

(See rule 114)

OA/TA/RA/CP/MA/PTof 20.....

Chandri Ka Prasad

Applicant(S)

Versus

W. O. I. Lord

Respondent(S)

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Certified that the file is complete in all respects.

Signature of S.O.

Signature of Deal. Hand

6.4.1990

Hon'ble Mr. D.K. Agrawal, J.M.

Hon'ble Mr. K. Obayya, A.M.

Heard, The learned counsel for the applicant.

Admit.

Issue notice to the respondents to file counter affidavit, within 8 weeks and rejoinder, if any, within 2 weeks thereafter.

List it for hearing on 11.12.1990.

Sd/-

A.M.

Sd/-

J.M.

26.4.1990

Hon'ble Mr. D.K. Agrawal, J.M.

Hon'ble Mr. K. Obayya, A.M.

C.M. Appl. NO.288 of 1990 (L) for a amendment is allowed. The amendment has been incorporated in the court itself.

Issue notice to the respondent to show, cause as to why the interim prayer made for be not granted.

Meanwhile, we here by direct, the respondents to consider the applicant, as well, for the post of Deputy Shop Superintendent that is to permit him to appear in the examination or Viva-Vonce, as the case may be. However, the result of the selection shall remain subjecte to the decesion of the Tribunal.

A copy of the order may be given to the counsel for the applicant as and when desired.

Sd/-

A.M.

Sd/-

J.M.

rrm/

31-8-90

Hon. Mr. D.K. Agrawal, J.M.

Hon. Mr. K. Obayya, A.M.

M.P. 5/19/90

Heard Shri Satya Prakash, Counsel for applicant. Issue notice to respondents. List for orders on 8-10-90

OR

Notices were issued on 24.5.90.

Needless reply nor any answered reply. Case has been return leave.

He for the applicant has filed M.P. No 519/90 for relief.

S. F. O

20/8/90

Notices issued Regd. No.

See original order on main petition

learned counsel for the applicant has made an admission at the back of M.P. 519/90 that he will inform the O.P. counsel by 31-8-90

24/8/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. NO 142 of 1990 (L)

T.A. NO

Date of Decision

Chandrika Prasad.

PETITIONER,

Advocate for the Petitioner(S)

VERSUS

Union of India & Others. RESPONDENT.

Advocate for the RESPONDENT(S)

CORAM

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

The Hon'ble. Mr. K. Obayya, Member (A)

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

Vice-Chairman/Member

7/8/92

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 142 of 1990 (L)

Chandrika Prasad Applicant

Versus

Union of India & Others Respondents.

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

Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. K. Obayya, A.M.)

The applicant who is chargeman Grade 'A' in Locomotive Workshop, Charbagh, Lucknow Northern Railway has filed this application seeking a promotion to the post of Deputy Shop Superintendent of Scale Rs. 2000/- - 3200/- and seniority over respondent no. 4 to 8.

2. The applicant joined service as a Trade apprentice in the year 1959 and was promoted to the post of skilled Welder in the year 1962, thereafter he was further promoted to the post of Chargeman 'B' (Rs. 425-700/-) in the year 1980 and also as Chargeman 'A' (Rs. 550-700/-) on 14.9.1981. However, he was reverted from the post of Chargeman Gr. 'A' to the Post of Chargeman 'B' vide order dated 23.9.1984. On his representation the reversion order was quashed. The contention of the applicant is that his promotion to the post of Chargeman 'A' was in a reserved quota by superseding his seniors, who were not fit for promotion because of the record. Further, w.e.f. 1.1.84 and there was restructuring of the cadre by which five posts of Deputy Shop Superintendent (Rs. 700-900/-) were created. Though, he was eligible for consideration.

Contd..2/.

8/5

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but his name was not included for consideration while his juniors have been called. His further contention is that respondent no. 5 was given proforma for promotion w.e.f. 4.11.1981 and his seniority over the respondent no. 4 to 8 was a settled issue as he was promoted earlier.

3. The respondents, in their counter-affidavit stated that the applicant was promoted as Chargeman 'A' w.e.f. 1.1.1984 on regular post and that he is 6th candidate's seniority for consideration for promotion to the post of Deputy Shop Superintendent. The examination scheduled to be held on 30.4.1990 was postponed. It is their case that the applicant was promoted on 14.9.1981 on work charged post on adhoc basis and since that was not regular post, he can not claim ^{over} seniority w/z others. It is stated that respondent no. 4 Prahalad Gupta was working on regular post while the applicant was on work charged post. Prahalad Gupta was senior to the applicant in the lower grade. The reversion of the applicant was after completion of work on expiry of the sanction of work charged post. In the counter-affidavit, filed by the respondent no. 4 it is stated that the applicant's promotion as charge-man 'B' was ^a irregular as there was only one vacancy in the reserved quota against which 3 candidates were in panel and his promotion was on 21.8.81 as chargeman Grade 'A' while the applicant was promoted on 14.9.1981 as such it can not be said that the ^{applicant} is senior to him.

Contd...3/-

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4. We have heard the counsel of the parties.

We have also carefully examined the record. This case raises two issues- that of seniority of the applicant and what flows there from namely, the eligibility for promotion to the higher post. Admittedly the applicant was promoted on 14.9.1981 to the post of charge-man 'A' against reserved quota because the vacancy was at point no.1 and that was the point ^{at} to the reserved category. There were seniors to the applicant even among scheduled caste (N.K. Nasker, Satrugan Lal and Ram Mishan, etc) but though their cases were considered, they were over-looked on the ground that their record was not good and they were not fit for promotion. Thereafter, the applicant continued on the said post till the order of reversion, was issued on 23.9.1984. The contentions of the respondents is that the applicant's promotion was on a worked charge post which continued from time to time and that after the work was over, he was reverted. This does not appear to be a correct position. It is noticed after the promotion of the applicant, there were several representations made by some of his seniors including N.K. Nasker and his seniority position was reviewed and ^{at} one point of time N.K. Nasker ^{who} was also Schedule Caste candidate, was placed above the applicant. That is how, the applicant was reverted. The reversion order of the applicant was quashed by General Manager. The post of charge-man 'A' was a selection post where seniority cum merit was a criteria. The applicant was promoted because his seniors were considered unfit for promotion. By virtue of his ^{Promotion} position he became seniors over some of his seniors ^{who} overlooked. ~~XXX~~ The seniority

Contd. 4/-

K/17

:: 4 ::

question of the applicant was reviewed from time to time and every time it was categorically stated that Chandrika Prasad was promoted against the reserved quota, on 14.9.1981 and that prahlad Gupta was promoted, it was as a General Candidate. If the reservation point on 1 was utilised for work-charged, it has not taken away the right of the candidate for promotion against a regular vacancy; and he should have been adjusted against the regular vacancies in which Shri Prahalad Gupta, respondent no. 4 was promoted. The letters dated 17.2.1988, and 21.12.1989 re-iterate the position. The applicant was promoted earlier against point no. 1 in the Roster that the being case, the applicant was entitled for promotion over others Schedule Caste candidates and also General Candidates who were promoted after 13.9.1981. In this view of the matter the order of assigning seniority to the applicant was w.e.f. 1.1.1984 i.e. as a result of restructuring of the cadre is erroneous and the department should assign seniority to the applicant from the date of his initial promotion i.e. 14.9.1981, in Charge man 'A' grade.

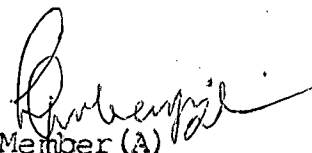
5. So far as the question of the promotion to the next higher post of Deputy Shop Superintendent is concerned vide the order dated 26.4.1990 of the Tribunal by way of interim order; the respondents were directed to consider the case of the applicant and permit him to appear in the selection examination. It was also indicated that ^{the} result of the selection shall remain subject to the decision of the tribunal.


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examination; as he has failed in the written examination this time he has no case for promotion merely on the basis of seniority. The application is allowed in part and under the circumstances, parties to bear their costs.


Member (A)


Vice-Chairman

Lucknow Dated 7th August, 1992.

(RKA)

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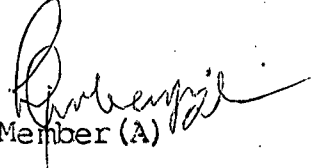
This selection examination for promotion to the post of Deputy Shop Superintendent was scheduled to be held on 30.4.1990. It would appear that the examination was not held on that date. In the reply filed by the respondents in the contempt petition (38/91(L). It is pointed out that the selection examination could not be held on that date. It was postponed as there was representations of N.K. Nasker to be decided. However, the written examination was held on 16.12.1991. The applicant was also permitted to appear in the written examination. The result of the written examination ^{was} declared on 13.1.1992 but the applicant failed to qualify in the written test. Consequently, he was not eligible to be called for interview. As the direction of the tribunal was only to permit him to take the examination and respondents permitted him, we see no further directions are required in this regard. There is compliance of this Tribunal's order and no case for contempt is made out. Promotion to that post is by selection consisting of written examination, viva-voce and empanelment; thereafter. As the applicant has failed in the written examination he has no case for promotion.


5. In result, we direct that seniority of the applicant in the cadre of charge-man 'A' be fixed taking into consideration the date of his promotion i.e. 14.9.1991. With regard to promotion to the post of Deputy Shop Superintendent, he is eligible for promotion only after qualifying in the selection

Contd..6/-

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:: 6 ::

examination; as he has failed in the written examination this time he has no case for promotion merely on the basis of seniority. The application is allowed in part and under the circumstances, parties to bear their costs.


Member (A)


Vice-Chairman

Lucknow Dated 7th August, 1992.

(RKA)

8/11

Before the Hon'ble Central Administrative Tribunal

L u c k n o w

O.A. Petition No. 142 of 1990 (2)

Chandrika PrasadPetitioner/
Applicant

Vs.

Union of India & others..... Opp. Parties/
Respondents.

I n d e x

Sl. No.	Description of Documents relied upon	Page
1.	Annexure No. 2	18 to 29
2.	Annexure No. 3	30 to -
3.	Annexure No. 4	31 to 33
4.	Annexure No. 5	24 to -

Lucknow :

Dated :- 24.4.1990.

Chandrika Prasad

Signature of the
Applicant.

Counsel for the Applicant

A/12

Before the Hon'ble Central Administrative Tribunal

L u c k n o w

O.A. No. of 1990

B e t w e e n

Sri Chandrika Prasad Applicant/
Petitioner.

A n d

Union of India & others..... Respondents

A n n e x u r e No. 2

NORTHERN RAILWAY

LOCOMOTIVE WORKSHOP/CHARBAGH/LUCKNOW

No. SOE/CM (Welding) Dated : 17.2.1988

The Dy. Chief Mechanical Engineer (W)
N. Rly. C&W shops, Alambagh,
Lucknow

Sub : Seniority Sri N.K. Naskar C/Man 'A'
(Welding) Gr. Rs. 550-750 (Rs)/1600-
2660 (RPS)

Ref : Your Officer letter No. DCME/796/A/pt 1 da-
-ted 16.9.1987 & 21.12.1987

As desired by Hd. Qrs office in their letter No. 940K/511/E11W dated 5.1.1988. The case regarding giving proforma promotion to Sri N.K. Naskar as C/Man ('A' 'A' (welding) w.e.f. 4.11.81 has been reconsidered by C.W.M. /CB and the following decision has been taken.

Shri N.K. Naskar (SC) C/Man 'B' (Welding) was promoted a C/Man 'A' (Welding) w.e.f. 1.1.1984. He was later on given proforma promotion w.e.f. 4.11.81 (the date when Sri Prahlad Gupta was promoted as C/Man 'A' against a regular vacancy) on his appeal because Shri Chandrika Pd. (SC) who was junior to him as C/Man 'B' (Welding) according to revised seniority list was promoted as C/Man 'A' against a work charged post w.e.f. 13.9.1981 on the basis of previous seniority list against the short fall of scheduled Caste quota.

While reviewing the case, the C.Rs of Sri Naskar were perused. The C.Rs of Shri Naskar indicate that as on 4.11.1981 he was not suitable for promotion as C/Man 'A' (welding) even if his name would have been considered in place of Shri Chandrika Prasad (SC).

That the point no. 1 of the roster of C/Man 'A' was already filled by promotion of Shri Chandrika Pd. (S.C.) Shri Naskar's promotion against point no. 8 of the roster w.e.f. 1.1.1984 was correctly done. He was not fit for promotion w.e.f. 4.11.1981 in view of his adverse C.R. The seniority of Sri Naskar is therefore corrected to be effective w.e.f. 1.1.1984 i.e. the date from which he was promoted initially. Proforma promotion given to Shri N.K. Naskar as C/man 'A' w.e.f.

contd.. 2

: 2 :

X/3

4.11.1981 in the face of his adverse C.R. vide this office letter No. L/341/CM (Welding) dated 7.5.1986 is hereby treated as cancelled. Necessary recovery arising out of his proforma promotion w.e.f. 4.11.81 to 31.12.83 may be done accordingly.

In view of the above Sri Naskar whose name was placed below to Sri Prahlad Gupta in the Seniority list of C/man (Welding) dated 26.9.86 is now brought down and placed below to Shri B.N. Srivastava C/Man 'A' (Welding).

Thanking you,

Yours faithfully,

C.W.M. /LOCO, CHARBAGH,
LUCKNOW

True Copy Altered
R. Pradha
24/4/90

Chandilax Prasad

In the Hon'ble Central Administrative TribunalL u c k n o wO.A. No. _____ of 1990B e t w e e nChandrika Prasad Applicant/Petitioner
A N D

Union of India & others..... Respondents

A n n e x u r e No. 3Northern RailwayHead Quarters Office
Baroda House,
New Delhi.

No. 940-E/511/E 11 W (L)

dated : 21.12.1989

The Chief Works Manager,
Northern Railway,
Charbagh, Lucknow.Sub : Seniority of Sh. N.K. Naskar (SC) Charge
man (Welding) in grade Rs. 550-750 (RPS)
AMV, Lucknow.

The case of Sh. N.K. Naskar (SC) Chargeman 'C' Welding grade Rs. 550-750 (RS)/AMV-Lko was discussed in joint informal meeting with both the Unions at CPO level on 5.6.89, but no decision could be taken in this case. However, after taking into consideration the views of both the Unions, it has been decided that the decision taken in favour of Sh. N.K. Naskar (SC) for proforma seniority as Chargeman 'A' (Welding) grade Rs. 550-750 (RS) w.e.f. 1.4.1982 holds good.

On examination of the case, it has also been found that the reversion of Sh. Chandrika Prasad (SC) who was promoted as Chargeman 'A' (Welding) grade Rs. 550 - 750 (RS) on Regular basis w.e.f. 31.10.81 against the Roster point no. 1 was wrong even when one shortfall of S.C. was existing. As per extant rules, the reversion of the staff should have been done according to reverse order of the Roster Register. Therefore, Sh. Chandrika Prasad should have continued as Chargeman 'A' grade Rs. 550-750 (RS) against the first roster point reserved for S.C. even after promotion of Sh. N.K. Naskar who has been allowed seniority w.e.f. 1.4.1982.

This has the approval of CWE/CPO.

sd

(Gopi Ram)

for General Manager (R)

Copy to :

1. General Secretary U.R.M.U., 166/2, Panchkuin Road, New Delhi.

2. General Secretary, N.R.M.U., 12-Chelmsford Road, New Delhi.

True Copy.

True Copy Attached
As per
21/12/89

Chandrika Prasad

In the Hon'ble Central Administrative Tribunal

L u c k n o w

O. A. No. _____ of 1990

B e t w e e n

Chandrika Prasad Applicant/Petitioner

A n d

Union of India & others..... Respondents

A n n e x u r e No. 4

TO,

The Chief Workshop Manager,
N. Rly. Locomotive Works,
Charbagh, Lucknow.

(THROUGH PROPER CHANNEL)

Sub : Wrongful reversion from the post of Chargeman 'A'
on and from 24.9.1984.

Sir,

With due respect I beg to submit the following for
your kind consideration Please :

That I was empanelled for the post of Chargeman 'B'
in the year 1978 alongwith Shri Satrohan Lal and Shri
Ram Kishan.

That ~~Sri~~ Sri Satrohan Lal was promoted as Chargeman
'B' in the month of January 1979, and Shri Ram Kishan in
the month of July 1979 by reverting the ad-hoc promote
i.e. S/Shri Janki Prasad and Ram Bratap but to utter
surprise I was kept waiting till 10th Jan. 1980 though
a clear vacancy existed on which Shri Bhuneshwar Prasad
(SC) was working on adhoc basis.

That Shri Bhuneshwar Prasad could also have been
reverted alongwith other two but heaven knows why it was
not done and due to this administrative delay I was
compelled to suffer at the hands of my juniors who

contd.. 2 .

were wrongfully made my seniors i.e. Sri B.N. Srivastava and N.K. Naskar who were posted as Chageman 'B' during the intervening period i.e. from the date of my selection and the actual posting, thus depriving me of the actual place in the seniority list.

That in the year 1981 I was promoted as C/Man Gr. 'A' w.e.f. 14.9.1981 against a Roster point post by superseding S/Srri Satrohan Lal, Ram Kishan and N.K. Naskar due to adverse confidential Reports doing that period.

That I continued to work upto 23.9.1984 ,

but suddenly was reverted arbitrarily where as I should have been considered for promotions for the post of Dy. shop Suptd. under restructuring which was implemented w.e.f. 1.1.1984 as I was working as C/Man Gr. 'A' on 1.1.1984.

That my reversion from the post of C/Man ('A' on 24.9.1984 and non-consideration for the post of Dy. shop Suptd. under restructuring w.e.f. 1.1.1984 was uncalled for and illegal which has put me to a continued humiliation apart from recurring financial loss.

That the then Chief Workshop Manager , N. RLY Loco , CB, Lucknow had observed in the letter No. 50 E/CM/Welding dated 17.2.1988".

"While reviewing the case, the C.Rs of Srri

Naskar were perused. The C.Rs. of Srri Naskar Indl

Chand Nila Naskar

: 3 :

indicate that as on 4.11.1981 he was not suitable for promotion as C/Man 'A' (Weld) even if his name would have been considered in place of Shri Chandrika Prasad (SC)". Copy of the letter is ~~xxx~~ attached herewith.

That in view of the above I should never have been reverted as my promotion on 25.9.1981 ignoring Sri N.K. ~~Naskar~~ Naskar was correctly done and also proforma promotion given to Sri N.K. Naskar w.e.f. 4.11.81 was also illegal in view of the contents of letter No. 50E/CM/Welding dated 17.2.1988.

Therefore it is prayed that in view of the above facts, the whole case may please be reviewed and justice be imparted to the applicant by restoring the promotion as C/man 'A' w.e.f. 14.9.1981 and consideration for the post of Dy. shop Superintendent w.e.f. 1.1.1984 under restructuring.

Thanking you,

Yours faithfully,

Dated : 5.12.89.

(Chandrika Prasad)
C/man 'B' (Welding)
C & W works AMV,
Lucknow

D.A. letter No. 50E/CM/Welding
dated 17.2.1988.

Chandrika Prasad

*Two Gp4 attached
R. Prasad
24/4/89*

L u c k n o w

O.A. No. _____ of 1990

B e t w e e n

Sri Chandrika Prasad Petitioner
and

Union of India & others..... Respondents

A n e x u r e No. 5

REMINDER

To,

The Chief Workshop Manager,
N. Rly. Loco Works, C.B.
Lucknow.

Through : Dy. C.M.E. (W) C&W, AMV, Lucknow

Sir,

Sub : Wrongful reversion from the post
of Chargeman Gr. 'A' on & from
24.9.1984.

Reg : My representations.

With due respect I beg to submit the
following for your kind consideration please.

That I had submitted a representation on the
subject matter in the year 1987 but no reply was
received by me, I submitted another representation
on 5.12.1989 for redressal of the injustice
metted out to me in the year 1984 from so much so
that I was wrongfully reverted from the post of
Chargeman 'A' to that of Chargeman 'B' and also
my name was not considered for promotion to the
post of Dy. S.S. (Welding) although I was working
as Chargeman Gr. 'A' on 1.1.1984 (since 4.9.1981)

That the then C.W.M./C.B. in his letter No.
SOE/CM(Welding) dated 17.2.88 clearly stated that
my ~~representations~~ reversion was incalled for.

It is therefore prayed that my representation
be considered and due justice impasted to me by
restoring my position as on 1.1.1984 as Dy. S.S.
(Welding) under restructuring.

Thanking you,

Yours faithfully,

Dated : 9.2.1990.

(Chandrika Prasad)
Chargeman 'B'

Welding shop, C&W work
Alambagh, Lucknow.

D/A

Copy of representation dated 5.12.89

Copy of letter No. SOE/CM (Welding) dated 17.2.88.
from CWM/CB to Dy. CME (W), AMV, Lucknow.

True copy

Chandrika Prasad
True Copy Attached
R. Prasad
24/4/90

Before The Hon'ble Central Adminis-
trative Tribunal
Lucknow

Reg. O.A No 142 of 1990

Chandrika Prasad..... Applicant
Versus

Union of India & Others..... Respondent

Rejoinder application of Responde
nt No-5 to the application
aforsaid

A
19

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

O.A.No.142/90(L)

Sri Chandrika Prasad

....Applicant/Petitioner

Versus

Union of India and others

....Respondents

REPLY ON BEHALF OF RESPONDENTS No.1 TO 3

I Hemant Kumar presently posted as Dy. Chief Mechanical Engineer (W) Locomotive Workshop, Northern Railway, Charbagh, Lucknow, hereby solemnly state as under :-

1. That the undersigned is presently posted as Dy. Chief Mechanical Engineer (W) in the Locomotive Workshop, Northern Railway, Charbagh, Lucknow and is looking after the above mentioned case on behalf of the Respondents No.1 to 3. The undersigned is competent and duly authorised to file this reply on their behalf. The undersigned has read and understood the contents of the above mentioned application and is well conversant with the facts stated in this reply.

2. That the contents of paragraphs 1,2 and 3 of the application need no comment from the answering respondents.

3. That in reply to the contents of paragraph 4.1 it is most respectfully submitted that the written test scheduled to be held on 30.04.1990 has been postponed and the case of the petitioner has been examined by the Competent Authority at the Head Quarters' Office, Northern Railway, New Delhi and he has been promoted as Chargeman 'A' (WLD) on regular basis with effect from 01.01.1984 on the basis of length of his service in the grade and he has now become the sixth candidate for consideration in the selection for the post of Deputy Shop Superintendent (Welding) whenever it is held.

4. That the contents of paragraphs 4.2 and 4.3 are admitted.

5. That the contents of paragraph 4.4 are admitted only

Filed today
26/4/91

उप मुख्य यंत्रक विभाग
लुका

Dy. C.M.E. (W)
B.R./Loco/C.B./Lko.

to the extent that the CRS of his 'seniors', Sarva Sri Satrugan Lal, Ram Kishan and N.K.Naskar were such that they were 'not fit for promotion' in the year 1981 and therefore, the applicant Sri Chandrika Prasad was posted to officiate as Chargeman 'A' (WLD) in grade Rs.550-750 (RS) on 'ad-hoc' basis against a work charged post with effect from 14.09.1981 on the specific condition that such promotion was a purely temporary local ad-hoc arrangement and it shall not confer upon him any right or claim for such promotion over his seniors in future. Thus the petitioner did not become senior to Sarva Sri Satrugan Lal, Ram Kishan and N.K.Naskar, but became eligible for ad hoc promotion as mentioned above only due to the fact that these persons could not be given promotion due to adverse confidential report in the year 1981.

6. That the contents of paragraph 4.5 are not admitted. It is most respectfully submitted that the other five persons, including Sri Prahlad Gupta who were working as Chargeman 'A' (WLD) in grade Rs.550-750(RS)/Rs.1600-2760 (RPS) on regular basis against regular posts, whereas, the petitioner Sri Chandrika Prasad was posted on purely ad hoc basis in local arrangement against a 'workcharged' sanctioned for a specified period only. Hence, he can not claim right over and above regular incumbents.

7. That the contents of paragraph 4.6 are not admitted. It is respectfully submitted that the petitioner Sri Chandrika Prasad was reverted on expiry of the term of sanction of the 'workcharged' post with effect from 23.09.1984, and Sri N.K.Naskar Chargeman 'A' (WLD) was given proforma promotion and fixation with effect from 1.04.1982 as his adverse entries were effective only upto 31.03.1982, and his subsequent character roll entries were good. It is respectfully submitted that Sri N.K. Naskar belongs to the 'Scheduled Caste' community also and he was senior to the petitioner as Chargeman 'B' as admitted by the petitioner himself in paragraph 4.4.

8. That the contents of paragraph 4.7 are denied. It is respectfully submitted that the letter No.50-E/C/Man(WLD) dated 17.02.1988 was superceded by the subsequent letter No.50-E/C/Man(WLD) dated 4.11.1988, from the perusal of this letter it would be evident that Sri N.K.Naskar was

By (W)
N.R./Loco/C.B./Lko.

senior to the petitioner. A true copy of this letter is being annexed herewith as ANNEXURE No.A-1 to this reply. Sri N.K.Naskar was placed at roster point No.1 and the petitioner was placed at roster point No.8 by the Head Quarters' Office, Northern Railway, New Delhi.

9. That the contents of paragraph 4.8 are denied. It is respectfully submitted that the order/s of the Chief Workshop Manager were modified by the Competent Authority at the Head Quarters' Office, Northern Railway, New Delhi vide letter No.940-E/511(Eiiw) dated 20.11.1990 in which the case of the petitioner was also considered for his promotion as Chargeman 'A' (WLD) with effect from 1.01.1984. Hence, the contention of the petitioner is not correct.

10. That the contents of paragraph 4.9 are strongly and specifically denied.

11. That the contents of paragraph 4.10 are denied. It is respectfully submitted that the case of Sri N.K.Naskar was later reviewed as has been mentioned in the foregoing paragraph of this reply and therefore, the claim of the petitioner to the effect that he is senior to Sri N.K. Naskar is not correct. It is submitted that the petitioner was appointed to officiate on an ad hoc basis against a workcharged post and was correctly reverted after the expiry of sanction. There was no vacant post available at that time, and the orders of upgrading were issued by the General Manager(P), Head Quarters' office, Northern Railway, New Delhi in the month of March, 1985 which was to be given retrospective effect from 1.01.1984

12. That the contents of paragraph 4.11 are not admitted. It is most respectfully submitted that Sri Prahlad Gupta was senior to Sri N.K.Naskar and the petitioner Sri Chandrika Prasad (both belonging to Scheduled Caste) hence, they were considered against roster point No.1 and 8 respectively. Thus it is not correct that Sri Prahlad Gupta ^{not} was senior to the petitioner. It is further submitted that Sri Prahlad Gupta was appointed as Chargeman 'A' (WLD) on regular basis and against a clear vacancy.

13. That the contents of paragraph 4.12 are denied. It is respectfully submitted that the earlier orders of the General Manager(P), Northern Railway, New Delhi contained in his letter No.940-E/511/EiiW(L) dated 21.12.1989 stand modified by his subsequent letter No.940-E/511(EiiW) dated 20.11.1990.

14. That in reply to the contents of paragraph 4.13 it is most respectfully submitted that in the Seniority List of Chargeman 'A' (WLD), which is now available, the name of the petitioner Sri Chandrika Prasad is at Serial No.7. Sri N.K.Naskar is to be considered for the post of Deputy Shop Superintendent (WLD) grade Rs.700-900(RS) against upgraded post with effect from 1.01.1984 through the modified selection by the Head Quarters' Office. For holding selection for 2 posts of Deputy Shop Superintendent (WLD), six candidates are to be called.

The petitioner Sri Chandrika Prasad will also be called for selection for the post of Deputy Shop Superintendent (WLD) grade Rs.2000-3200(RPS) whenever it will be held for the aforementioned two posts as he is now placed at number six in the field of eligibility.

15. That the contents of paragraph 4.14 are denied. It is respectfully submitted that the petitioner is not eligible for promotion with effect from 1.01.1984 through the modified selection, and Sri Prahlad Gupta is not junior to the petitioner as claimed by him, which is evident from the details given hereunder :-

Sri Prahlad Gupta

Date of birth	10.09.1942.
Date of appointment as Chargeman 'B'	04.01.1978
Date of appointment as Chargeman 'A'	04.11.1981
Date of appointment as Deputy Shop Superintendent	01.01.1984

Sri Chandrika Prasad

Date of birth	30.05.1940.
Date of appointment as Chargeman 'B'	10.01.1980.
Date of appointment as Chargeman 'A'	01.01.1984.

4/4/91
चरम लोको
Dy. M.L. (W)
N.R./Loco/C.B./Lko.

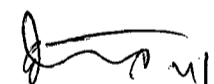
16. That the contents of paragraph 4.15 are not admitted. It is most respectfully submitted that Sri N.K. Naskar (S/C), who was senior to the petitioner was given proforma promotion with effect from 1.04.1982 as Chargeman 'A' (WLD). Now, as decided by the Competent Authority, he is to be considered against modified selection. Hence, his name is deleted from the list of eligible candidates for selection of Deputy Shop Superintendent grade Rs.2000-3200(RPS).

17. That the contents of paragraph 4.16 are not admitted. It is respectfully submitted that Sarva Sri P.K.Sharma and B.K.Srivastava are senior to the petitioner in the Seniority List of Chargeman 'A' (WLD) grade Rs.700-900(RS) as already circulated vide Office Order No.666 dated 6.12.1990.

18. That the undersigned has been advised to state that in view of the submissions made in this reply, the grounds taken in the paragraph 5 are untenable in the eye of law.

19. That the contents of paragraphs 6,7,8,9,10,11 and 12 need no comment from the answering respondents.


Lucknow, dated :
January ,1991.


उ. प्र. म. वि. वि. अ. वि. वि.
उ. प्र. म. वि. वि. अ. वि. वि.
चारबाग, लखनऊ
Dy C.M.F. (W)
N.R./Loco/C.B./Lko.

VERIFICATION

I Hemant Kumar, presently posted as Dy. Chief Mechanical Engineer (W) in the Locomotive Workshop, Northern Railway, Charbagh, Lucknow hereby verify that the contents of paragraph 1 of this reply are true to my personal knowledge and those of paragraphs 2 to 17 are based on record and the same are believed to be true. the contents of paragraph 18 are based on legal advice and the same are believed to be true. the contents of paragraph 19 are believed to be true. That no part of this reply is false and nothing material has been concealed. So help me God.

Lucknow, dated :
January ,1991.


उ. प्र. म. वि. वि. अ. वि. वि.
उ. प्र. म. वि. वि. अ. वि. वि.
चारबाग, लखनऊ
Dy. C.M.F. (W)
N.R./Loco/C.B./Lko.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

O.A.No.142/90(L)

Sri Chandrika Prasad

....Applicant/Petitioner

Versus

Union of India and others

....Respondents

ANNEXURE No.A-1

NORTHERN RAILWAY LOCOMOTIVE WORKS CHARBAGH LUCKNOW

NO.50-E/CM(Welding)

Dated: 4-11-1988.

The General Manager(P),
N.Rly., Baroda House,
New Delhi.

Sub:- Seniority of Sri N.K.Naskar (S/C) Chargeman
'A' (Welding) Gr.Rs.550-750(RS)/CB-LKO.

Ref:- Your letter No.940-E/511(EII-W) dated 27.10.88

The detailed comments on each points of NRMU's letter dated 29.3.88 and 25.6.88 as referred vide your letter ibid are below.

1. After decentralisation of the post of Chargeman (Welding) one shortfall of SC in this category was communicated by Hd.Qrs.Office vide their letter No. 755E/151/EIIW dated 10.4.81. Thereafter a workcharged post of C/M'A' (Welding) was created under Dy.C.M.E.(W)/C&W Shop,AMV-LKO. in July,81.

The seniority of C/M'B'(Welding) of CB-AMV shops and LKO,ALD and MB Divisions is continued and it is controlled by C.W.M./CB-LKO. Hence, while preparing the seniority list of this category, the service particulars of C/M'B'(WLD) were called for from respective shops and divisions. The Dy.C.M.E./AMV intimated the date of promotion/posting of Sri Chandrika Pd.(SC) as C/M'B' as 3.7.79. Accordingly Sri Chandrika Pd. was shown above Sri N.K.Naskar in the seniority list of C/M'B'(WLD) whose date of appointment was 13.7.79.

The following were the Chargeman'B'(WLD) of S.C. Community in order of seniority

2. Later on Sri Naskar represented that he was senior to Chandrika Pd. (Item No.3 above) as the actual date of promotion as C/M'B'(WLD) of Sri Chandrika Pd. is 14.1.80 which was verified and found correct. The seniority list of C/M'B'(WLD) was revised accordingly which are as under:-

S.No.	Name S/Sri		Date of promotion as C/M'B'(WLD)
1.	Satruhan Lal	SC	27.1.79.
2.	Ram Kishan	"	3.7.79.
3.	N.K.Naskar	"	13.7.79.
4.	Chandrika Pd.	"	10.1.80.

2. Therefore, Sri Chandrika Pd. (S/C) was reverted from the post of Chargeman 'A' (Welding) to Chargeman 'B' (Welding) w.e.f. 13.10.84 due to expiry of the workcharged post.

4. On receipt of upgrading, Sri N.K.Naskar (S/C) was promoted as C/M'A' (Welding) on 23.5.85 with retrospective effect i.e. 01.1.84 against a upgraded post on reserved point.

His seniors S/Sri Satruhan Lal (SC) and Ram Kishan (SC) were not fit at that time also.

5. Later on Sri Naskar represented that he should be allowed proforma fixation w.e.f. 13.9.81, the date from which his junior Sri Chandrika Pd. was offg. as Chargeman 'A' (WLD) due to his wrong position in earlier seniority list.

His representation was considered by then A.C.M.E. (W)/CB and he was allowed proforma fixation w.e.f. 4.11.81 against regular vacancy falling after 13.9.81 against which a general candidate Sri Prahlad Gupta was regularly promoted.

6. As desired by Hd.Qrs.Office vide their letter No.940-E/511/EI1W dt.9.1.88, the case regarding giving proforma promotion to Sri N.K.Naskar as C/M 'A' (Welding) w.e.f. 4.11.81 was considered by C.W.M. /CB-LKO and the following decision was taken:-

"The point No.1 of the roster of Chargeman 'A' was already filled by promotion of Sri Chandrika Pd. (S/C). The Naskar's promotion against point No.8 of the roster w.e.f. 01.1.84 was correctly done. He was not fit for promotion w.e.f. 4.11.81 in view of his CR's. The seniority of Sri Naskar is therefore corrected to be effective w.e.f. 01.1.84 i.e. date from which he was promoted initially. Proforma promotion given to Sri Naskar as C/M'A' (Welding) w.e.f. 4.11.81 in face of his adverse CR's is hereby treated as cancelled. Necessary recovery arising out of his proforma promotion w.e.f. 4.11.81 to 31.12.83 may be done accordingly."

7. Thereafter the case was taken up by URMU and discussed in the informal meeting held with CWE on 14.3.88. After discussion, it was decided that the case of Sri Naskar may be re-examined by CWN/CB after viewing his CR's for the year 1982-83.

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In pursuance of these decision, the case of proforma promotion of Sri N.K.Naskar (SC) as C/M'A'(WLD) was revised by CWM/CB as under:-

"The CR's of Sri N.K.Naskar for the period ending 31.3.82 has been found OK and in view of the fact that the promotion of his junior Sri Chandrika Pd. was purely temporary and ad hoc basis without giving any claim over his seniors Sri N.K.Naskar (SC) who is Sr. to Sri Chandrika Pd. as C/M'B'(WLD) is hereby giving proforma promotion as C/M'A'(WLD) at AMV w.e.f.1.4.1982. Seniority of C/M'A'(WLD) of this unit has been revised accordingly.

This issues with the approval of CWM.

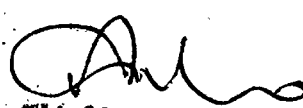
Sd/- Illegible
for Chief Works Manager,
N.Rly., Locoshops, Charbagh, Lucknow.

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व म्दालत श्री मातु केन्द्रीय प्रशासनिक कार्य कएल रणल वीठ ललवनक
वादी अपीलान्ट श्री मुख्य कारखाना उबचक लोको वर्कशॉप चारबाग ललवनक
 प्रतिवादी रेस्पान्डेन्ट

चन्द्रिका प्रसाद बलाम
भारतसेवा व अन्य वादी अपीलान्ट
 प्रतिवादी रेस्पान्डेन्ट
 सं० मुकदमा नं० 142 सन 1990 (2) पेशी की ता० 11-12-1990 ई०
 ऊपर मुकदमा में अपनी ओर से श्री सिद्धार्थ वर्मा शैल गादीवन्त
महानगर ललवनक

एप्रडवोकेट/वकील महोदय को अपना वकील नियुक्त करके इकरार करता हूँ और
 लिखे देता हूँ कि मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ
 पेरवी व जवाब दे ही व प्रश्नोत्तर करे या कोई कामज दाखिल करे या लौटाये
 या हमारी ओर से डिमरी जारी करावेँ आर रुपया सबूत करे या सुलहनामा
 या इकबाल दावा तथा अपील व लिबराली हाजिरी आर हमारे या अपने हस्ताक्षर
 से दाखिल करेँ आर तसदीक करेँ य मुकदमा उठावेँ या कोई रुपया जमा करेँ या हमारी
 विपक्षी प्परीक्षा ली जा दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर मुक्त
इस्तफती रसीद से लेवेँ का पंच नियुक्त करेँ
 वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है आर होगी
 इसलिए यह वकालत नाम लिख दिया कि प्रमाण रहे और समय पर काम आवे ।


 Chief Works Manager
 N. Rly. Locomotive Works
 Charbagh, LUCKNOW
 साक्षी गवाह
 दिनांक-..... सन 19... ई०

नाम अदालत
नं० मुकदमा
नाम फरी कैल..... बलाम.....

मुकदमा नं० 21488

Accepted

Mahua

26.04.91

56-254-6880

A-58

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW.

O.A. No. 142/90

Dated : 24.4.1990.

CHANDRIKA PRASAD APPLICANT

VERSUS

UNION OF INDIA & OTHERS..... RESPONDENT

WRITTEN STATEMENT OF THE RESPONDENT NO.4

PRAHLAD GUPTA, Dy.S.S.Welder, C&W Shops,
Alambagh, Lucknow.

Respected, Honourable Sir,

In response to the above petition filed
by the petitioner Shri Chandrika Prasad I, (the
Respondent No. 4) beg to state, in reply paravise,
about the facts of the cas as under :-

- (i) (Page - 4) No comments
- (ii) (Page - 4) No comments
- (iii) (Page - 4) The petitioner was declared
suitable for the post of Chargeman 'B' after
appearing in a departmental selection was
empannelled as chargeman 'B' and was posted
as chargeman 'B' G. 425-700(RS) from 10.1.1980.

In this regard I beg to point out
that there existed only one vacancy of scheduled

Contd..2/..

caste for chargeman Gr. 'B' for which three senior most scheduled caste candidates were detailed for the selection. There were S/Shri Shatruhan Lal, Ram Kishan and Chandrika Prasad.

(Please see Annexure No. 1, 2 and 3)

As per extent rules for selection only one candidate should has been declared suitable to fill up the only vacancy of chargeman Gr. 'B' marked for ranker scheduled caste, but the Administration utterly erred in declaring and empannelling all the three scheduled caste candidates as suitable for promotions and thus after promotion of Shri Shatruhan Lal the continuance of names of S/Shri Ram Kishan and Chandrika Prasad (the Petitioner) against pannel position of 2 and 3 respectively was illegal, erroneous and against the selection rules issued by the Rly. Board.

(Please the annexure No. 4 for rule of selection)

Thus S/Shri Ram Kishan and Chandrika Prasad (the Petitioner) were not entitled to promotion as chargeman Gr. 'B' on the basis of aforsaid panel as there retention on the panel was illegal. In order to to stress the illegality of the panel I (the respondent No. 4) have to point out that if 3 names were to be selected for future vacancies (although illegal), the administration should have called Nine scheduled caste candidates.

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tes in observance of the Rly. Boards order meant for the purpose of selection.

I (the Respondent No. 4) am to further point out that the aforesaid illegality eluce dated in the fore going para has been the root cause for the further commitment of illegalities in promoting S/Shri Ram Kishan and Chandrika Prasad (the Petitioner) as chargeman Gr. 'B' by passing and without facing the selection with remaining six scheduled caste candidates at the time of selection.

The local administration continued to commit the illegalities after illegalities to extent that Shri Chandrika Prasad (the petitioner) who was illegally empannelled on third position continued to enjoy the promotional post of chargeman Gr. 'B' and thereafter to my (The Respondent No. 4) utter surprise he was promoted as C/Man Gr. 'A' against a work charge post of BND Modification.

§ Please see the Annesure No. 5 for the petitioner's promotion to the post of C/Man Gr. 'A')

Now, here I (The Respondent No. 4) am to point out that the illegal empannelment of Shri Chandrika Prasad (the Petitioner) as chargeman Gr. 'B' has made the humiliating position to both me (The Respondent No. 4 Prahlad Gupta) and the local administration.

P. Gupta

Contd..4/..

The local administration has committed another blunder by giving Shri Chandrika Prasad illegally proforma fixation in Chargeman Gr. 'A' pos w.e.f. 1.1.1984, because the man (the petitioner) who was illegally empannelled as Chargeman Gr. 'B' and who was not entitled for the promotion to the post of chargeman Gr. 'B', has been given proforma fixation w.e.f. 1.1.1984 in A Gr. Charge-man.

Thus the entire promotional orders of Shri Ram Kishan and Shri Chandrika Prasad (the petitioner) as against on pannel position No.2 and No. 3 till today are all illegal and unless they are selected against scheduled caste post of chargeman. Gr. 'B' for which six scheduled caste candidates including the two persons (S/Shri Ram Kishan and ~~chandrika~~ Prasad) are detailed and the selection Board declares them suitable for the post of chargeman Gr. 'B'.

It is irony of fate of the fate that the petitioner Shri Chandrika Prasad has been given proforma fixation w.e.f. 1.1.1984 by counting the services of rendered by him(the petitioner) as chargeman Gr. 'A' on adhoc basis against a temporary adhoc post which is further against the rules while his selection as Chargeman Gr. 'B' has meaningless and illegal. (Please see the annexure No. 5 for his promotion against a

temporary post of chargeman Gr. 'A' and Annexure No. 6 for his proforma fixation with effect from 1.1.1984).

I therefore request the honourable tribunal that on the basis of aforesaid salient points, S/Shri Ram Kishan and Chandrika Prasad (the Petitioner) may kindly be asked to face selection for the post of chargeman Gr. 'B' against the scheduled caste marked vacancies if and when occurs and all the promotional benefits of Shri Chandrika Prasad in 'A' grade Chargeman may please be withdrawn.

(IV) (PAGE 4): In the 1981 when a temporary post of 'A' Gr. C/Man of work charge nature was created for 12 months in C & W works Alambagh, Lucknow only two senior persons to Shri Chandrika prasad(the petitioner) S/Shri N.K. Nasker and Shri Ram Kishan were working in Loco Work Shop Charbagh, Lucknow and two another senior man to Shri Chandrika Prasad were working in C&W Shops Alam-Bagh one the respondent No. Prahlad Gupta and another Shri Shatruhan Lal.

Since the temporary post of 'A' Gr. Chargeman of work charge post was created in C&W Shops so the consideration of S/Shri N.K. Nasker and Ram Kishan who were working in Loco Shops Charbagh was not required whether their annual confidential reports were O.K. or adverse.

Now there remains Shri Shatruhal Lal and

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Prahlad Gupta for consideration of this promotion of this promotion, It is correct that annual confidential report of Shri Shatruhan Lal was not O.K. and so he was not considered for promotion, But as for the respondent No. 4 Prahlad Gupta in concerned, he (the respondent No. 4) being substantively senior to Shri Chandrika Prasad (the petitioner) was already officiating as chargeman Gr. 'A' wlder, The respondent No.4 Prahlad Gupta was promoted to work as chargeman Gr. 'A' w.e.f. 21.8.81 (Please ^{see} annexure no. 7 & No. 8) and the petitioner Shri Chandrika Prasad was promoted to A officiate as A Grade Chargeman w.e.f. 14.9.81 (Please see Annexure No.5)

At this juncture also the local administration adopted illegality against me (the respondent No. 4), because I was promoted before Shri Chandrika Prasad against a leave vacancy arrangement and Shri Chandrika Prasad being substantively junior to me was promoted to officiate against a temporary post of work charge nature, so as a law of first promoted last, reverted, when my (the respondent No. 4) officiating arrangement came to an end on 3.10.81, my junior Shri Chandrika Prasad who promoted after my promotion should have been reverted, but the administer illegally allowed him to continue. Since these promotions were of temporary nature so I (the respondent No.4) also did not bother for my reversion(though illegal) at this stage. And the administration later on promoted me against a regular post of

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Gr. 'A' chargeman on 4.11.1981 which was upgraded w.e.f. 1.1.1979. (Please see Annexure No. 9 and Annexure No. 10).

(V) (PAGE 4): In this para the petitioner Shri Chandrika Prasad gives an incomplete and wrong information before the honourable tribunal. The petitioner says that all those persons who were working in grade 550-750 (RS) 1.1.1984 were considered and promoted to the post of Dyss 700-900 (RS) but the petitioner was illegally ignored for consideration.

Actually only those persons who were working in 550-750 (RS) on a regular basis against to a regular post were considered and promoted to the post of Dy.S.S. 700-900 (RS) petitioner Shri Chandrika Prasad was not working on regular basis against a regular post but he was officiating against a temporary and short term vacancy of work charge nature. (Please see annexure No. 5) and so he was not considered for promotion to the post of Dy.S.S.

Actually for cadre restructuring the total number of regular posts of S.S. Dy.S.S. Chargeman A and chargeman 'B' were calculated. In this calculation only regular post were included and any temporary short term post of work charge nature was not included to ascertain the total strength of the Cadre. After this ascertaining the total number ~~may~~ rather total strength of a cadre, the posts of Chargeman 'B', chargeman 'A' Dyss. and S.S. were upgraded in ratio of ?::?:?:?:?

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Since the post of 'A' Grade Chargeman against when the petitioner Shri Chandrika Prasad was promoted to officiate was temporary and short term vacancy for particular work of END MODIFICATION (Please see the the annexure No. 5) so this post was not included to certain the total strength of the cadre and so the petitioner was not considered for promotion to the post of Dyss. 700-900(RS).

(VI) (PAGE 5): The petitioner says that he (the petitioner Shri Chandrika Prasad) was reverted from the post of charge-man Gr. 'A' 550-750(RS) w.e.f. 23.9.1984 without assigning any reason. The reason of the reversion of the petitioner Shri Chandrika Prasad is quite obvious as the post of Gr. 'A' Chargeman against which the petitioner was promoted was a temporary and short term post created for 12 month to complete the work of END MODIFICATION. When this work of End Modification could not be completed in 12 months. the period of this temporary post was extended for further 12 months and once again the sanction of this vacancy was extended for another 12 months. Finally when the work of End Modification was completed the post created for this particular job was surrendered and the petitioner Shri Chandirka Prasad was legally and lawfull reverted.

In this very para the petitioner further says that Shri NIKhil Kumar Nasker (the Respondent No. 5)

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was given proforma promotions w.e.f. 4.11.1981 against the post on which the petitioner was promoted on regular basis." The second para of this statement is wrong. The petitioner was not promoted on regular basis but on adhoc basis against a temporary post created for 12 months (Please see annexure No. 5).

(VII)(PAGE 5): No comment.

(VIII)(PAGE 6): The G.M. Northern Railway was never apprised of the actual history of the illegal empanelment of the petitioner Shri Chandrika Prasad (and Shri Ram Kishan) against one vacancy of chargeman Gr.'B' 425-700 (RS) reserved for scheduled caste candidate. Even the C.W.M., while considering and deciding the case of seniority of Shri N.K. Nasker (Please see Annexure No. 2 filed by the petitioner Shri Chandrika Prasad in this petition) and Shri Chandrika Prasad was not informed by the personal brach (Establishment and section) regarding the illegal empanelment and promotion of Shri Chandrika Prasad the petitioner.

Vide annexure No. 3 it is clear that after a discussion of local administration it was stated that there was one S/C marked vacancy of Chargeman Gr. 'B' in Loco Shop CB and one vacancy of Chargeman Gr. 'B' in C'W Alambagh for general candidate

For S/C marked post 3 scheduled caste candidate from S/C community were called for written test and viva-voce and ignoring all the rule and regulation

Shyama

made for a selection all the 3 S/C candidate were borne on pannel illegally. For general post three general candidates were called and tested but none was found suitable. Then it was decided that this pannel of S/C candidate shall not be finalised till a selection for the general vacancy is held and a suitable general candidate is available.

Further it was decided that the senior most S/C candidate Shri Shatruhan Lal may be promoted against the S/C reserved vacancy and the next senior S/C Shri Ram Kishan may be promoted to officiate on adhoc basis till a general candidate for general marked vacancy is found, and that is all. After this decision the question of promotion of the petitioner Shri Chandrika Prasad does not arise and as such his promotion to the post of chargeman 'B' and Chargeman 'A' and his proforma fixation given by the administration at Local level or at Head Quarter level all is illegal un-lawful and unjustified.

(IX) (PAGE 6): The petitioner Shri Chandrika Prasad says that he was illegally retested from the post of A.G. Charge-man 580-750(RS) from 24.9.1981. Actually the posting of S/Shri Ram Kishan and Shri Chandrika Prasad the petitioner boths s/C was on adhoc basis till a general selected and suitable candidate was available (Please see the annexure No. 3) and as soon as Shri Ramshwar Singh a general candidate was selected after a written

[Signature]

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test and viva-voce and was posted as chargeman 'B' he (The petitioner) should have been reverted even from the post of chargeman Gr. 'B' 425-700(RS) or he should be considered still an adhoc chargeman Gr. 'B' 425-700(RS) as in the case of Shri Sita Ram^A Chargeman Gr. 'B' welder 425-700 who has been working as such for more than 10-12 years under D.R.M., Lucknow and is postes under C&W Foreman Sicklins CB, Lucknow. In this way it is quite clear that his (petitioner) consideration for the promotion to the post of Dyss. 700-900(RS) under Gadre restructuring is illegal unlawful and undjustified because till today he is an adhoc promotee chargeman Gr. 'B' 425-725.

(X) (PAGE 6): In view of annexure no. 1, 2 and 3 it is quite clear that the posting of the petitioner Shri Chandrika Prasad to the post of chargeman Gr. 'B' was on adhoc basis and was an officiating arrangement (though illegal) (Please see Annexure No. 11 regarding the promotion of the petitioner Shri Chandrika Prasad). And so he had no right of promotion to the post of Chargeman Gr. 'A' 550-750. How ever he was promoted illegally to the post of chargeman Gr. 'A' on 23.9.81 but was legally reverted w.e.f. 14.9.84 when the temporary post of work charge nature was surrendered.

(XI) (PAGE 7): Where as the empannelment of the petitioner Shri Chandrika Prasad a S/C candidate as a chargeman Gr. 'B' 425-700(RS) is illegal and against the selection

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rules, he has no right of promotion to the higher post of chargeman Gr. 'A' 550-750 (RS) and Dyss. 700-900(RS). Further the petitioner Shri Chandrika Prasad says that Prahlad Gupta the respondent No. 4 is junior to the petitioner because Prahlad Gupta was promoted as chargeman 'A' Gr. 550-750(RS) on 4.11.81 and the petitioner was promoted the post of chargeman Gr. 'A' 550-750 (RS) On 14.9.1981 so Prahlad Gupta is junior to the petitioner Shri Chandrika Prasad. Here in saying so the petitioner gave an incomplete information to the Hon'ble Tribunal and did not produce the fact that when the petitioner was put to officiate against a temporary post on 14.9.81 the Respondent No. 4 Prahlad Gupta was already working as 'A' Gr. Chargeman 550-750 having been promoted as such on 21.8.81 as an officiating arrangement because I (the respondent No. 4) was senior to Shri Chandrika Prasad (the petitioner) in initial grade of 425-700(RS). (Please see the annexure 12 for the seniority in grade 425-700(RS) as chargeman Gr.'B'. When the officiating arrangement of Prahlad Gupta the Respondent No. 4. came to an end, I the respondent No. 4 was illegally reverted because as per rule the reversion should take place in reverse order i.e. the man promoted at last should be reverted at first.

How ever I, being the senior most candidate as chargeman Gr. 'B' 425-700(RS) (Please see the annexure 12) was promoted against a regular post on 4.11.1981

Shypr

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as 'A' Gr. Chargeman 550-750(RS) which was upgraded w.e.f. 1.1.1979 for which Chandrika Prasad S/C the petitioner could never be considered as on 1.1.1979 the petitioner was working as a workman Highly skilled welder Gr. 'I' (Please see Annexure 11). So in view of above I am not junior to Shri Chandrika Prasad at any stage i.e. as Chargeman in Gr. 425-700 (RS) or 550-750(RS) and more over in view of selection Rules established by Railway Board his posting as chargeman Gr. 'B' 425-700(RS) is illegal and as per decision of Local administration he the petitioner is an adhoc chargeman Gr. 'B' till today and has no right to promotion to grade 550-750 (RS).

(XII) (PAGE 7): As per selection rules regulations and circulars established by Railway Board, the petitioner Shri Chandrika Prasad has no legal right of empanelment and promotion as charge man Gr. 'B' 425-700 (Please see Annexure No. 1, 2 and 3) but was promoted and posted as such illegally by the administration against a general post, although the petitioner's written test for selection was held against the single S/C marked post thus in view of the aforesaid legal facts when the petitioner Shri Chandrika Prasad has not legal right for promotion to Grade 425-750 (RS) then how can he be intitled for the promotion to the Grade 550-750 (RS) and further more how can he be given the advantage of having a chance to take post in selection for the grade 700-900 (RS) as Dy.S.S.

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Even G.M. Northern Railway can not ignore the rules set for selection post, he was not informed about the legal aspect of his (Petitioner) empanelment, and his promotion as chargeman Gr. 'B' Actually the local administration committed illegality after illegality in retaining his (the petitioner) name on panne as chargeman 'B' and in giving him promotion as chargman 'B' and then chargeman 'A' and then the administration surpassed the extent of illegality by giving him proforma promotion from 1.1.1984 in Gr. 550-750 (RS) as chrgeman Gr. 'A'.

(XIII)(PAGE 8): When the petitioner has no legal right to be promoted as chargeman Gr. 'B' even in grade 425-700(RS) he can not be allowed to appear at the selection of Dyss. 700-900(RS). I (Respondent No. 4) was given promotion to the post of Dyss. under Cadre restructuring w.e.f. 1.1.1984 only because. I was senior to the petitioner in every stage of posts and was working as Gr. 'A' Chargeman against a regular post w.e.f. and ~~this post too was upgraded w.e.f. 1.1.1979~~ and on 1.1.1979 the petitioner was not even chargeman Gr. 'B' 425-700 (RS) but he was a Highly skilled Welder Gr.I in grade 380-560 (RS) so the Respondent No. 4 Prahlad Gupta was nver junior to Shri Chandrika Prasad the petitioner.

(XIV)(PAGE 8): No comment.

Contd...15/..

[Signature]

(XV) (PAGE 8): Against this para 9 (respondent NO. 4) can only say that when the petitioner Shri Chandrika Prasad has no legal right to be promoted to the selection post of chargeman Gr. 'B' 425-700 (RS) he can not be promoted further in Gr. 550-700(RS) nor can be considered for the selection in grade 700-900(RS).

P R A Y E R

In view of the facts mentioned above I beg to prays as under :-

- i) That the empannelment of Shri Chandrika Prasad S/C as chargeman Gr. 'B' 425-700(RS) was illegal unlawful and against the selection rule as against one vacancy reserved for S/C three persons were empannelled and Shri Chandrika Prasad was junior most on that illegal pannel so he should be directed to face a selection for the post of chargin man Gr. 'B' 425-700(RS) (Please see the annexure 1, 2, and 3).
- ii) That the promotion and posting of Shri Chandrika Prasad the petitioner to the post of chargeman Gr. 'B' 425-700(RS) was on adhoc basis so he should be consider2d as an adhoc charge till today. (Please see annexure No. 11) so the question of giving him further any promotional or consequential benefit does not arise.
- iii) In view of the above facts the petitioner's

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promotion further to the post of chargeman Gr.

'A' 550-750(RS) should also be treated as illegal and wrong. So all the promotional benifits of Shri Chandrika Prasad should be withdrawn as he has no legal right even for the post of chargeman Gr. 'B' 425-700(RS)

- iv) His(petitioner's) petition claiming seniority over respondent No. 4 to 8 be please be rejected on the ground of the legal facts given above with support of Annexure No. 1, 2, 3, and 11.
- v) The Hon'ble Court is requested very humbly and respectfull to have a thorough probe of the promotional history of Shri Chandrika Prasad S/C right from the inclusion of his name for the selection for the single post of chargeman Gr. 'B' 425-700(RS) Reserved for S/C to the promotion to the post of chargeman Gr. 'A' 550-750(RS). By going through his promotional history the Hon'ble Tribunal will come to know that the petitioner has supressed the rudimental facts of his illegal impanelment as chargeman Gr. 'B' and that both the promotions of the petitioner Shri Chandrika Prasad S/C to the post of chargeman Gr. 'B' and Gr. 'A' are illegal and against the selection rules. I (the respondent No.4) request the Hon'ble Tribunal to deprive him (the petitioner) of the promotion to the post

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of chargeman Gr. 'A' and also dismiss his demanding seniority over Respondent No. 4 to 8 and consideration of his (petitioner) name for the selection to the post of Dyss. 2000-3200 (RPS).

With Thanks,

Yours faithfully,

Dated:.....

Prahlad Gupta
(PRAHLAD GUPTA)

List of Enclosers:-

Respondent No.4

1. Annexure No. 1 Dy.CME(W)/C&W Shops Alambagh, Lucknow no. DEME/796/A dt. 23.11.78 (Photostatcopy)
2. Annexure No. 2, Photostatcopy of P.D. No. 287 regarding the result of Scheduled Caste and General candidate who appeared at the selection.
3. Annexure No. 3. Photostat Copy of the brief of discussion held at C & W Shops Alambagh regarding the panel of of Chargeman 'B' (Welder) Grade Rs. 425-700 (RS).
4. Annexure No. 4 Printed Serial No. 8984 for selection Rule.
5. Annexure No. 5. S.O. No. 648 of 1981 regarding petitioner's promotion to the post of chargeman Gr. 'A' 550-750 (RS).
6. Annexure No. 6. S.O. No. 664 regarding proforma promotion to the petitioner.

P Gupta

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7. Annexure No. 7 S.O. No. 614 of 1981 regarding promotion of the Respondent no. 4 to the post of C/Man Gr. 'A' 550-750(RS).
8. Annexure No. 8 S.O. No. 699 of 1981 regarding reversion of the Respondent no. 4 for the post of Chargeman Gr. 'A' 550-750 (RS).
9. Annexure No. 9. S.O. No. 725 regarding the promotion of the Respondent No. 4 against regular post upgraded w.e.f. 1.1.1979.
10. Annexure No. 10. S.O. No. 781 of 1981 regarding promotion of Respondent No. 4 to the post of Chargeman 'A' Gr. 550-750 (RS).
11. Annexure No. 11. S.O. No. 19 of 1980 regarding petitioners promotion to the post of Chargeman Gr. 'B' 425-700(RS).
12. Annexure No. 12. Seniority list of Chargeman Gr. 'B' Welder 425-700(RS).

P. Gupta

NORTH RAILWAY

Office of the Dy. C.M.E. (W)/C&W Shops,
No. DOME/796/A

The Dy. C.M.E. (W)
Loco Shops/CS/LKO.

Sub: Filling up the vacancy of Chargeman Welder Gr. B. 425-700(RS) by the empanelled hand against the 25% Rankers quota.

Ref: Your letter No. L/108E/C/M (Collection) dt. 7.7.78.

The names of the following men are borne on the panel of Chargeman Welder Gr. B. 425-700(RS) issued under your letter referred to above:

1. Shri Satruhan Lal (S/C) T. No. 51K
2. Shri Ram Kishore S/C T. No. 47 K
3. Shri Chandrika Pr. S/C T. No. 72 K

As per this office letter No. DOME/740/Y/C/M dt. 1.11.77 it was intimated that there is only one vacancy of Chargeman Welder Gr. 'B' B. 425-700(RS) against the Rankers quota. It has also come to notice that the names of more than one men were borne on the abovesaid panel as vacancies of C&W Gr. 'B' trade Gr. B. 425-700(RS) also exist at yours and no vacancy of your shops is against the reserved quota.

Shri Satruhan Lal (S/C) T. No. 51K whose name is at the top of the panel has been awaiting his orders of promotion & transfer to your shops against that reserved quota post i.e. the first vacancy.

The next vacancy pertains to these works which being the second vacancy should be filled in by a general candidate but no empanelled general candidate is available on the panel.

None out of the three candidates from the general list who attended the selection for the post of Chargeman Welder Gr. B. 425-700(RS) had come out successful. It is understood that the next senior candidates of general side have not been called for selection so far. A date for their selection may kindly be fixed and an empanelled hand from the general side may kindly be provided against the vacancy of these works after filling up your reserved quota vacancy by promoting the seniormost empanelled hand Shri Shatruhan Lal (S/C) T. No. 51K of these works against the reserved quota vacancy existing at yours at your earliest convenience.

for Dy. C.M.E. (W)/Loco Shops.

RC/20/11

Before The Honourable Central Administrative Tribunal
CA. N. 142
Lucknow
between
Shri Chandrika Prasad — Petitioner
and
Union of India & others — Respondents

Exch. 4/12/22

2. As per this office letter no. D-1000/11-77 filed at Sr. 202 flogged 2 linked cases. It was intimated to Dycom (S) that at present there was only one head of case. On 11-15-77 (S) under 25% photo of the well up track.

The combined Seniority List of 414855-
 Minutes 52 to 380-380 (Re, 9 Weldon trail, 9 1st work, which
 was sent to Dyersville, Mo. & 80% of the purpose
 may kindly be peruse at 507 flayed 9 linked case
 No. 1046 (7411 II).

24/11/1941
The staff of Welder Trade who were called for
selection for the post of Chief Welder C/S & W/S in (B), may
kindly be perused at S.N. 225 flpped. The letter contains
the names of six candidates i.e. 3 General & 3 Special for
making a panel for one General & one the C/S & W/S
for posting one General candidate against the vacancy
of these works & one Special against the second of the
vacancy in Loco Shops C/S & W/S. The names of the
candidates are as under, please.

S. No. Name, & Grade

check on
the water level

10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39-40-41-42-43-44-45-46-47-48-49-50-51-52-53-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-83-84-85-86-87-88-89-90-91-92-93-94-95-96-97-98-99-100-101-102-103-104-105-106-107-108-109-110-111-112-113-114-115-116-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000-1001-1002-1003-1004-1005-1006-1007-1008-1009-1010-1011-1012-1013-1014-1015-1016-1017-1018-1019-1020-1021-1022-1023-1024-1025-1026-1027-1028-1029-1030-1031-1032-1033-1034-1035-1036-1037-1038-1039-1040-1041-1042-1043-1

flogged & linked case no. DCMR/740/1011. As per the
sent to DCMR (b) Loco Shops CB/420 for disposal.
It is clear that the names of S/Sr. S.K. Bose, 13, and
Mehd Ahmed are as per their seniority position. Whereas
the names of S/Sr. Satruhanlal Ram Kishore and
Chandrika Id are against their 13, 15, 16 of their list.

For further portion being permiss. office
late filed at S. No. 285 flagged may kindly be
perused. B-11

In The Honourable Central Administrative Tribunal
LUCKNOW

LUKKNOM

O-N No. 142 of 1990

Sh. Chandika ^{before} Prasad Petitioner

Union of India ^{and} others - Respondents

Annexure No.

3

Page 2 of 3

In the Honourable Central Administrative Tribunal
LucknowO.A. No. - 142 of 1990
betweenShri Chandrika Prasad — the Petitioner
Union of India and others — Respondents.

As decided the position in regard to the promotion of C/man 'B' (Welder) grade Rs. 425-700 (RS) S.M. by the Dy.CMB (W) Charbagh, Lucknow being the regional level, has been discussed in the office of Dy.C.M.B. (W) and the position is given as under :-

There is one vacancy of C/man 'B' (Welder) grade Rs. 425-700 (RS) in each work shop i.e. carriage and Loco. The Vacancy of Loco Shop is against the schedule caste quota whereas that of Alambagh is for general candidate. Accordingly, the case was put up for formation of panel i.e. 1 candidate for schedule caste and for general. For this the names of 3 senior most general and 3 of schedule caste candidates out of combined regional seniority were put up. One of the general candidate failed and one refused and one has since retired. The remaining 3 schedule caste candidates were to be given tests for formation of panel for one candidate against the schedule caste quota vacancy of CB Shops but all these three who belong to Alambagh Shops have been declared suitable and their names have been borne on the above panel, of which is provisional one. The names of 3 sch. caste candidates have been borne on the panel against the demand of one is best known to the authorities of Loco Shops CB who have issued this panel.

However, it has been suggested that as no general candidate has been declared suitable out of the previous list the name of 3 next senior most general candidate may be put up from the combined regional seniority for their selection for the post of C/man 'B' for promotion against the vacancy at Alambagh and till this aspect is finalised the provisional panel already issued should not be finalised.

From the position as given above it is clear that the vacancy which exists at Alambagh is for a general candidate which can only be finally filled in as and when the name of general candidate is borne on the panel and existing provisional panel is declared final.

Till such time an adhoc arrangement may be made and inst. the existing at Alambagh, out of the senior most sch. caste candidate or, as the reserved quota point vacancy exists at Loco Shop CB, the senior most should be promoted by Dy.C.M.B. (W)/CB and posted at Charbagh Shop against the existing vacancy of sch. caste candidate and the next junior candidate may be put to officiate at Alambagh purely on adhoc basis till the panel of general candidate is formed at Charbagh, Lucknow.

Engined by already been
posting as s.m. 282 7. case
No. DC-14 of 74 of A / CMB / Panel
the order are awaited 3/1/7

P. Gupta

O.A. No. 142

LUTKHOW

of 1990

A/49

Shri. Suresh Chandra Prasad and
Union of India & others Respondents.

Annexure No. 4
PRINTED SERIAL P.S. No. 8984. [Selection Rule]

- (f) Eligible staff upto 3 times the Number of existing and anticipated vacancies will be called for written and/or viva voce test. (Anticipated vacancies can not be only those which are likely to arise due to normal wastage or those already sanctioned as additions to the cadre by the competent authority, anticipated vacancies should also include vacancies of staff who are already empanelled for still higher grade). If this number can be obtained in the grade immediately lower there would be no need to go to the grade further lower down. If the requisite number of staff on this basis is not available in the grade next to the grade for which the selection is being held the selection board could be considered the staff in the next lower grade in order to make up the number required to be called up for selection but in no case the eligibility shall be extended to staff in grade lower than the 2nd. Persons employed against fortuous short-term or stop gap promotion to the eligible grade other wise than in accordance with the regular approved method of promotion, will not be eligible for consideration merely because of such fortuous promotion. It is desirable to hold written tests as part of a selection in respect of all initial selection grade post in the different channels of promotions but in every case a viva voce test shall be held. If a written test is proposed to be held advance intimation shall be given to all eligible candidates. In respect of vacancies reserved for SC/ST candidate, the field of selection should be separately determined from amongst the

continued --- 2

Shri Chandrika Prasad — Petitioner
and others — Respondents.
Ministry of India & others

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N.Rly. Office of the Dy CME(W) C&W shops, AMV, Lucknow.

S.O. No. 648 of 1981

Dt. Sept 1981

On temporary post of Chargeman Welder Gr.A Rs.550-750(RS) of End Modification sanctioned for a period of 12 months as per item(2) of S.O. No.294 of 1981 is operated upon and the following temporary local adhoc arrangements are made against this post w.e.f. 14-9-81 Forenoon, purely as a temporary measure:-

Shri Chandrika Pd(S/C) Chargeman Welder Gr.B pay Rs.455/- p.m. Gr Rs.425-700(RS) of Welding shop is put to officiate as Chargeman Welder Gr.'A' on pay Rs.550/- p.m. in Gr.Rs.550-750(RS) and posted against the newly sanctioned post of End Modification.

Shri Chandrika Pd (S/C) must understand that this is purely a ty local adhoc arrangement and it will not confer upon him any right or claim for such promotion over his seniors in future.

Signed

For Dy CME (W) AMV Lko

No.DCME/796/A/Welder Dated Sept. 12 1981.

C.To Addl CME/LOCO/CB-Lko for information in ref to this notice No.50E/CM/CT-I dt 19-8-81.

Shri Shatruhan Lal C/Man(S/C) whose orders were issued and the letter in question is not considered fit for promotion. Hence this local adhoc arrangement is made to operate this post till posting of the next regular senior man who is working in Loco Shop CB Lko.

Copy to - SS/Welder, AS(TO) Hq/Super leave clerk for information and n. action.

Staff Order No. 664

Dated 20/12/90

In terms of G.M. (P)/NDLS letter No. 940-E/611 (E11w) dt. 20.11.90 circulated under CME/CB/Lko staff order No. 666 dt. 6.12.90, Sri Chandrika Prasad CM(B) welding has been considered in CM(A) weld grade Rs. 550-750/Rs. 1600-2660 (RPS) against the upgraded post w.e.f. 1.1.84 on the roster point (reserved for S/C vacated by Sri N.K. Naskar CM(A) welder who has been given proforma promotion and seniority w.e.f. 1.4.82).

Accordingly Sri Chandrika Prasad who was earlier promoted w.e.f. 25.7.90 vide CWM/CB's S.O. 426 of 25.7.90 and transferred to Loco shop/CB vide this office S.O. No. 432 dt. 17.8.90 and 557 dt. 22.10.90, are modified as sent Sri Chandrika Prasad is now promoted as CM(A) welding grade 550-750/1600-2660 (RPS) w.e.f. 1.1.84 against upgraded post on proforma basis and his transferred to loco shop/CB is hereby cancelled and he is retained at Alambagh/shop vice Sri Satruhan Lal CM(A) weld.

Sri Satruhan Lal CM(A) weld pay Rs. 1900/- in grade Rs. 1600-2660 being junior most C/M(A) weld is transferred and spared from Alambagh shop to charbagh shop with immediate effect for his further posting order.

The ^{revised} reserved seniority list of CM(A) weld is reproduced below:-

1.	Sri Prahlad Gupta	4.11.81
2.	" N.K. Naskar (S/C)	1.4.82
3.	" V.B. Srivastava	1.1.84
4.	" P.K. Sharma	1.1.84
5.	" B.K. Srivastava	1.1.84
6.	" P.K. Bose	1.1.84
7.	" P.N. Srivastava	1.1.84
8.	" Chandrika Prasad S/C	1.1.84
9.	" Satruhan Lal S/c	8.7.89

In view of the above, the pay of Sri Chandrika Prasad CM(A) weld grade Rs. 1600-2660/550-750 who has been given proforma promotion and seniority as CM(A) w.e.f. 1.1.84 is fixed as under.

Contd...2/-

[Signature]

403-2012-20-12-90

Pay Already drawn

Grade	Pay	From
425-700	500/-	1.1.84
550-750	590/-	1.9.83
"	590/-	4.7.84
reverted as CM(R)		
425-700	500/-	5.7.84
"	515/-	1.1.85
"	530/-	1.1.86
1400-2300	1560/-	1.1.86
	1600/-	1.1.87
	1640/-	1.1.88
	1680/-	1.1.89
	1720/-	1.1.90

Pay as should be

Grade	Pay	From	
550-750	590/-	1.9.83	officiating
550-750	590/-	1.1.84	as CM(A)
"	610/-	1.9.85	ad hoc basis
"	630/-	1.9.85	promotion
1600-2660	1850/-	1.1.86	as CM(A)
"	1900/-	1.9.86	w.e.f.
	2000/-	1.9.87	1.1.84
	2050/-	1.9.88	by counting
	2100/-	1.9.89	of offici
	2150/-	1.9.90	ating
			period.

Note:-No arrears payment will be made to Sri Chandrika Pd.CM(A) grade Rs.1600-2660 for 1.1.84 till the date of his actual promotion as CM(A) held.

This has the approval of Dy.CME (w), Amv/Lko.

No.DCME/756/A/Pt.II.

for Dy.C.M.E. (w), Amv/Lko.

Copy to the following for information and necessary action:-

1. SS/welding with the instruction to refer Sri Shatruhan Lal C/M(A)welding immediate and direct him to report CWM/CB. for his further posting order.
2. OS (Pay-Bill), OS (Time office) HC (Pass) Leave Clerk (Supr)
3. SAO (w) /Amv PF and Esstt/Amv.
4. CWM/CB.
5. GM (P) /N.Rly, Hd. Qrs. Office /New Delhi.

.....

R/192290

[Signature]

उप मुख्य यांत्रिक अभियन्ता, कार्य, तयारी एवं माल डिब्बा कारखाना, आलमघाग, लखनऊ।

कार्यालय आदेश नं० 614 :

इस कार्यालय के पत्र संख्या 844/डी०सी०एम०ई०/22/भाग-4 के दिनांक 14-8-81 के क्रम में श्री पी०बी० वासु, शाप अधीक्षक, वेल्डर, वेतनमान र० 840-1040 [संवे०] जोरि दिनांक 18-8-81 [अपराध] से शाप अधीक्षक रिफ़र पाल्पम, जमालपुर में जोरि 21-8-81 से 1-10-81 तक होने का रहा है, उपस्थित होने के लिए कार्यमुक्त किया गया है, के स्थान पर निम्न लिखित अस्थायी आधार पर व्यवस्था की जाती है। यह अस्थायी तदर्थ आधार पर स्थानीय स्तर से दिनांक 21-8-81 [पूर्वार्ध] से की जाती है।—

- 111 श्री जर्मसिंह, सहायक शाप अधीक्षक, वेतनमान र० 700-900 [संवे०] को श्री पी०बी० वासु के स्थान पर वेतन र० पर तैनात किया जाता है।
- 121 श्री पी०बी० शुक्ला, चार्जमैन ग्रेड-1 वेतन प्रतिमाह वेतनमान 550-750 [संवे०] को सहायक शाप अधीक्षक वेल्डर वेतन र० 730/- प्रतिमाह वेतनमान 700-900 [संवे०] में श्री जर्मसिंह के स्थान पर तैनात किया जाता है।
- 131 श्री प्रहलाद गुप्ता, चार्जमैन, वेल्डर ग्रेड-बी वेतन र० 500/- प्रतिमाह वेतनमान 425-750 [संवे०] को चार्जमैन ग्रेड-ए, वेतन र० 550/- प्रतिमाह वेतनमान र० 550-750 [संवे०] पर श्री पी०बी० शुक्ला के स्थान पर तैनात किया जाता है।
- 141 श्री जयकान्त, निस्त्री, ग्रेड-प्रथम को वेतन र० प्रतिमाह वेतन मान 425-700 [संवे०] में चार्जमैन, ग्रेड-बी के पद पर श्री प्रहलाद गुप्ता के स्थान पर तैनात किया जाता है।

नोट : उपरोक्त सभी कर्मचारियों को यह भलीभाँति स्पष्ट रस से समझ लेना चाहिए कि यह व्यवस्था पूर्णतया अस्थायी, तदर्थ और स्थानीय आधार पर की गयी है। और भविष्य में उनके वरिष्ठ कर्मचारियों के उमर उनका कोई दावा नहीं होगा।

पत्र संख्या- डी०सी०एम०ई०/196/वेल्डर दिनांक 8-1981 लखनऊ उप मुख्य यांत्रिक अभियन्ता [कर्म०]

तयारी एवं माल डिब्बा कारखाना, आलमघाग, लखनऊ।

प्रतिनिधि :

- 111 महा प्रबन्धक, [कार्यक], उत्तर रेलवे, नई दिल्ली को सूचनाार्थ।
- 121 उपर मुख्य यांत्रिक अभियन्ता, लखनऊ को सूचनाार्थ।
- 131 शाप अधीक्षक, वेल्डर, जालमय अधीक्षक, वेतन विल, प्रधान लिपिक, डायम आधिकार, प्रधान लिपिक, सुपरवाइजर, प्रधान लिपिक को सूचनाार्थ एवं त्वरित आवश्यक कार्यवाही हेतु प्रेषित है।

सहभागी,

भाषदीय

27-12-1990:

© A. No- 142

In the Hon. Central Administrative Tribunal
Lucknow

between
Sh. Chandraker Prasa —
Union of India & others —
NORTHERN RAILWAY

Ret. Name

of - 1970

Respondents.

Annexure No. 8

Office of the Dy CME(W) CPW shops Alambagh Lucknow.

S.O.No.699 of 1981

Consequent upon resumption of duty by Sri P.B.Basu
Shop Supdt vide Principal IRIM & EE/ Jamelpur letter
No.6 TS/73/55/ 3 dt 1.x.81 after attending refresher course
at IRIM & CE/JMP vide S.O.No.614 of 1981 read with S.O. No.
635 of 1981, the Officiating arrangements as made vice him
of S/Shri Karam Singh V.D. Shukla, Prahlad Gupta and Chhakkan
Lal cease to operate w.e.f. 3.x.81 AN (4.x.81 being Sunday)
For Dy CME 'W' Alambagh

MH/12

No. DCMH/796/A/Welder Dt. Oct. 12, 81

Copy to GM (P)/ NDLS for information.

C/ SS/Welding ASPB ASTO HC Superclerk and SCC K for
information and necessary action.

[Handwritten signature]

San Chandra Singh (Petitioner) - Retiree
Union of India - Respondent

NORTHERN RAILWAY LOCOMOTIVE WORKS CHARRBAGH LUCKNOW.

Annexure No

S.O. No.

725

Dated 10/10/1981.

9

In terms of S.N.O. (W)'s D.O. letter No. 940E/521 (Eliw) dated 2.7.81, Nine posts of C/man Gr. B. 425-700 (RS) of PW have been upgraded to grade B. 550-750 (RS) as a result of distribution of posts in the ratio 60:40 w.e.f. 1.1.79.

The following trades are allotted to the above posts:-

Machinists-	Two.
LFCTS	- One
Millwright	- One
Welder	- One
T/Maker.	- One
Fdy/PM	- One
BS/HT	- One

Allotment of trade to the one remaining post will follow.

The following postings are ordered w.e.f. 2.10.81 against the above upgraded posts.

(S/c)

1) Sri Ram Palat, C/man 'A' (Mach) Grade B. 550-750 (RS) who has been to Chandausi for attending Advanced Work Study Course training vide this office Letter No. 50E/CM (Refresher) dated 13.7.81 having ~~xxxx~~ returned from training and reported in office on 7.9.81, is posted in the Wheel Shop in the capacity against the post now upgraded. The intervening period in his case is treated as waiting for posting orders.

2) Sri Kulwant Singh, C/man 'B' (Mach) of RF pay Rs. 600/- per month Grade B. 425-700 (RS) is put to officiate as C/man 'A' on pay Rs. 630/- per month Grade B. 550-750 (RS) against his own post now upgraded.

3) Sri S.N. Chibber C/man 'B' (MW) pay Rs. 620/- per month Grade B. 425-700 (RS) is put to officiate as C/man 'A' on pay Rs. 650/- per month Grade B. 550-750 (RS) against his own post now upgraded.

4) Sri Chandrika Pd. C/man 'B' (Fdy/PM) of FDY Shop pay Rs. 580/- per month Grade B. 425-700 (RS) is put to officiate as C/man 'A' on pay Rs. 610/- per month in Grade B. 550-750 (RS) against his own post now upgraded.

5) Sri P.K. Bajpai, C/man 'B' (BS/HT) of BSS pay Rs. 470/- per month Grade B. 425-700 (RS) is put to officiate as C/man 'A' on pay Rs. 550/- per month in Grade B. 550-750 (RS) against his own post now upgraded.

6) Sri P.K. Sarkar (S/C) C/man 'B' (T/M) of TAT Shop pay Rs. 455/- per month in Grade B. 425-700 (RS) is put to officiate as C/man 'A' on pay Rs. 550/- per month in Grade B. 550-750 (RS) against his own post now upgraded.

7) Sri R.A. Varma, C/man 'B' (LFCTS) of ES pay Rs. 485/- per month grade B. 425-700 (RS) is put to officiate as C/man 'A' on pay Rs. 550/- per month grade B. 550-750 (RS) against his own post now upgraded.

Posting orders for Welder trade follow separately.

G. Gupta

Between
Shri Chandrika Prasad - Petitioner
and
Union of India & others - Respondent

1/56

S.O.No..... Dated -10-1981.

Annexure No 10

In continuation of this office S.O.No.725 dated 10-10-81
Shri Prahlad Gupta, C/man 'B' (Welder) pay Rs 400/- in Grade B.
425-700 (AS) of Alambagh shops having been spared on 30-10-80 (AN)
in terms of Dy.CME(W) AMV's Sp.No.734 of 1981..... and reported
in this office the same AN, is posted as C/man 'A' (Welder) on pay
Rs 550/- PM in Grade B, 550-750 (AS) in RF section against the
up-graded post w.e.f 2-11-81 (FN) vice Shri V.B.Srivastava. Shri
Gupta is treated as waiting for posting order on 31-10-81 (10/11/81)
to 31-11-81

The following transfers and postings are also ordered w.e.f
2-11-81 (FN).

1. Shri V.B.Srivastava, C/man 'B' (WLD) Gr B 425-700 (AS) of RF
section is transferred in the same capacity to Welding shop and
posted vice Shri N.K.Naskar, Shri Srivastava's PCO allowance is also
stopped from the same date.

2. Shri N.K.Naskar C/man 'B' (WLD) pay Rs. 455/- PM Grade B.
425-700 (AS) of Welding shop is transferred in the same capacity
to Alambagh Shops / LAO vice Shri P.Gupta.

He may be directed to report to the DyCME(W) C&W shop/AMV
Lucknow for posting.

for Dy: Chief Mech. Engineer (W)/CB/LKO.

....

Copy forwarded for information and necessary action to:-
1) The AS/TO, PB, ~~HC/PS~~, HC/PS, SAO(W)/CB, SS/RF, & Welding, Loco
Charbagh, Lucknow.

2) The Dy:- Chief Mech. Engineer (W)/CB/LAO. He will please
send the LPC, L/Book and L/Account etc. of Shri Prahlad
Gupta, C/man (WLD) immediately.

for Addl. Chief Mech. Engineer (W)/CB/LKO.

....

[Signature]

In the Hon. Central Adm. Tribunal
LUCKNOW
O.A. No. 142-
before of 1990
Shri Chandrika Pd. Presed
Union of India & others - Respondents

Annexure No: B

N.Rly. Office of the Dy. CME (W), C & W Shops AMV LKO.

S.O.No. 19 of 1980.

Dated Jan 9, 1980

A- Shri Muneshwar (S/C) T.N. 6K C/M 'B' pay Rs. 590/-PM in Gr. Rs. 425-700 (RS) who was put to officiate as C/Man Gr. 'B' w.e.f. 14.7.76 vide this office S.O.No. 578 of 1976 is now reverted vice Shri Chandrika Pd. 74K w.e.f. 9.1.80 A.N. on pay Rs. 545/PM in Gr. Rs. 380-560 (RS).

B- Shri Chandrika Pd (SC) T.No. 74K HSK Gr. I Welder (The selected staff of C/M Gr. B Welder) of welding shop pay Rs. 426/-PM ^{on Gr. Rs 380-560 (RS) is put to} Officiate as C/Man Welder Gr. B on pay Rs. 440/-PM in Gr. Rs. 425-700 (Rs) w.e.f. 10.1.80 PM and posted vice item A above. He will be paid offg. allowance provided the period exceeds 31 day.

This officiating arrangement of Shri Chandrika Pd. C/M B is a purely temporary on adhoc basis and it will not confer upon him any prescriptive right over his seniors in future.

For Dy. CME (W) Amv Lko.

No DOME/790/Pt IV dated Jan 9, 1980.

Copy :- SS/Welding, CTK, HC/PB, HC pass, Dy.CAO (W)

OS/Supe. for information necessary action.

P. Singh

A
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BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

L_U_C_K_N_O_W.

Reg. O.A. No. 142 of 1990

Chandrika Prasad

Applicant

Versus

Union of India & others

Respondents

*Recd one copy
Chandrika Prasad*

Rejoinder application of Respondant No. 5

to the application aforesaid.

*SKM
Prasad*

(PLEASE TURN OVER)

8/10

1. That as per recruitment and promotion Rules for appointment to the grade of Chargeman 'B' made by the Railway Board, there ^{is} ~~are~~ quotes for appointment in the grade, which are as follows :

- (a) 50% for direct recruitment from open market as Apprentice Mechanic and subsequently appointed as Chargeman 'B' against the 50% quota.
- (b) 25% for recruitment through selection as Intermediates Apprentice from amongst the working high skill grade I artisan Cadre Staff.
- (c) 25% department quota for promotion Rf. H.S. Grade-I.

2. That the applicant - Respondent No. 5 was recruited against 50% quota from open market as Apprentice Mechanic from 13.07.77 and subsequently absorbed directly as Chargeman 'B' after completion of his training with effect from 13.07.79 F.N..

3. That the applicant - Sri Chandrika Prasad (SC) was a High Skilled Gr. I till 09.01.80. However, he was called for selection against 25% Rankers quota for departmental candidates against one vacancy of Chargement 'B' in Loco Workshop of Charbagh Lucknow reserved for SC Comm.. As against one vacancy as per extant rules, at the ratio of 1:3 SC candidates (including Sri Prasad) were called for Selection. Out of the 3 candidates only one S.C. candidate was to be empanelled as ^{per} ~~of~~ Railway Board's letter No. E(NTG)I/76PMI/168 dated 3.9.76 copy enclosed as Annexure 'K' of this application.

*Notified in
action*

4. That in lieu of notifying a panel of one selected candidate, out of the candidates called for, the Railway Administration notified the panel of 3 candidates which is totally illegal. However, as per extant rules, only the name of

Sri Satruhan Lal was to be notified and legal. Accordingly the empanelment of balances two persons including the name of Sri Chandrika Prasad - Applicant) is illegal and un-sustainable. The Hon'ble Tribunal may kindly declare the panel aforesaid to the extent of two remaining candidates as illegal and quash the same (Annexure '2').

5. That Sri Chandrika Prasad - applicant aforesaid was promoted as Chargeman 'A' on ad-hoc basis against a work charged post vide staff order No. 648 AMV, dated 12.09.1981 (Copy attached as Annexure '3' on the strength of his illegal empanelment vide Annexure '2' aforesaid ignoring the claim and entitlement of the Applicant - Respondent No. 5, although the applicant was senior to Sri Prasad. The undersigned applicant was due promotion as Chargeman 'A' on adhoc basis against the said existing vacancy of workcharged post in terms of Railway Board's letter No. 83-E(SCT)42/1 dated 14-4-83 copy enclosed as Annexure '4' to this application.

6. That against the aforesaid illegal promotion of Prasad this applicant made a representation dated 16.09.1981 followed by reminders, last being of 19.12.1983. However, the Railway Administration had acceded to his claim and notified the revised seniority, list vide order No. DCME/741/P -IV, dated 03.05.1984 (copy enclosed as Annexure '5') and Sri Prasad was also reverted to the grade of Chargeman 'B'. Copy of the order is in the possession of D.P. No. 1 who may produce a copy of the same for information and records with the Hon'ble Tribunal.

7. That the claim of this applicant for payment of wages and allowances etc. under the next below rules contained in Rule No. 2026 of R-I claiming vide his claim application

M. K. Singh
N. K. Singh

A
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dated 07.12.1987, copy enclosed as Annexure '6', is still pending with the opposite party No. 1 for payment. Hon'ble Tribunal is requested to kindly also consider this point and pass their orders in favour of the applicant - Respondent No. 5 directing Opposite Party No. 1 to arrange payment etc. within a stipulated period as deemed fit by the Hon'ble Tribunal.

8. That in the meantime Railway Board had made rules for restructuring of the Railway Servant's Cadre vide their letter No. PC-111/83/UPG/3 dated 1-5-1984 and under the said order 4 Nos. of posts of Chargeman 'A' grade had arisen. This applicant as per his general seniority, pending decision on his representation aforesaid had ordered his promotion to the next grade in his channel as Chargeman 'A' under modified Selection procedure envisaged in the said Board's letter with effect from 01.01.84, F.N. vide staff orders No. 342 CB, dated 23.06.1985 and 458 AMV, dated 20.07.1985. Copies of which are enclosed as Annexure '7' & '8'.

9. That the applicant - Respondent No. 5 had appealed for proforma fixation of seniority and grade from 04.11.1981 vide his application dated 07.04.1986 (copy enclosed as Annexure '9'.) His request was acceded to by Opposite Party No. 1 from 14.09.1981, instead of 04.11.1981 vide staff order No. 341 E/CM(Wed), dated 07.04.1986. Copy enclosed as Annexure '10'. This order has not met the requirements of law. Thus the partial claim of the applicant is still pending with Opposite Party No. 1 for decision.

M. K. D. W.
N. K. D. W.

10. That now this applicant reverts to the claims of Sri Chandrika Prasad in the application. The applicant - Respondent No. 5 begs most respectfully to state as under :

11. That the facts of para 1 of the application to be proved by the applicant. The Petition - Respondent No. 5 does not want to state anything against his contention at this stage and in this para, but the Respondent - Applicant will disprove his entitlement in argument.

12. That the facts stated in para 2 is a matter for the Hon'ble Tribunal to decide. The applicant Respondent No. 5 has no comments in this respect.

13. That similarly as in previous paras this applicant Respondent No. 5 has no comment in this respect of his claim about limitation. Hon'ble Tribunal may decide the point of limitation as per law.

14. That the contention of the applicant in para 4 (i) is denied in full, because the applicant has no claim in this matter being junior to the Respondent No. 5 in the grade of Chargeman 'A' but for his illegal promotion to the post of Chargeman 'A' earlier to the Respondent No. 5. His seniority case was pending for a decision when the applicant was promoted, pending decision on Respondent No. 5. Cases aforesaid However, his case has now been partially decided and as a result of this decision the Respondent No. 5 stands senior to the applicant. A copy of the relevant order No. 664 dated 20.12.90 is enclosed as Annexure R-I to this application. However, the authenticity and correctness of the CWM's selection notice, already filed by Applicant as Annexure 'I' of his application to neither disputed, not accepted the same as defective as claimed by Sri Prasad, Applicant.

15. That the averments of the applicant in para 4(ii) of his application are not disputed being facts of records. The applicant is to establish his claim by documents upto the satisfaction of the Hon'ble Tribunal.

16. That the claim of the applicant in para 4(iii) is denied in full for the reason that -

(a) Sri Chandika Prasad had appeared in a Selection for ad-hoc promotion. In case any panel was made for ad-hoc promotion, pending decision on the Respondent No. 5's case, that was totally illegal.

*Noted in
M. K. Prasad*

(b) The applicant was promoted on ad-hoc basis as Chargeman 'B', scale Rs. 425-700 (RS), from 10.01.1980.

(6) Ad-hoc promotion does not confer any right on the adhoc ~~xx~~ promotees to claim seniority or higher pay over his seniors.

(d) Sri Prasad is void of entitlement to the claims asked for before the Hon'ble Tribunal through the application in question in respect of seniority and promotion over the Respondent No. 5.

17. That the claim of the applicant in para 4(iv) are denied in full and stated that applicant (Sri Chandrika) was promoted on adhoc. His promotion on ad-hoc basis also was illegal and unsustainable as per rules. The adverse C.R. for the year 1980-81 was no material for denial of adhoc promotion of the applicant in accordance with general rules made by the Railway Board for common application on the Railway Servants vide item VII Board's letter No. 83-E(SCT)42/1, dated 14.04.83. His claim of becoming senior to the applicant - Respondent No. 5 is totally wishful, presumptive and illegal.

18. That the statements of the applicant in para 4(D) are denied in full not being concerned with this application. Again the Respondent No. 5 applicant was appointed as direct Chargeman 'B' with effect from 13.07.1979, whereas Sri Chandrika Prasad was promoted in the grade of Chargeman 'B' from 10.1.80 i.e. after about 6 months against Ranker's quota of 25%. Sri Chandrika Prasad (SC) was again promoted as Chargeman 'A' on adhoc basis, against a reserved post in the grade, without consideringly the claim of his senior SC candidate (Respondent No. 5) for adhoc promotion in terms of Board's letter No. 83-E/SCT/42/1 dated 14.04.1983. The applicant Respondent represented against this illegal promotion of Sri Prasad vide his representations dated 10.9.81, 16.9.81, 30.9.81, 13.11.81, 28.11.81. Ultimately the undersigned Respondent was promoted as Chargeman 'A' from 01.01.1984 vide Opposite Party No. 1's letter No. 342, dated 23.05.1985 on regular basis.

*M. K. K. in
N. K. K.*

Further added that out of the candidates (Rankers) called for selection vide Opposite Party No. 1's letter dated 07.07.1978, there were total four SC candidates and two general candidates. All the first three candidates by seniority (including one senior SC) had failed in the selection against the vacancy for the reserved candidates. However, as against one restored vacancy in Loco Workshop at CB., as per extent rules, only one SC candidate ought to have been empanelled or maximum two candidates could be empanelled against one reserved post and one un-reserve post at C & W workshop at Alambagh. Accordingly empanelment of the third candidate i.e. Sri Chandrika Prasad as contained in letter No. DCME/796A, dated 23.11.78 is totally malafide, unfair and illegal. The said panel need now to be ordered by the Hon'ble C.A.T. for modification to the extent of two candidates with reference to their existing vacancies Sri Chandrika Prasad being junior most in the grade of SK Gr. I artisan was therefore not at all eligible either for promotion to the grade of CMB or for consideration for the post of CMA or for Dy. S.S. Scale Rs. 700-900.

Also mentioned that Sri Ram Kishan (SC) second empanelled candidate was only due for promotion against the existing un-reserved post at C&W Workshop at Alambagh, not the Applicant. Even for adhoc promotion the senior most person in the combined seniority list i.e. Sri S.K. Bose was due for promotion, not Sri Chandrika Prasad. Therefore Chandrika Prasad's promotion as CMB from 10.01.80 was totally illegal and is not maintainable. Accordingly his claim of seniority and eligibility is continable and illegal. His claim in the impugned application may therefore be dismissed with costs to the Respondent.

18. That the statements of the applicant in para 4(vi) are not disputed being fair and correct. Sri Chandrika Prasad being junior to the Applicant Respondent No. 5 was correctly reverted.

19. That the statements of the applicant in para 4(vii) are denied in full and claimed that CWM's letter dated 17.02.1988 is un-sustainable and illegal. As per Board's letter on this point, there was no column in the form of C.R. in the year

8/66

(7)

of 1981 for assessing the applicant as un-suitable. Therefore the contention of the applicant and the Annexure '2' is baseless, malafide and illegal. Annexure '2' of the application needs to be quashed on this single ground itself.

Regarding second para of the said para, it is stated that Sri Chandrika Prasad was not regular in the grade of Chargeman 'B'. Therefore neither he could be promoted to the grade of Chargeman 'A', nor is that act of the Respondent No. 1 fair and legal. Similarly, the claim of Sri Prasad is also illegal. Further Sri Prasad could not be promoted against point No. 1 of the Roster as contended till the time the claim of the Applicant - Respondent was settled, he being senior to Sri Prasad. The Annexure '2' of the application is liable to be quashed, being totally illegal.

20. That the statements of the applicant in para 4(viii) are denied in full. It is stated that the contention of the Respondent No. 1 in Annexure '3' of the application was totally wrong, unfair, malafide and illegal for the reasons that the applicant could neither be empanelled, nor could he be promoted superseding his senior SCs for ad-hoc promotion in the grade of Chargeman 'B' and also for additional reasons mentioned elsewhere in earlier paras. Sri Bhanneswar (SC) who is senior to Sri Prasad was to be promoted as Chargeman 'B' against the backlog point, if any. Further the applicant has not submitted the copy of the Roster for sustaining his claim. However, denial of adhoc promotion of Sri Bhanneswar (SC) is partiality and illegal. Therefore Annexure '3' is liable to be quashed.

21. That the statements of the applicant in para 4(ix) is denied in full on the grounds mentioned in earlier paras. It is stated that the claim of Sri Prasad is based on imagination, not based on facts or rules. Therefore his claim is liable to be dismissed with costs to the Respondents.

22. That the statements of the applicant in para 4(x) is denied in full. As his promotion on adhoc basis the feeder grade of Chargeman 'B' itself was totally incorrect and illegal superseding ~~his~~ his senior Sri Bhanneswar (SC), and his empanelment for promotion as Chargeman 'B' was totally illegal and his promotion to the post of Chargeman 'A' from an

earlier date than that of the applicant - Respondent his reversion was centpercent correct in the interests of natural justice to the victims of unfair acts in the episode.

23. That the statements of the applicant in para 4(xi) are denied in full being wishful, presumption and illegal. In refutal of the applicant's claim of regular promotion and seniority in the grade of Chargeman 'B' from 10.01.1980, a copy of his promotion order S.O. No. 19 of 1980 dated 09.01.1980 to the grade is attached herewith as Annexure '12'. This document is an exposure of his illegal claim and also nullifies the claim of the Respondents 1 - 3. His application is therefore liable to be dismissed on this single ground itself.

24. That the statements of the applicant in para 4(xii) are denied in full. The Annexure & '3' to the application is totally illegal being not in conformity with the rules aforesaid in earlier paras. There is no weight at all in his claim, nor is there any weight in Annexure '3' to the application. Annexure '3' of the application is therefore liable to be quashed and the impugned application is also liable to be dismissed with costs to the Respondents.

25. That the statements of the applicant in para 4(xiii) claiming his eligibility for selection for the post of ~~Chargeman~~ & Dy. S.S. are denied in full for the reasons that the promotion of the applicant to the post of Chargeman 'B' and treating him regular on this post is basically wrong and illegal. He is not at all eligible for any relief or benefits from 01.01.1984 as claimed by him in this para of his application. His application may therefore be dismissed.

26. That the statements of the applicant in para 4(xiv) are not being commented upon, as his claim has nothing to do with the applicant - Respondent No. 5. However, it is state that Sri Prahlad Gupta, Respondent No. 4, is also junior to the Respondent No. 5. This matter is being pursued with Respondents Nos. 1-3 separately. Further added that out of the two posts of Dy. S.S., the applicant - Respondent No. 5 being the senior most amongst SCs in the grade of Chargeman 'A' should have already been promoted against one of the up-graded posts under the cadre restructuring scheme, with reference to his juniors who have already been promoted. Accordingly

*Nilesh Kumar
Kashan*

the applicant - Respondent No. 5 ought to be exempted from the said selection for the posts of Dy. S.D. and ought to be declared already promoted as Dy. S.S. against the restructured posts of Dy. S.S. from back date. This matter is under active consideration between the representative trade union and the Respondents No. 1-3. Accordingly there seems to be no ground for the applicant to claim his eligibility for selection for Dy. S.S. unless there is any point/post is reserved for SC and he is within the Zone, what he has still to establish before his case is considered.

27. That the statements of the applicant in para 4(xv) are denied in full for the reasons mentioned in earlier paras and also for additional reasons mentioned &R hereafter. The applicant has alleged in this para that the Applicant - Respondent No. 5's promotion to the post of Chargeman 'A' from 01.04.1982 was illegal as there was no vacancy and no Roster point for SC on 01.04.1982, but he has not stated in details any where in his application, the reasons and authorities he relies upon in support of his claim. His claims aforesaid are only wishful and an imagination, which are no basis before law. However, it is reaffirmed that the applicant's empanelment, treating him as regular Chargeman 'B' and subsequent promotion to the post of Chargeman 'A' are all illegal. Accordingly, he has no claim to his Selection to the post of Dy. S.S. until he could establish his claim for regularisation on the post of Chargeman 'B' and his claim for the applicant - Respondent No. 5's promotion to the post of Chargeman 'A' against an earlier point of Roster reserved for S.C. is illegal. He is welcome to come with his detailed reasons and authorities in its support to establish that the Respondent No. 5's promotion and grant of proforma date of promotion and pay fixation was illegal so that the applicant Respondent No. 5 could disprove his claim. However, Sri Prasad in no way in the fray for the post of Dy. S.S. with the Respondent No. 5, whereas the applicant is illegally holding the posts of Chargeman 'B' and Chargeman 'A' for the reasons mentioned in earlier paras. Justice demands his reversion to the grade of High skilled grade I - post till dates, what to say of his claim to the post of Dy. S.S.. It is

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reiterated that the Respondent No. 5 is senior to both the applicant and Respondent No. 4 and has clear claim of promotion to the post of Dy. S.S. under the modified selection procedure against the posts of Dy. S.D. upgraded under the cadre Restructuring scheme. The application under consideration is therefore liable to be dismissed with costs to the Respondents.

28. That the statements of the applicant in para 4(xvi) are denied in full for the reasons mentioned in earlier paras of this application. The impugned application is therefore liable to be dismissed with costs to the Respondents.

29. That the grounds enumerated in para 5 of the applications are all wishful, incorrect and illegal, there is no need to comment upon them in the light of the facts brought out in earlier paras of this application. As none of the grounds referred to in para 5 of the applications is legal, the application is liable to be dismissed with costs to the Respondent.

30. That no comment is called for from Respondent No. 5 on the applicant's statements in paras 6-7 of his application.

31. That the claims of the applicant in paras 8-9 of his application are not at all tenable to him for the reasons mentioned in foregoing paras. The application is therefore liable to be dismissed with costs to the Respondent.

Wherefore the Respondent No. 5 - Applicant prays to the Hon'ble C.A.T. to dismiss the application of Sri Chandrika Prasad with an award of costs to the applicant - Respondent

Encl: 12

LUCKNOW :
Dated 18.01.1991

Nikhil Kr. Narkar
Respondent No. 5

Verified that the facts stated are all based on my personal knowledge and rules on the subjects.

Nikhil Kr. Narkar
Respondent No. 5.

ANNEXURE - I

-: 137 :-

Copy of Railway Board's letter No. (11/70) 11/100 dated 3.9.76 from Dy. Director, Estt., addressed to General Managers, All Indian Railways. etc. etc.

Sub: Selection procedure.

In terms of para 216(d) of Chapter II, section 'B' of the Indian Railway Establishment Manual the existing procedure is that for selection to non-gazetted categories the field of eligibility is 4 times the number of existing and anticipated vacancies plus 25% thereof for unforeseen vacancies. If the requisite number cannot be obtained from the grade immediately below the selection grade, the Administration is authorised to call staff in lower grades up to the third lower grade.

The above procedure has been carefully reviewed and the Ministry of Railways have decided that henceforth the number of candidates to be called for Class III selections need normally be only three times the number to be empanelled. They have also decided that normally only staff in the grade immediately below the selection grade should be considered; if the requisite number cannot be found in that grade, it would be permissible to go down to the second grade below but in no case should any candidates in a grade lower than the second grade below be considered. If the number of candidates thus available is short of 3 times the number to be empanelled a reference should be made to the Board.

The number of SC/ST candidates to be considered for selection should be determined on the same lines in relation to the number of posts reserved for such candidates. The number called would therefore be normally 3 times the number of reserved posts, subject to the condition that consideration does not extend to staff beyond two grades below the grade for which the selection is held.

The Ministry of Railways have also decided that selection panels should not cater for unforeseen vacancies. In other words, the number of candidates considered should normally be equal to 3 times the number of existing and anticipated vacancies.

Finally, not more than one supplementary selection should be held; once the system of giving advance notice (as referred to below) is introduced, the incidence of absenteeism and therefore the need for supplementary selections would come down.

The above procedure may be followed with immediate effect. Necessary corrections in the Indian Railway Establishment Manual will be included in the new edition which is being compiled.

W. K. Chakravarty
Manager

...2/-

The Ministry of Railways have decided that in future programme of selections to be held in a year should be notified in advance around July of the preceding year. The programme for 1977 should be notified within the next two months. To avoid difficulties in sparing running staff, selections for such categories should be programmed during the slack season.

It is observed that Class III selections are not being held at regular intervals. The Ministry of Railways desire that all such selections should be held annually, at least from 1975 onwards. In the meantime, the periodicity should be at least one selection every two years.

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ANNEXURE

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As decided the position in regard to the pannel of C/man 'B' (Welder) grade Rs.425-700 (RS) S.No.276 issued by the Dy.CME (WO Charbagh, Lucknow being the Regional Officer, has been discussed in the office of Dy.C.M.E.(W)/CB and the position is given as under :-

There is one vacancy of C/man 'B' (Welder) grade Rs.425-700(RS) in each work shop i.e. carriage and Loco. The Vacancy of Loco Shop is against the schedule caste quota whereas that of Alambagh is for general candidate. Accordingly, the case was put up for formation of pannel i.e. 1 candidate for schedule caste and for general. For this the names of 3 senior most general and 3 of schedule caste candidates out of combined regional seniority were put up. One of the general candidate failed and one refused and one has since retired. The remaining 3 schedule caste candidates were to be given tests for formation of pannel for one candidate against the schedule caste quota vacancy of CB Shops but all these three who belong to Alambagh Shops have been declared suitable and their names have been borne on the above sa-id pannel, of which is provisional one. The ~~names~~ as to how the names of 3 sch. caste candidates have been borne on the pannel against the demand of one is best known to the authorities of Loco Shops CB who have issued this pannel.

However, it has been suggested that as no general candidate has been declared suitable out of the previous list the names of 3 next senior most general candidate may be put up from the combined regional seniority for their selection for the post of C/Man 'B' for promotion aga-Inst the vacancy at Alambagh and till this aspect is finalised the provisional pannel already issued should not be finalised.

From the position as given above it is clear that the vacancy which exists at Alambagh is for a general candidate which can only be finally filled in as and when the name of general candidate is borne on the pannel and existing provisional pannel is declared final.

Till such time an adhoc arrangement may be made aga inst the existing at Alambagh, out of the senior most sch. caste ~~and~~ panned candidate or, as the reserved quota point vacancy exists at Loco Shop CB, the senior most should be promoted by Dy.C.M.E.(W)/CB and posted at Charbagh Shop aga inst the existing vacancy of sch. caste candidate and the next junior candidate may be put to officiate at Alambagh purely on adhoc basis till the pannel of general candidate is formed at Charbagh, Lucknow.

M. K. V. Naskar

*Original is already been
put up as S.No. 282 of case
No. DCB B/74 of A / CPM / Panel
the order are awaited*

Annexure
2

NORTHERN RAILWAY

Office of the Dy. C.M.E. (W)/C&W Shops, Alambagh, Lucknow.
No. DOME/796/A Dated: 23/11/78.

The Dy. C.M.E. (W).
Loco Shops/CB/LKO.

Sub: Filling up the vacancy of Chargeman Welder Gr.
Rs. 425-700(RS) by the empanelled hand against the
25% Rankers quota.

Ref: Your letter No L/108E/C/M (Selection) dt. 7.7.78.

The names of the following men are borne on the panel of
Chargeman Welder Gr. Rs. 425-700(RS) issued under your letter
referred to above:

1. Shri Satruhan Lal (S/C) T. No. 51K
2. Shri Ram Kishore S/C T. No. 47 K
3. Shri Chandrika Pd. S/C T. No. 74 K

As per this office letter No. DOME/740/A/C/Man dt. 1.11.77
it was intimated that there is only one vacancy of chargeman
Welder Gr. 'B' Rs. 425-700(RS) against the Rankers quota. It has
also come to notice that the names of more than one men were
borne on the abovesaid panel as vacancies of C/Man Gr. 'B' Welder
trade Gr. Rs. 425-700(RS) also exist at yours and one vacancy
of your shops is against the reserved quota.

Shri Satruhan Lal (S/C) T. No. 51 K whose name is at the top
of the panel has been awaiting his orders of promotion & transfer
to your shops against that reserved quota post i.e. the first
vacancy.

The next vacancy pertains to these works which being the
second vacancy should be filled in by a general candidate but
no empanelled general candidate is available on the panel.

None out of the three candidates from the general list
who attended the selection for the post of char eman welder
Gr. Rs. 425-700(RS) had come out successful and it is understood
that the next senior candidates of general side have not been
called for selection so far. A date for their selection may
kindly be fixed and an empanelled hand from the general side may
kindly be provided against the vacancy of these works after
filling up your reserved quota vacancy by promoting the
seniormost empanelled hand Shri Shatruhan Lal (S/C) T. No
51 K of these works against the reserved quota vacancy existing
at yours at your earliest convenience.

M. K. Singh
Washkar

for Dy. C.M.E. (W)/AMV/LKO.
22/11/78

RC/20/11

22/11/78
Panel
S. No. 287

Annexure
3

(3)

Office of the Dy.C.M.E.(W), C&W SHOPS, Amv. Lucknow

S.O.No. 648 of 1981

Dt. Sept. , 1981.

The Temporary post of Chargeman Welder Gr.'A'Rs.550-750(RS) of End Modification sanctioned for a period of 12 months as per item(2) of S.O.No. 294 of 1981 is operated upon and the following temporary local adhoc arrangements are made against this post w.e.f. 14.9.81 forenoon purely as a temporary measure:-

Sri Chandrika Pd.(S/C) Chargeman Welder Gr.'B' payRs.455/-PM Gr. Rs.425-700(RS) of Welding shop is put to officiate as Chargeman Welder Gr.(A' on pay Rs. 550/-PM in Gr.Rs.550-750 (RS) and posted against the newly sanctioned post of End Modification.

✓ Shri Chandrika Pd.(S/C) must understand that this is purely a temporary local adhoc arrangement and it will not confer upon him any right or claim for such promotion over his seniors in future.

for Dy.C.M.E.(W) Amv. LKO.

No.DCME/796/A/Welder Dated : Sept. 12, 1981.

C/- to Addl. CME/Loco/CB-Lko for inf. in ref. to his Notice No. 50E/CT- dt.19.8.81 Shri Sa truhan Lal C/Man(S/C) whose orders were issued vide the latter in suggestion is not considered fit for promotion. Hence this local adhoc arrangement is made to operate this post till posting of the next regular senior man who is working in Loco Shops CB-LKO.

Copy to: SS/Welder(AS), TO, HC(PB)/Supdt, Leave Clerk for inf. & necessary action.

M.K. Singh
Nashik

Annexure (4)

Extracts of Rly. Board's letter no. 83.E (SCT)
42/1 dated 14th April 1983

1(vii) At what point of time, the failed S/C/S/T candidate earmarked for promotion on ad-hoc basis for 6 months should be promoted?

As the promotion is to be ordered according to the roster point, the failed S/C/S/T candidates may be promoted against the reserved vacancies as per the roster points on ad-hoc basis.

M. K. W.
Kadavar

Annexure
5

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(5)

Sl. No. 19/G.L. 19
Date 99-471/Genl. 29-1984

Wt. 1984/NORTHERN RAILWAY

OFFICE OF THE DY.CH.MECHL.ENGR. (W) C&W SHOPS AMV/LUCKNOW.
Docket No. DCME/74/1984 Dtd/- April 20, 1984.

Following copy is forwarded to SS (welding)/AMV.
for information to the staff concerned.

R/30.4.

for Dy.Ch.Mechl.Engr. (W)/AMV.

Copy of letter No. L/341E/CM(WLD) dtd. 9/4/1984
from the Addl.Ch.Mechl.Engr. (W)/NR/CE/Lucknow to
this Office and others.

....

Sub: Seniority of C/Man 'B' (WLD) Gr. Rs. 425-700 (RS).

....

On representation of S/Shri B.N. Srivastava and N.K.
Naskar, C/Man 'B' (WLD) Grade Rs. 425-700 (RS) which was
issued vide this Office letter of even number dtd. 19/11/83
is revised accordingly Shri Chandrika Pd. is now placed
between NK Naskar and SS Rehman C/Man 'B' (WLD).

.....

(Sd/-)

NK Naskar

Annexure
6

To

The CHIEF WORKSHOP ENGINEER,
N.Rly. Head Qrs. Office,
Baroda House, New Delhi.

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(Through Dy. CME/AMV/LKG)

Respected Sir,

Re: Correct assignment of seniority in C/man 'A'/(WLD) w.e.f. 14.9.81 and Asstt. Shop Supdt. (WLD) allow due promotion to A.S.S.(WLD) under Re-structuring w.e.f. 1.1.1984 vice Shri P.Gupta and payment of weages of pay and allowances (GM(P) 940E/511/Eii10 dated 8/85).

I beg to re-draw your kind attention to my representation dt. 19/12/83, followed by reminder's dt. 7.4.86, & 7.7.86, which are still pending with your goodself for just decision. It is worth mentioning here that "Justice delayed, Justice denied" proverb may not be true in my case. However I give below a resume of my full case for information and record.

2) While sending a comparative seniority position of the employees in my cadre in different grades, I like to point out that although Sri P.Gupta was appointed as C/Man 'B' from 4.1.78, while Sri C.Prasad was appointed as C/Man 'B' from 10.1.80, I stand second in seniority in the grade of C/Man 'B' as shown in column (3) of the Annexure 'A'.

3) From the facts of column (3), mentioned in para (2) above, Sri C.Prasad, who was junior to me in the grade of C/Man 'B' was promoted to the grade of C/Man 'A' w.e.f. 14.9.81. Whereas I am senior to him in the grade of C/Man 'B' and belonged to the same reserved community I stand promoted to the post of C/Man 'A' with effect from 14.9.81, that point being a reserved point as per 40 points Roster for the grade.

4) In accordance with N.B.R., I am entitled to get the wages and seniority in the grade of C/Man 'A' from 14.9.81 and stand senior to Sri C.Prasad. Necessary orders may kindly therefore be issued immediately regularising my seniority above Sri C.Prasad from 14.9.81 and orders for payment of wages from 14.9.81 may also be issued.

5) In these circumstances I stand promoted to the grade of C/Man 'A' from 14.9.81 and thus stand promoted to the grade from an earlier date to that of Sri P.Gupta, Accordingly I am senior to Sri P.Gupta as well. Therefore the revised seniority list of C/Man 'A' welding grade 550-750 (Rs) as circulated by then ACME (W), NR, CB vide his letter No. 341E/CM/(WLD) dated 25.4.87 were quite in order and in keeping with the extent rules on the subjects. In view of these facts, CWM, CB's letter No. 341E/CM(WLD) dt. 29.8.87 is illegal and void, which deserve to be declared over-ruled and cancelled. This has reference to item No. 345 of N.B.R./P.N.M. at C.W.E. level.

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6) As per extent rules, the applicant therefore stands promoted to the grade of A.S.S., Scale Rs. 700-900 (Rs) from 1.1.84, as a result of my being senior to Sri P.Gupta as stated in column (5) of Annexure 'A'. Therefore I stand senior to Sri P.Gupta in the grade of A.S.S. as per seniority of immediately lower grade and as such the seniority shown in the seniority list aforesaid circulated under ACME (W) 's letter dated 25.4.87 referred to above and therefore status quo in seniority be confirmed.

7) It is also added that the reservation roster has not been observed at-all for promotion to the grade of C/Man 'A' and A.S.S. Under C.W.M./CB. It is a deliberate violation of constitutional obligation and needs to be screened and re-medied by ensuring issuance of suitable order's for promotion's of reserved candidates against reserved points from retrospective dates and also maintenance of the reserved candidates at their right places.

I, therefore pray that you will issue suitable order's to all concerned advising them to correct their records as per rules mentioned above.

Thanking you,

Yours' faithfully,

Nikhil K. Naskar
(NIKHIL KUMAR NASKAR)
Senior Chargeman (Welder)
C&W Shop, Amv, Lucknow.

Dated: 7/12/87

Copy to :

- in Mr. Naskar*
- 1) Secretary (Res), Railway Board, NDLS.
 - 2) G.M./N.Rly., NDLS.
 - 3) Gen. Sec., A.I. S/C, S/T. R.E.A./NDLS.
 - 4) Dy.C.M.E./AMV, Lucknow.

D.A:

- 1) Copy of Annexure 'A'
- 2) Copy of Seniority List of C/Man (W) letter no 341 E/CN (W) dated 25.4.87.

Annexure

7

RAILWAY LOCOMOTIVE WORKS CHARGES LIST

Serial 342

Date 25-5-1959

In continuation of this office O.O. No. 240 dated 2.4.59, the following C/Men's (VLD) Gr. A. 425-700 (Rs.) are appointed to Officiate C/Men's (VLD) Gr. A. 550-750 (Rs.) against restructured posts w.e.f. 1.1.54 and posted place as shown against each:

S.No.	Name	Present design.	Present Place of working.	Place of Posting	Provisional Grade.
-------	------	-----------------	---------------------------	------------------	--------------------

1.	V.B. Srivastava	C/Men's (VLD) Gr. A. 425-700 (Rs.)	CB	CB	C/Men's (VLD) Gr. A. 550-750 (Rs.)
2.	P.K. Sharma	-do-	-do-	-do-	-do-
3.	P.K. Bose	-do-	-do-	-do-	-do-
4.	V.B. Srivastava	-do-	ANY	ANY	-do-
5.	N.K. Mukherjee	-do-	-do-	-do-	-do-

The pay of items no. 1 to 5 are fixed w.e.f. 1.1.54 as under:-

No.	Designation as on 1.1.54	Grade	Pay already drawn	Pay fixed on Promotion.
1.	V.B. Srivastava C/Men's (VLD) Gr. A. 425-700	B. 515/-	1.1.54 Gr. A. 425-700 B. 530/- 1.1.59 Gr. A. 425-700	B. 570/- 1.1.54 Gr. A. 550-750 B. 570/- 1.1.59 Gr. A. 550-750
2.	P.K. Sharma -do-	B. 515/-	1.1.54 Gr. A. 425-700 B. 530/- 1.1.59 Gr. A. 425-700	B. 570/- 1.1.54 Gr. A. 550-750 B. 570/- 1.1.59 Gr. A. 550-750
3.	P.K. Bose -do-	B. 500/-	1.4.53 Gr. A. 425-700 B. 515/- 1.4.54 Gr. A. 425-700 B. 530/- 1.4.59 Gr. A. 425-700	B. 550/- 1-1.54 Gr. A. 550-750 B. 570/- 1.1.59 Gr. A. 550-750

The pay of item no. 4 & 5 will be fixed from 1.1.54 by the office of the Dy. C.M.A. (V.V.).

Arrear payments may be drawn accordingly on provisional basis subject to confirmation by the competent authority in M. and O. file in case their date of promotion is altered from 1.1.54, the arrear payment made will be recovered in lumpsum.

Mikeel W. Pradhan

for Addl. Chief Asst. Engineer (V)
N. Ry. Locomotive Workshop, Lucknow.

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Annexure 2

BY C/M E Mochl Engr's Office, G&W Shops Amv LKO.
Order No. 459 of 1985

In terms of Addl. C M E 'W' / CB's SO No. 342 dt. 23.5.1985
the following C/man 'B' (Welder) grade Rs. 425-700 'RS'
are appointed to officiate as C/man 'A' (Welder) Grade Rs.
550-750 'RS' against restructured post w.e.f. 1.1.1984.

S/O Name	Desig.	Grade	Pay already as on	Drawn	Pay fixed on promotion
3/Sri	1.1.84				
1. B.K. Srivastava	C/man P (Welder)	425-700	515/- 1.1.84	555/- 1.1.84 ✓	
			530/- 1.1.85	570/- 1.1.85 ✓	
		Gr. 425-700 'RS'		Gr. 550-750 'RS'	
2. N.K. Naskar 'SC'	"	"	485/- 1.7.83	550/- 1.1.84	
			500/- 1.7.84	570/- 1.1.85	
			515/- 1.7.85		
		Gr. 425/-700RS		Gr. 550-750 'RS'	

Arrear payments may be done accordingly on provisional basis
subject to confirmation by the competent authority in Hd. Qrs.
Office. In case their date of promotion is altered from 1.1.84
the excess payment made will be recovered in lumpsum.

for Dy CME 'W' / Alambagh LKO.
MH/20/7

No: DCME/796/A/Pt.I Dt/- July 20 '85

Copy for information and n/a to:-

1. OS (PB) OS/TO, SS/Welding, AS/ Super, HC Pass and SAO 'W' / Amv
2. Addl. C M E 'W' N.Rly., CB LKO.
3. G. M. (P) / NDLS.

Handwritten signatures and initials:
H.K.
M.K. Naskar
Naskar
23/7

867 H. K. Naskar
22/7/85

Annexure

9

To

The Addl. Chief Mechanical Engineer (W),
Northern Railway,
Charbagh, Lucknow.

Through : Dy. CME(W)/AMV/Lucknow

Ref: Your letter No. 50E/CM/WLD/dt. 23.3.86.

Sub: Transfer of Sri B.N. Srivastava C/Man 'B' (Welding) from
Alambagh to Charbagh Workshop vide AQME(W) S.O.No.717
dated : 22.11.1985.

Respected Sir,

In continuation of my previous representation dt. Dec. 4,85 on the above subject I have to state further as under :-

1. The decisions as conveyed by you vide your letter No.50E/CM(WLD) dt. 3.1.86 is quite clear as it comes within the perview of P. Branch S.No. 8014 and S. No. 8104 issued by Rly. Board under their letter No. 81E(SCT)15/93 dt. 16.1.82 N.R.S. No. 8014 and Rly. Board letter No. 82E/SCT)15/6 dt. 25.5.82 (N.R.S.No.8104) both

From/the above letters it is quiet evident that a S/C candidate who is promoted earlier against the roster quota post even that of upgraded post and payed arrear etc. can never be reverted even in the case of shrinkage of cadre. Even in the case of Shrinkage cadre, if the question for reversion arises, the Junior most who is promoted last can only be reverted. I have been enjoying the promotion continuously since 1.1.84 and I have also received arrears as my promotion was regular against the upgraded reserve quota post of AMV Workshop.

Hence it is requested that my representation may kindly be considered very patiently and the man who is to be promoted as per his turn should accept the same in order to effect his promotion against the workshop, where it has fallen vacant now in an adhoc arrangement.

Thanking you, Sir,

Yours faithfully,

Dated: 7/4/82

N. K. Naskar

(N. K. NASKAR)

C/Man 'A' (Welder)

C&W Shop/AMV, Lucknow.

Copy to :-

1. Dy. CME(W)AMV's for information and necessary action at his end.
2. Copy to Br. Secretary URMU/AMV for information and earlier finalisation of case at Dy. CME(W) AMV & Addl. CME(W) CB/Level.
3. Copy to All India General Secretary SC/ST Rly. Employees Association for persuing the case at his level.

N. K. Naskar

Annexure
9

To

The Addl. Chief Mechanical Engineer (W),
(Northern Railway)
Charbagh, Lucknow.

8/2/84

Sub: Proforma fixation of pay at par with the pay of the Junior one promoted earlier wrong fully by the Administration.

THROUGH PROPER CHANNEL

Ref: Your letter No. L/341E/CM/(Welding) Gr. 425-700(RS) docketed by Dy. CME(W) AMV's letter No. Dy. CME/741/Pt. IV dated 3.5.84.

Respected Sir,

In reference to my representation for assigning correct seniority position on the seniority list of C/Man A&B (Welder) Grade Gr. 425-700(RS) & 550-750(RS), I was assigned the correct position of seniority vide your letter No. L/341/CM(WLD) dt. 9.4.84 that my name has been placed over & above, Shri Chandrika Pd. who is Junior to me.

In context to the above I would draw your kind attention to the concluding para of my representation dt. 19.12.83, where in, I have already put in my clear claim for grant of proforma fixation of pay to me from the date Sri Chandrika Pd. the Junior one, was put to officiate as C/Man Gr. 'A' Rs. 550-750(RS) with effect from 14.9.81 vide Dy. CME/AMV's Staff order No. 648/1981 (in reference to your notice No. 50E/Ct dt. 19.8.81). He continued to hold this position upto 4.7.84 and was reverted with effect from 5.7.84 vide S.O.No. 627 of 5.11.84 as a result of my previous representation. It is therefore quite clear that his promotion as C/Man Gr. 'A' was quite wrongful action on the part of administration, ignoring a senior man i.e. the under signed who is also working on the same Station & belongs to the same and one Seniority Group.

Hence, it is requested that necessary orders of my proforma fixation of pay as C/Man Gr. 'A' (Wld) Rs. 550-750(RS) may kindly be issued with effect from 14.9.81 & necessary arrear of pay may kindly be paid to me at your earliest convenience. My claim comes within the

(According to R.B.'s letter No. E(NG) 63 P.M. 1/92 of 17.9.64 and 20.10.65) N.R. S.N. 2709.)

Thanking you, Sir,

Dated: - 7/4/84

D.A. Copy of original representation in Duplicate.

Yours faithfully,

NIKHIL KR. NASKAR

(NIKHIL KR. NASKAR)

C/Man 'A' (Welder)

C&W Shops, AMV, Lucknow

Copy to :-

1. Dy. CME(W) AMV's for information and necessary action at his end.

2. Copy to Br. Secretary U.R.M. U./AMV for information and earlier finalisation of case at Dy. CME(W)/AMV & Addl. CME max /CB Level.

Nikhil
Kr.
Naskar

Annexure
10

18/3

NO 4 341E/CN(WLD) Dated 7-4-86
The Dy Chief Asst. Engrg
N. P. C. W. Shops, Amv. Lko

Subj: - Seniority of 91 Man 'A' (WLD),
Order 5507.50 (19).

Ref: - Representation dated 7-4-86
of Sr N. K. Marker, 91 Man 'A' (WLD).

Sr N. K. Marker, 91 Man 'A' (WLD) of
Amv is allowed preference from
We. 4-11-81 and therefore seniority
given to Sr B. N. Srinivasan who
has been promoted subsequently
against restricted posts.

In view of above the original
order of transfer of Sr B. N. Srinivasan
stand and also requested to
release him immediately.

[Signature]

[Signature]
N. K. Marker

Asst. C. M. E. (W)
N. P. C. W. Shops, Amv. Lko

Annexure-11

N.Rly:Office of the Dy.C.M.E. (C&N Shops) Amv/L

Staff Order No. 403-2082-20-12-90

Dated 20/Dec/90

In terms of G.M. (F) /NDLS letter No.940-E/611 (Eliw) dt.20.11.90 circulated under CWE/CB/Lko staff order No.666 dt.6.12.90, Shri Chandrika Prasad CM(R)welding has been considered in CM(A)weld grade Rs.550-750/Rs.1600-2660 (RPS) against the upgraded post w.e.f. 1.1.84 on the senior point (reserved for S/C vacated by Sri N.K.Naskar CM(A)welder who has been given proforma promotion and seniority w.e.f.1.4.82).

Accordingly Sri Chandrika Prasad who was earlier promoted w.e.f.25.7.90 vide CMM/CR's S.O.426 of 25.7.90 and transferred to Loco shop/CB vide this office S.O.No.432 dt.17.8.90 and 557 dt. 22.10.90, are modified as sent Sri Chandrika Pd is now promoted as CM(A)welding grade 550-750/1600-2660 (RPS) w.e.f.1.1.84 against ungraded post on proforma basis and his transferred to loco shop/CB is hereby cancelled and he is retained at Alambagh/shop vice Sri Satruhan Lal CM(A)weld.

Shri Satruhan Lal CM(A)weld pay Rs.1900/-in grade Rs.1600-2660 being junior most C/M(A)wld is transferred and spared from Alambagh shop to charbagh shop with immediate effect for his further posting order.

The ^{revised} reserved seniority list of CM(A)weld is reproduced below:-

1.	Sri	Trahlad Gupta	4.11.81
2.	"	N.K.Naskar (S/C)	1.4.82
3.	"	V.B.Srivastava	1.1.84
4.	"	P.K.Sharma	1.1.84
5.	"	B.K.Srivastava	1.1.84
6.	"	P.K.Bose	1.1.84
7.	"	P.N.Srivastava	1.1.84
8.	"	Chandrika Prasad S/C	1.1.84
9.	"	Satruhan Lal S/c	8.7.89

In view of the above, the pay of Sri Chandrika Pd. CM(A)weld grade Rs.1600-2660/550-750 who has been given proforma promotion and seniority as CM(A) w.e.f.1.1.84 is fixed as under.

Contd...2/-

M. K. Naskar

403-2082-20-12-90

Pay Already drawn

Grade	Pay	From
425-700	500/-	1.1.84
550-750	590/-	1.9.83
"	590/-	4.7.84
reverted as CM (B)		
425-700	500/-	5.7.84
"	515/-	1.1.85
"	530/-	1.1.86
1400-2300	1560/-	1.1.86
	1600/-	1.1.87
	1640/-	1.1.88
	1680/-	1.1.89
	1720/-	1.1.90

Pay as should be

Grade	Pay	From	
550-750	590/-	1.9.83	officiating
550-750	590/-	1.1.84	as CM 'A'
"	610/-	1.9.85	ad hoc basis
"	630/-	1.9.85	promotion
1600-2660	1850/-	1.1.86	as CM (A)
"	1900/-	1.9.86	w.e.f.
	2000/-	1.9.87	1.1.84
	2050/-	1.9.88	by counting
	2100/-	1.9.89	of offici
	2150/-	1.9.90	ating period.

Note:-No arrears payment will be made to Sri Chandrika Pd. CM (A) grade Rs. 1600-2660 for 1.1.84 till the date of his actual promotion as CM (A) held.

This has the approval of Dy. CME (W), Amv/Lko.

No. DCME/756/A/Pt. II.

for Dy. C.M.E. (W), Amv/Lko.

Copy to the following for information and necessary action:-

1. SS/welding with the instruction to refer Sri Shatrughan Lal C/M (A) welding immediate and direct him to report CWM/CB. For his further posting order.
2. OS (Pay-Bill), OS (Time office) HC (Pass) Leave Clerk (Supr)
3. SAO (W)/Amv PF and Esstt/Amv.
4. CWM/CB.
5. GM (P)/N. Rly, Hd. Qrs. Office/New Delhi.

.....

R/192290

NT Unit W
Kashkar

Northern Railway

Headquarters Office,
Baroda House, New Delhi.

No. 940-E/511(EIITW)

dated 22-11-90

The Chief Works Manager,
Northern Railway,
Charbagh-Lucknow

Sub: Seniority of Shri M.K.Naskar, Ch.Man 'A' (Welding)
Gr. Rs. 1600-2660/AMV-LIO.

Ref:- Your office D.O. letter No. 50-E/CM(Welding)
dated 29-10-90/2-11-90.

....
In reference to your office D.O. letter quoted above, it is stated that as a result of discussion in a Joint Informal Meeting with both the unions at CPO's level on 5-6-89 and decision communicated under this office letter of even number dated 21-12-89/12-2-90 holds good. Shri M.K.Naskar (S/C) has been promoted as Ch.Man 'A' (Welding) grade Rs. 550-750(RS) wef 1-4-82 on proforma seniority basis. Keeping in view this position, the name of Shri M.K.Naskar for modified selection for the post of Dy.SS(Welding) grade Rs. 700-900(Rs) has been forwarded to the Selection Board formed under re-structuring scheme and the result of the will be intimated as and when declared.

2. As regards Shri Chandrika Prasad (S/C), it is stated that he was promoted as Ch.Man 'A' (Welding) Rs. 550-750(RS) wef 14-9-81 on ad hoc basis by Dy.CRE(W)/AMV-LIO against Roster Point No. 1 and was reverted as Ch/Man 'B' (Welding) on 9-7-84 even when one Shortfall of S/C was still existing. The matter has been examined and it has been decided that Shri Chandrika Prasad (S/C) may now be considered as Ch/Man 'A' (Welding) grade Rs. 1600-2660/RPS against the upgraded post wef 1-1-84 as he was already officiating as Ch/Man 'A' (Welding) grade Rs. 1600-2660/RPS and should have continued to officiate as such against Roster Point No. 8th(reversed for S/C) vacated by Shri M.K.Naskar who has been given proforma promotion and seniority wef 1-4-82. The Selection Board vide its office letter of even number dated 24-4-90 may also now be proceeded.

(Gopi Ram)
for General Manager (P).

True Copy
Attested

Before the Hon'ble Central Administrative Tribunal,

Circuit Bench, Lucknow

O.A. No. 142 of 1990

Proceed for 27/2/92

Chandrika Prasad Applicant/Petitioner

Vs.

Union of India & others Opposite Parties

REJOINDER

I, Chandrika Prasad, aged about 51 years,
Son of Late Parmeshwar Dayal, resident of 175/43, Pir
Jalil South, Kutchehari Road, Lucknow, the deponent, do
hereby solemnly affirm and state on oath as under :-

1. That the deponent is applicant in the above
noted case and as such he is fully conversant with
all the facts of the case deposed here under. The
deponent has gone through the contents of the Counter
Affidavit filed on behalf of Opposite Parties no.1 to 3 and
is replying the same as under :

2. That in reply to contents of para 2 of the
Counter affidavit under reply, need no comments. The
contents of paras 1 to 3 of the application are reiterated.

Filed today
20/12/91
Chandrika Prasad

3. That in reply to contents of para 3 of the Counter affidavit, it is submitted that the contents are not true and have been manipulated to favour the Opposite Party no. 5 who is Junior even as Chargeman Gr 'B' which will be evident from the following facts :

(a) That the applicant was empaneled as Chargeman Grade 'B' in the year 1978 alongwith two other persons namely Sri Shatrohan Lal and Sri Ram Kishan , whereas the Opposite Party no. 5 Sri N.K. Naskar was empanelled and posted as Chargeman Grade 'B' on and from 13.7.79 after completion of two years training as Apprentice mechanic and as per Rules enumerated in para 306 of Railway Establishment Manual; "Candidates selected for appointment at an earlier selection shall be senior to those selected later irrespective of date of their joining. However in the case of candidates who are unable to join their working post within reasonable time from the date of issue of appointment letter."

(b) That this Hon'ble Central Administration Tribunal (CB) Lucknow has also in a similar case; Sushil Kumar ..Vs.. Union of India & others (O.A. 279/89) decided on 20.5.91 held and allowed seniority from the date of selection to the post. Photo stat of the order is annexed here as ANNEXURE NO. I.

(c) That the Hon'ble Supreme Court has held in S.M. Pandit Vs.. State of Gujrat (SLR 1972 SC-79) :

Chandrika Prasad

8/89

"Promotees and direct recruits forming one cadre -
The Government is not competent to discriminate between
the direct recruited employees and promotees in the
matter of further promotions. "

Therefore the case of the Petitioner has
been deliberately neglected by Opposite Parties
Nos. 1 to 3 in collusion with the Opposite Party No. 5
so much so that the Opposite Parties No. 1 to 3 have
committed the formalities of selection for promotion to
the Opposite Party no. 5 to the post of Dy. shop Superinte-
ndent, Selection process of which was challenged by
Petitioner.

4. That in reply to para 4 of the Counter affidavit
the contents of para 4.2 and 4.3 of the application are
once again reiterated.

5. That in reply to para 5 of the Counter affidavit
- - under reply, it is submitted that though the
applicant was promoted as Chaugaman Grade 'A'
w.e.f. 14.9.81 on a work Charged post but was promoted
on Roaster point No. I reserved for promotion to
Candidates belonging to S.C. community and from 4.11.1981
he is deemed to have been brought on a regular promotion
on the basis of laid down rules and also that he was
senior to Sri N.K. Naskar as Chaugaman Grade 'B'
as narrated in para 2 above.

6. That the contents of paras 6 and 7 of the
Counter Affidavit under reply are false and concocted
with ulterior motive and have only been given to mis-
lead this Hon'ble C.A.T. and to impart under favour
to Opposite Party Nos. 4 and 5.

7. It is submitted that the applicant was

Chandrasekhar Prasad

A/90

was promoted to post of Charge man Gr 'A' w.e.f. 14.9.1981 on Roaster point no.1 of the Roaster available for promotion for the candidates belonging to the S.C. community though on a work charged post but as soon as the next man i.e. the Opposite Party No. 4 Sri Prahlad Gupta was promoted to the post of Charge man Gr 'A' against a regular vacancy the petitioner being senior as charge man Gr. 'A' deemed to have been promotee against a regular vacancy while the Junior Sri Prahlad Gupta automatically came against the work charged post and there on the expiry of the charges post, Sri Prahlad Gupta, the Opposite Party no. 4 should have been reverted. The Opposite Party Nos. 1 to 2 also held this view vide their letter Nos. 50 E/CM (Welding) dt. 17.2.1988 and 940E/511 E (ii) (WL) dt. 21.12.1989 filed as Annexure No. 3 to the application O.A. No. 142 of 1990, further Railway Board vide their letter no. E (SCT) 65 RM 1/6 dated 21.10.1965 have laid down " An employee of SC or ST community who is lower in the cadre is to be retained in preference to his seniors provided he has been appointed against an earlier point in the Roaster. " The Hon'ble C.A.T. may be pleased to direct the Opp. Party Nos. 1 to 3 to rectify their defective order and restore the seniority of the applicant over both the Opp. Parties. The copy of the above said letter dt. 17.2.1988 is being annexed here as ANNEXURE NO. 2 to this Rejoinder Affidavit.

7. That the contents of paras 8 and 9 of the Counter affidavit under reply are not admitted and it is submitted that the Opposite Parties have no power to modify or supercede any document arbitrarily which has

Chandrasekhar Prasad

been filed before this Hon'ble Central Administrative Tribunal and has become a part of record of this Hon'ble Central Administrative Tribunal and it appears that all these exercises were continuing in the office of Opp. Parties No. 1 to 3 only to award the undue favour to Opposite Party no. 4 and 5 and to deliberately neglect and deny the just demands of the applicant as it speaks of malafide intention and ulterior motive in first admitting that the applicant was rightly promoted on Roaster point no. I and then reversing its own orders without seeking the concurrence of this Hon'ble Court thus committing contempt of this Hon'ble Central Administrative Tribunal.

8. That in reply to para 10 of the Counter under reply, the contents of para 4, 9 of the application N..O.A. 142/90 are reiterated again and it is submitted that the illegal reversion of the petitioner w.e.f. - 24.9.84 be quashed and seniority from the date of his promotion to the post of Charge man Grade 'A' on Roaster point no.I w.e.f. 14.9.1981 and librate the applicant from the continued humiliation at the hands of Opp. Party Nos. 1 to 3.

9. That the contents of paras 11 and 12 of the Counter under reply are not admitted being malafide as stated in paras 7 and 8 above.

10. It is an illegal contention of the Opposite Parties no. 1 and 2 that the applicant continued to work on a workcharged post even after a number of Charge men including Opp. Party nos. 4, 5, 6, 7 and 8 were promoted to the posts of charge man Gr. 'A' created at later dates after the promotion of the applicant on Roaster point no.I

Charles Lee Muneed

w.e.f. 14.9.1981.

10. That the contents of para 13 are again speak of malafide intention and it is submitted once again that the Opposite Parties No. 1 to 3 have no authority to amend, modify or supercede any document arbitrarily which has been brought on record of this Hon'ble Central Administrative Tribunal.

11. That the contents of para 14 of the Counter under reply are not admitted being ~~manipulated~~ manipulated in order to show undue favour towards the Opposite Parties Nos. 4 and 5 to deliberately neglect and deny the just cause of the applicant when it is evident to the Opp. Parties No. 1 to 3 that the applicant is senior to both the Opp. Parties No. 4 and 5 by virtue of rules laid down by the Opp. Parties No. 1 to 3 themselves but still they are engaged in denying the applicant his real position in the seniority of Chargeman Gr 'B' and in subsequent grades as well.

It is further submitted that the applicant's claim for the promotion to the post of Dy. Shop Suptdt. should be considered through modified selection in place of both the Opp. Parties No. 4 and 5 w.e.f. 1.1.1984 against upgraded posts and the question of his being called for fresh selection for the same does not arise.

12. That the contents of para ~~14~~ 15 are denied and submitted that the applicant is senior to both the Opp. Parties 4 by virtue of his earlier promotion on the post of Charge man Gr. 'A' than that of the Opp. Party no. 4 and as submitted in para 6 above, the Opp.

Charullee Prasad

A/3

- 7 -

the Opposite Party no. 4 deems to be junior to the applicant but is being illegally continued on the post of Dy. shop Suptdt. although he should have been reverted w.e.f. 24.9.1984 and never should have been considered for promotion to the post of Dy. shop Suptdt. w.e.f. 1.1.1984 against upgraded posts.

13. That the contents of para 16 of the counter are denied being of malafide intention and as explained in earlier paras above, it is submitted the Opp. Party no. 5 can not be senior to the applicant as claimed by Opp. Parties No. 1 to 3 and they are liable to taken up for contempt of this Hon'ble C.A.T. for making arbitrary amendments to their earlier orders brought on record of this Hon'ble C.A.T.

14. That the contents of para 17 of the Counter reply need no comments as the Opposite Parties No. 6 and 7 and 8 automatically become junior to the applicant as they were promoted at later dates than that of the applicant.

15. That the contents of para 18 need no comments.

16. That the contents of paras 6 to 12 of the application no. 142 of 1990 filed on behalf of the applicant are once again reiterated.

Lucknow :

Dated : 19.12.1991

Chauhan
Deponent

V e r i f i c a t i o n

I, the above named deponent, do hereby
verify that the contents of paras 1 to
of this affidavit are true to my personal knowledge and
those of paras are believed by me
to be true and correct.

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

Signed and verified this 19th day of
Dec. 1991 at Lucknow.


Deponent

I identify the above named deponent who
has signed before me.

Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

LUCKNOW CIRCUIT BENCH

REGISTRATION C.A. NO. 270/P9

Sushil Kumar Applicant

Versus

Union of India & Others Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A. R. Gorthi, Member(A)

(By Hon'ble Mr. Justice U.C.S., V.C.)

The applicant qualified for the post of Apprentice Mechanic after appearing in the oral and written examination which took place in pursuance of an advertisement. Thereafter the applicant received a registered letter dt. 16.12.1974 intimating him that the Commission has recommended his name for appointment and he would get appointment in due course. But no letter was received by the delinquent employee.

Meanwhile the applicant learnt that candidates selected along with him were receiving training. But the efforts of the applicant did not succeed. The applicant met the S.P.O. (Recruitment) on 7.3.1976 who directed the applicant to see his sub-ordinate. It was then known that the letter of appointment, in fact, was sent to him but by mistake it was sent on in-correct address.

The applicant was assured that the mistake would be corrected and he will get his appointment very soon.

On the contrary the applicant was informed vide letter dated 18.3.1976 from S.P.O. (Recruitment) New Delhi that he will not be appointed to the above post as the panel of the same had lapsed. Thereafter the applicant

- - -2/-

Chaitan Prasad

(2)

AB

NORTHERN RAILWAY
LOCOMOTIVE WORKSHOP/CHARBAGH/LUCKNOW.

No. SOE/CM(Welding)

Dated : 17.2.1988

The Dy. Chief Mechanical Engineer (W),
N. Rly., C&W Shops, Alambagh,
LUCKNOW.

Sub : Seniority Shri N.K. Naskar C/man 'A' (Welding)
Gr. B. 550-750 (RS)/1600-2660 (RPS).

Ref : Your Office Letter No. DCME/796/A/Pt 1 dated
16.9.1987 & 21.12.1987.

As ~~stated~~ desired by Hd. qrs. Office in their letter No. 940K/511/EIW dated 5.1.88. The case regarding giving proforma promotion to Shri N.K. Naskar as C/man 'A' (Welding) w.e.f. 4.11.81 has been reconsidered by C.W.M./CB and the following decision has been taken :

Shri N.K. Naskar (SC) C/man 'B' (Welding) was promoted as C/Man 'A' (Welding) w.e.f. 1.1.84. He was later on given proforma promotion w.e.f. 4.11.81 (the date when Sri Prahlad Gupta was promoted as C/man 'A' against a regular vacancy) on his appeal because Shri Chandrika Pd. (SC) who was junior to him as C/man 'B' (Welding) according to revised seniority list, was promoted as C/man 'A' against a work charged post w.e.f. 13.9.1981 on the basis of ~~the~~ previous seniority list against the short fall of scheduled caste quota.

While reviewing the case, the C-Rs of Shri Naskar were perused. The C-Rs of Shri Naskar indicate that as on 4.11.81 he was not suitable for promotion as C/man 'A' (Welding) even if his name would have been considered in place of Shri Chandrika Pd. (SC).

That the point No. 1 of the roster of C/man 'A' was already, filled by promotion of Shri Chandrika Pd. (SC), Shri Naskar's promotion against point No. 8 of the roster w.e.f. 1.1.84 was correctly done. He was not fit for promotion w.e.f.

Contd.-2-

Chandrika Prasad

4.11.- 1981 in the face of his adverse C.R. vide this office letter No. L/141/CM (welding) dated 7.5.1986 is hereby treated as cancelled. Necessary recovery arising out of his proforma promotion w.e.f. 4.11.81 to 31.12.83 may be done accordingly.

In view of the above Sri Maskar whose name was placed below to Sri Prahlad Gupta in the Seniority list of C/man (welding) dated 26.9.86 is now brought down and placed below to Shri M.N. Srivastava C/Man 'A' (welding).

Thanking you.

Yours faithfully.

G.W.M. /LOCO, CHARBAGH,
LUCKNOW

Chandrika Prasad

Annexure

12

18/98

(2)

H.Ry: Office of the Dy. C.M.E. (M), C&E Shop, Anw. Lucknow.
S.O. No. 19 of 1980 Dated: Jan. 9, 1980

- A- Shri Hanumanthar (S/C) T.No. 6K C/M Gr.B Pay Rs. 500/-PM in Gr. M. 425-700(RS) who was put to officiate as C/M Gr.B w.e.f. 14.7.76 vide this office S.O. No. 578 of 1976, is now reverted to his sub. post of H.S. Gr. I Welder and posted vice Shri Chandrika Pd. 74K w.e.f. 9.1.80 pay Rs. 545/-PM in Gr. M. 300-560(RS) (as selected staff for C/M welding)
- B- Shri Chandrika Pd. T.No. 74K, H.S. Gr. I Welder of Welding Shop pay Rs. 416/-PM in Gr. M. 300-560(RS) is put to officiate as C/M Welder Gr.B on pay Rs. 440/-PM in Gr. M. 425-700(RS) and posted vice item A above. He will be paid offg. allowance provided the period exceeds 31 days. L'wef 10.1.80 FN.

This officiating arrangement of Shri Chandrika Pd. C/M is a mere temporary on adhoc basis and it will not confer upon him any prescriptive right over his seniors in future.

for Dy. C.M.E. (M) Anw. LKO.
No. DC/E/790/Pt. IV Dated: Jan. 9, 1980.

- C/- 35/Welding, C&E, HCFE, HCFPS, Dy. CAO (M), ECC/Supr. for information and n/action.
- C/- Leave Clerk for information and n/action.

6/9.1.80

M. K. Singh
Nashik

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NORTHERN RAILWAY
LOCOMOTIVE WORKSHOP/CHARBAGH/LUCKNOW.

No. SO3/CM(Welding)

Dated : 17.2.1988

The Dy. Chief Mechanical Engineer (W),
N. Rly., C&W Shops, Alambagh,
LUCKNOW.

Sub : Seniority Shri N.K. Naskar C/man 'A' (Welding)
Gr. B. 550-750 (RS)/1600-2660 (RPS).

Ref : Your Office Letter No. DCME/796/A/Pt 1 dated
16.9.1987 & 21.12.1987.

As ~~sketched~~ desired by Hq. qrs. Office in their letter No. 940K/511/E11W dated 5.1.88. The case regarding giving proforma promotion to Shri N.K. Naskar as C/man 'A' (Welding) w.e.f. 4.11.81 has been reconsidered by C.W.M./CB and the following decision has been taken :

Shri N.K. Naskar (SC) C/man 'B' (Welding) was promoted a C/Man 'A' (Welding) w.e.f. 1.1.84. He was later on given proforma promotion w.e.f. 4.11.81 (the date when Sri Prahlad Gupta was promoted as C/man 'A' against a regular vacancy) on his appeal because Shri Chandrika Pd. (SC) who was junior to him as C/man 'B' (Welding) according to revised seniority list, was promoted as C/man 'A' against a work charged post w.e.f. 13.9.1981 on the basis of ~~per~~ previous seniority list against the short fall of scheduled caste quota.

While reviewing the case, the C-Rs of Shri Naskar were perused. The C-Rs of Shri Naskar indicate that as on 4.11.81 he was not suitable for promotion as C/man 'A' (Welding) even if his name would have been considered in place of Shri Chandrika Pd. (SC).

That the point No. 1 of the roster of C/man 'A' was already, filled by promotion of Shri Chandrika Pd. (SC), Shri Naskar's promotion against point No. 8 of the roster w.e.f. 1.1.84 was correctly done. He was not fit for promotion w.e.f.

Chandrika Pd.

4.11.1981 in view of his adverse C.R. The seniority of Shri Naskar is therefore corrected to be effective w.e.f. 1.1.84 i.e. the date from which he was promoted initially. Proforma promotion given to Shri N.K. Naskar as C/man 'A' w.e.f. 4.11.81 in the face of his adverse C.R. vide this office letter No. L/341/CM (Welding) dated 7.5.86 is hereby treated as cancelled. Necessary recovery arising out of his proforma promotion w.e.f. 4.11.81 to 31.12.83 may be done accordingly.

In view of the above Shri Naskar whose name was placed below to Shri Prahlad Gupta in the seniority list of C/man 'A' (welding) dated 29.6.86 is now brought down and placed below to Shri B.N. Srivastava C/man 'A' (Welding).

Thanking you,

Yours faithfully,

Sd/-

C.W.M./LECO, CHARBAGH,
LUCKNOW.

Chandra Mohan Datta

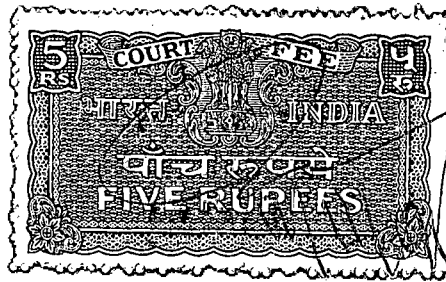
A/102

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW

M. P. No. 720/91K

O.A. NO. 142 of 1990



B e t w e e n

Chandrika Prasad, Son of Late Sri Parmeshwar Dayal ,
aged about 50 years, resident of 175/43, Pir Jalil
South, Kachahary Road, Lucknow.

..... Applicant/Petitioner

A N D

- Filed today*
20/11/91
1. Union of India, through General Manager,
Northern Railway, New Delhi.
 2. Chief Workshop Manager, Northern Railway,
Locomotive Works, Charbagh, Lucknow.
 3. Dy. Chief Mechanical Engineer, Carriage and
Wagon Works, Alambagh, Lucknow.
 4. Prahlad Gupta, Son of not known,
aged about 48 years, at present working as
Dy. Shop Superintendent Welding C & W Workshops,
Alambagh, Lucknow.
 5. Sri Nikhil Kumar Naskar, Son of not known,
aged about 35 years, Working as Chargeman,
Welding shop, Carriage and Wagon shop, Alambagh,
Lucknow.

Chandrika Prasad

contd...2



A/103

6. Sri Virendra Bahadur Srivastava, Son of not known, aged about 45 years, at present working as Chargeman, Welding Shop, Lucknow Works, Charbagh, Lucknow.
7. Sri P.K. Sharma Son of not known, aged about 36 years, at present working as Chargeman, Locomotive Works, Charbagh, Lucknow.
8. Sri Basant Kumar, Srivastava, Son of not known, aged about 36 years, at present working as Chargeman, Welding C & W Workshop, Alambagh, Lucknow.

9. Respondents

APPLICATION FOR INTERIM RELIEF

The applicant/Petitioner most respectfully submits as under :-

1. That the O.A. No. 142 of 1990 was filed in the Hon'ble Central Administrative Tribunal, Lucknow, with the following prayer :

" (i) That the Opposite Parties No. 1 to 3 may kindly be directed to promote and post the Petitioner as Dy. Shop Superintendent in the Scale of Rs. 2000-3200 (RPS) against the existing Vacancy.

(ii) That the Opposite Parties may also be directed to provide all the consequential benefits to the petitioner w.e.f. 1.10.1984.

(iii) That the Opposite Parties may also be directed to treat the petitioner Senior to Opposite Parties No. 4 to 8.

(iv) Any other relief which this Hon'ble



Chandigarh

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Court may deem fit add proper in the circumstances of the case. "

2. That after hearing the arguments this Hon'ble Court was pleased to pass an order on 26.4.1990 by which this Hon'ble Central Administrative Tribunal issued notice to the Opposite Parties to show cause as to why the interim prayer made for, be not granted and this Hon'ble Court further directed the Respondents to consider the applicant for the post of Dy. shop Superintendent, the photo stat copy of the order dated 26.4.1990 is being annexed here as ANNEXURE No. I. to this Application.

3. That the notices were issued and copies of the aforesaid order were served on the Opposite Parties.



4. That the order was very specific but the Opp. Parties No. 1 to 3 who are in collusion with Opp. Party no. 5 did not pay any heed to the order of this Hon'ble Court and by means of office order No. 316 dated 30.5.1991 promoted the Opposite Party no. 5 to the post of Dy. Shop Superintendent (Welder) on which the Petitioner has been claiming for a long period of time being Senior to Opposite Party no. 5. Copy of the order No. 316 dated 30.5.1991, is being annexed as Annexure No. 2 to this application.

Chandrasekhar

It is also pertinent to mention here that even after the specific orders of this Hon'ble Court, the Opposite Party nos. 1 to 3 did not afford any opportunity ^{to the petitioner} to appear in the ^{said} examination or Viva-voce ^(Selection) and more over his name was not at all considered ^{for promotion} by the Opp. Party Nos. 1 to 3 which is a clear cut negligent and deliberate act showing dis-respect towards the order passed by this Hon'ble Court.

5. That to the utter surprise of the applicant, the Opposite Party Nos. 1 to 3 by means of an office order No. 577 of 16.10.1991 further promoted the Opposite Party no. 5 to the post of Shop Superintendent (Welder) which is again the violation of the order passed by this Hon'ble Court dated 26.4.1990. The photo stat copy of order no. 577 of 16.10.1991 is being annexed as ANNEXURE No. 3 to this application.

That it is also necessary to mention here that by means of Misc. Petition No. 519 of 1990 the Petitioner has shown the illegal act of the Opposite Parties No. 1 to 3 upon which this Hon'ble Central Administrative Tribunal has issued notice to the Opposite Parties No. 1 to 3 on 31.8.1990 which is still pending for disposal. The copy of the order dated 31.8.1990 is annexed here as ANNEXURE No. 4 to this application.



Chandrasekhar Prasad

8/10/06

- 5 -

7. That the Applicant in all respect is senior to Opposite Party nos. 4 to 8 and even in the Schedule Caste Cadre is Senior to Opposite Party no. 5 which is also a member of Schedule Caste Community and therefore he is entitled first to get the promotion over the Opposite Party No. 5.
8. That the Opposite Party nos. 1 to 3 are in collusion with Opposite Party no. 5 and are bent upon defeating the claim of the Petitioner and for which they have gone to committing the Contempt of this Hon'ble Central Administrative Tribunal too.
9. That the act of the Opposite Parties is illegal, malafide and in no case Sri N.K. Naskar, the Opposite Party no. 5 could be promoted ignoring the seniority of the petitioner.
10. That the Opposite Party nos. 1 to 3 are also liable to be punished for committing Contempt of this Hon'ble Central Administrative Tribunal.



P r a y e r

WHEREFORE, it is most respectfully prayed that the operation of office order No. 316 dated 30.5.1991 and office order No. 577 of dated 16.10.1991 may kindly be stayed and the Opposite Party no. 5 Sri Nikhil Kumar Naskar be treated Junior to the petitioner.

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- 6 -

It is further prayed that in place of Sri Nikhil Kumar Naskar , the Opposite Party Nos. 1 to 3 may kindly be directed to promote the Petitioner to the post of Shop Superintendent (Welder) in the pay scale of Rs. 2375 -3500 with immediate effect giving all consequential benefits.

Lucknow :

Dated . 25- October , 1991 (Satya Prakash)
Advocate

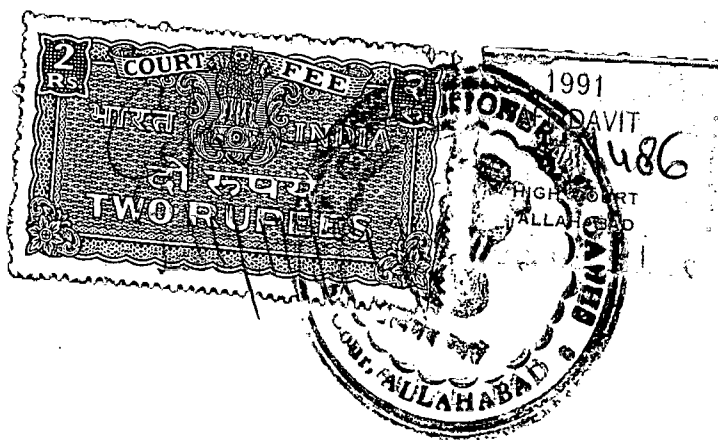
Counsel for Petitioner

18/10

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

L U C K N O W

O.A. NO. _____ of 1991



B e t w e e n

Chandrika PrasadPetitioner

A n d

Union of India & others..... Opp. Parties

A F F I D A V I T

I, Chandrika Prasad, aged about 50 years,
Son of Late Parmeshwar Dayal, resident of 175/43,
Pir Jalil South, Kachahary Road, Lucknow, do hereby
solemnly affirm and state on oath as under :-

1. That the deponent is Applicant/Petitioner
in the above noted case and a-s such he is fully
conversant with all the facts of the case deposed
here under :

2. That the contents of paras 1 to 10
of the accompanying Application for Interim Relief
are true to my personal knowledge and those of
paras _____ of the same are believed
by me to be true and correct.

3. That the Annexure No. 1 to 4 of the
accompanying Application are true to my own knowledge

11/89

- 2 -

and photo, stat copies of which have been compared by deponent, they are true as well as their originals.

Lucknow :

Dated :- 11.11.1991

Charitra Prasad

Deponent

Verification

I, the above named deponent, do hereby verify that the contents of paras 1 to 3 above are true to my personal knowledge. No part of it is false and nothing material has been concealed in it. So help me God.

Signed and verified this 11 day of ~~October~~ ^{Nov} 1991 in the Court's Compound at Lucknow.

Lucknow :

Dated :- 11.11.1991

Charitra Prasad

Deponent

I identify the above named deponent who has signed before me.



11-11-91
Ramesh
Advocate
Chandrika Prasad
R.C. Shukla
I have signed this affidavit
the deponent in the presence of
the contents of this affidavit which
have been read out and explained
to him.

A.N. Khanam

A.N. KHANAM
OATH COMMISSIONER
High Court Allahabad
Lucknow Bench Lucknow
No. 511/406
Date 11/11/91

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW.

O.A.NO. 142 of 1990 (L)

Ans No 1

Chandrika Prasad

Applicant

Versus

Union of India & Others

Respondents

Dated: 26.4.90.

Hon'ble Mr.D.K.Agarwal,

Judicial Member

Hon'ble Mr.K.Obayya,

Administrative Member

Heard, the learned counsel for the applicant.

Admit.

Issue notice to the respondents to file counter affidavit within 8 weeks and rejoinder if any within 2(two) weeks thereafter.

List if for hearing on 11.12.1990.

Sd/-

Sd/-

A.M.

J.M.

Dated: 26.4.1990.

Hon'ble Mr.D.K.Agarwal,

Judicial Member

Hon'ble Mr.K.Obayya,

Administrative Member

C.M.App.No.288/90(L) for amendment is allowed. The amendment has been incorporated in the court itself.

Issue notice to the respondents to show cause as to why the interim prayer made for be not granted.

Mean while, we hereby direct, the respondents to consider the applicant, as well, for the post of Deputy shop Superintendent that is to permit him to appear in the examination or viva-voce, as the case may be. However, the result of the selection remains subject to the decision of the Tribunal.

A copy of the order may be given to the counsel for the applicant as and when desired.

Sd/-

Sd/-

J.M.

A.M.

// TRUE COPY //

Deputy Registrar
Central Administrative Tribunal
Lucknow Bench.
Lucknow



Checked
Shaf
26/4/90

Chandrika Prasad

AN. No 2

दिनांक 30-5-1991

वेतन जो दिया गया
=====

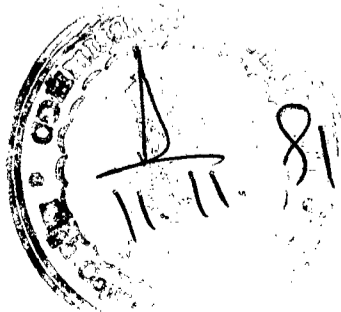
वेतनमान	550-750	570/-	1. 4. 83
"		590/-	1. 4. 84
"		610/-	1. 4. 85
"		630/-	1. 4. 86
1600-2660		1800/-	1. 1. 86
"		1850/-	1. 4. 86
"		1900/-	1. 4. 87
2000-3200		2000/-	22. 2. 87 से
			25. 8. 87
1600-2660		1950/-	1. 4. 88
		2000/-	1. 4. 89
		2050/-	1. 4. 90

वेतन जो निर्धारित किया गया।
=====

वेतनमान	550-750	570/-	1. 4. 83
	700-900	700/-	1. 1. 84
			प्रोफार्मा
			प्रोमोशन
"		730/-	1. 1. 85
"		760/-	1. 1. 8 6
2000-3200		2240/-	1. 1. 86
		2300/-	1. 1. 87
		2375/-	1. 1. 88
		2450/-	1. 1. 89
		2525/-	1. 1. 90

1600-2660

Charles Lee Powell



2.

1600-2660 2100/- 1.4.91 2000/- 3200 2600/- 1.1.91

नोट:- श्री एन.के.नरकर की पदोन्नति 1.1.84 में उस शाप अधीन वेल्डिंग

के पद पर प्रोफार्मा बेसिस पर की गई है, अतः उन्हें 1.1.84 से

-5-91 तक के सरियर का जोई भी भुगतान नहीं किया जाएगा।

इन पर उ.सु.या. डी.ई. का अनुमोदन प्राप्त है।

उ.सु.या. डी.ई. का अनुमोदन प्राप्त है।
आलमबाग, लखनऊ

फाइल सं० डी.सी.ए.ई./796/भाग

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :

1. शाप अधीन वेल्डिंग
2. का.अधीन/ पे. बिल, समयपाल, बजट, लीव क्लर्क, पास अनुभाग, का.अधीन/बजट
3. व - लेखाधिकारी डी.ई. आलमबाग, लखनऊ
4. सु. कारखाना प्रबन्धक डी. उ. रे. लोकोमोटिव/कारखाना/लखनऊ
5. महाप्रबन्धक डी.का. उ. रे. प्रधान कार्यालय बड़ौदा हाउस/ नई दिल्ली।
6. शा. मन्त्री/ उ. रे. मजदूर यूनियन/ आलमबाग, लखनऊ।
7. शा. मन्त्री, नार्दन रेलवे पेन्शन यूनियन, आलमबाग, लखनऊ
8. सम्बन्धित कर्मचारी ।

Chandrika Prasad



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Am. No. 3

उत्तर रेलवे

कार्यालय उप मुख्य यांत्रिक अभियंता [कर्म] सवारी एवं माल डिब्बा कारखाना, आलमबाग, आलमबाग

कटोराटो: 577

दिनांक:- 16/10/91

सहाय्यक [कार्मिक] बड़े दिल्ली के मोहिस सं० 940 ई०/511/1ई॥ डब्ल्यू
दिनांक 15.10.91 के अनुसार श्री करम सिंह शाप अर्धी०/ वेल्डिंग वेतनमात्र 2375-
3500 [आर०पी०एस०] की दि० 29.7.91 को मृत्यु से रिक्त पद पर श्री ए०के०
नरकर उप शाप अर्धी०/ वेल्डिंग वेतन 2600/- वेतनमात्र 2000-3200 [आर०पी०एस०]
को अस्थाई रूप से वेतनमात्र 2375-3500 [आर०पी०एस०] वेतन 2750/- पर स्थावा-
पन्न रूप से प्रोन्नति किया जाता है। उपरोक्त पदोन्नति कैट/बपी दिल्ली एवं
सर्वोच्च न्यायालय के अन्तिम निर्णयानुसार मान्य होंगे।

श्री नरकर यदि अपने वेतन का निर्धारण मूल पद के वार्षिक वेतन वृद्धि की तिथि
से चाहते हों तो इस आशय का विकल्प निर्धारित प्रारूप पर इस कटोराटो के जारी होने
के एक माह के अन्दर सकारात्मक रूप से दें।

उसे सक्षम अधिकारी की स्वीकृति प्राप्त है।

केस सं०:- डी०सी०एम०ई०/796/भाग 11,

कृते उप मुख्य यांत्रिक अभियंता [कर्म]
आलमबाग - लखनऊ।

Chandrika Prasad



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T/M

AN. No 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

M.P.NO. 519 of 1990 (P)
O.A.NO. 113 of 1990 (P)

Chandrika Prasad Applicant.
Versus
Union of India (U.R.L.Y.) Respondents.
& Others.

6/9/90

31.8.1990

Hon'ble Mr. D.K. Agrawal, J.M.
Hon'ble Mr. K. Chavva, J.M.



Heard.

Shri Satya Prakash Choudhary, Applicant.

Issue notice to respondents. List for orders
on 31.8.90.

J.M.

Checked
Sd/-
7/9/90

//TRUE COPY//

(Mohd. Umar Khan)
Chairman;
Central Administrative Tribunal,
Circuit Bench,
LUCKNOW.

Chandrika Prasad



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BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

M.P. No. 519/90K

Misc. Application No. _____ of 1990

In

U.A. No. 142 of 1990

F.P. 11-12-90



Chandrika Prasad Applicant/Petitioner:

Vs.

Union of India & others Respondents

Humble submission on behalf of Petitioner/Appli-

-cant is as under :-

1. That the applicant on 26.4.1990 preferred a Petition before this Hon'ble Tribunal with the following prayers :-

(i) That the Opposite Party Nos. 1 to 3 may kindly be directed to promote and post the Petitioner as Dy. S. Suptdt. in the scale of Rs. 2,000- 3,200 (RPS) against the existing vacancy.

(ii) That the Opposite Parties may also be directed to provide all the consequential benefits to the petitioner w.e.f. 1.1.1984.

Put up
before
Hon'ble Bench
on 31.8-90
for order
30.8-90

R
Filed today
27/8
Noted for 30/8
B.A.

(iii) That the Opposite Parties may further be directed to treat the Petitioner Senior to Opposite Parties Nos. 4 to 8.

(iv) Any other relief which this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. That after hearing the Parties, on the same day, on application for Interim Relief, the Hon'ble members of the Tribunal ~~was~~ were pleased to passed the order directing the Respondents to consider the applicant as well as for the post of Dy. S. Suptdt. i.e. to permit him to appear in examination or viva, as the case may be. However, the result of selection remain subject to decision of Tribunal.

3. That on same day, the Hon'ble Tribunal directed to respondents to file Counter affidavit within 8 weeks from 26.4.1990. The copy of order dated 26.4.1990 is being annexed as ANNEXURE NO. I to this application.

4. That however, more than 8 weeks have been passed but still the respondents have not filed any

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any Counter affidavit and all of sudden and in great disregard towards the order passed by this Hon'ble Tribunal, the Respondents issued a letter promoting the petitioner from the post of Charge man 'B' grade to Charge man 'A' grade.

It may be mentioned here that the respondents as soon as they came to know about the order passed by this Hon'ble Tribunal, cancelled the selection of Dy. S. Suptdt. and even till today, they have not considered the petitioner for promotion, on the post of Dy. S. Suptdt. In spite of promoting the petitioner on the post of Dy. S. Suptdt. in the pay scale of Rs. 2000-3200, the Respondents have issued a letter which is contained as ANNEXURE NO. 2 only promoting to the post of Charge man Grade 'A' which is not the case of applicant.

In the letter dated 17.8.1990, it has also not been mentioned that this letter will have retrospective effect and will give all consequential benefits. It seems that a fresh promotion is being given to applicant ignoring his claim Petition pending in this Hon'ble Tribunal and therefore the applicant has been advised that in case he accepts this offer of Respondents, his ^{become} Petition may ~~be~~ infructuous because this

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: 4 :

promotion will be deemed as fresh and therefore automatically his claim would be frustrated.

5. That the applicant is fighting for his promotion and if this offer is given with clean hand without any malafidy intention, the petitioner would have no ^{objection} ~~option~~ to accept the same, but since the letter shows fresh promotion from Charge man Grade 'B' to Charge man Grade 'A' without considering his previous claim, he is compelled to take interim order against the letter No. 432 dated 17.8.90 contained in annexure no. 2 to secure the ends of justice.

WHEREFORE, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to pass suitable and necessary orders to promote the petitioner to the post of Dy. shop. Suptdt. in the pay scale of Rs. 2000-3200 with all consequential benefits w.e.f. 1.1.1984.

any other order which deems just and proper by this Hon'ble Court, may be passed.

Lucknow :
Dated :- 8.1990.

Chandraker Prasad

Applicant

Satya Prakash
Advocate
Counsel for Applicant

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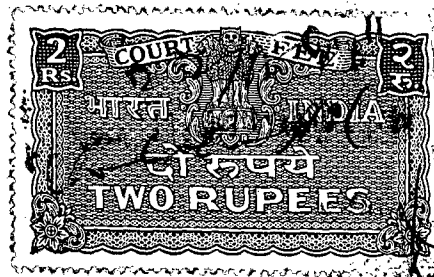
Before the Hon'ble Central Administrative Tribunal

Circuit Bench, Lucknow

Misc. Application No. _____ of 1990

In

O.A. No. 142 of 1990



1990
AFFIDAVIT
76 M
DIST. COURT
U.P.

Chandrika Prasad Applicant

Vs.

Union of India & others..... Respondents

A f f i d a v i t

I, Chandrika Prasad, aged about 50 years, son of Late Sri Parmeshwar Dayal, resident of 175/43, Pir Jalil South, Kachahary Road, Lucknow, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is Petitioner in the above noted case and as such he is fully well conversant with all the facts of the case.

2. That the contents of paras 1 to of the accompanying application are true to my personal knowledge, and the contents of paras of the accompanying application are believed by me to be true and correct.

Lucknow : ✓
Dated :- 28.8.1990.

Chandrika Prasad
Deponent

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: 2 :

Verification

I, the above named deponent, do hereby
verify that the contents of paras 1 to 2 of
this affidavit are true to my personal knowledge.

Signed and verified this 22 day of August
1990, in the Civil Court's Compound at Lucknow.

Lucknow :
Dated :- 22.8.1990.

Chandrika Prasad
Deponent

I identify the above named deponent
who has signed before me.

Shamendra Gupta
Advocate
Adv

Solemnly affirmed before me on
at 10:40 AM by the deponent Sri
who is identified by Sri *Shamendra Gupta*
Advocate High Court, Lucknow Bench, Lucknow.

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

Chandrika Prasad
Shamendra Gupta
Identified by
Identified by
Identified by

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

22/8/1990
RUSHIR ALAM FARUK
Oath Commissioner
Civil Court

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW.

O...No. 142 of 1990 (L)

Handwritten: 12/1

Chandrika Prasad

Applicant

Versus

Govt of India & Others

Respondents

Dated: 26.4.90.

Hon'ble Mr. D.K. Agarwal,

Judicial Member

Hon'ble Mr. K. Obayya,

Administrative Member

Heard, the learned counsel for the applicant.

Admit.

Issue notice to the respondents to file counter affidavit, within 8 weeks and rejoinder if any within 2(two) weeks thereafter.

List if for hearing on 11.12.1990.

Sd/-

Sd/-

A.M.

J.M.

Dated: 26.4.1990.

Hon'ble Mr. D.K. Agarwal,

Judicial Member

Hon'ble Mr. K. Obayya,

Administrative Member

C.N.App.No. 238/90(L) for amendment is allowed. The amendment has been incorporated in the court itself.

Issue notice to the respondents to show cause as to why the interim prayer made for be not granted.

Mean while, we hereby direct, the respondents to consider the applicant, as well, for the post of Deputy shop Superintendent. It is to permit him to appear in the examination or viva-voce, if the case may be. However, the result of the selection remain subject to the decision of the Tribunal.

A copy of the order may be given to the counsel for the applicant as and when desired.

Sd/-

Sd/-

J.M.-

A.M.

// TRUE COPY //

Handwritten: Chandrika Prasad

Handwritten: Deputy Registrar
Central Administrative Tribunal
Lucknow Bench.
Lucknow

उत्तर रेलवे

कार्यालय उप मुख्य यांत्रिक इंजीनियर (कर्म) सवारी और माल डिब्बा कारखाना आलमबाग लखनऊ ।
क्र० आ० सं० : 432 दिनांक : 17 / 8 / 90.

मुख्य कारखाना प्रबन्धक/लोको शाप कारबाग के कार्यालय आदेश 426 दिनांक 25.7.90 के अनुसार श्री राम किशन चार्जमैन 'बी' वेल्डिंग की प्रोन्नति चार्जमैन 'ए' वेल्डिंग और स्थानान्तरण लोको शाप कारबाग के पद हेतु हुआ और उनका इस पद हेतु इन्कार करने से, उन्हें एक वर्ष के लिए चार्जमैन 'ए' वेल्डिंग की प्रोन्नति से वंचित किया जाता है ।

तदनुसार श्री चंद्रिका प्रसाद चार्जमैन 'बी' वेल्डिंग वेतन रु० 17 20/- प्रतिमाह वेतनमान रु० 1400- 2300 (आर.पी.एस) को चार्जमैन 'ए' वेल्डिंग वेतनमान रु० 1600- 2660 (आर.पी.एस) के प्रोन्नति पर लोको शापकारबाग लखनऊ के लिए स्थानान्तरण करते हुए दिनांक 18.8.90 अपराह्न से कार्यमुक्त किया जाता है ।

श्री चंद्रिका प्रसाद यदि यह चाहते हों कि उनका वेतन निर्धारण उनके मूल वेतन के अग्रिम वार्षिक वेतन वृद्धि की तिथि से किया जाये तो वह अपना विक्त्य मुख्य कारखाना प्रबन्धक लोको शाप कारबाग के कार्यालय आदेश के जारी होने के एक (1) माह के अन्दर लोको शाप कारबाग को जमा करें ।

इस पर उप मुख्य यांत्रिक इंजीनियर (कर्म) महोदय का अनुमोदन प्राप्त है ।

संख्या : डी०सी०एम०ई०/796 /ए/भाग- II

कृते उप मुख्य यांत्रिक इंजीनियर (कर्म)
आलमबाग- लखनऊ ।

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. मुख्य कारखाना प्रबन्धक/लोको शाप/कारबाग- लखनऊ ।
2. शाप अधीक्षक/वेल्डिंग को इस निर्देश के साथ प्रेषित कि वह श्री चंद्रिका प्रसाद चार्जमैन बी० वेल्डिंग को अविलम्ब कार्य मुक्त करते हुए निर्देश दें कि वह लोको शाप कारबाग को अपनी उपस्थिति की रिपोर्ट करें ।
3. कार्यालय अधीक्षक/पे- बिज्ञ. कार्यालय अधीक्षक/समय, प्रधान लिपिक/ पास, लीव क्लर्क/ सुपर. कार्यालय अधीक्षक/बजट आलमबाग- लखनऊ ।
4. वरिष्ठ लेखा अधिकारी/स्थापना, पी०एफ०/उ०रे०/आलमबाग- लखनऊ ।
5. संबंधित कर्मचारी को ।

/मो०आ० / 1708 90/

1001-20-18-8-90

Charitika Prasad

M
27/8

Before the Hon'ble Central Administrative Tribunal

L u c k n o w

123

O.A. No. 142 of 1990 (L)

Chandrika Prasad Applicant/Petitioner

Vs.

Union of India & others..... Opp. Parties/Respon-
-dents.

I n d e x

Sl. No.	Description of documents relied upon	Page No.
1.	Application	1 to 4
2.	Impugned order dated 9.4.1990. Annexure No. I	15 to 16
3.	Vakalatnama	17 to .
4.	Postal order	18 to .

P.T.
Stamp
25/4/90

Lucknow :

Dated :- 24.4.1990.

Chandrika Prasad

Signature of the Applicant.

Satyajit Prakash
Counsel for Applicant

Noted for 26/4/90
R. Badh
Ad
25/4/90

26/4/90

85/124

Before the Hon'ble Central Administrative Tribunal

L u c k n o w

O... NO. 142 of 1990 (L)

B e t w e e n

Chandrika Prasad, Son of Late Sri Parmeshwar Dayal,
aged about 50 years, resident of 175/43, Pir Jalil
South, Kachahary Road, Lucknow.

..... Applicant/Petitioner

A N D

1. Union of India, through General Manager,
Northern Railway, New Delhi.
2. Chief Workshop Manager, Northern Railway,
Locomotive Works, Charbagh, Lucknow.
3. Dy. Chief Mechanical Engineer, Carriage and
Wagon Works, Alambagh, Lucknow.
4. Prahlad Gupta, Son of not known, aged about
48 years, at present working as Dy. Shop Superin-
tendent Welding C & W Workshops, Alambagh,
Lucknow.

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5. Sri Nikhil Kumar Naskar, Son of not known, aged about 35 years, Working as Chargman, Welding shop, Carriage & Wagon shop, Alambagh, Lucknow.
6. Sri Virendra Bahadur Srivastava, Son of not known, aged about 45 years, at present working as Chargeman, Welding shop, Lucknow Works, Charbagh, Lucknow.
7. Sri P.K. Sharma, Son of not known, aged about 36 years, at present working as Charge-man, Locomotive Works, Charbagh, Lucknow.
8. Sri Basant Kumar Srivastava, Son of not known, aged about 36 years, at present working as Charge-man, Welding, C & W workshops, Alambagh, Lucknow.

.... Respondents.

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

The application is against the following order :

- (i) Order No. (a) 108-K/Selection/Dy.S.S./MLD/Pt-II dated 9.4.2990 contained in Annexure No. .I
- (ii) Date : 9.4. 1990.
- (iii) Passed by : Ex. Chief Workshop Manager, Locomotive Works, Charbagh, Lucknow.
- (iv) Subject in Brief. : The petitioner has been ignored for promotion to the post of Dy. S.S.Gr. 2000-3200 prior to calling

Charan Kumar Prasad

A/178

: 3 :

: Respondent Nos. 5 to 8 to appear in the Selection for the post who were promoted to the post of Charge man Gr 'A' later than the petitioner and as such are Junior to the Petitioner.

2. Jurisdiction of the Tribunal

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

3. Limitation

The applicant further declares that the application is within the Limitation Prescribed in Section 21 of the Administrative Tribunal Act 1985.

4. FACTS OF THE CASE

(i) That this Petition is directed against Non-consideration and posting of the Petitioner to the promotional post of Dy. Shop Superintendent Welding and holding selection for the post of Dy. shop Suptdt in scale of Rs. 2000-3200 which is going to be held on 30.4.1990 and is contained in Annexure No. I.

(ii) That the petitioner was initially appointed as

a Trade apprentice under Dy. Chief Mechanical Engineer, C & W Works, Alambagh, Lucknow, in the year 1959 and on completion of prescribed training posted as skilled Welder in the year 1962.

(iii) That the petitioner was declared suitable for the post of Charge-man 'B' after appearing in a departmental selection, was empanelled as Chargeman 'B' and was posted as Chargeman 'B' Gr. 425-700 (Rs) from 10.1.1980.

(iv) That the Petitioner was promoted as Charge-man Gr. 'A' on and from 14.9.1981 against a post reserved for scheduled Caste, superceding his seniors S/Sh. Satrohan Lal, Ram Kishan and Nikhil Kumar Naskar (Respondent No. 5) who were not eligible for promotion due to adverse entries in their annual confidential Reports for the preceding year 1980-81. Thus the Petitioner became Senior to the above noted incumbents.

(v) That under restructuring of Cadre introduced w.e.f. 1.1.1984 five posts of Dy. S.S. 700-900 (Rs) were created at Loco Charbagh, Lucknow and C & W. Alambagh, Lucknow and all those persons working in Grade 550-700 (Rs) on 1.1.1984 were considered and promoted to the post of Dy.

Chandrasekhar Prasad

S.S. 700-900 (Rs) but the petitioner was illegally ignored for consideration. Even Sri Prahlad Gupta (Respondent No. 4) who was promoted to the post of Chargeman Grade 550-750 (Rs) w.e.f. 4.11.1981 was considered and promoted to the post of Dy. S.S. Gr. 700-900 (Rs) w.e.f. 1.1.1984.

(vi) That subsequently the petitioner was reverted from the post of Chargeman Gr. 'A' 550-750 (Rs) w.e.f. 23.9.1984 without assigning any ~~xxxx~~ reason and Sri Nikhil Kumar Naskar (Respondent No. 5) was given proforma promotions w.e.f. 4.11.1981 against the post on which the petitioner was promoted on regular basis.

(vii) That after several representations, the then Chief Workshop Manager, Locomotive Works, Charbagh, Lucknow, passed orders vide letter No. 50E/CM/Welding dated 17.2.1988. Copy of the order is annexed herewith as ANNEXURE No. 2.

" While reviewing the case , the CRs of Sh. Naskar were perused. The C Rs. of Sh. Naskar indicate that as on 4.11.1981, he was not suitable for promotion as Charge-man 'A' (Weld) even if his name would have been considered in place of Chandrika Prasad (SC)".

Chandrika Prasad

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" That point No. 1 of the Roster of C/Man 'A' was already filled by promotion of Sri Chandrika Prasad (SC)".

(VIII) That 'this order of Chief Workshop Manager Loco Charbagh, Lucknow was up-held by G.M. Northern Railway (the Respondent No. I) and Petitioner's promotion to the post of Charge-man Gr. 550-750 w.e.f. 14.9.1981 was found to have been correctly done and his reversion on and from 23.9.1984 was quashed by Opposite Party No. I.

(ix) That this illegal reversion from the post of Chargeman Gr. 'A' w.e.f. 24.9.1984 and non-consideration for the post of Dy. shop Suptdt. Gr. 700-900 (Rs) w.e.f. 1.1.1984 through modified selection, shows malafide intention on the part of the Respondents No. 1, and 2 & 3 and has put the petitioner to a continued humiliation apart from recurring financial loss.

(x) That in view of the decision of the then Chief Workshop Manager, Loco Charbagh, Lucknow cited in para 7 above, the Petitioner should never

Chandrika Prasad

have been reverted from the post of Charge-
man Gr. 550-750 (Rs) on and from 23.9.1984
as his promotion to the post was correctly
done on and from ~~24~~ 14.9.1981.

(xi) That the Petitioner should have been given
promotion to the post of Dy. S.S. Gr. 700-900
(Rs) w.e.f. 1.1.1984 under Cadre restructuring
through modified Selection in place of Sri
Prahlaad Gupta (Respondent No. 4) who was
promoted as Chargeman Gr. 550-750 (Rs) w.e.f.
4.11.1989 and was thus Junior to the Petitioner
and also because the proforma promotion given
to Sri Nikhil Kumar Naskar (Respondent No. 5)
w.e.f. 4.11.1981 was treated to have been
cancelled vide Chief Workshops Manager Loco
CB, Lucknow, order cited in para 7 above.

(xii) That the fact that the petitioner should have
been given all the consequential benefits of
Charge-man Gr. 'A' 550-750 (Rs) and should
have been provided all the benefits as charge
man Gr. 550-750 was further substantiated by the
Order No. 940-E/511/E-II (W) (L) dated 21.12.1981
passed by General Manager (P) Northern Railway
New Delhi (Respondent No. I). Copy of the order
is being annexed herewith as Annexure No. 2

contd., B/-

(Xiii) That the Petitioner has submitted a number of representation since then to the Respondent No. 2 but no consequential benefits from 1.1.1984 have been given so far and the Opposite Parties are going to hold a selection for the post of Dy. Shop Suptdt. in the scale of 2000-3200 ignoring the name of Petitioner for promotion against the existing vacancies, hence this petition. Copies of the representation and Reminders are annexed here as Annexure Nos. 4, 5 ~~3~~.

(xiv) That instead of pointing the petitioner to the post of Dy. S.S. in the scale of Rs. 700-900 w.e.f. 1.1.1984 under restructuring through modified selection as was done in the case of his Junior Shri Prahlad Gupta (Respondent No. 4) ; the Respondent No. 2 has initiated the process of holding a Selection for two vacancies of Dy. S.S. Gr. 2000-3200 (RPS) on 30.4.1990 vide his letter no. 108-K/Selection/Dy. S.S. /Wldpt-II dated 9.4.1990.

(xv) That the name of Respondent no. 5 has been included in the list of candidates called to

Chandrika Prasad

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: 9.10 :

to appear in the said Selection to held on 30.4.1990, who has been given proforma promotion w.e.f. 1.4.1982 by the General Manager, N. Rly. , New Delhi , vide his order cited in para 12 above, although this promotion is also illegal, as there was no vacancy on 1.4.1982 and also there was no roster point for promotions of a S.C. incumbent on 1.4.1982 and is therefore the proposal of the name of Opposite Party no. 5 is for the selection to the selection, to the post of Dy. shop Suptdt. is liable to be quashed.

(xvi) That the Respondent Nos. 6 to 8 are also Junior to the petitioner and they are also called for the selection to the post of Dy. shop Superintendent in the scale of Rs. 2000-3200 , which is illegal, malafide and not permitted under the Law and violation of fundamental rights of the Petitioner.

Chandrasekhar Prasad

5. G r o u n d s

That the Petitioner is preferring this Petition on the following among other grounds :-

(a) BECAUSE the petitioner being the Senior in the Cadre of Charge-man Gr. 'A' should have been promoted to the post of Dy.

to the post of Dy. S.S. in scale of
2000-3200 (RPS) w.e.f. 1.1.1984.

- (b) BECAUSE against the existing vacancies of Dy. S.S. , the petitioner was not called for to take the part in the selection which is arbitrary, malafide, and illegal.
- (c) BECAUSE the Opposite Party No. 1 & 2 after passing the orders that the petitioner's promotion in the cadre of Charge-man 'A' Gr. 'A' was correctly made , have failed to give all the consequential benefits which was required to be paid to the petitioner w.e.f. 1.1.1984.
- (d) BECAUSE the selection to the post of Dy. S.S. and considering the names of Opposite Party Nos. 5 to 8 are illegal, arbitrary and without any legal foundation.
- (e) BECAUSE there is a violation of fundamental rights of the petitioner.

6. Details of Remedies Exhausted :

That after the orders of Reversion from the

Chandrasekhar Prasad

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: 11:

post of Charge-man Gr. 'A' 550-750 (RS) on
and from 23.9.1984, the petitioner made
several representation and in response
to there representation, the Opposite Party
No. 2 passed certain orders. Copy of which
is annexed herewith as Annexure No. 2.

That after waiting for sufficient
period of time for restoration of the petiti-
-ner to his post held by him prior 23.9.1984 an
and the consequential benefits w.e.f. 1.1.84.
The petitioner further submitted a represen-
tation. Copy of which is annexed herewith
as Annexure No. 4 followed by a reminder
Copy of which is annexed herewith as Annexure
no. 5.

7. Matters not previously filed or pending
with any other Court.

The applicant further declares that he
had not previously filed any application,
Writ Petition or suit regarding the matter in
respect of ~~which~~ which this application has been
made before any Court or any other Authority or
any other Branch of the Tribunal ; nor any

Chandela Shrivastava

such application, writ Petition or suit is pending before any of them.

8. Reliefs Sought :

i. That the Opposite Party Nos. 1 to 3 may kindly be directed to promote and post the petitioner as Dy. S. Suptdt. in the scale of Rs. 2000-3200 (RPS) against the existing vacancy.

(ii) That the Opposite Party may also be directed to provide all the consequential benefits to the petitioner w.e.f. 1.1.1984.

(iii) That the Opposite Parties may further be directed to treat the Petitioner Senior to the Opposite Parties Nos. 4 to 8.

(iv) Any other relief which this Hon'ble Court may deem fit and proper in the circumstances of the case.

9. Interim Order, if any, prayed for :

Pending final decision on the application, the applicant seeks the following Interim Relief

Charities Trust

That the name of the petitioner may also be considered for promotion to the post of Dy Shop Superintendent in the scale of Rs 2000-3200 and for which he shall be allowed to take part in the written examination going to held on 30.4.90 by opposite party No 1 to 3.

10. Not applicable as the application is being presented in person.

11. Particulars of Bank-draft/Postal Order :

Postal order No. 8 ~~xx~~ 02 414148 dated 24.4.1990 from High Court Post Office, Lucknow.

12. List of enclosures :

1. Impugned Order dated, 9.4.1990.
- 2.
- 3.
- 4.

V e r i f i c a t i o n

I, Chandrika Prasad , Son of Late Shri Parmeshwar Dayal , aged about 50 years, working as Charge-man in the office of Weldingx shop, Carriage & Wagon Workshops, Alambagh, Lucknow, resident of 175/43, Fir Jalil South, Kachahary Road, Lucknow, do hereby verify that the contents of paras 1 to 7 are true to my personal knowledge and paras 8 to 12 believed to be true on

Chandrika Prasad

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737

: 15 :

on legal advice and that I have not
suppressed any material fact.

Date : 24.9.1990.

Place : Lucknow.

Chandrika Prasad

Signature of Applicant

Satyabrakash
Counsel for Applicant

Before the Hon'ble Central Administrative Tribunal,

L u c k n o w

8/138

O. A. No. _____ of 1990

B e t w e e n

Chandrika Prasad Applicant/
Petitioner.

vs.
A n d

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

A n n e x u r e N o. I

Northern Railway Locomotive Works Charbagh, Lucknow

No. 108-K/Selection/Dy S.S. Wld Pt-II Date : 9.4.90

The Deputy Chief Mechanical Engineer (C&W)
Alambagh, Lucknow.

The Shop Superintendent, Welding shop,
Loco, Charbagh,
Lucknow.

g Sub - Selection for the post of Dy. shop Suptdt/
Welding Grade 2000-3200 vacancies-2 reserved
for S/C-I.

I t has been decided to hold selection for the above post. The Written test will be held on 30.4.1990 at 11:00 Am in the Committee Room. The following staff may please be directed to appear in the Written test on the fixed time, date and place. The Staff concerned be warned that in the absence of any valid reason acceptable to the administration under the extant rules, the failure on their part to appear in the written test will be taken to mean that they are not interested in appearing for the selection. It should be also ensured that no leave is sanctioned to these staff on the aforesaid date of test. They should not make any excuse for appearing in the above test. In case any of the staff asked for G-92 ~~and~~ an endorsement that he has to appear in the test, may be recorded.

Please ensure that these instructions and date, place and time of the written test are noted

Chandrika Prasad

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by each candidate and their acknowledgment obtained.

<u>Sl. No.</u>	<u>Name</u>	<u>Place of post</u>
1.	N.K. Naskar (SC)	C & W. shops, A.M.V./Lko.
2.	V.B. Srivastava	Loco, C.B., Lko.
3.	P.K. Sharma	" " "
4.	B.K. Srivastava	C & W Alambagh, Lucknow.

The Dy. C.M.E. (W) AMV will arrange pre selection training to SC candidate, if so desires.

For : Chief Works Manager,
Loco, Charbagh,
Lucknow.

True Copy Attested
R. Badha
24/4/12

Chandra Lal Sharma

Before the Central Administrative Tribunal, Lucknow
ब अदालत श्रीमान महोदय

वादी अपीलान्त प्रतिवादी (रेस्पान्डेन्ट) श्री का वकालतनामा



Chandrika Prasad

वादी (अपीलान्त)

बनाम

Union of India & others

प्रतिवादी (रेस्पान्डेन्ट)

C.A. No

नं० मुकद्दमा

सन् १६

पेशी की तारीख

१६ ई०

ऊपर मुकद्दमा में अपनी ओर से श्री सत्य प्रकाश, एडवोकेट

निवासी, C-1045, राजाजी पुरम कालोनी, लखनऊ एवं राकेश प्रधान, एडवोकेट

महोदय को अपना वकील नियुक्त करके (प्रतिज्ञा) इकरार करता हूं और लिखे देता हूं कि इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य कोई वकील द्वारा जो कुछ पैरवो व जवाबदेही व प्रश्नोत्तर करे या कोई कागज दाखिल करे या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया बसूल करें या सुलहनामा या इकवाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर में दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानो) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखत) रसीद से लेवे या पंच नियुक्त कर वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिए यह वकालतनामा लिख दिया है कि प्रमाण रहे और समय पर काम आवे।

स्वीकृत

Chandrika Prasad
हस्ताक्षर

साक्षी गवाह साक्षी (गवाह)

R. Pradhan

दिनांक 23 महीना 4 सन् १९८१ ई०

25/11/90

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

141

Registration No. 142 of 1990(14)

APPLICANT(S) C. P. D.

RESPONDENT(S) C. O. C.

<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1. Is the appeal competent ?	Ys
2. a) Is the application in the prescribed form ?	Ys
b) Is the application in paper book form ?	Ys
c) Have six complete sets of the application been filed ?	Ys
3. a) Is the appeal in time ?	Ys
b) If not, by how many days it is beyond time?	
c) Has sufficient case for not making the application in time, been filed?	
4. Has the document of authorisation/ Wakalatnama been filed ?	Ys
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	Ys
6. Has the certified copy/copies of the order(s) against which the application is made been filed?	Ys
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Ys
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Ys
c) Are the documents referred to in (a) above neatly typed in double sapce ?	Ys
8. Has the index of documents been filed and paging done properly ?	Ys
9. Have the chronological details of representation made and the out come of such representation been indicated in the application?	Ys
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	Nb

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14.2

Particulars to be Examined	Endorsement as to result of examination
11. Are the application/duplicate copy/spare copies signed?	Yes
12. Are extra copies of the application with Annexures filed?	Yes
a) Identical with the Original?	
b) Defective?	
c) Wanting in Annexures	
Nos. _____ pages Nos _____?	
13. Have the file size envelopes bearing full addresses of the respondents been filed?	No
14. Are the given address the registered address?	Yes
15. Do the names of the parties stated in the copies tally with those indicated in the application?	Yes
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true?	NA
17. Are the facts of the case mentioned in item no. 6 of the application?	Yes
a) Concise?	
b) Under distinct heads?	
c) Numbered consecutively?	
d) Typed in double space on one side of the paper?	
18. Have the particulars for interim order prayed for indicated with reasons?	Yes
19. Whether all the remedies have been exhausted.	Yes

dinesh/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

Contempt No.38/91(L)

Sri Chandrika Prasad

....Applicant

Versus

Union of India and others

....Respondents

REPLY ON BEHALF OF RESPONDENTS

I, Y.P.Gupta, presently posted as Chief Workshop Manager, Northern Railway, Locomotive Works, Charbagh, Lucknow solemnly state as under :-

1. That the undersigned is presently posted as Chief Works Manager, Northern Railway, Locomotive Works, Charbagh, Lucknow, and has been arrayed as Respondent No.2 in the above mentioned application/petition under the provisions of the Contempt of Courts Act (hereinafter referred as 'application'). The undersigned is authorised to file the present reply on behalf of Respondent No.1 and 2, and has read and understood the contents of the application and is well conversant with the facts stated hereunder.

2. That the contents of paragraph 1 of the application, being matter of record, do not need any comment from the answering Respondents.

3. That the contents of paragraph 2 of the application, being matter of record, need no comment from the answering Respondents. However, it is most respectfully submitted that on 26.04.1990, the Hon'ble Bench of this Hon'ble Tribunal consisting of Hon'ble Mr.D.K.Agarwal, J.M. and Hon'ble Mr.K.Obayya passed following orders on C.M.Application No.288/90(L) :-

मुख्य कारखाना प्रबन्धक,
उ.र. ई.न. इंजन कारखाना,
11 वाग, लखनऊ
C.W.M
N.R./Loco/G.B./Lko.

C.M.Appl.No.288/90(L) for amendment is allowed. The amendment has been incorporated in the court itself.

Issue notice to the respondents to show cause as to why the interim prayer made for be not granted

Meanwhile, we hereby direct, the respondents to consider the applicant, as well, for the post of Deputy Shop Superintendent that is to permit him to appear in the examination or viva-voce, as the case may be. However, the result of the selection remains subject to the decision of the Tribunal.

A copy of the order may be given to the counsel for the applicant as and when desired.

It is evident from the above mentioned order that the Respondents in O.A.No.142/90(L) were directed to permit the applicant to appear in the examination or the viva-voce, as the case may be, for the selection of the post of Shop Superintendent, the result being subject to the decision of this Hon'ble Tribunal.

In compliance with the orders of this Hon'ble Tribunal dated 26.04.1990, the applicant was permitted to appear in the written examination for the post of Deputy Shop Superintendent held on 16.12.1991 by the Respondent No.2.

It is further submitted that before passing of the order dated 26.04.1990 by this Hon'ble Tribunal, the General Manager(P), Northern Railway, Head Quarters Office, New Delhi, vide his letter No.940-E/511(EiiW) dated 24.04.1991, circulated under the letter of the Chief Works Manager, Northern Railway, Locomotive Works, Charbagh, Lucknow No.L/108E/Selection/Dy.S.S./WLD Pt.II dated 26.04.1990, postponed the selection for the post of Deputy Shop Superintendent (Welding) Grade Rs.2000-3200(RPS), which was scheduled to be held on 30.04.1990 till further orders.

[Signature]
मुख्य कारखाना प्रबन्धक,
उ.र. रेल इंजन कारखाना,
41-11, लखनऊ.
(W.M
No. /Loco/C.B./Lko.

It is most respectfully submitted that till 24.04.1990, there was no interim order of this Hon'ble Tribunal, and the fact that the applicant was permitted to appear in the written examination for the selection of the post of Deputy Shop Superintendent, which was ultimately held on 16.12.1991, goes a long way to show

that the order of this Hon'ble Tribunal dated 26.04.1990 was complied by the answering Respondents in letter and spirit and they have great respect for this Hon'ble Tribunal.

4. That the contents of paragraph 3 of the application, being subject matter of record, need no comment. However, it is most respectfully submitted that upon receiving the representation preferred by the applicant dated 28.04.1990 alongwith an uncertified/unattested photocopy of the order of this Hon'ble Tribunal dated 26.04.1990, immediate necessary action was taken by the answering Respondents to ensure compliance of the orders of this Hon'ble Tribunal.

5. That the contents of paragraph 4 of the application, as stated, are denied. It is most respectfully submitted that the meaning and import of the interim orders of this Hon'ble Tribunal dated 26.04.1990, being self explanatory, need no comment from the answering Respondents, but the allegations to the effect that the answering Respondents, have in any manner, colluded with the Respondent No.5 Sri N.K.Naskar [of O.A.No.142/90(L)], and have issued Office Order No. 316 dated 30.05.1991 as a result of such collusion, are totally false, misconcieved and baseless, and as such they are denied in its entirety. It is most respectfully submitted that the Office Order No.316 dated 30.05.1991 was docketted by the Respondent No.3 in terms of S.P.O. (M), Northern Railway, Head Quarters Office, New Delhi Notice No.940-E/511(EiiW) dated 14/16.05.1991. It is pertinent to mention here that the case of promotion of Sri N.K.Naskar for the post of Deputy Shop Superintendent under cadre restructuring was already under consideration at the level of Competent Authority at Head Quarters Office, New Delhi, and as such, the selection for the post of Deputy Shop Superintendent scheduled to be held under the Respondent No.2 on 30.04.1990 was postponed vide the General Manager(P), Northern Railway, Head Quarters Office, New Delhi letter No.940-E/511(EiiW) dated 24.04.1990, i.e., prior to the

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आ.दा.न, लखनऊ
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N.R./Loco/C.B./Lko.

passing of interim order by this Hon'ble Tribunal on 26.04.1990. It is also submitted that the case for promotion of Sri N.K.Naskar as Deputy Shop Superintendent as a result of cadre restructuring was under consideration at the Head Quarters level due to the reason that many persons junior to him had already been promoted as Deputy Shop Superintendent (Welding) with effect from 1.1.1984. The contents of the letter of the General Manager(P) No.940-E/511(EiiW) dated 24.4.90 are being reproduced as under :-

"Shri N.K.Naskar, C/Man (Welding), Alambagh Shop, Lucknow, vide his representation dated 20.4.1990 has represented that he is being called to appear in the above selection on 30.4.1990, when his juniors have already been promoted as Dy.S.S (Welding) under restructuring w.e.f. 1.1.84. As the case of seniority of S/Sri N.K.Naskar and Chandrika Pd. as C/M(A) (Welding) is still under examination by this office, till then the selection of Dy.S.S.(Welding) Gr.No.2000-3200 fixed for 30.4.1990 by this office order under letter quoted above, be postponed till further order of this office."

It is most respectfully submitted that this Hon'ble Tribunal, vide interim order dated 26.04.1990, or by any other order never directed the answering Respondents to maintain 'status quo', or restrained the answering Respondents from making any promotion of other staff. Hence, the Office Order No.316 dated 30.05.1991 is perfectly legal, justified, and is not violative of order dated 26.04.1990 or any other order of this Hon'ble Tribunal.

It is respectfully submitted that the applicant Sri Chandrika Prasad was called to appear in the written test for the selection of the post of Deputy Shop Superintendent, held on 16.12.1991, and he did appear in the said examination. The result of written examination was declared on 31.01.1992. The selection for the post of Deputy Shop Superintendent comprises of Written Test and Viva-Voce, and the candidates who are declared successful in written test are called in viva-voce. But


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राजौरा, लखनऊ
C.W.M.
N.P./Loco/C.B./Lko.

since, the applicant has failed to qualify the written test, he can not be called in the viva-voce, as and when it is held. Therefore, the answering Respondents, to the best of their knowledge and intent, have complied with the orders of this Hon'ble Tribunal in letter and spirit and have not committed any contempt of this Hon'ble Tribunal by wilfully disobeying any order of this Hon'ble Tribunal.

6. That the contents of paragraph 5 of the application are denied. It is specifically denied that the answering Respondents, by issuance of Office Order No.577 dated 16.10.1991, have, in any manner whatsoever, violated order passed by this Hon'ble Tribunal on 26.04.1990. It is, however, most respectfully submitted that the Respondent No.3 docketted Staff Order No.577 dated 16.10.1991 in terms of the letter of the General Manager(P), Northern Railway, Head Quarters Office, New Delhi No.940-E/511(EiiW) dated 15.10.1991.

7. That the contents of paragraph 6 of the application, being matter of record, need no comment from the answering Respondents.

8. That the contents of paragraph 7 of the application are denied. It is specifically denied that the applicant Chandrika Prasad (S.C.) is, in any manner, senior to the Respondent No.5 [of O.A.No.142/90(L)] Sri N.K.Naskar {also a member of S.C.}, and is entitled to be promoted first. It is most respectfully submitted that the applicant Sri Chandrika Prasad (SC) was promoted as Charge Man 'B' on adhoc basis on 10.01.1980 as he was selected against Rankers' Quota of 25% in the Departmental Selection, while Sri N.K.Naskar (SC) was selected as an Apprentice Mechanic against 50% quota in an open selection through the Railway Recruitment Board, and was appointed as Charge Man 'B' after completing requisite training on 13.07.1979. By virtue of the above fact, Sri N.K.Naskar (SC) ranks senior to the applicant. In this regard, the rule for assignment of seniority in the initial recruitment grades is as under:-


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उ.र. इंजन कारखाना,
चण्डीगढ़, लखनऊ
C W.M.
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According to the extract of Rule 302 of Indian Railway Establishment Manual Volume-I (Revised Edition 1989), in the categories of posts partially filled by direct recruitment and partially by promotion, the criterion for determining seniority should be the date of regular promotion after due process in the case of promotees, and the date of joining the working post after due process in the case of direct recruits, subject to maintenance of inter-se-seniority among themselves. "The position in regard to the annual C.R.s of the senior persons to the applicant as Charge Man 'A' will be placed before this Hon'ble Tribunal during the course of arguments in O.A.No.142/90(L), which is still pending before this Hon'ble Tribunal. The question of seniority of the applicant Sri Chandrika Prasad vis-a-vis Sri N.K.Naskar is still sub-judice.

9. That the contents of paragraph 8 of the application are totally false, baseless and misconcieved and the same are denied in its entirety. It is specifically denied that the answering Respondents are in collusion with the Respondent No.5 [of O.A.No.142/90 (L)] and are bent upon defeating the claim of the applicant, and have gone to the extent of committing contempt of this Hon'ble Tribunal. It is most respectfully submitted that as the submissions in this reply would show, the answering Respondents, to the best of their knowledge and intent, acted bonafidely, and have complied with the orders of this Hon'ble Tribunal in the letter and spirit.

10. That the contents of paragraph 9 of the application are denied. It is specifically denied that the answering Respondents have acted illegally and/or malafidely. It is also denied that the seniority of the applicant has been ignored/overlooked while promoting Sri N.K.Naskar.


11. That the contents of paragraph 10 of the application are not admitted. It is most respectfully submitted that as the submissions in this reply would

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उ.र. रेल इंजन कारखाना,
भारदाप, लखनौ
C.W.M
N.R./Loco/C.B./Lko.

show, the answering Respondents, to their best of knowledge and intent, have acted bonafidely, and have complied with the orders of this Hon'ble Tribunal in letter and spirit.

12. That it is most respectfully submitted that the Respondents are senior officers of Northern Railway and have highest respect for this Hon'ble Tribunal. In case, this Hon'ble Tribunal comes to the conclusion that they, or any of them have committed any contempt of this Hon'ble Tribunal, the undersigned on his behalf [and on behalf of remaining Respondents] submits unconditional apology and pray/s that they may be excused for the same


Lucknow, Dated:
March ,1992.


(Yash Pal Gupta)
मुख्य कारखाना प्रबन्धक,
उ.रे. रेल इंजन कारखाना
चारबाग, लखनऊ
C W.M
N.R./Loco/C.B./Lko.

VERIFICATION

I, Y.P.Gupta, presently posted as Chief Workshop Manager, Northern Railway, Locomotive Works, Charbagh, Lucknow hereby verify that the contents of paragraphs 1 and 12 of this reply are based on personal knowledge and those of paragraphs 2,3,4,5 partly,6 partly,7,8,9 partly 10, and 11 are based on record and are believed to be true. The contents of bracketted portion of paragraph 12 are based on the instructions received from Respondent No.1 and 3, and the contents of paragraphs 5 partly, 6 partly and 9 partly are based on legal advice and the same is believed to be true. That no part of this reply is false and nothing material has been concealed.

Lucknow, Dated:
March ,1992.

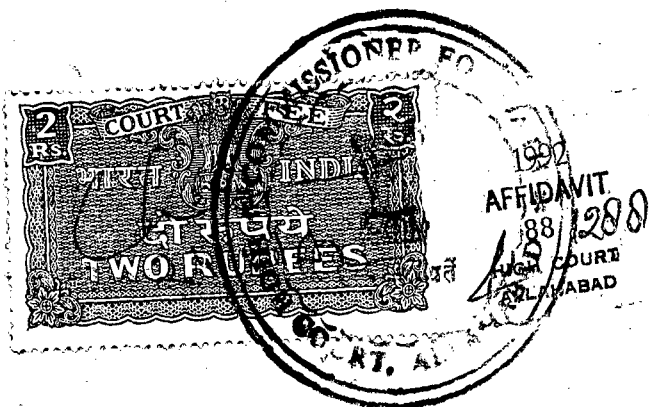

(Yash Pal Gupta)
मुख्य कारखाना प्रबन्धक,
उ.रे. रेल इंजन कारखाना
चारबाग, लखनऊ
C W.M
N.R./Loco/C.B./Lko.

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BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

Contempt No. 38/91 (L)



FT
28/11/92

Chandrika PrasadApplicant

Vs.

Union of India & others..... Respondents

REJOINDER AFFIDAVIT

ON BEHALF OF APPLICANT

I. Chandrika Prasad, aged about 51 years,
Son of Late Parmeshwar Dayal , resident of 175/43, Pir
Jalil South, Kutchehry Road, Lucknow, the deponent,
do hereby solemnly affirm and state on oath as under :-



Chandrika Prasad

1. That the deponent is the applicant in the above
noted case and as such is fully conversant with all the
facts of the case deposed here under. The deponent has
gone through the contents of the Counter Affidavit filed
on behalf of the Opposite Parties No. 1 and 2 and is
replying the same as under :

2. That the contents of para 1 of the Counter
Affidavit need no reply.

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3. That in reply to the contents of para 2, the contents of para 1 of the Contempt petition are reiterated.

4. That in reply to the contents of para 3, it is submitted that the interim orders passed by this Hon'ble Tribunal on 26.4.1990 in O.A. No. 142/90 filed by the Applicant have been mis-interpreted by the Opposite Parties in order to succeed in their foul play to deprive the applicant of his due claim of Seniority over the Opposite Party Nos. 4 and 5 in O.A. No. 142/90 (herein-after referred as Opposite Party no. 4 and 5.)

That in fact the Interim orders were passed in the light of the subject matter of the petition No. OA-142 of 1990. That the petitioner was not called to appear in the Selection in which the Opposite Party no. 5 was called, though the petitioner was senior to the Opposite Party no. 5, Shri Nikhil Kumar Naskar.



That this Hon'ble Tribunal in consideration of the prayer, directed the Opposite Parties no. 1 and 2 to consider the applicant for appearing in the selection in which the Opposite Party no. 5 was called to appear, but the Opposite parties no. 1 and 2 blatantly disobeyed the interim order and postponed the Selection and later on called the Opposite Party no. 5 alone to appear before a so called modified selection, declared him suitable and promoted him

Chandrasekhar

on the post of Dy. Shop Suptdt. that too from a back date vide their letter No. 940-(E ii W) dated 15.10.1991, ignoring the direction of this Hon'ble Tribunal for considering the name of petitioner for promotion on the post of Dy. shop Superintendent, while the case of Seniority between the petitioner and the Opposite Party no. 5 was still subjudice. Thus they can not deny the fact that they have disobeyed the interim orders of this Hon'ble Tribunal and twisted these specific orders to show undue favour the Opposite Party no. 5 and therefore have definitely committed the contempt of this Hon'ble Tribunal.

That the Opposite Parties were not at liberty to change the mode of selection process in the case of the Opposite Party no. 5, when the subject matter of the petition filed before this Hon'ble Tribunal was "appearing in the Selection" for both the Petitioner and the Opposite party no. 5 and this action of the Opp. Parties of adopting a different mode selection process for the Opposite party no. 5 alone and declaring the result in favour of the Opposite party no. 5, although this Hon'ble Tribunal had specifically directed that "Result of the Selection remains subject to the decision of the Tribunal", clearly speaks of ulterior motives on the part of the Opposite Parties in showing undue favour to the Opposite party no. 5 by violating the rules and the orders of the Hon'ble Tribunal.



Chandrasekhar

That while the subject matter is still subjudice the Opposite parties have taken the law into their own hands and have gone to the extent of awarding promotion after promotion to the Opposite Party no. 5 plainly in order ~~xxx~~ to defeat the claim of the petitioner and thus tried to leave the petition merely a laughing stock before this Hon'ble Tribunal.

5. That the contents of para 4 need no comments.

6. That in reply to contents of para 5, it is submitted once again that the spirit of the interim order dated 26.4.1990 has been blatantly misinterpreted and misconstrued by the Opposite parties to suit their game plan with malafide intention against the petitioner. It is further stated that it is illegal and against the law and direction of this Hon'ble Tribunal to decide the Seniority issue and declare the opposite party no. 5 senior to the petitioner, while this is the subject matter of the petitioner's case, arbitrarily by the Opposite party no. 1 and 2 without obtaining the order of this Hon'ble Tribunal and this act of the Opposite party nos. 1 and 2 amounts to contempt of this Hon'ble Tribunal.

It is further submitted that the letter No. 940-E 511(E ii W) dated 14/16.5.1991 has never been filed before this Hon'ble Tribunal when it is the prerogative of this Hon'ble Tribunal to have all the documents and proceedings taking place in the offices of the Opposite party nos. 1 and 2 before it, prior to their implementation. That



Chandrabir Prasad

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this deliberate action of keeping this Hon'ble Tribunal in dark about favouring the opposite party no. 5 , clearly amounts to dis-obedience of its orders as the contention of the Opposite Party no. 1 and 2 that this Hon'ble Tribunal had not directed to stop promotions to Opposite party no. 5 can not be accepted because the Opposite party no. 5 was a party to the petition and stoppage on declaration of the result of the selection specifically applied to him.

7. That in reply to contents of para 6, it is reiterated that the Opposite party no. 2 is trying to shift the responsibility of issuing the letter no. 940-E/511 (E ii W) dated 15.10.1991, merely on Opposite Party no. 1 while both the Opposite Parties have been made Respondents and as such were supposed to know the facts and the spirit of the interim orders of this Hon'ble Tribunal and also that the matter of Seniority between the petitioner and the Opposite Party no.5 was subjudice, were not competent to declare the Opposite party no. 5 Senior to the petitioner prior to the final order of this Hon'ble Tribunal.



8. That in reply to the contents of para 7, the contents of para 6 of the Contempt petition are reiterated once again and it is submitted that the Opposite party nos. 1 and 2 were not competent to declare the opposite party no. 5 senior to the petitioner arbitrarily without obtaining the final orders of this Hon'ble Tribunal.

9. That in reply to the contents of para 8, it is submitted that the applicant was selected on the post

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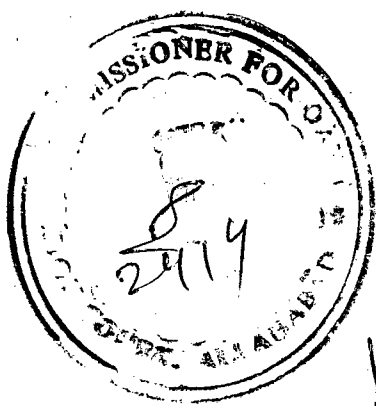
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of Chargeman 'B' alongwith two other incumbents namely Shri Satrohan Lal and Shri Ram Kishan in the year 1978 much earlier to the date when the Opposite Party no. 5 Shri Naskar was posted as Chargeman 'B' after completion of his training .

That this panel was operated with the promotion of Shri Shatrohan Lal and Shri Ram Kishan at an earlier date than that of the Opposite party no. 5 and Rule 302 cited in para 8 also says, "Subject to maintenance of interse seniority among themselves" and to clarify this aspect , Rule 306 provides : "Candidates selected for appointment at an earlier selection shall be senior to those selected later irrespective of the date of their joining." and as such the applicant stands senior to the Opposite party no. 5 by virtue of his earlier selection and the date of his actual posting is immaterial.

Further in view of the judgement of the Hon'ble Supreme Court of India in S.M. Pandit..Vs... State of Gujrat (SLR 1972 SC-79)" Promotees and direct - recruits forming one cadre - The Govt. is not competent to discriminate between the direct recruited employees and promotees in the matter of further promotion the applicant's ~~suspension~~ supersession in seniority by the Opposite party no. 5 is illegal.

That it will be pertinent to mention here that the applicant was rightly promoted on the post of Chargeman Grade 'A' w.e.f. 14.9.1981 against



Chandil Kumar Datta

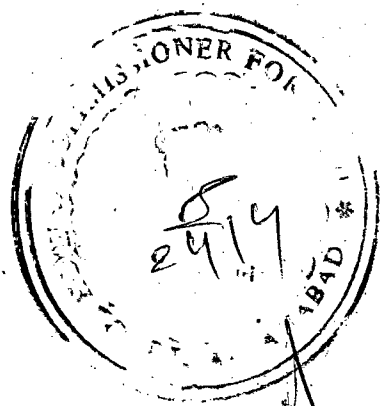
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Roster point no.I on a work charged post but was regularised on a regular post w.e.f. 1.1.1984 vide letter no. 940 E /511 (E ii W) dated 20.11.1990 issued by Opposite Party nos. 1 and 2 and is holding the post of Chargeman Grade 'A' till this day without break and is therefore entitled to restoration of his seniority from the date of his promotions i.e. 14.9.1981 and thus he becomes senior to the Opposite party no.5 in the seniority of Chargeman Grade 'A' which the Opp. Party Nos. 1 and 2 are denying on one or the other pretext.

Copy of the letter no. 940E /511 (E ii W) dated 20.11.1990 is annexed herewith as ANNEXURE No. BAI with this Rejoinder Affidavit.

That also in view of provision of Railway Board's letter No. 82-E (SCT) 15/6 dated 25.5.1982, "An employee belonging to SC or ST who is lower down in panel and is subsequently junior in the cadre, is to be retained in preference to his seniors, provided he has been appointed against an earlier point in the Roster", the petitioner can not be shown to have been reverted as claimed by the Opposite party no. 1 and 2 because the petitioner was promoted against roster point no.I and after his promotion the Opposite Party no. 4 Shri. Prahlad Gupta was ~~was~~ promoted w.e.f. 4.11.1981 on a general post and if any incumbent was to be reverted on the expiry of any post, the



Chandrasekhar Reddy

Opposite party no. 4 Shri Prahlad should have been reverted and not the petitioner.

It is further submitted that the Opposite Party no. 5 was not fit for promotion on the post of - Chargeman Grade 'A' in the year 1981-82 on the basis of Adverse entries in his A.C.R. for the year 1980-81 as confirmed by the Opposite Party no. 2 vide his letter no. 50-E /CM (Welding) dated 17.2.1988, Copy of which is annexed herewith as Annexure No. 2, therefore the question of his promotion against Roster point no. I does not arise.

10. That in reply to contents of para 10 of the Counter affidavit under reply, it is submitted and as it is evident from the submission in previous paras ; that the respondents nos. 1 and 2 have acted with malafide inteition towards the just claim of the appli-cant.

11. That in reply to the contents of para 11 , the contents of para 10 of the Contempt petition are reitera-ted.

12. That the contents of para 12 need no comments.

13. That the Opp. Parties be punished for showing utter disregard towards the orders of this Hon'ble



Chandrababu Naidu

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Tribunal and the applicant be awarded his due claim of seniority over the Opposite Party no. 5 with consequential benefits.

Lucknow :

Dated :- 24.4.1992

Chander Shekhar Prasad

Deponent

Verification

I, the above named deponent, do hereby verify that the contents of paras 1 to of this Rejoinder Affidavit are true to my personal knowledge and those of paras of the same are believed by me to be true and correct based on legal advice and records available.

Signed and verified this day of April 1992 in the Court's Compound at Lucknow.

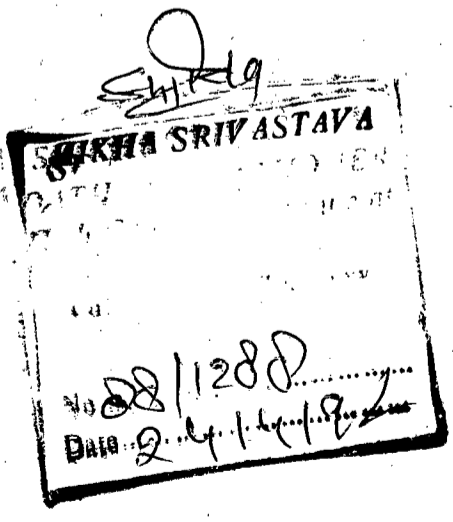
Lucknow :

Dated :- 24.4.1992

Chander Shekhar Prasad

Deponent

I identify the above named deponent who has signed before me.



24/4/92
I have examined the deponent and the contents of the affidavit which have been explained to him.
Chander Shekhar Prasad
Advocate
Gupta ADV

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BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

(LUCKNOW BENCH) LUCKNOW.

Contempt No. 38 /91 (L)

Chandrika PrasadApplicant

Vs.

Union of India & others.....Respondents

Annexure No. 2

Northern Railway

LOCOMOTIVE WORKSHOP/CHARBAGH /LUCKNOW

No. SOE/CM(welding) Dated 17.2.1988

The Dy. Chief Mechanical Engineer (W)

N. Railway C & W shops, Alambagh,
Lucknow

Sub : Seniority Shri N.K. Naskar C/man 'A'
(Welding) Sr. Ps. 550-750 (RS) 1600-2660 (RPS)

Ref : Your office letter No. DCME/796/A/PT 1 dated
16.8.1987 and 21.12.1987

As desired by Head Quarters Office in their letter No. 940K/511/E II W dated 5.1.1988. The case regarding giving proforma promotion to Shri N.K. Naskar as C/Man 'A' welding w.e.f. 4.11.1981 has been reconsidered by C.W.M. /CB and the following decision has been taken :

Shri N.K. Naskar (SC) C/Man 'B' (welding) was promoted a C/Man 'A' (Welding) w.e.f. 1.1.1984. He has later on given proforma promotion w.e.f. 4.11.81 (the date when Shri Prahlad Gupta was promoted as C/Man 'A' against a regular vacancy) on his appeal because Shri Chandrika Prasad (SC) who was junior to him as C/Man 'B' (welding) according to revised seniority list, was promoted as C/man 'A' against a work charged post w.e.f. 13.9.1981 on the basis of previous seniority list against the short fall of the scheduled caste quota.

While reviewing the case, the C.Rs of Shri Naskar were perused. The C.Rs. of Shri Naskar indicate that as on 4.11.1981 he was not given promotion as C/man 'A' (welding) even if would have been considered in place of Prasad. (SC).

That the point no.I of
was already filled by promotion



Chandrika Prasad

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(SC) Shri Naskar's promotion against point no. 8 of the roster w.e.f. 1.1.1984 was correctly done. He was not fit for promotion w.e.f. 4.11.1981 in view of his adverse C.R. The seniority of Shri Naskar is therefore corrected to be effective w.e.f. 1.1.1984 i.e. the date from which he was promoted initially. Proforma promotion given to Shri N.K. Naskar as C/Man 'A' w.e.f. 4.11.1981 in the face of his adverse C.R. vide this office letter no. L/341/CM (Welding) dated 7.5.1986 is hereby treated as cancelled. Necessary recovery arising out of his proforma promotion w.e.f. 4.11.1981 to 31.12.1983 may be done accordingly.

In view of the above Shri Naskar whose name was placed below to Shri Prahlad Gupta in the seniority list of C/man 'A' (Welding) dated 29.6.1986 is now brought down and placed below to Shri B.N. Srivastava C/man 'A' (Welding).

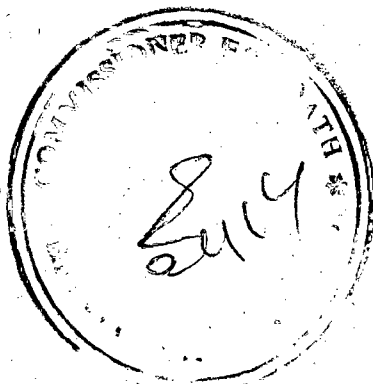
Thanking you,

Yours faithfully,

sd/-

C.W.M. LOCO CHARBAGH,

LUCKNOW



Charbagh Loco

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CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

M.P.NO. 519 of 1990(L)
O.A.NO. 142 of 1990 (L)

Chandrika Prasad

...
Versus

Applicant.

Union of India(N.RLY.)
& Others.

...

Respondents.

31.8.1990

Hon'ble Mr. D.K.Agrawal, J.M.

Hon'ble Mr.K.Obayya, A.M.

M.P. 519/90

Heard.

Shri Satya Prakash Counsel for applicant.

Issue notice to respondents. List for orders
on 8.10.90.



Sd/-

A.M.

Sd/-

S.M.

checked
syd
7/9/90

//TRUE COPY//

Sd/

(Mohr Umar Khan)
Chief Officer,
Central Administrative Tribunal,
Circuit Bench,
LUCKNOW

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH

Gandhi Bhawan, Opp. Residency, Lucknow

No. CAT/1112/Jud/ 5257 dated the 22/10/90

Registration No. O.A.NO. 142/ 1990 (L)

~~CHANDRIKA PRASAD~~ APPLICANT

VERSUS

UNION OF INDIA & OTHERS RESPONDENT

- 1- Union of India, Through General Manager, N.RLY. NEW DELHI.
- 2- Chief Workshop Manager, N.RLY. Locomotive Works, Charbagh, LUCKNOW.
- 3- DY. Chief Mechanical Engineer, Carriage And Wagon Works, Alambagh, LUCKNOW.
- 4- Prahlad Gupta, DY. Shop Superintendent Welding C & W Workshops, Alambagh, LUCKNOW.
- 5- Sri Nikhil Kumar Naskar, Chorgeman, Welding shop, Carriage & Wagon Shop, Alambagh, LUCKNOW.
- 6- Sri Virendra Bhaadur Srivastava, Chorgeman, Welding Shop, LUCKNOW Works, Charbagh, LUCKNOW.
- 7- Sri P.K. Sharma, Chorgeman, Locomotive Works, Charbagh, LUCKNOW.

Please take notice that the applicant abovenamed has presented an application, a copy whereof is enclosed herewith, which has been registered in this Tribunal, and the Tribunal has fixed 06 day of 12/8 1990 for the hearing of the said application.

If no appearance is made on your behalf by yourself or your pleaser or by some one duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 22 day of 10 1990.

DEPUTY REGISTRAR

Encl = Misc. Application No 519

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

Misc. Application No. 579 of 1990

In

O.A. No. 142 of 1990

Chandrika Prasad Applicant/
Petitioner

Vs.

Union of India & others..... Respondents

Humble submission on behalf of petitioner/
Applicant is as under :-

1. That the applicant on 26.4.1990 preferred a
Petition before this Hon'ble Tribunal with the
following prayers :-

(i) That the Opposite Party Nos. 1 to 3 may
kindly be directed to promote and post the
Petitioner as Dy. S. Suptdt. in the scale
of Rs. 2,000-3,200 (RPS) against the existing
vacancy.

(ii) That the Opposite Parties may also be
directed to provide all the consequential
benefits to the petitioner w.e.f.

1.1.1984.

(iii) That the Opposite Parties may further be directed to treat the Petitioner Senior to Opposite Parties Nos. 4 to 8.

(iv) & Any other relief which this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. That after hearing the Parties, on the same day, an application for Interim Relief, the Hon'ble members of the Tribunal were pleased to pass the order directing the Respondents to consider the applicant as well as for the post of Dy. S. Shop Suptdt. i.e. to permit him to appear in examination or viva, as the case may be. However, the result of selection remain subject to decision of Tribunal.

3. That on the same day, the Hon'ble Tribunal directed to respondents to file Counter affidavit within 8 weeks from 26.4.1990. The copy of the order dated 26.4.1990 is being annexed as ANNEXURE NO. I to this application.

4. That however, more than 8 weeks have been passed but still the respondents have not filed any Counter affidavit and all of sudden and in great disregard towards the order

passed by this Hon'ble Tribunal, the Respondents issued a letter promoting the petitioner from the post of chargeman 'B' grade to Charge man 'A' grade. It may be mentioned here that the respondents as as they came to know about the order passed by this Hon'ble Tribunal, cancelled the selection of Dy. S. Suptdt. and even till today they have not considered the petitioner for promotion, on the post of Dy. S. Suptdt. Inspite of promoting the petitioner on the post of Dy.S. Suptdt in the pay scale of Rs. 2000-3200 , the Respondents have issued a letter which is contained as ANNEXURE NO. 2 only promoting to the post of Charge man Grade 'A' which is not the case of applicant.

In the letter dated 17.8.1990 , it has also not been mentioned that this letter will have retro-
-pective effect and will give all consequential benefits. It seems that a fresh promotion is being given to applicant ignoring his claim Petition pending in this Hon'ble Tribunal and therefore the applicant has been advised that in case he accepts this offer of Respondents, his Petition may become infructuous because this promotion will be deemed as fresh and therefore automatically his claim would be frustated.

5. That the applicant is fighting for his promotion and if this offer is given with clean hand without any malafidy intention the petitioner would have no objection to accept the same but since the letter shows a fresh promotion from charge man Grade 'B' to charge man Grade 'A' without considering his previous claim, he is compelled to take interim order against the letter No. 432 dated 17.8.90. contained in Annexure no. 2 to secure the ends of justice.

WHEREFORE, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to pass suitable and necessary orders to promote the petitioner to the post of Dy. shop Superintendent in the pay scale of Rs. 2000-3200 with all consequential benefits w.e.f. 1.1.1984.

Any other order which deems just and proper by this Hon'ble Court, may be passed.

Lucknow :

Dated :- 23.8.1990

Applicant

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BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

Misc. Application No. of 1990

In

O.A. No. 142 of 1990

Chandrika Prasad Applicant

Vs.

Union of India & others..... Respondents

A F F I D A V I T

I, Chandrika Prasad, aged about 45 years.,
Son of Late Sri Parmeshwar Dayal, resident of 175/43, Pir
Jalil South, Kachahary Road, Lucknow, do hereby solemnly
affirm and state on oath as under :-

1. That the deponent is petitioner in the above noted
case and as such he is fully well conversant
with all the facts of the case,
2. That the contents of paras 1 to
of the accompanying application are true to my
personal knowledge and the contents of paras
of the accompanying application are
believed by me to be true and correct.

Lucknow :

Dated :- .8.1990.

Deponent

167

VERIFICATION

I, the above named deponent , do hereby
verify that the contents of paras 1 to 22- 2
of this affidavit are true to my personal knowledge

Signed and verified this _____ day of
August 1990 in the Civil Court's Compound at
Lucknow.

Lucknow :

Dated :- .8.1990

Deponent

I identify the above named deponent who
has signed before me.

Advocate

Solemnly affirmed before me on

at _____ am/pm by the deponent Sri
who is identified by Sri

Advocate High Court, Lucknow Bench, Lucknow.

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

allowed to ~~xx~~ take part in the written examination going to be held on 30.4.1990 by the Opposite Party Nos. 1 to 3. "

It is further prayed that ^{above mentioned} the/~~following~~ inter-im relief may kindly be allowed to be added in para 9 of the petition and may also be considered today for Interim Relief, otherwise the Petitioner shall suffer irreparable loss.

Lucknow :

Dated : 26.4.1990

R. Badher
Counsel for Applicant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

Registered A/D

Ghandi Bhawan
Opp. Residency
Lucknow.

Registration No. 142/90 199 (L)

Dated:

No. CAT/Alid/Jud/

Dated:

30/4/90

Chandrika Prasad

APPLICANT(S)

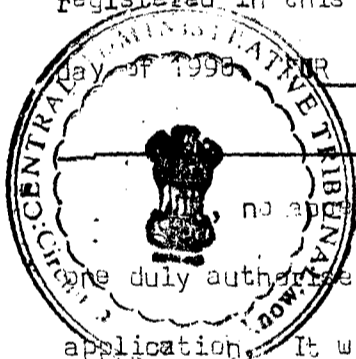
VERSUS.

Union of Indus

RESPONDENT(S)

⑧ Sri Vinod Bahadur Srivastava, working as
Charge man, welding Shop Lucknow works
Charbagh Lucknow

Please take notice that the applicant above named has represented
an application a copy of whereof is enclosed herewith has been fixed
registered in this Tribunal and the Tribunal has fixed 11-12-90



Hearing
no appearance is made on your behalf, your pleader or by some
one duly authorized to Act and Plead on your behalf in the said
application, It will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this

30

day of

4

1990.

30/4/90
FOR DEPUTY REGISTRAR
(JUDICIAL)

⑧ Sri Basant Kumar Srivastava, Charge man,
welding Camd W workshop, Alam bagh
Lucknow

Encl- copy of Petition with Courts order on the
date of 26/4/90 Passed there on

Before Hon'ble Centre A-1, Tishanet
Circuit Bench Lh

OA No - 142/90

Chandika Prashad and others ~~Applicant~~
Applicant

VS

Union of Indlg - - -

Received copy of Application - - -

With Two Annexes - 1, 2 only for
opposite Party No 2 only i.e. Chaw works
Manager, N. Ry Chaw Singh Lko. on
30/8/90.

Received
30/8/90
16.00 hrs.
30/8/90
16.00 hrs.
30/8/90
16.00 hrs.

Lh

30/8/90

Before Hon^{ble} Justice A. Tripathi
Circuit Bench Lko ^{1/2/90}
OA No 142/90

Chandika Prashad other
applicant

UT

Union of India

Misc.
Received copy of Application
with Two Annexes 1, 2 only for

Lko

30/01/90

30/1/90
मुख्य न्यायिक इन्जीनियर (कलकत्ता)
उपरी एवं माल दिग्दा कर्मशाखा
आनन्दबाग, कलकत्ता

मीमा शाह दीदी
रजिस्ट्रार

IN THE JUDICIAL ADMINISTRATIVE TRIBUNAL,
SINGLE JUDGE BENCH

Gandhi Nagar, Opp. Residency, Lucknow

No. CAT/Adm/Jud

dated the

21-9-90

22-10-90

Registration No. 142/ of 1990 (L)

~~CHANDRIKA PRASAD~~

APPLICANT

VERSUS

~~UNION OF INDIA & OTHERS~~

RESPONDENT

- ✓1- Union of India, through General Manager, Northern Railway, New Delhi.
- ✓2- Chief Working Shop Manager, L.Rly. Locomotive Works, Charbagh, Lucknow.
- ✓3- DY. Chief Mechanical Engineer Carriage and Wagon Works, Alambagh, Lucknow.
- ✓4- Prahlad Gupta, ~~Senior Workshop Superintendent~~ DY. SHOP Superintendent Welding C & W Workshops, Alambagh, Lucknow.
- ✓5- Sri Nikhil Kumar Naskar, Chorgman, Welding shop, Carriage & Wagon shop Alambagh, Lucknow.
- ✓6- Sri Virendra Bahadur Srivastava, Chorgeman, Welding Shop, Lucknow & Works, Charbagh, Lucknow.

Please take notice that the applicant abovenamed has presented an application, a copy whereof is enclosed herewith, which has been registered in this Tribunal, and the Tribunal has fixed 09/10 day of 10/12 1990 for the hearing of the said application. New Fixation 6.12.90

If no appearance is made on your behalf by yourself or by some one duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this

7/22 day of 09/10 1990.

- 7- Sri P.K. Sharma, Chorgeman, Locomotive Works, Charbagh, Lucknow.
- 8- Sri Basant Kumar Srivastava, Chorgeman, Welding, C & W workshops, Alambagh, LUCKNOW.

[Signature]
10/19/90

Encl = 519 Application

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

Registered A/D

Ghandi Bhawan
Opp. Residency
Lucknow.

Registration No. 142/90 199 . (A)

No. CAT/Alld/Jud/ 2/424-31

Dated: _____

Dated: 30/4/90

Chandraika Prasad APPLICANT(S)

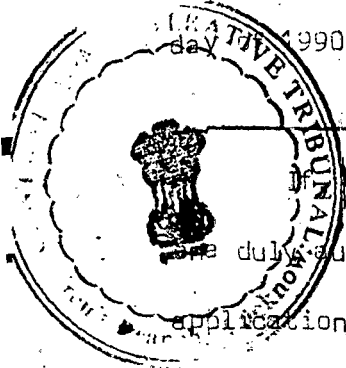
VERSUS

Union of India RESPONDENT(S)

- ① Union of India through the General Manager
N. Railway New Delhi
- ② Chief workshop manager N. Railway Locomotive
works Charbagh Lucknow

Please take notice that the applicant above named has represented
an application a copy of whereof is enclosed herewith has been fixed
registered in this Tribunal and the Tribunal has fixed 11-12-90

day of 1990. FOR Hearing



If no appearance is made on your behalf, your pleader or by some
one duly authorised to Act and Plead on your behalf in the said
application, It will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this _____

30 day of 4 1990.

AKS 30/4/90
FOR DEPUTY REGISTRAR
(JUDICIAL)

- (iii) DY. Chief Mechanical Engineer, Carriage
and Wagon works, Alambagh Lucknow
- ④ Prahlad Gupta (working as DY. Shop Superintendent
Welding & PW workshops, Alambagh Lko
- ⑤ Srs. Nikhil Kumar working as Chargeman welding
Shop, Carriage and Wagon Shop Alambagh
Lucknow

0/8

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW.

O.A.No.142 of 1990 (L)

Chandrika Prasad

Applicant

Versus

Union of India & Others

Respondents

Dated 26.1.90.

Hon'ble Mr. D.K. Agarwal,

Judicial Member

Hon'ble Mr. K. Obayya,

Administrative Member

Heard, the learned counsel for the applicant.

Admit.

Issue notice to the respondents to file counter affidavit, within 8 weeks and rejoinder if any within 2(two) weeks thereafter.

List if for hearing on 11.12.1990.

Sd/-

Sd/-

A.M.

J.M.

Dated 17.1.1990.

Hon'ble Mr. D.K. Agarwal,

Judicial Member

Hon'ble Mr. K. Obayya.

Administrative Member

C.M. App. No. 283/90(L) for amendment is allowed. The amendment has been incorporated in the court itself.

Issue notice to the respondents to show cause as to why the interim prayer made for be not granted.

Mean while, we hereby direct, the respondents to consider the applicant, as well, for the post of Deputy shop Superintendent that is to permit him to appear in the examination or vice versa as the case may be. However, the result of the selection subject to the decision of the Tribunal.

A copy of the order may be given to the counsel for the applicant as and when desired.

Sd/-

Sd/-

J.M.

A.M.

// TRUE COPY //

Deputy Registrar

Central Administrative Tribunal
Lucknow Bench.

Checked
Sd/-
26/1/90

Received 6/1/90 of order
A. Pradhan
26/1/90

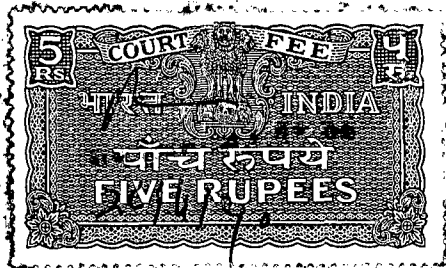
14/171

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

L u c k n o w

C.M. An. No 288/90(L)

O.A. No.. 142 of 1990



Chandrika Prasad Applicant/Petitioner

Vs.

Union of India & others..... Opp. Parties/Respon-
-dents

APPLICATION FOR INTERIM RELIEF

Sir,

Humble submission on behalf of the Petitioner
is as under :-

1. That in the above noted O.A. Case No. 142 of 1990 due to inadvertance , the prayer for Interim Relief could not be mentioned which is very urgent and if the Interim order shall not be passed, the petitioner shall suffer irreperable loss.
2. That ~~if~~ it is therefore most respectfully prayed that this Hon'ble Court may kindly be plea-sed to allow the petitioner to add the following in para 9 of the petition for Interim Relief.
" That the name of the petitioner may also be considered for promotion to the post of Dy. shop superintendent in the scale of Rs. 2000-3200 and for which he shall be

2/....

142

Rs. 2000-32000 and for which he shall be

Dy. shop superintendent in the scale of

be considered for promotion to the post of

that the name of the petitioner may also

in para 9 of the petition for Interim Relief.

sed to allow the petitioner to add the following

prayed that this Hon'ble Court may kindly be plea

2. That as it is therefore most respectfully

less.

passed, the petitioner shall suffer irreparable

urgent and if the interim order shall not be

Relief could not be mentioned which is very

due to inadvertence, the prayer for interim

1. That in the above noted O.A. Case No. 142 of 1990

is as under :-

humble submission on behalf of the petitioner

Sir,

APPLICATION FOR INTERIM RELIEF

-dents

Union of India & others..... Opp. Parties/Respon-

vs.

Chandrika Prasad Applicant/Petitioner

LUCKNOW
C.M.A. No. 288/90(4)
O.A. No. 142 of 1990

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

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173

known :
Dated : 26.4.1990
Counsel for Applicant

shall suffer irreparable loss.
today for interim relief, otherwise the petitioner
para 9 of the petition and may also be considered
-in relief may kindly be allowed to be added in
above mentioned
it is further prayed that the/relieving inter

allowed to take part in the written
examination going to be held on 30.4.1990
by the opposite party Nos. 1 to 3. *