

(See rule 114)

OA/TA/RA/CP/MA/PT

Tifandra brachod.

.Applicant(S)

Versus

U. S. I. - Berl.

Respondent(S)

Serial No.

DESCRIPTION OF DOCUMENTS

PAGE

1 - order sheets

7/10.44

2 - jacket in folder dt. 20th₉₀

~~As to Ab~~

3 - order sheets / applications

A7 to A12

4 - Copy of Petition/Memo.

A13 to A21

5-lacior

1472

~~6. objection, law~~

A73 to A89

2. Reply

A90 to A108

8. only a part become palatinate

Certified that the file is complete in all respects.

Signature of S.O.

Signature of Deal. Hand

A/3

Court No.1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Review Application No.307 of 1990
and
Review Application No.308 of 1990

In

Registration C.A. No.88 of 1989.

Jitendra Prasad and Others Review Applicants
Versus

Union of India & Others Opposite Parties.

Hon. Justice Kamleshwar Nath, V.C.

Hon. K.J. Raman, Member (A)

(By Hon. Justice K. Nath, V.C.)

These are two connected Review Petitions against the judgement dated 25.9.89 in C.A. No.88 of 1989 Shri Jitendra Prasad and Others Vs. Union of India & Others. The review applicants were not parties to the original application; they have sought review as they considered themselves to be adversely prejudiced by the result of the original application. Reliance, in this connection, is placed upon the observations of the Tribunal contained in para 16 of the judgement where it was said that when the Union of India may take action to implement the judgement by issuing notice to all the officers likely to be affected, if such officers raised any question as to the non binding nature of the judgement on the ground that they were not parties to it, they might file a review application and when they had filed a review application, the implementation of the judgement would remain suspended till the review applications are decided.

2. When the case came up for hearing before this

22

Bench on 27.3.90, it was noticed that the statement of case in the application for review was insufficient for the purposes of an intelligible review. The learned counsel for the review applicants requested for and was allowed a week's time to file a Supplementary Affidavit to elucidate the case set up in para 9 of the Review Application. Upon the calling of such Supplementary Affidavit, the applicants in the original application were given liberty to file a reply within three days to which the review applicants were further given opportunity to file a rejoinder within three days thereof. The case ^{was} directed to be listed for disposal finally on the maintainability of the review application as also on the merits on 11.4.90. On the apprehensions expressed by the counsel for the original applicants, it was also directed that any further promotion of 1974 Batch to the IAS in the Super Time Scale would be subject to further orders of this Tribunal. The case was adjourned on 11.4.90 as there was no sitting. On 16.4.90 the case was adjourned for today on the request of the counsel for all the parties. No one is present today on behalf of the review applicants. Supplementary Affidavit as directed 27.3.90 was not filed by the review applicants. No one present on their behalf today while the counsel for the original applicants and also for the Department are present. No request has been made for any further time on behalf of the review applicants. In the circumstances, the Review Applications are dismissed and the interim orders contained in Original Judgement as well as in the order dt.27.3.90 are vacated.


Member (A)


Vice Chairman

Dt: the 20th April, 1990.

AKA

o A. 80/89

Review App No 307 & 300/
90

0.2 Replication
Mise application No. 307/90 & 308/90 filed
by S. A. V. Sharma Advocate & Ambika Kaur
Sunder Advocate in o A. 80/89. D.R has filed
objection on 15.2.90. objection behalf of
petitioners also filed keep it a record.

Submitted.

A. K. Singh
12.2.90

Justice R. Nath, V.C.

Mr. K. J. Raman, Am.

An application for review has been filed in
certain observations of this Tribunal in para 16
of judgment under review. The basic question is
whether the applicants in the original application were
eligible in the year of 1973 as the year of allotment.
Para 9 of the review application contains a statement
that the applicants were not entitled to the benefits
conferred with the rules as they had not
appeared and their case was distinguishable from
the cases of Ashwpati Sharma and Kranti Kumar
Kumar. This is an insufficient statement for
the purposes of an intelligible review. The
Court allowed for the review petitioners requests
for and is allowed a week's time to file a
Supplementary Affidavit to elucidate the
case set up in para 9 of this Review Application.
The applicants in the original application will
file a reply within three days thereafter. At
which the review petitioners may file a rejoinder
if desired within three days thereafter.

Let this case for disposal finally i.e.
on the maintainability of the Review Application
be disposed of on the merits on 11/4/90. The
learned counsel for the original applicants
says that there is an apprehension of certain
promotion being made during the time
which has become available to the review
petitioners since filing of this petition and the
original applicants may suffer irreparable
loss. In the circumstances, we direct
that any further promotion of 1974 batch
of the I.A.S. ~~officers~~ on the Super Time Scale
shall be subject to the further
orders of this Tribunal.

V.C.

Am.

V.C.

Review
Application
No. 10/1973

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CAT 3/11

~~NEW DELHI~~ ALD

Review Appn 207/90

~~GA 7/90~~ No. 08¹⁴ 1989

Applicant(s)

Versus

Respondent(s)

Sr. No.	Date	Orders
3	11.4.90.	NO Sitting adjn to 16.4.90 for further orders - J.S.W.
	16.4.90.	How 22 K. J. Ramani m. How 22 J. P. Sharma m. On the request of Council of ... to ... on 20.4.90. J.S.W. J.M. J.R. The case returned back for Hon'ble Court when the list for 20/4/90 was prepared. The case might be put up before Hon'ble Court through Supp. Case list on 20/4/90 for adj. Notice regarding 20/4/90 has been heard to Sh. A.K. Sharma, Agt on the application of Sh. Ajit Kumar, Agt. 18/4 S.V.C.

Judgment passed on 23.4.90.

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Misc. Rest. No 776/90.

TA No. 88 of 198

Rev No 300/90

Vs

Sl.No. of Order	Date of order	ORDERS WITH SIGNATURES	Office notes as to action (if any) taken on order
	02 7/5/90	Misc. Restoration application No 776/90 pending for disposal submitted for order. He 7/5	

dinesh/

ORDER SHEET

Rest no 775/90

Registration No. 88 of 193

20/1/90

Applicant

Rest no 775/90

Versus

Respondent

Rest no 775/90

Serial number of order and date	Brief Order, mentioning reference, if necessary	How complied with and date of compliance
	CR. 7590. Misc Restoration of rights to the respondent no 775/90 in relation to the case submitted before the Honble Court on 28.5.90 7/5	
① 20590	Hon. B.K. Agrawal Sm / Hon. K. B. Jaiswal Sm. On the general adjournment of the Hon. B.K. Agrawal Sm. for the respondents case is adjn to 20.8.90 for orders	Agarwal Boz
② 20890	Hon. K. J. Raman Sm / Hon. J. P. Sharma Sm. Put up before proper bench on 01.10.90 for orders.	Am.
③ 11090	Hon. K. J. Raman Sm / Hon. S. R. Sagar Sm. Due to lawyers strike case is adjn to 28.11.91 for orders.	Agarwal Boz

04-00/89

T. A. 40/92 T. 2

13/39

1.7.21

Not on Mr. N.C. 7 June
on 12.12.21. 2.12.21.

one for the parties. List this on 3.10.51
for orders.

June

(ss)

The case relates to territorial ~~jurisdiction~~ jurisdiction
of Lucknow Bench, hence, is being transferred to
Lucknow Bench vide Hon' V.C's order dated 18-12-1991.

S.O(5)

10 3 92
D R.

This file has been received
after transfer to this
Bench from C.A.T. Alld.
Issue notice to both the
parties. case is listed
on 18 5 92.

OR

Notices Issued

27/3/92

Q

or
Respects to D

K.H. Kumar is now
has been substituted

3-92 AT 9/11

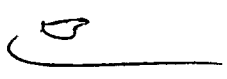
18.5-92 Hon Justice VC, SC
Hon K. G. J. AM

M P 775/90
In
Remand 307/90
P/D

Re: Application for review has been filed against -
Review application on the ground that on the
date fixed i.e. on 20-4-90 the member of counsel
for review applicant was ill and the counsel
had to go to meet him and as such he could
not attend the Tribunal. In the absence
of the counsel the Review Application
was dismissed. The order indicates that
supplementing Affidavit ~~was~~ ^{is} directed
on 27-5-90 was not filed. No one was
even present. Counsel appears to be
sufficient and accordingly the order
dated 20-4-90 is recalled and
Review Application is restored
to its original number and it may
be listed for hearing again
on 11-8-92 with notice to
parties.


AM


100

OR
Notice issued
on 18/8/92


To,
The Registrar, General,
Central Administrative Tribunal,
Principal Bench,
Faridkot House,
Copernicus Marg,
New Delhi-110001.

Moti Mahar,
Rana Pratap Marg,
Lucknow.
Dated: 26.8.93.

Subject : Regarding Constitution of appropriate Bench for
hearing of Review No.307 and 308/90 in O.A.No.
88/89 of Sitendra Prasad & Others Vs. U.O.I. & Ors.

Respected Sir,

Kindly refer to the above noted case. The original
application no.88/89 had been decided on 25.9.89 by the
Division Bench comprising of Hon'ble Mr. ^{Cr. S. Sharma} Justice Kamleshwar
Jy. ^{Cr. S. Sharma} and Hon'ble Mr. K.J.Raman, A.M. Hon'ble Mr. ~~Justice~~
~~Kamleshwar-Jy.~~ has ~~been~~ retired and Hon'ble Mr. K.J.Raman
has been posted at C.A.T., Madras Bench, Madras. Hence, this
case is not covered within any category which have been
shown in letter no.13/19/91-JA dt.18.2.92 of the Principal
Bench for constituting the Bench for REVIEW.

It is, therefore, requested to kindly place the case
before the Hon'ble Chairman for constituting a Bench for
deciding this Review and intimate accordingly.

Yours Faithfully,
(Gaur Chandra)
Deputy Registrar.

for deciding this review and
a, Bench and may be intimate
to this office for further course
of action. intimate accordingly

Yours faithfully

Gour Chandas

02/5

Restoration
APP.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

.....
The Petition 775/90

NOTICE OF MOTION

Misc Petition Review application No. of 1990
in O.A./P.A. 88 of 1989
Jhondra Prasad Applicant/appellant.

Versus

Union of India Respondents/Defendant

Take notice that the court will be moved by the order signed on 28th the day of May 1990 at 10.30 o'clock in the forenoon or so soon thereafter the noticed on their occasion can be heard.

the object of the motion is hereby indicated by

A copy of the Application is enclosed herewith. The further notice that meanwhile this court has been pleased to pass that following orders

Dated this the 7th day of May 1990

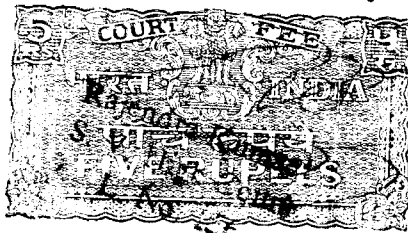
Signature [Signature]

Advocate of petitioner
Applicant/Appellant

or

Petitioner/Defendant in not

Advocate on record for the opposite party
Respondent/Defendant.



Handwritten: 12/5/90

1. I HAVE BEEN, AGAIN AND AGAIN

Resonance Application o. 175 of 1930



Library Acquisition No. 303 of 1993

...

U. N. 100-0.470.00 of 1989

Received copy
Chumley Paul Gray
Clark to West
Adm. 7/5/90

1. Number of Officers ... Applicants

1

10. Other _____

71. The immediate application of the above said
principles to the present case is as follows:

1. That this is an application to recall the order of Dec 23, 1990.

2. The following is another review application
11.4.1990 - is £1.00 and on the 10.4.1990 - is
£1.00,

3. Between 10.1.1980 the reach of Contable
the League of the 10., and Contable K. G. Khan, Member (A),
the of available and since the matter was to be
closed in that country, and as such the matter
could not be taken by other such.

... 10.4.1980, a letter dated, 20.7.1980,
... 10.4.1980, a letter dated, 20.7.1980,
... 10.4.1980, a letter dated, 20.7.1980,

SC(7)
 fit to this apph
 home cover for 1000
 ~ 28.59.08 000000
 Dec
 07 590
 28(7)

5. That on 20.4.1990 the motion of the counsel for review applicant was ill and the counsel had to go to Meerut, and as such the counsel could not attend the court for the motion as per the bench.

6. That the Hon'ble Bench was pleased to direct the review application in the absence of the counsel for review applicant and vacate the interim order dated 27.3.1990.

7. That the inconvenience caused to this Hon'ble Bench is very much regretted.

8. That in case the review application is not restored, the applicant will suffer irreparable loss.

9. That it is, therefore, in the interest of justice, equity and expediency that this Hon'ble Bench be, be pleased to recall the order dated 20.4.1990 and restore the review application to its original number.

PRAYER

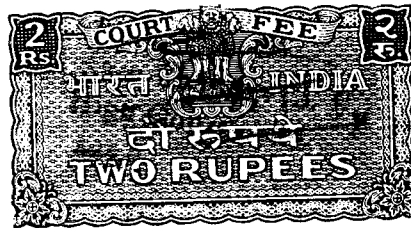
It is, therefore, most respectfully prayed that this Hon'ble Bench may kindly be pleased to recall the order dated 20.4.1990 and restore the review application to its original number.



(Anurag Kumar Sharma)

April, 1990

Counsel for Applicant



1990
AFFIDAVIT
11.4.90
HIGH COURT
ALLAHABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL
BENCH ALLAHABAD.

AFFIDAVIT

IN
RESTORATION APPLICATION NO. OF 1990

IN
REVIEW APPLICATION NO. 308 of 1990

IN
REGISTRATION O.A.NO.88 of 1989
Jitenra Prasad & others- - - - Applicants
Vs.
Union of India & others- - - - Respondents.

Affidavit of Nand Lal clerk to Shri
Ambirsh Kumar Sharma Advocate 22
Sarojani Naidu Marg Allahabad.

(Deponent)

I, the deponent do hereby solemnly affirm and state
on oath as follows;

1. That the deponent is the registered clerk of
Shri A.K.Sharma and he is fully acquainted with the
facts deposed to below;
2. That in the above noted review application
11.4.1990 was fixed and on that date 16.4.1990 was
fixed .
3. That on 16.4.1990 the Bench of Hon'ble Kamleshwar
Nath V.C.and Hon'ble K.J.Raman, Member(A) , was not

-2-

available and since the matter was to be heard by that Bench only, and as such the matter could not be taken by other Bench.

4. That on 16.4.1990, another date 20.4.1990 was fixed in the case.

5. That on 20.4.1990 the mother of the counsel for review applicant was ill and the counsel had to go to Meerut, and as such the counsel could not attend the Hon'ble Tribunal and assist the Bench.

6. That the Hon'ble Bench was pleased to dismiss the review application in the absence of the counsel for review applicant and vacate the interim order dated 27.3.1990.

7. That the inconvenience caused to this Hon'ble Bench is very much regretted.

8. That in case the review application is not restored the applicant will suffer irreparable loss.

9. That it is, therefore, in the interest of justice, equity and expediency that this Hon'ble Bench may be pleased to recall the order dated 20.4.1990 and restore the review application to its original number.

I, the deponent do hereby solemnly verify that the contents of paras nos are true to my personal knowledge those of para nos

are based on perusal of paper these of para nos

are based on legal advice which all I believe to be true that no part of it is false and nothing material has been concealed.

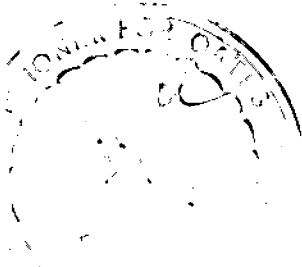
So help me God.

Deponent.

Solemnly affirmed before me on this ^{3rd} day of May 1990 at 4:30 a.m/p.m by the deponent who is the registered clerk. *Personally.*

I have satisfied myself by examining the deponent that he understands the contents which have been read over and explained to him.

OATH COMMISSIONER.



10/10/90
[Signature]
[Signature]
[Signature]
[Signature]

28/5

Restoration App.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

.....

Misc Pet No 776 of 1990

NOTICE OF MOTION

Misc Petition Review application 308 of 90
in C.A./T.A. 88 of 1989
Splendora Prasad Applicant/appellant.
Versus
Union of India Respondents/Defendant.

Take notice that the court will be moved by the order signed on 28th the day of May 1990 at 10.30 O'clock in the forenoon or so soon thereafter as the notice on their occasion can be heard.

the object of the motion is hereby indicated by
A copy of the Application is enclosed herewith. The further notice that meanwhile this court has been pleased to pass that following orders

Dated this the 7 day of May 1990

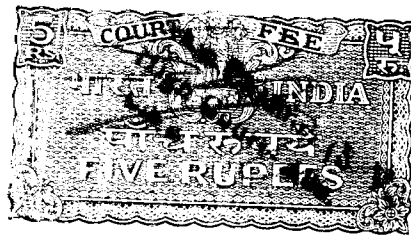
Signature Anil Kumar

Advocate of petitioner
Applicant/Appellant

or

Petitioner/Defendant in not

Advocate on record for the opposite party
Respondent/Defendant.



filed by
7/5/90

IN THE COURT OF THE DISTRICT JUDGE
AT JALANDHAR, PUNJAB

Restoration Application No. 776 of 1990

IN

Review Application No. 507 of 1990

IN

Writ Application No. 10.38 of 1989

Sikandra Prasad & Others ... Applicants

vs.

Union of India & Others ... Respondents

Received by
Chandigarh
Clerk to Mr.
Advocate
7/5/90

The humble application of the abovesaid

applicant most respectfully sheweth :-

That this is an application to recall the
order dated 20.4.1990.

2. That in the abovesaid review application
11.4.1990 was filed and on that date 13.4.1990 was
fixed.

SD(3)
List this apph
before court for orders
on 28-5-90 as prayed

3. That on 16.4.1990 the Bench of Hon'ble
Justice S. N. Singh, J., and Hon'ble K. J. Lall, Member(A.)

Dec 27-5-90
Dr (3)

Was not available and since the matter was to be
heard by that Bench only, and as such the matter
could not be taken by other Bench.

4. That on 16.4.1990 another date, 20.4.1990
was fixed in the case.

5. That on 20.4.1980 the mother of the counsel for review-applicant was ill and the counsel had to go to Meerut, and as such the counsel could not attend the Hon'ble Tribunal and assist the Bench.

6. That the Hon'ble Bench was pleased to discontinue the review application in the absence of the counsel for review-applicant and issued the interim order dated 27.3.1980.

7. That the inconvenience caused to this Hon'ble Bench is very much regretted.

8. That in case the review application is not restored, the applicant will suffer irreparable loss.

9. That it is, therefore, in the interest of justice, equity and expediency, that this Hon'ble Bench may be pleased to recall the order dated 20.4.1980 and restore the review application to its original number.

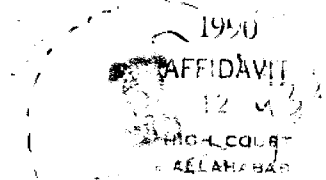
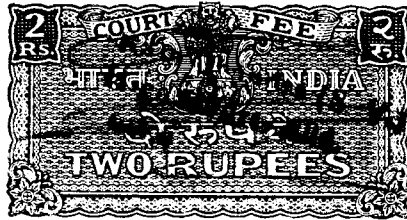
PAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to recall the order dated 20.4.1980 and restore the review application to its original number.


(Anil Kumar Sharma)

April , 1980

Counsel for Applicant



IN THE GENERAL ADMINISTRATIVE TRIBUNAL ADDITIONAL
BENCH ALLAHABAD.

AFFIDAVIT

IN
RESTORATION APPLICATION NO. OF 1990

IN
REVIEW APPLICATION NO. 307 of 1990

IN
REGISTRATION O.A. No. 88 of 1989

Jitenra Prasad & others. - - - Applicants

Vs.

Union of India and others. - - - Respondents.

Affidavit of Nand Lal clerk to Shri
Amroish Kumar Sharma Advocate
Sarojani Naidu Marg Allahabad.

(Deponent)

I, the deponent hereby solemnly affirm and
state on oath as follows;

1. That the deponent is the clerk of Shri
A.K. Sharma Advocate and he is fully acquainted
with the facts deposed to below;
2. That in the aboveset review application
11.4.1990 was filed and on that date 16.4.90 was
fixed.

3. That on 16.4.90 the Bench of Hon'ble Kamleshwar Nath, V.C. and Hon'ble K.J. Raman, Member(A), was not available and since the matter was to be heard by that Bench only, and as such the matter could not be taken by other Bench.

4. That on 16.4.1990 another date 20.4.1990 was fixed in the case.

5. That on 20.4.1990 the mother of the counsel for review applicant was ill and the counsel had to go to Meerut, and as such the counsel could not attend the Hon'ble Tribunal and assist the Bench.

6. That the Hon'ble Bench was pleased to dismiss the review application in the absence of the counsel for review applicant and vacate the interim order dated 27.3.1990.

7. That the inconvenience caused to this Hon'ble Bench is very much regretted.

8. That in case the review application is not restored, the applicant will suffer irreparable loss.

9. That it is, therefore, in the interest of justice and equity and expediency that this Hon'ble Bench may be pleased to recall the order dated 20.4.1990 and restore the review application to its original number.

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-3-

I, the deponent do hereby solemnly verify that the contents of para nos 1 to 9 are true to my personal knowledge those of paragraph nos _____ are based on perusal of papers those of paragraph nos _____ are based on legal advice which all I believe to be true that no part of it is false and nothing material has been concealed.

So help me God.

Deponent.

I, A.K. Sharma Advocate High court Allahabad do hereby declare that the person making this affidavit and alleging himself to be known to me personally.

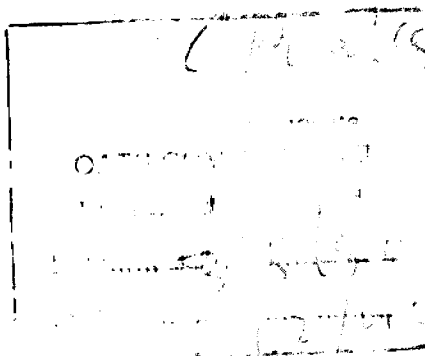
[Signature]

Solemnly affirmed before me on this 3rd day of May 1990 at _____ a.m/p.m by the deponent who is the registered clerk.

cc

I have satisfied myself by examining the deponent that he understands the contents which have been read over and explained to him.

OATH COMMISSIONER.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

NOTICE OF MOTION

REVIEW APPLICATION (L.N) 244817 (A.T.M.)

Misc. Petition 14-307 of 90
in O.A./ T.A. 88 of 1984

Sd. JITENDRA PRASAD ANAND Applicant/Appellant.

Versus

UNION OF INDIA & OTHERS

Respondents/Defendants.

Take notice that the court will be moved by the
order signed on 15 the day of 2 1990
at 10.30 O'clock in the forenoon or so soon thereafter
the notices on their occasion can be heard.

the object of the motion is hereby indicated by
A copy of the Application is enclosed herewith. The further
notice that meanwhile this court has been pleased to pass
that following orders.

Dated this the 6 day of Feb 1990

Signature [Signature]

Advocate of petitioner
Applicant/Appellant

or

Petitioner/Defendant in pet.

To

Advocate on record for the opposite party
Respondent/Defendant.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, U.P.,
XXXXXX BENCH AT ALLAHABAD.

REVIEW APPLICATION NO. 307 OF 1990

(Under Rule 17 of Central Administrative Tribunal's
Act)

On behalf of

Madam Singh, I.A.S., son of late Harlal

Singh, Managing Director, U.P. Rajya

Sahkari Krishi Evam Gramya Vikas Bank

Limited, Lucknow Applicant

In

O.A. No. 88 of 1989

Sri Jitendra Prasad and others Applicants

Vs.

Union of India and others Respondents.

The humble application of the abovenamed
Applicant MOST RESPECTFULLY SHEWETH as under :-

1. That this is an application for review and
recalling the order dated 25.9.1989.

2. That the applicant abovenamed was neither
a party nor aware of the proceedings in the ab-
mentioned case before the Hon'ble Tribunal. When
the applicant came to know on 20.1.1990 about
judgment and order in the above mentioned case
he immediately applied for preparation of the

order and judgment on 23.1.1990. As such the review application is being filed and the same is well within time.

3. That while disposing off the application, this Hon'ble Tribunal in paragraph 16 of its order even held that the Respondent no.1 i.e. the Union of India, shall advise the officers likely to be affected to move review applications, the implementation of the judgment should remain suspended till the review petitions are decided. For convenient perusal, the relevant part of paragraph 16 of the judgment is reproduced hereunder :-

" In this case the applicants have prayed that they should be placed in the seniority list below Sri Brihaspati Sharma and above Miss. Sarla Sahini in IAS cadre. The persons whose names not exist between Sri Brihaspati Sharma and Miss. Sharla Sahini in the seniority list are, therefore, likely to be adversely affected and the contention of the applicants to the contrary is not correct. Two courses are now open to us. We should either direct the applicants to implead the persons likely to be affected by our judgment as respondent in this case or the implementation of our judgment should remain suspended till such likely affected persons are given adequate opportunity of having their say against the judgment. A larger Bench

the Tribunal in John Lucas vs. Addl. Chief Mechanical Engineer 1987 (2 SIJ-328) has observed the interpretation of rules governing the service by the Tribunal, while it may benefit one class of employees may adversely affect another class. So also upholding the claim of seniority and promotion of one may infringe or affect the right of another. The judgments of the Tribunal may not in that sense be strictly ~~be~~ judgments in person affect only the parties to that petition; they would be judgments in rem. Most judgments of the Tribunal would be judgments in rem. On these considerations, it was held in that case that instead of directing every affected person to approach the Tribunal u/s 19 of the Administrative Tribunals Act or implead him as Respondents, the better course would be to allow the affected parties to seek a review of the judgment. I am, therefore, of the view that on receiving our order when the Respondent no.1 initiates action for its implementation, the notice should be issued to all the officers likely to be affected by our decision in this case giving them an opportunity of filing objections, if any, within two weeks and in case, they raise any question as to the non-binding nature of this judgment on the ground that they were not parties to it, the respondent no.1 shall advise them to move Review applications before us and on filing of such applications the implementation of the judgment should remain suspended till the review

-4-

petitions are decided. I am, therefore, in favour of following the second course suggested by the larger Bench in the aforesaid case and at this stage it will not be expedient to direct the applicants to implead any other person in this case."

4. That the applicants who were claiming to be promotee officers of the I.A.S. of the State of Uttar Pradesh filed a petition u/s 18 of the Central Administrative Tribunals Act and claimed that their year of allotment should be 1973 instead of 1974, as assigned by the Union of India and for other benefits.

5. That the case of the applicants before this Tribunal was that in 1956 they were selected in the U.P. Civil Services (Executive Branch) and after completing 8 years of Service, they became eligible for being appointed ^{in I.A.S.} ~~in I.A.S.~~. It was stated that subsequently they were appointed as I.A.S. by promotion and were assigned 1974 as the year of allotment. It was also stated that subsequently two officers, namely, Kanti Kumar Randhar and Erihaspati Sharma made representations and by order dated 3.5.1985 the Union of India changed their years of allotment to 1973. It was stated that the applicants were also entitled to get the year of allotment as 1973.

6. That the Government of India was impleaded

as a party and it filed an affidavit wherein also a specific plea was raised that the direct recruits of 1974 batch would be adversely affected if the petition is allowed as they have not been impleaded and as such the petition was liable to be rejected on the ground of non-joinder of the necessary parties.

7. That it was also stated that the applicants were not entitled for allotment of year 1973 as their case was not identical to that of Kanti Kumar Randhar and Brihaspati Sharma.

8. That ~~although~~ this Hon'ble Tribunal found that the assignment of year 1973 as the year of allotment to the applicants with the persons whose names exist between Brihaspati Sharma and Miss Sharla Sahni in the seniority list are likely to adversely affect the officers. The applicant, who is a direct recruit of 1974 batch and joined service in 1974 is adversely affected by the judgment of this Hon'ble Tribunal which has been passed without affording any opportunity to the applicant and the order is non est and the applicant is entitled to get seniority over and above the applicants in original application no.83 of 1989.

9. That the applicant respectfully submits that the applicants are not entitled to any benefit in accordance with the rules as they have not officiated and their case was distinguishable with the cases of Brihaspati Sharma and Kanti Kumar Randhar and this

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-6-

Hon'ble Tribunal has erred in law in passing the order.

10. That in fact, on merits, the applicant craves leave of this Hon'ble Court to file a detailed reply to the application no.88 of 1989.

11. That it is, therefore, most respectfully prayed that the Hon'ble Tribunal may be pleased to recall its order dated 25.9.1989 and further be pleased to to stay the operation of the judgment dated 25.9.89 passed by this Hon'ble Tribunal during the pendency of this application.

PRAYER

It is, therefore, most respectfully prayed that the Hon'ble Tribunal may be pleased to recall its order dated 25.9.1989 and further be pleased to stay the operation of the judgment and order dated 25.9.1989 passed by the Hon'ble Tribunal during pendency the/~~xxxxxx~~of this application.

Dt/- 5.2.1990


(Amrish Kumar Sharma)
Advocate
Counsel for the applicant.

In the District Administrative Tribunal and

ब. अदालत श्रीमान - - -



महोदय

वादी § मुद्दा

प्रतिवादी § मुद्दालेह §

Revenue applied to No. 90

O.A. No. 88 of 89.

Signature of

वादी § मुद्दाई §

Union of India

प्रतिवादी § मुद्दालेह §

सं० मुकद्दमा O.A. 88 सन् 19 89.

पेशा की ता०

इ० उसर लिखो मुकद्दमा में अपनी ओर से श्री

Dr. A. K. Sharma

Dr. P. R. Garg

एडवोकेट
वकील

महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा § इकरार § करता हूँ और लिखो देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और समग वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई समग जमा करें या हमारी या विपक्षी § परीक्षानी § का दाखिल किया समग अपने या हमारे हस्ताक्षर- गुल § दस्तखाती § रसीद ले लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिये यह वकालतनामा लिखा दिना कि प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर

साक्षी गवाह §

साक्षी § गवाह §

दिनांक ----- महीना

19 80

नाम अदालत
न० मुकद्दमा
नाम परीक्षक

S/Sri.Jitendra Prasad,
2. Giridhar Gopal,
3. U.P. Saxena and
4. Rajendra Kumar

....

Applicants.

Vs.

1. Union of India,
2. State of U.P. and
3. Union Public Service
Commission

...

Respondents.

Hon.C.S.Sharma, J.
Hon.K.J.Raman, A.M.

(By Hon.C.S.Sharma, J.M.)

This Original Petition under Section 10 of the Administrative Tribunals Act XIII of 1985 has been filed by 4 promotee officers of the Indian Administrative Service of this State for according 1973 as the year of their allotment in IAS cadre instead of 1974 assigned by the Union of India and for other consequential benefits.

2. It is alleged by the applicants that they were initially selected in the U.P. Civil Service (Executive Branch) in 1956 batch and after completing 8 years service became eligible for appointment to the IAS. In the select list prepared in Nov. 1977 which was approved by the Respondent no.3 on 14.12.1977, 6 officers including the Applicants of 1956 batch of U.P. Civil Service and 41 officers of the previous batches were included for the first time. The said select list was received by the Respondent no.2 on 24.7.1978 and on the same date two officers of 1955 batch and all the 6 officers of 1956 batch of U.P. Civil Service were appointed to officiate in the senior scale of IAS and they continued to officiate in their respective posts till their substantive appointment to IAS. In the seniority list issued under letter dated 10.12.1982, the Applicants and 3 other officers

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of their batch were assigned 1974 as the year of allotment against which 2 officers, namely, S/Sri Kranti Ranchar and Brihaspat Sharma (hereinafter referred to as S/Sri Ranchar and Sharma) made a representation whereupon vide letter dated 3.5.85 their year of allotment was changed to 1973. One officer of their batch namely, Sri K.P. Srivastava, who was senior to Applicant no.4 and junior to Applicant nos.1 to 3 has since expired. The various representations made by the Applicants for assigning 1973 as the year of allotment, however, did not find favour with the Respondents and the Respondent no.1 rejected the representation of the Applicant nos. 1 and 2 on the ground that they had officiated on non- cadre posts and before giving them officiating appointment in IAS, two senior officers of the same batch, namely S/Sri V.K.Sinha and M.C.Joshi were omitted and as such a gap from 26.2.79 to 25.5.79 was treated in their service. The representations of the Applicant nos. 3 and 4 were also rejected and in the case of Applicant no.4 the gap was treated up to 31.5.79 and regarding the seniority of the Applicants from 25/31st May 1979, 1974 was assigned as the year of allotment to them.

3. The grievance of the Applicants is that S/Sri Ranchar and Sharma who belong to the batch of the Applicants and who had also started officiating in non-cadre posts with the Applicants were granted the seniority of 1973 and there has been an unlawful discrimination against them in not giving the parity for the purposes of the assignment of the year of allotment and the State of U.P. having already issued the necessary certificates under explanation (4) to rule 3(3)(b) of the Indian Administrative Service (Regulations of Seniority) Rules, 1954 (hereinafter referred to as the IAS Seniority Rules), the Respondent no.1 wrongly

3.
ignored the officiating service of the Applicants before 25/31.5.1978 and on the basis of the parity as well as according to the rules, they are entitled to the benefit of their continuous officiation in IAS from July 1978.

4.- In the Counter Affidavit filed on behalf of the Respondent no.1 by its Desk Officer, it has been stated that the Applicants, who were seeking revision of the year of allotment from 1974 to 1973 have not impleaded the direct recruits of 1974 batch who will be adversely affected, if their petition is allowed and as such, the petition is liable to be dismissed on the ground of non-joinder of necessary parties. It has been further stated that the Applicants were appointed to IAS by promotion in 1982 and were initially assigned 1978 as the year of allotment. On a reconsideration, their year of allotment was revised from 1978 to 1974. Further upward revision of seniority claimed by the Applicants is without any basis and is not admissible under the rules. The continuous officiation in a senior post of IAS cadre for the purposes of determining the seniority alleged by the Applicants should be of an officer of a select list and the benefit of such officiation even on ex-cadre post with certain conditions is admissible under the rules. The case of the Applicants is not identical to the case of S/Sri Randhar and Sharma as some of them had held cadre as well as ex-cadre posts prior to their appointment to the IAS. Initially the officiation on cadre posts from 26.2.1979 to 25.5.79 in respect of S/Sri Randhar and Sharma was not approved by the Respondent no.1 because their seniors in the select list xxxx had not been given officiating appointment till that date and this period was, therefore, taken as a gap in their officiation. The Respondent no.2 had subsequently revised the certificates issued to the Applicant nos.1 and 2 and on this ground the

period of their officiation in senior post from 26.2.79 to 25.5.79 was not approved. As these two Applicants had not worked on cadre posts during this period, their case is not identical to the case of S/Sri Randhar and Sharma and they cannot claim parity with them. For the benefit of ex-cadre post, the concerned State Government has to issue a valid certificate under explanation 4 to rule 3 (3) (c) of the IAS Seniority Rules. As required under Regulation E of IAS (Appointment by Promotion) Regulations (for short IAS Promotion Regulations) the officiating appointment on cadre post is to be given in accordance with the order of select list. Since the officers at sl.nos.1 and 2 of the select list were not given the cadre post, the officiating appointments of the Applicants were violative of these Regulations and no benefit of such officiation could be given to them for the purposes of their seniority in the IAS. The State Government had not sent the report regarding the officiating appointments of the Applicants to the Respondent no.1 in time and as such, the necessary directions could not be issued to the State, under the IAS (Cadre) Rules. As S/Sri Randhar and Sharma have continuously officiated on cadre posts, which is not the case of the Applicant nos. 1 and 2, they are not entitled to the benefit given to them and the various allegations made by the Applicants for granting higher seniority are unfounded and incorrect.

5. The Respondent no.2 has filed two Counter Affidavits and it has been stated therein that the seniority of officers appointed to IAS is fixed by Govt. of India. The request of the Applicants to give them 1973 seniority has been examined by the Govt. of India and their last representation was rejected on 8.3.89. It has been further stated that vide letters dated 8.11.78



and 31.8.78 the State Govt. had certified that the Applicant nos. 1 and 2 would have officiated in a cadre post in senior scale of IAS but for their appointment to non-cadre post in a time scale identical to the time scale of the senior scale post but the Govt. of India did not approve the officiation of Applicant nos. 1 to 3 from 26.2.79 to 25.5.79 and of Applicant no.4 from 26.2.79 to 30.5.79 in the senior scale IAS post. The State of U.P., therefore, revised the certificates vide its letter dated 17.5.83 in respect of Applicant nos. 1 and 2 in compliance of the letter dated 15.10.82 of the Respondent no.1. The Respondent no.2 did not enter into the controversy on other points in its counter affidavit and stated that the other facts stated by the Applicants concern the Respondent no.1.

6. The Union Public Service Commission- Respondent no.3 did not file any counter affidavit and no appearance was put in on its behalf before us in this case.

7. From the pleadings of the parties, stated above, it is not in dispute that the names of all the four Applicants who are of 1956 batch of U.P.State Civil Service were included in the select list prepared in 1977 and received by the State of U.P. on 24.7.78 and from the same date they started officiating in the senior scale post of IAS or equivalent to such post. The Respondent no.1 has disputed the officiation of the Applicant nos. 1 and 2 only in senior scale cadre post of IAS and there is no such dispute about the other two Applicants. It is also not in dispute that the Applicant no.1 had officiated as Under Secretary and Controller of Examination, Staff Selection Commission Allahabad from 3.10.78 to 2.10.79 and the Applicant no.2 had officiated as Project Director, Association of Voluntary Agencies for Rural Development, Allahabad

from 25.7.78 to 24.7.79. Initially the State of U.P. had given unqualified certificates under explanation 4 to rule 3(3)(b) of the IAS Seniority Rules about these officers vide letters dated 8.11.78 and 31.8.78 stating that they would have officiated in cadre post in the senior scale of IAS but for their appointment to the non-cadre post in a time scale identical to the time scale of senior scale post. On the issue of such certificates, an officiation of a select list officer on non-cadre post has to be reckoned for the purposes of determining his seniority under rule 3(3)(b). It is, however, evident that the Respondent no.1 did not approve the officiation of these two Applicants from 26.2.79 to 25.5.79 and in accordance with the directions issued by it vide its letter dated 15.10.82, the respondent no.2 revised the certificates on 17.5.83. The revised certificate is available as annexure 2 to the second Counter Affidavit filed by the State of U.P. According to this certificate the non-cadre officiation of Applicant nos. 1 and 2 was certified in two instalments. The period of the Applicant no.1 from 3.10.78 to 25.2.79 and then 26.5.79 to 2.10.79 was treated on cadre post and the period of the Applicant no.2 from 25.7.78 to 25.2.79 and from 26.5.79 to 24.7.79 was treated on cadre post and in this way, the services of both the Applicants from 26.2.79 to 25.5.79 for a period of 3 months was not certified under explanation 4 and on this ground, the Respondent no.1 treating this period as a gap, took into consideration their services only from 26.5.79 for the purposes of determining their seniority.

7. The main point, thus, arising for consideration in this case is whether this course adopted by the Respondent no.1 was permissible under the rules. The contention of the Applicants as raised in paras A'12 and A'13 and reiterated in their rejoinder is that Sri V.K.Sinha was senior to Sri K.L.Joshi and Sri Joshi was senior to Applicant no.4 and junior to the other Applicants. They were superseceded in the select list prepared in Dec.1977 and for the first time were included in the select list prepared in Dec.1978. After the inclusion of their names in the select list, Sri V.K.Sinha was given appointment on 28.5.78 and Sri Joshi was given such appointment on 31.5.78. These facts have not been controverted by the Respondents. It is, thus, apparent that Applicants started officialisation in senior posts of IAS cadre w.e.f. 24.25.7.78 while their names were included in the select list approved by the Respondent no.3 on 14.12.1977. In such a situation, the State of U.P. cannot be blamed for giving appointment to the Applicants to the IAS cadre before their seniors S/Sri Sinha and Joshi and the Applicants too can in no way be blamed for accepting such appointments.

8. Not coming to the rules reference of which has been made by the Respondent no.1 in its Counter Affidavit, it is pertinent to mention that Article 16(1) of the Constitution of India provides that appointments of members of the State Civil Service from the select list to posts borne on the State cadre shall be made in accordance with the provisions of rule 9 of the cadre rules. Rule 9 of the IAS cadre rules lays down that a cadre post in a State may be filled by a person who is not a cadre officer of the State Govt. It is evident that the vacancy

is not likely to last for more than 3 months or that there is no suitable cadre officer available for filling the vacancy. Rule 9 of the Cadre Rules thus authorises the State Govt. to make appointment of a person who is not a cadre officer in a non-cadre post for upto a short period of 3 months or for a longer period if no suitable cadre officer is available for filling the post. On the other hand, ordinarily the State Govt. has to make appointment to the post borne on the State IAS cadre out of the State Service Officers whose names appear in the select list and in making such appointments the order in which the names appear in the select list has to be followed. Sub-regulation (2) of Regulation 6, however, permits the State Govt. to appoint even non-select list officers or the select list officers out of their number if the vacancy is for a short period upto 3 months or there is no suitable cadre officer available for filling the post. These provisions are even in the absence of such exigencies where provide that State Govt. has to give an appointment to a senior officer on a cadre post even if his name is not included in the select list. As the names of S. Sri Sinha and Joshi did not appear in the select list of 1977 upto 24.12.78 when the present Applicants started officiation in senior cadre posts, the appointments then given in no way be termed to be illegal or contrary to any rule.

5. A reference to Regulations 5 and 7 of IAS (Promotions) Regulations may be useful at this juncture. These Regulations provide the procedure for the preparation, review and revision of the select list. Sub-regulation (6) of Regulation 5 provides that the Select list shall be reviewed and revised every year. Sub-regulation (4) of Regulation 7 provides that the select list shall ordinarily be in force until its review and revision effected under Regulation 6 is approved. It is, then

W) evident that till the select list of 1978 was approved in which the names of S/Sri Sinha and Joshi were included, the select list of 1977 was in force and valid for all purposes and the officiation of the Applicants which had started under this select list much before the select list of 1978 had come into existence, the select list of 1977 stood exhausted so far as these Applicants are concerned and there remains nothing to be reviewed or revised on the approval of the list of 1978. Their officiation, therefore, cannot be said to be contrary to the provisions of Regulations 8 of IAS 'Promotion' Regulations or rule 8 of the IAS (Cadre) Rules and the contention of the Respondent no.1 to the contrary is incorrect.

10. It appears that the select list of 1978 was received by the State of U.P. on 20.2.1979 and within 30 days the appointment was given to Sri Sinha. Such appointment was given to Sri Joshi on 30.5.79. As the select list of 1978 did not stand reviewed or revised by this select list, as already observed above, the gap of 3 months from 20.2.79 to 25/30.5.79 treated by the Respondent no.1 in the officiating appointment of the Applicants is, therefore, misconceived and does not have the sanction of law.

11. After coming to the aforesaid conclusion, there remains nothing to be considered further in this case. I will, however, like to point out that the Respondents nos. 1 and 2 have also not correctly interpreted the provisions of explanation 4 to rule 3(3)(1) of the IAS 'Promotion' Regulations. For the sake of convenience its first part is reproduced below:

An officer appointed to the service in accordance with sub-rule (1) of rule 8 of the Recruitment Rules shall be treated as having officiated in a senior post during any period of appointment to a non-cadre



post if the State Govt. has certified within three months of his appointment to the non-cadre post that he would have so officiated but for his appointment, for a period not exceeding one year, and, with the approval of the Central Govt. for a further period not exceeding two years, to a non-cadre post under a State Government of the Central Government in a time scale identical to the time scale of a senior post;

.....

It is apparent from the above that upto a period of one year the State Govt. is fully competent to certify the officiation of a select list officer on a non-cadre post and for the further period upto 2 years the State Govt. has to obtain the approval of the Central Govt. The State Govt. was thus well within its rights to certify the officiation of the Applicant nos. 1 and 2 on non-cadre posts for a period of one year from 3.10.70 and 25.7.70 respectively and the question of taking the approval of Respondent no.1 could arise only for the officiation in the case of the Applicant no.1 after 2.10.79 and in the case of Applicant no.2 after 24.7.79. The period from 20.2.70 to 24.7.79 for which the AP has been treated fell well within one year of the starting of their officiation and as such Respondent no.1 was ill-advised in asking the State Govt. to revise the certificates issued in respect of the Applicant nos. 1 and 2. I am further of the opinion that there is nothing in the rules for revising the certificates issued under explanation A above and in any case, such revision could not be made after a long period of about 8 years and that too not voluntarily on receiving any intimation but on the advice and direction of the Respondent no.1. This action of the Respondent nos. 1 and 2 thus also does not appear to be in accordance with law and the services of the Applicant nos. 1 and 2 on the non-cadre posts having already



been certified in time in 1978, their nature could not be changed afterwards.

12. It may also be mentioned that initially the officiation of Sri Banner and Sharma on cadre post from 20.2.78 to 25.5.78 was also not approved by the Independent No.1 on the ground that Sri Banner was not given the appointment letter then as stated in para 13 of its counter affidavit. The Independent No.1 later on changed this stand and treated their officiation on cadre post and in the case of Applicant nos. 1 and 2 tried to take shelter under a wrong pretext that they were officiating on non-cadre posts at that time. There is, however, no such allegation regarding Applicant nos. 3 and 4. There is, thus, a clear discrimination against the Applicants by denying the said benefits which were given to Sri Banner and Sri Sharma in the matter of assigning seniority.

13. On behalf of the Applicants reliance was placed on a number of decisions of this Bench relating to the seniority of IAS officers and it was contended that for ascertaining the seniority, this Tribunal has not made any distinction between a cadre post and non-cadre post and on the same analogy, the officiation of the Applicant nos. 1 and 2 on a non-cadre post from 20.2.78 to 25.5.78 should be treated on a cadre post. In my opinion, this contention is wholly misconceived. There is no such blanket finding of the Tribunal in any case and whenever such question was raised in those cases, we have tried to see whether the post alleged to be non-cadre by the Govt. was a senior post in accordance with rule 2 of IAS Seniority



rules and in respect of the post falling under that category the officiation was treated on a senior post as required under rule 3.3.1 of the 1955 Seniority Rules. In the instant case, this question has not arisen for consideration before us as the Respondent nos. 1 and 2 had treated officiation of the Applicant nos. 1 and 2 on the same post before 28.2.79 and after 28.5.79 on senior post, as discussed above, and the Respondents were not justified in excluding the intervening period from 28.2.79 to 28.5.79 by treating it as a gap for the reasons already stated above.

17. Undisputedly, the year of allotment to promoted 1/5 officers is assigned under clause 1 of rule 3.3 of 1/5 Seniority Rules. Explanation 1 to this rule provides that in respect of a promoted officer, the period of his continuous officiation in a senior post, shall, for the purposes of determination of his seniority count only from the date of the inclusion of his name in the select list or from the date of his officiating appointment to such senior post, whichever is later. In the instant case, the names of the Applicants were already included in the select list when they started officiating in senior posts and as such, their seniority has to be reckoned from the date of their continuous officiation from 28.2.79 and the year of allotment has to be assigned to them on this basis. I hold accordingly.

18. As the Applicants have established their claim for the reassignment of the year of allotment to them from the date of their continuous officiation in senior post in 1/5 cadre, the question or rejoinder raised by the Respondent no.1 in its counter affidavit assumes importance. It has been contended on behalf of the Applicants that they are not claiming



seniority ~~from~~ ^{against} any direct recruit and they have simply prayed for assigning them 1973 as the year of allotment and no directly recruited IAS officer of 1974 batch is going to be adversely affected thereby. It has also been contended that the counter affidavit filed by the Respondent nos. 1 has not been properly signed and verified and the same is liable to be ignored on this ground and we need not consider the question of non-joinder raised in the Counter Affidavit. It is true that the counter affidavit filed by the Deek Officer on behalf of the Union of India has neither been filed by a competent person nor has been signed and verified in the manner provided by rule 12(2) of Central Administrative Tribunal (Procedure) Rules, 1987. We are, ~~therefore~~ ^{however}, unable to accept their contention that the plea of non-joinder should be ignored from consideration on this ground. In Prabodh Verma vs. State of U.P. (1985 (2) SCR-714), the Hon. Supreme Court had held that a High Court ought not to hear and dispose of a writ petition under Art. 226 of the Constitution without the persons who would be vitally affected by its judgment being before it as Respondents or atleast some of them before it as Respondents in a representative capacity if their number is too large to join them as Respondents in-divisibly and if the Petitioners refuse to so join them the High Court ought to dismiss the petition for non-joinder of necessary parties.

10. In this case, the Applicants have prayed that they should be placed in the seniority list below Sri. Krishnpati Sharma and above Miss. Sharla Selini in 1973 cadre. The persons whose names not exist between Sri Krishnpati Sharma and Miss. Sarla

... Schini in the seniority list are, therefore, likely ...
to be adversely affected and the contention of the
Applicants to the contrary is not correct. Two courses
are now open to us. We should either direct the
Applicants to implead the persons likely to be affect-
ed by our judgment as Respondents in this case or
the implementation of our judgment should remain
suspended until such time as the persons likely to be
adversely affected have had an opportunity of having their say against
this judgment. A larger bench of the Tribunal in
John Lucas Vs. Addl. Chief Mechanical Engineer 1987(2)
913-321 has observed that the interpretation of
rules governing the service by the Tribunal, while
it may benefit one class of employees may adversely
affect another class. So also upholding the claim
of seniority and promotion of one may infringe or
affect the right of another. The judgments of the
Tribunal may not in that sense be strictly judgments
in personam affecting only the parties to that petition;
they would be judgments in rem. Most judgments of
the Tribunal would be judgments in rem. On these
considerations, it was held in that case that instead
of directing every affected person to approach the
Tribunal u/s. 19 of the Administrative Tribunals Act
or implead him as a Respondent, the better course
would be to allow the affected parties to seek a
review of the judgment. I am, therefore, of the view
that on receiving our order when the Respondent No. 1
initiates action for its implementation, the notice
should be issued to all the officers likely to be
affected by our decision in this case giving them
an opportunity of filing objections, if any, within

.15.

two weeks and in case, they raise any question as to the non-binding nature of this judgment on the ground that they were not parties to it, the respondent no.1 shall advise them to file proper petitions before us and on filing such applications the implementation of the judgment shall remain in force till the revised petitions are decided. I am therefore in favour of following the second course suggested by the larger bench. In the immediate case also at this stage, it will not be expedient to direct the applicants to implead any other person in this case.

17. To sum up, in view of the discussion here above, the seniority of the Applicants has to be redetermined and the year of allotment has to be reassigned to their rank, the dates of their continuous affiliation in A under para 1 of 172 were held in the allotment from 10.5.70 to 11.10.70 and the Respondent No. 1 shall initiate action to do so within a period of one month from the date of the communication of this order in accordance with the observations and directions here above. The person shall bear their own costs.

TRUE
COPY

11/10/2

~~SECRET~~

(G.S. SHARMA)
MEMBER (J)

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9. 4. 15.

1948)

[Faint handwritten notes at the bottom of the page]

By the People of the County of

I have gone through the judgment prepared by Brother Sharma, Jc. I concur and order accordingly.

Det'd 25.1.11
HLL

23.1.90

MEMBER (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Review APPLICATION

NOTICE OF MOTION

Misc. Petition IN 308 of 90
in O.A./T.A. 88 of 198

Sri. JIBENDRA PRASAD & OTHERS Applicant/Appellant.

Versus

UNION OF INDIA & OTHERS

Respondents/Defendants.

Take notice that the court will be moved by the
order signed on 15. 2. 90 the day of 198
at 10.30 O'clock in the forenoon or so soon thereafter
the notices on their occasion can be heard.

the object of the motion is hereby indicated by
A copy of the Application is enclosed herewith. The further
notice that meanwhile this court has been pleased to pass
that following orders.

Dated this the 1st day of Feb. 1990

Signature

(AMAR KUMAR SHARMA)

Advocate of petitioner
Applicant/Appellant

& Review Applicant

or

Petitioner/Defendant in pet.

To

Advocate on record for the opposite party
Respondent/Defendant.

Central Administrative Tribunal, Allahabad.

Registration C.A.No. 88 of 1989

S/Sri. Jitendra Prasad,
1. Giridhar Gopal,
2. C.P. Saxena and
3. Rajendra Kumar

Applicants.

Vs.

1. Union of India,
2. State of U.P. and
3. Union Public Service
Commission

Respondents.

Hon. C.S. Sharma, JM.
Hon. K.J. Raman, AM.

(By Hon. C.S. Sharma, JM.)

This Original Petition under section 19 of the Administrative Tribunals Act XIII of 1985 has been filed by 4 promotee officers of the Indian Administrative Service of this State for according 1973 as the year of their allotment in IAS cadre instead of 1974 assigned by the Union of India and for other consequential benefits.

2. It is alleged by the Applicants that they were initially selected in the U.P. Civil Service (Executive Branch) in 1956 batch and after completing 8 years service became eligible for appointment to the IAS. In the select list prepared in Nov. 1977 which was approved by the Respondent no. 3 on 14.12.1977, 8 officers including the Applicants of 1956 batch of U.P. Civil Service and 41 officers of the previous batches were included for the first time. The said select list was received by the Respondent no. 2 on 24.7.1978 and on the same date two officers of 1955 batch and all the 8 officers of 1956 batch of U.P. Civil Service were appointed to officiate in the senior scale of IAS and they continued to officiate in their respective posts till their substantive appointment to IAS. In the seniority list issued under letter dated 10.12.1982, the Applicants and 3 other officers

of their batch were assigned 1974 as the year of allotment against which 2 officers, namely, S/Sri Kranti Kumar Randhar and Brihaspat Sharma (hereinafter referred to as S/Sri Randhar and Sharma) made a representation whereupon vide letter dated 3.5.85 their year of allotment was changed to 1973. One officer of their batch namely, Sri K.P. Srivastava, who was senior to Applicant no.4 and junior to Applicant nos.1 to 3 has since expired. The various representations made by the Applicants for assigning 1973 as the year of allotment, however, did not find favour with the Respondents and the Respondent no.1 rejected the representation of the Applicant nos. 1 and 2 on the ground that they had officiated on non-caore posts and before giving them officiating appointment in IAS, two senior officers of the same batch, namely S/Sri V.K.Sinha and M.C.Joshi were omitted and as such a gap from 26.2.79 to 25.5.79 was treated in their service. The representations of the Applicant nos. 3 and 4 were also rejected and in the case of Applicant no.4 the gap was treated up to 31.5.79 and reckoning the seniority of the Applicants from 25/31st May 1979, 1974 was assigned as the year of allotment to them.

3. The grievance of the Applicants is that S/Sri Randhar and Sharma who belong to the batch of the Applicants and who had also started officiating in junior posts with the Applicants were granted the seniority of 1973 and there has been an unlawful discrimination against them in not giving the parity for the purposes of the assignment of the year of allotment and the State of U.P. having already issued the necessary certificates under explanation (4) to rule 3(3)(b) of the Indian Administrative Service (Regulations of Seniority) Rules, 1954 (hereinafter referred to as the IAS Seniority Rules), the Respondent no.1 wrongly

terminated the officiation service of the Applicants before 25/31.5.1979 and on the basis of the parity as well as according to the rules, they are entitled to the benefit of their continuous officiation in IAS from July 1978.

4.- In the Counter Affidavit filed on behalf of the Respondent no.1 by its Desk Officer, it has been stated that the Applicants, who were seeking revision of the year of allotment from 1974 to 1973 have not impleaded the direct recruits of 1974 batch who will be adversely affected, if their petition is allowed and as such, the petition is liable to be dismissed on the ground of non-joinder of necessary parties. It has been further stated that the Applicants were appointed to IAS by promotion in 1982 and were initially assigned 1978 as the year of allotment. On a reconsideration, their year of allotment was revised from 1978 to 1974. Further upward revision of seniority claimed by the Applicants is without any basis and is not admissible under the rules. The continuous officiation in a senior post of IAS cadre for the purposes of determining the seniority alleged by the Applicants should be of an officer of a select list and the benefit of such officiation even on ex-cadre post with certain conditions is admissible under the rules. The case of the Applicants is not identical to the case of S/Sri Randhar and Sharma as some of them had held cadre as well as ex-cadre posts prior to their appointment to the IAS. Initially the officiation on cadre posts from 26.2.1979 to 25.5.79 in respect of S/Sri Randhar and Sharma was not approved by the Respondent, no.1 because their seniors in the select list xxxx had not been given officiating appointment till that date and this period was, therefore, taken as a gap in their officiation. The Respondent no.2 had subsequently revised the certificates issued to the Applicant nos.1 and 2 and on this ground, the

period of their officiation in senior post from 26.2.79 to 25.5.79 was not approved. As these two Applicants had not worked on cadre posts during this period, their case is not identical to the case of S/Sri Randhar and Sharma and they cannot claim parity with them. For the benefit of ex-cadre post, the concerned State Government has to issue a valid certificate under explanation (4) to rule 3 (3)(b) of the IAS Seniority Rules. As required under Regulation 1 of IAS (Appointment by Promotion) Regulations (for short IAS Promotion Regulations) the officiating appointment on cadre post is to be given in accordance with the order of select list. Since the officers at sl.nos.1 and 2 of the select list were not given the cadre post, the officiating appointments of the Applicants were violative of these Regulations and no benefit of such officiation could be given to them for the purposes of their seniority in the IAS. The State Government had not sent the report regarding the officiating appointments of the Applicants to the Respondent no.1 in time and as such, the necessary directions could not be issued to the State under the IAS (Cadre) Rules. As S/Sri Randhar and Sharma have continuously officiated on cadre posts, which is not the case of the Applicant nos. 1 and 2, they are not entitled to the benefit given to them and the various allegations made by the Applicants for granting higher seniority are unfounded and incorrect.

5. The Respondent no.2 has filed two Counter Affidavits and it has been stated therein that the seniority of officers appointed to IAS is fixed by Govt. of India. The request of the Applicants to give them 1973 seniority has been examined by the Govt. of India and their last representation was rejected on 8.3.89. It has been further stated that vice letters dated 8.11.78

and 31.8.78 the State Govt. had certified that the Applicant nos. 1 and 2 would have officiated in a cadre post in senior scale of IAS but for their appointment to non-cadre post in a time scale identical to the time scale of the senior scale post but the Govt. of India did not approve the officiation of Applicant nos. 1 to 3 from 26.2.79 to 25.5.79 and of Applicant no.4 from 26.2.79 to 30.5.79 in the senior scale IAS post. The State of U.P., therefore, revised the certificates vide its letter dated 17.5.83 in respect of Applicant nos. 1 and 2 in compliance of the letter dated 12.12.82 of the Respondent no.1. The Respondent no.2 did not enter into the controversy on other points in its counter affidavit and stated that the other facts stated by the Applicants concern the Respondent no.1.

6. The Union Public Service Commission- Respondent no.3 did not file any counter affidavit and no appearance was put in on its behalf before us in this case.

7. From the pleadings of the parties, stated above, it is not in dispute that the names of all the four Applicants who are of 1956 batch of U.P.State Civil Service were included in the select list prepared in 1977 and received by the State of U.P. on 24.7.78 and from the same date they started officiating in the senior scale post of IAS or equivalent to such post. The Respondent no.1 has disputed the officiation of the Applicant nos. 1 and 2 only in senior scale cadre post, of IAS and there is no such dispute about the other two Applicants. It is also not in dispute that the Applicant no.1 had officiated as Under Secretary and Controller of Examination, Staff Selection Commission Allahabad from 3.10.78 to 2.10.79 and the Applicant no.2 had officiated as Project Director, Association of Voluntary Agencies for Rural Development, Allahabad

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.B.
from 25.7.78 to 24.7.79. Initially the State of U.P. had given unqualified certificates under explanation 4 to rule 3(3)(b) of the IAS Seniority Rules about these officers vide letters dated 0.11.70 and 31.8.78 stating that they would have officiated in cadre post in the senior scale of IAS but for their appointment to the non-cadre post in a time scale identical to the time scale of senior scale post. On the issue of such certificates, an officiation of a select list officer on non-cadre post has to be reckoned for the purposes of determining his seniority under rule 3(3)(b). It is, however, evident that the Respondent no.1 did not approve the officiation of these two Applicants from 26.2.79 to 25.5.79 and in accordance with the directions issued by it vide its letter dated 15.10.82, the respondent no.2 revised the certificates on 17.5.83. The revised certificate is available as annexure 2 to the second Counter Affidavit filed by the State of U.P. According to this certificate the non-cadre officiation of Applicant nos. 1 and 2 was certified in two instalments. The period of the Applicant no.1 from 3.10.78 to 25.2.79 and then 26.5.79 to 2.10.79 was treated on cadre post and the period of the Applicant no.2 from 25.7.78 to 25.2.79 and from 26.5.79 to 24.7.79 was treated on cadre post and in this way, the services of both the Applicants from 26.2.79 to 25.5.79 for a period of 3 months was not certified under explanation 4 and on this ground, the Respondent no.1 treating this period as a gap, took into consideration their services only from 26.5.79 for the purposes of determining their seniority.

7. The main point, thus, arising for consideration in this case is whether this course adopted by the Respondent no.1 was permissible under the rules. The contention of the Applicants as raised in paras 4'12' and 4'16' and reiterated in their rejoinder is that Sri V.K.Sinha was senior to Sri K.K.Ranchar and Sri Joshi was senior to Applicant no.4 and junior to the other Applicants. They were superseded in the select list prepared in Dec.1977 and for the first time were included in the select list prepared in Dec.1978. After the inclusion of their names in the select list, Sri V.K.Sinha was given appointment on 25.5.78 and Sri Joshi was given such appointment on 31.5.78. These facts have not been controverted by the Respondents. It is, thus, apparent that Applicants started officialisation in senior posts of IAS cadre w.e.f. 24.25.7.78 while their names were included in the select list approved by the Respondent no.3 on 14.12.1977. In such a situation, the State of U.P. cannot be blamed for giving appointment to the Applicants to the IAS cadre before their seniors S/Sri Sinha and Joshi and the Applicants too can in no way be blamed for accepting such appointments.

8. Not coming to the rules reference of which has been made by the Respondent no.1 in its Counter Affidavit, Regulation 4 of IAS 'Promotion' Regulations provides that appointments of members of the State civil service from the select list to posts borne in the order in which their names appear in the select list the State govt. shall be made in accordance with the provisions of rule 5 of the cadre rules. Rule 5 of the IAS cadre rules lays down that a cadre post in a State may be filled by a person who is not a cadre officer if the State govt. is satisfied that the vacancy

is not likely to last for more than 3 months or that there is no suitable cadre officer available for filling the vacancy. Rule 5 of the Cadre Rules thus authorises the State Govt. to make appointment of a person who is not a cadre officer in a non-cadre post up to short period of 3 months or for longer period if no suitable cadre officer is available for filling the post. On the other hand, ordinarily the State Govt. has to make appointment to the post borne on the State IAS cadre out of the State Service Officers whose names appear in the select list and in making such appointments the order in which the names appear in the select list has to be followed. Sub-regulation (2) of Regulation 1, however, permits the State Govt. to appoint even non-select list officers or the select list officers out of their number if the vacancy is for a short period upto 3 months or there is no suitable cadre officer available for filling the post. These provisions are even in the absence of such exigencies where provide that State Govt. has to give an appointment to a senior officer on a cadre post even if his name is not included in the select list. As the names of Sri Sinha and Joshi did not appear in the select list of 1977 upto 24.25.7.78 when the present Applicants started officiation in senior cadre posts, the appointments given in no way be termed to be illegal or contrary to any rule.

5. A reference to Regulations 5 and 7 of IAS (Promotion) Regulations may be useful at this juncture. These Regulations provide the procedure for the preparation, review and revision of the select list. Sub-regulation (1) of Regulation 5 provides that the Select list shall be reviewed and revised every year. Sub-regulation (2) of Regulation 7 provides that the select list shall ordinarily be in force until its review and revision effected under Regulation 5 is approved. It is, thus

10. Evident that till the select list of 1978 was approved in which the names of S/Sri Sinha and Joshi were included, the select list of 1977 was in force and valid for all purposes and the officiation of the Applicants which had started under this select list much before the select list of 1978 had come into existence, the select list of 1977 stood exhausted so far as these Applicants are concerned and there remains nothing to be reviewed or revised on the approval of the list of 1978. Their officiation, therefore, cannot be said to be contrary to the provisions of Regulation 4 of IAS 'Promotion' Regulations or rule 8 of the IAS 'Cadre' Rules and the contention of the Respondent no.1 to the contrary is incorrect.

10. It appears that the select list of 1978 was received by the State of U.P. on 28.2.1979 and within 90 days the appointment was given to Sri Sinha. Such appointment was given to Sri Joshi on 30.5.79. As the select list of 1978 did not stand reviewed or revised by this select list, as already observed above, the gap of 3 months from 28.2.79 to 25/30.5.79 treated by the Respondent no.1 in the officiating appointment of the Applicants is, therefore, misconceived and does not have the sanction of law.

11. After coming to the aforesaid conclusion, there remains nothing to be considered further in this case. I will, however, like to point out that the Respondent nos. 1 and 2 have also not correctly interpreted the provisions of explanation 4 to rule 3(3)(i) of the IAS 'Promotion' Regulations. For the sake of convenience its first part is reproduced below :-

An officer appointed to the service in accordance with sub-rule(1) of rule 8 of the Recruitment Rules shall be treated as having officiated in a senior post during any period of appointment to a non-cadre.



post if the State Govt. has certified within three months of his appointment to the non-care post that he would have so officiated but for his appointment, for a period not exceeding one year, and, with the approval of the Central Govt. for a further period not exceeding two years, to a non-care post under a State Government of the Central Government in a time scale identical to the time scale of a senior post;

It is apparent from the above that upto a period of one year the State Govt. is fully competent to certify the officiation of a select list officer on a non-care post and for the further period upto 7 years the State Govt. has to obtain the approval of the Central Govt. The State Govt. was thus well within its rights to certify the officiation of the Applicant nos. 1 and 2 on non-care post, for a period of one year from 3.10.70 and 25.7.70 respectively and the question of taking the approval of Respondent no.1 could arise only for the officiation in the case of the Applicant no.1 after 2.10.70 and in the case of Applicant no.2 after 24.7.70. The period from 20.2.70 to 25.5.70 for which the gap has been treated fell well within one year of the starting of their officiation and as such Respondent no.1 was ill-advised in asking the State Govt. to revise the certificates issued in respect of the Applicant nos. 1 and 2. I am further of the opinion that there is nothing in the rules for revising the certificates issued under explanation 4 above and in any case, such revision could not be made after a long period of about 5 years and that too not voluntarily on realising any mistake but on the advice and direction of the Respondent no.1. This action of the Respondent nos. 1 and 2 thus also does not appear to be in accordance with law and the services of the Applicant nos. 1 and 2 on the non-care posts having already

been certified in time in 1978, their nature could not be changed afterwards. 68

12. It may also be mentioned that initially the officiation of S. Sri Ramesh and Sharma on cadre post from 28.2.78 to 25.5.78 was also not approved by the Respondent no.1 on the ground that Sri Ramesh was not given the appointment before then as admitted in para 13 of its counter affidavit. The Respondent no.1 later on changed this stand and treated their officiation on cadre post and in the case of Applicant nos. 1 and 2 tried to take shelter under a wrong pretext that they were officiating on non-cadre posts at that time. There is, however, no such allegation regarding Applicant nos. 3 and 4. There is, thus, a clear discrimination against the Applicants by denying the same benefits which were given to Sri Ramesh and Sri Sharma in the matter of assigning seniority.

13. In behalf of the Applicants reliance was placed on a number of decisions of this Bench relating to the seniority of IFS officers and it was contended that for according the seniority, this Tribunal has not made any distinction between a cadre post and non-cadre post and on the same analogy, the officiation of the Applicant nos. 1 and 2 on a non-cadre post from 28.2.78 to 25.5.78 should be treated on a cadre post. In my opinion, this contention is wholly misconceived. There is no such blanket finding of the Tribunal in any case and whenever such question was raised in those cases, we have tried to see whether the post alleged to be non-cadre by the Govt. was a senior post in accordance with rule 2 of IFS Seniority

Rules and in respect of the post falling under that category the officiation was treated on a senior post as required under rule 3.3.1 of the 11/5 Seniority Rules. In the instant case, this question has not arisen for consideration before us as the Respondent nos. 1 and 2 had treated officiation of the Applicants nos. 1 and 2 on the same post before 25.2.79 and after 25.5.79 on senior post, as discussed above, and the Respondents were not justified in excluding the intervening period from 25.2.79 to 25.5.79 by treating it as a gap for the reasons already stated above.

16. Undisputedly, the year of allotment to promoted 1/5 officers is assigned under clause 1 of rule 3.3 of 1/5 Seniority Rules. Explanation 1 to this rule provides that in respect of a promoted officer, the period of his continuous officiation in a senior post, shall, for the purposes of determination of his seniority count only from the date of the inclusion of his name in the select list or from the date of his officiating appointment to such senior post, whichever is later. In the instant case, the names of the Applicants were already included in the select list when they started officiating in senior posts and as such, their seniority has to be reckoned from the date of their continuous officiation from 25.2.79 and the year of allotment has to be assigned to them on this basis. I hold accordingly.

17. As the Applicants have established their claim for the reassignment of the year of allotment to them from the date of their continuous officiation in senior post in 1/5 cadre, the question of non-joinder raised by the Respondent no.1 in its counter affidavit assumes importance. It has been contended on behalf of the Applicants that they are not claiming

seniority ^{and} any direct recruit and they have simply prayed for assigning them 1973 as the year of allotment and no directly recruited IAS officer of 1974 batch is going to be adversely affected thereby. It has also been contended that the counter affidavit filed by the Respondent nos. 1 has not been properly signed and verified and the same is liable to be ignored on this ground and we need not consider the question of non-joinder raised in the Counter Affidavit. It is true that the counter affidavit filed by the Desk Officer on behalf of the Union of India has neither been filed by a competent person nor has been signed and verified in the manner provided by rule 12(2) of Central Administrative Tribunal (Procedure) Rules, 1977. We are, ^{however,} ~~therefore,~~ unable to accept their contention that the plea of non-joinder should be ignored from consideration on this ground. In Prabodh Varma Vs. State of U.P. (1985 (2) SCR-714), the Hon. Supreme Court had held that a High Court ought not to hear and dispose of a writ petition under Art. 226 of the Constitution without the persons who would be vitally affected by its judgment being before it as Respondents or atleast some of them before it as Respondents in a representative capacity if their number is too large to join them as Respondents in-divisibly and if the Petitioners refuse to so join them the High Court ought to dismiss the petition for non-joinder of necessary parties.

10. In this case, the Applicants have prayed that they should be placed in the seniority list below Sri Chhatraspati Sharma and above Miss. Sarla Sabini in IAS cadre. The persons whose names ^{do not} exist between Sri Chhatraspati Sharma and Miss. Sarla

seniority list etc, therefore, likely to be adversely affected and the contention of the Applicants to the contrary is not correct. Two courses are now open to us. We should either direct the Applicants to implead the persons likely to be affected by our judgment as Respondents in this case or the implementation of our judgment should remain suspended till such likely affected persons are given adequate opportunity of having their say against this judgment. A larger Bench of the Tribunal in John Lucas Vs. Addl. Chief Mechanical Engineer 1987(2) S.J-328 has observed that the interpretation of rules governing the service by the Tribunal, while it may benefit one class of employees may adversely affect another class. So also upholding the claim of seniority and promotion of one may infringe or affect the right of another. The judgments of the Tribunal may not in that sense be strictly judgments in personam affecting only the parties to that petition; they would be judgments in rem. Most judgments of the Tribunal would be judgments in rem. On these considerations, it was held in that case that instead of directing every affected person to approach the Tribunal u/s.10 of the Administrative Tribunal Act or implead him as a respondent, the better course would be to allow the affected parties to seek a review of the judgment. I am, therefore, of the view that on receiving our order when the Respondent no.1 initiates action for its implementation, the notice should be issued to all the officers likely to be affected by our decision in this case giving them an opportunity of filing objections, if any, within



the writs are in case, they raise any question as to the non-binding nature of this judgment on the ground that they were not parties to it. The respondent no.1 shall advise them to move revised applications before us and on filing such applications the implementation of the judgment should remain suspended till the revised petitions are decided. I am, therefore, in favour of following the second course suggested by the larger bench in the aforesaid case and at this stage, it will not be expedient to direct the applicants to implead any other person in this case.

.17. To sum up, in view of the discussion held above, the order of the applicants has to be reconsidered and the year of allotment has to be reassigned to them from the date of their continued officiation in a senior post of 1/5 cadre following the allotment from 21.1.79 to 21.12.79 and the respondent no. 1 shall initiate action to do so within a period of one month from the date of the communication of this order in accordance with the observations and directions made above. The parties shall bear their own costs.

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Y

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(G.S.SHARMA)
MEMBER (J)

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12/10

By Hon'ble J.J. Jaisankar, J.

I have gone through the judgment prepared by Brother Sharma, J. I concur and order accordingly.

Dated 25.1.80
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25.1.80

(G.S.Sharma)
MEMBER (A)

9m 11/12 1989

ब अदालत श्रीमान्=====महोदय

वादी ॥ मुद्दाई ॥ का वकालतनामा
प्रतिवादी ॥ मुद्दाअलेह ॥
Rajinder Singh 04 Nov 88 1988

Sri Dinesh Kumar

Sri Dinesh Kumar

Union of India वादी ॥ मुद्दाई ॥

Sri Dinesh Kumar बनाम

0-18 Hall Colony Union of India प्रतिवादी ॥ मुद्दाअलेह ॥

नं० मुकद्दमा 34-88 सन् 1989 पेशाब की ता०

ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Sri A. R. Singh, एडवोकेट
वकील

महोदय

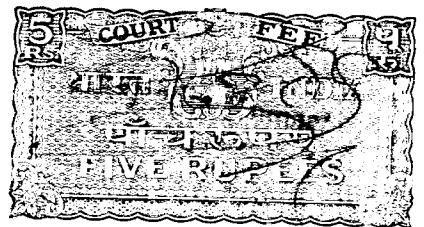
को अपना वकील नियुक्त करके प्रतिज्ञा ॥ इकरार ॥ करता हूँ और
लिखो देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य
वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या
अन्य कोई कागज दाखिल करें या लाटावें या हमारी ओर से
डिगरी जारी करावें और रुपया वसूल करें या सलहनामा या इकबाल
दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने
हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या
कोई स्मया जमा करें या हमारी या विपक्षी ॥ फरौकसानी ॥ का
दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त ॥ दस्तखाती ॥
रसीद से लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह
कार्यवाही हमको सर्वथा स्वीकार है और होगी इस लिए यह वकालत-
नामा लिखा दिया कि प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर-----

साक्षी ॥ गवाह ॥-----साक्षी ॥ गवाह ॥-----

दिनांक-----महीना

19 ई०



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, U.P.

BENCH NOT AVAILABLE

OBJECTION TO STAY OF EXECUTION

IN RESPONSE TO THE APPLICATION OF DINESH RAI, IAS.

IN

REVIEW APPLICATION NO. 32 OF 1989

arising out of original application no. 32 of 1989

In

Sitendra Prasad and others - - - - - Petitioners

VERSUS

Union of India and others - - - - - Opp. parties

the humble application of the petitioners

JOINT RESPECTUALLY DEMANDS as under :-

1. That Sri Padam Singh and Sri Dinesh Rai have moved two separate but identical applications on 6.2.1989 under Rule 17 of Central Administrative Tribunals Act 1985.

2. That through the above said applications they have prayed for recalling the order dated 25.2.1989 and also for staying the operation of the judgment dated 25.2.1989.

3. That ^{despite above all they claim now} they have yet to file a ^{any} review application ^{A review} is evident from the contents of para 10 of their respective applications in which they have craved leave of this Hon'ble Tribunal to file a detailed reply.

(5)
P.S. + 6
P.S. + 6
U.P. 1224
2-9

Review Application
Dinesh Rai
Padam Singh
12/2/89
12/2/89

18

be determined from the date of their continuous
of allotment (24/25-7-70) and the year of
allotment is to be assigned to them on this
basis. I hold accordingly.'

9. That after thorough scrutiny of all the
questions involved in the matter and after affording
full opportunity to both the respondent, Govt. of India and State of U.P., the order dated 25.6.1980
was passed and it was held in para 12 of the
judgment that the petitioners were entitled to 1973
year of allotment, holding their cases identical
to those of Sri K.K. Randhawa and Sri Padma Singh
Sharma, who were given 1973 year of allotment. The
judgment is a well reasoned judgment and this limb
of the judgment cannot be disturbed until the
present objectors i.e. Sri Padma Singh and Sri
Dinesh Rai (hereinafter called the objectors) point
out any 'error apparent on the face of the record'
to set aside the findings of the Tribunal contained
in paras 11, 14 and 17 of the judgment of this
Hon'ble Tribunal and since there cannot be any
infirmary in the judgment of this Hon'ble Tribunal,
only to further delay the final implementation of
the judgment, the objectors are merely asking for
further time to submit their replies, without stating,
what, in their view, was point of fact or law
necessitating correction or reversal of well-
reasoned judgment of the Hon'ble Tribunal.

10. That limitation concerning the Review
application (without prejudice to the question as
to whether any Review ^{could} have been moved or not)

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is only 30 days under Rule 17 of the Central Administrative Tribunal (Procedure) Rules 1937 as amended in 1938.

11. That indisputably the order dated 25.9.1939 was served upon the applicant in the 3rd week of the November, 1939 through Special Delivery, accompanying the notice by Union of India of the letter of Sri K.P. Tandon, Special Secretary, P.W. Dept. giving top priority to the application no. 6047/2-1-34(2)/39 dated 18.11.1939. Copy of this letter served on one such officer (Sri V.K. Sinha) who was also locally posted at Lucknow is filed herewith as Appendix I.

Appendix 1

12. That in para 2 of the application the objections have been ^{and evidently} stated as 20-1-1939, without adding any material in support of it.

13. That although the limitation for filing the review application is only 30 days from the date of order, yet this Hon'ble Tribunal in the judgment dated 25.9.1939 vide para 15 & 16 has pleased to give period of two weeks to the petitioner to move a review application from the date of knowledge without prejudice to the question as to whether the law of limitation is applicable to a writ petition. It is submitted that the statute could be applied to the order dated 25.9.1939 even though the period provided by the law is not applied until after the presentation of the application.

14. That the provision in rule 17 (b) is mandatory in as much as it provides that no petition for review shall be entertained unless it is filed within thirty days from the date of the order of which the review is sought.

15. That in the present case the petition for review filed on 25.9.1972 ought to be reviewed for a review application filed in the 3rd week of November, 1972, and such the review application could not be entertained only latest by the 1st week of December, 1972.

16. That in view of the mandatory provision referred to in rule 17 (b) the application for review is liable to be summarily rejected, being time barred.

17. That as already stated, they have filed present application u/a 17 of the Constitution (Basic Laws) Act 1965, asking time to file a petition for review which is not maintainable for their is no provision in the Act or the rules to entertain an application seeking extension of statutory limit to file review application. In this regard the petitioners pray for perusal of a Full Bench decision reported in A.I.R. 1972 Orissa page 119 and also pray that the decision reported in 1973 SCC Vol. II, page 705 and A.I.R. 1964 S.C. page 909 and A.I.R. 1970 S.C. page 710 may kindly be followed.

18. That in the case of Panna Lal Munshi Agast Lal reported in A.I.R. 1967 S.C. 1374 even if the period of limitation is reckoned from the date of knowledge, the same has also expired because the knowledge was given to the applicant in the 3rd week of November, 1982. In this regard A.I.R. 1967 Supreme Court page 1384 lays down a law that if ever in a case of knowledge of the order, if the knowledge is not proved within the period of 30 days from the date of presentation of the application, the application is liable to be rejected. In this decision of the Hon'ble Supreme Court, it was also held that it is a duty of the applicant to prove that he is within time. In this regard A.I.R. 1967 Supreme Court page 137 is also citable. The petitioners also seek the perusal of this Hon'ble Court for approving two important decisions of the Hon'ble Allahabad High Court reported in A.I.R. 1929 page 445 (Division Bench) and another case reported in A.I.R. 1929 page 485 (Division Bench) wherein it has been held that knowledge has nothing to do in relation to the application to file review within 30 days from the date of order.

19. That coming to the merit of the case, as has been stated above, the controversy relating to allotment of year to the petitioners on merit has been settled at rest. A bare perusal of the application would show (para 4 to 7) that they had full notice of the facts and they were also acquainted with the judgment delivered by this Hon'ble Tribunal on 25.9.1982, in the 3rd week

of November 1939.

20. That legally Review is permitted only if there is a patent error on the face of the record. The application in question by which the review is sought for does not point out any error on the face of the record. In view of a very similar judgment reported in A.I.L. 1954 127 and 1977, there should be a patent error on the face of the record, to be shown by the applicants for review of the order, without elaborate argument being needed for establishing it. In the judgment reported in A.I.L. 1937 Vol. II page 326 para 5 and 6, the court applied the same principle and held that in review.

21. That with reference to paras 8 and 9, the objections were not affected by the judgment in which the petitioners have been allowed 1973. Since they are direct recusers of 1974 they can also claim 1973. Moreover it is wholly wrong to say that cases of estoppel and the present case are distinguishable. The petitioners, after detailed examination, rightly found their cases identical to the cases of these applicants and rightly allowed them 1973.

22. That to refuse to allow the applicants themselves do not claim 1973, is to treat the direct recusers of 1974, claiming the benefit of 1973. The question is that the applicants cannot claim 1973, and the court has found, on merit, that the petitioners are entitled to the year 1973, thus

under these circumstances the objectors cannot be said to be aggrieved by the allotment of the year 1973 to the petitioners. There is no complaint of disturbing their year (the objectors' year) of allotment but it is a case in which petitioners have been given 1973, after thorough scrutiny of their claims. Until there is a case of the applicants that they are entitled to the year 1973, they cannot be said to be aggrieved by the order dated 25.9.1989. It is specifically submitted that this Hon'ble Tribunal has found on merit after adjudication of all the matters and all the possible pleas that Mr. K.K.Pandhara and Mr. Tribhaspati Sharma's cases were exactly the same as the cases of the petitioners. When the case of Mr. K.K.Pandhara and Tribhaspati Sharma was allowed and they were allotted 1973, none of the objectors challenged these orders of the Union of India. When the applicants did not challenge the year of allotment in case of Sri K.K.Pandhara and Sri Tribhaspati Sharma whose cases are identical and analogous to them, these petitioners, they have no legal right now to challenge the 1973 year of allotment to the petitioners.

23. That the reason for this malefide delaying the process of implementation of the Tribunal's order dated 25.9.1989 resorted to by the objectors, is that the petitioners by virtue of 1973 year of allotment may not get higher time promotion/posting and consequential benefits, earlier than the 16 direct recruits of 1974 batch, including the two objectors.

24. That the irreparable loss which is being caused to the petitioners is that since they are promoted officers and are nearing retirement and that one of them has actually retired and will be retiring in June 1980, they are being deprived of the opportunity of receiving promotion/posting which they have been entitled to, by virtue of Hon'ble Member's order dated 25.9.1979.

25. That in the seniority list the above 3 persons senior to Mr. Bishesh Singh and 12 persons senior to Mr. Dal Singh objected. It is very important to submit that senior persons of the same 1974 batch have rightly not objected to the judgment dated 25.9.1979 of this Hon'ble Tribunal but only the junior persons have objected. This can only be because of a clerical mistake.

26. That the order dated 25.9.1979 is directly impeachable by respondents No. 1 and 2 because the period for filing a writ petition expired in the 2nd week of December, 1979.

27. That the last date of the office of Union of India to object to the order is primarily stated to be 10.12.1979 that the date of the Hon'ble Member's order is 25.9.1979. The file review of the order by the Hon'ble Tribunal. The filing of the writ petition on 6.2.1980 is the date from which the writ petition is only from the date of filing of the writ petition on 6.2.1980 and also from the date of the order of the Hon'ble Member dated 25.9.1979.

Letter dated November 10, 1989 (Annexure No.1).

28. That the application for the relief sought for staying the operation of the order dated 25.9.1989 since the applicant is entitled to the right of filing Revision against the order of limitation.

29. That besides the delay which is of convenience is not in favour of the applicant who are not claiming 1973 and the delay in implementation will be irreparable not only in terms of monetary benefits but also because of loss of place in official hierarchy.

30. That delay in every single day in the implementation of the order of the Hon'ble Court dated 25.9.1989 will amount to denial of justice to the petitioners who by virtue of the order dated 25.9.1989 are entitled to promotion in the Super-High-Scale with effect from the date of call for.

31. That the dilatory tactics adopted by the objectors is obviously an attempt to delay the due process of law to deprive the petitioners of the benefits of immediate implementation of the order dated 25.9.1989.

32. That the 'dog in the mill' attitude of the objectors is clear from the fact that they claim to be entitled to 1973 to which they are not entitled by virtue of the order dated 25.9.1989 yet they are miserably delaying the implementation of the order dated 25.9.1989 by

filing instant application which is devoid of both content and purpose and is time barred.

33. That the petitioners also sought the permission of this Court for approving the decision reported in A.I.R. 1952 Bombay, page 400 para. 1 considering the entire case on the subject and relying the law in the set out of reasons. The error must be apparent and so manifest, that the Court would not permit such an error to remain on record. That the error which is not apparent and which could not be demonstrated except by a process of rationalisation can't be regarded as error apparent. Even when two views on the question of law are possible and the court has taken one view and not the other view, even that is not to be regarded as possible.

34. That the objectors have further tried to sidetrack the basic foundation of the order dated 25.9.1969 and state in para 13 of the judgment which is as follows:-

(i) That the gap of 32 days from 25.2.70 to 25.5.1970 treated by the respondent no. 1 in the officiating appointment of the petitioner is misconceived and does not have any legal effect.

(ii) That the State Govt. was fully competent to verify the officiating appointment of the officers on a regular basis.

(iii) That the State Govt. was fully competent to verify the officiating appointment of the officers.

no. 1 and 2 as non-ordinant - it is not in order
3.10.79 and 25.7.72 respectively.

(iv) that the question of taking the respondent no. 1 as respondent no. 1 could arise only after the decision in the case of applicant no. 1 dated 2.10.1970 and in the case of applicant no. 2 dated 24.7.1971.

(v) that the action of respondent no. 1 and the respondent no. 2 to revise the certificate of allotment in respect of applicant no. 1 and 2 after a long period of 5 years was ill-advised and did not conform to be in accordance with law and finally;

(vi) it was concluded that the certificate of allotment of applicant no. 1 and 2 on the non-ordinant basis had already been decided in 1970 and 1971, the same could not be changed afterwards, which until ^{then} [1973] year of allotment.

35. That in view of the contents of para 11 of the judgment set forth above the verdict of this Hon'ble Tribunal is based on solid grounds and cannot be challenged in review.

36. That in view of the facts stated in the foregoing paragraphs the instant application is not maintainable and deserves to be rejected.

PRAYER

It is, therefore, prayed that the review applications filed on 6.2.1990 moved by Sri P. S. Singh and Sri Dinesh Kumar be rejected.

SECRETARY, GOVT. OF INDIA, NEW DELHI, INDIA

IN REPLY TO THE ADVISORY MEMORANDUM DATED 10.11.89
IN
REPLY TO THE ADVISORY MEMORANDUM DATED 10.11.89
Arising out of original letter No. 1000/1000
in
Jalandhar District and others - 1000/1000
Versus
Union of India and others - 1000/1000

1000/1000/1000/1000

विशेष वाहक द्वारा/रजिस्टर्ड/ए0डी0/शीर्ष प्राथमिकता

संख्या: 6047/दो-1-34/1002/89

प्रेषक,

श्री कृष्ण बिहारी टण्डन,
विशेष सचिव,
उत्तर प्रदेश शासन ।

सेवा में,

श्री वी0के0 सिन्हा,
विशेष सचिव, उ0प्र0शासन,
परिवहन विभाग ।

नियुक्ति अनुभाग-1

लखनऊ: दिनांक: 16 नवम्बर, 1989

विषय:- भारतीय प्रशासनिक सेवा उ0प्र0 संवर्ग-ज्येष्ठता का पुनर्निर्धारण-
केन्द्रीय प्रशासनाधिकरण, इलाहाबाद बैंच के रजिस्ट्रेशन ओ0ए0
सं088/89-गिरधर गोपाल तथा अन्य बनाम भारत सरकार
तथा अन्य में निम्न को दृष्टि में रखकर सर्वश्री जितेन्द्र प्रसाद,
गिरधर गोपाल, ओ0पी0अ0के0ना तथा राजेन्द्र कुमार
भारतीय प्रशासनिक सेवा अधिकारियों की ज्येष्ठता का
पुनर्निर्धारण ।

महोदय,

उपर्युक्त विषयक भारत सरकार, कार्मिक लोक शिकायतें तथा
पेंशन मंत्रालय, कार्मिक तथा प्रशिक्षण विभाग के तामन संख्या: 14014/35-
89-ए0आई0एस0111, दिनांक 10-10-89 की प्रति मय तलमनक तलमन
भेजते हुए मुझे यह कहने का निदेश हुआ है कि आप यदि तलमन तामन
को दृष्टि में रखकर प्रत्यावेदन देने के इच्छुक हों तो उसे पत्र प्राप्ति
के दो सप्ताह के अन्दर राज्य शासन को उपलब्ध करा दिया जाय ।
ताकि उसे भारत सरकार को प्रसारित किया जा सके ।
तलमनक: यथोपरि ।

भवदीय,

ह0/- कृष्ण बिहारी टण्डन
विशेष सचिव ।

therefore, given a opportunity to make representation against the award, so far the directors of the Tribunal, within a period of 10 days from the date of receipt of this award. If you feel that the judgment is unfair, or you believe you were not properly treated, then you may file a review application with the Tribunal for review of this particular award.

(S. J. 10/10/21)
Rock - 10/10/21

To

1. Mr. C. S. Dalmey
2. Mr. J. K. K. Deth
3. Mr. R. K. Deth
4. Mr. D. K. Deth
5. Mr. D. K. Deth
6. Mr. D. K. Deth
7. Mr. D. K. Deth
8. Mr. D. K. Deth
9. Mr. D. K. Deth
10. Mr. D. K. Deth
11. Mr. D. K. Deth
12. Mr. D. K. Deth
13. Mr. D. K. Deth
14. Mr. D. K. Deth
15. Mr. D. K. Deth
16. Mr. D. K. Deth
17. Mr. D. K. Deth
18. Mr. D. K. Deth

C/o Chief Secretary to the Government of India, New Delhi, India.

द अदालत श्रीमान्
[वादी अपीलान्त]

प्रतिवादी [रेस्पाडेंट]



वैकालतनामा

टिकट

वादी (अपीलान्त)

बनाम

प्रतिवादी (रेस्पाडेंट)

Review of the case of 12/11/1959 61959

न० मुकद्दमा

सन्

पेशी की ता०

12/11/1959 ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

वकील

महोदय

एडवोकेट

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

नाम अदालत
मुकद्दमा न०
नाम फरीकसानी

हस्ताक्षर
(GIRDHAR GOSWAMI)

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १९

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स्वीकृत

Accepted
Nivaran
12/11/1959

SECRET

[Faint handwritten notes at the bottom of the page]

U. S. DEPARTMENT OF COMMERCE

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 01-27-2010 BY 60322

15

REPORT OF THE BOARD OF DIRECTORS

00 1000

Printed out of original application No. 23 of 1979

25

Fluoride: Toxicity and occurrence - - - - - Evaluation 1988

7-519

Union of India - - - - - 2 pr. articles

d. The health and life span of the petitioners

1. That the Ref. Appl. of Del. Branch did
have moved the same to the identical applications
on 3-2-1993 under file 17 of Centre Administrative
Tribunal, Oct 1995'.

2. "That through the above said applications they have prayed for recalling the order dated 25.9.1939 and also for staying the operation of the judgment dated 25.9.1939.

3. That they have not to file a review application ^{an} ~~to~~ ^{in view of} the contents of para 10 of their representative petitions in which they have prayed leave of this Hon'ble Tribunal to file a detailed reply.

4. That evidently the present application under Rule 17 *ibid* is not maintainable and is an untenable device seeking extension of statutory limit for filing review application later on, *if any*.

5. That the Rule 17 *ibid* does not provide for extension of statutory limit for filing review applications which is thirty days from the date of the order.

6. That the present applications under Rule 17 *ibid* are time-barred and as such not maintainable and liable to be rejected on this ground alone.

7. That the order dated 25.8.1989 has two following limbs (a) the settlement of the controversy relating to the allotment of year 1973 to the petitioners, (b) affording of opportunity to the aggrieved persons, if any, to file review application.

8. That as regards settlement of the controversy relating to the allotment of the year 1973 to the petitioners, para 14 of the judgment is citable which is reproduced below:-

'Undisputedly, the year of allotment to Promotee IAS officers is assigned under clause (b) of rule 3(3) of IAS Seniority Rules. Explanation 1 to this rule provides that in respect of a promotee officer, the period of his continuous officiation in a senior post, shall, for the purposes of determination of his seniority count only from the date of the inclusion of his name in the select list or from the date of his first official appointment to such senior post, whichever is later. In the instant case, the names of the Applicants were already included in the select list when they started officiating in senior posts and as such, their seniority has to

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be reckoned from the date of their continuous officiation (24/25-7-73) and the year of allotment has to be assigned to them on this basis. I hold accordingly.

9. That after thorough scrutiny of all the questions involved in the matter and after affording full opportunity to both the respondents viz. Union of India and State of U.P., the order dated 25.9.1980 was passed and it was held in para 12 of the judgment that the petitioners were entitled to 1973 year of allotment, holding their cases identical to those of Sri K.L. Randhawa and Sri Anil Kumar Sharma, who were given 1973 year of allotment. The judgment is a well reasoned judgment and this limb of the judgment cannot be disturbed until the present objectors i.e. Sri Padam Singh and Sri Dinesh Rai (hereinafter called the objectors) point out any error apparent on the face of the judgment to set aside the findings of the Tribunal made in paras 11, 14 and 17 of the judgment. Since there is no infirmity in the judgment of this Hon'ble Tribunal and since there is no infirmity in the judgment of this Hon'ble Tribunal, only to further delay the final disposal of the judgment, the objectors are merely asking for further time to submit their reply without stating what, in their view, was patent error of fact or law necessitating correction or reversal of well-reasoned judgment of the Hon'ble Tribunal.

10. That limitation for moving the Review application (without prejudice to the question as to whether any Review ^{could} have been moved or not)

14. That the provision in rule 17 *ibid* is mandatory in as much as it provides that ^{no} petition for review shall be entertained unless it is filed within thirty days from the date of the order of which the review is so sought.

15. That in the present case the order dated 25.9.1989 sought to be reviewed was served upon the applicants in the 3rd week of November, 1989 and as such the review application could have been moved only latest by the 1st week of December, 1989.

16. That in view of the mandatory provision referred to in rule 17 *ibid* the application for review is liable to be summarily rejected being time barred.

17. That as already stated, they have filed present application u/s 17 of the Administrative Tribunal (Procedure) Rules 1985, seeking time to file a detailed reply which is not maintainable for there is no provision in the Act or the rules to entertain an application seeking extension of statutory limit to file Review application. In this regard the petitioners pray for perusal of a Full Bench decision reported in A.I.R. 1972 Orissa page 119 and also pray that the decision reported in 1973 3CC Vol. II, page 705 and A.I.R. 1984 S.C. page 909 and A.I.R. 1970 S.C. page 716 be kindly followed.



18. That in the case of *Pran Lal Verma v. Surri Lal* reported in A.I.R. 1967 S.C. 1874 where the period of limitation is reckoned from the date of knowledge, the same has also expired because the knowledge was given to the applicant in the 2nd week of November, 1989. In this regard A.I.R. 1967 Supreme Court page 1384 lays down a law that in even in a case of knowledge of the order, if the knowledge is not proved within the period of 30 days from the date of presentation of the application, the application is liable to be rejected. In this decision of the Hon'ble Supreme Court, it was also held that it is a duty of the applicant to prove that he is within time. In this regard A.I.R. 1967 Supreme Court page 137 is also citable. The petitioners also seek the perusal of this Hon'ble Court for approving two important decisions of the Hon'ble Allahabad High Court reported in A.I.R. 1929 page 445 (Division Bench) and another case reported in A.I.R. 1929 page 425 (Division Bench) wherein it has been held that knowledge has nothing to do in relation to the application to file review within 30 days from the date of order.

19. That coming to the point of the case, which has been stated above, the controversy relating to allotment of year to the petitioners on appeal has been settled at rest. A bare perusal of the application would show (para 4 to 7) that they had full notice of the facts and they were also equipped with the judgment delivered by this Hon'ble Tribunal dated 25.9.1989 in the 3rd week

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of November 1989.

20. That legally Review is permissible only if there is a patent error on the face of the record. The application in question by which the review is sought for does not point out any error apparent on the face of record. In view of a very exhaustive judgment reported in A.I.R. 1964 S.C. page 1372, there should be a patent error on the face of the record, to be shown by the applicants for review of the order, without elaborate argument being needed for establishing it. In the judgment reported in A.I.R. 1987 Vol. II page 326 para 5 and 6 only the error apparent on the face of record can be rectified in review.

21. That with reference to para 2 and 3, the objectors are not affected by the judgment in which the petitioners have been allotted 1973. Since they are direct recruits of 1974 they can never claim 1973. Moreover it is wholly wrong to say that cases of Sri Brihaspati Sharma and Sri K.K. Pandey are distinguishable. This Hon'ble Tribunal has, after detailed examination, rightly found their cases identical to the cases of these applicants and rightly allotted them 1973.

22. That to reiterate the applicants themselves do not claim the year of 1973. They are the direct recruits of 1974. Obviously they cannot claim 1973. The question is that when the applicants cannot claim 1973, and the court has found, on merit, that the petitioners are entitled to the year 1973, thus

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under ^{these} circumstances the objectors cannot ^{be} said to be aggrieved by the allotment of the year 1973 to the petitioner. There is no question of disturbing their year (the objectors' year) of allotment but it is a case in which petitioners have been given 1973, after thorough scrutiny of their claims. Until there is a case of the applicants that they are entitled to the year 1973, they cannot be said to be aggrieved by the order dated 25.9.1989. It is specifically submitted that this Hon'ble Tribunal has found on merit after adjudication of all the matters and all the possible pleas that Mr. K.K. Randhar's and Mr. Brihaspati Sharma's cases were exactly the same as the cases of the petitioners. When the case of Mr. K.K. Randhar and Brihaspati Sharma was allowed and they were allotted 1973, none of the objectors challenged those orders of the Union of India. When the applicants did not challenge the year of allocation in case of Sri K.K. Randhar and Sri Brihaspati Sharma, whose cases are identical and analogous to ^{petitioners} them, they have no legal right now to challenge the 1973 year of allotment to the petitioners.

23. That the reason for this malafidely delaying the process of implementation of the Tribunal's order dated 25.9.1989 resorted to by the objectors, is that the petitioners by virtue of 1973 year of allotment may not get superior time promotion/posting and consequential benefits, earlier than the 16 direct recruits of 1974 batch, including the two objectors.

24. That the irreparable loss which is being caused to the petitioners is that since they are promoted officers and are nearing retirement and that one of them has actually retired and one will be retiring in June 1990, every day's delay is depriving them of the occupancy of super-time-promotion/porting which they have become entitled to, by virtue of Hon'ble Tribunal's order dated 25.9.1989.

25. That in the Seniority list there are 3 persons senior to Mr. Dinesh Rai and 10 persons senior to Mr. Padam Singh objectors. It is very important to submit that senior persons of the same 1974 batch have rightly not challenged the judgment dated 25.9.1989 of this Hon'ble Tribunal but only two junior persons have challenged the same only to harass the petitioners.

26. That the order dated 25.9.1989 is directly implementable by respondents no 1 and 2 because the period for filing review application expired in the 3rd week of December, 1989.

27. That in last para of the notice of Union of India to objectors it was categorically stated that if they felt that the judgment of the Hon'ble Tribunal was not binding, or then they could file review application before the Hon'ble Tribunal. The filing of the present application on 6.2.1990 is therefore much beyond 30 days not only from the date of order of 25.9.1989 but also from the date of knowledge through the U.P. Government's 'Dasti'

letter dated December 16, 1939 (Memorandum No.1).

28. That the applicants are not entitled to relief sought for staying the operation of the order dated 25.9.1939 since the applicants forfeited the right of filing Review Application on ground of limitation.

29. That besides the above the Balance of convenience is not in favour of the objectors who are not claiming 1973 and the loss to the petitioners will be irreparable not only in terms of monetary benefits but also because of loss of status in official hierarchy.

30. That delay of every single day in the implementation of the order of the Hon'ble Tribunal dated 25.9.1939 will amount to denial of justice to the petitioners who by virtue of the order dated 25.9.1939 are entitled to promotion in the Super-Time-Scale with effect from the date it fell due.

31. That the dilatory tactics adopted by the objectors is obviously meant to delay the due process of law to deprive the petitioners of the benefits of immediate implementation of the order dated 25.9.1939.

32. That the 'dog in the manger' attitude of objectors is clear from the facts that they cannot be allotted 1973 to which the petitioners are entitled by virtue of the order dated 25.9.1939 yet they are malefically creating hurdles in the implementation of the order dated 25.9.1939 by

filing instant application which is devoid of both content and purpose and is time barred.

33. That the petitioners also solicit the permission of this Court for approving the decision reported in A.J.R. 1959 Bombay, page 466 para 1 considering the entire case on the subject and relying the law in the matters of review, the error must be apparent and so manifest, that the Court would not permit such an error to remain on record. That the error which is not apparent and which could not be demonstrated ^{except} by a process of rationalisation can't be regarded as error apparent. Even when two views on the question of law would have been possible and the court had taken one view and not the other view, even then the review is not possible.

34. That the objectors have deliberately tried to sidetrack the basic foundation of the order dated 25.9.1979 elaborated in para 11 of the judgment which inter-alia states -

(i) that the gap of 89 days from 26.2.79 to 25.5.1979 treated by the respondent no.1 in the officiating appointment of the applicants is misconceived and does not have the sanction of law,

(ii) that the State Govt. was fully competent to certify the officiation of the select list officers on non cadre post.

(iii) that the State Govt. was well within its rights to certify the officiation of the applicants

no. 1 and 2 on non-drawn post as per order from
3.12.73 dt. 25.7.73 respectively.

(iv) that the question of taking the approval of
respondent no.1 could arise only for the affiliation
in the case of applicant no.1 after 3.12.1973
in the case of applicant no.2 after 3.12.1973.

(v) that the action of respondent no.2 to call the
respondent no.2 to revise the certificate issued in
respect of applicant no.1 and 2 after a lapse of
of 5 years was ill-advised and did not stand to
in accordance with law and finally;

(vi) it was concluded that the services of the
applicant no.1 and 2 on the non-drawn post which
already been certified in line in 1973, which
could not changed afterwards, which started ^{from} 1973
year of allotment.

35. That in view of the contents of our order the
judgment set forth above the verdict of the District
Tribunal is based on solid grounds and is not
challenged in review.

36. That in view of the facts stated in the
foregoing paragraphs the instant application is not
maintainable and deserves to be rejected.

CONCLUSION

It is, therefore, prayed that the applications
applications filed on 3.2.1990 moved by Sri Paden
Singh and Sri Dinesh Rai may kindly be rejected to

OBJECTION ON BASIS OF DISQUALIFICATION
IN REFERENCE TO REVOLVING APPLICATION FOR RENEWAL, I.E.
In

Annexure 'I'

प्रेषक,

सेवा में,

• नियुक्ति अनुभाग-।

लखनऊ: दिनांक: 16 नवम्बर, 1989

महोदय,

संलग्नक : यथोपरि ।

भवदीय.

ह0/-कृष्ण बिहारो टण्डन
विशेष सचिव ।

No. 14011/35/39-13(I)

Government of India

Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

....

New Delhi, the 21st March, 1989

MEMORANDUM

Subject:- IAS: UP Cadre- Proposal for revision of seniority of S/Shri Jitendra Prasad, Girdhar Gopal, C.P. Saxena and Rajendra Kumar, in pursuance of judgment of CWT, Allahabad Bench.

.....

S/Shri Jitendra Prasad, Girdhar Gopal, C.P. Saxena and Rajendra Kumar, State Civil Service officers of Uttar Pradesh were appointed to the IAS by promotion and assigned 1974 as the year of allotment. They had filed an application registration No. 93 of 1989 in the Central Administrative Tribunal, Allahabad, for revision of their seniority in IAS. S/Shri Jitendra Prasad and Girdhar Gopal had held cadre and ex-cadre posts prior to their appointment in IAS by promotion. However, the period during which they held ex-cadre posts was not counted for the purpose of fixation of year of allotment under Rule 3(3)(b) of the IAS (Regulation of Seniority) Rules, 1974. S/Shri C.P. Saxena and Rajendra Kumar had, even though continuously officiated on cadre posts prior to their appointment to IAS by promotion, but since S/Shri Jitendra Prasad and Girdhar Gopal were not holding cadre posts during the period S/Shri C.P. Saxena and Rajendra Kumar were holding cadre posts, therefore, they were not given any benefit of that period of cadre officiation for the purpose of seniority in IAS. The Hon'ble Tribunal in their judgment dated 25.9.88 directed that the period 26.2.79 to 25.5.79 in the case of Shri Jitendra Prasad and 26.2.79 to 30.5.79 in the case of Shri Girdhar Gopal, i.e. the period during which they held ex-cadre posts should also be treated as officiation on cadre posts because the State Government had issued certificates in their favour in terms of regulation IV below Rule 3(3)(b) of the Seniority Rules. The Hon'ble Tribunal have, therefore, directed that all these officers should be assigned 1973 as the year of allotment and they will be placed below Shri Brihaspati Sharma (SCS:73) and above Mr. Sarla Sahney (Non-SCS:73) in the grade list of the IAS Officers borne on the cadre of Uttar Pradesh. Copy of the judgment is enclosed.

2. The Hon'ble Tribunal have also directed that notices should be issued to the officers likely to be affected by the decision, giving them an opportunity of filing objections if any, within two weeks. The Tribunal have further directed that in case the affected officers raise any question as to the non-binding nature of the judgment on the ground that they were not parties to it, they are to be advised to move revision applications before the Tribunal.

3. In view of the above, it is recommended that the year of allotment S/Shri Jitendra Prasad, Girdhar Gopal, C.P. Saxena and Rajendra Kumar from 1974 to 1973 and place them below Shri Brihaspati Sharma (SCS:73) and above Mr. Sarla Sahney (Non-SCS:73) in the grade list of the IAS Officers borne on the cadre of Uttar Pradesh. You are,

therefore, given an opportunity to make a representation against the proposal, as per the directions of the Tribunal, within a period of three weeks from the date of receipt of this order. If you feel that the judgment is not final, you because you were not respected in the decision, then you may file a review of this order before the Tribunal for review of this particular judgment.

(Signature)
Deputy Officer

To

1. Mr. Sanjay G. Nay
2. Mr. Ajit Kumar Seth
3. Mr. Nisha Sharma
4. Mr. Dinesh Rai
5. Mr. Sandeep Pal Gour
6. Mr. Vijay Kumar
7. Mr. Kuldip Narain Chhatwal
8. Mr. Raj Kumar Gupta
9. Mr. Rajesh Chatterji
10. Mr. Gagan Prasad
11. Mr. Rakesh Chandra Kashik
12. Mr. Satish Kumar Agarwal
13. Mr. Rakesh Singh
14. Mr. Rakesh Singh
15. Mr. Rakesh Chandra
16. Mr. Rakesh Chandra
17. Mr. Rakesh Chaturvedi
18. Mr. Rakesh Singh

C/O. Chief Secretary to the Government of India, New Delhi, India.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD

ORIGINAL APPLICATION NO.88 OF 1989

Jitendra Prasad & Others ... Applicants

vs.

Union of India & Others ... Respondents

Reply on behalf of Sri Padam Singh to the
objections filed by the applicants.

1. That the contents of para 1 of the objections are not disputed.

2. That the contents of para 2 of the objections are not disputed.

3. That in reply to the contents of para 3 of the objections, it is stated that the review application as well as application to recall the orders dated 25.9.1989 have already been filed before this Hon'ble Tribunal.

4. That the contents of para 4 of the objections are denied. The application under Rule 17 is maintainable and has been filed within the limitation.

*Recd Copy
Jitendra
Union of India
12/3/90*

12/3/90

5. That in reply to the contents of para 5 of the objections, it is submitted that the judgment and orders dated 25.9.1989 have itself provided for an application for review by the aggrieved person within the specified time mentioned in the order. The said order is self-explanatory and any application under Rule 17 in pursuance of the said order cannot be thrown out on technical ground.

6. That the contents of para 6 of the objections are denied. The application is well within time and is maintainable. Incorrect allegations have been made for the purposes of the case.

7. That the contents of para 7 of the objections relate to interpretation of order dated 25.9.1989 passed by this Hon'ble Tribunal, and as such do not require any reply.

8. That the contents of para 8 of the objections relates to quotation of order dated 25.9.1989 passed by this Hon'ble Tribunal, and as such do not require any reply.

9. That in reply to the contents of para 9 of the objections, it is submitted that the judgment dated 25.9.1989 has been passed at the back of the applicant and as such he has been deprived of an

Radwan Singh

opportunity of hearing. In any view of the matter, the case of Sri K.K.Randhar and Sri Brahaspat Sharma who were given the year of 1973, is not identical to that⁴ the applicants. The applicants are not entitled for being given the year 1973. The applicant is advised to state that it would remain open to the applicants to point out the error apparent on the face of the record in the judgment dated 25.9.1989 of this Hon'ble Tribunal. It would only be possible after an opportunity of contesting the claim of the applicants is afforded to the applicant as well. The applicant is advised to state that it is not a question of pointing out any apparent error of law necessitating correction or reversal of the judgment, but it is a question of affording of an opportunity to a person who is aggrieved by the order dated 25.9.1989, although no opportunity has at all been afforded to the applicant.

10. That in reply to the contents of para 10 of the objections, it is specifically stated that by means of communication No.547/Do-1-34/1(2)/89 dated January 22, 1990, issued by Sri K.B.Tandon, Special Secretary, Government of Uttar Pradesh, the applicant was communicated the decision of the Hon'ble Tribunal as well as the intention of the Government to redetermine the seniority of the applicants.

A photostat copy of the communication dated 22.1.1990 is being filed alongwith this replication as Annexure 1.

(i) That it is stated that the review application was filed within the time allowed by this Hon'ble tribunal in the judgment itself.

11. That the contents of para 11 of the objections are denied. It is, however, further stated that the communication aforesaid dated 22.1.1990 was received by the applicant the same day. Prior to this the applicant could not received any communication from the Special Secretary to the Government of Uttar Pradesh, as has been alleged in the para under reply.

12. That the contents of para 12 of the objections are denied. it is emphatically stated that the applicant could not know about the order dated 25.9.1989 earlier except by communication dated 22.1.1990 aforesaid of the Special Secretary to the Government of Uttar Pradesh, received by the applicant on 22.1.1990.

13. That the contents of para 13 of the objections are wrong and are denied. The applicant has filed the review application within time prescribed in the order dated 25.9.1989. It is incorrect to state that the period as provided in the judgment has also expired.

14. That the contents of para 14 of the

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objections are wrong and are denied. The review provided in the judgment dated 25.9.1989 passed by this Hon'ble Tribunal, is different from the statutory review application under rule 17. The judgment dated 25.9.1989 is subject to any decision on the review application which might be filed by any affected person and for this purpose special procedure has been provided. The applicant is advised to state that no adverse decision can be made against any person who has not been afforded an opportunity of hearing. In this view of the matter, since the applicant was not arrayed as a party to the application filed by the applicants and no opportunity of hearing was ever afforded to him, the judgment to that extent is a nullity and the same cannot be sustained in law. The Hon'ble Tribunal itself in the order provided that the order would be subject to any decision taken in the review application to be filed by any affected person in future and the operation of the order would remain stayed as provided in the order itself.

15. That in reply to the contents of para 15 of the objections, it is stated that the applicant came to know about the order dated 25.9.1989 on 22.1.1990 though the communication of the Special Secretary, Government of Uttar Pradesh, and the applicant has filed the review application within the time specified therein.

16. That the contents of para 16 of the

12/1/1990

as

-6-

objections are denied. The application for review having been filed within the time specified in the order, the same has to be disposed of on merits.

17. That the contents of para 17 of the objections are denied. As stated, the review application has been filed in pursuance of the order of this Hon'ble tribunal dated 25.9.1989 itself, and as such the case law referred are not applicable in the present case.

18. That in reply to the contents of para 18 of the objections, it is stated that the case referred in the paragraph under reply does not apply to the facts of the present case. The applicant got the knowledge of the order dated 25.9.1989 on 22.1.1990.

19. That the contents of para 19 of the objections are denied. As stated above, the applicant came to know of the order dated 25.9.1989 by communication dated 22.1.1990 of the Special Secretary of the Government of Uttar Pradesh. The claim of the applicants about allotment of year has not been decided on merits inter se the applicants and the applicant (answering respondent).

20. That in reply to the contents of para 20 of the objections, it is stated that the judgment dated 25.9.1989, although it adversely affects the rights

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and interests of the applicant, has been passed in his absence and this ground alone is sufficient for review of the case. The cardinal principle of law is that no one should be allowed to suffer without having been heard. In the present case, this Hon'ble Tribunal has decided the question of seniority and year of allotment of the applicants without the affected person being arrayed as parties thereto, and as such the application was incompetent and liable to be dismissed.

21. That the contents of para 21 of the objections are denied. Since the applicants who are juniors to the applicant in the cadre, have been allotted 1973 year as their allotment year, the position of the applicant has been altered to a great extent to his disadvantage. The Government of India which has been impleaded as a party, and filed affidavit raising a specific plea that the direct recruits of 1974 batch would be adversely affected if the application is allowed as they have not been impleaded, and as such the application was liable to be rejected on the ground of nonjoinder of necessary parties.

22. That the contents of para 22 of the objections are denied. The applicant is advised to state that the order of this Hon'ble Tribunal is non est and the applicant is entitled to get his seniority over and above the applicants.

Admission

23. That the contents of paras 23 and 24 of the objections are denied. It is stated that in case the applicant is not given an opportunity of hearing, and seniority is determined in pursuance of the judgment of this Hon'ble Tribunal dated 25.9.1989, the applicant will suffer irreparable injury and loss inasmuch his seniority will be adversely affected on account of allotment of year 1973 to the applicants.

24. That the contents of para 25 of the objections are denied. There is not estoppel against law. Even if none of the persons who are senior or junior to the applicant in the seniority list, the applicant has got a right to prefer a review application in terms of order dated 25.9.1989.

25. That the contents of para 26 of the objections are denied. As has already been stated, the review application has been filed within time in terms of the order dated 25.9.1989 and the same has to be disposed of on merits.

26. That the contents of para 27 of the objections are wrong and are denied. The review application has been filed in terms of order dated 25.9.1989. Thus, the review application is within limitation and the matter is to be disposed of on merits.

Adams

27. That the contents of para 28 of the objections are denied. This Hon'ble Tribunal in its order dated 25.9.1989 made it clear that if any review application is filed, the operation and implementation of the order shall remain stayed till the disposal of the review application.

28. That the contents of para 29 of the objections are denied. The balance of convenience is in favour of the applicant and irreparable loss is likely to be caused as the seniority of the applicant will adversely effect on the implementation of the order dated 25.9.1989.

29. That the contents of para 30 of the objections are wrong and are denied. There is no question of any day to day explanation of delay in filing the review application because the applicant has filed the review application within time prescribed.

30. That the contents of para 31 of the objections are denied. No dilatory tactics has been adopted by the applicant. In fact, the applicant, for protecting his rights, has filed the review application inasmuch he has not been given any opportunity of ^ahearing and putting his case. If the case is not heard on merits, his seniority would be

admission

adversely affected and the applicant would suffer irreparable loss and injury.

31. That the contents of para 32 of the application are denied, as stated. The applicants are not entitled for allotment of 1973 year as their case was not identical to the case of Sri k.K.Randhar and Sri Brahaspati Sharma.

32. That the contents of para 33 of the objections are denied. The case law referred is not applicable in the facts of the present case. In the present case, the judgment dated 25.9.1989 itself provided for a review to be moved by aggrieved person.

33. That the contents of para 34 of the objections are denied. None of the grounds, as stated in sub-paras(i) to (vi), are tenable and maintainable in law, and the applicants are not entitled to be given 1973 year as the allotment year.

34. That it is respectfully stated that it is not permissible under law to deprive the applicant of an opportunity of being heard and any post-decisional hearing is not a compliance of the principles of natural justice and is ineffective.

35. That the applicant submits that the senior

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-ity of the applicant is affected from the order of this Hon'ble Tribunal and even after record a finding that the applicant was a necessary party, this Hon'ble tribunal passed the order, which suffers from error apparent on the face of record.

36. That the applicant further submits that an order passed against a person without giving an opportunity of hearing, is, in fact, non est, as the right of the person, in the present case the applicant, has been affected, and the Hon'ble Tribunal has committed illegality in passing the order.

37. That, in fact, the order of this Hon'ble Tribunal has found and confers a right on the applicant to move the reivew application and further directed that in case a review application is filed, the operation of the order shall remain suspended till the matter is decided. In fact, the right to move the review application flows from the judgment of this Hon'ble Tribunal.

38. That the applicant is advised to state that the right to file the review application flows from the judgment of this Hon'ble Tribunal, and as the order is non est, the provisions of Limitation Act would not apply. In any case, mere technicality cannot be a ground to defeat the legal rights of the applicant.

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39. That the contents of para 35 of the objections are denied. The order dated 25.9.1989 was passed behind the back of the applicant, which is liable to be reviewed in terms of order itself.

40. That the contents of paragraph 36 of the objections are wrong and are denied. As has already been stated above, the review application has been filed in terms of order dated 25.9.1989 itself, and the same is liable to be disposed of on merits.

41. That the applicant submits that it is settled law that discretion should always be exercised in favour of opportunity of hearing rather than shutting the opportunity of hearing. The applicant has not been afforded opportunity of hearing and as such his seniority is going to be disturbed to the great extent and he would suffer irreparable loss in case the review application is not disposed of on merits.

42. That on 16.2.1990 this Hon'ble Tribunal granted 10 days time to file the replication. In fact, the counsel for the applicant, Sri Ambrish Kumar Sharma, had gone to Delhi and Meerut in connection with the marriage of his niece, but unfortunately the brother-in-law of the counsel died on 23.2.1990, and the counsel remained out of station during the period, and as such replication could not be prepared and filed within time allowed. It is, therefore, in the interest of justice that

[Signature]

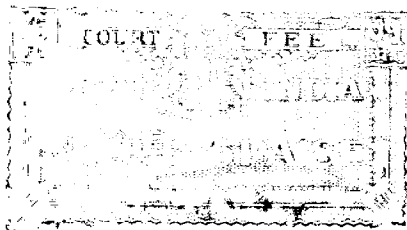
this Hon'ble tribunal may be pleased to accept the replication on record.

Padam Singh

I, Padam Singh, do hereby verify that the contents of paragraphs 1 to 42 of the replication are true to my personal knowledge and belief.

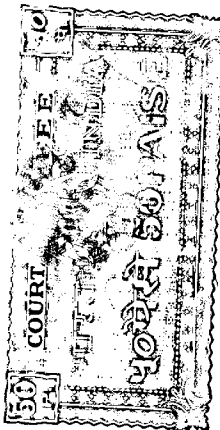
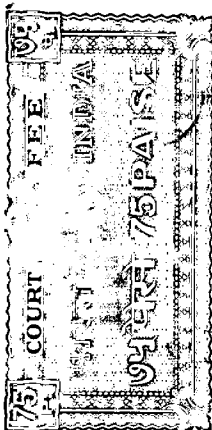
Verified on this the 13th of March, 1990, at Allahabad.

Padam Singh
(Padam Singh)



1990
AFFIDAVIT
39
HIGH COURT
ALLAHABAD

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, U.P.
BENCH AT ALLAHABAD

Rejoinder affidavit against detailed reply of the
review-applicants (S/Sri Padam Singh and Dinesh Rai)

in
Review Application nos. 307 and 308 of 1990
in

Original Application No. 88 of 1989

Jitendra Prasad and others - - - - -Applicants

Versus

Union of India and others - - - - -Respondents.

Affidavit of Giridhar Gopal S/o Sri Sehat Bahadur
aged about 56 years r/o 188, Shahrarabagh, Allahabad.

1. That the deponent is one of the original applicants and pairokar of other applicants as such fully acquainted with the facts narrated below and since the detailed replies given by Sri Padam Singh and Sri Dinesh Rai (here-in-after called the Review applicants) are identical as such a joint reply is being filed.
2. That the detailed reply filed by the review-applicants are challenged and corresponding paras of the objection of original applicants are reaffirmed and allegations to the contrary are denied. Moreover the points raised are mostly argumentative and will be met in course of arguments.
3. That, to reiterate, in a nut-shell, the review-application is liable to be rejected out-rightly, firstly on grounds of limitation, not only from the date of order but also from the date of knowledge and secondly on merit that no error apparent on the face of record has been established and the issues raised by the review applicants have already been settled by this Hon'ble Tribunal in its detailed judgment dated 25.9.89.

Giridhar Gopal

review application cannot acquire the status of an appeal nor there is any provision for two types of review under the C.A.T. Act/Rules. (121)

4. That the U.P. Govt.'s letter no.6047/Do-1-34/1(2) 89 dated 16.11.89, along with enclosures, was served on the review applicants on 18.11.89.

5. That, to reiterate, the review has been filed with a malafide motive only to delay the implementation of Hon'ble Tribunal's order so that the original applicants may not get the promotion benefit earlier; and, during this period one of the petitioners has already retired and the other is retiring soon. Moreover the direction given in the last para 17, of the judgment of the Hon'ble Tribunal dated 25.9.1989, is an independent finding and is immediately implementable.

I, the deponent named above do hereby solemnly affirm and state on oath that the contents of paragraph nos. 1,2,3,5 of this affidavit are based on personal knowledge which the deponent believes to be true; that the contents of paragraph no. 4 are based on information received, which the deponent believes to be true; that no part of it is false and nothing material has been concealed. So help me God.

Giridhar Gopal
(Deponent)

I, ^b Sadhna Srivastava, Advocate High Court, do hereby declare that the person making this affidavit and asserting himself to be Sri Giridhar Gopal, is the same person and he is personally known to me.

Sadhna Srivastava
ADVOCATE
Identifier.

Solemnly affirmed before me this 23rd day of March, 1990 at 7:30 A.M./P.M. by the abovenamed deponent, who is identified by the aforesaid Advocate.

I have satisfied myself by examining the deponent that he has understood the contents of this affidavit which have been read over and explained to him.

March 23rd, 1990

OATH COMMISSIONER

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL (BE C T)
AT ALLAHABAD.

Misc. Application No. _____ of 1990

IN

REVIEW APPLICATION NO. _____ OF 1990
(On behalf of Param Singh)

IN

ORIGINAL APPLICATION No. 88 of 1989

To,

The Hon'ble Chairman and his members comprising
Members of the court.

The humble application of the abovesaid
applicant Most Respectfully sheweth as under;

1. That a review application on behalf of Param
singh has been filed and an objection has also been
filed on behalf of the original ~~applicant~~ /applicants
and a reply on behalf of the applicant towards the
objection has been filed, but due to some inadvertence
the copy of annexure could not be filed alongwith
the reply.

2. That the inconvenience caused to this Hon'ble
court is very much regretted.

3. That the annexure which has already been
discussed in the body of the reply is a relevant
document for the proper adjudication of the case,
and being filed along with the application.

4. That it is in the interest of justice equity
and expediency this Hon'ble court may kindly be

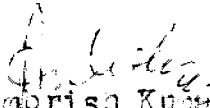
Recd Copy
Ajit Kumar
kind to inform
petitioner now
opposite parties
in review.
27/3/90

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-2-

pleased to accept annexure on record .

P. A. A.

It is, therefore, most respectfully
prayed that this Hon'ble court may very kindly
be pleased to accept annexure on record.


(Anurish Kumar Sharma)

Advocate

Counsel for the applicant.

Dt. 27.3.90.

प्रेषक,

श्री कृष्ण बिहारी टण्डन,
विशेष सचिव,
उत्तर प्रदेश शासन ।

NO-
ANNEX 48 (C-1)

107

सेवा में,

1- श्री सतीश कुमार अग्रवाल,
विशेष सचिव,
उ०प्र० शासन, नियोजन विभाग।

2- श्री दिनेश राय,
मुख्य नगर अधिकारी,
नगर महापालिका, लखनऊ।

3- श्री पदम सिंह,
प्रबन्ध निदेशक,
उ०प्र० राज्य सहकारी कृषि तथा ग्राम्य विकास
बैंक लि०, 10 माल एवेन्यू, लखनऊ।

नियुक्ति अनु०-1

लखनऊ: दिनांक: 27 जनवरी, 1990

विषय: भा०प्र० सेवा: उ०प्र० सर्व-ज्येष्ठता का पुनर्निर्धारण-केन्द्रीय प्रशासनाधिकार
इलाहाबाद बैंक के रजिस्ट्रेशन ओ०पी० संख्या: 88/89-सर्वश्री- गिरधर
गोपाल, जितेन्द्र प्रसाद, ओ०पी० संकेतना तथा राजेन्द्र कुमार बनाम
भारत सरकार तथा अन्य में हुए निर्णय को दृष्टि में रखकर सर्वश्री जितेन्द्र
प्रसाद, गिरधर गोपाल, ओ०पी० संकेतना तथा राजेन्द्र कुमार भारतीय
प्रशासनिक सेवा अधिकारियों की ज्येष्ठता का पुनर्निर्धारण किया जा

सहोदय,

उपर्युक्त विषयक आपके प्रत्यावेदन दिनांक 8-12-89/ दिनांक रहित के
संदर्भ में मुझे भारत सरकार, कामिक लोक शिकायतें तथा पेंशन मंत्रालय से प्राप्त
टी०पी० संख्या सं०: 14014/35/89-ए०आई०एस० 111, दिनांक 15 जनवरी, 1990
की छाया प्रति संलग्न भेजते हुए यह कहने का निर्देश हुआ है कि आप इस मामले
में मा० केन्द्रीय प्रशासनाधिकरण के निर्णय को दृष्टि में रखकर उसमें निहित
निर्देशानुसार दिनांक 3 फरवरी, 1990 तक मा० प्रशासनाधिकरण में पुनर्विलोकन
प्रार्थना-पत्र दाखिल करने का कष्ट करें। भारत सरकार द्वारा यह भी स्पष्ट
किया गया है कि उक्त तिथि तक पुनर्विलोकन प्रार्थना-पत्र ^{Review Application} दाखिल न किये जाने की दशा में निर्णय का कार्यान्वयन लिया जावेगा।

2- कृपया कृत कार्यवाही से भारत सरकार को सीधे तथा राज्य सरकार को
भी अवगत कराने का कष्ट करें।

संलग्नक: यद्योपरि ।

भवदीय,

(Signature)

श्री कृष्ण बिहारी टण्डन
विशेष सचिव

सं०: 547/दो-1-90 तदुद्दिनांक

प्रतिलिपि भारत सरकार, कामिक, लोक शिकायतें तथा पेंशन मंत्रालय के

(Signature)

पूरे उल्लिखित टी०पी०ओ० दिनांक 15-1-90 के संदर्भ में श्री एम०एस०माधुर, 108
डिस्क आफिसर, भारत सरकार, कामिक, लोक शिक्षा तथा पेंशन मंत्रालय,
कामिक एवं प्रशिक्षण विभाग, ए०आई०एस०।। अनुभाग, नई दिल्ली को भी
सूचना दे दी है।

आज्ञा से,

Padamsingh

। कृष्ण खिहारी टण्डन ।
विशेष सचिव