

## FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, *Lucknow Bench*  
OA/TA/RA/CP/MA/PT *8/1/90* of 20..... OA-81/90*Mr. Wasimuddin Misra* ..... Applicant(S)

Versus

*60 Flood* ..... Respondent(S)

00/2018

## INDEX SHEET

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Certified that the file is complete in all respects.

*File already checked and finalized**File Part B/C not found**12/9/12*

Signature of S.O.

*Raj*

Signature of Deal. Hand

17 | 12

Leveller

77 12 U.S. → It is mentioned  
by the parties that  
CA/R A are not filed  
by them so far. These  
CA/R A are related to  
O A No. 51 Bai/ Nata Bharti  
Vc Union of India. Hence  
these be longer in these  
File. Correspondence to file  
Counter by 17/12/90 in this  
Case.

8.1-3, Nov 11, Dr. Edward J.

Dear Mr. Kellaway, A.M.

Counts be filed within  
6 weeks, failing which  
the respondents shall  
forfeit their right to  
file the same. Rejoinders  
may be filed within  
2 weeks thereafter  
from the hearing or

18-4 '91

Def  
J.M.

4C for it's  
Stamp & file  
for replacement  
8.17

18.4.91 - No sitting add to 16.7.91.

Q  
CR ;  
i e  
a  
c

6

C.A. 81/52(1)

15-5-92

Hon Mr. A. D. Gopal, A.M

%

Hon Mr. S. A. Deshpande, J.M.

on the day of 15-7-92 and  
 counsel for the appellant  
 3 weeks time to file 1st  
 & 4th affidavit in the  
 case for hearing on

15-7-92

3

1

J.M

A.M

A

No. 81/52  
A.D.G.

15-7-92

Hon Mr Justice U.C. Somvanshi, V.C.  
 Hon Mr. A. D. Gopal, A.M

Leave 1 counsel for  
 the appellant for 2  
 weeks time to file 1st affidavit  
 & 4th for hearing on 26-8-92

2

1

A.M

V.C

A

26/8/92

Case not reached.

Adjourned to 3/11/92  
 for hearing.

Case not reached.  
 26/8/92

Court

C.R. 311-92

No notice of D.M. adiv

No notice 20/11/92

J =

No C.R. has  
 been issued.  
 S.C. f.c. C.R.

DA 01/90  
800  
DA 375/90

29-9-93

Case not reached as from 10-11-93

more

202  
3396

The case has been picked before me today. Seen the office report. Dealing assistant to be more careful in future regarding listing last this case for hearing on 6-4-94 inform the parties through notices.

Notified 6/4/94  
Reference  
in writing  
4/4/94

1052

31  
Filed and  
on 10-3-94

With Mr. Justice R.K. Venkatesh  
and Mr. V.K. Sethu  
Court reporter  
to office on 12-5-94

31  
10-3-94

Am

Am

31 filed 12-5-94

10-3-94  
12-5-94

Am

28-6-94

No hearing of application  
12-8-94

Am

10-1-94  
12-6-94

CA-81/90

26-7-95

No sitting of D.B.  
adj to 16-8-95.

Mr.  
BEC

26-7-95 Case not ready. Adj to  
26-7-95

1  
BEC

26-7-95 No sitting of D.B.  
adj to 25-8-95.

Mr.  
BEC

26-7-95 Heard Mr. Gell. A.M.  
Heard Mr. D. C. Narine. B.M.

Mr. D. C. Narine  
Mr. D. C. Narine adj to 16-8-95

19-10-95

Heard Mr. R. K. S. G. A.M.  
Heard Mr. D. C. Narine B.M.

Mr. O. P. Grover for applicant  
and pray for adjournment on account  
of non-availability of his legal book  
for respondent from A.V. Grover & Co. &  
for hearing on 3-1-96.

In the connected case of 375/90  
as learned Counsel for applicant this

Q.F. No. 81/90 C.R.

30-1-96

Hon. Mr. V.K. Sofi, A.M.  
Hon. Mr. D.C. Kaur, I.M.

Sri. O.P. Srivastava, learned counsel for applicant in C.A. no 81/90 has prayed for adjournment on account of illness. Sri Anil Srivastava, is present on behalf of respondents. ~~Amrit~~

The records shows that C.A. & R.A. have not been filed in this day. Learned counsel for respondents states that C.A. in this case is filed vide. m.t. No. 222/91 & he undertaken to file a fresh copy of the same for records.

On regard the committal C.A. No. 375/90 the applicant is present in person. In this C.A. as the C.A. is not on recordable the learned counsel for the respondents states that he has filed the C.A. & he undertaken to file a fresh copy after the hearing on the applicant or his counsel during the course of a week. There after the applicant may file R.A. within a week.

Lit. on 27-2-96 for hearing.

Amrit

J.M.

A.M.

CA 81/83

3.12.97

Hon Mr. K. C. AM  
Hon Mr. D. C. JONES JM

In the connected : A 375/50  
Hon. High Court hearing held  
for Sir T. N. Saeng (impartial  
for Plaintiff sets up government).

list on 8-1-97.

AM

JM

✓ ✓

A.M

8.1.97

Hon Mr. Justice B.C. SARKAR

10.2.97

Doc

10.2.97

Hon Mr. Justice B.C. SARKAR, VC

Hon Mr. V.K. SETH, O.M

None for application  
for Am and signatures for  
respondent

Placed to be decided  
separately.

AM

VC

AM

VC

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH  
Lucknow this the 10th Feb., 1997

O.A. No. 81/90

Niwas Narain Misra aged about 56 years, son of  
late Shri Dhar Misra resident of 21, Charas  
Mandi behind Kurshed Bagh, Lucknow.

2. Har Dutt Singh, aged about 56 years son of  
late Chatra Pal Singh resident of 22, Durvijaya  
Ganj, near Jhandewala Crossing, Raniganj,  
Lucknow.

Applicants.

By Advocate: None

versus

1. Union of India through General Manager, N.  
Railway Baroda House, New Delhi.

2. Senior Divisional Personnel Officer, N.  
Railway Hazratganj, Lucknow.

3. Divisional Personnel Officer, N. Railway,  
Hazratganj, Lucknow. Respondents.

For respondents Shri Anil Srivastava.

2.O.A. No.375/90

Ram Kumar aged about 42 years, son of Sri Alakh  
Kumar, resident of LD-130, Sleeper Ground  
Alambagh, Lucknow.

Respondents

Applicant

versus

1. Union of India through G. M. N. Railway,  
Baroda House, New Delhi.

2. Senior Divisional Personnel Officer, N.  
Rly. Hazratganj, Lucknow.

3. Divisional Personnel Officer, N. Railway,  
Hazratganj, Lucknow.

Respondents.

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. V.K. SETH, MEMBER(A)

ORDER (ORAL)

HON. MR. JUSTICE B.C. SAKSENA, V.C.

When the case was called out none appeared for the applicants, neither any request was made on behalf of the applicant. We have heard the learned counsel for the respondents.

2. The applicants, through this O.A. challenge the order dated 11.12.89 by which the selection for the post of CPS/CBS/CCS was notified to be held. The applicants claim is that he had already been promoted to officiate purely on adhoc <sup>basis</sup> pending selection and since he continued to officiate for a period of more than 18 months, without subjecting him to a written test, he may be deemed to have been regularly selected for the said post giving benefit accordingly. The claim purports to be supported by the Railway Board circular contained in Annexure6. We have gone through the said circular, but we do not find that it provides for any deemed regular promotion for an incumbent who had been given adhoc promotion on local and tentative basis. The said circular provides that since a person cannot ~~continue~~ continue for 18 months unless his work has been satisfactory, it only provides that ~~certain~~ <sup>Certain</sup> incumbent may not be reverted on ~~completion~~ <sup>completion</sup> of 18 months of officiating period. Thus, the basis for the claim is clearly unfounded. The Railway Board circular does not provide for the same. The circular has also come up for clarification in

Jethanand's case and other subsequent cases. We are not persuaded that any claim for the relief claimed is made out. The O.A. is accordingly dismissed. Consequently, the connected O.A. No. 375/90 is also dismissed. No order as to costs.

MEMBER(A)

VICE CHAIRMAN

Lucknow; Dated: 10.2.97.

Shakeel/

14-3-90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

O.A. NO. 81 OF 1990(L)

Nivas Narain Misra and ..... Applicants  
another.

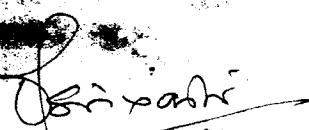
VERSUS

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

I N D E X

COMPLIATION NO. I

SL. NO.	DESCRIPTION OF PAPERS	PAGE NO.
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2.	ANNEXURE - 1 ORDER DATED 11TH DECEMBER 1989 REG. HOLDING SELECTION.	19 - 20
3.	POWER (VAKALATNAMA) .. ....	21 - 22

  
(O.P. SRIVASTAVA)

ADVOCATE

COUNSEL FOR APPLICANTS.

LUCKNOW DATED:  
MARCH , 1990.

Meeting before the Court,

Filed today,

Notified on 16/3/90 in A.M.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

D.A. NO. Q/ OF 1990(L)

1. Nivas Narain Misra, aged about 56 years, son of late Shree Dhar Misra, resident of 21 Charas Mandi, behind Kurshed Bagh, Lucknow presently functioning as Chief Booking Supervisor, N.Railway, Lucknow.

2. Har Dutt Singh, aged about 56 years son of late Chattra Pal Singh, resident of 22, Durvijaya Ganj, near Jhandewala Crossing, Raniganj, Lucknow presently functioning as Chief Parcel Supervisor, N. Railway, Varanasi.

..... Applicants

VERSUS

1. Union of India through General Manager, N.Railway, Baroda House, New Delhi.

2. Senior Divisional Personnel Officer, N.Railway, Hazratganj, Lucknow.

3. Divisional Personnel Officer, N.Railway, Hazratganj, Lucknow.

..... Opp. Parties.

4. DETAILS OF APPLICATION

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

The instant application is being filed challenging the validity of the order dated 11th December, 1989 holding selection test for the post of Chief Booking Supervisor/Chief Parcel

Supervisor/Chief Coaching Supervisor in the grade of Rs.2000-3200. Since the applicants have already been promoted to the aforesaid post in the year 1985 on ad hoc basis and are still continuing to the entire satisfaction of their superiors, they cannot be compelled to appear in the impugned selection as they have already completed more than 18 months of continuous services on the high post and consequently stood regularised against the post in question. A true copy of the aforesaid order dated 11.12.1989 issued under the signatures of the Respondent No. 3 for holding selection to the aforesaid posts in the grade of Rs.2000-3200 is being filed here-  
ANNEXURE-1 with as Annexure-1 to this application.

2. 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.

3. Limitation:

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

*1/1/1989  
D.A.P.*

4. Facts of the case :

4.1 That the instant application is being filed challenging the validity of the order dated 11.12.1989 issued by the Respondent No. 3 whereby the applicants have been invited to appear in the written test/selection for the post in the grade of Rs.2000-3200. A true copy of this order is has already been filed as Annexure-1 to this application.

4.2 That so far as the facts of the case are concerned while the applicants were functioning as Booking Supervisor/Parcel Supervisor in the scale of Rs.550-700 (now revised as Rs.1700-2300) they were duly considered and promoted on the basis of seniority subject to rejection of unfit to the post in the grade of Rs.700-900 (now revised as Rs.2000-3200) against the clear vacancies. A true copy of the order of promotion dated 27.5.1985 issued under the signatures of Respondent No.3 is being filed herewith as ANNEXURE-2 Annexure-2 to this Application.

4.3 That it would not be out of place to mention that the promotions from the Grade of Rs.1700-2300 to the grade of Rs.2000-3200 is made from the

combined seniority list of Booking Supervisor/ parcel supervisors (commonly called as Coaching Clerk). Since the applicants were fully eligible and within the zone of seniority of the aforesaid combined seniority list, they were ultimately considered and promoted in the same manner as a regular promotion is made.

4.4 That a perusal of the order of promotion contained in Annexure-2 to this application reveals that the said promotion was made to officiate on purely ad hoc basis pending selection, but no selection was held for number of years after the promotion of the applicants and consequently the applicants continued as such without any interruption. They were not only paid full salary in the grade of Rs.700-900 (now revised as Rs.2000-3200) but were also paid regular increments and they were given all the benefits attached with the post.

4.5 That while working as Chief Booking Supervisor/ Chief Parcel Supervisor in the grade of 2000-3200, the applicants devoted and dedicated to the services of the Department and were found and declared to be the best workers. As a

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sequal to it the applicant No. 1 was awarded by the Divisional Railway Manager the 'Best worker award on 15.4.1986. This award was comprised of a certificate and cash award. A true copy of the certificate declaring the applicant No. 1 to be the best worker in the grade of Rs.2000-3200 is being filed herewith as Annexure-3 to this Application.

4.6 That similarly the applicant No. 2 was also assessed and found and declared by the Divisional Railway Manager to be the best worker on 12.4.88 and consequently he was also issued a certificate and the cash award. A true copy of the certificate declaring the applicant No. 2 as a best worker in the grade of Rs.2000-3200 is being filed herewith as Annexure-4 to this Application.

4.7 That as the applicants have always been treated as regular employees in the grade of Rs.2000-3200, the applicants were expecting for the next promotion on account of their excellent and commendable performance of work. The Respondents have never intimated to the applicants that their continuation on the higher post was other-

*l/mz*  
*bjy*

wise and they were not entitled to get promotion to the next higher post to the grade of Rs.2000-3200. The applicants have as such passed more than 5 years of service on the post in the grade of Rs.2000-3200. The applicants were shouldered with the entire responsibilities attached with the posts and were fully responsible for any commission or omission of the work attached with the post. In case of any fault the applicants were fully entitled to receive punishment against such omissions and commissions. As such the applicants had devoted themselves to the services of the department on the higher post in the grade of Rs.2000-3200, they not only secured the best worker award but also gained valuable experience ~~as~~ of the working on the higher post. The experience which the applicants earned while working on the higher post is very much dis-similar to the persons who are to face selection and are yet to be promoted.

4.8 That in the history of promotions whenever such ad hoc promotions are continued beyond 18 months and the employees are not reverted and found fit and suitable to continue beyond 18 months, the

said employees have been treated as regularly promoted employees and have been given seniority after completion of 18 months of their ad hoc services. These persons were never compelled to face any selection. A true copy of the said order dated 29.7.1985 issued under the signature of the General Manager treating the ad hoc promotees as regularly promoted employees after completion of 18 months is

ANNEXURE-5 being filed herewith as Annexure-5 to this Application.

4.9 That it is worthwhile to mention that various circulars have been issued by the Railway Board in this connection instructing that once an employee is promoted to the higher post on officiating or ad hoc basis and is allowed to continue beyond a reasonable period of 18 months, such employee cannot be reverted after he has completed 18 months of continuous officiating service except after following the Discipline and Appeal Rules Proceedings for committing mis-conduct. These circulars of the Railway Board have been issued from time to time right from the year 1961 onwards. The applicants are filing one of such circulars

*Amrit  
ASJ*

dated 23.6.1964 issued in pursuance of the Railway Board's letter providing that if an employee is promoted to the higher post on ad hoc basis and is allowed to continue beyond 18 months, he cannot be reverted unless Discipline and Appeal Rules proceedings are drawn against him for committing misconduct.

A true copy of the aforesaid circular dated 23.6.1964 is being filed herewith as Annexure-6 to this application.

4.10 That a perusal of the aforesaid circular contained in Annexure-6 to this application palpably reveals that if an employee has been promoted to the higher post on officiating basis or on ad hoc basis his suitability must be tested after expiry of <sup>every</sup> each six months and in any case he should not be allowed to continue on officiating basis after completion of 12 months i.e. after assessing two times if his working is not found satisfactory. Only those employees should be allowed to continue whose working is found satisfactory.

4.11 That obviously the Respondents should have assessed the suitability of the promoted

employees and the applicants after two intervals of six months each and in case ~~they~~ if it is found that the continuation of these employees was not proper, the selection must have been held within the aforesaid period of 18 months but once no selection has been held within the aforesaid stipulated period, the respondents cannot now hold selection constraining the applicants to appear in the written test.

4.12 That the Respondents are not at liberty to hold the selection at any time according to their sweet desire. They are bound to hold selection within a reasonable time. In the instant case the applicants have already passed more than 4 years of continuous officiating service on the higher post and have also been declared best workers. It is not feasible by any stretch of imagination to compel the applicants to appear in the written test for the same post on which they have not only earned experience but have also got the certificate of best workers and on which post they are functioning for the last more than 4 years.

(S)

4.13 That there is no reasonable basis for the Respondents to hold selection for the aforesaid post particularly when the applicants have already been promoted to this post as back as in the year 1985 and are continuing without any interruption with satisfactory service. If this selection is allowed to be held, the four valuable years of services on the higher post of the applicants will go waste for which they have been awarded.

This award of best workers will also lose its significance once the applicants are compelled to appear in the test and are promoted subsequently in pursuance of the aforesaid post test. The exercise to hold selection of the promotees who are already functioning on the promoted post for the last several years is wholly unwarranted, illegal and arbitrary in the eye of law.

4.14 That similar disputes were raised from time to time before the Hon'ble Central Administrative Tribunal, Principal Bench and other benches. Now it has been settled in a series of decisions that once an employee is promoted to the higher grade and is ad-

allowed to continue beyond 18 months of continuous service, he cannot be compelled to appear in the written test for the same post. This view has also been confirmed by the Hon'ble Supreme Court in a number of decisions. A true copy of some of the decisions on this point are being filed herewith as Annexure-7 (collectively) to this application.

4.15 That the applicants have requested several times for the next promotion for which they were assured. There was absolutely no question for compelling the applicants to appear in the selection for the post on which they are already functioning by virtue of their promotion in the year 1985. The applicants have also represented against the illegal selection proposed to be held vide impugned letter contained in Annexure-1 to this Application through proper channel but these representations have failed to produce any yield. True copies of some of the representations made by the applicants Nos. 1 and 2 are being filed herewith as Annexure-8 and 9 respectively to this application.

ANNEXURES-8 & 9

4.16 That in pursuance of the aforesaid letter contained in Annexure-1 to this application the written test of some of the employees has already been held on 30.12.1989 and the second part of the written test for the remaining employees was scheduled to be held on 24th February, 1990, but it was postponed as the matter was under consideration. The applicants have come to know that 17th March, 1990 has been fixed for the written test in pursuance of the aforesaid letter dated 11.12.1989.

4.17 That in case the selections are allowed to take place and the applicants did not appear in the said test the applicants will suffer irreparable loss and they will be not be considered to be regularly promoted candidates. It may be the pleasure of this Hon'ble Tribunal to stay the operation of the order dated 11.12.1989 contained in Annexure-1 to this application during the pendency of the case.

4.18 That the respondents cannot compel the applicants to appear in the impugned selec-

qualify  
tion and thereby cannot/the applicants'  
promotion to the higher post in the grade  
of Rs.2000-3200 on which the applicants are  
functioning from past several years. The  
applicants cannot be reverted consequent  
upon the result of the impugned selection.

4.19 That it is absolutely not expedient in the  
eye of law to compel the applicants to  
appear in the said test scheduled to be held  
on 17.3.1990 hence this hon'ble Tribunal  
may kindly be pleased to direct the Respondents  
to keep the said selection in abeyance  
during the pendency of the instant applica-  
tion to protect the interest of the appli-  
cants. In case the said test is allowed  
to be held, the applicants will suffer  
irreparable loss in case they failed to  
get a favourable order from this Hon'ble  
Tribunal. It is also relevant to state  
that the Respondents have not relished the  
demand of the applicants regarding treating  
them as regularised without the said test  
and if the applicants are asked to appear  
in the test, the result of the selection  
will be adverse to the applicants.

4.20 That the applicants stood regularised in the eye of law. The Respondents have waived off the condition of written test by their own conduct and now they cannot be allowed to take the advantage of their own wrong. The applicants are also entitled for the same treatment as has been given by the Respondents to the ad hoc promotees vide order dated 29th July 1985 contained in Annexure-5 to this application.

5. Grounds for relief with legal provisions:

The applicants attack the impugned test inter alia among the following grounds:-

G R O U N D S

- i) Because the applicants were promoted to the post in question on the basis of seniority subject to rejection of unfit as back as in the year 1985.
- ii) Because the applicants have proved themselves to be the best workers on promoted work. ~~post~~
- iii) Because the Respondents failed to hold test within a period of 18 months.
- iv) Because the applicants once allowed to continue on the promoted post beyond 18 months, <sup>by</sup> stood regularised on the promoted post.

wholly illegal, arbitrary, unwarranted, null and void and is violative of the provisions of Part III of the Constitution of India besides being discriminatory and in transgression of principles of natural justice.

6. Details of the remedies exhausted:

The applicants declare that they have availed of all the remedies available to them under the relevant service Rules.

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

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

8. Reliefs sought:-

In view of the facts mentioned in para 4 above the applicants pray for the following reliefs:-

a) This Hon'ble Tribunal may kindly be pleased to quash/set aside the impugned order dated 11.12.1989 as contained in Annexure - 1 to

to the application to the extent it pertains to the applicants.

b) This Hon'ble Tribunal may kindly be pleased to pass appropriate orders directing the Respondents to treat the applicants regular on the post of Chief Booking Supervisor/Chief Parcel Supervisor/Chief Coaching Supervisor in the grade of Rs.2000-3200 on ~~the~~ <sup>as date</sup> and from ~~L~~ they completed 18 months of continuous service from the date of their promotion to the said post on ad hoc basis with all consequential benefits.

c) This Hon'ble Tribunal may also be pleased to pass such other orders which are found just and proper in the circumstances of the case.

d) to allow the cost of the application.

9. Interim Order, if any prayed for :

Pending final decision in the application the applicants seek the following interim reliefs:-

For the facts, reasons and circumstances stated ~~in~~ herein above this Hon'ble Tribunal may kindly be pleased to stay the operation of the order dated 11.12.1989 contained in Annexure-1 to the application during pendency of the case and also pass such other orders which are found just and proper in the circumstances of the case.

10. In the event of application being sent by registered post, it may be stated whether the applicant

at  
desire to have oral hearing ~~at~~ /the admission stage  
and if so, he shall attach a self addressed Post-  
Card or Inland Letter, at which intimation regard-  
ing the date of hearing could be sent to him.

11. Particulars of Bank Draft/Postal Order filed in  
respect of the application fee.  
No - 02 409051 Amount Rs 50/-

12. List of enclosures - As per Index.

VERIFICATION

We, Nivas Narain Misra, son of late Shree Dhar  
Misra, aged about 56 years working as Chief Booking  
Supervisor, N.Rly., Lucknow, resident of 21, Charas  
Mandi, Behind Kurshad Bagh, Lucknow and Har Dutt Singh,  
son of late Chattra Fal Singh, aged about 56 years,  
working as Chief Parcel Supervisor, N.Railway, Varanasi,  
do hereby verify that the contents of paras 1 to 12  
of this application are true to our personal knowledge  
and that we have not suppressed any material fact.

DATED : MARCH , 1990

PLACE : LUCKNOW.

  
APPLICANTS.

Ninaw Narain Misra &amp; another.

Union of India Petitioners

Applicants (19)

Affidavit

ANNEXURE - I

(19)

P-2

## NORTHERN RAILWAY

No. 561E/6-5/700-900(CC)

Divisional Office,  
Lucknow Dt. 11/12/89SS/LKO, BBK, FD, ABP, SHG, JNU, BSB, KEI, PRG, RBL, SLN.  
CIC/TBS/BSB  
P, AMU/Store/LKO.

## N\_O\_T\_I\_C\_E

The revised channel of promotion chart for the post of CBS/CPS/CLS in grade Rs. 2000-3200 (RPS) has been received vide Hd.Qrs. letter No. 757E/42 EIB dated 12.7.88.

The written test for the post of CBS/CPS/CCS in grade Rs. 2000-3200 (RPS) is scheduled to be held on 30.12.89 in DRM Office N.Rly/Lucknow at 10.00 hrs from amongst the senior most BS/PS/CS in grade Rs. 1600-2660 (RPS). The staff listed in the enclosed Annexure 'A' may be spared and directed to appear in the aforementioned written test.

The proposed selection is being held to fill up the following vacancies of CBS/CPS/CCS in grade Rs. 200-3200 (RPS).

1.	General	8
2.	Schedule cast	2
3.	S/Tribes.	3

The staff concerned are advised to bring their Pen, Pencil, Ink Answer Sheets, will however be supplied by this office.

The written unconditional refusal of the staff who are not willing to appear in the selection should be sent in advance addressed to Sr.DPO/N.Rly/LKO.

In case any one who is required to attend the selection reports sick, a remark should be given on sick memo (G-32) to the effect that he is required to appear in the selection on 30.12.89 and in such case, the sick certificate counter signed by DMO should be accepted and necessary intimation is furnished to this office.

Date of written test should be got noted individually by all the Staff who are required to attend the selection.

The staff required to attend the selection as per enclosed Annexure 'A' must be spared well in time and directed to report in DRM Office/N.Rly/Lucknow. The earlier written test, which were held on 3.3.86 and 9.3.86 are treated as cancelled and the fresh selection is started now.

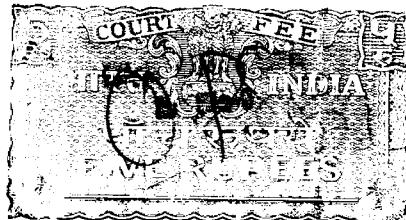
for Divl. Personnel Officer.,  
Divl. Lucknow.

Copy to :- Sr.DCS, DCS, ACS-I, ACS.  
Divl. Secy/NRMU/LKO.  
Divl. Secy URMU/LKO.

- - - - -

For  
J.S.

Sl. No.	Name	Working under
	S/Shri	
1.	G.N. Saxena	PS/LKO.
2.	Ranjit Singh	CCS/SHG
3.	N.K. Srivastava	CCS/FD
4.	B.R. Singh	RDC/LKO
5.	M.L. Malik	CPS/LKO
6.	N.N. Misra	CBS/LKO
7.	H.D. Singh	CPS/BSB
8.	Jia Lal (SC)	CCS/JNU
9.	Asharfi Lal (SC)	CBS/LKO
10.	D.N. Ram (SC)	CCS/ABP
11.	U.S. Meena (ST)	CCS/BBK
12.	T.C. Tripathi	CS/SLN
13.	M.Mujibullah	CS/BBK
14.	S.R.S. Kanaujia	CBS/BSB
15.	K.M. Kharey	BS/LKO
16.	M.A. Khalique	RDC/LKO
17.	M.I. Ahmad	PS/BSB
18.	Salig Ram (SC)	CS/FD
19.	Lallan Ram (SC)	BS/LKO
20.	Ram Kumar (SC)	BS/LKO
21.	M.M. Mehrotra	PS/BBK
22.	K.C. Ram (SC)	BS/LKO
23.	M.H. Khan	PS/LKO
24.	S.N. Pandey	BS/BSB
25.	Abdul Qadir	PS/BSB
26.	R.L. Bajpai	PS/AMV/LKO
27.	Mohd Bashir	PS/LKO
28.	V.N.P. Tewari	PS/BSB
29.	M.C. Ram	BS/BSB
30.	G.P. Awasthi	PS/LKO
31.	C.P. Singh	CS/FD
32.	R.K. Srivastava	CIC/CEK/LKO
33.	B.N. Sinha	PS/BSB
34.	Saraswati Singh	PS/BSB
35.	H.K. Verma	CS/RBL
36.	V.D. Tewari	CS/RBL
37.	R.P. Dubey	PS/BSB



वादी ] अपीलान्ट

वादी | अपीलान्ट श्री Sri Nikas Narain Misra वकालतनामा  
प्रतिवादी | रेस्पान्डेन्ट 4 Sri Har Dutt Singh Advocate

C.A. No. 199d(L)

ଶବ୍ଦବିଜ୍ଞାନ

## आदी (अदीसान्ट)

Nivas Narain & another  
 v/s बनाम  
 Union of India Petitioners  
 न० भुक्तदामा सम् पेशी की ता० इ० फ़०  
 Appellants  
 प्रतिवादी (रक्षाकार्यालय)  
 Respondents

इस लिखे मुख्यम् भी अपनी ओर से श्री ००० पी० श्रीवृस्तव एडवोकेट  
एवं भा० ड० ए० भीवास्तव, एडवोकेट  
द६७, पुराना महानगर निकट फातिमा अस्पताल, लखनऊ-२२६००२ महोदय

को अपना बकील नियुक्त करके प्रतिज्ञा ( इकरार ) करता हूं और लिखे देता हूं इस मुकद्दमा में बकील महोदय स्वयं अथवा अन्य बकील द्वारा जो कुछ पेरवी व जवाब देही व प्रश्नोंतर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया बसूल करें या मुलहनामा व इकबाल दावा तथा अधील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी ( फरीकसानी ) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त ( दस्तखती ) रसीद से लेवे या पंच नियुक्त करें—बकील महोदय द्वारा की गई वह सब कायंवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पेरोकार को भेजता रहूँगा अगर मुकद्दमा अदम पेरदी में एक तरफा मेरे खिलाफ फँसला हो जाता है उसकी जिम्मेदारी मेरे बकील पर नहीं होगी इसलिए यह बकालहनामा लिख दिया प्रभाग रहे और समय पर काम आवे ।

हस्ताक्षर मिशन विजयन १९८८  
मुख्यमंत्री

## साक्षी (वदाह)

## साक्षी (गलाह)

ବିଦ୍ୟାଲୟ

महीना

सन् १९

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

O.A. NO. 61 OF 1990(L)

Nivas Narain Misra and  
another ..... Applicants

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

I N D E X

COMPLIATION NO. II

SL. NO.	DESCRIPTION OF PAPER	PAGE NO.
1.	ANNEXURE-2 PROMOTION ORDER DATED 27.5.1985.	1 - 80
2.	ANNEXURE-3 CERTIFICATE OF BEST WORKER.	2 - 80
3.	ANNEXURE-4 CERTIFICATE OF BEST WORKER DT. 12.4.1988.	3 - 80
4.	ANNEXURE-5 ORDER DATED 29TH JULY, 1985.	4 - 80
5.	ANNEXURE-6 CIRCULAR DATED 23.6.1964.	5 - 9
6.	ANNEXURE-7 DECISIONS REG. PROMOTION TO HIGHER GRADE.	10 - 12
7.	ANNEXURE-8) REPRESENTATIONS OF ) APPLICANTS NOS. 1	13 - 16
8.	ANNEXURE-9) AND 2.	

LUCKNOW DATED :  
MARCH , 1990.

*S. Srivastava*  
(O.P. SRIVASTAVA) -

ADVOCATE

COUNSEL FOR THE APPLICANTS.

In The Central Administrative Tribunal, Allahabad, Circuit Bench, Lucknow.  
O.A. No. 1930(L) (1)  
Niwas Narain Misra & another - Appellants  
Union of India & others - Respondents  
- Annexure - 2.

## ANNEXURE - 2.

JOURNAL OF CLIMATE

## ...and the beginning

Wood : 27/5/85.

NOTICE

The following ~~Commonwealth~~ clerks Cr. Rs. 550-750. are ty. appointed to officiate in Grds. 700-900 purely on adhoc basis pending selection.

1)	Sh. J.M. Jai Singh	S.M.S
2)	Sh. R.P. Singh	F.P.
3)	Sh. D.S. Singh	F.P.
4)	Sh. Baldev Singh	F.D.(F.P.)
5)	Sh. M.L. Malik	M.L.
6)	Sh. N.N. Misra	L.D.
7)	Sh. H.D. Singh	L.D.S
8)	Sh. Lai Singh	S.M.S

This has the approval of .../LKO

Copy to: 2011 ADP 110017041024 and 0100031071 0004-1000

In the Central Administrative Tribunal, Allahabad Circuit Bench, Lucknow.  
Nikes Narain Misra & another. O.A. No. 1990 (L)

Union of India & others vs

Applicants

Acton

Respondents

ANNEXURE - 3

## उत्तर रेलवे



मण्डल कार्यालय,  
लखनऊ

दिनांक 15-4-86

श्री— रुन० रुन० मिश्रा

प्रदेशीय सी०बी० स्स०, लखनऊ

मण्डल कार्यालय उत्तर रेलवे को उनको विर्गिट ऐश्वर्यों के लिए रेल संस्थान १८८६  
(अप्रैल १८८६) के अन्तर्गत दो सौ पचास वर्षों का नकद प्रतिरोधिक व प्रशस्ति-पत्र  
प्रदान किया जाता है। इस प्रशस्ति-पत्र को एक प्रतिलिपि उनको सेशा दंजका में भेज  
देंगे जो रही है।

संवादकार्यालय  
मण्डल रेल प्रबन्धक  
लखनऊ

Nikus Narain Misra & another

Union of India & others

Attorn

W.S

Applicants

ANNEXURE - 4

Respondents

## उत्तर रेलवे

प्रशस्ति पत्र



मण्डल कार्यालय

लखनऊ।

दिनांक 12.4.1988

रेल सप्ताह, 1988

श्री/श्रीमती/कृष्णचंद्र डी.सिंह.....पद नाम सीठपीठसीलरखनऊ वाणिज्य शाखा में  
कार्यरत हैं। इस वर्ष इन्होंने अपना कार्य कर्तव्यनिष्ठा, सेवा और संयम से किया। इनके विशिष्ट एवं असाधारण  
कार्यकौशल से वाणिज्य विभाग की कार्यकुशलता में बढ़ोतरी हुई। इस प्रशंसनीय सेवा के लिए इस रेल सप्ताह  
में इनको रूपये 150/- (रुपये सौ पचास) का नकद पारितोषिक व प्रशस्ति-पत्र दिया जाता है।

मण्डल रेल प्रबन्धक उत्तर रेलवे

लखनऊ।

1  
लखनऊ  
12/4/88

In The Central Administrative Tribunal, Allahabad, Circuit Bench, Lucknow.  
No. 1930 (C) 4  
Niwas Narain Misra & another v/s Union of India & others  
Applicants  
Respondents

Attam

ANNEXURE - 5

No. 522-b/13(b1C) Loose.  
Dated 29.07.1985.

The Civil Railway Managers,  
Northern Railway,  
ALD DLI LPQ, PZR, MB B'W and JU.

Sub: Implementation of cadre re-structuring in the Ticket Checking  
in the Ticket Checking staff.

Ref: This letter office circular letter of even number dated  
25.6.1985 ad-re. ed to DGM/ALD and copy to all other DGMs.  
....

In this office circular letter under reference it was decided  
that all those STPs, grade Rs.4.5-640/R/12 who has worked on  
ad-hoc basis during 1979 to 1984 in the absence of finalisation  
of selection may be regularised after they had completed 18  
months service against regular vacancies from the date of their  
completing 18 months.

Against the decision issued in this office circular letter under  
reference, the General Secretary/UNMU represented that there had  
been similar cases in the categories of Hd. TCs and Conductors,  
grade Rs.425-640/R/12 as well where either selections had not been  
completed in the case of Hd. TCs, grade Rs.425-640/R/12 or suitability  
through viva-voce test in the case of Conductors, grade  
Rs.425-640/R/12 for sufficient long time with the result that  
the staff of these categories.

The matter has again been examined and it has been decided that  
the staff of all the above mentioned three categories viz Hd. TCs  
STPs and Conductors, grade Rs.425-640/R/12 who work on ad-hoc  
basis against regular vacancies during the period 1979 to  
31.12.83 pending finalisation of the selection/suitability test  
through viva-voce may be regularised from the date of their  
completing 18 months ad-hoc service against regular posts for  
the purpose of their seniority for promotion to next higher  
grade.

++ also continued to work against regular vacancies on ad-hoc  
basis.

sd/-

for General Manager( )

Copy for inf. to Dy. PO (Union), Beroda house, New Delhi in  
reference to letter no. 70/24 of UNMU, also, with four copies.

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Ch

- Nitin Narain Misra & another. 57  
- Union of India Officers u/s Applicants  
- Respondents  
- A. T. - 6

North Eastern Railway  
Office of General Manager,  
(Personnel Branch),  
Gorakhpur.

No. E/232/7

Dated 23.6.1964.

All Officer as per list 'p'.

Subject:- Reversion of employees officiating in  
higher grades.

Under this office letter no. E(ss)1911 Pt. VI  
(a) dated 6.2.1963 a copy of Boards confidential  
letter No. E(DCA) 61 RG-6-36 dated 30.11.1961 was  
sent to all officers. As per Board's direction  
efforts are to be made to confirm staff officiating  
in higher grades in clear vacancies, if they are  
found suitable, after trial over a reasonable period  
not exceeding 10 months. It is, however, observed  
that, in practice, no proper system is being followed  
in this respect with the result that staff continue  
to officiate in higher grades for long periods and  
in several cases staff who have officiated for a

....

*H. M.*  
*W.L.*

number of years have been reverted on account of inefficient working. Such reverersions are contrary to the extent orders.

2. With a view to ensure that a proper assessment of the working of staff officiating in higher grades is made and action to revert such employees, as are found to be unsatisfactory in work in the higher grade, is taken in time, the following procedure is being introduced for strict compliance by all concerned.

3. Whenever an employee is put to officiate in a higher post, which may be a selection post or a non-selection post, his immediate superior should send an assessment report as soon as the employee has completed six months of officiating period. If this report is unsatisfactory a similar further report should be sent three months after i.e. at the end of nine months officiating period and again 3 months later i.e. at the end of 12 months officiating period. If the final report is satisfactory further reports need not be sent unless the employee deteriorates in the subsequent months.

4. These assessment reports should be sent on to the authority who has ordered the promotion. In the case of the first and/or second report being unsatisfactory the employee should be warned that the

report on his working has been unsatisfactory and unless he makes a substantial improvement, he will be liable to be reverted.

5. If the third report, at the end of 12 months period is also unsatisfactory, he should be promptly reverted and if he is to be given a further chance even after the third unsatisfactory report, the personal sanction of a senior works officer in the case of a class IV employee and of a head of department in the case of Class III employees should be obtained. Even after such sanction has been obtained and the opportunity given to the employee is of no avail, he must be promptly reverted before completing 18 months of officiating period. Orders for reversion in such cases should not be passed by an authority lower than the authority who had ordered the promotion. When an employee is reverted for inefficient working from a selection post, his name will be automatically deleted from the panel. For re-promotion he will have to appear before a Selection Board afresh where an employee is reverted for inefficiency from a non-selection post his case should be reviewed at intervals of six months and if he is considered fit for promotion, he should be re-promoted against the next vacancy.

6. If it is proposed to revert an employee who has completed more than 18 months of officiating

period other than 18 months of by following the D.A.R. procedure, the personal sanction of a Head of Department must be obtained in the case of Class IV employees and G.M.'s personal sanction must be obtained in the case of Class III staff.

7. Since no officiating individual whose working is unsatisfactory could have been allowed to continue beyond 18 months except under very special circumstances, confirmation must be made after two years of officiating period has been completed subject to permanent post being available for the purpose. In the case of staff with satisfactory reports, confirmation against available vacancies can be ordered after one year. If it is proposed to defer the confirmation of an individual after 2 years, General Manager's prior sanction should be obtained.

8. If an employee is not confirmed in higher grade for want of permanent vacancy, he cannot be reverted after he has completed 18 months of officiating period on the charge of unsatisfactory working except after following the D.A.R. procedure, the procedure being same for a confirmed employee or an officiating employee.

9. The assessment reports referred to above should be marked 'confidential' and a proper record kept of those communications. M: Establishment Section

should watch the case of each employee and initiate action when the employee completes six months of officiating period by putting a note to executive officer for the purpose.

10. The above procedure should also be followed in the case of Class III employees promoted to officiate in Class II. In this case, the assessment report should be sent to the Head of Department and where an officer has been reported on adversely the papers should be put up to the G.M. personally for his information and orders.

Please acknowledge receipt.

Sd.

E.S. Muthuricha  
For General Manager.

TRUE COPY

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S. S.  
S. S.

In The Central Administrative Tribunal, Allahabad Circuit Bench, Lucknow.  
O.A. No. 1930 (L)

Ninak Narain Misra & another

Applicants

Union of India Petitioners

Respondents

Attorn

ANNEXURE - 7

1987]

KUNARAM MARMY V. UNION OF INDIA (Cutt)

617

[1987] 3 Administrative Tribunals Cases 617

Central Administrative Tribunal, Cuttack Bench

(BEFORE B.R. PATEL, VICE-CHAIRMAN AND K.P. ACHARYA,  
JUDICIAL MEMBER)

KUNARAM MARMY AND OTHERS

Petitioners:

Versus

UNION OF INDIA AND OTHERS

Respondents.

Transferred Application No. 201 of 1986 arising out of O.J.C. No. 3089  
of 1981, decided on January 30, 1987

Regularisation — Railway Board's circulars issued in 1966 and 1985 —  
Railway employee officiating in Grade III post for over 18 months — Such  
employee, held, entitled to regularisation without appearing at a test for that  
purpose — Circular of 1985, being prospective, held, not applicable — Officiation  
— Railways  
(Para 4)

Ram Chandra Pradhan v. Union of India, (1980) 49 CLT 266; S.K. Mohanty v. Union of India,  
(1980) 49 CLT 382; D.B. Jena v. Union of India, (1983) 55 CLT 299; S.L.P. No. 7433  
of 1980, decided on 24-8-1981 (SC), relied on

Application allowed

H.M/1200

Advocates who appeared in this case:

G.A.R. Dora, Advocate, for the Petitioners;

Ashok Mohanty, Advocate (for Railway Administration), for the Respondents.

The Judgment of the Bench was delivered by

K.P. ACHARYA, JUDICIAL MEMBER.—This case has been transferred  
under Section 29 of the Administrative Tribunals Act, 1985 for disposal  
according to law.

2. The petitioners, three in number, joined the Signal and Telecom  
Department of Khurda Road Division under South Eastern Railway and  
in course of time the petitioners were promoted as Telecom-Inspector,  
Grade III, vide Annexures 3, 4 and 5 respectively. According to the petitioners,  
they have continuously officiated in the said promotional post for  
about nine years. Since their promotions were not regularised, they have  
made representations to the higher authorities for regularising the promotion.  
Higher authorities called upon the petitioners to appear at a written test.  
Being aggrieved by this order, the petitioners invoked the extraordinary  
jurisdiction of the Hon'ble High Court of Orissa by filing an application  
under Article 226 of the Constitution praying therein to command the res-  
pondents that the petitioners have a right to the post in accordance with  
the letter issued by the Railway Board stating that nobody could be demoted  
from the promotional post if he has worked for eighteen months and such  
demotion is permissible provided that the procedure envisaged under the  
Disciplinary, Appeal & Control Rules is followed for unsatisfactory work.

3. In their counter, the respondents-opposite parties maintained that  
no illegality has been committed by the competent authorities in asking the

1/1/1987

2/2

petitioners to qualify themselves in the test and therefore, the impugned order should not be unsettled and the petition is liable to be dismissed.

4. We have heard Mr Dora, learned counsel for the petitioners and Mr Ashok Mohanty, learned counsel appearing for the Railway Administration at some length. In the mean while, in several other cases, we have taken a view that once a particular employee has been given promotional post and he has worked in the said post for 18 months, reversion is not permissible without a disciplinary proceeding having been initiated against the incumbent concerned for unsatisfactory service. This view has been taken by us in several cases accepting the view of the Hon'ble High Court of Orissa laid down in several judgments in *Ram Chandra Pradhan v. Union of India*<sup>1</sup>, *S.K. Mohanty v. Union of India*<sup>2</sup> and *D.B. Jena v. Union of India*<sup>3</sup>. Incidentally it may be mentioned here that the view taken by the Hon'ble High Court of Orissa has been confirmed by the Hon'ble Supreme Court in S.L.P. No. 7493 of 1980 dated 24-8-1981 confirming the judgment passed by the Hon'ble High Court of Orissa in the case of *S.K. Mohanty v. Union of India*<sup>2</sup>. The fact that the Hon'ble Supreme Court has confirmed the view of the Hon'ble High Court of Orissa would appear in the judgment of the High Court of Orissa reported in the case of *D.B. Jena v. Union of India*<sup>3</sup>. In the cases disposed of by us accepting the view taken by the Hon'ble High Court of Orissa and confirmed by the Hon'ble Supreme Court, we have also assigned reasons for rejecting the argument advanced by Mr Ashok Mohanty, learned counsel appearing for the Railway Administration in the judgments which we have already delivered. To repeat them succinctly, it may be stated that the circular relating to the year 1966 issued by the Railway Board has fullest application to the facts of the present case and the circular issued by the Railway Board in the year 1985 over which reliance was sought to be placed by Mr Mohanty has no application to the facts of the present case because it cannot have retrospective operation. In the cases in which judgments have already been pronounced by this Bench on this subject, we have rejected the argument advanced by Mr Mohanty on the ground that the circular of 1985 will have no application to the facts of the present case because it can have no retrospective operation and therefore we accepted the view taken by the Hon'ble High Court of Orissa. We would apply the same reasons to the present case while rejecting the same arguments of Mr Mohanty advanced in this case. At this stage, we may also say that in one case we have already accepted the view of the Hon'ble High Court of Orissa that in view of the circular of the Board issued in the year 1966, no employee could be called upon to appear at a test also applies in full force to the facts of the present case and therefore, we would hold that the order passed by the competent authorities calling upon the petitioners to appear at a test is unsustainable. We would, therefore, quash

1. (1980) 49 CLT 266
2. (1980) 49 CLT 382
3. (1983) 55 CLT 290

the order of the competent authorities calling upon the petitioners to appear at the test and would further direct that the services of the petitioners in the promotional post be immediately regularised.

5. Thus, the application stands allowed leaving the parties to bear their own costs.

6. B.R. PATEL, VICE-CHAIRMAN.—I agree.

[1987] 3 Administrative Tribunals Cases 619

*Central Administrative Tribunal, New Delhi*

(BEFORE S.P. MUKERJI, ADMINISTRATIVE MEMBER AND H.P. BACCHI,  
JUDICIAL MEMBER)

B.S. SHIVA MURTHY .. . . . . Applicant;

*Versus*

MINISTRY OF TRANSPORT .. . . . . Respondent.

• O.A. No. 356 of 1986, decided on March 6, 1986

Selection Grade — Non-functional — Criteria — Seniority subject to rejection of unfit — Held, junior person satisfying eligibility conditions entitled to Selection Grade even if it results in supersession of senior who does not fulfil the conditions (Para 4)

Application allowed

K-M/1550

*Advocates who appeared in this case:*

Petitioner-in-person;  
M.L. Verma, Advocate, for the Respondent.

**JUDGMENT**

1. The applicant who is working as Superintending Engineer in the Ministry of Shipping and Transport (Roads Wing) moved the Tribunal with an application under Section 19 of the Administrative Tribunals Act, 1985 on 31-1-1986 praying that his date of appointment to Selection Grade should be fixed as 1-4-1984 instead of 1-3-1985. The facts of the case are simple and straightforward and can be narrated as follows.

2. The applicant was working as Superintending Engineer in the regular scale of Rs 1500-2000. In accordance with the guidelines issued by the Department of Personnel and Administrative Reforms through O.M. No. 5/12/79-PP-II dated 31-7-1982 it was laid down as follows:

(d) No officer shall be eligible for appointment to the Non-functional Selection Grade unless he has reached the maximum of Rs 2000 in the scale of Rs 1500-2000 or in the intermediate administrative grade as the case may be and has remained therefor a period of two years.

3. It is admitted that the applicant reached the maximum of the pay scale on 1-4-1982 and he was entitled to the Non-functional Selection Grade of Rs 2000-2250 w.e.f. 1-4-1984. However, he was not given the Selection Grade because one of his seniors Shri H.R. Bapu Satyanarayana was not

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

O.A. No. - - - 1930 (C)

Niwas Narain Mishra & another

Union of India & others

vs

Applicant

Attorn

ANNEXURE - Q

Respondents

The Divisional Railway Manager,  
Northern Railway,  
Lucknow.

Sub: Written test for CBS/CPS/CCS in Gr.

Rs. 2000-3200 vide DPO letter No.

Date: 11.12.89.

Through: Proper Channel.

Sir,

Please refer my representation dated 15.8.87. for which reply is still awaited on 11.12.89. DPO/Lkn. has issued a letter calling upon Commercial Clerks including me also to attend the written test for Gr. 2000-3200 which is illegal and unjustified and also against extant rule.

It is therefore requested that in view of the facts mentioned and as per extant rule my name should be deleted from the test and orders for my regularisation in Gr. 2000-3200 should be issued without appearing in written test.

Thanks,

Yours faithfully,

(N.N. MISHRA )  
C.B.S./Lucknow.

Date: 18.12.89.

Received

28/12/89

Recd. - 12/12/89  
S. O. to G. M.

In The Central Administrative Tribunal, Allahabad Circuit Bench, Lucknow.  
O.A. No. 1990 (C) (K)

Nikes Narain Misra & another

Union of India & others vs. Applicants  
Allam Part of ANNEXURE - (X) Respondents

Th. Divisional Railway Manager,  
Northern Railway,  
Lucknow.

Through: PROPER CHANNEL.

Sub: Regularisation in Gr. 200-3200.

...

Sir,

With due respect I beg to state that I was promoted to work in Gr. 200-3200 w.e.f. 27.1.85. and since then I am working in this grade with entire satisfaction of my supervisors. Now I have completed more than Eighteen months in this grade and as per extent rule my regularisation is due being the senior most.

It is therefore requested that kindly issue orders to regularise me in Gr. 200-3200 from 27.1.85. the date of working in this grade and should not be subjected for selection.

Thanks,

Yours faithfully,

(N.N. Misra)

Dated: 15.8.87.

C.B.S./Lucknow.

Recd.

Aug. 18/87

In The Central Administrative Tribunal, Allahabad, Circuit Bench, Lucknow.  
O.A. No. 1930 (L)

Nikus Narain Misra & another.

Union of India & others v/s

Appellants

Alam

Respondents

ANNEXURE - 9

See for  
Bihar Railways

The Central Railway Manager  
Northern Railway

Letter

Respected Sir

Through S.S. H.H.

In defense of my demand dated 15/1/67  
regarding regularization me in the grade Rs 2000/-  
Rs 32/- Now, nothing was done so far.  
Now as I have completed more than 16 years  
continuous & service to without any break  
so to regularize me in the above grade without  
holding any selection & oblige

Yours  
affectionately

S. K. Datta

Q  
10/11/69  
for regularization  
Mr. Datta

Alam

SK

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

C.A. No. 1990 (L)

(K)

Niwas Narain Misra & another

Union of India & others

v/s

Applicants

Attorn

part of

ANNEXURE - 2

Respondents

See Part  
Annexure

2

The Civil Railway Manager

Northern Railway

Lucknow

Resubmitted 2/9

Ref - Registration in Grade (2000 To 3000)

Since I was furnished in Grade Rs 2000 - 3000 after all  
Rs 2000 - 3200 after an Adhoc basis and now  
completed more than 18 months service without any  
extra Brance.

To kindly inform to Registration in  
in the above Grade as oblige

Yours faithfully  
Shri D. N. Singh  
C.P.S. H.R.D.  
16/11/60

16/11/60  
S. N. Singh  
C.P.S. H.R.D.

Yours

16/11/60

Before the Learned Central Administrative Tribunal  
Circuit Bench, Lucknow  
M.P. No. 74 (91)(c) 12  
C.A. Application No. of 1990

In re:

C. Application No.81 of 1990(L)

V5.

Union of India & others .. Respondents

Application for impleadment on behalf of Ram Kumar aged 42 years S/o Sri Alakh Kumar, resident of Railway Bungalow LB-130, Sleeper Ground, Alambagh, Lucknow.

That the applicants submit as under :-

1. That the applicant is at present working as Booking Supervisor in scale ₹ 1600-2650 (....) in Northern Railway and is posted at Northern Railway, Charbagh, Lucknow.
2. That the promotional avenues of the applicant from his post of Booking Supervisor to Chief Booking Supervisor and Chief Parcel Supervisor in Scale ₹ 700-900 (RS) now revised to ₹ 2000-3200 (RS)

3. That the post of Chief Booking Supervisor/ Chief Parcel Supervisor is selection post and the same is required to be filled after due selection made under the rules governing to the appointment/promotion to the selection post.
4. That as per case set out by the applicants, they have been appointed in scale of pay Rs 700-900 (Rs) on ad-hoc basis pending selection as per term of appointment contained in Annexure No.2.
5. That for the post of Chief Booking Supervisor and Chief Parcel Supervisor, the Railway Department conducted a selection test as per order contained in Annexure No.1 to the application. That in the said test Shri Har Dutt Singh appeared on 12/5/90 in Supplementary test along with present applicant. But applicant Shri Niwas Narain Misra has not appeared in the test.
6. That the present applicant Ram Kumar is scheduled caste and is independent in different Class to that of Sri Niwas Narain Misra and Shri Har Dutt Singh who belong to General candidates.
7. That the present applicant Ram Kumar appeared in Selection test as scheduled caste candidate and against him, the applicant S/Shri Niwas Narain Misra and Har Dutt Singh has no claim as there are two independent selection post reserved for Scheduled caste.

Ram Kumar

8. That vide Rly Board's letter dated 20-4-85, the applicant S/Sri Niwas Narain Misra and Nar Dutt Singh have no claim unless they appear in Selection test for the Selection post in question.
9. That this honourable Tribunal was pleased to pass and order dated 16-3-90, directing the opposite parties that the results of tests already held may not be declared.
10. That the petitioner is necessary party as he had appeared in the Selection test against the scheduled caste Quota and post and against which both the applicants have no case and due to non-declaration of the results, the applicant Ram Kumar interests for his promotion against scheduled caste quota and post is being greatly prejudiced.
11. That it would be in the interest of justice, that this honourable Tribunal may be pleased to recall the order dated 16-3-90 to modify the said order in accordance with law in view to save the interest of Ram Kumar the applicant.
12. That the applicant Ram Kumar is the necessary party in the aforesaid application and he may also be allowed to be impleaded as opposite party no.4 in the aforesaid application.

Ram Kumar

contd..4

WHEREFORE it is prayed that this honourable Tribunal may be pleased to direct the applicants to implead the petitioner as opposite party No.4 and also be pleased to recall or modify the order dated 16-3-1990 in accordance with the law.

Ram Kumar  
(RAM KUMAR)  
Applicant

(Mr. SHARMA)  
Advocate

BEFORE THE LEARNED CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH : LUCKNOW  
C.M. APPLICATION NO. OF 1990 199

In re: OA No. Application No.81 of 1990 (L)

ANNEXURE I

COPY OF LETTER NO.E(D&A)85RG6-9 DATED 20-4-1985  
FROM RAILWAY BOARD ADDRESSED TO THE GENERAL  
MANAGERS, ALL INDIAN RAILWAYS INCLUDING CLW,  
DLW, ICF & W&AP.

Sub: Reversion on grounds of general unsuitability  
of staff officiating in a higher grade or  
post on ad-hoc basis.

In terms of the explanation below Rule 6 of the  
Railway Servants (Discipline & Appeal) Rules, 1968  
reversion of a Railway servant officiating in a  
higher grade or post to a lower grade or post  
on the ground of unsuitability or on any  
administrative ground unconnected with his conduct  
does not amount to a penalty. However, attention  
in this connection is invited to this Ministry  
confidential letters No. E(D&A)65RG6-24 dt. 9-6-65,  
22-11-66 and ~~and~~ 15-1-66. In these letters it  
has been laid down that a person who is permitted  
to officiate (in a higher post) beyond 18 months  
should not be reverted for unsatisfactory work  
without following the procedure prescribed in  
the D&A Rules.

*Ram Kumar*  
It was added that General Managers may, however,  
in very special circumstances revert an employee  
regularly officiating in a higher post, in relaxa-

tion of the above mentioned time limit of 18 months, in exercise of their personal judgment. It was further made clear that the protection extended through these instructions would be available only to those employees who have acquired a prescriptive right to the officiating post by virtue of their empanelment or by reason of their having been formally declared suitable by the competent authority. It does not extend to these officiating on promotion on ad-hoc basis.

2. Arising out of certain cases decided by Courts of Law of reversion of railway servants who had been officiating in higher grades for long periods, this Ministry had occasion to reiterate their instructions for avoiding situation where ad-hoc promotion have continued for long periods vide this Ministry's letter No. E(NG)I-82-PML/204 dated 27-6-83.

3. It has come to the notice of this Ministry that the above instructions read together have been construed to mean in certain cases that the safeguard provided in the instructions of 9-6-55, referred to above to these officiating in a higher grade or post is also available to persons promoted to higher grade or post on ad-hoc basis.

4. The Ministry of Railways have, therefore, found it necessary to clarify once again as under; the scope and purport of the instructions in their letters cited in paragraphs 1 and 2 supra:

Ram Kumar

i) In terms of the explanation below Rule (6) of the RS(DL) Rules 1968 reversion of a railway servant officiating in a higher grade or post to a lower grade or post in the ground of general unsuitability or on any administrative ground unconnected with the conduct, does not amount to a penalty within the meaning of the said rules.

ii) The safeguard in regard to reversion available to a railway servant who has officiated in a higher grade/post for 18 months or more has been conferred by this Ministry's letter of 9-6-65 referred to above. The scope and extent of application of the provisions of this letter have been made a clear in the subsequent letters dated 15-1-66 and 22-11- 66. As clarified therein these instructions are applicable only to such of the staff as have been promoted to a higher grade or post after due empanelment (in the case of selection posts) and after passing the trade/suitability test in the case of non-selection post.

The said safeguard does not apply to those officiating on promotion on ad-hoc basis and also to those cases where an employee, regularly promoted on the basis of his empanelment or after having been found suitable in a trade suitability test, has to be reverted after a lapse of 18 months because of amendment/modification/cancellation of the panel/select list a as the case may be. In particular it does not apply to a case where a person officiating ad-hoc in a higher post is reverted because he does not qualify in the selection or suitability test

*Ram Kumar*

and a duly selected/duly promoted person is available to replace him.

iii) This Ministry's letter dated 27-6-83 referred to above does not have nor was it intended to have the effect of superseding this letter of 15-1-66. It only reiterates the earlier instructions of this Ministry urging upon Railways not to continue ad-hoc promotions for long periods.

5. The Ministry further desire to clarify that wherever any affected staff take the matter of their reversion from a post in which they are officiating ad-hoc, to a court of law, in future, the correct position as indicated above should be brought to the notice of Hon'ble Court and the matter contest vigorously. This should be done, wherever possible in pending cases too.

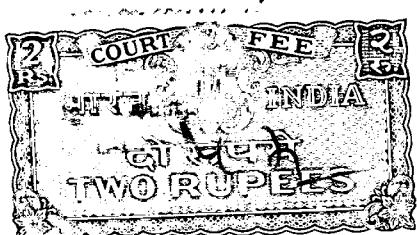
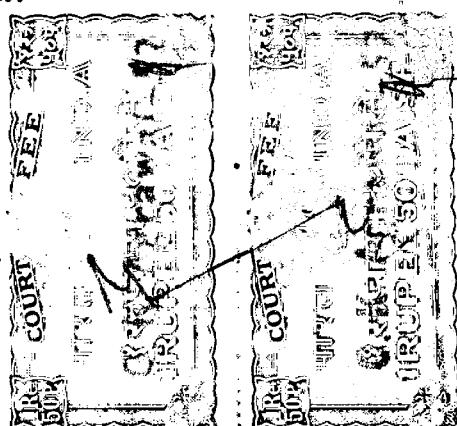
Please acknowledge receipt.

*Ramkumar2*

ब अदालत श्रीमान

[वादी अपीलान्ट]

श्री ... ... ...  
प्रतिवादी [रेस्पाडेन्ट]



नं० मुकद्दमा

पेशी की त्र०

१६ इ०

ऊपर लिखे मुकद्दमा में अपनी ओर श्री

वकील  
महोदय  
एडवोकेट

नाम अदालत  
मुकद्दमा नं० फरीकिन  
नाम वकील

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 जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करे और तसदीक करें मुकद्दमा उठावें या कोई रूपया जमा करें या हारी विपक्षी ( फरौकसानी ) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त ( दस्तखती ) रसीद से लेवे या पंच 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 पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर

Ram Kumar  
19-8-90

साक्षी ( गवाह )

साक्षी ( गवाह )

दिनांक

महीना

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स्वीकृत

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

Reg. (O.A.) No. 81 of 1990 (I.)

Nivas Narain Misra ..... Applicant

versus

Union of India ..... Respondent

~~Official Form of Statement of All the Respondents~~

I, L.N. Tirthi, working as  
Asstt. General Manager in the office of the Divisional  
Railway Manager, Northern Railway, Hazratganj,  
Lucknow do hereby solemnly affirm and state as  
under:-

1. That the official above named, is working  
as Asstt. General Manager in the office  
of Divisional Railway Manager, Northern  
Railway, Hazratganj, Lucknow and as such  
fully conversant with the facts and circum-  
stances of the case and has been fully  
authorised on behalf of all the annexed  
respondents to file the present reply.

Contd.....2

2. That in reply to the contents of para 1 of the original application, it is stated that the applicants were appointed to officiate on adhoc basis pending selections. It is further submitted that position to this effect has already been made clear by the Railway Board, vide its letter No. Z(D&A) 85/16 C-0 dated 20.4.85. A photo copy of the same is being filed herewith as Annexure No. C-1 to this reply.

3. That the contents of para 2 and 3 of the original application do not call for any reply.

4. That reply to the contents of para 4 of the original application are given as under:-

5. That in reply to the contents of para 4.1 of the original application, it is submitted that by terms of letter dated 11.12.89 as shown in Annexure No. 1 to present application, the applicants were called for written test for the selection of the post of CPS/CGS/CCS, in grades Rs. 2000-3200 (R.) which was scheduled to be held on 30.12.89 in D.R.H. office, Lucknow, from

also got the senior most BS/PS/CS of grade Rs. 1600-2660 (RPS). In the list of candidates the names of the applicants appeared as dxxx Serial No. 6 and 7.

6. That the contents of para 4.2 of the original application are false and as such denied. It is stated that the applicants were promoted as BS/PS in grade Rs. 550-750 and not by grade of Rs. 550-700, now being ad. pay scale as 1600-2660 and not Rs. 1700-2350 as alleged by the applicant. Both applicants were asked to officiate in grade Rs. 2000-3200 on adhoc basis pending finalisation of selection on 26.9.83 via notice No. CG13/C-5/70-90 dtd 24.9.83.

7. In reply to the contents of para 4.3 of the original application, it is submitted that the applicants were asked to officiate in grade Rs. 700-900/Rs. 2000-3200(RPS) against selection post on adhoc basis and anything contrary to it is denied. It is submitted that the officiating does not confer any right to the applicants on the promoted post.

8. That in reply to the contents of para 4.4 of the original application, it is admitted that the annexure No. 2 to the application reveals that the said promotion was made to officiate, ~~on~~ purely on ad hoc basis pending selection and rest of the averments made in this original application are denied.

9. That the contents of paras 4.5 and 4.6 of the original application need no comments.

10. That in reply to the contents of para 4.7 of the original application, it is submitted that the applicants were appointed to officiate in grade of Rs. 700-900/2000-3200 RPS against selection post on adhoc basis pending passing selection. Anything contrary to it is denied. It is pertinent to point out here that experience cannot change the procedure for selection to any post.

11. That in reply to the contents of para 4.8 of the original application, it is stated that the applicants were appointed to officiate in grade Rs. 700-900/2000-3200 (RPS) on adhoc basis pending selection

therefore ~~ranking examinations~~ since they cannot be treated as on regular basis unless they are selected on the post after appearing in the selection committee. As such reference of Annexure No. 5 to the application is not applicable to the applicant's case.

12. That the contents of paras 4.9 to 4.11 of the original application are misleading and it is such denied. It is submitted that reference made in these paras are not applicable to the case of applicants. Also it is pertinent to point out here that the applicants were appointed to officiate on adhoc basis pending selection. The position to this effect has been made clear by the Railway Board vide letter No. E(D+A) 85-RG 6-9 dated 20.4.85.

It is further submitted that in the case of Jetha Nand Vs. Union of India (ND) A.T.C. Vol. 18 P 212, it has been observed that "the right to hold the election/promotional post accrues only to those employees who have undergone a selection test and empanelled for the promotion/selection post and continue as such for 18 months or more. An adhoc employee will

also get the right if he has passed the selection test".

13. That in reply to the contents of para 4.12 of the original application, it is submitted that averments made in this para are mere imagination and as such denied. It is stated that the applicant cannot be declared regular at par with those who have been selected after passing selection test and are working.

14. That the contents of para 4.13 of the original application are denied and para 13 of the present reply is reiterated.

15. That in reply to the contents of para 4.14 of the original application, it is stated that legal position has been changed from the case of Jetha Nand "s. Union of India (ND) as referred in para 12 above.

16. That the contents of para 4.15 of the original application are denied. It is further submitted that no such representation has been received in the office of answering respondents.

17. That in reply to the contents of para 4.16 of the original application, it is submitted that the applicant No. 2, Shri H.D. Singh CPS/PMB now working as CPS on adhoc basis had appeared in supplementary test which was held on 12.5.80 and Shri N.N. Misra, PA/LXO now working as CPS adhoc basis pending selection did not appeared neither in first written test which was held on 30.12.80 nor in supplementary test which was held on 12.5.80. All this is contrary to it are cited.

18. That in reply to paras 4.17 and 4.18 of the original application, it is submitted that applicant cannot be given special status by allowing them on officiating post as regular, without going through the process of selection test.

19. That the contents of para 4.19 of the original application are denied, in the circumstances already explained in the preceding paras. It is further stated that further processing of selection is being adversely delayed, officiating the right of candidates who appear in the said test.

20. That the contents of para 4.20 of the original application are denied. It is further clarified that Railway Board's order dated 20.4.85 has clear directive on the subject.

21. That the contents of para 5 of the original application are misconceived, false, irrelevant and malicious, and as such ground taken are devoid of merit and liable to be disallowed against the applicant and in favour of the answering respondents with costs.

3. That the contents of para 6 and 7 of the original application do not call for any reply.

VALUATION

I, the official above-mentioned do hereby verify that the contents of para 1 of this reply are true to my personal knowledge and those of paras 2 to 23 of this reply are believed by me to be true on the basis of records and legal advice.

## Lucknow District

..... 1951.

5.11.96  
2312 AC  
IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW

C.M.P. NO. 2272 OF 1996.

Inre;

O.A. NO. 81 OF 1990 (L)

Niwas Narain Mishra ---

APPLICANT.

Vs.

Union of India & others ---

RESPONDENTS.

APPLICATION FOR CONDONATION OF DELAY

It is most respectfully submitted on behalf of respondents:-

1. That the present case was filed in the year 1990 and the answering respondents duly filed their counter reply alongwith setting aside the order dated 8.1.91 and with condonation of delay application.
2. That when the aforesaid case was again taken up for hearing in 1996, it was revealed that no counter affidavit/reply is on records.
3. That the Hon'ble Tribunal directed the answering respondents to file a fresh/duplicate counter reply.
4. That accordingly the counter reply is again being filed.

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5. That some delay has been occurred in filing counter reply on behalf of respondents due to want of necessary records.
6. That now the counter reply is ready and is being filed herewith.
7. That the delay in filing counter reply is bonafide, inadvertently and without intention as such is liable to be condoned.
8. That it is expedient in the interest of justice that this Hon'ble Tribunal may kindly be pleased to condone the delay in filing counter reply on behalf of respondents.

Wherefore, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to condone the delay in filing counter reply on behalf of respondents.

LUCKNOW: DATED:  
31/10/1996.

Anil Srivastava  
Advocate.

Counsel for the respondents.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW

C.M.P. NO. 2273 OF 1996.

Inre;

O.A. NO. 81 OF 1990(L).

Niwas Narain Mishra ---

APPLICANT.

vs.

Union of India & others ---

RESPONDENTS.

APPLICATION FOR VACATION OF INTERIM ORDER

It is most respectfully submitted on behalf  
of respondents:-

That for the facts and circumstances disclosed  
in the accompanying counter reply, it is most  
respectfully prayed that this Hon'ble Tribunal may  
kindly be pleased to vacate the interim order  
granted by this Hon'ble Tribunal in favour of the  
applicant.

LUCKNOW: DATED:  
31/10/1996.

*ANIL SRIVASTAVA*  
(ANIL SRIVASTAVA)  
ADVOCATE.

Counsel for the respondents.

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW

C.M.P.NO.2274 OF 1996.

Inre;

O.A.NO. 81 OF 1990(L).

Niwas Narain Mishra ---

APPLICANT.

Vs.

Union of India & others --

RESPONDENTS.

APPLICATION FOR SETTING ASIDE ORDER  
DATED 8.1.91

It is most respectfully submitted on behalf of  
respondents:-

That for the facts and circumstances disclosed  
in the accompanying counter reply, it is most respectfully  
prayed that this Hon'ble Tribunal may kindly be pleased  
to set aside the order dated 8.1.91 in the interest of  
justice.

LUCKNOW: DATED:  
31/10/1996.

*AS*  
(ANIL SRIVASTAVA)  
Advocate.

Counsel for the respondents.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW

C.M.P.NO. 2275 OF 1996.

Inre;

O.A. NO. 81 OF 1990(L)

Niwas Narain Mishra ---

APPLICANT.

Vs.

Union of India & others----

RESPONDENTS.

APPLICATION FOR TAKING ON RECORD

It is most respectfully submitted on behalf of respondents:-

That for the facts and circumstances disclosed in the accompanying counter reply, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to take on record the counter reply filed on behalf of respondents.

AB

LUCKNOW: DATED:  
31/10/1996.

(ANIL SRIVASTAVA)  
ADVOCATE.

COUNSEL FOR THE RESPONDENTS.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW

C.M.P.NO. 2276 OF 1996.

Inre;

O.A. NO. 81 OF 1990(L)

Niwas Narain Mishra ---

APPLICANT.

Vs.

Union of India & others ---

RESPONDENTS.

APPLICATION FOR DISMISSAL

It is most respectfully submitted on behalf  
of respondents:-

1. That the applicant has already retired from service.
2. That prior to the date of superannuation, he could not qualify the selection.
3. That since the post in question being the selection post and without qualifying the selection one can not be regularly appointed against the same.

Wherefore, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to dismiss the present original application as having become infructuous.

LUCKNOW: DATED:  
31/10/1996.

ANIL SRIVASTAVA  
Advocate  
Counsel for the respondents.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW

O.A. NO. 81 OF 1990(L)

Niwas Narain Mishra -----

APPLICANT.

Vs.

Union of India & others ---

RESPONDENTS.

COUNTER REPLY ON BEHALF OF ALL THE

RESPONDENTS:

I, Tej Bahadur Singh, working as Assistant Personnel Officer, in the office of the Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow, do hereby solemnly affirm and state on oath as under:-

1. That the official above named is working as Assistant Personnel Officer in the office of Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow and as such fully conversant with the facts of the case and has been fully authorised on behalf of all the respondents to file the present reply.

2. That in reply to the contents of para 1 of the original application, it is stated that the applicant was appointed to officiate on adhoc basis pending selection. It is further submitted that position



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to this effect has already been made clear by the Railway Board, vide its letter no. E(D&A) 85 RC C-9 dated 20.4.85. ~~A photostat copy of the same is being filed herewith as ANNEXURE NO. C-1 to this reply.~~

3. That the contents of paras 2 and 3 of the original application do not call for any reply.

4. That reply to the contents of para 4 of the original application are given as under:-

5. That in reply to the contents of para 4.1 of the original application, it is submitted that by means of letter dated 11.12.89 as shown in annexure no. 1 to present application, the applicants were called for written test for the selection of the post of CPS/CBS/CCS, in grades Rs. 2000-3200 (RPS) which was scheduled to be held on 30.12.89 in D.R.M. office, Lucknow, from amongst the senior most BS/PS/CS of grade Rs. 1600-2660 (RPS). In the list of candidates the names of the applicants appeared at serial no. 6 and 7.

6. That the contents of para 4.2 of the original application are false and as such denied.

  
It is stated that the applicants were working as BS/PS in grade Rs. 550-750 and not in grade of 550-700, new revised pay scale as 1600-2660 and not

Rs. 1700-2350 as alleged by the applicant. Again applicant's were asked to officiate in grade Rs. 2000-3200 on adhoc basis pending finalisation of selection on 25.9.85 vide notice no. 561E/6-5/70-90 dated 24.9.85.

7. That in reply to the contents of para 4.3 of the original application, it is submitted that the applicants were asked to officiate in grade Rs. 700-900/Rs.2000-3200 (RPS) against selection post on adhoc basis and anything contrary to it is denied. It is submitted that mere officiating does not confer any right to the applicants on the promoted posts.

8. That in reply to the contents of para 4.4 of the original application, it is admitted that the annexure no. 2 to the application reveals that the said promotion was made to officiate, purely on adhoc basis pending selection and rest of the averments made in this original application are denied.

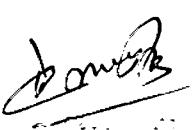
9. That the contents of paras 4.5 and 4.6 of the original application need no comments.

10. That in reply to the contents of para 4.7 of the original application, it is submitted that the applicants were appointed to officiate in grade of Rs. 700-900/Rs.2000-3200 (RPS) against selection post on adhoc basis pending qualifying selection. Anything

contrary to it is denied. It is pertinent to point out here that experience can not change the procedure for selection to any post.

11. That in reply to the contents of para 4.8 of the original application, it is stated that the applicants were appointed to officiate in grade Rs.700/-900/- Rs. 2000-3200 (RPS) on adhoc basis pending selection, therefore, they can not be treated as on regular basis unless they are selected on ~~for~~ the post after appearing before the selection committee. As such reference of annexure no. 5 to the application is not applicable to the applicant's case. It may also be added that applicant retired prior to holding of said selection.

12. That the contents of paras 4.9 to 4.11 of the original application are misleading and as such denied. It is submitted that reference made in these paras are not applicable to the case of applicants. Also it is pertinent to point out here that the applicants were appointed to officiate on adhoc basis pending selection. The position to this effect has been made clear by the Railway Board vide letter No. E(D + A) 85-R 6-9 dated 20.4.85.

  
xx **That it is further submitted that in the case of Jetha Nand vs Union of India (ND) A.T.C. vol.1**

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P 212, it has been observed that "the right to hold the selection/promotional post accrues only to those employees who have undergone a selection test and empanelled for the promotion/selection post and continue as such for 18 months or more. An adhoc employees will also get the right if he has passed the selection test. "

13. That in reply to the contents of para 4.12 of the original application, it is submitted that averments made in this para are mere imagination and as such are denied. It is stated that the applicant can not be declared regular at par with those who have been selected after passing selection test and are working.

14. That the contents of para 4.13 of the original application are denied and para 13 of the present reply is reiterated.

15. That in reply to the contents of para 4.14  
of the original application, it is stated that  
legal position has been changed after the case of  
Jetha Nand vs Union of India (ND) as referred in para  
12 above.

16. That the contents of para 4.15 of

the original application are denied. It is further submitted that no such representation has been received in the office of answering respondents.

17. That in reply to the contents of para 4.16 of the original application, it is submitted that the applicant no.2, Shri H.D.Singh CPS/PSB now working as CPS on adhoc basis had appeared in supplementary test which was held on 12.5.90 and Sri N.N.Mishra, PS/LKO now working as CPS adhoc basis pending selection did not appeared neither in first written test which was held on 30.12.89 nor in supplementary test which was held on 12.5.90. Any averments made contrary to it are denied.

18. That in reply to paras 4.17 and 4.18 of the original application, it is submitted that applicants cannot be given special status by allowing them on officiating post as regular, without going through the process of selection test.

19. That the contents of para 4.19 of the original application are denied, in the circumstances already explained in the preceding paras. It is further stated that further processing of selection



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is being adversely delayed, officiating the right of candidates who appear in the said test.

20. That the contents of para 4.20 of the original application are denied. It is further clarified here that Railway Board's order dated 20.4.85 has clear directive on the subject.

21. That the contents of para 5 of the original application are misconceived, false, irrelevant and malicious, and as such grounds taken are devoid of merit and liable to be dismissed against the applicant and in favour of the answering respondents with costs.

22. That the contents of paras 6 and 7 of the original application ~~xxx~~ do not call for any reply.

LUCKNOW: DATED:  
31/10/1996.

VERIFICATION

I, the official above named do hereby verify that the contents of para 1 of this reply are true to my personal knowledge and those of paras 2 to 23 of this reply are believed by me to be true on the basis of records and legal advice.

LUCKNOW: DATED:  
31/10/1996.