

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

.....Applicant(S)
It was Hardien Mishra J
Versus

.....Respondent(S)
UOI
UOI

INDEX SHEET

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Certified that the file is complete in all respects.

Signature of S.O.

Signature of Deal. Hand

17/12
Counsel

17 12 89 - it is mentioned
by the parties that
CA/R A are not filed
by them so far. These
CA/R A are related to
OA No. 51 Baij Nath Bhatti
vs Union of India. Hence
these are tagged in that
file. Respondence to file
Counsel by 17 12 90 in this
case.

17 12 90
Counsel
not
have been
Sd/-
mentioned by the
at the time
Beach on the basis
of the report
the report
was exchanged
are related to it.
the report
was not filed
in the file
for 17/12/90

8.1.91 Hon Mr. T.K. Agrawal, Jm
Hon Mr. K. G. Gopal, A.P.
Smt. G. S. Gopal, A.P.
Counsel for Applicant
for adjournment.
Mr. Anil Sharma is
present for CA.
Counsel be filed with
6 weeks, taking which
the respondents shall
forfeit their right to
file the same. The papers
may be filed within
2 weeks thereafter
last for hearing on
18.4.91

17/12/90
Counsel 22/12/90
has been
filed. The
is not present.
Put up with
the Bench
order on

OK
4C for the
Shamshad Ali
for application
S. P. T.

Def
J.M.

18.4.91 - No sitting Adj to 16.7.91

OK
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ac
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C.A. 81/52(1)

15592

Hon. Mr. D. B. ...
Hon. Mr. S. H. ...

20

...
...
...
...
... for hearing on

15-7-92

2

JM

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DM

No 21st ...
8/17

15-7-92

Hon. Mr. Justice O.C. ...
Hon. Mr. F. ...

...
...
...
... for hearing on 26-8-92

2

DM

1

VC

2

26/8/92

...
...
...
25-8-92

case not reached.
Adjourned to 3/11/92
for hearing.

...

C.R. 3-11-92

No ...
...
...

No C.A. has
been ...
...

CA 01/90-
EW
CA 378/90
PX

29.9.93

Case not reached adjourn in
10.11.93

now

202
3394

This case has been placed before
me today. See the office report.
Dealing assistant to be more careful
in future regarding listing. List
this case for hearing on 6.4.94
Inform the parties through notices.

DSR

Noted 6/4/94
Inform
in capital
4/9/94
G.I.

318
Noted
on 10.3.94
7

Mark M. Smith R.K. Venn vs
Mark M. V.K. Smith
CA No. 378/90
to be heard on 12.5.94

in
Am

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Comm. 12.5.94
12.5.94
12.5.94
12.5.94
12.5.94

28.6.94

No listing of 12.5.94
12.5.94
12.5.94

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12.5.94

07A-81/90

26-3-95

16 sitting of L.B.
adj to 14-4-95

Be
BEC

26-4-95 Case not received. Adj to
26-7-95

L
BEC

26-7-95

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

Be
BEC

18/8/95 not filed
13/8/95

27/10/95

Hon. Mr. J. K. Gell. D.M.
Hon. Mr. D. C. Gell. D.M.

on request of Council
to appear adj to 14/10/95

19.10.95

Hon. Mr. R. K. Gell. A.M.
Hon. Mr. D. C. Gell. A.M.

Str. O. P. Gell. for applicant
and pray for adjournment on account
of unavailability of his papers book
for respondents Str. A. V. Gell. for
hearing on 3-1-96.
In the connected case 07A 375/90
as learned Council for applicant Str.

QA No. 81/90 cy

30-1-96

Hon. Mr. V. K. Sethi, A.M.
Hon. Mr. D. C. Verma, J.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, Counsel on behalf of respondents. ~~And~~

The records show that C.A. & R.A. have not been filed. The Learned Counsel for respondents states that C.A. in this case was filed vide M.F. No. 222/91 & he undertakes to file a fresh copy of the same for records.

As regards the concerned QA. No. 375/90 the applicant is present in person. In this case the C.A. is not on record. The Learned Counsel for the respondents states that he has filed the C.A. & he undertakes to file a fresh copy after the serving on the applicant or his counsel during the course of a week. Thereafter the applicant may file R.A. within a week list on 27-2-96 for hearing.

J.M.

A.M.

Adm.

CA 81/8,20

3 12 96

Hon Mr K. K. A.M.
Hon Mr D.C. J.M.

In the connected - A 315/50
Hon Justice Sir...
for Sir T. M. S. ...
for ...
list on 8-1-97.

JM
A.4

8.1.97

N. D. ...
10.2-97
Doc

10.2.97

Hon Mr Justice B.C. ...
Hon Mr V.K. ...

None for ...
Hon ...
respondents
Heard ...
separately.

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 ^{ad hoc} 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 Annexure 6. 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 ad hoc promotion on local and tentative basis. The said circular provides that since a person cannot continue for 18 months unless his work has been satisfactory, it only provides that ^{certain} ~~certain~~ incumbent may not be reverted on completion 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

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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. 21 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.
1.	APPLICATION	1 - 18
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.

Mentioned by the Court.

Cited as a day.

Noted d/a 16/3/90 by the Court.

[Signature]

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15

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

O.A. NO. 6 / 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 Chattri 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.

1. 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

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1/2/91

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^{er} 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 herewith as Annexure-1 to this application.

ANNEXURE-1

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.

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C-34

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 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

ANNEXURE-2

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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 contain-
ed 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 ~~select~~
~~tion~~ 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.

ANNEXURE-3

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.

ANNEXURE-4

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-

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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 ~~on~~ 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

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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 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
- 1/2/85
1/2/85

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 reverts 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 ^{every} 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.
- Handwritten notes:*
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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 cat
of decisions that once an employee is promoted to the higher grade and is ~~also~~

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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.

ANNEXURE-7

- 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 application to protect the interest of the applicants. 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, ^{they} 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~~ ^{the date} 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 / 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 ~~of~~ 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 Chattral 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.

Nitesh Narain Misra & another.

Union of India & others

Applicants

Respondents

(19)

~~Annexure~~

ANNEXURE - 1

NORTHERN RAILWAY

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

Divisional Office,
Lucknow Dt. 11/12/89

SS/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 reported 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.

[Signature]
for Divl. Personnel Officer.,
Lucknow.

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

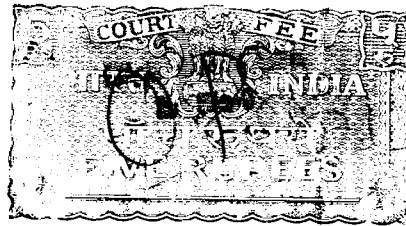
Sl. No. Name

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. Khaliq	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.

Sc



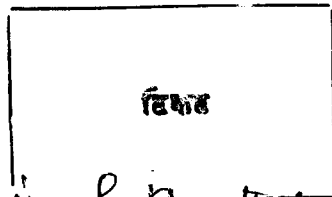
(2)

In The Central Administrative Tribunal, Allahabad
ब मबालत बीमान् Circuit Bench, Lucknow महोदय

वादी / अपीलान्त
प्रतिवादी / रैस्पॉण्डेंट श्री Sp. Nivas Narain Mishra
श्री Sh. Har Dutt Sr. Applicants

वकालतनामा

C.A. No. 1990(2)



दिफत

वादी (अपीलान्त)

Nivas Narain & another
Union of India & others

Applicants
प्रतिवादी (रैस्पॉण्डेंट)
Respondents

नं० मुकद्दमा

सन्

पेशी की ता०

१९ १९

अपर लिखे मुकद्दमा में अपनी ओर से ओ० पी० श्रीवास्तव एडवोकेट
एवम् श्री ओ० पी० श्रीवास्तव, एडवोकेट
नं० ६७, पुराना महानगर निकट फातिमा अस्पताल, लखनऊ-२२६००२ महोदय

नाम अधिवक्ता
मुकद्दमा नं०
नाम फरीकान

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 पेरवी व जवाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानो) का दाखिल किया हुआ रुपया 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 पेरवी में एक तरफा 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 Nivas Narain Mishra
Sh. Har Dutt Sr.

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १९

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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.	1-20
2.	ANNEXURE-3 CERTIFICATE OF BEST WORKER.	2-20
3.	ANNEXURE-4 CERTIFICATE OF BEST WORKER DT. 12.4.1988.	3-20
4.	ANNEXURE-5 ORDER DATED 29TH JULY, 1985.	4-20
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	13-16
8.	ANNEXURE-9) AND 2.	

(O.P. SRIVASTAVA)

ADVOCATE

COUNSEL FOR THE APPLICANTS.

LUCKNOW DATED:
MARCH , 1990.

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

O.A. No. 1930(1) (1)

Naras Narain Misra & another

Union of India & others

Applicants

Respondents

ANNEXURE - 2

Notified

Notified

Date :- 27/5/85.

No. 13/0/85/100-700-100

NOTICE

The following Commercial clerks Gr. 2. 550-750 are ty. appointed to officiate in Grs. 700-900 purely on adhoc basis pending selection.

1)	Sh. H.D. Singh	SHU
2)	Sh. R.P. Singh	SHU
3)	Sh. N.M. Misra	SHU
4)	Sh. H.D. Singh	SHU
5)	Sh. M.L. Malik	SHU
6)	Sh. N.M. Misra	SHU
7)	Sh. H.D. Singh	SHU
8)	Sh. H.D. Singh	SHU

This has the approval of .../LKO

For Civil. Responsibility.

Copy for ... for information and necessary action to ...

- 1) Sh. H.D. Singh, SHU.
- 2) Sh. H.D. Singh, SHU.
- 3) Sh. H.D. Singh, SHU.
- 4) Sh. H.D. Singh, SHU.

.....

उत्तर रेलवे



मण्डल कार्यालय,
लखनऊ

दिनांक 15-4-86

श्री- अन० अन० मिश्रा

पदनाम सी०बी० एस०, लखनऊ

मंडल कार्यालय उत्तर रेलवे को उनकी विशिष्ट सेवाओं के लिए रेल मण्डल १९८६
(अप्रैल १९८६) के अन्तर्गत दो सौ पचास रुपये का नकद पारितोषिक व प्रशस्ति-पत्र
प्रदान किया जाता है। इस प्रशस्ति-पत्र को एक प्रतिनिधि उनको सेवा पंजीक में भी
रखी जा रही है।

रज बकरीदान

मण्डल रेल प्रबन्धक
लखनऊ

Central Administrative Tribunal, Allahabad, Circuit Bench, Lucknow.
O.A. No.-1990 (1) (3)
Niraj Narain Misra & another vs Applicants
Union of India & others Respondents
~~Annexure~~ ANNEXURE - 4

उत्तर रेलवे

प्रशस्ति पत्र



मण्डल कार्यालय

लखनऊ।

दिनांक 12.4.88

रेल सप्ताह, 1988

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

मण्डल रेल प्रबन्धक उत्तर रेलवे

लखनऊ।

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

Niraj Narain Misra & another

C.A. No. 1990 (C)

(4)

Union of India & others

vs

Applicants

Respondents

ANNEXURE - 5

No. 522-B/13(BIC) Loose.

Dated 29.07.1985.

The Divl. Railway Managers,
Northern Railway,
ALD DLI LPQ, PAR, MB BWH and JU.

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

Ref: This xxxt office circular letter of even number dated 25.6.1985 addressed to DM/ALD and copy to all other DMs.

....

↑ In this office circular letter under reference it was decided that all those STAs, grade Rs. 425-640/RS who had 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/HRMU represented that there had been similar cases in the categories of Hd. PCRs and Conductors, grade Rs. 425-640/RS as well where either selections had not been completed in the case of Hd. PCRs, grade Rs. 425-640/RS or suitability through viva-voce test in the case of Conductors, grade Rs. 425-640/RS 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. PCRs and conductors, grade Rs. 425-640/RS 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.

La/-

for General Manager (..)

Copy for inf. to Dy. PG (Union), Baroda House, New Delhi in reference to letter no. 70/84 of HRMU, also, with four spare copies.

- Nitesh Narain Misra & another.

- Union of India & others

Applicants

Respondents

Attorney

ANNEXURE - 6

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

No. E/232/7

Dated 23.6.1964.

All Officer as per list 'B'.

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 Board's confidential
letter No. E(DGA) 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 18 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

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number of years have been reverted on account of inefficient working. Such reversions 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

7

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 world 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

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91 (2)

period other than 18 months or 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 these communications. The Establishment Section

27 (7)

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 that 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. Muthuranga
For General Manager.

TRUE COPY

in
Sd.

Naras. Narain Misra & another

Applicants

Union of India & others

Respondents

~~Attorn~~

ANNEXURE - 7

1987]

KUNARAM MARMDY 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 MARMDY 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 293; S.L.P. No. 7423
of 1980, decided on 24-8-1981 (SC), relied on

Application allowed

H-M/1260

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 peti-
tioners, 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

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*¹, *S.K. Mohanty v. Union of India*² and *D.B. Jena v. Union of India*³. 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*². 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*³. 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. BAGCHI,
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 Tribunal Act, 1935 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. Babu Satyanarayana was not

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

O.A. No - - - - 1990 (C)

Niraj Narain Mishra & another

Union of India & others

vs

Applicants

Respondents

~~Attention~~

ANNEXURE - Q

The Divisional Railway Manager,

Northern Railway,

Lucknow.

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

R-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/1ko. 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.H. MISHRA)
C.B.S./Lucknow.

Date: 18.12.89.

Received

28/12/89
2000-3200
8010 0005

Naras Narain Misra & another

(14)

Union of India & others

vs

Applicants

Respondents

Attention

Part of ANNEXURE - (X)

The Divisional Railway Manager,
Northern Railway,
Lucknow.

Through: PROPER CHANNEL.

Sub: Regularisation in Gr. 2000-3200.

Sir,

With due respect I beg to state that I was promoted to work in Gr. 2000-3200 w.e.f. 27.5.85. 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. 2000-3200 from 27.5.85. the date of working in this grade and should not be subjected for selection.

Thanks,

Yours faithfully,

(N.N. MISRA)

Date: 15.8.87.

C.B.S./Lucknow.

Recd.

10/8/87

Niraj Narain Misra & another,

Union of India & others

vs

Applicants

Respondents

ANNEXURE - 1

Letter

For the
General Manager

The Chief Railway Manager
North Railway
Lucknow

Respected Sir

I beg to say

In reference of my request dated 10/11/87
regarding Regularisation me in the grade of 2000 T,
Rs 3200 Mho. Nothing was done so far.
Now as I have completed more than 4 years
continuous service without any break
so pl Regularise me in the above grade without
holding any sanction & oblige

Yours

Sincerely

Shri Datt Singh



20/11/89

for the General Manager
North Railway

SS

Nites Naraen Misra & another

Union of India & others

vs

Applicants

Respondents

~~Ann~~ Part of ANNEXURE - 2

For the
Respondent

The Civil Railway Manager
North Railway
Lucknow

Respected Sir,

Reg - Regularisation in grade (2000 to 3200)

Since I was promoted in grade Rs 700 - 900 ~~and~~ all
Rs 2000 - 3200 also on Adhoc basis and now
enabled move that I must service without any
break break.

So kindly arrange to regularise me
in the above grade & oblige

Yours faithfully
Shri D. N. Singh
22/1/2010
18/1/2010

Q

16/9/87

Signature of the Respondent
T. N. Misra

Before the Learned Central Administrative Tribunal
Circuit Bench, Lucknow
C.A. Application No. ^{M.P. No. 11/90} of 1990

In re:

C.A. Application No. 81 of 1990 (L)

1-10-90
M.P. 1-10-90
Miwans Narain Misra & others .. Applicant

Vs.

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 LD-130, Sleeper Ground,
Alambagh, Lucknow.

That the applicants submit as under :-

1. That the applicant is at present working as
Booking Supervisor in scale Rs 1600-2660 (M.C) 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 Rs 700-900 (RS) now revised to Rs 2000-3200
(R.S)

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 2

8/5

8. That vide Hly Board's letter dated 20-4-85, the applicant S/Sri Niwas Narain Misra and Har 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 an 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

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

(M.P. SHARMA)
Advocate

BEFORE THE LEARNED CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH : LUCKNOW

C.M. APPLICATION NO. OF 1990

8/9

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 ~~xxx~~ 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.

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

Ram Kumar

8/5

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(D.S.) 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 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 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 2

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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.

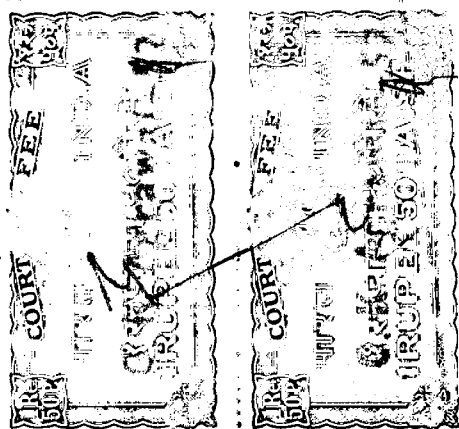
Please acknowledge receipt.

Ram Kumar

प्रतिवादी [रेस्पाण्डेन्ट]

Refused CAT

वैकलितनाम



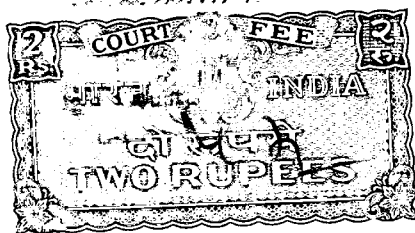
वादी (अपीलान्ट) (३)

प्रतिवादी (रेस्पाडेंट)

नं० मुकद्दमा

पेशी की तऱ०

22 40



ऊपर लिखे मुकद्दमा में अपनी ओर श्री

वकील

महोदय

एडवोकेट

नाम अदालत वनाम
मुकद्मा नं० वनाम
नाम फरीकन वनाम

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कामज दाखिल करे या लौटावे या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करे और तसदीक करें मुकद्दमा उठावे या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसोद 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 हूँ 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

सन १६

20

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

COPIED FROM THE OFFICE OF ALL THE RESPONDENTS

I, *L.N. Tirkathi* working as
Asst. Personnel Officer 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 *Asst. Personnel Officer* in the office of Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow and as such fully conversant with the facts and circumstances of the case and has been fully authorised on behalf of all the opposite 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. E(D&A) 85 IG E-9 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 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 (R 1) which was scheduled to be held on 30.12.89 in D.R.M. office, Lucknow, from

Contd.....3

also get the senior most BS/PS/CS of grade Rs. 1600-2660 (RPS). In the list of candidates the names of the applicants appeared as dxx 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 in grade of Rs. 550-700, new revised pay scale as 1600-2660 and not Rs. 1700-2350 as alleged by the applicant. Main applicants were asked to officiate in grade Rs. 2000-3200 on adhoc basis pending finalisation of selection on 26.9.85 vide notice No. 5013/3-5/70-90 dated 24.9.85.

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 mere officiating does not confer any right to the applicants on the promoted posts.

Contd.....4

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 ~~pending examination~~ ~~there~~ 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 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 pointout 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 Wani Vs. Union of India (ND) A.T.C. Vol. (B) 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 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 Yand 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.

Contd.....7

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/PWB now working as CPS on adhoc basis had appeared in supplementary test which was held on 12.5.90 and Sri 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 30.12.89 nor in supplementary test which was held on 12.5.90. It is contrary to it are noted.

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 ~~in reply~~ 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 is a 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.
23. That the contents of paras 6 and 7 of the original application do not call for any reply.

23.6.85

VERIFICATION

I, the official above/undersigned 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:

.....1981.

5.11.96
r312 RE

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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(2)

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.

Ar
(ANIL SRIVASTAVA)
ADVOCATE.

Counsel for the respondents.

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW

C.M.P.NO. 224 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.


(ANIL SRIVASTAVA)
Advocate.

Counsel for the respondents.

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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.

LUCKNOW: DATED:
31/10/1996.

A2
(ANIL SRIVASTAVA)
ADVOCATE.

COUNSEL FOR THE RESPONDENTS.

✓
CENTRAL ADMINISTRATIVE TRIBUNAL
Section - 32
Date of filing
Date of receipt of the application

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW

C.M.P.NO. 227/6 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, Hazrat-
ganj, 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

[Signature]

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(2)


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

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(3)


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

(4)

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 ~~the~~ 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

Sen. Adm. ...
 ...
 ...

(5)

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.

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16. That the contents of para 4.15 of


(6)

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



(7)

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.