 Vol. III dated 28.8.86.

33. That all illegalities in the case are due to unwanted favours shown by DG/RDSO, respondent no. 2 to Shri P.K.Misra, the respondent no. 3 in the following manner:-

(i) Firstly promoting him on adhoc basis



w.e.f. 23.10.1984 when he was not qualified according to Recruitment Rules for the post enforced from 5.5.1984 in place of the applicant.

(ii) Secondly managing the continuation of his adhoc promotion by not holding/finalising the selection for a period of more than 5 years.

(iii) Thirdly not reverting him in terms of Railway Board's letter No. ERBI/77/44/24 Vol. III dated 28.8.86.

(iv) Fourthly by calling him in the selection when neither he is qualified according to Recruitment Rules nor there is any stay order on this by the Hon'ble Tribunal or any other court of law.

VII. Relief sought:

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

1. A suitable order or direction calling for the records of the case be issued and to quash the order passed by DG/RDSO/Lucknow vide their staff notices Nos. E-II/ES/PR/O(Lib) dated 21.8.87 and 12.7.89 permitting Shri P.K.Misra to appear in the supplementary examination to the post of ADO in RDSO.

2. A suitable order or direction to be issued directing the respondent no. 2 to revert Shri

W. S. Misra

P.K.Misra, the respondent no.3, on his substantive post of Chief Documentation Assistant from the post of Asstt. Documentation Officer (adhoc).

3. A suitable order or direction to be issued directing the respondent no.2 to promote the applicant as ADO on adhoc basis till such time the results of the selection conducted in this regard are not finalised.
4. A suitable order or directive be issued directing respondent no.2 to regularise the selected candidate from 5.5.84 i.e. the date of enforcement of rules as the delay of holding the selection is on their part.
5. Such other and further order or direction be issued as the Hon'ble Tribunal deem fit and proper in the circumstances of the case.

G R O U N D S

- A. Because the respondent no.2 has no right to promote an unqualified candidate according to Recruitment Rules even on adhoc basis which have been framed by the President of India in exercise of the powers conferred on him by the proviso to Article 309 of the Constitution of India and Legislative in character.
- B. Because Recruitment Rules for ~~the~~ the post were enforced from 5.5.84 after their publication in the

B. S. S. S. S.

Gazette of India, Part II, Section 3, Sub-section (i) dated 5.5.84 and Shri P.K.Misra, respondent no.3 was promoted on 23.10.84 i.e. after the enforcement of Recruitment Rules.

C. Because Shri P.K.Misra, respondent no.3 is not having the qualification of "Degree or equivalent Diploma in Library Science of a recognised University or equivalent" as prescribed in the Recruitment Rules and as such he is not qualified according to Recruitment Rules for the post and cannot be promoted or called to appear in the selection.

D. Because in application of Sri P.K.Misra, respondent no.3, at CAT/Allahabad there is no order of Hon'ble Tribunal directing DG/RDSO x to call him in the selection. The stay order dated 25.6.87 granted in this regard has already been vacated by the Hon'ble Tribunal vide their orders dated 10.7.87.

E. Because when an appointment is made without essential qualifications, then it is not only irregular but the appointment is also invalid.

F. Because it is well established law that qualification for a particular post can be a rational differentia within the meaning of article 16 of the Constitution of India. It is equally clear that when a qualification has been prescribed for a post that cannot be obliterated by posting those who do not



have that qualification as against those who have that qualification.

G. Because if the President pleases to frame a rule changing the conditions of service he can do so. It is not possible to accept the contention that the rules once framed can never be altered. If the exigencies so demand, the rules can be changed. An authority which frames a rule has undoubtedly the power to alter it even though the change may be to the advantage of some and disadvantage of others. If it were, it might be held that any change in the rules has to be with the consent of all employees of the Government, in the first place that might not be possible, because certain employee may be liking the change and others not. Secondly, by doing so, it will not be possible to run the administration.

H. Because when an appointment to a post is itself irregular, unauthorised and invalid, termination of such appointment cannot be said to be acts of punishment. Accordingly, where a Government servant who had been promoted to the selection grade was later placed to his original post, not for any fault of his, but because of non-compliance of rules relating to the appointments to the selection grade, there was no reduction in rank within the meaning of Articles 311 and therefore was not entitled to any opportunity of showing cause under this Article against the proposal to revert him.

Washington

I. Because the post of Government servant is more one of status than contract and therefore service conditions can be unilaterally changed even with ~~xxx~~ retrospective effect.

J. Because no appointment or posting can be made contrary to rules even if it is stop gap or on adhoc basis. The appointment in service has to be made in accordance with the Recruitment Rules and not contrary to those rules.

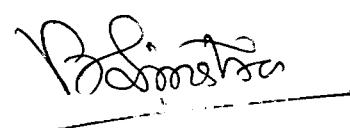
K. Because the applicant having a qualification of B.Sc., M.Lib.Sc., is fully qualified according to Recruitment Rules and awaiting his promotion since 5.5.1984 i.e. after the enforcement of the Recruitment Rules.

L. Because the applicant should have been promoted as ADO in place of Shri P.K.Misra, respondent no.3, who was unqualified according to Rules and thus he is sustaining ~~from~~ irrecoverable monetary loss as well as in condition of service.

VIII. INTERIM ORDER:

Pending final decision on the application, the applicant pray for the following interim order:-

It is, therefore, prayed that the Hon'ble Tribunal may be pleased to direct DG/RDSO, respondent no. 2, to declare the result of the applicant who has


P. Somnath

already appeared in the interview after passing the written examination of the selection of ADO and promote the applicant to the post of ADO (Group II) so that he may be saved from further irrecoverable monetary loss and mental torture and the result of Shri P.K.Misra, the respondent no. 3, an unqualified candidate may not be declared.

IX. Details of the remedies exhausted:

The applicant declare that he has availed of the remedies available, to him under the relevant service rules. The details of the representation in this regard are given below:-

(i) Applicant's representation dated

13.8.87 (Annexure A-10)

(ii) Applicant's representation dated

27.3.1989 (Annexure No.A-14)

X. Matter not previously filed or pending with any other court:

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

XI. Particulars of Bank draft/Postal Order in respect of the application fee:

1. Name of the Bank on which drawn: Ministry of Govt of Posts
2. Demand Draft No. B.D. 1119632 for Rs. 50/-

B. S. Misra

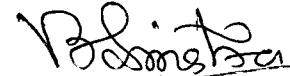
XIII. Details of Index

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

VERIFICATION

I, V.S.L.Srivastava s/o Late Shri Sharda Prasad aged 48 years working as Chief Documentation Assistant in the Office of Research Designs and Standards Organisation (RDSO) resident of 555-Kh/2K/7 Bholakhera, Alambagh, Lucknow do hereby verify that the contents of paras 1, 4, 6 to 11 are true to my personal knowledge and paras 2, 3 and 5 are believed to be true on legal advice and that I have not suppressed any material fact.

Dated: 28.2.1990


(V.S.L.Srivastava)
APPLICANT.

ANNEXURE A-1



भारत का राजपत्र

The Gazette of India

प्राप्तिकार से प्रकाशित
PUBLISHED BY AUTHORITY

No. 18]
No. 18]

वर्दि दिल्ली, बिश्वास, वर्दि 5, 1984/वैसाख 15, 1906
NEW DELHI, SATURDAY, MAY 5, 1984/VAISAKH 15, 1906

इस भाग में विभिन्न पृष्ठ संख्या हो जाती है विभिन्न पृष्ठ संख्यान के लिए इस भाग को रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

भाग II—खण्ड 3—उप-खण्ड (I)
PART II—Section 3—Sub-section (I)

(राजा बंद्रासव को छोड़कर) भारत सरकार के बंद्रासवों और (संघ राज्य सेवा प्रशासनों को छोड़कर)
केन्द्रीय अधिकारियों द्वारा विधि के अन्तर्याम बनाए और जारी किए गए साक्षात्कार विधिय
लिखित साक्षात्कार के आदेत, उत्तरियम आदि सम्बन्धित हैं।

General Statutory Rules (including orders, bye-laws etc. of a general character) issued
by the Ministries of the Government of India (other than the Ministry of Defence) and
by the Central Authorities (other than the Administrations of Union Territories)

विधिय, व्यावाय और कानूनी कार्य बंद्रासव :
(विधिय कार्य विवाह)

वर्दि दिल्ली, 16 वार्ष, 1984

सा.का.नि. 427—केन्द्रीय सरकार, विधिय बंद्रासव, 1908 (1908 का 5) की वर्द्धी अनुसूची के आदेत 27 के विषय
विधि के बांध (क) द्वारा बनाये गये कानूनों का अविषय करते हुए, भारत
सरकार के भूत्यूदै विधि बंद्रासव (विधिय कार्य विवाह) की अधिसूचना
मा. सा.का.नि. 1412, शारीर 25 वर्दम्बर, 1960 में विज्ञापित
मर्मांशित करती है, अवश्य :—

उत्तर अधिसूचना की अनुसूची में, कर्नाटक से बंद्रासव वर्द 9 में,
बंद्रासव वर्द 1 में अधीनस्थ व्यावायों से बंद्रासव वर्द (ब) के सामने,
विधि 2 में की विविधिय के स्वाव वर्द विविधिय विविधिय रखी जाएगी,
यथानि :—

“यी दी० आर० रंगराजन
केन्द्रीय सरकार व्यौद्धर”
“यी दी० दू० द्वानन्द
केन्द्रीय सरकार व्यौद्धर”

2. यह अधिसूचना शारीर 16 वार्ष, 1984 से प्रवृत्त होगी।

[वर्द ३५ (१) / ८२-वा०]
वर्द ३५ (१) / ८२-वा०

MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS

(Department of Legal Affairs)

New Delhi, the 16th March, 1984

G.S. R. 427.—In exercise of the powers conferred by clause
(a) of rule 8B of Order XXVII of the First Schedule to
the Code of Civil Procedure, 1908 (5 of 1908), the Central
Government hereby makes the following further amendment
in the notification of the Government of India, in the late
Ministry of Law (Department of Legal Affairs) No. G.S.R.
1412, dated the 25th November, 1960 namely :—

In the Schedule to the said notification, in item 9 relating
to Karnataka, against sub-item (b) relating to the Subordinate
Courts in Bangalore City, for the entry in column (2) the
following entry shall be substituted, namely :—

“Shri T. R. Rangarajan,
Central Govt. Pleader”

“Shri B. N. Dayananda,
Central Government Pleader.”

2. This notification shall come into force with effect from
the 16th March, 1984.

[No. F. 35(1)/82-Judl.]
N. S. MEHTA, Jt. Secy. & Legal Adviser

B. N. Dayananda

(8)	(9)	(10)	(11)	(12)	(13)
नहीं लेकिन उनके पात किसी वास्तवान्नाम विश्वविद्यालय की कम है कम स्नातक की दिल्ली और युस्त- कालय विद्यालय में दिल्ली या समकक्ष टिप्पोता अवश्य होना चाहिए ।	2 वर्ष	विश्वविद्यालय और उनके न होमे पर, सीधी जर्नी विद्यालय	विश्वविद्यालय: दिल्ली विद्यालय या युस्तकालय में कार्य करने वाले होठ 'व' कर्मचारियों (सिपाहीय कर्म- चारियों से विद्या) के वि- वाहीय वयन (विवाह सा- मारण): एक विवाहित परिवार और भौतिक परिवार वासिन होनी) के आधम है। वयन ऐसे कर्मचारियों में है किया जाएगा जो संक्षेपित वेतन- वान में न्यूनतम 425 रु. वासे होठ या उससे ऊचे होठ में असूह 'व' के पांचों पर नियमित रूप से कार्रवत हों वज्रों कि उन्होंने कम से कम दीन वर्ष की वैर आ- कस्तिक सेवा की हो और 560 रु. के वरज वरपूर पर हों ।	सूह 'व' विवाहीय परिवाहित विवाहित दीन विदेशक/पर विदेशक दीन से परामर्श करना दिल्ली:— स्वाधीकरण से संबंधित विवाहीय परो- पति विवाहित की कार्य- शाहियों प्रयुक्तोदान के लिए आयोग को भेजी जायेगी शहिद आशोय उन्हें अनु- बोदित नहीं करता है तो संघ सोक सेवा आ- दीन के अध्यक्ष या सदस्य की अध्यक्षता में एक नयी बैठक आयो- जित की जाएगी ।	सीधी जर्नी के वयन संघ सोक सेवा आ- दीन से परामर्श करना दाववाद है ।

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 10th April, 1984

G.S.R. 452.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to the Group 'A' and Group 'B' posts of Deputy Director (Documentation) and Assistant Documentation Officer in the Research Designs and Standards Organisation, Lucknow of the Ministry of Railways, namely :—

1. Short title and commencement.—(i) These rules may be called the Research Designs and Standards Organisation (Group 'A' and Group 'B'), Recruitment Rules, 1984.

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. Number of posts, classification and scale of Pay.—The number of said posts, their classification and the scale of pay attached thereto, shall be as specified in columns 2 to 4 of the Schedule annexed to these rules.

3. Method of Recruitment, age limit, qualifications etc.—The method of recruitment, age limit, qualifications and other matters relating to the said posts, shall be as specified in columns 5 to 13 of the said Schedule.

[सं० ६ भार ष्ट-1/72/44/24-गा० III]
अजय बीहुरौ, सचिव, रेलवे ष्टोड एवं पदेन संयुक्त सचिव, भारत सरकार।

4. Disqualifications : No person.—

(a) who has entered into or contracted a marriage with a person having a spouse living; or

(b) who, having a spouse living, has entered into or contracted a marriage with any person;

shall be eligible for appointment to any of the said posts.

Provided that the Central Government may, if satisfied, that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. Power to Relax.—Where the Central Government is of the opinion that it is necessary or expedient to do so, it may, by order, for reasons to be recorded in writing, and in consultation with the Union Public Service Commission, relax any of the provisions of these rules with respect to any class or category of persons.

6. Saving.—Nothing in these rules shall affect reservation, relaxation of age limit and other concessions required to be provided for the candidates belonging to the Scheduled Castes and the Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

T.C. Tingley

B. B. Bonsu

No. of post	No. of post	Classification	Scale of pay	Whether selection post or non-selection post	Age limit for direct recruits	Whether benefit of added years of Service admissible under rule 30 of the C.C.S. (Pension) Rules, 1972	Educational and other qualifications required for direct recruits
(1)	(2)	(3)	(4)	(5)	(6)	(6a)	(7)

1. Deputy Director 1 ^o (Documentation) (1983)	General Central Service Group 'A' Gazetted (Non-Ministerial)	Rs. 1100-50-1600	Selection	Not applicable	Not applicable	Not applicable
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*Subject to variation dependent on work-load.

Whether age and educational qualifications prescribed or direct recruits will apply in the case of Promotees	Period of probation, if any	Method of rectt. whether by direct rectt. or by deputation/transfer & percentage of the vacancies to be filled by various methods	In case of rectt. by promotion/deputation/transfer, grades from which promotion/deputation/transfer to be made	If a DPC exists, what is its composition	Circumstances in which U.P.S.C. is to be consulted in making rectt.
--	-----------------------------	---	--	--	---

(8)	(9)	(10)	(11)	(12)	(13)
Not applicable	2 years	By promotion	Promotion Assistant Documentation officer with 8 years' service in the grade rendered after appointment thereto on a regular basis.	Group 'A' Departmental Promotion Committee 1. Chairman/Member, Union Public Service Commission—Chairman. 2. Two Directors from Railway Board—Members.	Consultation with the U.P.S.C. necessary while selecting an officer for appointment.

Note : The proceedings of the Departmental Promotion Committee relating to confirmation shall be sent to the Commission for approval. If, however, these are not approved by the Commission a fresh meeting of the Departmental Promotion Committee to be presided over by the Chairman or a Member of the Union Public Service Commission shall be held.

T.C.
T.M. Goyal
10/10/83

D. Srinivasan

(1)	(2)	(3)	(4)	(5)	(6)	(6a)	(7)
2 Assistant Documentation Officer. (1983)	3* General Central Service Group 'B' gazetted (non-ministerial).	Rs. 650-30-740-35-810-EB-35-880-40-1000-EB-40-1200.	Selection	Not Exceeding 30 years. (Relaxable for Government servants upto 5 years in accordance with the instructions or orders issued by the Central Govt.) Note : The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than those in Andaman and Nicobar Islands and Lakshadweep).	No	Essential : (i) Master's degree in Physics/Chemistry/Mathematics of a recognised University or equivalent. (ii) Degree or equivalent diploma in Library Science of a recognised University or Institute. (iii) 3 years' experience in a responsible capacity in a Library of standard.	<p>Note : 1. Qualifications are relaxable at the discretion of the Union Public Service Commission in case of candidates otherwise well qualified. Note 2 : The qualification(s) regarding experience is/are relaxable at the discretion of the Union Public Service Commission in the case of candidates belonging to Scheduled castes and Scheduled Tribes if at any stage of selection, the Union Public Service Commission is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.</p> <p>Desirable : (i) Master's degree in Library Science of a recognised University or equivalent (ii) Experience of documentation work in a responsible capacity. (iii) Working knowledge of any of the modern European language other than English.</p>

8	9	10	11	12	13
No. But must possess at least Bachelor's degree and degree or equivalent diploma in Library Science of a recognised University or equivalent.	2 years	By promotion failing which by direct recrt.	Promotion : Through departmental selection (which shall include ordinarily a written test and a viva-voce (test) of Grade 'C' staff (other than Ministerial staff) working in a documentation and Library. The Selection shall be made from among the staff	Group 'B' D.P.C. Three Directors/Additional Directors. Note : The proceedings of the Departmental Promotion Committee relating to confirmation shall be sent to the Commission for a approval. If, however,	Consultation with the U.P.S. C. necessary while making direct recrt.

T.C.
T.N. Gopal

P. S. Mehta

holding posts in the grade the minimum of which is Rs. 425 in the revised scale and in higher Group 'C' grades on a regular basis, provided they have rendered a minimum of 3 years, non-fortuitous service and have reached a stage of Rs. 560/-.

these are not approved by the Commission a fresh meeting of the Departmental Promotion Committee to be presided over by the Chairman or a Member of the U.P.S.C. shall be held.

Note : In case a junior employee is considered for selection by virtue of his satisfying the relevant minimum service conditions, all persons senior to him shall also be held to be eligible notwithstanding that they may not satisfy the requisite minimum service conditions.

[No. ERB-I/77/44/24—vol. III]
A. JOHRI, Secy., Railway Board and ex-officio Jt. Secy. to the Govt. of India

मंत्रालय

नई दिल्ली, 23 अप्रैल, 1984

सांकेतिक—453—राष्ट्रपति, भवित्वान के अनुच्छेद 309 के खालीक द्वारा प्रदत्त विभिन्नों का प्रयोग करते हुए प्रहित निवेशालय (कलकत्ता स्थित केन्द्रीय विभाग संस्थान की यूनिट एवं इससे सम्बद्ध आदर्श प्रवित्रित संस्थान, केन्द्रीय कम्पन्चारोवृद्धि प्रवित्रित और बनुसंवान संस्थान और सेवोंय

विभित्ति प्रवित्रित निवेशालय) तथा चौदहार (उडीसा) स्थित आदर्श बीवोगिक प्रवित्रित संस्थान समूह व पद भर्ती नियम, 1974 का और संशोधन करते के

नियम निम्नलिखित नियम बनाते हैं, बताते—

1. (1) इन नियमों का संग्रहित आम प्रवित्रित निवेशालय (कलकत्ता स्थित केन्द्रीय विभाग प्रवित्रित संस्थान की यूनिट एवं इससे सम्बद्ध आदर्श प्रवित्रित संस्थान, केन्द्रीय कम्पन्चारोवृद्धि प्रवित्रित और संस्थान और सेवोंय विभित्ति प्रवित्रित निवेशालय) तथा चौदहार (उडीसा) स्थित आदर्श बीवोगिक प्रवित्रित संस्थान समूह व पद भर्ती (संवर्धन) नियम, 1984 है।

(2) ये राष्ट्रपति द्वारा प्रकाशन की तारीख को प्रदूत होते।

2. प्रवित्रित निवेशालय (कलकत्ता स्थित केन्द्रीय विभाग प्रवित्रित संस्थान की यूनिट एवं इससे सम्बद्ध आदर्श प्रवित्रित संस्थान, केन्द्रीय कम्पन्चारोवृद्धि प्रवित्रित और बनुसंवान संस्थान और सेवोंय विभित्ति प्रवित्रित निवेशालय) तथा चौदहार (उडीसा) स्थित आदर्श बीवोगिक प्रवित्रित संस्थान समूह व पद भर्ती नियम, 1974 की बनुसूची में कम सं 12 और उससे संबंधित प्रवित्रितों के स्थान पर निम्नलिखित रखा जायेगा, बताते—

टिप्पणी—जूल नियम सांकेतिक सं 682 तारीख 29-6-74 (प० 1609 से 1622 रुप) विभित्ति सं 300000-12) (1)/68-310
ए० 1 तारीख 5-6-74 द्वारा प्रवित्रित किये गये।

1. सांकेतिक सं 826 तारीख 5-7-75 (1663) विभित्ति सं 300000-49(24)/68-एपी तारीख 21-6-75 द्वारा संशोधन किया गया।
2. सांकेतिक सं 097 तारीख 10-6-76 (प० 1706) विभित्ति सं 300000-टी-124/75टी-ए-ii तारीख
3. सांकेतिक सं 649 तारीख 21-5-73 (प० 162) विभित्ति सं 12(47)/76टी-ए तारीख 4-5-77
4. सांकेतिक सं 650 तारीख 21-5-77 (प० 1653) विभित्ति सं 12(29)/76टी-ए-1 तारीख 4-5-77
5. सांकेतिक सं 25 तारीख 6-1-77 (प० 76) विभित्ति सं 19(29)/78-ए ई एस तारीख 15-12-78
6. सांकेतिक सं 984 तारीख 5-8-79 (प० 1764-1765) विभित्ति सं 12(3)/78-टी-ए तारीख 22-7-78 द्वारा संशोधन किया गया।
7. सांकेतिक सं 1114 तारीख 8-9-78 (प० 2015) विभित्ति सं 12(41)/78-टी-ए-1 तारीख 22-8-79 द्वारा संशोधन किया गया।
8. सांकेतिक सं 225 तारीख 10-2-79 (प० 439-44) विभित्ति सं 12(51)/77-टी-ए-1 तारीख 12-1-79 द्वारा संशोधन किया गया।
9. सांकेतिक सं 899 तारीख 30-2-79 (प० 1764) विभित्ति सं 12(29)/76टी-ए-1 तारीख 8-6-79 द्वारा संशोधन किया गया।
10. सांकेतिक सं 1201 तारीख 22-9-79 (प० 2263) विभित्ति सं 19(2)/78-ए-टी-ए तारीख 6-9-79 द्वारा संशोधन किया गया।
11. सांकेतिक सं 12(51)/77 तारीख 25-3-80 (सांकेतिक सं 12(51)/77-टी-ए-1 तारीख 14-10-81 (सांकेतिक सं 980 तारीख 31-10-91 —प० 2323) द्वारा संशोधन किया गया।
12. विभित्ति सं 43(4)/80-टी-ए-11(i) तारीख 30-1-82 (सांकेतिक सं 167 तारीख 13-2-82, प० 473) द्वारा संशोधन किया गया।
13. विभित्ति सं 43(4)/80-टी-ए-11(i) तारीख 30-1-82 (सांकेतिक सं 167 तारीख 13-2-82, प० 473) द्वारा संशोधन किया गया।
14. विभित्ति सं 43(4)/80-टी-ए-11(i) तारीख 30-1-82 (सांकेतिक सं 167 तारीख 13-2-82, प० 473) द्वारा संशोधन किया गया।

1c
T. N. Gupta
1c

B. S. Sinha
1c

Y/17

Government of India
Ministry of Railways
Research Designs & Standards Organisation

OFFICERS POSTING ORDER NO.73 OF 1984

Shri P.K. Misra, CDA/ Publication Branch is promoted to officiate as Assistant Documentation Officer (Library) in Class-II, Scale Rs.650-1200 (RS), purely on adhoc basis till further orders.

2. Shri Misra should note that above adhoc promotion will not entitle him to claim regular or adhoc promotion in future.

3. The charge report may be forwarded to Estt.-II Section in quadruplicate.

Auth:- DG/RDSO's orders dated 20-10-84 in file NO.DG/CRP-77/G .

(Hindi Version will follow)

DA: Nil.

J.J. Hare
(J.J. HARE)
For Director General.

Lucknow-226011.
Dated 23.10.1984.
File NO.DG/CRP-77/G

DISTRIBUTION

Sr.Dy.DG	JD (Pub.)	<input checked="" type="checkbox"/> DD (Doc.)	JDF	DDE-I
DDE-II	DD (Admn.)	TEN	AAO-II	Audit Officer
SOE-I	SOE-III	SOE-IV	SO (Rectt.)	SO (Stenos)
ADE/Tele	A.S.O.	Secy./RDSO Officers Association		
Estate Supervisor	Receptionists I, II	Pass Section		
Admn.Section	Notice Board	Officer concerned	& P/file	
SO(Hindi):-	For providing Hindi Version early.			

B. S. S. B.

T. C. G. S. S. B.

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(Railway Board)

No. E.RSI/77/44/24-Vol.III-Pr

New Delhi, dt. 13-8-95

The Director General,
RDSO/Lucknow.

Sub: Selection for the post of Asstt. Doc. Officer in RDSO/Lucknow as per the R&P Rules notified vide this Min.'s Notification No. E.RPI/77/44/24-Vol.III dt. 10.4.84.

Ref: 1. Your letter No. E.II/ES/PR/C dt. 26.4.85.
2. This Min's letter of ref. no. dt. 3.5.85.

The Ministry of Railways have decided that the selection to the post of Asstt. Doc. Officer in RDSO should be held immediately as per R&P Rules.

3d/-

(R.R. Kohli)
Dy. Secretary (A), Rly. Board

R. S. Kohli

*T.C.
T.R. Kohli*

7/11

ANNEXURE A-4

No. ERB-I/77/44/24. Vol. III

New Delhi, dt. 28.7.1986

The Director General,
RDSO, Lucknow.

Sub: Selection for the post of Asstt.
Doc. Officer in RDSO, Lucknow as per the
R&P Rules notified vide Board's
Notification No. ERB-I/77/44/24-Vol III
dt. 10.4.86

Ref: Your letter No. BII/ES/PR/0/Lib dt. 30.5.86

The matter as referred to in your letter quoted above has been examined and papers put up to the Board who have decided that we should not violate ERC recommendation, and the grounds mentioned do not give enough details to justify violation, ~~nor~~ ~~nor~~ ~~nor~~ of correct procedure. The Board also desired to know why ad-hoc appointment of unqualified persons were made, when qualified persons were available & why adhoc arrangements were continued so long.

Necessary action may please be taken accordingly under intimation to this office.

sd/
(RL Agarwal)
Under Secretary(E)
Railway Board.




T.H. Goyal
T.H. Goyal
T.H. Goyal

Government of India
Ministry of Transport, Department of Railways
Research Designs & Standards Orgn.

Manak Nagar, Lucknow-226011.

STAFF NOTICE

Sub: Departmental Selection for Class II (Group 'B')
posts in the Documentation and Library Sections
of Research Designs & Standards Organisation.

...

A selection will be held on 10th and 11th June, 1986 (Written Test) as per the following programme from amongst the eligible class III staff of the Documentation and Library Sections for being empanelled for officiating promotions to Class II (Group 'B') posts of Asstt. Documentation Officer (Pub & Library) in Gr. Rs.650-1200(RS). The number of the existing vacancies for which the above panel is to be formed is 2 (Two), out of which one vacancy is reserved for Scheduled Caste.

<u>Date</u>	<u>Paper No.</u>	<u>Time</u>	<u>Duration</u>
10.6.86	I (Establishment and General Admn.)	10.00 to 12.00 hrs.	2 hrs.
11.6.86	II (Library Science and Publication)	10.00 to 13.00 hrs.	3 hrs.

2. Condition of eligibility:

Staff holding the posts in the grade the minimum of which is Rs.425/- in the Revised Scale on a regular basis, provided they have rendered a minimum of three years' non- fortuitous service and have reached the stage of Rs.560/-.

For departmental promotees, possession of atleast Bachelor's Degree and Degree or equivalent diploma in Library Science of a recognised University or equivalent is must.

Note:

In case a junior employee is considered for selection by virtue of his satisfying the relevant minimum service conditions, all of his seniors shall also be held to be eligible notwithstanding that they may not satisfy the requisite minimum service conditions.

.../-

*T. C. Gopal Rao
TH. Rao*

B. S. S. Rao

3. The eligible candidates to be considered for selection to Class II (Group 'B') posts who fall within the prescribed field of consideration are required to appear for written test and only those who qualify in the written test will be called for interview by the Selection Board.

4. There will be two question papers as indicated in para 1 above, the syllabus for which is at Annexure I & II.

5. To qualify for being called for Viva-Voce, candidates must obtain a minimum of 60% marks in each paper and also in aggregate.

6. The list of staff in order of their seniority who are eligible to appear in the above selection is at Annexure III. The concerned staff should report to E-II Section at 9.00 hrs on the scheduled dates.

Encl: Annexures-I,II,III.

File No.EII/ES/PR/0(Lib)
Lucknow-226011
Dated:09.4.1986.

(P.N. Kapoor)
for Director General.

DISTRIBUTION

4 copies → 1. Jt. Director (Pub), RDSO, Lucknow }
2. Dy. Director/Doc., RDSO, Lucknow }
3. Notice Board (Admn. Bldg., Annexe I & II).
4. Addl. Director Stds.(Trck).
5. Addl. Director/ED.
6. Dy.DG.

The Staff Notice may please be circulated to the eligible staff and their signature obtained for having seen the notice. They may acknowledge receipt of notice.

D. Kapoor

T.C. Gopal
T.C. Gopal

X
✓/✓

ANNEXURE-I

Syllabus for the Selection of ADO(Library) and
ADO(Pub.)

PAPER-I Establishment & General Administration 100 Marks.
Establishment

Discipline and Appeal Rules, Railway Service Conduct Rules, Employment of Casual Labour, Pass and PTOs, TA Rules & Medical Rules, Pension Rules, Leave Rules, Hours of Employment Regulations and Loans & Advances.

General

Delegation of powers in RDSO in Establishment and non-Establishment matters, Budget Estimates, procurement and account of equipment, Stores and Stationery, Chapter I, II and X of the Manual of Office Procedure, Official Language Policy and Official Language Rules.

ANNEXURE-II.

PAPER-II Library Science & Publication 200 Marks.

Topic I: Library Organisation:

Library in Society, its aims and functions, the kinds of libraries and the services appropriate to each one of them, Library legislation, comparative with special emphasis on Indian Library Laws; Library Finance; control and management. Principles of Library, Planning and architecture, Library equipment; Library personnel; Library cooperation. Book collections and their features.

Topic-II: Library Management:

Library committees, Trustees, Boards; Library Administration; Finances; Sources of Income & control of expenditure; Accessioning, open access system; charging & discharging system; stock verification; Book stock selection & its maintenance; departmental libraries.

Topic III: Classification & cataloguing:

Basic principles of classification; Structure of classification, main features of Decimal and Universal Decimal classification schemes; theory & history of cataloguing, catalogue codes, descriptive cataloguing, Physical forms of catalogues, filling and display of catalogues, arrangement of entries.

TCTA/GM

B. Srinivas

Topic IV: Bibliography & Book Selection

Aims & purpose of bibliography, current state of bibliographical enterprises (national & international), reprography, copyright, principles in selection of library materials.

Topic V : Reference and information storage, retrieval and service.

Reference; service, Enquiry techniques, assessment of enquiries, literature surveys and searches., preparation of bibliographies, bulletins, abstracts and indexes, Types of reference materials, Information location, storage, retrieval methods and techniques and services, Indexing, abstracting and documentation, Selective dissemination of Information, Various types of equipment for handling information and providing services, Patents as source of information, Planning of documentations and information centres, Introductory knowledge of systems Planning to automatics concepts and to computer use.

Topic VI : Editing and Printing

Editing and processing of manuscript, Printing processes, Printing machinery, Printing type - faces, Printing paper, Block making, Proof reading, Binding, Knowledge of various kinds of publications and their importance, Precis making.

Boopathi

T.C
TIN Guptha

ANNEXURE - III

List of eligible candidates in order of Seniority.

1. Shri Suresh Prakash, AD0(P) Adhoc.
2. Shri V.S.L.Srivastava, CDA/DOC.
3. Smt. S.L.Daur Sr. Librarian
4. Smt. G.D.Chatterjee, Librarian.

• • • •

T. C.
T. C. Chatterjee
S. L. Daur

Palimstra

17

Research Designs & Standards Organisation
Manak Nagar, Lucknow.

No. RII/SS/PR/O(Lib)

Dated: 11.4.1986

MEMORANDUM

Sub: SELECTION FOR THE POST OF ASSTT.
DOCUMENTATION OFFICER IN R.D.S.O.

With reference to his application dated _____
Shri P.K. Misra offg. ADO (Lib) is informed that as per
R&P rules, he is not eligible for consideration for the
post of Asstt. Documentation Officer/Pub-Library as the
possessing of at least Bachelor's degree and Degree or
equivalent diploma in Library Science of a recognised
university or equivalent is a must in the case of promoted.
Therefore his name has not been included in the list of
eligible candidates circulated under Staff Notice No. RII/
SS/PR/O(Lib) dated 9.4.1986 (Copy enclosed).

DA/ As above

Sd/-

Basant Kumar
for Director General

Shri P.K. Misra
Offg. Asstt. Doc. Officer (Lib)
RDSO/Lucknow.

Basant Kumar
for Director General

T.C.
T.M. Gaitonde

Government of India
 Ministry of Railways
 Research Designs and Standards Organisation

STAFF NOTICE

Sub: Departmental selection for cl.II (Group 'B')
 posts of Asstt. Documentation Officer in
 Research Designs and Standards Organisation,
 Lucknow.

In continuation to the Staff Notice of even number dated 10.9.86 under which the above selection scheduled to be held on 10th and 11th September, 87 was postponed till further advice, it has been decided to hold the Departmental selection for cl.II (Group 'B') posts of Asstt. Documentation Officer in Gr. Rs. 2000-3500 (RSRF) in RDSO, Lucknow on 29th and 30th June '87 as per programme given below from amongst the eligible Cl. III staff of the Documentation and Library sections. The number of existing vacancies for which the panel is to be formed is 2 (two), out of which one vacancy is reserved for Scheduled caste candidate.

Programme of written test

<u>Date</u>	<u>Paper No.</u>	<u>Time</u>	<u>Duration of paper</u>
29.6.87	I (Establishment and General Admn)	10.00 hrs	Two hours
30.6.87	II (Library Science and Publication)	10.00 hrs	Three hours

2. Conditions of eligibility

Staff holding the posts in the grade the minimum of which is Rs. 425/- in the Revised scale on a regular basis, provided they have rendered a minimum of three years' non- fortuitous service and have reached the stage of Rs. 560/-.

For departmental promotees, possession of atleast Bachelor's Degree and Degree or equivalent diploma in Library Science of a recognised University or equivalent is a must.

Sh. Amrit Lal, LO(R)/RITES who does not possess a degree or equivalent diploma in Library Science as prescribed in the R&P Rules is, however, permitted to appear in the above selection in pursuance to the directions of the Hon'ble Central Administrative Tribunal, Allahabad vide their order dt. 9.9.86 in case registered under No. 472 of 1986.

Note In case a junior employee is considered for selection by virtue of his satisfying the relevant minimum service conditions, all his seniors shall also be held to be eligible notwithstanding that they may not satisfy the requisite minimum service conditions.

J.C. [Signature]

D. [Signature]

3. The eligible candidates to be considered for selection to the above posts who fall within the prescribed field of consideration are required to appear in the written test and only those who qualify in the written test will be called for interview by the Selection Board.

4. There will be two question papers as indicated in para 1 above, the syllabus for which is as indicated in Annexure-I to this Staff Notice.

5. To qualify for being called for Viva-voce, candidates must obtain a minimum of 60% marks in each paper and also in aggregate.

6. List of staff in order of their seniority who are eligible to appear in the above selection is at Annexure-II to this notice. The candidates should report to EII section for written test at 9.00 hrs on the dates indicated in the programme.

7. The result of this selection will be subject to the final decision of the Hon'ble Central Administrative Tribunal Allahabad in case registered under No. 472 of 1986- Shri Amrit Lal versus Union of India.

Encl: Annexures I&II

File No. EII/ES/PR/0 (Lib)

Lucknow-226011

Dated 18-5-87

B.Kumar (Basant Kumar) *18.5.87*
for Director General

Distribution

Registered AD

1. The Managing Director, RITES, New Delhi House, 27, Barakhamba Road, New Delhi (in dup) It is requested that Sh. Amrit Lal, LO(R)/RITES may please be advised of the above selection and spared in time to attend the same.
2. Sh. Amrit Lal, LO(R)/RITES, Manak Nagar, Lucknow.
3. The Jt. Director/Adm-I, RDSO/Lucknow with 4 spares
4. Dy. Dir/Doc, RDSO/Lucknow with 6 spares.

They are requested to please hand over one copy of the Staff Notice to the staff working under them as per Annexure-II and obtain their signatures in acknowledgement.

5. Notice Boards (Admn, Annexure I & II Buildings)

6. Hon. General Secy, RDSO Cl. III Staff Association, RDSO/Lko
7. Members of the Selection Board, 8. SO/Conf, SO/E-W, DDE-II

Annexure-II

List of eligible candidates in order of seniority

1. Sh. Amrit Lal, LO/RITES
2. Sh. Suresh Prakash, ADO(P) adhoc
3. Sh. VSL Srivastava, CDA/Doc
4. Smt. SL Daur, Sr. Librarian
5. Smt. GD Chatterjee, Librarian
6. Smt. Manju Malhotra, Sr. Doc. Asstt
7. Sh. S. K. Duraj, Sr. Doc. Asstt.

T.C. T. T. Gopal

D. S. Mehta

ANNEXURE - I

Syllabus for the Selection of ADO(Library) and ADO(Publication)

Establishment & General Administration 100 Marks

Paper I ESTABLISHMENT

Discipline and Appeal Rules, Railway Service Conduct Rules, Employment of Casual Labour, Pass and PTOS, TA Rules & Medical Rules, Pension Rules, Leave Rules, Hours of Employment Regulations and Loans & Advances.

GENERAL

Delegation of powers in RDSO in Establishment and non-Establishment matters, Budget Estimates, procurement and accountal of equipment, Stores and Stationary, Chapter I, II and X of the Manual of Office Procedure, Official Language Policy and Official language Rules.

PAPER II LIBRARY SCIENCE & PUBLICATION 200 Marks

Topic I: Library Organisation

Library in Society, its aims and functions the kinds of libraries and the services appropriate to each one of them, Library legislation, comparative with special emphasis on Indian Library Laws; Library finance; control and management. Principles of Library, Planning and architecture, Library equipment; Library personnel; Library cooperation. Book collections and their features.

Topic II: Library Management:

Library committees, Trustees, Boards; Library Administration; Finances; Sources of Income & control of expenditure; Accessioning, open access system; charging & discharging system; stock verification; Book stock selection & its maintenance; departmental libraries.

Topic III:Classification & cataloguing:

Basic principles of classification; Structure of classification, main features of Decimal and Universal Decimal classification schemes; theory & history of cataloguing, catalogue codes, descriptive cataloguing, Physical forms of catalogues, filling and display of catalogues, arrangement of entries.

Topic IV: Bibliography & Book selection

Aims & purpose of bibliography, current state of bibliographical enterprises (national & inter-national), reprography, copyright principles in selection of library materials.

...2

1-1
T. K. Gafford
T. K. Gafford

Barishka

Topic V: Reference and information storage, retrieval and service.

Reference; service, Enquiry techniques, assessment of enquiries, literature surveys and searches, preparation of bibliographies, bulletings, abstracts and indexes, Types of reference materials, Information location, storage, retrieval methods and techniques and services, Indexing, abstracting and documentation, selective dissemination of Information, various types of equipment for handling information and providing services, patents as source of information, Planning of documentations and information centres, Introductory knowledge of systems planning to automatics concepts and to computer use.

Topic VI: Editing and Printing

Editing and processing of manuscript, printing processes, printing machinery, printing type-faces, printing paper, Block making, Proof reading, Binding, knowledge of various kinds of publications and their importance, Precis making.

T.C. Gourka
T.N. Gourka

D. Srinivasan

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALIJBABAD

(Registration No.533 of 1987)

A.8

P.K.Misra Vs Union of India & ors.

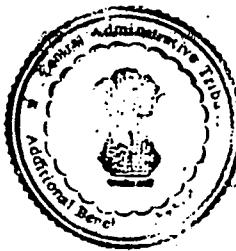
25.6.87
Hon'ble D.S.Misra - A.M.
Hon'ble G.S.Sharma - J.M.

XG

Heard Shri V.B.Upadhyay, learned counsel for the applicant, He has filed copy of an order passed by this Bench in O.A.No.472 of 1986 in which an interim stay order in a similar case was passed by us.

Admit.

Issue notice to the opp. parties to file reply within a month. // There is also a prayer for interim relief. I issue notice to the respondents to show cause by 10-7-87. Meanwhile, the applicant shall not be reverted and the he wil l be permitted to appear in the selection, which is going to be held for the post of Asstt. Documentation Officer and the result of the same shall be subject to the orders passed in this case.

sd/-
Member (A)sd/-
Member (J)

Dt./- 25-6-87

2. Hon'ble D.S.Misra - A.M.
Hon'ble G.S.Sharma - J.M.

A.9

A reply to the show-cause notice has been filed by the respondents in which it is stated that inspite of the opportunity being given the applicant did not appear in the selection held on 29th and 30th June, 1987. He also gives an assurance that the applicant will not be reverted to his substantive post till 3-8-87.

We have heard the learned counsel for the applicant we feel that in the circumstances there is no need for continuing the stay order. It is accordingly vacated. The respondents may file reply, Rejoinder affidavit, if any, may be filed within a week thereafter.

List this case on 3-8-87 for final hearing
alongwith OA No.472 of 1986, Amrit Lal Vs Union
Contd..2/-

B. B. B.

K. C. G. J. M.
T. A. D. C.

To

ANNEXURE A-10

The Director General,
R.D.S.O.,
Lucknow - 226011

(THROUGH PROPER CHANNEL)

Sir,

Sub: Continuation(Supplementary) selection for the post of Asstt. Documentation Officer(ADO) in RDSO — deletion of the name of Shri P.K. Misra, ADO(adhoc) from the list of eligible candidates.

....

Vide Staff Notice No.EII/SS/PR/0(Lib) dated 10.8.87, a continuation(supplementary) selection for the post of Asstt. Doc. Officer(ADO) is going to be held on 24th and 25th August 1987 and following candidates have been made eligible to appear in the selection:

1. Shri Amrit Lal, LO(R)/RITES
2. " P.K. Misra, ADO (Adhoc)
3. Smt. G.D. Chatterjee, Librarian

Candidates at S.No.1 and 2 above sarvashri Amrit Lal and P.K. Misra do not posses Degree or equivalent Diploma in Library Science as prescribed in the Recruitment Rules 1984 and hence are not eligible to appear in the said selection. However, they were allowed to appear in the selection held on 29th and 30th June 1987 in pursuance of the directives of Hon'ble Central Administrative Tribunal/Allahabad issued vide their orders dated 9.9.88 and 25.6.87 in cases registered under No.472 of 1988 and 533 of 1987 respectively. Both of them did not appear in this selection.

It is pointed out here that, in case of Shri P.K. Misra, ADO (adhoc) (case No.533 of 1987) Hon'ble Tribunal vacated their stay order of dated 25.6.87 under which Shri P.K. Misra was called in the selection for the post of Asstt. Doc. Officer held on 29th and 30th June 1987. The copies of the orders of Hon'ble Tribunal dated 25.6.87 and 10.7.87 are enclosed as Annexure I and II for your ready reference.

Thus making eligible Shri P.K. Misra, ADO(Adhoc) in the continuation(supplementary) selection for the post of ADO is totally illegal, unjustified and against the provision of the R&P rules and this may create more administrative and legal complications.

Contd.....2

T.C.
T.M.Gill
T.M.C.

D.S.M.T.C.

It is, therefore, requested that immediate action may be taken for deletion of the name of Shri P.K.Misra, ADO(Adhoc) from the list of eligible candidates for the continuation selection for the post of ADO fixed on 24th and 25th August 1987.

Thanking you in anticipation,

Yours faithfully

N.B. Mishra

13/8/87

DA; Two Annexures I & II

je (V.S.L.Srivastava)
CDA/Doc.

Copy in advance for immediate action to:

1. Shri V.C.V.Chenulu, Director General/RDSO/LKO

je 2. Shri A.P.Agarwala, Sr.Dy.Director General/RDSO/LKO

DD(Doc)

80/E/II

13/8/87

T.C
T.H.Gopal
13/8/87

N.B. Mishra

GOVERNMENT OF INDIA
 MINISTRY OF RAILWAYS
 RESEARCH DESIGNS & STANDARDS ORGANISATION

STAFF NOTICE

Sub : Departmental selection for Cl. II (Group 'B')
 post of Asstt. Documentation Officer in RDSO.

Ref : This office staff notice No. EIL/ES/PR/0(Lib)
 dated 10.8.87.

The supplementary selection which was scheduled to be
 held on 24.8.87 and 25.8.87 is postponed till further advice.

B.Kumar
 21.8.87

(Basant Kumar)
 for Director General.

File No. EIL/ES/PR/0(Lib)
 Lucknow - 226011
 Dated : 21-8-87.

DISTRIBUTION

1. The Managing Director/RITES, 29, Barakhamba Road, New Delhi.
 It is requested that Sh. Amrit Lal, LO(R)/RITES may please be advised suitably.
2. Shri Amrit Lal, LO(R)/RITES, A-122, Rajajipuram, Lucknow.
3. Shri P.K. Misra, ADO/P, RDSO/Lucknow.
4. Jt. Director/Pub., RDSO/Lucknow.
5. DD/Dec, RDSO/Lucknow. He is requested to advise Smt. Gauri Chatterji, Librarian suitably.
6. Members of the Selection Board.
7. SO/Conf., SO/E-IV, DDE-I and DDE-II.

T. C. Gauri
11/8/87

B. S. Misra

Government of India
 Ministry of Railways
 Research Designs & Standards Organisation

Manak Nagar,
 Lucknow-226011.

STAFF NOTICE

As a result of written examination and interview held on 29th, 30th June, 87 and 28th Aug., 87 respectively for the post of Asstt. Documentation Officer and on the recommendations of the Departmental Promotion Committee and also in compliance with the interim order dated 11.1.89 passed by the Hon'ble Central Administrative Tribunal, Allahabad, Director General/RDSO has approved the empanelment of Shri Suresh Prakash, RDA/Doc. (at present working as Asstt. Documentation Officer/ Library on adhoc basis) for promotion to Group 'B' (Class-II) post of Asstt. Documentation Officer in Grade Rs. 2000-3500 (RSP).

2. The above empanelment is provisional and is subject to amendment/revision in toto as a result of :-

- 1) final decision or any other orders passed by the Hon'ble Central Administrative Tribunal Allahabad in case Regn. No. 533 of 1987 - Shri PK Mishra vs Union of India; and
- ii) Supplementary continuation selection for the post of Asstt. Documentation Officer to be conducted by RDSO at a future date for the eligible absentee candidates.

B. Kumar (B. Kumar)
 for Director General.

Encl: Nil.

No. E-II/ES/PR/O/Lib(Pt).

Dated 9.2.1989.

Distribution

- 1). Addl. DG, JDA-I, II, III, JD(Spl) & Secy. to DG, DDE-I, II and DD/Admn.
- 2). SO/E-I, II, III, IV, SO/A-I, II, SO(conf) & SO/Legal (with 3 spare copies).
- 3). Shri Suresh Prakash, ADD(Library)(adhoc).
- 4). Notice board.

T. C. T. G. S. M.

D. S. S. S.

URGENT

Class-II Selection

Government of India
 Ministry of Railways
 Research Designs & Standards Organisation

AB

STAFF NOTICE

Sub: Departmental selection for Class-II (Group 'E') post
 of Asstt. Documentation Officer in RDSO.

Ref: This office Staff Notice of even number dt. 21.8.87.
 ...

21/8/87

It has been decided to hold the continuation supplementary written examination for the absentee candidates for selection for the post of Asstt. Documentation, which was postponed under Staff Notice dated 21.8.87 referred to above, as per following programme:-

Date	Paper No.	Time	Duration
24.8.89	I (Estd. & General Administration)	10.00 hrs.	Two hrs.
"	II (Literary Science & Publication)	14.00 hrs.	Three hrs.

on any account

2. With the permanent absorption of Shri Amrit Lal in RITES, only two candidates viz; (1) Shri P.K. Misra, CDA/Doc, now working as JO on adhoc basis and (2) Smt. G.D. Chatterjee, Librarian, are eligible to appear in the supplementary selection.

3. The candidature of Shri P.K. Misra is on the same conditions as specified in the Staff Notice of even number dated 10.8.87.

4. The candidates are requested to note that as per instructions on the subject, there is no provision for holding second supplementary examination for any selection and therefore the result of this selection will be finalised after this supplementary selection.

5. The candidates are requested to report to E-II Section at 09.00 hrs. on 24.8.89 for further information regarding venue etc.

Encl:Nil.

No. E-II/ES/PR/O(Lib)
 Lucknow: Dt. 12.7.1989

(BASANT KUMAR)
 for Director General

DISTRIBUTION

JE/Asst with 3 spare copies. One copy each may please be served on the candidates and acknowledgement received.

DDM-I (2 copies), DDM-II, CO/Conf., CO/E-IV
 Members of the Selection Board
 Notice Period.

T. C. THOMAS
 10/8/89

B. Basanta
 10/8/89

To,

The Director General,
R.D.S.O./Lucknow.

"Through Proper Channel"

Sir,

Sub: Continuation (Supplementary) Selection
for the post of Asstt. Documentation
Officer(ADO) in RDSO- Deletion of the
name of ineligible candidates.

It is understood that a Supplementary Selection for the post of Asstt. Documentation Officer(ADO) is going to be held shortly and the following candidates have been made eligible to appear in the selection -

1. Shri P.K. Misra, ADO (Adhoc)
2. Smt. G.D. Chatterjee, Librarian

The candidate at S.No. 1 above Sri P.K. Misra, ADO (Adhoc) does not possess the minimum qualification to become eligible to appear in the selection of ADO and hence had been declared ineligible candidate by the RDSO Administration.

2. He was permitted to appear in the main selection held on 29th & 30th June 1987 in pursuance of the directive of the Hon'ble Central Administrative Tribunal (CAT)/Allahabad vide their orders dated 25.6.87 in case registered under No. 533 of 1987 filed by him. But Sri P.K. Misra did not appear in the selection.

3. Since Sri P.K. Misra did not avail the opportunity the Hon'ble CAT/Allahabad vacated their above stay order under which Sri Misra was allowed to appear in the main selection vide their order dt. 10.7.87.

4. Thus making Sri P.K. Misra, ADO(adhoc) eligible in the Supplementary selection is totally illegal, unjustified and against the order of the Hon'ble CAT/Allahabad which may cause "Contempt of Court".

5. It is pointed out that Sri Misra was made eligible in the Supplementary selection which was to be held on 24th & 25th August 1987 but this supplementary examination was postponed on my similar representation dt. 13.8.87 (copy enclosed for ready reference).

It is, therefore, requested that immediate action may be taken for the deletion of the name of Sri P.K. Misra, ADO(adhoc) from the list of eligible candidates for the Continuation(Supplementary) selection for the post of ADO to be held shortly.

Thanking you,

DA: One copy of the application
dt. 13.8.87.

copy in advance for immediate action (V.S.D. ~~DA/DOE~~)
1) Addl. DG, RDSO, Lucknow. *Parmanand* CDA/DOE: 27/3/89

SO(E II) *Parmanand*

Precincts Central Administra~~tion~~ for
 व अदालत अधीनात्
 | वादी | विवादात्
 | प्रतिवादी | विवादात् | विवादात् | विवादात् | विवादात् | विवादात् |
Tribunal SITTING at ~~Healden~~ महोदय
Filing of Suit वकालतनामा

Vishwanath
VS



(धर्मात्)

Union of India & Others

प्रतिवादी (रेप्रेन्टेट)

न० मुकद्दमा

सन्

देशी की हा.

१९ ६०

इसर लिखे मुकद्दमा में धर्मी और से धो

— T.N. Gupte, Ajai Kher
— १९५४ मिस्र १२ ज्ये. —

महोदय

एडवोकेट

प्रतिवादी	मुकद्दमा
न०	क्रमांक

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देहो व प्रश्नोंतर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया बसूल करें या सुलहनामा व इकबाल दावा तथा अधील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावे या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने वा हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या यंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पैशी पर स्वयं या किसी अपमे पेरोकार को मेजता रहूंगा। अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे लिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया। प्रभाग रहे और समय पर काम आजे।

हस्ताक्षर

1954 मिस्र

साक्षी (प्रवाह)

साक्षी (प्रवाह)

विनाय

महीना

मा १९५० १०

~~Accepted
T.N. Gupte
(A.K.)~~

the claim petition need no further comments.

3. That in regards to the contents of paras IV and V of the claim petition it is stated that no cause of action has accrued to the applicant. In the circumstances the claim petition is misconceived.

4. That the contents of para VI.1 of the claim petition need no comments.

5. That the contents of para VI.2 and VI.3 need no further comments.

6. That the contents of para VI.4 of the claim petition are denied. It is stated that there are two posts of Assistant Documentation Officer, namely Asstt. Documentation Officer (Library) and the other one Asstt. Documentation Officer (Publication). It is stated that the answering opposite party no. 3 is working on adhoc basis on the post of Asstt. Documentation Officer (Publication). It is further stated that the nature of duties of the Asstt. Documentation Officer (Library) and Asstt. Documentation Officer (Publication) are quite different and thus the differentiation in the 2 posts is not only as a matter of administrative convenience; rather there is substantial difference in the nature of duties to be performed by the incumbents of the 2 posts.

7. That in regards to the contents of para VI.5 of the claim petition it is stated that the Recruitment Rules, 1984 have no superseding effect nor the same has any retrospectivity in its operation as is evident from Annexure- 1 to the claim petition. It is further stated that the construction of Clauses 5 and 6 will itself indicate that there is sufficient guidelines for relaxing the qualifications as prescribed in the Recruitment Rules, 1984. It is stated that there is no clause repealing all the existing orders and instructions, notwithstanding ~~anything~~ the coming into force of the Recruitment Rules, 1984, will survive provided they are not inconsistent with the Recruitment Rules, 1984.

8. That the contents of para VI.6 and 7 of the claim petition are denied as stated. It is stated that the said Recruitment Rules of 1984 have not considered the fact that in case of Assistant Documentation Officer (Publication), the qualification of Bachelor's degree in Library Science bears no reasonable nexus ^{with} ~~when~~ the duties and responsibilities to be discharged by the incumbents of the posts. It is further stated that the said Recruitment Rules, 1984, vide its Schedule, has not ~~in~~ classified the qualification for the post of Asstt. Documentation Officer (Publication).

It is further pertinent to mention here that the said Recruitment Rules of 1984 under clause 5, have empowered the Central Government, if it feels necessary or expedient to do so, it may, for reasons to be recorded in writing and in consultation with the Union Public Service Commission, relax any of the provisions of these rules with respect to any class or category of persons. Thus under clause 5 of the aforesaid Recruitment Rules, 1984, the ~~the~~ Central Government is also empowered to relax any of the qualifications as prescribed in Schedule to these Recruitment Rules, 1984.

9. That the contents of para VI.8 of the claim petition are denied. It is stated that the Opposite Party No. 3 was recruited as Junior Research Assistant (Documentation) in April 1965 as per Recruitment and Promotion Rules of Class III Technical Staff of the Research Directorate in the R.D.S.O., Department of Railways. It is stated that the Opposite Party No. 3 was promoted as Senior Research Assistant (Documentation) in 1966 through Departmental Selection Committee in accordance with the Rules, a photocopy of which is being annexed herewith as Annexure- 1 to this reply.

It is stated that the Rules for Recruitment and channel of promotion of Class III (Tech.) Staff

R.W.

working in the Documentation Section of R.D.S.O. Ministry of Railways were issued vide corrigendum slip no. 5 to Order of 1961. A copy of the said Rules along with the Channel of Promotion is being annexed herewith as Annexure- 2 to this reply. A perusal of the Channel of Promotion would show that the Chief Research Assistant (Documentation) Officer was eligible for promotion to the post of Asstt. Director (Publication) and this post subsequently came to be known as Sectional Officer (Publication). It is stated that one Sri H.N. Srivastava, presently Deputy Director, Documentation was promoted to Class II post under these rules referred to above through the Departmental Selection and was posted as Sectional Officer (Publication). It is stated that the designation of the post of Sectional Officer was changed thereafter to Assistant Documentation Officer vide Office Order No. 5 of 1970 issued by the Opposite Party No. 2. A photocopy of the said Office Order No. 5 is being filed herewith as Annexure- 3 to this reply.

It is stated that in the year 1970, the notification was issued to the effect that class II posts of the Sectional Officer (Publication) were to be filled up by drawing Class-II incumbents from other Directorates, i.e., Civil, Mechanical, Signal and Tele-communication and Instrumentation Architecture and Electrical. A photocopy of the

extract of the Notification dated 19-2-1970 is being annexed herewith as Annexure- 4 to this reply. It is stated that consequent to the said Notification issued by the Railway Board, the Opposite Party No. 3 represented to the Director General, Research, Designs & Standards Organisation, Lucknow, against the Notification and in response to the said representation of the Respondent No.3 the Respondent no. 3 vide Office Memo. dated 25-4-1970 was informed that the question of avenue of promotion to Class-II posts from Class-III staff working in Publication, Documentation and Library Section, is under consideration. A copy of the said Memorandum dated 25-4-1970 is being annexed herewith as Annexure- 5 to this reply.

It is stated that before the issue of the Office Order No. 6 of 1972, the Publication, Documentation, Library and Public Relations departments were being looked after by the Asstt. Documentation Officer and he was responsible in his turn to the Deputy Director (Publication). It is stated that after coming into force the Office Order No. 6 of 1973 and consequent to the posting of Sri S.K. Manglik as Dy. Director Documentation, the Centralised Documentation wing commenced functioning under his charge with effect from 12-2-76. It is stated that Sri Manglik became incharge of the activities mentioned vide Office Order, i.e. Library,

(iii) Preparing ~~rig~~ write-ups for R.D.S.O. in journals, newspapers, A.I.R. and other technical journals.

(iv) All other functions being now undertaken by the Dy. Director (P) excluding those mentioned in para 1 above, the charge of which has now been passed on to the Dy. Director (Documentation)."

It is stated that in July 1973, the answering opposite party no. 3 learned the reply given by to Sri Amrit Lal, Chief Documentation Assistant by the Opposite Party No. 2, that the Railway Board has been requested to agree to the post of Assistant Documentation Officer in Class-II being filled up by selection on the basis of his priority from amongst the eligible and suitable departmental class-III candidates in the category of documentation ~~and~~ Assistant and Translation (other than Ministerial) working in the Documentation Wing of the R.D.S.O. A true copy of the said letter is being filed as Annexure- 7 to this reply.

It is further stated that the Respondent no.3 was promoted as Chief Research Assistant (Documentation) in the year 1978 through Departmental Selection Committee on the basis of written test and viva voce.

A true copy of the syllabus of the departmental test which the Respondent No. 3 undertook for being promoted to the post of Chief Documentation Assistant,

earlier known as Chief Research Assistant (Documentation) is being filed herewith as Annexure- 8 to this reply. A perusal of the same will reveal that the candidate is required to possess the knowledge of the Library working and other matters only. It is stated that nothing sort of like the Degree in Bachelor of Library Science was ever required for promotion on the post of Chief Documentation Assistant. It is stated that subsequent thereto the Opposite Party No. 3 was promoted ^{adhoc} ~~on~~ ~~that~~ basis as Assistant Documentation Officer (Library) on 23-10-1984 vide officers' posting order no. 73 of 1984 till further orders. A copy of the same is being filed herewith as Annexure- 9 to this reply.

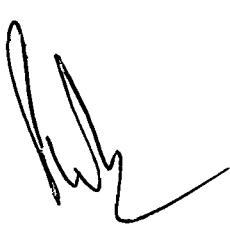
It is denied that the applicant is the senior-most qualified departmental candidate as per Recruitment Rules, 1984. It is stated that the Respondent No. 3 was promoted on adhoc basis as Assistant Documentation Officer with effect from 23-10-1984 and further he was appointed in the substantive rank of Junior Research Assistant in April 1965 and thus in all respects the Opposite Party No. 3 is much senior to the applicant.

10. That the contents of para VI.9 of the claim petition are denied. It is stated that the Respondent No. 3 is well qualified for promotion ~~on~~ ~~the~~ ~~same~~

on the post of Assistant Documentation Officer as the qualification prescribed under the Recruitment Rules, 1984 cannot act retrospectively, and upset the vested rights of the Opposite Party No.3 for promotion under the existing rules. It is absolutely incorrect to say that the answering Opposite Party No. 3 is not having the requisite qualifications for the post. It is stated that the degree or equivalent diploma in Library Science is not a mandatory qualification, particularly for the respondent no. 3 in view of the fact that the respondent no. 3 was eligible for promotion on the basis of existing qualifications and particularly in view of the fact that the Recruitment Rules, 1984 have no retrospectivity in their operation. It is stated that the applicant is not the seniormost qualified candidate and it is the respondent no. 3 who is the seniormost qualified candidate and has been rightly promoted on the post of Assistant Documentation Officer (Publication).

11. That the contents of para VI.10 of the claim petition ~~are~~ need no further comments.

12. That the contents of para VI.11 of the claim petition are denied. It is stated that there is no illegality in the promotion of the respondent no. 3 and the Respondent no. 3 has



been promoted in accordance with the rules and the relevant instructions.

13. That ~~inxregaxdixa~~ the contents of paras 12 and 13 of the claim petition need no further comments as the same are related to the inter-departmental communication which may be properly replied by the R.D.S.O. administration.

14. That the contents of para 14 of the claim petition need no further comments.

15. That the contents of para 15 of the claim petition need no further comments.

..... page 12



16. That with respect to the contents of para 16 of the claim petition it is stated that the name of answering respondent was rightly indicated in the eligibility list for selection.

17. That with respect to the contents of para 17 of the claim petition it is stated that to the best knowledge of the answering opposite party no. 3, the applicant was never interviewed by any Selection Committee as has been alleged in the para under reply.

18. That the contents of para 18 of the claim petition are denied. It is stated that the allegations in para under reply are mischievous. It is stated that the matter of selection was delayed for the reason that the other candidates including the respondent no. 3 failed to appear in the selection, held on 29/30 June 1987 due to medical advice. It is in these circumstances the selection could not be completed. However, it is stated that the supplementary selection has already been completed and the matter is pending consideration of the Railway Board for approval of the selections made by the Selection Committee. In the circumstances it is totally incorrect to say that the Director-General, R.D.S.O. has deliberately avoided to ^{the} hold selection ; rather the same clearly indicates the ulterior motive to malign the administration

without any reasonable cause.

19. That the contents of paras 19 and 20 of the claim petition are the matter of record hence no comments are required.

20. That in regard to the contents of para 21 of the claim petition it is stated that when all the efforts of the answering respondent failed to be considered for promotion at administrative level there was no alternative left with the answering opposite party except to approach this Hon'ble Tribunal. It is in these circumstances that the answering respondent no. 3 was constrained to file a claim petition before this Hon'ble Tribunal which is pending as Claim Petition No. 533 of 1987 P.K. Misra v. Union of India and others pending at Allahabad. It is stated that the applicant has also been impleaded in the said claim petition and his defence will be heard at the time of hearing of the said claim petition. It is stated that in order to harrass the Respondent no. 3, the applicant has filed the present claim petition here at Lucknow, knowing fully well that the claim petition on the same issue is pending consideration before this Hon'ble Tribunal at Allahabad. It is stated that it would have been appropriate for the applicant to have filed the petition at Allahabad for expeditious disposal



of the matter as the same may have been connected and heard together instead of now the present petition being transferred to Allahabad for hearing along with the said connected petition already pending consideration of this Hon'ble Tribunal at Allahabad.

21. That the contents of para 22 of the claim petition are denied. It is stated that the applicant has no business to look into the satisfaction of the administrative authority for granting the medical exemption and it is stated that it is the sole discretion of the administration to consider any medical certificate as appropriate for grant of exemption.

22. That the contents of para 23 of the claim petition are denied. It is stated that the Hon'ble Tribunal has not vacated the interim order as is evident from the language of the order itself. It is stated that on the undertaking of the railway administration that the respondent no. 3 will not be reverted that this Hon'ble Tribunal was pleased not to further extend the interim order. Thus it cannot be said that the interim order has been vacated rather on ~~it~~ the undertaking it was not felt necessary to pass/continue the interim order any further.

8/11

23. That the contents of para 24 of the claim petition are the matter of record, hence no further comments are required.

24. That the contents of para 25 of the claim petition need no further comments.

25. That the contents of para 26 of the claim petition are denied. It is stated that the representation of the applicant is totally misconceived. It is stated that the respondent no. 3 is well qualified person for selection on the post of Assitt. Documentation Officer (Publication) and as such the respondent no. 3 has already passed the written examination and appeared in the interview the result of which has not yet been declared as the matter is pending consideration for approval before the Railway Board.

26. That the contents of paras 27 and 28 of the claim petition need no further comments as the same is a matter of record.

27. That with respect to the contents of para 29 of the claim petition it is stated that the final result of the selection has not been declared for the reason that the same is under consideration of the Railway Board.

PKW

28. ~~That~~^{to} the contents of para 30 of the claim petition it is stated that the representation of the applicant is misconceived.

29. That in regard to the contents of para 31 ~~if~~ of the claim petition it is stated that there is no substantial ground for fear of the applicant that the respondent, namely Railway Administration will make all out efforts to select the answering respondent. It is stated that the selection has been fair and any allegation without any basis clearly indicates the ulterior motive of the applicant to malign the railway administration. It is further pertinent to mention here that the answering respondent has already passed three selections, in the same subject and it will not be strange if the respondent no. 3 is declared successful in the present selection also. It is stated that if the applicant is afraid of his incompetency he should not make such allegations in respect of the high officials of the Railway administration.

30. That the contents of para 32 of the claim petition are denied. It is stated that there is no valid ground for reversion of the opposite party no. 3 and the opposite party no. 3 is being rightly continued on the said post.

R/W

31. That the contents of para 33 of the claim petition are denied. It is stated that there is no illegality in appointing the opposite party no. 3 on the post of Asstt. Documentation Officer (Publication) when he is ~~the~~ senior to the applicant. Further there is no illegality in continuing the opposite party no. 3 on the said post and further it is competent for the Director General, R.D.S.O. to act in accordance with the rules and to protect the rights of the opposite party no. 3 and further that this Hon'ble Court itself has allowed the respondent no. 3 to appear in the selection before the selection board for regular promotion to the post of Assistant Documentation Officer (Publication).

VIII. That in regard to the contents of para VII of the claim petition it is stated that the applicant is not entitled for any relief as prayed and further that there is no good ground for entertaining the present application.

VIII. That in regard to the contents of para VIII of the claim petition it is stated that since the Opposite Party No. 3 is already continuing on the post for the last 7 years and he is also entitled for regularisation ~~but~~ on the post, apart from the regular selection, the balance of convenience is in favour of the Opposite Party No. 3 and it does not entitle the applicant for any interim relief.

IX, X, XI, XII. That the contents of paras IX, X, XI and XII of the claim petition need no further comments.

Additional Pleas.

(1) That it is stated that by virtue of the constant working and interaction with other allied sections and the length of service, the Respondent no. 3 has acquired adequate working required for shouldering higher responsibilities of Class-II post of Asstt. Documentation Officer (Publication). It is in these circumstances, the Director General, R.D.S.O. while recommending qualifications for the post of Asstt. Documentation Officer vide his letter dated 24-9-1983, has not incorporated any educational qualification or age limit for departmental candidates. As a matter of fact while drawing the said Recruitment Rules, 1984 the relevant material was not placed before the rule making authority and in absence whereof in column 8 of the Schedule annexed with the Recruitment Rules, educational qualifications of degree in Library Science or equivalent, has been prescribed.

(2) It is stated that the Respondent no. 3 has learnt that the draft R. & P. Rules sent by the Director-General, R.D.S.O., were not placed before

the rule-making authority in an arbitrary fashion has drawn the said rules ignoring the recommendations of the Director-General, R.D.S.O. It is stated that as per the R. & P. Rules for the Technical Directorate, a man recruited as Junior Research Assistant is eligible on the basis of length of ~~service~~ service with his seniority for appearing in the Selection Test for promotion to Class II posts without acquiring any additional qualifications while in service. It is grossly discriminatory that most of the Junior Documentation Assistants, Senior Documentation Assistants, Chief Documentation Assistants, recruited or promoted for Class-III Documentation Publication Staff are not eligible to appear in the selection test for promotion to Class-II solely for the reasons that specific educational qualifications have been prescribed in the Rules subsequently.

(3) That it is further pertinent to mention that the post of Asstt. Documentation Officer (Publication) is analogous to the post of Assistant Superintendent of Printing & Stationery on the Indian Railway and the said post of Assistant Superintendent of Printing and Stationery no educational qualification has been prescribed nor any age limit has been fixed for the departmental candidates for promotion to the



said post of Assistant Superintendent of Printing and Stationery has also been approved by the Union Public Service Commission. Thus it is evident that in the present case of Asstt. Documentation Officer (Publication) the qualification of Bachelor's degree in Library Science has no nexus with the nature of duties and work to be performed by the Opposite Party No. 3.

(4) That it is stated that a bare perusal of the Office Order No. 6 of 1973 will reveal that the duties of the Asstt. Documentation Officer (Publication) are general in nature and no specific knowledge of Library Science is at all required. It is stated that the duties of Asstt. Documentation Officer (Publication) are more akin to the maintaining public relations vis-a-vis R.D.S.O. and no specific library maintenance is required.

(5). That it is further stated that for the post of Assistant Documentation Officer (Publication) the qualification of Public Relation Diploma and the other activities are congenial for responsible discharge of duties to the ~~next~~ post rather than the degree in Library Science. It is in these circumstances the answering respondent has undergone training in the Indian Institute of Mass Communication New Delhi and the Railway Staff College, Badodra for public relations on the government expenses.

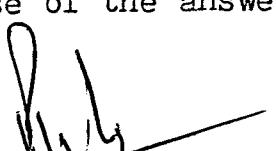
It is also relevant to mention that for maintaining the public relations the answering opposite party no. 3 ^{has} ~~is~~ also acquired proficiency in German language.

(6) That it is stated that against the arbitrary fixation of the qualifications in the Recruitment Rules, 1984 and further for considering the same to be relaxed in the case of the Respondent no. 3 for ~~not~~ causing undue hardship to him the respondent no. 3 has filed a detailed representation to the Union of India through the Secretary, Railway Board, Rail Bhawan, New Delhi, for invoking clause 5 of the said Recruitment Rules, 1984 for relaxing the said qualifications as mentioned in clause 8 of the Schedule annexed with the said Recruitment Rules 1984. A copy of the said representation is being annexed herewith as Annexure No. 10 to this affidavit. It is stated that till date the answering opposite party no. 3 has not received any communication and thus ~~although~~ the matter of selection for the post of Assistant Documentation Officer (Publication) is pending consideration with the Railway Board. Thus it is expedient that till the Opposite Party no. 1 communicates any decision on the representation of the Respondent No. 3, in regard to the relaxation of qualification under clause V of

P.W

the said Recruitment Rules, 1984, the present claim petition be kept pending and the Opposite Party No. 1 be directed to take expeditious decision in the matter so that the interest of the answering opposite parties be protected.

(7) That it is stated that the Recruitment Rules, 1984 have nowhere provided that the Rules are retrospective in their operation and all the existing instructions have been superseded in absence whereof the existing instructions and the vested rights accrued thereunder in favour of the Respondent No. 3 are still in existence and the Respondent No. 3 is entitled for being promoted on the post of Asstt. Documentation Officer (Publication) as the educational qualifications incorporated vide item no. 8 of the Schedule annexed with the Recruitment Rules, 1984 is not at all applicable in case of the answering respondent.


Deponent.
Respondent No. 3.

Verification



/..... page 23.

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- 23 -

Verification

I, the Respondent No. 3/Deponent above named do verify that the contents of paras 1, 2, 4 to 6, 8 to 11, 13 to 16, 18 to 20, 22 to 27, 29, 31, IX to XII, and (1) to (7) are true to my own knowledge and those of paras 3, 7, 12, 17, 21, 28, 30, VII and VIII of this affidavit are believed by me to be true.

No part of it is false and nothing material has been concealed, so help me God.

Dated Lucknow
July 13, 1991.
Anup

Respondent No. 3/Deponent.

Chhajal Patnaik
Advocate



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

Claim Petition O.A. No. 67/90(L)

V.S.L. Srivastava Applicant

Versus

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

Annexure- 1

(As per copy of the promotion of the
O.P.No. 3 as Sr. Research Assistant
(Documentation in 1966, annexed hereto)

..... contd.



No.

ALAMBAGH, LUCKNOW-5.
Dt:

Staff Posting order No. 293/1966.

On his having been empanelled for the post of Sr. Research Asstt. (DOC) notified vide staff Notice No. AYES/SRA(DOC) dt. 6.8.66 Sh. Pratap Kishore Misra, ty. Jrs. Research Asstt. (DOC), DOC & Pub. Sec., RDSO, Lucknow being the Senior most candidate on the Panel is promoted to officiate as Sr. Research Asstt. (DOC) on Rs. 325/-p.m. in the scale of ~~maxx~~ Rs. 325-15-475-FB-20-575(AS) under JD(M&C), RDSO, CRJ with effect from the date he actually assumes charge of the new post in RDSO, Chittaranjan. On his release from his present section, Sh. P.K. Misra is directed to report to JD(M&C), RDSO, CRJ for duty as SRA(DOC) after availing himself of joining time seven days (excluding intervening Sundays) from the date of his release.

2. Sh. P.K. Misra should note that he will be entitled to the officiating pay and allowances provided his continuous service in the officiating grade exceeds 21 days.

3. The dates on which Sh. P.K. Misra is relieved of his present duties in RDSO/CRJ may please be advised to Estt. II, section.

DA: Nil. *U.S.D.* *1/8/66*

1/8/66
(R.P. Jetley)
for Joint Director, (M&C)

File E/AP/DOC(Cl. III)/66
dt. 1 August, '66.

Distribution:

1. JD(M&C), RDSO CRJ (with one spare copy)
2. DDP, RDSO, Lucknow.
3. SO(A), RDSO, Lucknow.
4. SO(E-III), RDSO, Lucknow.
5. SO(Rectt.), RDSO, Lucknow, (1 spare copy for Pass Sec.)
6. RDSO Accounts, Lucknow.
7. PA to Dy. D.G.
8. C.A.
9. Receptionist
10. Staff Notice.

GUPTA
24.8.66

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

Claim Petition O.A. No. 67/90(L)

V.S.L. Srivastava Applicant.

Versus

Union of India and others Opp. Parties.

Annexure - 2

(As per photocopy of the Rules of Recruitment and Channel of promotion of Class III (Tech.) Staff working in Documentation Section, annexed hereto)

..... Contd.



2

// MEMORANDUM //

Government of India, Ministry of Railways,
Research Division & Scientific Cooperation

Letter for recruitment and promotion
of promotion of class "II" staff (Tech.)
in RDC, Ministry of Railways, issued
with office order 1145 of 1961

Copy enclosed: 1. 5.

(P)

(2)

In the recruitment and promotion rules
formulated for class "II" technical staff of the Research
Directorate of RDC and issued under office order no.
47 of 1961, a provision was made regarding the filling
up of the posts of documentation section either
by promotion or by direct recruitment. The recruitment
and promotion rules for documentation section have now
been framed and approved by the Railway Board and
are circulated for the information and guidance
of staff concerned.

Yours faithfully
for Director General

DR. R. N. DUBE

Dated 7.7.1964.

File ATT/ML/TS.

THE END



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

Claim Petition O.A. No. 67/90(L)

V.S.L. Srivastava Applicant.

Versus

Union of India and others Opp. Parties.

Annexure - 3

(As per Photocopy of the Officer Order
No. 5 changing the designation of
Sectional Officer to Asstt. Documentation
Officer, annexed hereto)

..... contd.



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BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD, CIRCUIT BENCH, LUCKNOW.

Claim Petition O.A. No. 67/90(L)

V.S.L. Srivastava Applicant.

Versus

Union of India and others Opp. Parties.

Annexure - 4

(As per photocopy of the extract of notification
issued to the effect that class II posts of
Sectional Officer were to be filled up by
drawing Class-II incumbents from other
Directorates - annexed hereto)

..... contd.



44/1
// MEMORANDUM //

Extract from Notification No. 105712/61/RM/1 of
19.2.70 issued by the Railway Board.

(2) After note 1, the following shall be
intercal, namely :--

The post of sectional officer in the
Publication and documentation section shall be filled
by appointment of suitable and eligible class III
staff empenned for promotion to class II posts
in any of the above branch, viz., Civil, mechanical,
Signal and telecommunication, Instrumentation,
radiotelegraphic and electrical. The sectional
officer so appointed in the publication and
documentation section shall be eligible for
promotion to the posts of assistant director in
his own parent department.

Enclosed



✓✓✓

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

Claim Petition O.A. No. 67/90(L)

V.S.L. Srivastava Applicant.

Versus

Union of India and others Opp. Parties.

Annexure - No. 5

(As per photocopy of the Memorandum dated
25-4-1970 informing the answering Opp. Party
that avenue of promotion to Class II posts
from Class-III staff is under consideration -
annexed hereto)

..... Contd.



S

11 SEPTEMBER 1970

COP:

R.DS/LIC/10

27/1

No. 213/12/110

Dated: 25.4.70

Memorandum

With reference to their representation dated 6.3.70 regarding channel of promotion for Documentation staff, Mr. H. Deves C* (Doc) and others are informed that the question regarding avenue of promotion to class 'I' post for the class III staff working in the Publication, Documentation and Library section in RDSO is under consideration and the final decision taken in the case will be communicated to them.

Yours faithfully,
for Director General.

D. /ml.

Mr. H. Deves C* (Doc)
RDSO/Lucknow.

Copy forwarded for information to JD
(EC), RDSO, Chittaranjan with reference to his
note No. EC/AUD/100 dated 13.3.70.

Yours faithfully,
for Director General

True copy



8/14

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT HOUSE AT LUCKNOW.

Claim Petition O.A. No. 67/90(L)

V.S.L. Srivastava Applicant.

Versus

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

Annexure - No. 6

(As per photocopy of the Office Order No. 6
of 1973 dated 20-2-1973 regarding transfer
of work, annexed hereto)

..... Contd.



Answered

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Consequent on the posting of Mr. S.K. Bhattacharya as Deputy Director(Documentation), a Centralised Documentation Wing has commenced functioning under his charge with effect from 12th February, 1973. The Deputy Director(Documentation) will henceforth be in charge of the following activities:-

2) Library, Documentation and Translation services.

ii) Processing, storing and retrieval of information concerning various railway disciplines in RDSO, and to communicate the results of research to railway users and supply of information on these subjects to queries and questionnaires received from various quarters.

iii) Arranging for supply of copies of various articles, compiling of documentation notes and the quarterly notification, etc.

iv) Other functions allied to library and documentation.

2. The following gazetted and non-gazetted posts which have been sanctioned exclusively for Documentation work are also transferred to the Documentation Wing with effect from 12th February, 1973 from the respective Directorate indicated below :-

- 2 -

3. The abbreviated designation of Deputy Director, Documentation will be DD(Doc) and that of Assistant Director(Documentation) will be AD(Doc).

4. With the creation of a separate Documentation Wing, the DDP assisted by the present Asstt. Documentation Officer(Publication) will be incharge of the following items :-

- i) Public Relations and liaison.
- ii) Editing and publishing of technical reports, special reports, annual reports, technical monographs and technical papers, etc.
- iii) Preparing write-ups for RDSO in general, for newspapers, AIR and other technical journals.
- iv) All other functions now being undertaken by DDP excluding those mentioned in para 1 above, the charge of which has now been passed on to DD(Doc).

5. The present designation of the ADO is changed as Assistant Documentation Officer(Publication) with the abbreviated designation of ADO(P).

File No.DG/ORG-20
Dated: 20.2.1973

~~✓~~ Dab Ex
(R.S.Sinha) 22/2/73
for Director General.

Distribution:- As usual.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH SITTING AT LUCKNOW.

Claim Petition O.A. No. 67/90(L)

V.S.L. Srivastava Applicant.

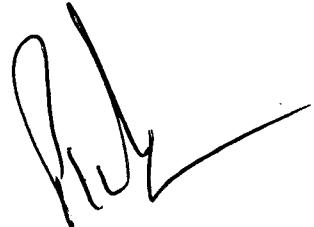
Versus

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

Annexure No. 7

(As per photocopy of letter dated July 1973
regarding agreeing about post of Asstt.
Documentation Officer (Class II) being filled
by selection, annexed hereto)

..... contd.



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7
// ANNEXURE I.C. 8 //

Government of India
Ministry of Railways
Research, Design and Standards Organisation

Mo LII/1C/27/0

Central Wing at Lucknow - 21

19/7/73

1. INTROD.

With reference to his application dated 16/10/67, Shri Amit Lal, CDA is informed that the Railway Board have been requested to agree to the post of Asstt. Documentation Officer in Class II being filled by Selection with on the first priority from amongst the eligible and suitable departmental class III candidates in the category of Documentation Assistants and Translators (other than Ministerial) working in the Documentation Wing of RDSO.

This also disposes of his earlier applications on the subject.

Yd: P.P.Jetley
for Director General

A.Mil.

Shri Amit Lal,
Chief Doc. Assistant
RDSO/Lucknow - 21.

TRUE COPY



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

Claim Petition C.A. No. 67/90(L)

V.S.L. Srivastava Applicant.

Versus

Union of India & others Opp. Parties.

Annexure - 8

(As per copy of the syllabus of the departmental
test which the Respondent no. 3 undertook -
annexed hereto)

..... contd.



Government of India
Ministry of Posts & Telegraphs
Research Design & Standard Organisation

OFFICER OF THE C.P. II NO. 75 D 1024

1. Mr. J. P. Kulkarni, DC / Publication Branch is promoted to officer's Assistant Documentation Officer (Library) in Grade-II, Scale No. 650-1200 (RS) purely on adhoc basis till further orders.

2. Civil List should note that above adhoc promotion will not entitle him to claim regular or adhoc promotion in future.

3. The charge report may be forwarded to Rett. IT Section in guard-uplicate.

Auth- DC/PPG's order dated 20-10-84 in file NO. DC/CP-77/C.

(Hindi version will follow)

Sd: J. J. Hare
Dtd: 10.11.84. For Director General.

Lucknow-226011
Dated 23.10.1984.

File No. DC/CP-77/C



RELEASER

Mr. Dy. DG JD (Pub.) DD (Doc) JDF DDE-I
DDE-II DD(Adm.) TH A.O-II Audit Officer
SOL-I SRA-III "Q - IV SD (Rec't.) (Stenos)
ADE/Tele ASU Secy/EDCO Officers Association
Estate Supervisor Receptionists I, II class
Section Adm. Section Notice Board Officer
concerned & F/file.

DO (Hindi) :- For providing Hindi Version early.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH LUCKNOW.

Claim Petition O.A. No. 67/90(L)

V.S.L. Srivastava Applicant.

Versus

Union of India and others Opp. Parties.

Annexure - 9

(As per photocopy of the Posting Order No. 73
of 1984 promoting the O.P. No. 3 on adhoc
basis, annexed hereto).

..... Contd.



Government of India
Ministry of Finance
Research Section, Central Tax Department

OFFICE OF THE CHIEF FINANCIAL OFFICER, 1934

1. S. I. M. 100, C. O. Publication Branch is
promoted to officer's as joint Documentation
officer (Lib. & J.) in Lasc-II, File No. 650-1200 (79)
purely on adhoc basis till further orders.

2. C. I. M. should note that above adhoc
promotion will not entitle him to claim regular or
ad hoc promotion in future.

3. The change report may be forwarded to Bett.
IT Section in quadruplicate.

Auths- DC/PWD's order dated 20-10-34 in
file No. ED/CP-77/C.

(Hindi version will follow)

On: 23.10.1934. To: S. J. H. For Director General.

Lucknow-220011
Dated 23.10.1934.

File No. DC/CP-77/C

REMARKS

1. Dy. DC J. (Lib.) DD (Doc) JDP DDP-I
DDP-II DD(Adm.) DE. A.O-II Audit Officer
SOL-I Sbu-III CIV-IV SD (Cect.) (Stenos)
ADL/Tale LDC Secy/DC Officer Association
Lecturer Supervisor Receptionists I, II 1/2
Section Admin. Section Notice Board Officer
concerned & P/file.

REMARKS :- For providing Hindi Version early.

True copy

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH LUCKNOW.

Claim Petition O.A. No. 67/90(L)

V.S.L. Srivastava **Applicant**

Versus

Union of India and others Opp. Parties.

Annexure - 10

(As per copy of the representation of
the O.P. No. 3 against the arbitrary
fixation of qualifications in Recruitment
Rules, 1984 - annexed hereto)

..... contd.



From

P.K. Misra,
Asstt. Documentation Officer (Publication)
Research Designs & Standards Organization,
Manak Nagar,
Lucknow-11.

X/105

To

The Union of India,
Through Secretary,
Railway Board,
Rail Bhawan,
New Delhi.

Through Proper Channel.

(Director General, R.D.S.O. Lucknow)

Representation under Clause 5 of the
Research Designs & Standards Organization
(Group-A and Group-B) Recruitment, 1984
Rules, 1984, for grant of relaxation in
the mandatory qualifications as prescribed
in Column 8 of the Schedule as applicable
in the case of Asstt. Documentation Officers.

Sir,

The representationist submits as under :

1. That the representationist was recruited as Junior Research Assistant (Documentation) in April, 1965 as per Promotion Rules of Class-III technical staff of the Research Directorate in the Research Designs and Standards Organization (hereinafter called the R.D.S.O.) of the Department of Railways, Ministry of Railways. Subsequently the representationist was promoted as Senior Research Assistant (Documentation) in the year 1966 through the Departmental Selection Committee, in accordance with the Rules then applicable. It is stated that the designation of the post of Chief Research Asstt. (Documentation) was changed as Chief Documentation Assistant in R.D.S.O.



7/100

Assistant Documentation Officer, in Class-II, be filled by selection on the basis of 1st priority amongst the eligible and suitable departmental

- 2 -

2. That it is stated that the channel of promotion of Class-III staff (Tech.) as working in the Documentation Section of the R.D.S.O., will show that the Chief Research Assistant (Documentation) was eligible for promotion to the post of Asstt. Director (Publication). It is stated that ~~the~~ subsequently the designation of this post was changed as Sectional Officer (Publication). It is stated that subsequently the designation of the post of Sectional Officer was changed as Assistant Documentation Officer.

3. That it is stated that in the year 1970, vide Notification, Class-II posts of the Sectional Officer (Publication) were to be filled up by drawing Class-II incumbents from other Directorates i.e. Civil, Mechanical, Signal and Tele-Communication, Instrumentation, ~~Arti~~ Architecture and Electrical. A copy of the Notification dated 19-2-1970 is being filed herewith with this representation for ready reference.

4. That it is stated that the ~~revisionist~~ ^{representationist} filed a representation to the Director General, R.D.S.C., Lucknow requesting to withdraw the said Notification pursuant whereof the representationist was informed that the said representation is under consideration. However, subsequently it transpired that the Ministry of Railways (Railway Board) has agreed that the post of

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EX

candidates, the representationist was promoted on adhoc basis till further orders on the post of Assistant Documentation Officer (Library) with effect from 25-10-1984.

7. That it is stated that the Ministry of Railways issued a Notification by virtue of the rules, namely, Research Designs and Standards Organisation (Group-A and Group-B) Recruitment Rules, 1984 (hereinafter called the Recruitment Rules, 1984) were issued. It is stated that vide the Recruitment Rules, 1984, in Column 8 of the Schedule which prescribed for the age and qualifications it has been mentioned that at least Bachelor's Degree or equivalent; Diploma in Library Science of a recognised University or equivalent, must be possessed by the candidates for promotion on the post of Asstt. Documentation Officer. It is stated that the representationist was in the Publication Branch of the Documentation Wing of the R.D.S.C. and the rules failed to appreciate the fine distinction between the qualifications which were required for the Assistant Documentation Officer (Library) and the Assistant Documentation Officer (Publication). It is stated that for the post of Assistant Documentation Officer (Publication) even a running knowledge of the Library Science was sufficient and the rule making authority has unnecessarily included and made the

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Bachelor's Degree or equivalent, Diploma in Library
Science of a recognised University or equivalent
as mandatory qualifications.

8. That it is further pertinent to mention that
in no other directorate of the R.D.S.O., for pro-
motion from amongst Class-III to Class-II cadre
the Bachelor's degree is a mandatory qualification.

9. That it is further stated that the said
Recruitment Rules of 1984 have not taken care
of the avenues of promotion for Class-III employees
to Class-II who were recruited before the advent
of the Recruitment Rules, 1984 and who had earned
a vested right of promotion to a higher post with
the qualifications on the basis of which they have
been promoted on the post of Chief Research Asstt.
(Documentation).

10. That it is further pertinent to mention
that at the time of recruitment of the representa-
tionist the channel of promotion was settled and
on the basis of qualifications possessed by the
representationist at the time of recruitment, the
representationist was well qualified for promotion
on the post of Asstt. Documentation Officer.

11- That it is further stated that the said
Rules have not appreciated the fact that the staff
working in Class-III ~~far~~ have acquired adequate
working knowledge required for shouldering higher



- 6 -

responsibilities of Class-II posts. It is for this reason that while sending the Draft R. & P. Rules to Railway Board and Union Public Service Commission, the Director-General, R.D.S.O., has specifically not stipulated any educational qualification or age limit for departmental candidates. It is stated that the Draft Rules were sent by the Director General, R.D.S.O. to the Railway Board vide D.O. No. E-II/ES/PR/0 dated 24-9-1983 which required a perusal for disposal of the present representation. It is stated that the same was relevant while laying down the qualifications for promotion on the post of Asstt. Documentation Officer.

12. That the representationist has learnt that the said Draft R. & P. Rules have not been placed before the rule making authority and in an arbitrary fashion the Rules have been drawn ignoring the recommendations of the Director General, R.D.S.C. It is stated that as per the R. & P. Rules for the Technical Directorate, a man recruited as Junior Research Assistant is eligible on the basis of length of service with his seniority for appearing in the selection test for promotion to Class-II posts without acquiring any ~~due~~ additional qualifications while in service, whereas as per the R. & P. Rules in question, most of the Junior Documentation Assistants/Senior Documentation Assistants/Chief Documentation Assistants recruited/promoted for Class-III Documentation/Publication staff are not

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eligible to appear in the selection test for promotion to Class-II solely for the reason that specific educational qualifications have been fixed. It is stated that the same is discriminatory as in that wing no other additional qualification was required to be possessed by the Class-III employees for promotion on the Class-II posts whereas in the present case Bachelor's Degree in Library Science and equivalent has been made a mandatory qualification.

It is further pertinent to mention here that the post of Asstt. Documentary Officer (Publication) is analogous to the post of Asstt. Superintendent of Printing & Stationery on the Indian Railways and for the said post of Assistant Superintendent of Printing & Stationery, no educational qualification has been prescribed & nor any age limit has been fixed for the departmental candidates for promotion to the said post. It is stated that the said Rules for the post of Asstt. Superintendent of Printing & Stationery have also been approved by the Union Public Service Commission. Thus in the present case of the revisionist, namely for promotion on the post of Asstt. Documentation Officer (Publication) the additional educational qualification of Bachelor's degree in Library Science or equivalent is not at all required looking to the nature of duties and work to be performed by the representationist.



X/11

13. That it is stated that the duties of the Assistant Documentation Officer (Publication) have been mentioned in clause 4 of the order creating the said post and made incharge vide Office Order No. 6 of 1973 a copy of which is being annexed herewith as Annexure- 2 to this representation for ready reference. In clause 4, the duties and responsibilities have been mentioned which are quoted hereunder :

With

"4. That the creation of separate Documentation Wing, the D.D.(F) assisted by present Asstt. Documentation Officer (Publication) will be in-charge of the following items :

- (1) Public Relations and Liaison.
- (2) ~~E~~ Editing and publishing of technical report, special report, annual report, technical monograph and technical papers, etcetera.
- (3) Preparing write-up for RDSO in general for newspapers, AIRs and other technical journals.
- (4) All other functions now being undertaken by D.D.(P) excluding those mentioned in para (1) above, the charge of which has now been passed on D.D.(Documentation)."

Thus a bare perusal of the above duties reveals that the duties of the Asstt. Documentation Officer (Publication) are general in nature and no specific knowledge of Library Science is at all required as distinguished from the duties of Asstt. Documentation Officer (Library). It is also evident that the

[Signature]

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duties of Asstt. Documentary Officer (Publication) are more akin to the maintaining public relations vis-a-vis the R.D.S.O., and no specific Library maintenance is required at all.

14. That it is stated that for the post of Assistant Documentation Officer (Publication) the qualification of Public Relations Diploma and other activities are very congenial for responsible discharge of the duties of the post rather than a degree in Library Science. It is stated that the ~~revisionist~~ ^{representationist} has already undergone a training in the Indian Institute of Mass Communication New Delhi and Railway Staff School, Vadodara, for public relations.

15. That thus it is evident that the qualifications contained in column 8 of the Schedule annexed with the Recruitment Rules, 1984, for the post of Assistant Documentation Officer, have been fixed without applying the mind and in absence of the relevant material, which has been placed by the Director-General, R.D.S.O., vide his letter dated 24-9-1983. It is in these circumstances that hardship has occasioned to the representationist and many others similarly situated Class-III employees working in the Documentation/Publication Wing of the R.D.S.O.



Y.M

16. That the representationist has already been promoted on ad-hoc basis since October, 1984 on the post of Assistant Documentation Officer (Publication) and since then the representationist is continuing on the said post but in view of the regular selection held on 24.7.1989 in which the petitioner was allowed to appear under the interim orders of the Court and the representationist has qualified in the written test, the representationist is under imminent apprehension that on the basis of the said mandatory qualifications under the rules of Bachelor's degree in Library Science, the representationist's future may be in dark and an irreparable loss may occur to the representationist.

17. That it is in these circumstances expedient that for the following reasons the mandatory qualification in the special circumstances of the present case as contained in column 8 of the Schedule annexed with the Recruitment Rules, 1984 be relaxed in case of the representationist as the representationist is otherwise fully qualified and also the representationist possesses the Certificate in Library Science and further the representationist has undergone various trainings in Public Relations and has studied one year's course of German Language and completed the same from Lucknow University. The testimonials in that regard are being enclosed herewith for ready reference :

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(i) The degree of Bachelor of Library Science is not at all relevant and bears no reasonable nexus as regards the relevant qualifications for the post of Asstt. Documentation Officer (Publication).

(ii) In no other Directorate of the RDSO a graduate degree is a mandatory qualification for departmental promotion from Class-III cadre to Class-~~III~~ II cadre.

(iii) At the time of recruitment in service and in view of the prevalent recruitment rules, the representationist was well qualified to be promoted on the post of Asstt. Documentation Officer.

(iv) Recruitment Rules cannot alter the qualifications for the promotional post to the detriment of the representationist retrospectively.

(v) The representationist has earned vested right of promotion and the Recruitment Rules, 1984 have prejudiced the same by imposing additional academic qualifications which the representationist lacks though the Director General, RDSO, vide his letter dated 24-9-1983, has communicated the draft R & P Rules for the post of Asstt. Documentation Officer (Publication) wherein no additional academic qualification has been mentioned and the Director General himself was of the view that by virtue of

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long experience the Class-III staff acquired adequate working knowledge for shouldering higher responsibilities of class-II posts.

(vi) The post of Asstt. Documentation Officer in the RDSO is analogous to the post of Assistant Superintendent, Printing & Stationery on the Indian Railways and no educational qualification of Graduate in Library Science has been prescribed for the said post in the Indian Railways. It is pertinent to mention here that the said qualification for the post of Assistant Superintendent, Printing & Stationery on Indian Railways has been approved by the Union Public Service Commission.

(vii) The entire future prospects of the promotional avenues in the case of class-III employees of the documentation wing have been stagnated for the ~~xxm~~ sole reason that the Bachelor degree of Library Science ~~w~~ or equivalent qualification has been fixed in the rule to be a mandatory qualification for promotion on the post of Assistant Documentation Officer (Publication).

In view of the above, it is expedient that in exercise of extra-ordinary powers as contained in rule 5 of the Recruitment Rules, 1984, the mandatory qualification laid down in column 8 of the Schedule annexed with the Recruitment Rules, 1984 be relaxed

..... 13



in the case of the representationist and the Director General, RDSO, Lucknow, may be directed to ~~not~~ hold the selection for promotion on the post of Assistant Documentation Officer (Publication) ignoring the said mandatory qualification as prescribed in column 8 of the Schedule.

It is further requested that the said relaxation be communicated at a very early date as the result of the final selection is to be declared and the representationist's right may be prejudiced and irreparable injury may be caused to the representationist.

Encl: As above.

Yours faithfully,

(P.K. Misra) B/5/11

Dated :
May 31, 1991.

Asstt. Documentation Officer
(Publication), RDSO, Lucknow.

Advance copy forwarded to :

The Union of India,
Through Secretary,
Railway Board, Rail Bhawan,
New Delhi.

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

Claim Petition N.O.A. No. 67/90(L)

V.S.L. Srivastava Applicant.

Versus

Union of India and others Opp. Parties.

COUNTER AFFIDAVIT/REPLY

To the Claim Petition on behalf of O.P.No. 3.

I, P.K. Misra, aged about 55 years, son of late Sri B.P. Misra, Resident of 3-Ka, Blunt Square Kampur Road, Lucknow, do solemnly affirm and state as under :

1. That the deponent is the opposite party no. 3 in the aforesaid case and is conversant with the facts of the case. He has read the claim petition and in reply submits as under.
2. That the contents of paras I, II, III of

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Civil Misc. Application No. 717/90 (L)
Registration O.A.No.67 of 1990(L)

Between

V.S.L.Srivastava Applicant.
Vs.
Union of India and others..... Respondents.

Application for condonation of delay in filing Counter
Reply and recalling of order dated 7.3.1990.

I, S.Bhatia, presently working as Dy.Director
(Estt-I) under respondents do hereby solemnly affirm and
state as under:-

1. That the officer above named is working under the
respondents and is fully competent to file this
application on behalf ^{of} respondents:-
2. That in compliance of the Order dated 7.3.90 there was
delay in preparing the counter reply as some old records
were to be traced out for making out the instant reply.
3. That all this process took time and counter reply could
not be filed within time.
4. That delay in filing Counter reply is not malafide or
intentional but only due to ~~bonafide~~ administrative reasons,
which deserves to be condoned.

PRAYER

Filed today
Wherefore, it is most respectfully prayed that the Order
Dt. 7.3.90 may be recalled and delay in filing Counter reply
may kindly be condoned and the same may kindly be taken
on records.

Lucknow
Dt. 3.12.90.

31/12/90
Respondent.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

REPLY ON BEHALF OF RESPONDENTS 1 and 2

IN

O.A.No.67 of 1990(L)

V.S.L.Srivastava Applicant.

Vs.

Union of India and others Respondents.

I, S.Bhatia, S/O late Sh.U.C.Bhatia aged about 55 years presently posted as Deputy Director, Estt-I in the Office of Research, Designs and Standards Organisation (Ministry of Railways) Lucknow solemnly state as under:-

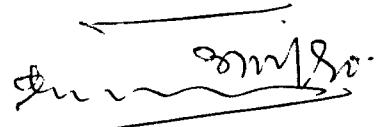
1. That I am presently posted as Dy. Director, Estt-I in the Office of Research, Designs and Standards Organisation (hereinafter called as R.D.S.O) Lucknow and have been duly authorised on behalf of respondents Nos.1 and 2 for filing the instant reply. I have carefully perused the available relevant records relating to the instant case and have also gone through the petition under Section 19 of the Central Administrative Tribunal Act 1985 filed by the Applicant alongwith Annexures and have understood the contents thereof and thus I am fully acquainted with the facts and circumstances of the case deposed below:-
2. That the contents of paras I & II of the application being matter of records need no comments.
3. That in reply to the contents of para III of the application, it is submitted that Sh.P.K.Misra, the Respondent No.3 has been allowed to appear in the selection which action was purely based on Hon'ble Central Administrative Tribunal's Orders dt.25.6.87 passed in O.A.No.533 of 1987 P.K.Misra Vs.U.O.I and others.
4. That the contents of para IV of the application being matter of record need no comments.
5. That in reply to the contents of para V of the application

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S. Bhatia

it is stated that the instant application is not within the period of limitation as prescribed under section 21 of Act No.13 of 1985 and the same is liable to be rejected on that score only. X/19

6. That the contents of paras VI(1,2,3,4,&5) of the application being matter of records need no comments.
7. That in reply to the contents of para VI(6) of the application, it is stated that the Recruitment and Promotion Rules 1984 for the post of Asst. Documentation Officer prescribe that both Outside and Departmental candidates must possess atleast Bachelor's degree and Degree or equivalent Diploma in Library Science of a recognised University or equivalent.
8. That the contents of para VI(7) of the application are denied to the extent that the above mentioned R&P Rules were made by the President of India in consultation with UPSC but not by the UPSC as stated by the applicant.
9. That the contents of para VI(8) of the application are emphatically denied. In reply thereof it is submitted that there are 4 persons who are seniors to the applicant in the seniority list of Chief Documentation Assistant (Position as on 1.4.88).
10. That the contents of para VI(9) of the application, are denied. In reply thereof it is stated that immediately after the notification of the R&P Rules on 5.5.84, there were representations from staff against the introduction of qualification in Col.8 of the Schedule to the R&P Rules for the departmental candidates and keeping in view the provisions in the R&P Rules for other categories of posts, RDSO Administration referred the matter to the Railway Board for modification if any of the provisions. Pending


Dr. ~ 8/11/88

a final decision from the Railway Board and in view of the continuing dialogue, Shri P.K.Misra who was senior to the applicant was promoted as Asst.Documentation Officer purely on adhoc basis in the administrative interest after obtaining the recommendations of the Departmental Promotion Committee and approval of the competent authority.

11. That in reply to the contents of para VI(10) and VI(11) of the application, it is submitted that the Railway Board's reference in the matter was received under their letter dated 28.7.86 (copy already annexed at Annexure A-4 of the application), whereas the process for holding the selection was initiated on 9.4.86 by this office. In this connection it is relevant to refer to this office letter No.EII/ES/PR/O/Lib dt.30.5.86.

12. That the contents of para VI(12 &13) of the application are denied. In reply thereof it is stated that in anticipation of receipt of Railway Board's directions, the process for holding the selection was initiated and a staff notice containing the names of eligible candidates, prescribed syllabus etc., was issued on 9.4.86 as per Annexure A-5 to the Application. Pending finalisation of the selection in the administrative interest it was not considered necessary to revert Shri P.K.Misra, the respondent No.3, who was working as Asst.Documentation Officer purely on adhoc basis with no claim for regular promotion. It is worth mentioning that this Hon'ble Tribunal vide their order dt.25.6.87 in Regn.C.A.No.533 of 1987 directed that Sh.P.K.Misra, the Respondent No.3 shall not be reverted and he will be permitted to appear in the regular selection. (copy of the order is at Annexure A-8 of the application.)

गुरुवार २८/८
५ निदेश दिव्यापनी -
गुरुवार २८/८ - 225011

13. That the contents of para VI(14&15) of the application being matter of record need no comments. However, it is ~~xx~~ further stated that since Sh.P.K.Misra, who was not possessing the prescribed qualifications, was not called for the selection in the first instance, but as stated in para 12 above, as per directions of this Hon'ble Tribunal he was allowed to appear in the regular selection.

14. That in reply to the contents of para VI(16) of the application, it is stated that the selection was postponed due to administrative reasons in view of the representations received from Staff concerned.

15. That the contents of para VI(17) of the application being matter of record need no comments.

16. That the contents of para VI(18) of the application are emphatically denied. In reply it is submitted that the delay that was caused in finalising the selections were due to pendency of various representations filed by the concerned staff against the new R&P Rules regarding inclusion of essential qualifications even for departmental candidates which could have only be done by Railway Board and the UPSC.

17. That the contents of para VI(19) and VI(20) of the application being the matter of record need no comments.

18. That the contents of para VI(21) of the application are denied. In reply thereof it is stated that obtaining orders from the Hon'ble CAT/Allahabad is upto the will and pleasure of the applicant and any suggestion from any source is not required.

19. That in reply to the contents of para VI(22) of the application it is submitted that Sh.P.K.Misra the Res.No.3 had submitted leave application and Medical certificate in support of his absence on 29.6.87 and 30.6.87, but subsequent to that he appeared in the supplementary selection held on 24.7.89.

Shri - 27/7/89

20. That the contents of para VI(23) of the application being matter of record need no comments.

21. That the contents of para VI(24) of the application being matter of record need no comments.

22. That the contents of para VI(25) of the application are emphatically denied. In reply thereof it is submitted that Sh.P.K.Misra was called to take the supplementary examination in compliance to Hon'ble Central Administrative Tribunal/Allahabad's orders vide staff notice Dt.10.8.87 (copy at Annexure A-9 of the application).

23. That the contents of para VI(26) of the application being matter of record need no comments.

24. That in reply to the contents of para VI(27) of the application it is stated that the supplementary selection was postponed on administrative grounds.

25. That in reply to the contents of para VI(28) of the application, it is submitted that the results of the selection held ^{on} 29th and 30th June 1987 were finalised provisionally in view of the ~~CAT~~ Hon'ble Central Administrative Tribunal/Allahabad's orders dated 4.1.89 in O.A.No.533 of 87 P.K.Misra Vs.U.C.I. and others (A copy of the order is annexed and marked as Annexure C-1).

26. That in reply to the contents of para VI(29) of the application, it is stated that the Respondent No.3, Sh.P.K. Misra was called for supplementary selection in view of CAT/Allahabad's orders in O.A.No.533 of 1987.

27. That the contents of para VI(30) of the application being matter of record need no comments.

28. That the allegations made in para VI(31) of the application are far from facts and are emphatically denied.

29. That in reply to the contents of para VI(32) of the application, the contents ~~as~~ in paras 12 and 26 of the

Amulya
मुमुक्षु निवारण
प्राप्ति निवारण और समाज सेवा
पंडित रामेश्वर मुख्यमंत्री
पंडित रामेश्वर मुख्यमंत्री

N/21

35. That the contents of para XI and XII of the application do not call for comments.

VERIFICATION

I, S.Bhatia, Dy.Director, Estt-I/RDSO/Lucknow do hereby verify that the contents of para 1 of the instant reply are true to my personal knowledge and belief and those of paras 2 to 35 are based on knowledge derived from the perusal of the ^{available} official records of the instant case kept in the official custody of the answering Respondents. Nothing material has been concealed and nothing stated herein are false.

Verified this 30 day of December 1990 at Lucknow.

S. Bhatia 30/12/90
Deponent.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
Registration O.A. No. 533 of 1987

P.K. Misra,

Applicant

Versus

Union of India & others

Respondents

.....

4/1/1989/

Hon. G.S. Sharma, JM
Hon. Ajay Jethani, AM K. J. Ramu, A.M.

Sri Hanuman Upadhyay for the applicant and Sri A.V. Srivastava & Sri C.P. Srivastava for government respondents and Sri G.D. Mukerji for the private respondents are present. The applicant has filed a supplementary affidavit with a view to seek some amendment and introduce certain new facts. According to procedure, we are following, the supplementary affidavit is not permissible and the applicant may seek necessary amendment, if so desired within a week by moving proper amendment application. It has been pointed out on behalf of the respondents that under the interim order dated 31.3.87 passed by this Tribunal, holding of examination was stayed and the Railway Administration is suffering day-today hardships without such examination and the case could not be finalised or concluded so far. We have considered over the matter. The interim order dated 31.3.87 is modified and it is ordered that the respondents may hold the examination, but its results and appointments made on its basis, shall be subject to the result of this case. The examination held in June, 1987 which if could not be finalised due to the said interim order, may also be finalised subject to the same terms and conditions. Put up on 13.11.1989 for orders.

Sd/-
A.M.

Sd/-
J.M.



TRUE
COPY

R. K. PANDEY, 5/1/89
Section Officer
Central Administrative Tribunal
Allahabad.

2000/80
GIRI

Before: The Central Administrative Tribunal
Lucknow Bench, Lucknow.

Joiner to Counter affidavit of Reg. No. 132
Registration C.A.No:67 of 1990(1)

1990
AFFIDAVIT
11/12/90
HIGH COURT
ALLAHABAD



V.S.L. SRIVASTAVA. ----- Applicant

V/S.

Union of India & others. ----- Respondents.

REJOINDER AFFIDAVIT of Sri V.S.L. Srivastava

aged about 49 years son of Late Sri Sharda Prasad resident
of No. 355 Kha/20/1, Khola Mera, Allahabad, Lucknow.

2. The Depute T, Deve named to herein
only affirm and state on this as under:-

1. That the respondent is the applicant in the
above cause and as such he is fully
conversant with the facts as depos'd below.

2. That the respondent has read the counter counter
affidavit filed by 't' only on behalf of respondent
No.1 and 2nd and has fully understood the contents
of the same. 't' only in this rejoinder affidavit
is only giving with reference to the same reply to
the written statement.

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; 2;

2- THAT the contents of para 1 and 2 being after
affidavit need no contents.

3- THAT in reply to para 3 of the counter
affidavit it is submitted that the respondent no. 1
and 2 have not given the correct position of the
case. It is further submitted that Allahabad City
High Court vide ^{their} order dated 10.7.87 passed
in Civil No. 333 of 1987 (Annexure A-8 of the
application) permitted Shri P.K. Misra to appear
in the selection for the post of Ass'tt. Documenta-
tion Officer (ADO) which is going to be held on
29th and 30th June 1987, but this stay order
was vacated by the Hon'ble Tribunal, Allahabad
vide their orders dated 10.7.87 (Annexure A-8
of the application). Therefore, Shri P.K. Misra
respondent no.3 should not have been allowed to
appear in the supplementary examination for
the post of ADO. But Respondent No.1 and 2
had arbitrarily, unjustifiably and irregularly
permitted Shri P.K. Misra, respondent no.3
to appear in the supplementary examination of
which was held on 24.8.87, ignoring the fact that the
stay order granted by the CI/ Allahabad was
already vacated.

BS.

8/27/1987

8/28

1- The contents of para 4 is matter of record and needs no comments.

2- As the contents of para 5 of the counter affidavit are not correct, hence denied and the facts stated in para 17 of the application

1- are re-iterated. Respondent no.2 could not extinguish the right enjoyed by the applicant seeking justice from CAT in the rightful jurisdiction when the respondent no.2 is continuously flouting the Recruitment Rules.

2- The contents of para 6 of the counter affidavit being matter of record, need no comments.

3- In t in reply to the content of para 7 of counter affidavit it is stated that respondent no. 1 and 2 have mislead given a false picture to misguide the Ad Hoc Tribunal. In fact there are two different qualifications for the post of A.I. for outside and I placement candidates which may be seen in columns 1 & 2 of the Recruitment Rules for the post of A.I. (Annexure -1 of the application). The essential desirable qualifications for the outside candidate are:-

Essential Qualifications:-

(I). Master's degree in Physics/Chemistry/Mathematics of a recognized University or equivalent.

(II). Doctorate or equivalent diploma in Library Science of a recognized University or Institute.

(III). Diploma in ^{or} in in impossible capacity in Library Science.

Desirable Qualifications:-

(I). Masters degree in Library Science of a recognized University or equivalent.

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Work

(I). Experience of document handling in a responsible capacity.

(II). Working knowledge of any of the following European language other than English.

The qualification for departmental candidate are

(I). Bachelor's degree and degree or equivalent diploma in Library Science of a recognised University or equivalent.

8- That in reply to the contents of para 3 of the counter affidavit it is stated that the applicant has never said that the recruitment rules for the post of ADO has been framed by UGC. Para VI(5) of the application may be seen in this regard. However the reply by the respondent no. 1 and 2 has no relevance to the points raised by the applicant.

9- The contents of para 9 of the counter affidavit are emphatically denied and the contents of para VI (8) of the application are reiterated. It is stated that no post, course, a paper or other to the applicant's belief documentation is true. But 3 candidates out of the ~~4~~ 4, namely Sri P.M. Misra (Respondent no. 3), Sri. Akhilesh Kumar Misra are not qualified according to recruitment rules as they are not having the requisite qualification.

12/12/1966

B.S.

X/20

unction of degree or equivalent diploma in library
Science. Hence counting them as seniors to the
applicant for the selection to the /post of A.O
is quite meaningless and to misguide the Hon'ble
Tribunal. Only, Sri Suresh Prakash H, who is qualified
according to Recruitment rule, is senior to the
applicant, who has already been promoted as ADC
long back in 1982. A list of eligible candidates
in order of seniority for the selection to the
post of ADC calculated by C/ A/o, respondent no. 2
may be seen at Annexure-III of the Notice dated
9.1.86 (Annexure 1-5 of the application). That
the deponent is the senior and eligible candidate
for promotion to the post of ADC and hence contents
of para XI (3) of Application is re-iterated.

10- In re the contents of para 10 of the counter
affidavit as stated are denied and it is stated
that the justification given for the unjustified,
irregular and illegal ad hoc promotion of Dr. A. K.
Misra, respondent no. 1 is untenable in view of the
fact that no sufficient titles for the post of A.O
have been fixed by the Government of India in terms
of the provisions of Article 309 of the Constitution
of India. Thus, respondent no. 2, Dr. A. K. Misra,
the deponent, respondent no. 1, violated the
provisions made in the recruitment rule.

V.D.S.

8/11/70

an ~~promote~~^{an} illegal person like Mr. Misra
was on a ~~list~~ basis. Thus holding of elections and
promotion committee (D.C) was involved in Committee
authority taken for the illegal promotion of Sri P.K.
Misra was all against the recruitment rules for
which the Hon'ble Tribunal may pass a suitable
structures against the Staff/Officer responsible in
such illegal acts, failing which he or others involved
interested. Even in the post-war period in an
ad hoc basis in the post-war interval, no such
suitable ~~was~~ ^{had} been filed by ~~any~~ ^{any} administration
maximum and only finalization of the
candidate for the election according to recruitment
rule like the applicant. It is also reported
that the public was represented by ~~any~~ ^{any} ~~any~~ ^{any} application
on 2.1.1964, 20.3.64, 10.4.64, 10.
2.65, 10.65, 23.1.65, 10.3.66 & 7.6.66 for
his promotion against the post of D.C on a ~~list~~
~~basis~~^{basis}/regular basis till 1966. Now, as no ~~any~~ ^{any}
candidate ~~exists~~ ^{available} ~~exists~~. According to ~~any~~ ^{any} ~~any~~
it has been continuously being fought in several times
the recruitment rule, ~~any~~ ^{any} ~~any~~ ^{any} ~~any~~ ^{any} ~~any~~ ^{any} ~~any~~
considering the illegal list and by the ~~any~~ ^{any} ~~any~~ ^{any} ~~any~~
action of ~~any~~ ^{any} ~~any~~ ^{any} ~~any~~ ^{any} ~~any~~ ^{any} ~~any~~
only, and the ~~any~~ ^{any} ~~any~~ ^{any} ~~any~~ ^{any} ~~any~~ ^{any} ~~any~~
rule to qualify candidate like the applicant ~~any~~

B.S.

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- 1 -

... have been in turn maintained and restricted by the
acts of respondent no. 1 and 2 which resulted
illegal and wrongful continuance of SRI 201. Miss
respondent no. 3, an unqualified candidate under
recruitment rules thereby was up licent. 2

11- That in reply to the content of para 11 of counter
Affidavit it is stated that the respondent no. 1 and
2 have not at all clarified the position regarding
points raised in para 11 (19) of the application.

The reply to your letter also part 1 and part 2 of
they have referred to the No. 137/14/20/0/22
dated 20.3.66, in which the letter is now
being forwarded herewith.

This letter was received in this office on 14.8.52 at

the State Auditor will be in touch with you as soon as possible.

X
X/23

4-5 of the application). This means that respondent No. 2 again delayed the case by more than six months. . . . is now stating that they started process of holding the selection in anticipation of receipt of mail by respondent's direction. The promotion of Shri L.M. Misra to the post of ADO on administrative and its continuation even on date of Administrative Ground is totally illegal, illegal and unjustified as he is an unqualified candidate and does not fulfil the minimum condition of Recruitment Rules which have statutory force. The order dated 25.6.87 of Hon'ble Tribunal in Regn. O.A. No. 533 of 1987 has already been revised by the Hon'ble Tribunal vide their order dated 10.7.87 by which stay order was passed on 25.6.87 was vacated. It is not understood as to why respondents no. 1 and 2 are not allowed to appear on 10.7.87 before P.T. P.S. to him ~~their~~ ^{their} affidavit which they have submitted snatched the right of promotion from the most qualified candidate.

3/11/90

15- That in reality it is evident from para 13 of the counter affidavit it is stated that the respondent No. 2 had permitted Shri P.K. Misra, Respondent no.3 to appear in the supplementary examination for the post of ADO held on 24.7.89 whereas the interim order of the C.M./Allahabad by which Shri . . . Misra

V.S.

was allowed to appear in the main selection
was already decided on 10.6.87 itself (an order was
on the application).

14. In reply to the contents of para 14 of the counter affidavit it is stated that Respondent
no. 2 was postponing the selection intentionally
on flimsy ground in order to avail the services
of Shri L... Misra, respondent no.3 who was
unqualified according to recruitment rules and
was ill equipped, irregularly and unjustifiably promoted
on adhoc basis.

15. Para 15 of the counter affidavit needs no
comments.

16. That the contents of para 16 of the counter
affidavit state 'we denied and it is further
stated that the selection also came in force
w.e.f. 5.5.84 and it is surprising that Respondent
no.2 could not finalise the ^{holding of} selection before 26.6.87
i.e. more than three years. Even if the plea of Staff
representations is taken into account if the time
span of three years ~~was~~ taken by them in finalising
the case is considered too much. In fact Respondent
no.2 is ~~valid~~ to hold the selection so that Cri
P.M. like respondent no. 3, is not reverted back
to his substantive post of CDA b/c he unqualified
candidate according to recruitment rules and
promoted irregularly by respondent no.1. -----10/

17- Para 17 of the counter affidavit needs no comments.

18-That the contents of para 18 of the counter affidavit is stated as denied and the facts stated in para 21 of the application are re-iterated.

19. That in reply to the contents of para 19 of the counter affidavit it is stated that Respondent No. 1 and 2 have not commented on the point raised by the applicant regarding validity of the Medical Certificate Submitted by Sri P.K. Misra, Respondent no.3 to condone his absence from the main examination instead. It is however given vague reply to misguide the Hon'ble Tribunal, hence the contents of para 19 as stated are reflected in the contents of para 21 of the application are re-iterated.

20. Para 20 and 21 of the counter affidavit needs no comments.

21. That in reply to the contents of para 21 of counter affidavit, it has already been stated in para 19 & 20 of this rejoinder affidavit that the order of C.T/11/1987 dated 10.6.87 in case No. 553 of 1987 was revised by their order dated 10.7.87. The inclusion of the name in the list of eligible candidates for the supplementary examination to the post of ADO was totally illegal.



and the applicant also represented against this fact vide his application dated 15.3.87 to B3/R/200 Respondent no.2 (Annexure A-10 of the application). Respondent no. 2 conveniently emphasised C.M./Allahabad order No 25.3.87 but concealed and misled Hon'ble C.M. in not bringing the C.M.'s superseding order dated 10.7.87 by which there was no stay from C.M. whatsoever. By this order according to C.R., Respondent no.2 hid their guilt by claiming unavoidable and illegal benefit to Respondent no.3.

23. Items 23 and 24 of the counter affidavit needs no comments.

25. That in reply to the contents of para 25 of the counter affidavit it is stated that the orders dated 4.1.89 of C.M./Allahabad does not in that partial result of the selection be declared without holding the supplementary examination, if any.

26. That in reply to the contents of para 26 it is stated that the Respondent no. 1 and 2 have not mentioned the date of the orders of C.M./Allahabad in Regn. O.A. No. 533 of 1987 under which Respondent no.3 Sri P.K. Misra was asked to appear in the Supplementary Examination because there are no such orders in this regard. However the order of C.M./Allahabad dated 25.3.87 in O.A. No. 533 of 1987 under which Sri

B.S.

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24. Mira was permitted to appear in the main examination ² vide their order dated 10.7.87 i.e the stay order was vacated.

25. Para 27 of counter affidavit had no content.

26. That in reply to the content of para 26 it is stated that the claim made by the applicant in para 14 (31) of his application is not true in view of the fact that when Mira was selected against the Act it was made him an unqualified candidate and then in order to give his reservation the holding of selection was delayed for one year 3 years and then after the announcement of examination date, the same was postponed for four times. He has been declared even successful in the written examination though one question paper of the examination was based on professional special subject for which he is not having the required professional qualification. He was granted also immediately the instant he was declared winner.

23.10.84 and 24.10.84, respectively in instant of Mira's order, namely it was a stay order was issued by the court.

27. That the content of para 29 of the counter affidavit as stated contained in the said order 24.10.84 (31) of the application is not true.

B.S.

✓✓

28- That in reply to the contents of para 30 of the counter affidavit it is stated that the allegations made in para VI (33) of the application holds good as DG/RDCO Respondent no. 2 has shown all favour firstly in promoting Sri P.K. Misra as ADO though he was not having the required qualification as prescribed in Recruitment rules. This has already been explained in para VI (2) & VI(3) of the application.

29- That in reply to the contents of para 31 of the counter affidavit it is stated that the applicant is fully entitled for the reliefs sought as DG/RDCO Respondent no. 2 has promoted an unqualified candidate i.e. Respondent no. 3 in his place by snatching his legitimate right and due to which the applicant is suffering from irreparable loss financially & getting sever mental torture for the last more than six years. In fact the applicant hopes to win the case with cost.

*B/11/90
12/11/90*

30- That in reply to the contents of para 32 of the counter affidavit, it is stated in view of the fact that the applicant is suffering for more than six years, DG/RDCO Respondent no. 2 has not promoted the applicant as reported in P.K. Misra, application no. 3. Since the finalisation of the case in

V.B.S. * like some other important relief is

3/10

absolutely necessary which may kindly be considered
sympathetically.

31. The contents of para 33 of the counter affidavit
needs no comments.

32- That the contents of para 34 of the counter
affidavit is a matter of record. However it is
stated that the case No. C. 4453 of 1987 ^{Am 4} K.L.
H.M. v. Union of India, is quite different
from the present case. The cause of the action
in case No. 33 of 1987 was the re-callum issued
by D.G./R.P.S.C to Sri P.K. Misra, Respondent No 3
(Annexure no. A-6 of the application) and is
against the provisions of the qualification for
the departmental candidate in the Recruitment
rules for the post of I.C. whereas the cause of
action in this case is Staff notice regarding
holding of supplementary examination (Annexure
A-9 and A-13 of the application) by which Sri P.K.
Misra, Respondent no. 3 an unqualified candidate has
been allowed to appear in this supplementary
examination unlawfully.

3/12/1980

33- The contents of para 35 of counter affidavit
needs no comments.

Enclosed

Dated: 12/12/1980

V.S.
DEPONENT.

VERIFICATION

I, V.S.L. Srivastava, the deponent above named
do hereby verify that the contents of para 1 to 31, 32
of this affidavit are true to my personal knowledge
and rest of paras — to — 32 are believed by me to be
true. Nothing material has been concealed. So help
me God.

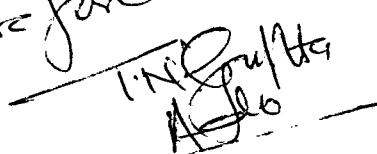
Signed and verified this 12th day of December, 1990
within court compound at Lucknow.

Lucknow

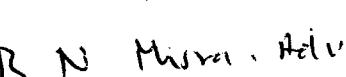
Dated: 12 Dec., 1990.


Deponent

12/12/90

I have witnessed
the above facts
in presence
of

T.N. Gupta
Adv.

I solemnly affirmed before me on 12/12/90 at 9:30
A.M. by Sri V.S.L. Srivastava the deponent who ~~is~~ is
identified by Sri T.N. Gupta Advocate High Court
Lucknow Bench, Lucknow.

I have satisfied myself by examining
the deponent that he understand, the contents of
this affidavit, which have been read over and
explained to him by me. 
B.N. Misra, Adv.

11/1037
12/12/90

X
TEN

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

Registration O.A. No. 67 / 1990 (L).

v. S. L. Srivastava.....Applicant.

Vs.

Union of India & Others.....Respondents.

The above case has been listed for hearing on 16.7.91. Since Shri A.V. Srivastava, Advocate for the Respondents is busy at Allahabad, it is earnestly requested that the case may be adjourned to some other date.

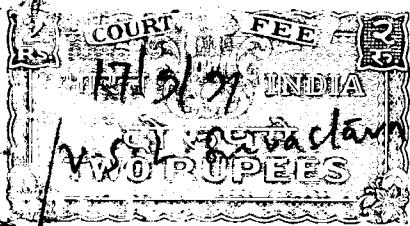
16/7/91.
RESPONDENTS.

Place: LUCKNOW.

Dated: 16/7/91.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
(LUCKNOW BENCH) LUCKNOW.

1991
AFFIDAVIT
71 M
DISTT. COURT
U.P.



REJOINDER TO THE COUNTER AFFIDAVIT
OF THE RESPONDENT NO. 3 in
REGISTRATION O.A.NO.67 of 1990(L)

V.S.L.Srivastava Applicant

Versus

Union of India and others Respondents.

REJOINDER AFFIDAVIT ON BEHALF OF

THE APPLICANT

I, V.S.L.Srivastava, aged about 50 years, son of Late Sri Sharda Prasad, resident of House No.555-Kha/2K/7, Bhola Khera, Alambagh, Lucknow, the deponent do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the applicant himself in the abovenoted case and as such he is fully conversant with the facts of the case as deposed to in this affidavit below.

1.(a) That the deponent has read the counter affidavit filed as "Counter Affidavit/Reply to the Claim Petition on behalf of O.P.No.3" and has fully understood the contents of the same. The reply in this Rejoinder Affidavit is being given

V.S.L.Srivastava

2.

with reference to the paragraph of the written statement.

2. That the contents of paras 1 & 2 being matter of record need no comments.

3. That the contents of para 3 of the counter affidavit are denied. The respondent has wrongly mentioned para nos. of the application. There is a definite cause of action because the opposite party no. 2 has already permitted the opposite party no. 3, an unqualified candidate to appear in the Selection without any valid order of Central Administrative Tribunal, Allahabad in Registration No. 533 of 1987, P.K. Misra Versus Union of India & others.

4. That the contents of paras 4 & 5 of the counter affidavit need no further comments.

5. That the contents of para 6 of the counter affidavit are wrong and hence denied. The respondent no. 3 was promoted on adhoc basis to the post of Assistant Documentation Officer (Library), A.D.O. (Lib.) in October 1984 (Annexure A-2 of the Application) at the first instance and he was subsequently transferred to the post of Assistant Documentation Officer (Publication), A.D.O. (P) in

July 1987. The contents of para VI.4 of the Claim petition are reiterated in view of the fact that the duties of both A.D.O.(Lib.) and A.D.O.(P) are pertaining ~~work~~ to the dissemination of information.

6. That the contents of para 7 of the counter affidavit are misconceived and hence denied & ~~xx~~ the statement of para VI-5 of the application are reiterated. The provision of clause 5 of the Recruitment Rules 1984 rests with respondent no. 1 & 2 and respondent no. 3 cannot ask for any remedy under this clause on his own. Clause 6 of the Recruitment Rules is not applicable on respondent no. 3 as he is not an S.C./S.T. candidate.

7. That the contents of para 8 of the counter affidavit are misconceived and wrong hence denied. The recruitment rules 1984 are for the post of Assistant Documentation Officer (ADO) and the post of ADO(P) and ADO(Lib) are covered by them. Further, the duties of the post of ADO(P) also pertain to the work of dissemination of information and hence qualification of Bechalars Degree, equivalent diploma in library science prescribed in the Recruitment Rules 1984 is a must. Since the Government of India has not relaxed any of the provisions of the Recruitment Rules,

1984, the respondent no. 3 cannot claim to derive any benefit from the clause 5 of these Rules.

8. That the contents of para 9 of the counter affidavit being irrelevant in reference to para VI.8 of the claim petition and hence denied. The respondent no. 3 has tried to confuse the issue by the statement which are either having no relevance on the points raised by the applicant or have been superseded. It is also pointed out that the Corrigendum slip no. 5 to Order of 1961 (Annexure-2 of the counter affidavit) relates to the rules ~~of~~ for recruitment and channel of promotion of Class-III (Group-C) staff (Technical) in RDSO. The class III Staff (Technical) in RDSO, Ministry of Railways, itself has different hierarchies in different grades and scales of pay. The ~~existing~~ channel of promotion mentioned in the aforesaid corrigendum refers to various promotion from one grade to another grade in the same class-III Staff (Technical). The post of Assistant Director (Publication) i.e. ADP had never been a post in Class-III. As a matter of fact, from the very beginning the post of ADP has been in Class-I (Group-A) post upto the year 1965. It is unimaginable that a channel of promotion could provide an avenue of promotion from class III to Class I without being promoted to Class-II. The Chief Research Assistant (Documentation), CRA (Doc.)

has been a post in Class-III throughout. There is no provision entitling a person working in Clas-III to be promoted directly to class-I. The mention of the post of the Assistant Director (Publication) i.e. A.D.P. in the Chart is absolutely wrong and the same is liable to be ignored as these rules deal with class-III post only upto Chief Research Assistant (Documentation) i.e. CRA (Doc.) level. In this connection it may further be pointed out that the department has never granted any promotion directly to any person belonging to class-III (Group-C) straight away to class I (Group-A). No person holding the post of CRA(Doc.) has ever been promoted to the post of ADP without first being promoted to class-II (Group-B) and being absorbed there on regular basis. It is also pointed out here that the respondent no.3 has never been eligible for promotion to the class -II post (Group-B) right from 1970 when first Recruitment Rules for class-II (Group-B) posts of this cadre came into force for the first time in 1970 (Annexure-4 of Counter affidavit of Respondent no.3) for not fulfilling the provisions of the Recruitment Rules, 1970.

9. That the contents of para 10 of the counter affidavit are emphatically denied. The respondent no. 3 is not having the required qualification of Degree or equivalent Diploma in Library

Science as required in the Recruitment Rules 1984 and hence has gone out of the field of consideration for promotion to class-II (Group-B) post. His promotion even on ad-hoc basis is irregular, illegal and arbitrary. Being unqualified according to Recruitment Rules, 1984, Respondent no. 3 cannot claim seniority among the qualified candidates. He may claim himself to be qualified but he is definitely not a qualified candidate for promotion to the post of Assistant Documentation Officer according to Recruitment Rules, 1984.

10. That the contents of para 11 of the counter affidavit need no comments.

11. That the contents of para 12 of the counter affidavit are denied. The contents of para VI.11 of the claim petition are the observations of the Railway Board, the Recruitment Rules framing authority for the post of Class-II (Group-B) in Indian Railways. The ad-hoc promotion of Respondent no. 3 is totally illegal, irregular and arbitrary in view of the fact that he is not having the required qualification "Bachelor's Degree or equivalent Diploma in Library Science" as prescribed in Recruitment Rules 1984 for the post of Assistant Documentation Officer (ADO) in RDSO.

12. That paras 13, 14 and 15 of the counter affidavit need no comments.

13. That the contents of para 16 of the counter affidavit are denied as the reply has no relevance to the points raised in Para VI, 16 of the application.

14. That the contents of para 17 of the counter affidavit are denied. The respondent no. ² DG/RDSO vide Para 15 of his counter affidavit has accepted the facts ~~as~~ claimed in para 17 of the application.

15. That the contents of para 18 of the counter affidavit are denied. The contents of para 18 of the application has been misconceived by respondent no. 3 and his reply to this is irrelevant as he is not a part of RDSO administration involved in holding the selection to the post of Assistant Documentation Officer (ADO). The approval of the selection made by the Selection Committee for the post of ADO is to be done by D.G./RDSO - Respondent no. 2 and not by the Railway Board as stated by the respondent no. 3.

16. That para 19 of the counter affidavit need no comments.

17. That the contents of para 20 of the counter affidavit are denied. The contents of para 21 of the application can't be verified from Para LV of the Respondent no. 3's application in Case No. 533 of 1987 of 1987 at CAT/Allahabad. At

W.M. S.

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the time when respondent no. 3 filed his application before the CAT/Allahabad, there was no Bench of CAT at Lucknow and when the applicant filed his case, a Circuit Bench of CAT was functioning at Lucknow and this was convenient for all the parties situated at Lucknow. Moreover the cause of action of both the cases are quite different, which are reproduced below:-

"(a) The cause of action in case no. 533 filed before the CAT/Allahabad - Sri P.K.Misra Versus Union of India.

Memorandum No. E-II/ES/PR/O(Lib.)

dated 11.4.1986 issued by the respondent no. 2 i.e. DG/RDSO to respondent no. 3 Sri P.K.Misra and Sri P.K.Misra made an application to CAT/Allahabad for deleting the provisions of qualification in column 8 of the Recruitment Rules 1984 for the post of ADO in RDSO."

This memorandum has been attached as Annexure A-6 with the application.

"(b) The cause of action in the present filed at CAT/Lucknow is -

Staff Notice No. E-II/ES/PR/O(Lib.)

dated 10.8.87 and 12.7.89 of Respondent no. 2 i.e. DG/RDSO permitting Respondent no. 3, Sri P.K.Misra, to appear in the supplementary examination for the selection

of the two posts of Assistant Documentation Officer who is not a qualified candidate according to enforced recruitment rules for the post and the applicant made an application to CAT/Lucknow for illegal inclusion of the name of Respondent no. 3 in the list of qualified and eligible candidate for the selection of ADO.

18. That the contents of para 21 of the counter affidavit are denied. The contents of para 22 of the claim petition are reiterated as respondent no. 2 has not followed the instructions/guidance in this regard issued by the higher authority i.e. Railway Board.

19. That the contents of para 22 of the counter affidavit are emphatically denied. The interim stay order dated 25.6.87 and stay vacation order of CAT/Allahabad dated 10.7.87 (Annexure-A-~~8~~ 8 of the application) are very clear and quite understandable without any ambiguity. Respondent no. 2 gave assurance that the respondent no. 3 will not be referred till 3.8.87. Respondent no. 3 is in his own interest unnecessarily twisting the issue and intentionally interpreting the order wrongly. The contents of para 23 of the application are reiterated.

20. That the contents of paras 23 and 24 need no comments.

12.

no.2 after the enforcement of the Recruitment Rules on 5.5.84.

(iii) that the stay order of the CAT/ Allahabad was also vacated as stated in their order dated 10.7.87 (Annexure no.A-8 of the application).

26. That the contents of para 31 of the counter affidavit are denied. The contents of para 33 of the application are reiterated. Respondent no. 3 was never appointed as Assistant Documentation Officer (Publication), ADO (P) and Hon'ble Court has never allowed him to appear in the selection for regular promotion.

27. That the contents of para VII and VIII of the counter affidavit are denied and the contents of para VII of the application for granting relief and para VIII of application for granting interim order are reiterated.

REPLIES TO THE ADDITIONAL PLEAS

(1) That in reply to paragraph (1) it is stated that the respondent no. 3 is not having the required qualification as prescribed in the Recruitment Rules, 1984 for the post of ADO, his experience,

10.

21. That in reply to the contents of para 25 of the counter affidavit, it is stated that the respondent no. 3 is not a qualified candidate according to the Recruitment Rules, 1984 for the post of ADO as he is not having the prescribed qualification of Bachelor's Degree or equivalent Diploma in Library Science and hence granting him permission to appear in the selection for the post of ADO was itself irregular, illegal and arbitrary. As already stated in para 15 above the proceedings of the selection committee are to be approved by the DG/RDSO, respondent no. 2 and not by the Railway Board as claimed by the Respondent no. 3.

22. That the contents of para 26 of the counter affidavit need no comments.

23. That the reply to para 27 of the counter affidavit have not been supported by any documentary evidence and hence no cognisance can be taken. It is also not understood as to how he is giving a reply on matter pertaining to respondent no. 2 when he is not a part of the RDSO administration dealing with selection for the post of ADO.

24. That in reply to para 28 of the counter affidavit, it is stated that neither any reason nor any documentary evidence have been provided by the respondent no. 3 in support of his claim that

the representation of the applicant is misconceived.

25. That the reply to para 29 of the counter affidavit is totally vague as respondent no. 3 is not a part of RDSO administration dealing with the selection i.e. Respondent no. 2. He is one unqualified candidate who is not having the required qualification as prescribed in the Recruitment ~~Rules~~ Rules 1984 but was promoted as ADO on ad-hoc basis and subsequently permitted to appear in the selection of ADO by RDSO administration. Respondent no. 2 illegally, arbitrarily and unlawfully. Moreover, it is not out of place to mention that the respondent no. 3 has not passed the three selections for the post of ADO. Those selections may be for other lower class-III posts as stated by him. The post of Assistant Documentation Officer is in Class-II (Group-B).

26. That the contents of para 30 of the counter affidavit are denied and the contents of para 32 of the application are reiterated. Respondent no. 3 is not being rightly continued on the post of ADO and hence he should immediately be reverted on the following grounds:-

(i) that he is not having the required qualifications as prescribed in Recruitment Rules, 1984;

(ii) that he was promoted to the post of ADO on ad-hoc basis illegally, arbitrarily and irregularly by respondent

length of service, acquired working knowledge cannot be a substitute for the qualification prescribed in the recruitment rules otherwise all the pharmacists/nurses etc. may claim for the promotion to the post of Doctor. The recruitment rules for the Group.B posts are made by the Ministry of Railways (Railway Board) and not by DG/RDSO and hence any addition in the Recruitment Rules ^{under the} ~~at the~~ level of rules framing authority i.e. Railway Board is illegal.

(2) That in reply to para (2) it is stated that the Recruitment Rules for the post of ADO were framed by the Ministry of Railways under Article 309 of the Constitution taking into account the duties performed, recommendation of the Railway Reforms Committee and also the policies enunciated by the Railway Board in consultation with the UPSC. Therefore, the characterisation of structuring of the Recruitment Rules is beyond the jurisdiction of any arbitration. The respondent no. 3 has no vested right for promotion and he is not entitled to challenge the Recruitment Rules merely on the ground that it affected his chance of promotion. The Rules defining qualifications and suitability for promotion are conditions of service and they ~~can~~ can be changed even retrospectively without informing the concerned staff. Any allegation by the respondent no. 3 in the matter without any proof is not justified. In addition to respondent no. 3, there are only two

Chief Documentation Assistants who are not having the required qualifications as prescribed in the Recruitment Rules, 1984 and are on the verge of retirement. All other Chief Documentation Assistants, Senior Documentation Assistants are qualified and eligible for the promotion to the post of ADO according to Recruitment Rules. It is further stated that there is no comparison between the posts of Assistant Documentation Officer and other posts in the engineering department being entirely a distinct and separate discipline and as such there is no point of comparison. The U.P.S.C. being sole body to monitor public services, even the Recruitment Rules prescribed for class-II (Group B) posts in other disciplines in RDSO were approved by the U.P.S.C. and the same body also is the sole force for the post of Assistant Documentation Officer so that uniformity is kept up and comparison to one's advantage is not keeping up with recruiting standard and so respondent no. 3's claim of comparison cannot stand to reason.

(3) That in reply to para (3) it is stated that the post of Assistant Documentation Officer (Publication) is not at all analogue to the post of Assistant Superintendent of Printing & Stationery as there is not a single similarity in their duties. The statement of respondent no. 3 is totally misleading as in para 5 of the additional points. It is stated

by Respondent no. 3 himself that the duties of ADO (P) involves Public Relation work which certainly does not fall under the duties of Assistant Superintendent of Printing and Stationery.

(4) That in reply to para 4 & 5 it is stated that respondent no. 3 was initially promoted on ad-hoc basis to the post of Assistant Documentation Officer (Library) (Annexure A-2 of the application) and he continued on this post till August 87 i.e. about 3 years. As already stated that the post of ADO(P) ^{are} and ADO(Lib.) ~~are~~ performing the duties pertaining to dissemination of information only. Editing, arranging printing i.e. publishing, distribution of various research publications, preparation of the write ups on various technical activities of RDSO are part of dissemination of information work only. Printing work of letter heads, various forms, registers ~~are~~ and all other allied printing work is being dealt with by the Divisional Controller of Stores and not by ADO(P), RDSO is not a commercial organisation where any publicity is to be done on large scale. In RDSO only the activities and achievements are to be brought to the notice of public which infact is the part of dissemination of information and this is not any sizeable work.

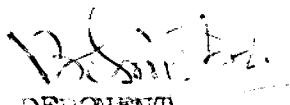
(5) That in reply to para 6 it is stated that

the respondent no. 3's representation dated 31.5.91 annexed as Annexure 10 has got no relevance as the matter is already subjudiced vide his application in CAF/Allahabad (Regn. No. 533 of 1987 - P.K. Misra Versus Union of India), hence, no action is likely to be taken by the respondent no. 1.

(6) That in reply to para 7, it is stated that the Recruitment Rules for the post of ADO in RDSO have been enforced w.e.f. 5.5.84 i.e. the date of their publication in the Gazette of India. The selection for the post of ADO is being held after this date and hence the Recruitment Rules are fully applicable on respondent no. 3. The Recruitment Rules 1984 defining qualifications and suitability for promotion are conditions of service and they can be changed retrospectively. It is further pointed out that the Respondent no. 3 was not eligible for promotion to the post of ADO(P) according to the Recruitment Rules of 1970 also (Annexure No. 4 to the counter affidavit). Thus, it can be very well visualised that respondent no. 3 was never eligible for promotion to Class-II post right from Feb. 1970.

Lucknow:

Dated: September 27, 1991.


DEPONENT

Verification

I, the abovenamed deponent, do hereby

17.

verify that the contents of paragraphs 1 to 10
12 to 27 and para 1 to 6 of the Additional pteas are true to my
own knowledge and those of paras 11
of this Rejoinder
Affidavit are believed by me to be true on the
basis of records.

No part of it is false and nothing
material has been concealed, so help me God.

Lucknow:

W. B. M. S.
DEPONENT

Dated: September 17, 1991.

I know the deponent who
has signed before me:

B. N. Misra
S. D.
17/9/91

11.30 AM
17/9/91

B. N. L. Sankar

M. Misra

K. B. A.
17/9/91

व अदानत थीमाम

High Court of Ahmedabad
Triumvirate

महोदय

वादी अपीलान्ट
प्रतिवादी [रेस्पाडेन्ट]

Mr. P. K. Patel

वकालतनामा

OA No. (Case) 533 of 1987

P.K. Misra

VS

Union of India
2000

XXXXXX

F.F 13.7.92



दनाम

(वादी अपीलान्ट)



पेशी की ताता

१६ रु०

ऊपर लिख सुकदमा न लगा और से थी

T.N. Gupta

नकील
महोदय
एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस सुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटाव या हमारी ओर से डिगरी जारी करावें और रुपया बसूल करें या सुलहनामा व इकबाल दादा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे सुकदमा उठावे या कोई बपया भमा करें या हारी विपक्षी (पारीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (इस्तलती) रसीद से लेवे या बंच नियुक्त करे—वकील महोदय द्वारा की वई वह सब कायंबाही हमको सबैथा स्वीकार है और होगा मैं यह सी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर सुकदमा अदम पैरवी में एक तरफा मेरे लिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर T.N. Gupta

साक्षी (गवाह) (गवाह)

दिनांक 15 महीना 7 सन् १९९२) रु०

ल्लीक्षन

Accepted
T.N. Gupta
AC

13.7.92
B.M. Misra

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J. E. 13.7.92

application of heat in the treatment of malignant disease is well known. In this case,

1. The right to life is an absolute inviolable human right, applying to the whole range of the case.
2. That the author of a crime against a child is liable for the child's death, in the case of homicide, even if the child's death is caused by an involuntary mistake.
3. That the right to life is violated when the right to protection and safety is violated.

Picked today

• Other ^R
• 23/5/92

That is to say, it is my wish that for the
sake of justice and equity this case may kindly
be fixed in the right track for hearing.

TY Cuff
T. C. Cuff
Advocate.

Mr. 2c May 1952
21
Eudexia

^{1/15}
Bench copy

BEFORE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

V. S. L. SRIVASTAVA - - - - - Applicant
Vs

UNION OF INDIA AND OTHERS ^{M.T.-470/92} Respondents
O.A. No. 67 - of 1990 (L)

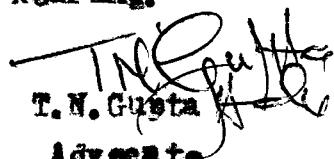
F.F. 13.7.92

Application on behalf of Applicant for early
hearing of this case.

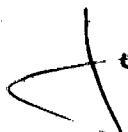
The applicant begs to submit as under :

1. That the applicant is suffering irreparable loss and injury due to the pendency of the case.
2. That the matter is very urgent and immediate in the circumstances of the case hence early hearing as far as possible is necessary for the ends of justice and equity.
3. That in case early hearing is not allowed then the applicant shall suffer further injury.

Wherefore most humbly prayed that for the ends of justice and equity this case may kindly be fixed in the next week for hearing.


T. N. Gupta
Advocate

It 20 May 1992
Lucknow


for Petitioner