

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Date of filing 26/4/90  
Date of decision

Registration No. 140 of 1989

APPLICANT(S) C. K. Pandey  
RESPONDENT(S) U. O.

Particulars to be examined

Endorsement as to result of examination

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

Yes  
Yes  
Yes

No

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

No

Central Administrative Tribunal

Lucknow Bench

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Name of the Parties C.K. Prasad Applicant

Versus

Union of India Respondents.

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Chaitanya Kumar  
 29-9-93

AN

Particulars to be Examined

Endorsement as to result of examination

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

YA

Y

Y

No

Y

Yes

NA

Y

YA

Y

dineety

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

Counter be filed within 4 weeks. 2/1

notice given

OP No 17417 have  
been return back

UR

Neither reply  
nor any unsent mail  
belong to O.P. No  
1 to 10, 12 to 16 &  
18 to 29 have been  
return back.

Notices of OPs No  
11 & 17 have been  
returned back with postal  
remark "मरा टाँग दे करण  
बापस (17) झालाकती, अफिर  
अ/ताक-स केह गये"

Case not reached adjourn to  
4.1.91. for order.

110 Sutter Ave. to 7-2-9

Hon. Mr. Justice K. Mayne  
Hon. Mr. K. Mayne of M.

[illegible]

O.A. 148/90

17.7.91

AM

D.R.

Both the parties are present. Reply to the written statement of O.P. No. 1 and 2 has been filed by applicant's side. No counter has been filed on behalf of O.P. No. 3 to 29.

Hence, this case is listed 23.9/91 for filing counter.

23.9.91

D.R.

Both the parties are absent. Respondent to file counter of O.P. No. 3 to 29 by 20/11/91. Case is listed on 20/11/91.

23/9/91  
for O.R.

6-3-92

Hon. Mr. Justice U.C. Sinha, V.C.  
Hon. Mr. A.B. Gupta, A.M.

Lawyers are on strike. Wait the  
case for orders on 6-7-92.

(ug) A.M.

V.C.

6-7-1992

No sitting Adj to 12/8/92 for order.

12.8.92

No sitting of D.M. adj to

21.9.92

6/7/92

21.9.92

No sitting of D.M. adj to

16.10.92

O.R. 16.10.92

No sitting of D.M. adj to

23.10.92

CA/RA have  
been filed.

23.10.92 Hon Mr Justice U.C. Sinha, V.C.  
Hon Mr K.B. Gupta, A.M.

S.F.O.

8  
23/10/92

On behalf of the Railway  
Administration an application has been  
made for adjournment, as usual.  
Prayer has been made that 10 cases  
are connected and may be decided  
together. Three of them are pending  
at Allahabad. All the cases will  
be decided separately and will  
not be treated as linked together.  
The case will be taken up on 17.11.92  
and will not be adjourned in the absence  
of counsel. If the counsel is ill  
no other arrangement may be made.

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

Original Application No.148 of 1990 (L)

C.K. Panday & others..... Applicant

Versus

Union Of India and others ..... Respondents

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

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

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

The dispute in this application is regarding seniority between promotees and direct recruit from Graduate quota who too were earlier working on adhoc basis like applicants before passing the examination and empanelment though applicant too passed in the same subsequently that is when they get opportunity for it and were regularised to the post of Senior Clerks. Vide letter dated 18.5.81 the Railway Ministry after reaching of argument in Departmental council conveyed its decision regarding appointment or promotion for the post Senior clerk. The Railway Board acceded the sanction for the restructuring of the cadre of Ministerial staff ( other than personal ) laying down that there shall be direct recruitment of graduates to the post of Clerks in the grade of Rs. 330-560 (now 1200-2040 ) to the extent of 20% and 13 1/3% of the total posts of Senior Clerks ~~originally~~ <sup>to be filled</sup> from amongst the graduate clerks already serving in the Lower grade by competing after allowing them the age relaxation .

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2. The applicants who were working on the post of Clerk in the office of Deputy Controller of Stores Northern Railway were appointed on the posts of Senior clerks between 1983 to 1988 <sup>that the</sup> except / applicant No. 16 and 17 who were appointed in January 1987 and October 1988 respectively . Applicant No. 1 to 4 were regularised with effect from 19.4.1986 and 5 to 7 with effect from 22.8.88 after passing suitability test in term of Office order dated 15.11.89 This was done after representation. The suitability test took place in July 1988, and according to Railway Administration the delay was caused because of pending litigation which started from the year 1982 in respect of seniority one such case was decided by Allahabad Bench of C.A.T. which was set aside by Supreme Court in respect of promotion only .

3. The respondents who were serving graduates appeared in a selection for the post of senior clerk for the posts which arose for graduates clerks in term of Railway Board letter dated 18.6.1981. They qualified for the selection on the basis of which test held on 2.6.85 followed by interviews on 14th and 16th August 1985 . They were promoted as senior clerks on 8.10.85 on regular basis. 6 of the respondents were appointed as adhoc senior clerks from 1983 on different dates. Some of these persons were promoted on provisional and adhoc basis as Head Clerks with effect from 13.4.1988 . Respondents No. 21 to 29 are from the direct graduate quota, who had joined between 11.5.1987 to 30.7.1988 . They were allowed seniority on the basis of their empanelment and merit position. .

4. Respondents 3 to 18 have pointed out that seniority panel of respondents was circulated on 15.10.85 which was not challenged by the applicants whose panel was declared on 22.8.1988. Respondents were promoted as Head Clerk on 13.4.1988 and the same too was not challenged by the applicants, some of the applicants were promoted as Head Clerks which was dated back earlier on 1.1.1986 or 1.1.1987 or 1.9.1987 some similarly placed person filed an application before Allahabad Bench of the Central Administrative Tribunal for regularisation of their adhoc promotion but the same was dismissed.

5. For the present ignoring the plea of non filing of objection by the applicant at the appropriate stage and thereby making the seniority list final which now is not open for challenge on this ground, the main question which now arises for determination is as to whether the applicants would be entitled to count the period of adhoc promotion prior to their regular appointment not by regularisation straightway but after undergoing the process of suitability test regarding which a direction was also given by Allahabad Bench of the Central Administrative Tribunal vide its judgment dated 14.12.1987 in Hari Shankar Maurya vs. Union of India and others. There is no denial of the fact that promotion could have been made after passing the suitability test. The same was being delayed because of litigation and that is why it appears adhoc arrangements were made but no promotion in accordance with rules were made.

The learned counsel for the applicants contended that seniority is to be determined on the basis of length of service and not on any fortuitous circumstances in the absence of any specific rule in this behalf. In this connection reference was made to certain cases. In the case of G.P. Doval and others vs. The Chief Secretary Government of U.P. and others (1985, U.P.L.BEC page 4). The facts even were different. In the said case it was held that for determining seniority, length of continuous officiation from substantive appointment (emphasis supplied) can not be ignored if followed by confirmation. Thus emphasis was on substantive appointment (which is not the same thing as adhoc appointment) followed by confirmation. In Narendra Chaddha and others vs. Union of India & others (1986 U.P.S.B.E.C., 373(SC) the dispute was regarding seniority between adhoc promotees and direct recruits. The adhoc promotion was made to fill several vacancies allocated to direct recruits. The promotees continued to work for 15 to 20 years and it was in these circumstances they were given benefit of continuous officiation as it was also directed that they are to be treated as having <sup>been</sup> regularly appointed. In the case of Direct Recruit Class II Engineer Association vs. State of Maharashtra (AIR 1990 SC page 1607) it was held that where initial appointment is not made by following the procedure laid down in the rules the appointee continues in the post uninterruptedly till

regularisation (emphasis supplied) of his service in accordance with the rules the period of officiating service will be counted and at the same time it was also held that where initial appointment was only adhoc and not according to the rules made as a stop gap arrangement the officiation in such post can not be taken into account for consideration of seniority.

6. In the instant case there was no regularisation and the adhoc appointments so made were time gap arrangement till appointment was not made in accordance with rules. In the case of M.B. Joshi and others vs. Sathsh Kumar Pandey and others and other connected cases (1992 Vol. II SVLR) L) page 284, it was held that in the absence of any separate rule, the seniority amongst persons holding similar posts in the same cadre has to be determined on the basis of length of service and not on any other fortuitous circumstances. There can be no deviation from the principle which does not apply in the instant case in view of the appointment or promotion so made on adhoc basis pending appointment in accordance with statutory rules which existed in the instant case. But in the case of Ashok Gulati vs. B.S. Jain, (A.I.R. 1987, S.C. 424) initial appointment in class II service on adhoc basis was purely as stop gap arrangement for six months at a time dehors the rules and later appointed as Assistant Engineer on regular basis through Public Service Commission. It was held that they were not entitled to the benefit of their continuous officiation as such adhoc employees in reckoning their seniority vis-avis direct recruits in the class II service and

eligible in class I service under rules. In Masood Akhtar  
Akhtar Khan vs. State of M.P. (1990) 4 S.C.C. 24, stop  
gap emergency appointments were made for six months  
pending regular selection by P.S.C. They were allowed to  
continue and later on were regularly selected by Public  
Service Commission. It was held that seniority is to be  
counted not from the date of their initial stop gap  
appointment but from the date of their regular selection  
under the rule. In the case of Union of India vs. Sri  
S.K.Sharma and others (1992) 2 S.C.C. 728, it was held  
that adhoc service can not be counted for determining  
seniority. The order granting arrears of pay and allowa-  
nces for actual working on the post on adhoc basis was  
held not to be conferring any right to claim seniority  
on the post by reckoning the adhoc service, and the  
approval by U.P.S.C. for continuation on adhoc basis  
being for the purpose of granting pay and allowance  
would not amount to regular appointment. In R.P. Pandey  
case (supra) the Allahabad Bench of the C.A.T., after  
taking into consideration the legal position and  
provisions of Railway Establishment Manual has taken the  
view that benefit of adhoc appointment can not be given  
towards seniority. we do not find any ground to disagree  
with the said judgment. The respondents, some of whom  
were working on adhoc basis came as a direct recruit,  
through proper selection. Their appointment proceeded  
the regular promotion or appointment of the applicants.  
In view of para 382 of the Railway Establishment Manual  
which provides that seniority amongst incumbents of a  
post in a grade is governed by the date of appointment

W

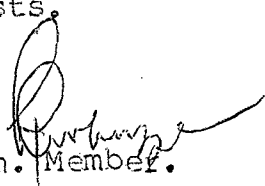
to the grade and in categories of posts partially filled by direct recruitment and partially by promotion seniority should be determined by the date of promotion in case of a promotee and date of joining of the working posts in the case of direct recruit subject to maintenance of the seniority of promotees and direct recruits amongst themselves. The Railway Establishment Manual also provides for ranking in seniority of those <sup>who</sup> ~~who~~ selected in earlier selection. Thus the respondents who were directly appointed as Senior Clerks after due selection would rank senior to the applicants in view of the fact that they are not entitled to count the earlier adhoc service towards seniority which was not the ground for making them regular promotion as they have to undergo the process of test and who qualified in the same get regular promotion. In this view there is no question of applying the principle of continuous officiation in the presence of specific statutory rule and ignoring the time gap adhoc appointment does not arise.


7. The other question which requires consideration is to the effect of delayed promotion or its process for no fault of applicants. The delay was caused because of pendency of litigation between direct recruit and promotees, so far direct quota is concerned for which there was no litigation, process went ahead. <sup>provides</sup> No rule ~~for~~ simultaneous process of fixing of seniority quota wise and prohibits filling of any particular quota without filling the ~~other~~ <sup>one</sup> ~~one~~ <sup>ing</sup>. The Railway

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Administration was not responsible for delay nor it is a deliberate act and there is no violation of rule and as such no benefits accrue to the applicants, nor can they claim any. The applicants have thus failed to make out any case for counting the adhoc period towards seniority. They are thus not entitled to the relief claimed and the application is dismissed. There will be no order as to costs.

  
Adm. Member.

  
Vice Chairman.

Shakeel/-

Lucknow: Dated: 5th January 1993-

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9. Annexure No.8- Order dated 1.3.1989  
promoting respondents 25 to 29 as  
Head Clerks. .. 33

10. Annexure No.9- Order dated 1.3.1990  
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Date : April , 1990.

Sig. of the Applicant.

Place : Lucknow.

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

O.A. No. 148 of 1990 (L)

BETWEEN

Chandra Kumar Pandey &amp; others ..... Applicants

AND

Union of India &amp; others ..... Respondents

DETAILS OF APPLICATION :

## 1. Particulars of the applicants :

- (i) Name of applicants : 1. Chandra Kumar Pandey,  
s/o late Jagannath  
Prasad Pandey, r/o  
Mardan Khera near  
Nagar Mahapalika  
School, Lucknow.
- (ii) Name of the father :
- (iii) Address for service:  
of all notices
2. T.N. Shukla, s/o  
late Shyam Behari  
Shukla, r/o 555 Ch/III  
Ram Nagar, Alambagh,  
Lucknow.
3. Parsu Ram Singh,  
s/o late Mahabir  
Prasad, r/o Vill.  
Bishanpur, P.O.  
Bachhrawan, district  
Rae Bareilly.
4. Dinesh Chandra Srivas-  
tava, s/o late Daya  
Shanker Srivastava,  
r/o 555 Ch/194 Ram  
Nagar, Alambagh,  
Lucknow.
5. Shitla Prasad Pandey,  
s/o late Ram Sada  
Pandey, r/o c/o  
Ravindra Kumar Yadav,  
Vill. Mahadi Khera  
(RDSO) Alambagh, Lucknow
6. Sarvan Kumar Rai,  
s/o Sri Mahatam Rai,  
r/o II-164 J Rest  
Camp Colony, N.Rly.,  
Charbagh, Lucknow.

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7. Smt. Saroj Bala Soni,  
w/o Sri B.N. Soni,  
r/o 567/196 Anand Nagar,  
Alambagh, Lucknow.
8. T.L. Srivastava, s/o Sri  
Jagdish Prasad Srivastava,  
r/o Mohalla Gopal Puri,  
Alambagh, Lucknow.
9. Satendra Kumar, s/o Sri  
Bulak Prasad Singh, r/o  
II-192 G, V.G. Rly. Colony,  
Alambagh, Lucknow.
10. Om Prakash Singh, s/o Sri  
Bhrigunath Singh, r/o 91-A  
Sleeper Ground Colony,  
Alambagh, Lucknow.
11. Sachendra Prasad Naik,  
s/o Sri Jokhan Prasad Naik,  
resident of near Ish Shishu  
Mandir (Bahadur Khera)  
Alambagh, Lucknow.
12. Kashi Prasad, s/o late  
Bindeshwari, r/o C-34  
Alambagh Police Station  
Colony, Lucknow.
13. Vijay Shanker Singh, s/o  
Sri Madan Gopal Singh,  
r/o 567/95 Anand Nagar,  
Alambagh, Lucknow.
14. Samiullah, s/o late Safi-  
ullah, r/o S-3B Langra  
Phatak, Alambagh, Lucknow.
15. Nar Singh, s/o Sri Mathura  
Singh, r/o II-19B 40 Quarter,  
Railway Colony, Alambagh,  
Lucknow.
16. Mohd. Ilyas Ansari, s/o  
late Mohd. Idress, r/o  
II-160H Rest Camp Colony,  
Charbagh, Lucknow.
17. Arun Kumar Sinha, s/o late  
S.N. Sinha, r/o 149/331 Hari  
Nagar, Lucknow.

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2. Particulars of the respondents :

- (i) Name and/or designation of the respondents : 1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
- (ii) Office address of the respondents : 2. Dy. Controller of Stores, Northern Railway, Alambagh, Lucknow.
- (iii) Address for service of all notices : 3. Mahadev Pal, office of the Dy. Controller of Stores, N.Rly., Alambagh, Lucknow.
4. Krishna Kumar Sharma, office of the Dy. Controller of Stores, N.Rly. Alambagh, Lucknow.
5. Sudhir Kumar, office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.
6. Ram Tahal Tewari, office of the Dy. Controller of Stores N. Rly., Alambagh Lucknow.
7. Hausla Prasad Singh, office of the Dy. Controller of Stores N. Rly., Alambagh, Lucknow.
8. Girja Shankar, Asstt./Supdt. Ticket Printing & Stationery, N. Rly., Alambagh, Lucknow.
9. Sunil Kumar Srivastava, Office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.
10. Sunil Kumar Singh, office of the Asstt. Controller of Stores, N. Rly., Charbagh, Lucknow.

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11. Kaushal Kishore Srivastava, office of the Distt. Controller of Stores, N.Rly., Charbagh, Lucknow.
12. B.L. Prajapati, office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.
13. G.L. Bajpai, Office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.
14. Om Shanker Verma, office of the Asstt. Supdt. Ticket Printing & Stationary, N. Rly., Alambagh, Lucknow.
15. Anil Kumar, office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.
16. S.C. Tripathi, office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.
17. R.K. Gautam, office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.
18. N.K. Srivastava, office of the Asstt. Controller of Stores, N. Rly.ETD/Kanpur.
19. Smt. Veena Vohra, office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.
20. Shiv Kumar Misra, office of the Dy. Controller of Stores, N.Rly., Alambagh, Lucknow.
21. Sunil Kumar Chaturvedi, office of the Asstt. Controller of Stores, N.Rly. ETD/Kanpur.
22. Rajesh Pratap Singh, office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.
23. Smt. Nasreem Khan, office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.
24. Vidya Prakash Dixit, office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.

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25. Ram Chandra Yadav, Office of the Asstt. Supdt. Ticket Printing and Stationery, N. Rly., Alambagh, Lucknow.
26. Lalji Tripathi, office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.
27. Avinash Chandra Shukla, office of the Asstt. Controller of Stores, N. Rly. ETD/Kanpur.
28. Brijesh Singh, Office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.
29. Abhay Kumar Srivastava, Office of the Asstt. Supdt. Ticket Printing and Stationery, N. Rly., Alambagh, Lucknow.

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

Order dated 1.3.1990 passed by the Dy. Controller of Stores, Northern Railway, Alambagh, Lucknow, by which the seniority position of the applicants has been disturbed by promoting and confirming the respondents on the posts of Head Clerks with retrospective effect over and above the applicants who are entitled to seniority on the next below post of senior clerks on the basis of their continuous officiation on the said post on which they were subsequently regularised.

4. Jurisdiction of the Tribunal :

The applicants declare that the subject matter of the order against which they want redressal is within the jurisdiction of the Tribunal.

Mohd. Elyas

### 5. Limitation :

The applicants further declare that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

### 6. Facts of the case :

The facts of the case are given below :-

- 6(1) That the applicants were working on the posts of clerks in the office of the Dy. Controller of Stores, Northern Railway, Alambagh, Lucknow. According to the seniority list of the clerks in the office of the Dy. Controller of Stores, the applicants 1 to 17 were respectively placed at serial Nos. 38, 53, 59, 74, 89, 97, 99, 113, 118, 119, 123, 131, 136, 145, 147, 153 and 158. The said seniority list dated 29.7.1989 of clerks was circulated by the Dy. Controller of Stores.
- 6(2) That on the basis of the aforesaid seniority list on the posts of clerks ad hoc appointments were made on the posts of senior clerks in the office of the Dy. Controller of Stores.
- 6(3) That the ad hoc appointments of the applicants 1 to 4 were made on the basis of the aforesaid seniority list on 19.4.1983. The ad hoc appointment of applicant No.5 was made on 11.4.1984, of applicant No.6 on 11.8.1983, of applicant No.7 on 12.9.1983, of applicant No.8 on

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13.8.1983, of applicant No.9 on 2.6.1984, of applicant No.10 on 1.8.1984, of applicant Nos. 11 to 15 on 5.5.1986, of applicant No.16 on 27.1.1987 and of applicant No.17 on 3.10.1988. A true copy of the chart showing the seniority position and the date of adhoc appointments respectively of applicants 1 to 17 is filed as Annexure No.1 to this application.

Annexure-1

6(4) That by order dated 8.10.1985, 17 persons were placed on the provisional panel of senior clerks in the grade Rs.330-560 (RS) on the basis of selection of serving graduate clerks. The names in the said panel were shown in order of merit. Out of these 17 persons brought on the panel of senior clerks from among the serving graduates 7 were already working on adhoc basis along with the applicants. A photostat copy of the order dated 15.10.1985 drawing up the provisional panel of serving graduates on the posts of senior clerks is filed as Annexure No.2 to this application.

Annexure-2

6(5) That of the aforesaid 17 persons brought on the panel of senior clerks Mahadev Pal, Krishna Kumar Sharma, Mehar Fatima and Girja Shanker were already working on adhoc basis from 19.4.1983. Ram Tahal Tewari was appointed on adhoc basis on 31.12.1983, Hausla Prasad Singh was appointed on adhoc basis on 6.12.1983. The remaining 10 persons were appointed on the posts of officiating senior clerks w.e.f.

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8.10.1985. The aforesaid persons brought on the provisional panel on the basis of selection of serving graduate clerks are impleaded as respondent Nos. 3 to 18. Smt. Mehar Fatima is not impleaded as she has gone on transfer to Central Railway.

6(6) That Smt. Veena Vohra, shown as respondent No. 19 was originally appointed as clerk and was subsequently promoted senior clerk under the Divisional Railway Manager, Allahabad. Thereafter Smt. Veena Vohra on her own request was transferred to Lucknow under the Dy. Controller of Stores, Northern Railway, Alambagh, Lucknow w.e.f. 1.7.1986. As she sought transfer on her own request she was to be placed at the bottom of the seniority list of senior clerks working under the Dy. Controller of Stores, Northern Railway, Alambagh, Lucknow. Thus she was to be placed below the applicants also working under the Dy. Controller of Stores. This was not done and she was illegally placed over the applicants although applicants 1 to 15 had been working as officiating senior clerks earlier than 1.7.1986 the date of her joining at Lucknow.

6(7) That Shiv Kumar Misra was initially working as clerk in the office of the Dy. Controller of Stores, Northern Railway, Alambagh, Lucknow. Subsequently he appeared in open selection of senior clerks in the serving graduate quota.

Mohd. Ilyas

He was successful in the selection but as there was no vacancy in the graduate quota of senior clerks in the office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow, he was given fresh appointment as senior clerk in graduate quota in the establishment of Divisional Railway Manager, Hazratganj, Lucknow. Thereafter on his own request he was transferred as senior clerk in the office of the Dy. Controller of Stores, Alambagh, Lucknow, w.e.f. 3.12.1986. As he had sought transfer in another establishment on his own request he was entitled to be placed at the bottom of the seniority list of senior clerks in the office of the Dy. Controller of Stores below the applicants 1 to 15. He was, however, illegally placed above the applicants although they had been working as senior clerks on officiating basis from an earlier date.

6(8) That in the aforesaid circumstances both Smt. Veena Vohra and Shiv Kumar, respondent Nos. 19 and 20, are to be placed below the applicants in the seniority list of senior clerks in the office of the Dy. Controller of Stores, N. Rly., Alambagh, Lucknow.

6(9) That on the basis of selection held by the Railway Recruitment Board, 9 persons were appointed on the posts of senior clerks. These 9 persons directly recruited are impleaded as respondents 21 to 29 in the above application.

Mohd. Ilyas

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-10-

They were brought on the panel on 25.10.1985 and were given appointments on various dates between 11.5.1987 to 30.7.1988. Thus respondent No.21 joined the post on the basis of his appointment on 11.5.1987 and respondent No.29 joined the post on 30.7.1988.

6(10) That the applicants, who were continuously working on the posts of senior clerks on adhoc basis since 1983 and were so appointed on the basis of their position in the seniority list, were not regularised while their juniors were brought on the panel under the quota of serving graduate clerks and by direct recruitment subsequently. The regularisation test of the applicants was withheld on account of the stay order passed by the Hon'ble High Court in writ petition No. 1183 of 1982 Hari Shanker Maurya Vs Union of India & others. The regularisation test was ultimately held on 22.8.1988 after the disposal of the aforesaid case which was transferred to this Hon'ble Tribunal T.A. 626 of 1987 which was decided on 18.12.1987. The matter, however, went to the Hon'ble Supreme Court which confirmed the order of this Hon'ble Tribunal.

6(11) That meanwhile promotions were made on the next higher posts of Head Clerks of persons working on the posts of senior clerks who were appointed on the basis of selection of serving graduate clerks by order dated 15.10.1985 w.e.f. 8.10.85.

Mohd. Ilyas

Thus respondents 3 to 18 were appointed as Head Clerks on provisional and adhoc basis by order dated 13.4.1988. A photostat copy of the order dated 13.4.1988 appointing respondents 3 to 18 as provisional and adhoc Head Clerks is filed as Annexure No.3 to this application.

Annexure-3

6(12) That the result of the regularisation test of applicants and others for the posts of senior clerks was declared on 22.8.1988. This was subject to the decision in the court case. A photostat copy of the result of regularisation test on the posts of senior clerks dated 22.8.1988 is filed as Annexure No.4 to this application.

Annexure-4

6(13) That when respondents 3 to 18 were sought to be confirmed on the posts of head clerks, on which they were appointed on provisional and adhoc basis by order dated 13.4.1988, the applicants preferred a representation against the said proposed confirmation of respondents 3 to 18 claiming themselves senior to the said respondents on the basis of their continuous officiation from the date of their respective appointment. A photostat copy of the applicants' representation dated 7.1.1989 is filed as Annexure No.5 to this application.

Annexure-5

6(14) That the applicants by means of a joint representation dated 23.2.1989 to the Dy. Controller of Stores requested that the seniority list of

Mohd. Ilyas

the ministerial cadre may be circulated so as to determine their correct position in the seniority list. A photostat copy of the representation dated 23.2.1989 is filed as Annexure No.6 to this application.

Annexure-6

- 6(15) That persons appointed directly on the basis of the selection made by the Railway Recruitment Board on the posts of senior clerks between 11.5.1987 to 30.7.1988 were also promoted on the posts of Head Clerks. Of the 9 such direct recruits 3 were promoted as Head Clerks on 10.1.1989 and the remaining 6 were promoted on 1.3.1989. The said promotions on the posts of Head Clerks were provisional and subject to the court's decision. A photostat copy of the promotion order dated 10.1.89 promoting respondents 21 to 24 is filed as Annexure No.7 and a photostat copy of the order dated 1.3.1989 similarly promoting respondents 21 & 25 to 29 is filed as Annexure No.8 to this application.

Annexure-7

Annexure-8

- 6(16) That by order No.155 dated 1.3.1990 passed by the Dy. Controller of Stores (Respondent No.2) all the respondents 3 to 18, who were earlier promoted as Head Clerks on provisional and adhoc basis by order dated 13.4.1988, have been treated as confirmed Head Clerks with retrospective effect from 19.4.1986. The aforesaid order dated 1.3.1990 treating respondents 3-18

Mohd. Ilyas

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as confirmed Head Clerks even prior to the date of their provisional appointment as Head Clerks is wholly illegal, arbitrary and without jurisdiction. A photostat copy of the order dated 1.3.1990 is filed as Annexure No.9 to this application.

Annexure-9

- 6(17) That by the same order dated 1.3.1990 applicant Nos. 1 to 4 have been regularised on the posts of senior clerks from 19.4.1986. By the same order applicant No.1 was promoted as Head Clerk w.e.f. 1.8.1986, applicant No.2 was promoted as Head Clerk w.e.f. 1.1.1987, applicant No.3 was promoted as Head Clerk w.e.f. 1.4.1987 and applicant No.4 was promoted as Head Clerk w.e.f. 1.9.1987.
- 6(18) That the applicants are entitled for regularisation on the posts of senior clerks from the date of their respective officiating appointment on the said post. Their seniority position on the post of senior clerks is therefore to be assigned on the basis of their date of officiating appointment on which post they were subsequently regularised. The applicants are further entitled for promotion as Head Clerks on the basis of their seniority position on the post of senior clerks. This has not been done in the present case as respondent Nos. 3 to 18 were appointed as senior clerks w.e.f. 8.10.1985 by order dated 15.10.1985 and respondent Nos. 21 to 29 were selected

Mohd. Elyas

and brought on the panel of senior clerks dated 25.10.1985 and given appointment on the said post on various dates between 11.5.1987 to 30.7.1988. Respondent Nos. 19 and 20, on the other hand, are transferees who had sought transfer from other establishments to the office of the Dy. Controller of Stores, Northern Railway, Alambagh, Lucknow, and are, therefore, to be placed at the bottom of the seniority list of senior clerks on the date of their joining the transferred post. In the circumstances all the respondents are junior to the applicants counting the applicants' seniority from the date of their officiating appointment as senior clerks on which they were subsequently regularised.

- 6(19) That there are no departmental rules regarding seniority contrary to the aforesaid position of counting the seniority from the date of officiating appointment. The aforesaid position of counting the seniority on the basis of continuous officiation on the post on which the incumbent is subsequently regularised has been consistently upheld by the Hon'ble Supreme Court. The said legal position applies with full force to the case of the applicants.

7. Details of the remedies exhausted :

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

Mohd. Ilyas

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

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

9. Relief sought :

In view of the facts mentioned in para 6 above the applicants pray for the following relief :-

That the applicants be declared senior to respondents 3 to 29 in the seniority list of senior clerks and thereafter be promoted to the next higher post of Head Clerk on the basis of their seniority position and set aside the order dated 1.3.1990 inasmuch as it gives benefit to respondents 3 to 12, 14 to 16 and 18 by promoting them as confirmed Head Clerks with retrospective effect.

10. Interim order, if any prayed for :

Pending final decision on the application, the applicants seek issue of the following interim order :-

That the operation of the order dated 1.3.1990 (Annexure No.9) passed by the Dy. Controller of Stores (Respondent No.2) be stayed.

Mohd. Ilyas

11. Particulars of Postal Order in respect of the application fee :-

1. Number of Indian Postal Order 02 414152
2. Name of the issuing Post Office High Ct Branch
3. Date of issue of Postal Order 20/4/90
4. Post office at which payable Allahabad

12. Details of Index :

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

13. List of enclosures : As per Index.

Verification

I, Mohd. Ilyas Ansari, aged 31 years, son of late Sri Mohd. Idress, working as Senior Clerk in the office of the Dy. Controller of Stores, Northern Rly., Alambagh, Lucknow, resident of II-160 H Rest Camp Colony, Charbagh, Lucknow, do hereby verify that the contents of paras 1 to 13 are true to my personal knowledge and belief and I have not suppressed any material facts.

Mohd. Ilyas

Date : April , 1990.

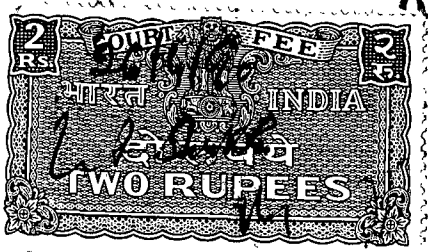
Sig. of the applicant.

Place : Lucknow.

Kan Singh

Mohd. Ilyas

In the Central Administrative Tribunal A31



मान Lucknow Bench Lucknow महोदय

का

वकालतनामा

OA No

4/1990



Chandra Kumar Pandey & others — Applicants

Union of India बनाम

प्रतिवादी (रेस्पॉन्डेंट)

मुकद्दमा

सन

पेशी की ता०

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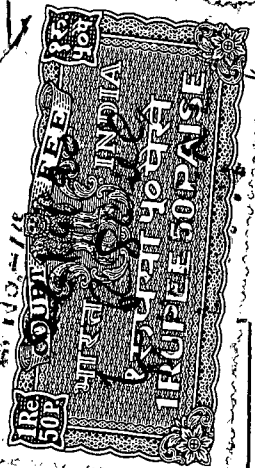
ई०

र लिखे मुकद्दमा में अपनी ओर से श्री C.P. Shukla, Advocate.

वकील

C-700 Mahanagar Lucknow

एडवोकेट महोदय



को अपना वकील नियुक्त करके (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूं कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूंगा। अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

① चंद्र कुमार पण्डित  
② तेज गजपति सिंह

हस्ताक्षर

3- प्रेमचंद सिंह  
4- जयशंकर सिंह

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १९

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- 13- विमलेश्वर सिंह  
14- समीर कुमार  
15- नरेश  
16- मुहम्मद इलियास  
17- अफता कमार सिन्हा

- 10- Om Prakash Singh  
11- सचिन कुमार तायन  
12- काशी प्रसाद

- 5- श्री राम प्रसाद सिंह  
6- जयशंकर सिंह  
7- राजेश कुमार  
8- जयशंकर सिंह  
9- सचिन कुमार

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOWBENCH, LUCKNOW

D.A. No. 148 of 1990 (L)

ChandraKumar Pandey & others ..... Applicants

Versus

Union of India & others ..... Respondents

List of Enclosures

<u>Sl. No.</u>	<u>Description of documents relied upon.</u>	<u>Page Nos.</u>
1.	Chart showing the seniority position and the date of adhoc appointments respectively of applicants 1 to 17.	.. 17- 18
2.	Order dated 16.10.1985 drawing up the provisional panel of serving graduates on the posts of senior clerks. ..	.. 19 -
3.	Order dated 13.4.1988 appointing respondents 3 to 18 as provisional and adhoc Head Clerks.	.. 20 -
4.	Result of regularisation test on the posts of senior clerks dated 22.8.1988. ..	.. 21- 23
5.	Copy of the applicants' representation dated 7.1.1989.	.. 24 - 30
6.	Applicants' representation dated 23.2.1989 to respondent No.2 to circulate the list of seniority of the ministerial cadre. ..	.. 31 -
7.	Promotion order dated 10.1.1989 promoting respondents 21 to 23 as Head Clerks. ..	.. 32 -

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-2-

8. Order dated 1.3.1989 promoting respondents 24 to 29 as Head Clerks. ..

.. 33-

9. Order dated 1.3.1990 treating respondents 3 to 18 as confirmed Head Clerks even prior to the date of their provisional appointment as Head Clerks. ....

.. 34- 39

Attested/True Copy

Mohd. Ilyas

Date : April , 1990.

Sig. of the Applicant.

Place : Lucknow.

P. SHUKLA  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH LUCKNOW.

O.A.No. of 1990

Chandra Kumar Pandey & others. . . . . Applicants.  
Union of Indla & others . . . . . Respondents .

ANNEXURE-No.

S.No.	Names & Father's Name	Residence	Approx. Age.	Adhoc Promotion dt.	Seniority Position in Sr.Clerk
1.	Shri Chandra Kumar Pandey S/O Late Jagannath Pd. Pandey.	Mardan Khura, Near Nager Mahapalika School, I.M.O.	53 Years	19.4.83	38
2.	Shri F.M.Shukla S/O Late Shyambehari Shukla	555 Ch/111, Ram Nagar, Alambagh, Lucknow.	55 "	19.4.83	53
3.	Shri Persu Ram Singh S/O Late Mahabir Pd.	Vill. Elshan Pur, PO. Bachharawan, Distt.Bae-Bareilly	53 "	19.4.83	59
4.	Shri Dinesh Chandra Srivastava, S/O Late Dayashanker Srivastava	555 Ch/194 Ram Nagar, Alambagh, Lucknow.	36 "	19.4.83	74
5.	Shri Shitala Pd.Pandey S/O Late Ram Sadel Pandey	C/O Ravindra Kumar Yadav 31 " Vill. Mehdi Khura(RDSO) Alambagh, Lucknow.	11.4.84	89	
6.	Shri Sarvan Kumar Rai, S/O Late Shri Mahatam Rai,	II-164 J Rest Camp Colony 32 " N.Rly. Charbagh, Lucknow.	11.8.83	97	
7.	Shri.Saroj Bala Soni W/O Shri B.N.Soni	567/196 Anand Nagar, Alambagh, Lucknow.	35 "	12.9.83	99
8.	Shri T.L.Srivastava S/O Shri Jagdish Pd. Shri Srivastav a.	Mohalla Gopal Puri Alambagh, Lucknow.	35 "	13.12.83	113

Attested/True Copy

Advocate

(18)

A35

(2)

S.No.	Name & Father's Name	Residence	Approx. Age	Adhoc Promotion date in Sr. Clerk	Seniority Position in Jr. Clerk.
9.	Shri Satendra Kumar S/o Bulak Pd. Singh	II-492 G.V.G.Hy.Colony Alambagh, Lucknow.	37 Years	2.6.84	118
10.	Shri Om Prakash Singh, S/o Shri Bhirsu Nath Singh	91-A Sleeper Ground Colony Alambagh, Lucknow.	34 "	1.8.84	119
11.	Shri Sachendra Prasad Naik S/o Shri Jokhan Pd.Naik.	Near Ish Shishu Mandir, (Bahadur Khura) Alambagh, LKO.	31 "	5.5.86	123
12.	Shri Kashi Prasad S/o Late Bindeshwary	C-34 Alambagh Police Station Colony, Lucknow.	42 "	5.5.86	131
13.	Shri Vijay Shankar Singh S/o Shri Madan Gopal Singh	567/95 Anand Nagar, Alambagh, Lucknow.	33 "	5.5.86	136
14.	Shri Samtullah S/o Late Saftullah	S-3-B Langara Phatak, Alambagh, Lucknow.	34 "	5.5.86	145
15.	Shri Nar Singh S/o Shri Mathura Singh	II-19B 40 Quarter, Hy.Colony Alambagh, Lucknow.	36 "	5.5.86	147
16.	Shri Mohd. Ilyas Ansari S/o Mohd. Idris,	II-160 H Rest Camp Colony, Charbagh, Lucknow.	31 "	27.1.87	153
17.	Shri Arun Kumar Sinha S/o Late S.N.Sinha	149/331, Hari Nagar, Lucknow.	27 "	3.10.88	158

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Attested/True Copy

Mohd. Ilyas Ansari  
Advocate

In the Central Administrative Tribunal, Lucknow Bench Lucknow  
 Shri. K. K. Pandey & Co. (19)  
 Commission of Indian Sars  
 11/11/85 2 A36  
 Applicants  
 off. H. N. 19

Northern Railway.

Office of the  
 Dy.C.O.S./AMV

Office order No. R/  
 Dated: 15 Oct. '85 262

In terms of G.M.(P)/ADLS letter No. 220E/1843-Pt.II (Rectt.) dt. 23.9.85 the following Clerks of this Office have been placed on the provisional panel of Sr. Clerk grade Rs. 330-560 (RS) on the basis of selection of serving graduate. The names are in order of merit.

S.No.	Name.	Merit No.
1.	Shri Mahadeo Pal, Sr. Clerk (SDC/AMV)	39
2.	" Krishan Kumar, -do- (AMV)	75
3.	" Ram Tahal Tewari -do- (n)	84
4.	" S.K. Srivastava, Clerk (AMV)	98
5.	" Om Shanker Verma -do- (n)	136
6.	" Sudhir Kumar, Sr. Clerk (n)	145
7.	" <u>Sunil Kumar Singh, Clerk (CB)</u>	177
8.	" Anil Kumar Gupta, -do- (AMV)	178
9.	" K.K. Shrivastava, -do- (CB)	179
10.	" S.C. Tripathi, -do- (AMV)	187
11.	" B.L. Prajapati, -do- (n)	189
12.	" Hausila Pd. Singh, Sr. Clerk (SDC/AMV)	193
13.	" R.K. Gautam, Clerk (AMV)	202
14.	" G.L. Bajpai, Clerk (AMV)	205
15.	Smt. Mehar Fatima, Sr. Clerk (AMV)	211
16.	Shri Girja Shanker (SC) -do- (AMV)	224
17.	" N.K. Shrivastava, Clerk (CNB)	234

The following are already officiating as Sr. Clerk on adhoc basis.

1. Shri Mahadeo Pal.
2. " Krishna Kumar.
3. " Ram Tahal Tewari.
4. " Sudhir Kumar.
5. " Hausila Pd. Singh.
6. Smt. Mehar Fatima.
7. Shri Girja Shanker (SC)

The following are appointed to officiate as Sr. Clerk on Pay Rs. 330/- in scale Rs. 330-560 (RS) w.e.f. 08.10.85 and retained in their Sections/Offices.

- |                                      |                                     |
|--------------------------------------|-------------------------------------|
| 1. Shri S.K. Shrivastava, Clerk/AMV. | Shri                                |
| 3. " S.K. Singh, Clerk (DSL/CB).     | (2) Om Shanker Verma, Clerk/AMV.    |
| 5. " K.K. Shrivastava, Clerk/CB.     | (4) " Anil Kumar, Clerk/AMV.        |
| 7. " B.L. Prajapati, Clerk/AM V.     | (6) " S.C. Tripathi, Clerk/AMV.     |
| 9. " G.L. Bajpai, Clerk/AMV.         | (8) " R.K. Gautam, Clerk/AMV.       |
|                                      | (10) " N.K. Shrivastava, Clerk/AMV. |

for Dy. Controller of Accounts  
 H. N. 19, Alambagh, Lucknow

Copy to the following. (1) The G.M.(P)/ADLS. It is certified that Shri G.L. Bajpai was appointed as Clerk in this Office prior to 31.10.85. (2) The SAO(W)/D. N. 19/AMV & CB. (3) The DCOS/CE, ACOS/ETD/CNB, ACOS/DAL/CE, and ACOS/MGS & VYM. (4) The Section Incharges concerned. (5) H. N. 19/Leave & Pass. (6) The parties concerned.

Attested/True Copy

Mohd Ilyas

L. P. SHUKLA  
 Advocate

In the Central Administrative T.Y. blank of Lucknow Bench Lucknow  
 Chandra Kumar Pandey & Others O.A. No. 1990(L) (20)  
 Union of India & Others Applicants  
 off. parties  
 Ann: 3 - A3)

**NORTH ERN RAILWAY:**

Office of the, Dy. Controller of Stores,  
 N. Railway, Alambagh/Lucknow.

Office Order No. E/ 77  
 Dated: 13 April, 1988

The following employees are appointed to officiate as Head Clerk on provisional and adhoc basis with immediate effect on pay Rs.1400/- P.M. in Scale Rs.1400-2300 (RPS). This will confer on them no claim of seniority or promotion in preference to those who may be considered senior to these staff after finalisation of the Court Cases:-

1. Shri Mahadeo Pal, SDC/GD/AMV.
2. " K.K. Sharma, Sr.Clerk/AMV.
3. " Ram Tahal Tewari, Sr. Clerk/AMV.
4. " Sunil Kumar Singh -do- -do-
5. " Om Shanker Verma -do- TPP/AMV
6. " Sudhir Kumar -do- -do-
7. " Sunil Kumar Singh -do- DSL/CB-LKO.
8. " Anil Kumar Gupta, SDC/AMV.
9. " Kaushal Kishore Sr.Clerk-CB, Depot.
10. " Srivastava.
11. " Suresh Chandra Sr.Clerk/AMV.
12. " Tripathi.
13. " Banwari Lal Prajapati Sr.Clerk/AMV.
14. " Haunsla Pd. Singh SDC/AMV.
15. " Girja Shanker Sonkar Sr.Clerk/TPP/AMV.
16. " Narain Kumar Sr.Clerk-BTD/CNB.
17. Smt. Veena Vohra Sr.Clerk/AMV.
18. Sri A.K. Malviya Sr.Clerk (TPP)/AMV.

for Dy. Controller of Stores,  
 NRly. Alambagh/Lucknow.

Copy to the following :-

1. The S.A.O.(W)/AMV & CB-Lucknow.
2. The D.C.O.S./NRly. Charbagh, Lucknow.
3. The A.C.O.S./DSL-CB.Lucknow.
4. The A.C.O.S./ETD-CNB, VYN & MGS.
5. The ASPS/(TPP)/AMV.
6. The Section Incharges concerned.
7. The Parties concerned.

Recd copy on  
 13.4.88  
 13.4.88

Attested/True Copy  
 Mohd. Ilyas  
 L. P. SHUKLA  
 Advocate

In the Central Administrative Tribunal at Lucknow Bench Lucknow  
 Chandra Kumar Pandey & Others O.A No. 1990(L) (21)  
 Union of India & others 4 A30 Applicants  
 off. party

NORTHERN RAILWAY

Office order No. E/172

Dated 22-8-1988.

As a result of suitability test for the post of Sr. Clerk (G) grade Rs 1200-2040 (RPS) held in this office on 21.7.88 and 17.8.88, the following employees has passed the test. This is provisional and is subject to the decision in the court cases.

GENERAL :

1. Shri D.P. Pandey Clerk-CB
2. Shri Gur Bachan Singh offg. Sr. Clerk (Adhoc) TPP/AMV
3. Shri Brij Nath -do- " " "
4. Shri S. Karmakar -do- " " "
5. Shri Ram Gulam Yadav -do- " " "
6. Shri Radhey Shyam -do- " " "
7. Shri Parma Lal Seth -do- " " "
8. Shri Bal Kishore -do- " " "
9. Shri C.K. Pandey -do- " " "
10. Shri K.N. Malvia -do- " " "
11. Shri Gajshan Lal -do- " " "
12. Shri Puttu Lal Offg. DSK/III (Adhoc) CB
13. Shri Rama Shanker I Offg. SDC (Adhoc)/AMV
14. Shri R.D. Saxena -do- -do-
15. Shri L.N. Sharma Offg. Sr. Clerk (Adhoc)/AMV
16. Shri Ram Shanker II Offg. DSK/III (Adhoc) CNB.
17. Shri Radhey Lal Offg. Sr. Clerk (Adhoc)/AMV
18. Shri J.B. Shukla Offg. SDC (Adhoc)/AMV
19. Shri C.N. Tripathi -do- -do-
20. Shri Sankata Pd. Offg. Sr. Clerk (Adhoc)/CB
21. Shri T.N. Shukla -do- -do-
22. Shri R.S. Pandey -do- Adhoc DSL/CB
23. Shri Mohd. Yamin Offg. SDC (Adhoc)/AMV
24. Shri V.N. Asthana Offg. Sr. Clerk (Adhoc)/AMV
25. Shri Parasu Ram Singh Offg. DSK/II (Adhoc)/CB.
26. Shri Mohan Lal -do- " " AMV
27. Shri Sadhu Ram Pandey -do- " SEN/C/CNB.
28. Shri L.S. Pandey offg. Sr. Clerk (Adhoc)/Alambagh.
29. Shri Sohan Lal Offg. Sr. Clerk (Adhoc)/AMV
30. Shri Chandra Pal Singh Offg. SDC (Adhoc)/AMV
31. Shri Kailash Pandey Offg. Sr. Clerk " "
32. Shri Rachha Ram -do- DSL (Adhoc)/AMV
33. Shri Shiv Kumar Misra I Offg. SDC (Adhoc)/AMV.
34. Shri K.D. Tripathi -do- " "
35. Shri D.C. Srivastava Offg. Sr. Clerk (Adhoc)/CB
36. Shri Shiv Behari Offg. DSK/III (Adhoc)/AMV
37. Shri Shiv Ram -do- (Adhoc)/GNB.
38. Shri Sheetla Pd. Pandey Offg. Sr. Clerk/CB (Adhoc)
39. Shri Ayazuddin Siddique Offg. DSK/III/CNB.
40. Shri H.S. Mauriya Offg. Sr. Clerk (Adhoc)/AMV
41. Shri Veerendra Rai -do- " /CB
42. Shri S.K. Rai -do- " /CB
43. Shri Zulfiqar Hussain -do- " /CB
44. Shri Smt. Suroj Bala Soni -do- " /CB
45. Shri Kunwar Ramesh Singh -do- "/TPP/AMV

(.....2.....)

Mohd. Ilyas

Attested/True Copy

L. P. SHUKLA  
 Advocate

46. Shri M.P. Verma Offg. Sr. Clerk (Adhoc)/AMV
47. Shri Tripurari Lal Srivastava Offg. SDC (Adhoc) AMV
48. Shri V.K. Verma Offg. SDC (Adhoc)/AMV /Sr. Clerk.
49. Shri Chhotey Lal Singh Offg. Sr. Clerk (Adhoc)/AMV CNB
50. Shri Mohd. Qaisar Siddiqui Offg. Sr. Clerk (Adhoc)/DSL-CB
51. Shri Satendra Kumar Offg. SDC (Adhoc)/AMV.
52. Shri Om Prakash Singh Offg. Sr. Clerk (Adhoc)/DSL-CB
53. Shri Zubed Ashad Qudwai -do- -do- "
54. Shri A.K. Daniel Offg. Sr. Clerk (Adhoc)/VYN.
55. Shri D.K. Srivastava Offg. Sr. Clerk (Adhoc)/VYN.
56. Shri S.P. Naik Offg. Sr. Clerk (Adhoc)/AMV
57. Shri Lalta Pd. Offg. Offg. Sr. Clerk (Adhoc) .MV
58. Shri K.C. Joshi Offg. Sr. Clerk (Adhoc) AMV CNB
59. Shri Hiaz Ahmad -do- -do- /VYN.
60. Shri Shiv Pd. Singh Offg. SDC -do- /AMV
61. Shri K.C. Saxena Offg. Clerk (Adhoc)/AMV
62. Shri S.S. Bajpai Offg. Sr. Clerk /TPP/AMV.
63. Shri Kashi Pd. Offg. Sr. Clerk (Adhoc)/AMV.
64. Shrimati Neeraya Vora -do- -do- /CNB
65. Shri P.K. Bajpai -do- -do- /CNB
66. Shri Ramji Pal -do- -do- /CB.
67. Shri Ram Abhilakh Chaurasia -do- -do- /AMV
68. Shri Vijai Shanker Singh -do- -do- /AMV 12
69. Shri Naveen Kumar -do- -do- /DSL-CB
70. Shri Mohd. Yonus -do- -do- /AMV
71. Shrimati Kanta Kumari Offg. Sr. Clerk (Adhoc)/CNB.
72. Smt. Shabin. Ayum Siddiqui -do- -do- /CB
73. Smt. K.N. Misra Offg. Sr. Clerk -do- /AMV
74. Sri Kalloo Khan Offg. Sr. Clerk (Adhoc)/AMV
75. Sri Samdullah -do- -do- /AMV
76. Sri Nar Singh -do- -do- /AMV
77. Smt. Keeta V. Charan -do- -do- /AMV
78. Sri Mohd. Mahboob -do- -do- /VYN.
79. Sri Mohd. Ilyas -do- -do- /AMV
80. Sri A.K. Suman Sinha Clerk -do- /AMV
81. Sri Rais Ahmad Offg. Sr. Clerk (Adhoc)/AMV
82. Sri Prem Pal Singh -do- -do- /AMV
83. Sri Rajesh Pathania -do- -do- /DSL-CB
84. Sri A.K. Shankhdhar -do- -do- /AMV
85. Sri Ravindra Kumar -do- -do- /CB.
86. Sri S. Zahoor Ahmad Clerk -do- /CB.
87. Sri Chandan Sanyal Clerk TPP/AMV
88. Sri Ramoo Gupta " VYN.
89. Sri Eshang Pani Pandey Clerk AMV
90. Sri V.K. Garswat Clerk AMV
91. Sri S.N. Pandey Clerk AMV
92. Sri Ram Asrey Clerk AMV
93. Sri Pankaj Kumar Sriv. Clerk TPP/AMV
94. Sri Ravi Kumar Saxena Clerk AMV
95. Srimati Vijai Laxmi Saxena Clerk AMV
96. Sri Rajen Kumar Srivastava " "
97. Sri Ajai Kumar Srivastava " "
98. Sri D.K. Dey " TPP-AMV
99. Sri D.K. Mishra " AMV

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22/8

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Mohd Ilyas  
L. C. SHUKLA  
Advocate

-3-

S.C.

1. Shri Jawahar Lal II Offg. HC (Adhoc)/AMV
2. Shri Kanga Pd. " Sr. Clerk (Adhoc)/AMV
3. Shri Nannu Ram Offg. DSK/III (Adhoc)/VYN.
4. Shri Shyam Sunder Offg. PC (Adhoc)/CB.
5. Shri Jag Mohan Lal Offg. HC (Adhoc)/AMV.
6. Shri Bhai Lal Offg. HC (Adhoc)/AMV
7. Shri Ram Nath Offg. HC (Adhoc)/AMV.
8. Shri N.K. Sharma -do- -do-/CNB
9. Shri Hari Nath Ram -do- -do-/AMV.
10. Shri Harbar Singh -do- -do-/CNB.
11. Shri S. Paswan -do- -do-/VYN
12. Shri Bishambhar Dayal Offg. DSK/III/AMV. (Adhoc)
13. Shri Lalji Pasi -do- -do-/AMV
14. Shri S.P. Dass -do- -do-/AMV
15. Shri A.K. Adhicari Offg. Sr. Clerk (Adhoc)/AMV.
16. Shrimati Asha Kumari Offg. Sr. Clerk (Adhoc)/AMV
17. Shri Anil Kumar I -do- -do-/AMV
18. Smt. Indu Bala Gahlot -do- -do-/AMV
19. Shri Ram Lakhan Offg. Sr. Clerk (Adhoc) SEN (C)/CNB.

The following employees have failed in the test.

GENERAL

1. Shri Rama Nand Yadava Offg. Sr. Clerk (Adhoc) TPP-AMV
2. Shri Tej Babadur Singh Offg. DSK/III (Adhoc) VYN.
3. Shri Paalkaj Kumar Pandey -do- -do-/AMV.
4. Shri Brahm Rutt Miera -do- -do-/AMV
5. Shri T.N. Tewari Offg. SDC (Adhoc)/Alambagh.
6. Shri Chaitendra Kumar Gupta Offg. ~~Sr~~ Clerk (Adhoc)/CNB.

S.C.

1. Shri Padam Lal Offg. HC (Adhoc)/Charbagh.

for Dy. Controller of Stores,  
Alambagh/Lucknow.

Copy to the following for information :-

- 1) The SAO (W)/AMV-CB.
- 2) The DCOS /CB-LKO
- 3) The ACOS/DSL-CB, ETD-CNB, DSL-VYN-MGS.
- 4) The Sr. Fleet Engineer (C)/Kanpur
- 5) The ASPS/TPP-AMV.
- 6) The Section Incharges and the concerned staff.

\*\*\*\*

Mohd. Ilyas

Attested/True Copy

L. P. SHUKLA  
Advocate

In the Central Administrative Tribunal Lucknow Bench Lucknow  
 Chandra Kumar Pandey & Others O.A No. 41/1990(L) (21)  
 Versus Union of India & others Applicants  
 Opp. Party -

Page: 5

To

The General Manager,  
 Northern Railway,  
 Headquarter Office,  
Baroda House-New Delhi.

Through Proper Channel

Sir,

Reg: Seniority - Promotion as Head Clerk.

We the applicants beg to submit as under :

1. That we the some applicants were appointed as Khallasi under the control of District Controller of Stores, now Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow during the year 1957 or thereafter. We the some undersigned <sup>have</sup> ~~were~~ completed more than 15 years of service as Khallasi.

2. That the Class IV and Lower Class III employees are entitled for promotion to Class III viz. ~~XXXXXX~~ Clerks, Ticket Collectors, Train Clerks and Commercial Clerks to the extent of 33 1/3% of the yearly vacancies and a panel may be formed for one year requirements..

3. That prior to 1972 the selection for promotion from class IV to Class III was conducted by the Divisional Superintendent, now Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow, taking into account the vacancies of all the offices of Division, Workshop and Stores etc. to fill up vacancies from class IV to class III.

4. That the Railway Board's imposed ban on creation of ministerial posts and recruitment,

(-/-)

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Mohd. Ilyas

L. P. SHUKLA  
 Advocate

Handed  
 to Secy. Pdt.  
 Dy. Secy. (Admin)  
 Secy. S.P. Yadav  
 Secy. L.R.M.  
 07-01-84

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keeping in view to shortage of staff in Ministerial cadre, the Railway Boards issued directions to fill up under ban posts to the extent of 60% from Class IV to Class III and on compassionate ground. The District Controller of Stores, now Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow, promoted some class IV staff to class III in the year 1972 on adhoc basis and since then we the undersigned are working in Ministerial side. We also passed the selection for promotion from class IV to Class III in the year 1977. Certain posts against which no class IV employees were promoted and lying vacant were filled in from the candidates awaiting for appointment on compassionate ground.

5. That as per channel of promotion all the posts of clerk grade I (Senior Clerk) were being filled in from the clerks grade II (Lower Division Clerk) after passing the prescribed suitability test. In this connection the Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow has issued a Notice No. 247-E dated 15.2.1982 to hold a suitability Test on 4.3.1982, accordingly Test was held on 4-3-1982 but as S/Sri Pankaj Kumar Pandey, Triloki Nath Tewari and Sankatha Prasad junior to Sri Ram Siromani Pandey, were called to appear in the suitability test for promotion as senior clerk, though they were promoted from class IV to class III in the month of October, 1978, i.e. much after Sri Ram Siromani Pandey.

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For the undersigned  
L. P. SHUKLA

Attested/True Copy  
Mohd Ilyas  
L. P. SHUKLA  
Advocate

...(3)....

6. That the aggrieved Sri Ram Siromani Pandey had taken shelter of the court of Law and obtain a Stay Order from the Hon'ble High Court, Lucknow Bench, Lucknow. The Hon'ble High Court had issued the directions to include the name of the Petitioner (Ram Siromani Pandey) and the result should be declared.
7. That in the meantime, the Railway Boards have issued the direction to fill up 20% posts of Senior Clerks through direct recruitment by the Railway Service Commission, vide letter No. PC-III/81/UDC/7 dated 18.6.1981.
8. That the recruitment of Senior Clerks to the extent of 20% could not be made through Railway Service Commission, Allahabad as such, we the undersigned were promoted as Senior Clerk on adhoc basis according to seniority in the month of March, 1983 and since then we are working as Senior Clerk without any break pending suitability test.
9. That the Chief Personnel Officer, Head Quarters Office, Baroda House, New Delhi invited applications to hold a selection to fill up the posts of senior clerks to the extent of 20% in 1985. We the undersigned had no requisite qualifications as such could not applied. The said test was conducted in the year 1985 and successful employees were promoted as Senior Clerk.
10. That the petitioners which were under trial in the Hon'ble High Court, Lucknow Bench, Lucknow were

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Mohd. Ilyas

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L. P. SHUKLA  
Advocate

transferred to the Central Administrative Tribunal, Allahabad in the month of July, 1987 and registered as 626(T)/1987, 627(T)/1987.

11.- That the Hon'ble Central Administrative Tribunal Allahabad quashed the office order No. ~~XXX~~ B 41 dated 18.3.80 and issued directions to hold a fresh suitability test for promotion as Senior Clerk. The said suitability tests have been conducted in the July, 1988 and the result thereof declared on 22.8.1988. We the applicant declared successful to promotion as Senior Clerk.

12. That we the undersigned were promoted as Senior Clerk in the month of March, 1983 and since then we are working as Senior Clerk continuously. The suitability test could not be conducted due to stay order of the court, thus we are entitled for confirmation on completion of two years service as Senior Clerk on the basis of suitability test conducted in the month of March, 1982.

13. That the vacancies of Graduate clerks grade Rs.330-560 (B) have been filled in 1985, thus they are not entitled to get seniority over and above the employees working as Senior clerk since 1983 in Terms of correction slip No. 121 of Indian Railway Establishment Manual. In the said correction slip it is clear in regard to fixation of seniority of the direct recruited persons, wherein it is laid down that where the quota fixed for direct recruitment in a particular year is not (fully) filled due to unavoidable reasons, the

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Mohd. Ilyas

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L. P. SHUKLA  
Advocate

AMS

(28)

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short fall may be made good in the following year with out giving retrospective benefit for purpose of seniority.

14. That we the undersigned are at the verge of retirement and if the seniority is not being given from 1983 we shall be retired from service as Senior Clerk, thus we will not be entitled for full benefit during the old age and it will also be violation of social security.

15. That the Deputy Controller, Stores, Northern Railway, Alambagh, Lucknow has called the options for further avenue of promotions viz. Ministerial and Non-ministerial vide Notice No. 360-E dated 19.8.88 and he has excercised our options for future promotions in ministerial side. Our cases for promotion as Head Clerk have not been considered and further options have been called from the senior clerks promoted against Graduate quota, ignoring us.

16. That the employees promoted as senior clerk against graduate quota during the year 1985 and have been promoted as Head clerk vide office Order No. E/77 dated 13.4.1988 on adhoc basis. It has further come to our notice that the remaining senior clerks promoted against graduate quota are also going to be promoted as Head Clerk early.

17. That the seniority list of clerks Lower Grade (Grade II) and senior clerks (Grade I) have not been

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Mohd. Ilyas  
Attested/True Copy  
L. P. SHUKLA  
Advocate

notified from 1982 which against the instructions laid down in Printed Serial Number 6000. The Hon'ble Tribunal had also issued directions to issue the seniority list in terms of para 302 of Indian Railway Establishment Manual, but nothing has been done so far.

In view of the facts and circumstances stated above, we the undersigned request for the following reliefs :

- The Seniority list for senior clerks and Lower Division Clerks be published before the promotion of Head Clerks.
- We the undersigned be given seniority from the date we are originally working as Senior Clerk.
- We the undersigned be promoted as Head Clerk prior to the direct recruited clerks (Senior Clerk) as they are junior to us in terms of correction slip No. 121 of Indian Railway Establishment Manual.
- You are also requested to fill the post of Complex Clerk at your convenience.

Yours faithfully,

- ① Rajadani - Rajesh Pathani - ACOS/DSU/CS
- ② S.A. Siddiqui - Smt S.A. Siddiqui - DEOS/CS
- ③ N.K. Srivastava - M.R. Srivastava - DEOS/CS
- ④ E. B. Soni - (E. B. SONI) - do -
- ⑤ D. P. Pandey - (D. P. PANDEY) - do -
- ⑥ V. S. Singh - V. S. Singh - do -
- ⑦ S. K. Ravi - S. K. Ravi - do -
- ⑧ K. N. Mahabey - K. N. Mahabey - Ann Str
- ⑨ S. K. Ravi - S. K. Ravi - Ann Str
- ⑩ K. N. Mahabey - K. N. Mahabey - Ann Str
- ⑪ S. K. Ravi - S. K. Ravi - Ann Str
- ⑫ S. K. Ravi - S. K. Ravi - Ann Str
- ⑬ S. K. Ravi - S. K. Ravi - Ann Str
- ⑭ S. K. Ravi - S. K. Ravi - Ann Str
- ⑮ S. K. Ravi - S. K. Ravi - Ann Str

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Mohd. Ilyas  
L. P. SHUKLA  
Advocate

Copy to The Controller of Stores, Head Quarter's Office, Baroda House, New Delhi, for information and needful action.

Copy in advance to the General Manager, Northern Railway, Baroda House, New Delhi, with the request that the necessary instructions may kindly be issued to the Deputy Controller of Stores, Alambagh, Lucknow for our seniority and promotion as Head Clerk.

Yours faithfully,

(16)	Asinhe	A. K. Sinhe	[Stores Amv]
(17)	Nagar Singh	Nagar Singh	do
(18)	Do	Bal Kishore	do
(19)	Do	R. D. Sanyal	do
(20)	Do	M. P. Verma	do
(21)	Do	R. A. Choudhary	do
(22)			
(23)	Do	R. D. T. Pathak	do
(24)	S. P. Naik	S. P. Naik	do
25	Ram Singh	Ram Singh	
26	Atsajane	H. S. Manry	do

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Mohd. Ilyas

L. P. SHUKLA  
Advocate

In the Central Administrative Tribunal Lucknow Bench Lucknow  
 Chandra Kumar Pandey & others O.A No. AY 8/1990(L) (51)  
 Union of India & others VERSUS Applicants -  
 off. Policy  
 Page: 6

To  
 The Dy. Controller of Stores,  
 N.Rly. Alambagh Lucknow.

Respected Sir,

Re:- Publication of seniority list.

We the applicants beg to submit as under:-

- (1) That the Railway Boards have issued instructions for the upgrading in ministerial cadre which were applicable from 01.1.1984.
- (2) That as per Railway Boards letter the post of O.S. A.S., Hd. Clerk, Sr. Clerk, and Clerks were got vetted by accounts and accordingly the orders for promotions were made in 1986.
- (3) That the promotion in ministerial cadre were made in 1986 but the seniority list have not been publish according to grade-wise. As per direction of Railway Boards the seniority list within three years should have been publish.

Therefore it is requested that the seniority list of the ministerial cadre may kindly be circulated immediately so that we may find out our correct position in the seniority list.

THANK'S

Dated: 13.02.87

Yours Faithfully

(1) Chandra Kumar Pandey  
 (2) ...  
 (3) ...

(4) ...  
 (5) ...  
 (6) ...

(7) ...

(8) ...

(9) ...

(10) Rajesh Pathak

(11) V. S. Singh

(12) ...

(13) S. S. Bhatnagar

(14) ...

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Mohd. Ilyas

Attested/True Copy

L. P. SHUKLA  
 Advocate

In the Central Administrative Tribunal of Lucknow Bench Lucknow  
Chandra Kumar Pandey & Others O.A No. AC 1990(L) (32)  
Versus Union of India & Ors Applicants  
Opp. Parties  
Page: 7

NORTHERN RAILWAY:

Office of the, Dy. Controller of Stores,  
N.Railway, Alambagh/Lucknow.

Office Order No.B/6

Dated: 10-1-1989

The following arrangements are ordered w.e.from 26.12.'88.  
The arrangements are provisional and subject to Court  
decision. They have opted for promotion in ministerial  
side.

1. Shri Ram Gulam Yadav, Sr. Clerk who was allowed seniority vide Office Order No.B/10 Dated: 21.1.'88, is appointed to officiate as Hd. Clerk on pay Rs.1,380/- + Rs.60/-(O.P) = Rs.1,440/- P.M. in Scale Rs.1400-2300(RP).
2. S/Shri Kamta Prasad (SC), A.K. Adhichary (S.C.), Anil Kumar, I, (S.C.) and J.C. Soren(S.T.) Sr.Clerks are appointed to officiate as Hd.Clerk on pay Rs.1,400/- P.M. in Scale Rs.1400-2300(RP).
3. Shri Rajesh Pratap Singh, Smt. Nasreen Khan and Shri Vidya Prakash Dixit, Graduate Clerks, appointed prior to 22-8-'88 are appointed to officiate as Hd.Clerks on pay Rs.1,400/- P.M. in Scale Rs.1,400-2300(RP). (3)

for Dy. Controller of Stores,  
N.Rly. Alambagh/Lucknow.

Copy to the following :-

1. The S.A.O.(W), N.Rly. Alambagh & Charbagh, Lucknow.
2. The H.C./Bills, Alambagh, Lucknow.
3. The Parties Concerned.
4. Section Incharges Concerned.

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Raj.10/1/89

Mohd. Ilyas

Attested/True Copy

L. P. SHUKLA  
Advocate

In the Central Administrative Tribunal, Lucknow Bench Lucknow  
Chandra Kumar Pandey & Others O.A. No. ASO 1990(L) (33)  
Versus 1 ex 345 Applicants  
Union of India & others Opp. Parties  
Ann: 8

Northern Railway.

Office of the  
Dy.C.O.S./AMV

O/order No. B/ 46  
Dated: 01.3.1989

The following arrangements are ordered w.e.f. 01.3.89. The arrangements are provisional and subject to Court decision. They have opted for promotion in Ministerial side.

1. S/Shri Sunil Kumar Chaturvedi, Sr. Clerk BTD/CNB, Abhai Kumar Srivastava, Brijesh Singh, Ram Chandra Yadav, Avinash Chandra, Lal Ji Tripathi and Radhey Shyam, Sr. Clerks, Alambagh are appointed to officiate as Hd. Clerk on pay Rs. 1400/- p.m. in scale Rs. 1400-2300 (RPS). (6)
2. Shri Gur Bachan Singh, Sr. Clerk T.P.P./AMV is appointed to officiate as Hd. Clerk on pay Rs. 1440/- & 40/- (OP) = 1480/- p.m. in scale Rs. 1400-2300 (RPS).
3. Shri S. Karmaker, Sr. Clerk Diesel, Alambagh is appointed to officiate as Hd. Clerk on pay Rs. 1470/- + 50/- (OP) = 1520/- p.m. in scale Rs. 1400-2300 (RPS).

For Dy. Controller of Stores,  
N.Rly., Alambagh, Lucknow.

Copy to the following for information :-

1. The S.A.O.(W)/AMV.
2. The ACOS/BTD/CNB and ASPS/TPP/AMV.
3. Hd. Clerk Bills, Alambagh, Lucknow.
4. Hd. Clerk Leave & Pass/AMV.
5. O.S. (L), O.S. (G), Sr. DSK/GD & CRS.
6. Parties concerned.

Mohd. Ilyas.

Attested/True Copy

L. P. SHUKLA  
Advocate

In the Central Administrative T.Y. blank Lucknow Benar Lucknow  
Chandra Kumar Pandey & others O.H No. ASI-1990(L) (34)  
Versus Applicants  
Union of India & ors. Am: 9  
off. No. 119

NORTHERN RAILWAY:

1-3-90

Office Order No. /SS

DATED; 1.3.1990:

The following provisional arrangements are ordered with effect from the dates as noted against each.

- (1) The employees who were regularised as Senior Clerk w.e.f. 19.4.86 interms of G.M.(P)/NDLS letter No. 961E/III/7/88 URMU/E-Union dt 18.10.89 and accordingly office order No. E/350, dt 15.11.89 was issued by this office, are allowed spl. pay and appointed to officiate as Hd. Clerk from back dates mentioned against each as shown in the list though they have been promoted as Head Clerk at later stage.
- (2) The senior clerks (serving Graduates) are also allowed spl. pay and promoted from back dates as shown in the list though they were promoted as Head Clerks from 13.4.88 and after wards. Their promotion back date is due to regularisation of Senior Clerks (Adhoc promotees) and back dating is due to seniority dispute.

NOTE:-

- (1) The remaining persons regularised vide para 2 of officer order No. E/350 dt 15.11.89 will be allowed proforma fixation promotion after wards on regularisation of few seniors whose case is under reference with Hd. Qrs. Office as these posts are filled by directly recruited senior clerks and others.
- (2) Above promotions are provisional and subject to decision in court cases.

For Dy. Controller of Stores  
Alambagh/Lucknow.

Copy to: The following for information & action please.

- (1) CAO(W)/NR/AMV&CB.  
(2) DCOs/CB, ACOs/MGS, ETD/CNB, ASRs/TPP  
(3) HC/Bills, /AMV/CB.  
(4) Br. Secy. NRMU/URMU/AMV.  
(5) Parties concerned.

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PANDEY

-2-90

Mohd. Ilyas

Attested/True Copy

L. P. SHUKLA  
Advocate



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AS3

10) S.C. Tripathi H.C.

8.10.85	370/-	330-560	8.10.85	370/-+35/- (S.P)	330-560
1.1.86	1200/-	1200-2040	1.1.86	1220/-+70/- (C.P)	1200-2040
1.10.86	1230/-	-do-	19.4.86	1400/-	1400-2300
1.10.87	1260/-	-do-	1.4.87	1440/-	-do-
1.4.88	1400/-	1400-2300	1.4.88	1480/-	-do-
1.4.89	1440/-	-do-	39	1520/-	-do-
8.10.85	330/-	330-560	8.10.85	330/-+35/- (S.P)	330-560
1.1.86	1200/-	1200-2040	1.1.86	1200/-+70/- (C.P)	1200-2040
1.10.86	1230/-	-do-	19.4.86	1400/-	1400-2300
1.10.87	1260/-	-do-	1.4.87	1440/-	-do-
1.4.88	1400/-	1400-2300	1.4.88	1480/-	-do-
1.4.89	1440/-	-do-	1.4.89	1520/-	-do-

11). Bo. L. Prajapati H. C

8.10.85	330/-	330-560	8.10.85	330/-+35/- (SP)	330-560
1.1.86	1200/-	1200-2040	1.1.86	1200/-+70/- (LP)	1200-2040
1.10.86	1230/-	-do-	1.4.86	1400/-	1400-2300
1.10.87	1260/-	-do-	1.4.87	1400/-	-do-
1.3.4.88	1400/-	1400-2300	1.4.88	1480/-	-do-
1.4.89	1440/-	-do-	1.4.89	1520/-	-do-
8.10.85	330/-	330-560	8.10.85	330/-+35/- (SP)	330-560
1.1.86	1200/-	1200-2040	1.1.86	1200/-+70/- (LP)	1200-2040
1.10.86	1230/-	-do-	1.4.86	1400/-	1400-2300
1.10.87	1260/-	-do-	1.4.87	1440/-	-do-
1.3.4.88	1400/-	1400-2300	1.4.88	1480/-	-do-
1.4.89	1440/-	-do-	1.4.89	1520/-	-do-

12) <sup>14</sup>H.P.Singh. H.C.

1.1.86	1230/-	1.1.86	1230/-	1200-2040
1.1.86	1260/-	19.4.86	1400/-	-do-
1.12.86	1230/-	1.4.87	1440/-	-do-
1.12.87	1400/-	1.4.88	1480/-	-do-
1.4.88	1440/-	-do-	1520/-	-do-
1.4.89		1.4.89		

19) "G. o. o. o. n. k. a. r. H. C.

1.1.86	1220/-	1200-2040	1.1.86	1220/-	1200-2040
1.4.86	1260/-	-do-	1.4.86	1400/-	1400-2200
1.4.87	1290/-	-do-	1.4.87	1440/-	-do-
1.4.88	1320/-	-do-	1.4.88	1480/-	-do-
1.4.88	1400/-	1400-2200	1.4.88	1520/-	-do-
1.4.89	1440/-	-do-			

14) "Nokosri vaava HC

1.1.86	1200/-	1200-2040	1.1.86	1200/-	1200-2040
1.1.86	1230/-	-do-	19.4.88	1400/-	1400-2300
1.10.87	1260/-	-do-	1.4.87	1440/-	-do-
13.4.88	1400/-	1400-2300	1.4.88	1480/-	-do-
1.4.89	1440/-	-do-	1.4.89	1520/-	-do-

15) "Закрывать" Н.С.

1.1.86	1380/-	1200-2040	1.1.86	1380/-	1200-2040
1.4.86	1410/-	-do-	1.4.86	1410/-	-do-
1.4.87	1440/-	-do-	19.4.86	1480/-	1400-2300
1.4.88	1470/-	-do-	1.4.87	1480/-	-do-
1.9.89	1520/-	1400-2300	1.4.88	1530/-	-do-

16) राक्षस्य श्याम H.C.

10.1.86	1220/-	1200-2040	10.1.86	1220/-	1200-2040
10.4.86	1250/-	-do-	10.4.86	1230/-	-do-
10.4.87	1350/-	1400-2700	10.4.87	1400/-	1400-2700
10.4.88	1400/-	-do-	10.4.88	1440/-	-do-
10.4.88	1400/-	-do-	10.4.88	1430/-	-do-
			10.4.88	1520/-	-do-

Cost. 2.50

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Mohd: Ilyas

*Verdict*  
L. P. SLUKLA  
Advocate

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17) "Panna Lal" H.C.	1.4.86	1260/-	1200-2040	19.4.86	1260/-+70(-P)	1200-2040	
	1.4.87	1290/-	-60-	1.6.86	1400/-	1400-2700	
	1.4.88	1420/-	-60-	1.5.87	1440/-	-60-	
	1.4.89	1430/-	-60-	1.6.88	1480/-	-60-	
	2.6.89	1400/-	1400-2700	1.6.89	1520/-	-60-	
18) "Bal Kishor" H.C.	1.4.86	1260/-	1200-2040	19.4.86	1260/-+70(-P)	1200-2040	
	1.4.87	1290/-	-60-	1.7.86	1400/-	1400-2700	
	1.4.88	1420/-	-60-	1.7.87	1440/-	-60-	
	1.4.89	1450/-	-60-	1.7.88	1480/-	-60-	
	2.6.89	1400/-	1400-2700	1.7.89	1520/-	-60-	
19) "C.K. Pandey" H.C.	1.4.86	1260/-	1200-2040	19.4.86	1260/-+70(-P)	1200-2040	
	1.4.87	1290/-	-60-	1.8.86	1400/-	1400-2700	
	1.4.88	1420/-	-60-	1.8.87	1440/-	-60-	
	1.4.89	1450/-	-60-	1.8.88	1480/-	-60-	
	2.6.89	1400/-	1400-2700	1.8.89	1520/-	-60-	
20) "K.N. Malviya" H.C.	1.4.86	1290/-	1200-2040	19.4.86	1290/-+70(-P)	1200-2040	
	1.4.87	1420/-	-60-	21.7.86	1400/-	1400-2700	
	1.4.88	1450/-	-60-	1.9.87	1440/-	-60-	
	1.4.89	1480/-	-60-	1.9.88	1480/-	-60-	
	2.6.89	1440/-	1400-2700	1.9.89	1520/-	-60-	
21) "Gulshan Lal" H.C.	1.4.86	1260/-	1200-2040	19.4.86	1260/-+70(-P)	1200-2040	
	1.4.87	1290/-	-60-	1.10.86	1400/-	1400-2700	
	1.4.88	1420/-	-60-	1.10.87	1440/-	-60-	
	1.4.89	1450/-	-60-	1.10.88	1480/-	-60-	
	2.6.89	1440/-	1400-2700	1.10.89	1520/-	-60-	
22) "Puttoo Lal" H.C.	1.1.86	1400/-	1400-2700	1.10.86	1400/-	1400-2700	Proforma fixa 10.
	1.10.86	1440/-	-60-	1.10.87	1440/-	-60-	-60-
	1.10.87	1480/-	-60-	1.10.88	1480/-	-60-	Actual charged from
	1.10.88	1520/-	-60-	1.10.89	1520/-	-60-	14.9.89.
	2.6.89	1440/-	-60-				
23) "R.D. Saxena" H.C.	1.4.86	1290/-	1200-2040	19.4.86	1290/-+70(-P)	1200-2040	
	1.4.87	1420/-	-60-	1.10.86	1400/-	1400-2700	
	1.4.88	1450/-	-60-	1.10.87	1440/-	-60-	
	1.4.89	1480/-	-60-	1.11.88	1480/-	-60-	
	2.6.89	1440/-	1400-2700	1.11.89	1520/-	-60-	
24) "Ran Chakraborty" H.C.	1.4.86	1290/-	1200-2040	19.4.86	1290/-+70(-P)	1200-2040	
	1.4.87	1420/-	-60-	1.11.86	1400/-	1400-2700	
	1.4.88	1450/-	-60-	1.11.87	1440/-	-60-	
	1.4.89	1480/-	-60-	1.11.88	1480/-	-60-	
	2.6.89	1440/-	1400-2700	1.11.89	1520/-	-60-	
25) "Rachay Lal" H.C.	1.4.86	1290/-	1200-2040	19.4.86	1290/-+70(-P)	1200-2040	
	1.4.87	1420/-	-60-	1.10.87	1400/-	1400-2700	
	1.4.88	1450/-	-60-	1.11.88	1440/-	-60-	
	1.4.89	1480/-	-60-	1.11.89	1520/-	-60-	
	2.6.89	1440/-	1400-2700				

Continued 4. P.

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L. P. SHUKLA  
Advocate

26) J. R. Chukla HC	1.4.86	1260/-	1200-2040	19.4.86	1260/-+70/-(C)	1200-2040	
	1.4.87	1290/-	-60-	1.12.86	1400/-	1400-2000	
	1.4.88	1290/-	-60-		1480/-	-60-	
	1.4.89	1250/-	-60-		1520/-	-60-	
	23.6.89	1400/-	1400-2000				
27) T. N. Chukla H.C.	1.4.86	1290/-	1200-2040	19.4.86	1290/-+70/-(C.P)	1200-2040	
	1.4.87	1260/-	-60-	1.1.87	1400/-	1400-2000	
	1.4.88	1260/-	-60-	1.1.88	1440/-	-60-	
	1.4.89	1280/-	-60-	1.1.89	1480/-	-60-	
	11.9.89	1440/-	1400-2000	1.1.90	1520/-	-60-	
28) R. S. Pandey HC	1.4.86	1290/-	1200-2040	19.4.86	1290/-+70/-(C.P)	1200-2040	
	1.4.87	1290/-	-60-	1.1.87	1400/-	1400-2000	
	1.4.88	1290/-	-60-	1.1.88	1440/-	-60-	
	1.4.89	1230/-	-60-	1.1.89	1480/-	-60-	
	11.9.89	1440/-	1400-2000	1.1.90	1520/-	-60-	
28) V. N. Asthana HC	1.4.86	1290/-	1200-2040	1.6.86	1290/-+70/-(C.P)	1200-2040	
	1.4.87	1290/-	-60-	1.4.87	1400/-	1400-2000	
	1.4.88	1250/-	-60-	1.4.88	1410/-	-60-	
	1.4.89	1280/-	-60-	1.4.89	1480/-	-60-	
	11.9.89	1440/-	1400-2000				
29) P. Ram Singh HC	1.10.86	1440/-	1400-2000		1400/-	1400-2000	Proforma
	1.10.87	1430/-	-60-		1430/-	-60-	
	1.10.88	1520/-	-60-		1250/-	-60-	Actual Charge from
	1.10.89	1560/-	-60-				12.12.89.
	12.12.89	1410/-	1400-2000				
31) Mohan Lal Singh HC	1.4.86	1260/-	1200-2040	1.7.86	1260/-+70/-(C.P)	1200-2040	
	1.4.87	1290/-	-60-	1.4.87	1290/-+70/-(C.P)	-60-	
	1.4.88	1220/-	-60-	1.7.87	1400/-	1400-2000	
	1.4.89	1250/-	-60-	1.7.88	1440/-	-60-	
	18.10.89	1440/-	1400-2000	1.7.89	1480/-	-60-	
32) L. Pandey HC	1.4.86	1260/-	1200-2040	1.8.86	1260/-+70/-(C.P)	1200-2040	
	1.4.87	1290/-	-60-	1.4.87	1290/-+70/-(C.P)	-60-	
	1.4.88	1290/-	-60-	1.7.87	1400/-	1400-2000	
	1.4.89	1230/-	-60-	1.7.88	1440/-	-60-	
	18.10.89	1400/-	1400-2000	1.7.89	1480/-	-60-	
33) Mohan Lal HC	1.4.86	1260/-	1200-2040	21.9.86	1260/-+70/-(C.P)	1200-2040	
	1.4.87	1290/-	-60-	1.4.87	1290/-+70/-(C.P)	-60-	
	1.4.88	1290/-	-60-	1.4.88	1400/-	1400-2000	
	1.4.89	1250/-	-60-				
	18.10.89	1400/-	1400-2000				

Attended/T. Sec. Copy  
Mohd. Ilyas  
L. P. SHUKLA  
Advocate

ATG

24) Chandra Pal sil HC	1.4.86	1260/-	1200-2040	1.10.86	1260/-+70/-(SP)	1200-2040
	1.4.87	1290/-	-do-	1.4.87	1290/-+70/-(SP)	-do-
	1.4.88	1290/-	-do-	1.4.88	1400/-	1400-2000
	1.4.89	1350/-	-do-	1.4.89	1440/-	-do-
	15.10.89	1400/-	1400-2000	1.4.89	1480/-	-do-
25) D.C. Utiwa etwa HC	1.4.86	1260/-	1200-2040	1.11.86	1260/-+70/-(SP)	1200-2040
	1.4.87	1290/-	-do-	1.4.87	1290/-+70/-(SP)	-do-
	1.1.88	1290/-	-do-	1.4.88	1400/-	1400-2000
	1.4.89	1350/-	-do-	1.4.89	1440/-	-do-
	15.10.89	1400/-	1400-2000	1.9.89	1480/-	-do-
26) A.K. Kachhikari HC	1.4.86	1260/-	1200-2040	1.11.86	1260/-+70/-(SP)	1200-2040
	1.4.87	1290/-	-do-	1.4.87	1290/-+70/-(SP)	-do-
	1.4.88	1290/-	-do-	1.11.87	1400/-	1400-2000
	1.4.89	1350/-	-do-	1.11.88	1330/-	-do-
	18.10.89	1400/-	1400-	1.11.89	1480/-	-do-
27) A.K. Malviya HC	1.4.86	1260/-	1200-2040	1.12.86	1260/-+70/-(SP)	1200-2040
	1.4.87	1290/-	-do-	1.4.87	1290/-+70/-(SP)	-do-
	1.4.88	1290/-	-do-	1.12.87	1400/-	1400-2000
	1.4.88	1400/-	1400-2000	1.12.88	1440/-	-do-
	1.4.89	1440/-	-do-	1.12.89	1480/-	-do-

For P.Y. Control of P.O. & S.,  
Nariy. 4 Jambha gh/ Lucknow.

P.N.D.S.Y.  
-2-90.

Mohd. Ilyas

Attested/True Copy  
L. P. S. H. A.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW.

O.A.No.148/90(L)

AS

CA

Sri C.K.Pandey and others

....Applicants

Versus

Union of India and others

....Respondents

WRITTEN STATEMENT ON BEHALF OF RESPONDENT No.1 AND 2

I, Jagdish Narain, presently posted as Asst. Personnel Officer in the Office of the Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow hereby solemnly state as under :-

1. That the undersigned is presently posted as Asst. Personnel Officer in the Office of the Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow and is looking after the above mentioned case on behalf of the respondent No.1 and 2 and has been duly authorised by them to file the present reply on their behalf. The undersigned has read and understood the contents of the above mentioned case and is well conversant with the facts stated hereinbelow.

2. That in reply to the contents of paragraphs 1 and 2 of the application (hereinafter referred as 'application'), it is respectfully submitted that the applicants and respondent No.3 to 29 are railway employees and are working in various depots under respondent No.1 and 2 situated at Alambagh, Charbagh, Kanpur, Vyasnagar and Mughalsarai, in short referred by the term 'depot complex'.

3. That in reply to the contents of paragraph 3, it is respectfully submitted that the Office Order No.E/55 dated 1.3.1990 (annexed as Annexure No.9 to the application) referred in the paragraph under reply is promotion order and pertains to the payment of arrears, which has been accepted by all the employees of the depot complex, including the petitioners. It is further submitted that the said order was provisional one and was subject to decision of the cases pending before Court.

Filed today

24/4/91

1-12-90

सहायक कार्मिक अधिकारी (मंडार)

उत्तर रेलवे आलसबाग  
खसनज

ASS

4. That the contents of paragraphs 4 and 5 of the application need no comment as they relate to legal pleas

5. That the contents of paragraph 6.1 of the application are admitted.

6. That the contents of paragraph 6.2, as stated, are not admitted. It is respectfully submitted that the Seniority List of Clerks referred to in paragraph 6.1 was published in the year 1989, whereas adhoc appointments were made as far back as the year 1983. It is further submitted that no Seniority List could be prepared in the previous years due to pendency of large number of court cases.

7. That the contents of paragraph 6.3 are admitted only to the extent that the dates of adhoc promotions of the employees mentioned in the paragraph under reply are correct.

8. That in reply to the contents of paragraph 6.4 it is respectfully submitted that a selection for the post of Senior Clerks for 'serving graduates' was finalised by the Head Quarters' Office and successful candidates so selected for the Office of the Deputy Controller of Stores were promoted on regular basis as Senior Clerks. The Office Order No.E/262 dated 15.10.85 was issued in pursuance of the letter of the General Manager (P), Northern Railway, New Delhi No.220-E/1843-Pt.II(Rectt.) dated 29.9.85.

9. That the contents of paragraph 6.5 of the application are admitted.

हायक कार्मिक अधिकारी (मंडार)

उत्तर रेलवे आलमबाग

खानना

10. That the contents of paragraph 6.6 are admitted to the extent that the particulars of Smt.Veena Vohra mentioned in the paragraph under reply are correct. It is further submitted that Smt.Veena Vohra was transferred on her own request and was placed at the bottom seniority of all regular Senior Clerks. Since the applicants, as their promotion was only on adhoc basis, were not Senior Clerks appointed on regular basis, therefore, their names were not in the field of eligibility for seniority.

11. That the contents of paragraph 6.7 are admitted only to the extent in as much as it relate to the service particulars of Sri Shiv Kumar Misra. It is most respectfully submitted that after qualifying in the selection for the post of Senior Clerks' quota of serving graduates, Sri Shiv Kumar Misra was posted in the Office of the Divisional Railway Manager, and was transferred back to the Office of Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow on his own request and therefore, he was placed at the bottom of the Seniority List of the Senior Clerks appointed on regular basis. Since, the applicants were not regularly selected Senior Clerks at that time, but were working on adhoc basis only, they were not in the field of eligibility of being placed in the Seniority List of Senior Clerks. Hence, the name of Sri S.K.Misra was correctly placed in the seniority list on the basis of his joining in the Office of respondent No.2.

12. That in view of the submissions made in the forgoing paragraphs 10 and 11 of this reply, the contents of paragraph 6.8 are denied.

13. That the contents of paragraph 6.9 are admitted. It is respectfully submitted that the direct recruitment for the posts of Senior Clerks was made by the Railway Recruitment Board and only 9 successful candidates were directed by the General Manager (P), Northern Railway, New Delhi for appointment, who joined their duties between 11.7.87 to 30.7.88.

14. That the contents of paragraph 6.10 are not admitted. It is most respectfully submitted that the applicants, who were appointed to officiate as Senior Clerks on adhoc basis in the year 1983 vide Office Order No.E/81 dated 23.4.83 and were continuously officiating, were regularised with effect from 19.4.86 in terms of Office Order No.E/350 dated 15.11.89. A true copy of Office Order No.E/350 dated 15.11.89 is being annexed herewith as ANNEXURE No.A-1 and a true copy of the Office Order No.E/81 dated 23.4.83 is being annexed herewith as ANNEXURE No.A-2 to this reply. The persons, who were graduates and applied for selection for the post of Senior Clerk under serving graduate quota, were appointed as Senior Clerks after being declared successful in the

1-12-86  
आवक नमिक्त अधिकारी (मंडार)

उत्तर रेलवे आलमबाग

बखनजा

said selection from October, 1985. It is, however, admitted that suitability test for the post of Senior Clerks could not be held before July, 1988 due to pendency of litigations in Court in respect of seniority of several employees, some of these cases were decided by the Central Administrative Tribunal, Allahabad. Out of 9 litigants, 8 went before the Hon'ble Supreme Court against the order of the Central Administrative Tribunal, and orders of Hon'ble Tribunal was set aside by the Hon'ble Supreme Court in respect of their promotions only

15. That in reply to the contents of paragraph 6.11 of the application it is respectfully submitted that the promotion of serving graduate Clerks to the post of Head Clerks, after being empanelled as Senior Clerks was made on provisional and adhoc basis with effect from 13.4.1988 vide Office Order No.E/77 dated 13.4.88, a copy of which is annexed as Annexure No.3 to the petition.

16. That the contents of paragraph 6.12 are admitted with a clarification that suitability test for the post of Senior Clerks could not be held between March, 1982 to May, 1988 due to pendency of litigation. But the suitability test was ultimately held and the result was announced on 22.8.1988.

17. That in reply to the contents of paragraph 6.13 it is most respectfully submitted that the representation preferred by the applicants dated 7.1.89 was decided by the General Manager (P), Northern Railway, New Delhi in October, 1989 and it was decided that the applicants be regularised as Senior Clerks with effect from 19.4.1986, while the serving graduates clerks, who were empanelled in October, 1985 were regularised from earlier date, as they were senior to the applicants.

One to Four only regularised w.e.f. 19.4.86 and Five to Seventeen regularised w.e.f. 22-8-88 after passing suitability test.

1.12.89

उहायक कामिक अधिकारी (महानगर)

उत्तर रेलवे आलमबाग

बरेलवा

18. That the contents of paragraph 6.14 are admitted with a clarification that due to pendency of litigation over seniority dispute, the Seniority List could not be issued.

19. That the contents of paragraph 6.15 are admitted.

20. That the contents of paragraph 6.16 are denied. It

is most respectfully submitted that the Office Order No.E/55 dated 1.3.1990 was perfectly justified as respondents No.3 to 18 were senior to the applicants due to the fact that they were working as Senior Clerks right from the year 1985.

21. That the contents of paragraph 6.17 are admitted.

22. That the contents of paragraph 6.18 are denied. It is most respectfully submitted that the adhoc promotion is to be treated as adhoc for all purposes and can not be treated as a regular appointment before the incumbent successfully passes out the suitability test prescribed for it, or, his services are regularised by the Competent Authority (General Manager/Chief Personnel Officer). The applicants were regularised as Senior Clerks with effect from 19.4.1986 and the eligible candidates were promoted as Head Clerk from 19.4.1986 onwards, i.e. from the dates of occurrence of vacancies. The adhoc promotees can not be ~~can not be~~ assigned seniority and/or promotion on the basis of their adhoc promotion. The respondent No.21 to 29 from the <sup>Direct</sup> ~~servicing~~ graduate quota' who had joined between 11.5.87 to 30.7.88 are being allowed seniority on the basis of their empanelment and merit positions, ~~in terms of regularisation orders issued by the General Manager (P), Northern Railway, New Delhi vide his letter No. 961-E/III/7/88/URMU/E-Union dated 18.10.89.~~ It is further submitted that respondents No.21 to 29 have also filed a case before the Central Administrative Tribunal, Allahabad against their regularisation numbered as O.A.No 1019 of 1989.

23. That in reply to the contents of paragraph 6.19 of the application it is most respectfully submitted that the rules regarding promotion are for regular promotees and not for adhoc promotees. The seniority of an incumbent is counted from the date of his regular promotion and not otherwise.

24. That the contents of paragraphs 7 and 8 need no comments from the answering respondents.

25. That in reply to the contents of paragraph 19 of the application it is most respectfully submitted that in

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सहायक कर्मचारी (ग्रेड 3)  
उत्तर रेलवे आयुक्त  
लखनऊ

A62

view of the submissions made in the foregoing paragraphs of this written statement, the undersigned is advised to state that the present application is devoid of merit and is liable to be dismissed and the applicants are not entitled for any relief sought by them.


Lucknow, Dated :  
November ,1990.

सहायक कार्मिक अधिकारी (भंडार)  
उत्तर रेलवे आलम्बाग  
लखनऊ

VERIFICATION

I, Jagdish Narain , presently posted as Asst. Personnel Officer in the Office of the Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow hereby verify that the contents of paragraph 1 of this reply are true to my personal knowledge and those of paragraphs 2 to 24 are based on record and the same are believed to be true. The contents of paragraph 25 are based on legal advice and the same are believed to be true. That no part of this reply is false and nothing material has been concealed.

Lucknow, Dated :  
November ,1990.

  
1-12-90  
सहायक कार्मिक अधिकारी (भंडार)  
उत्तर रेलवे आलम्बाग  
लखनऊ

Office order No.E/350

Dated: 15.11.1989

(1) Regularisation orders of Sr.Clerks from 1.1.84 under restructuring orders, which were pended vide 0/0 E/251 dated 29.9.89 is now cancelled in terms of record notes on discussion of Informal Meeting held with General Secretary URMU in the Chamber of CPO on 18.10.89 circulated vide G.M.(P)/NDLS letter No.961E/III/7/88/URMU /E.Union dated 18.10.89.

In terms of minutes of PNM Meeting held with NRMU at GM (P)'s level on 5/9 & 6.9.89 vide item 215/88 the following Sr.Clerks working on adhoc basis are regularised as S/Clerk from 19.4.86.

- |    |                      |          |
|----|----------------------|----------|
| 1) | Sri Puram Masi       | Alambagh |
| 2) | Sri Ram Milan Tewari | Alambagh |
| 3) | Sri Sheo Balak       | Alambagh |
| 4) | Sri Jagdish Prasad   | Alambagh |
| 5) | Sri Babu Singh       | Charbagh |
| 6) | Sri Ram Adhar Singh  | Charbagh |
| 7) | Sri S.N.Trivedi      | Alambagh |
| 8) | Sri Kishori Lal      | Charbagh |

(III) In terms of record notes on discussion of informal meeting held with the General Secretary URMU, circulated vide GM(P)/NDLS letter No.961E/III/7/88/URMU/E.Union dated 18.10.89 the following employees working as Sr/Clerk on adhoc basis since 19.4.83 and are continuously working as such without break are regularised as Sr/Clerk with effect from 19.4.86.

- |     |                        |             |
|-----|------------------------|-------------|
| 1)  | Sri S.Karamkar         | HC/DSB/AMV  |
| 2)  | " Radhey Shyam         | HC/DSB/AMV  |
| 3)  | " Panna Lal Seth       | HC/DSB/AMV  |
| 4)  | " Bal Kishore          | "           |
| 5)  | " C.K.Pandey           | "           |
| 6)  | " K.N.Malviya          | "           |
| 7)  | " Gulshan Lal          | "           |
| 8)  | " Putti Lal            | Charbagh    |
| 9)  | " Ram Shankar          | CNB         |
| 10) | " R.D.Saxena           | HC/AMV      |
| 11) | " Mannu Ram            | DSK/III/MGS |
| 12) | " Rama Shankar         | HC/AMV      |
| 13) | " Shyam Sunder         | HC/CB       |
| 14) | " Radhey Lal           | HC/AMV      |
| 15) | " Jang Bahadur Shikla  | "           |
| 16) | " C.N.Tripathi         | DSK/III/CB  |
| 17) | " Jagmohan Lal         | HC/AMV      |
| 18) | " Sanketha Prasad      | S/Clerk/CB  |
| 19) | " T.N.Shukla           | HC/CB       |
| 20) | " R.S.Pandey           | HC/CB       |
| 21) | " Mohd.Yasin           | S/Clerk/CB  |
| 22) | " V.N.Asthana          | HC/AMV      |
| 23) | " Parasu Ram Singh     | HC/CB       |
| 24) | " Mohan Lal Singh      | HC/AMV      |
| 25) | " L.S.Pandey           | HC/AMV      |
| 26) | " Bhai Lal             | "           |
| 27) | " Sohan Lal            | "           |
| 28) | " Chandra Pal Singh    | "           |
| 29) | " Kailash Pandey       | DSK/III/MGS |
| 30) | " Ram Nath             | HC/AMV      |
| 31) | " Bachcha Ram          | DSK/III/AMV |
| 32) | " Shiva Kumar Misra(I) | DSK/III/AMV |
| 33) | " K.D.Tripathi         | "           |
| 34) | " D.C.Srivastava       | S/Clerk/AMV |
| 35) | " M.K.Sharma           | HC/CNB      |

36)	" Hari Nath Ram	"
37)	" Kartar Singh	" /CNB
38)	" S.Paswan	" /MGS
39)	" Bishambhar Dayal	DSK/III/CB
40)	" Lalji Pasi	" /AMV
41)	" Sheo Behari	" /AMV
42)	" Sheo Ram	" /CNB
43)	" S.P.Dass	DSK/III/AMV
44)	" A.K.Adhikari	HC/AMV
45)	" H.S.Maurya	DSK/III/AMV
46)	" A.K.Malviya	HC/AMV

Note:- above regularisation is provisional as pending cases and regularisation of few seniors is under reference with Head Quarters.

Sd/- Illegible  
for Dy.Controller of Stores,  
Alambagh/Lucknow.

Copy to the following for information and necessary action:-

1) SAO(W)/AMV and CB. (2) DCOS/CB (3) ACOS/ETD/CNB,MGS, ASPS/TPP. (4) Branch Secretaries NRMU and URMU (5) Parties concerned.

\*\*\*\*\*

Record notes on discussions of informal meeting held with General Secy.URMU in the Chamber of CPO on 18.10.1989.

The following were present :-

Administration side

Union side

- |                                 |                 |
|---------------------------------|-----------------|
| 1. Sh.K.L.Sikka,CPO             | Sh.P.N.Sharma,  |
| 2. " Bhagwan Dass,SPO(U)        | Genl.Secy./URMU |
| 3. Miss Kanwal Sachdeva,SPO(HQ) |                 |

General Secy./URMU complained against non-implementation of decision arrived at in para-2 of the information meeting held with him in the chamber of COS on 28.3.89.

Under this para, a decision had been taken that since some junior persons had been given the benefit of regularisation with effect from 1.1.84, the senior persons who had been officiating as Sr.Clerk on ad hoc basis since 1983 onward pending suitability test may also be considered for regularisation as such w.e.f. 1.1.84.

During the discussion it was pointed out by SPO(HQ) that against the above mentioned decision a reference was received from Dy.COS/LKO vide his letter No.911-E/URMU Corr. dt.13 Sept.89 pointing out that there had been no upgradation in the cadre of UDCs as a result of restructuring and accordingly the question of some junior persons having been regularised as such w.e.f.1.1.84 does hardly arise. Also he pointed out that when the base on which the above mentioned decision against para 2 was given is not correct, it would not be correct to implement decision of regularising other Sr.Clerks w.e.f. 1.1.84 officiating on ad hoc basis earlier to that. The position was checked up and it was found that actually there had been no upgradation in the cadre of UDCs as a result of restructuring w.e.f. 1.1.84 in any office over Northern Railway. However, the fact remains that number of clerks Gr.260-400/950-1500(RPS) had been officiating on ad hoc basis as Sr.Clerk Gr.330-560/1200-2040(RPS) some time from 1983 because of the stay against suitability test given by the High Court/ALD on 16.3.82. It was only on 14.12.87 when a decision was given by CAT/ALD and suitability test could be arranged by the office on 21.7.88 and the result was declared on 22nd August '88. It was emphasised by the General Secy.URMU that the staff who had been continuously officiating on ad hoc basis on overall seniority against regular vacancy should not suffer for their regularisation because of the court case. He also drew the attention to the decision given against PNM item No.215/89 (review item 215/88) of NRMU in the PNM meeting held with G.M. on 5/6 September '89. As per this decision, certain clerks Gr.260-400/950-1500(RPS) of the office of DCOS/LKO who had been officiating on ad hoc in Gr.330-560/1200-2040(RPS) for a number of years have been ordered to be regularised from the date they have completed three years continuous ad hoc officiating in Gr.330-560/1200-2040(RPS).

After discussion it was decided that all those clerks Gr.260-400/950-1500(RPS) who were appointed to officiate as Sr.Clerk Gr.330-560/1200-2040(RPS) by Dy.COS/LKO in the year 1983 under Office Order No.E/81 dated 23.4.83 and they are continuously working as such without break may also be regularised from the date they have completed three years continuous officiating in Gr.330-560/1200-2040(RPS).

Sd/- Illegible  
(Bhagwan Dass)

for General Manager(P)

No.961-E/111/7/88/URMU/E.Union Dt.18.10.89

Copy for information and necessary action to:-

1. Sr. Personnel Officer (HQ), N.Rly., Baroda House, New Delhi.
2. Genl. Secy. URMU.

## NORTHERN RAILWAY

A67

Office Order No.E/81

Dated: 23.3.1983

The under-noted employees in Grade Rs.260-400(RS) are appointed to officiate as Sr.Clerk w.e.from 19.4.83 for 3 months on pay noted against each in Grade Rs.330-560(RS) purely temporary, local and adhoc basis pending suitability test and decision of Writ Petitions. This will not confer any claim for seniority and promotion in future. These promotions have been made in exigencies of service.

S.No.	Name	Place of working	Pay
1.	Sri Gurbachan Singh	TPP/AMV	380 (Rs.366/-+14/-)
2.	" Sadhoo Ram	-do-	392/- (Rs.374/-+18/-)
3.	" Brij Nath	AMV/Depot	340/- (Rs.326/-+14/-)
4.	" Rama Nand Yadav	TPP/AMV	350/- (Rs.334/-+16/-)
5.	" S.Karmakar	AMV/Stores	392/- (Rs.374/-+18/-)
6.	" Pooran Masi (SC)	AMV/Stores	330/- (Rs.278/-+52/-)
7.	" Bachcho Lal	ETD/CNB	330/- (Rs.284/-+46/-)
8.	" Ram Gulam Yadav	AMV/Depot	360/- (Rs.350/-+10/-)
9.	" Tej Bahadur Singh	VYN/Depot	330/-
10.	" Radhey Shyam	AMV/Depot	330/- (Rs.290/-+40/-)
11.	" Panna Lal Seth	"	390/- (Rs.290/-+40/-)
12.	" Jawaher Lal-II(SC)	"	330/- (Rs.314/-+16/-)
13.	" Uma Shanker	-do-	330/- (Rs.278/-+52/-)
14.	" Pankaj Kumar Pandey	-do-	330/- (Rs.314/-+14/-)
15.	" Bal Kishore	-do-	330/- (Rs.290/-+40/-)
16.	" C.K.Pandey	CB/Stores	330/- (Rs.290/-+40/-)
17.	" B.D.Misra	AMV/Stores	330/- (Rs.290/-+40/-)
18.	" K.N.Malviya	-do-	340/- (Rs.326/-+14/-)
19.	" Kamta Pd.	-do-	330/- (Rs.290/-+40/-)
20.	" Gulshan Lal	-do-	330/- (Rs.290/-+40/-)
21.	" Puttu Lal Yadav	CB/Depot	340/- (Rs.326/-+14/-)
22.	" Ram Shanker	AMV/Depot	350/- (Rs.334/-+16/-)
23.	" R.D.Saxena	DSL/CB	350/- (Rs.334/-+16/-)
24.	" Ram Milan Tewari	AMV/Depot	330/- (Rs.278/-+52/-)
25.	" Mannu Ram (SC)	VYN/Depot	330/-
26.	" Shiv Balak	AMV/Depot	330/- (Rs.278/-+52/-)
27.	" L.N.Sharma	CB/Depot	330/- (Rs.320/-+10/-)
28.	" Jagdish Pd.Srivastava	AMV/Depot	330/- (Rs.284/-+56/-)
29.	" Rama Shanker	ETD/CNB	350/- (Rs.334/-+16/-)
30.	" Baboo Singh	AMV/Depot	330/- (Rs.278/-+52/-)
31.	" Ram Adhar Singh	CB/Depot	330/- (Rs.278/-+52/-)
32.	" Shyam Sunder (SC)	CB/Depot	330/- (Rs.290/-+40/-)
33.	" Radhey Lal Yadav	AMV/Depot	330/- (Rs.290/-+40/-)
34.	" Jang Bahadur Shukla	TPP/AMV	330/- (Rs.290/-+40/-)
35.	" T.N.Tewari	DSL/CB	330/- (Rs.320/-+10/-)
36.	" C.N.Tripathi	CB/Depot	330/- (Rs.290/-+40/-)
37.	" Jagmohan Lal (SC)	AMV/Depot	330/- (Rs.320/-+10/-)
38.	" Sankatha Pd.	CB/Depot	330/- (Rs.314/-+16/-)
39.	" T.N.Shukla	-do-	350/- (Rs.334/-+16/-)
40.	" R.S.Pandey	TPP/AMV	350/- (Rs.334/-+16/-)
41.	" Mohd.Yamin	CB/Depot	330/- (Rs.320/-+10/-)
42.	" V.N.Asthana	AMV/Depot	350/- (Rs.334/-+16/-)
43.	" Padam Lal (SC)	CB/Depot	330/- (Rs.290/-+40/-)
44.	" S.N.Trivedi	AMV/Depot	330/- (Rs.278/-+52/-)
45.	" Paras Ram Singh	CB/Depot	340/- (Rs.326/-+14/-)
46.	" Kishori Lal	CB/Depot	330/- (Rs.278/-+52/-)
47.	" Mohan Lal Singh	AMV/Depot	330/- (Rs.314/-+16/-)
48.	" L.S.Pandey	AMV/Depot	330/- (Rs.290/-+40/-)
49.	" Bhai Lal (SC)	AMV/Depot	330/- (Rs.290/-+40/-)
50.	" Sohan Lal	-do-	330/- (Rs.290/-+40/-)
51.	" Chandra Pal Singh	TPP/AMV	330/- (Rs.308/-+22/-)
52.	" Kailash Pandey	VYN	330/-
53.	" Ram Nath (SC)	AMV	330/- (Rs.314/-+16/-)
54.	" Raksha Ram	AMV/Depot	330/- (Rs.290/-+40/-)
55.	" Shiv Kumar Misra -I	-do-	330/- (Rs.284/-+46/-)

S.No.	Name	Place of working	Pay
56.	Sri K.D.Tripathi	AMV/Depot	330/-(Rs.284/-+46/-)
57.	" D.C.Srivastava	CB/Depot	330/-(Rs.284/-+46/-)
58.	" N.K.Sharma	CNB/ETD	330/-(Rs.284/-+46/-)
59.	Smt. Mehar Fatima	AMV/Depot	330/-(Rs.284/-+46/-)
60.	Sri H.W.Ram (SC)	AMV/Depot	330/-(Rs.284/-+46/-)
61.	" Kartar Singh	CNB	330/-(Rs.-do-)
62.	" Satrughna Paswan (SC)	VYN	330/-(Rs.-do-)
63.	" Bishambhar Dayal(SC)	AMV/Depot	330/-(Rs.-do-)
64.	" Lal ji Pasi (SC)	AMV/Depot	330/-(Rs.296/-+34/-)
65.	" Shiv Behari	AMV/Depot	330/-(Rs.284/-+46/!)
66.	" Shiv Ram (SC)	ETD/Depot	330/-(Rs.284/-+46/-)
67.	" Girja Shanker (SC)	TPP/Depot	330/-(Rs.278/-+52/-)
68.	" Mahadeo Lal	TPP/AMV	330/-(Rs.296/-+34/-)
69.	" S.P.Dass	AMV/Depot	330/-(Rs.278/-+52/-)
70.	" A.K.Adhikari (SC)	TPP/AMV	330/-(Rs.278/-+52/-)
71.	" Panchanan Pandit(SC)	CB/Depot	330/-(Rs.278/-+52/-)
72.	" Mohd.Sajid	AMV/Depot	330/-(Rs.278/-+52/-)
73.	" Azizuddin Siddique	CNB	-do-
74.	" H.S.Maurya	AMV/Depot	-do-
75.	" A.K.Malviya	AMV/Depot	-do-

Sd/- Illegible

23.4.83.

for Dy. Controller of Stores,  
N.Rly., Alambagh, Lucknow.

Copy forwarded to :-

1. S.A.O.(W)/N.Rly., Alambagh, Lucknow.
2. S.A.O.(W)/N.Rly., Charbagh, Lucknow.
3. D.C.O.S./N.Rly., Charbagh, Lucknow.
4. A.C.O.S./ETD/CNB.
5. A.C.O.S./VYN.
6. A.C.O.S./DSL/CB-Lucknow.
7. A.C.O.S./T.P.P.AMV/Lucknow.
8. H.C./Bills.AMV/Charbagh.
9. Parties Concerned.

F.F. 7/2/91

A69

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

Misc. Appln. No. of 1990.

In re:

O.A.No.148 of 1990 (L)

--

Chandra Kumar Pandey and others. -----Applicants

Vs.

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

--

To,

The Dy.Registrar,

The applicant most respectfully submits  
as under :-

1. That in the above original application notices have been issued.
2. That the notices, issued to the opposite parties No.11 and 17, returned undelivered with endorsement that the person concerned could not meet.
3. That notices alongwith envelopes and copies of the original application have to be sent against to the opposite parties No.11 and 17.

- P r a y e r -

Wherefore, in the interest of justice kindly allow to send the notices alongwith envelopes and original application to the opposite parties No.11 and 17 again.

*Vak. [Signature]*

Lucknow, dated,  
.1.91

Advocate.  
Counsel for the applicant.

2  
F.T.  
25.1.91

A70

Before the Central Administrative Tribunal,  
Lucknow Bench, Lucknow.

O.A.No.148 of 1990 (L).

RA

C.K.Pandey and others.

-----Applicants

Versus

Union of India and others.

-----Respondents

Rejoinder to the Written Statement  
of Respondents No.1 and 2.

The applicants most respectfully beg to  
submit as under :-

1. That para 1 needs no reply.
2. That para 2 needs no reply.
3. That para 3 as stated is denied and the averments made in para 3 of the application are reiterated.
4. That para 4 needs no reply.
5. That para 5 needs no reply.
6. That para 6 as stated is denied and the averments made in para 6(2) of the application are reiterated. It is reiterated that the adhoc

Filed today  
17/7/99

Mohd. Ilyas

promotions of the applicants as Senior Clerks were made on the basis of seniority position of Clerks in the Office of Deputy Controller of Stores, which were subsequently circulated in the form of seniority list dated 29.7.1989 by the Deputy Controller of Stores. It is reiterated that promotions as Senior Clerk in 1983 were made in accordance with the same seniority list. Contrary averments are denied.

7. That in reply to para 7, averments made in para 6(3) of the application are reiterated.

8. That in reply to para 8, it is stated that some of the 'Serving Graduates' indicated in office order No.E/262 dated 15.10.1985 were also given adhoc promotion as Senior Clerk alongwith applicants in 1983. These are :-

- (1) Mahadeo Pal at Sl.No.1.
- (2) Krishna Kumar Sharma at Sl.No.2.
- (3) Girja Shanker at Sl.No.16.
- (4) Smt.Mehar Fatima at Sl.No.15.;

of the aforesaid order dated 15.10.1985 (Annexure No.2). Others namely :-

- (1) Ram Tahal Tiwari at Sl.No.3, was promoted on 31.12.1983 as adhoc senior clerk.
- (2) Sudhir Kumar at Sl.No.6, was promoted on 6.12.1983 as adhoc senior clerk.
- (3) Haushla Prasad at Sl.No.12, was promoted on 6.12.1983 as adhoc senior clerk.

*Mold: Iyas*

The remaining 10 persons were selected and appointed directly. In the aforesaid circumstances undue favour was shown to the said 'Serving Graduates' by holding their selection test for the post of Senior Clerk. In 1985, while excluding the applicants. There was no reasonable basis for expediting the selection test for 'Serving Graduates' and excluding the applicants although both were similarly placed. Hence the action of Railway Administration is arbitrary and discriminatory and intended to show undue favour to 'Serving Graduates'.

9. That in reply to para 9, the averments made in para 6(5) of the application are reiterated.

10. That in reply to para 10, averments made in para 6(6) of the application are reiterated. It is reiterated that the applicants are entitled to the seniority, count their seniority on the basis of their continuous officiation as adhoc senior clerks since 1983.

11. That para 11 as stated is denied and the averments made in para 6(7) of the application are reiterated. It is reiterated that the applicants are entitled on the basis of continuous officiation as adhoc senior clerks from 1983 and as such are entitled to the seniority, above Sri S.K.Misra.

Mohd Ilyas

A23

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12. That para 12 as stated is denied and the averments made in para 6(8) of the application are reiterated.

13. That in reply to para 13, averments made in para 6(9) of the application are reiterated. It is reiterated that the applicants on the basis of their continuous officiation on the post on which they were subsequently regularised, are senior to the said direct recruits on the post of senior clerk.

14. That para 14 as stated is denied and the averments made in para 6(10) of the application are reiterated. There was no rational or reasonable basis for regularising the applicants w.e.f. 19.4.1986 in terms of the office order No.E/350 dated 15.11.1989 although they were continuously officiating as senior clerks on adhoc basis since 1983. It is also misleading as stated that suitability test for the post of senior clerk before July, 1988 due to pendency of litigation in court by the same logic selection test for 'Serving Graduates' and direct recruits for the post of senior clerk, should not have been held during the pendency of the litigation. There was no justification to hold the selection test for 'Serving Graduates' and direct recruits for the same post of senior clerk earlier, while delaying the selection test for promotion of Clerks i.e. the applicants, amounts to

Mohd Ilyas

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arbitrariness and discrimination although they have been continuously officiating as senior adhoc clerks since 1983. In any case, there was no stay order from the Court or Tribunal forbidding the withholding of this selection test. It is submitted that the litigation was still continuing when selection for promotion as senior Clerk was ultimately held on 21.7.1988 and 19.8.1988, in which the applicants were appeared and were successful, hence it is incorrectly stated that the selection test could not be held due to pending litigation.

15. That in reply to para 15, it is stated that promotion of 'Serving Graduates' Clerks to the post of Head Clerk on adhoc basis is illegal and arbitrary and intended to show undue favour to them. They were given out of turn promotion to the next higher post while selection for promotion of the applicants were deliberately kept pending.

16. That para 16 as stated is denied. It is reiterated that selection test for promotion of the applicants as senior clerks, the post on which they were continuously officiating, was deliberately kept pending while selection test for others, namely, 'Serving Graduates' and direct recruits was held for the same post amounts to hostile discrimination in violation

Mohd Ilyas

of Article 14 and 16 of the Constitution of India by denying equality of opportunity in matter of promotion to the post of senior clerk. There was no rational or reasonable basis to promote other similarly placed while excluding the applicants.

17. That para 17 as stated is denied and the averments made in para 6(13) of the application are reiterated. It has been wrongly stated in para under reply that applicants' representation dated 7.1.1989 was decided by the General Manager (P) in October, 1989. On the contrary this regularisation from 19.4.1986 in the case of applicants No.1 to 4 was decided on the basis of P.N.M. Meeting with N.R.M.U. and U.R.M.U. in October, 1989. It is denied that 'Serving Graduates' are senior to the applicants for the 'Serving Graduates' selection test held on October, 1985, while applicants similarly placed were excluded from selection for promotion to the same post.

18. That para 18 as stated is denied and the averments made in para 6(14) of the application are reiterated. It is reiterated that the combined seniority list was wrongly withheld on wholly untenable grounds of pending litigation.

19. That para 19 needs no reply.

*Mohd. Ilyas*

20. That para 20 as stated is denied and the averments made in para 6(16) of the application are reiterated. It is denied as alleged that office order No.E/55 dated 1.3.1990 was perfectly justified as respondents No.3 to 18 were senior to the applicants. The order dated 1.3.1990 was illegal and arbitrary as respondents No.3 to 18 cannot be treated as confirmed Head Clerks with retrospective effect even prior to their provisional appointment as Head Clerk.

21. That para 21 needs no reply.

22. That para 22 as stated is denied and the averments made in para 6(18) of the application are reiterated. It is denied as alleged that adhoc promotion is to be treated as adhoc for all purposes and cannot be treated as a regular appointment before the incumbent successfully passes out the suitability test prescribed for it, or his services are regularised by the competent authority. This decision is contrary to the established legal position as upheld by the Hon'ble Supreme Court in its various decisions. That an incumbent continuously officiating on adhoc basis on a post on which he is subsequently regularised, the period of continuous officiation is to be counted for the purposes of determining his seniority on that post. In the circumstances, there was no justification or

Mohd. Ilyas

reasonable basis for regularising the applicants w.e.f. 19.4.1986 and not from the date of their continuous officiation on adhoc basis i.e. from the year 1983 onwards. Similarly the 'Serving Graduates' were illegally promoted as Head Clerks from 19.4.1986 onwards with retrospective effect by order dated 1.3.1990 even prior to the date of their provisional appointment on 13.4.1988. Further more it has been wrongly stated that respondents No.21 to 29 are from the 'Serving Graduates' quota who had been joined between 11.5.1987 to 30.7.1988. On the contrary, respondents No.21 to 29 are direct recruits selected and impanelled on 25.10.1985 and were appointed as senior clerks on various dates between 11.5.1987 to 30.7.1988. These direct recruits cannot be treated as senior to the applicants, who constitute the promotee quota and had been continuously officiating as senior clerks since 1983. It is submitted that the respondents No.21 to 29 filed O.A.No.1019/89 before this Hon'ble Tribunal at Allahabad, challenging the regularisation of applicants No.1 to 4 from 19.4.1986. The said application is misconceived inasmuch as the applicants in the above application are claiming seniority as senior clerks from 1983 onwards on the basis of their continuous officiation on the said post.

Mohd. Ilyas

23. That para 23 as stated is denied and

A78

the averments made in para 6(19) of the application are reiterated. It is reiterated that as there are no departmental rules relating to seniority of senior clerks. The applicants are entitled to count the period of continuous officiation as adhoc senior clerks on which they were subsequently regularised for the purpose of determining their seniority position as senior clerks. The said legal position has been consistently upheld by the Hon'ble Supreme Court.

24. That para 24 needs no reply.

25. That para 25 as stated is denied. It is reiterated that the application is maintainable on the facts and circumstances made therein and in the present Rejoinder and is liable to be allowed and the applicants are entitled for relief claimed therein.

26. That the applicant No.16, Mohd.Ilyas has been duly authorised by the other applicants to verify and sign this Rejoinder on their behalf.

Mohd Ilyas

Lucknow, dated, .  
17.7.1991

Mohd Ilyas  
(Applicant)

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Verification.

I, Mohd.Ilyas, son of Late Mohd.Idris, resident of II-160 H-Rest Camp Colony, Northern Railway, Charbagh, Lucknow, Applicant No.16, do hereby verify that the contents of paras 1 to 26 of this Rejoinder are true to my own knowledge.

Signed and verified this 17th day of July, 1991 at Lucknow.

Mohd-Ilyas  
(Applicant)

Written Statement

CA

Judgment Reserved on  
18/11/92

A80

10/11/92

Filed by  
S.P. Sonhe Adv  
20/11/92

WRITTEN SUBMISSION ON BEHALF OF RESPONDENTS  
IN REGISTRATION/NO. <sup>DA</sup> 148 OF 1990 CHANDRA KUMAR PANDEY  
VERSUS UNION OF INDIA AND OTHERS.

1. That the applicant filed the aforesaid petition challenging the order dated 1.3.1990 passed by the Deputy Controller of Stores, Northern Railway, Alam Bagh Lucknow by which the seniority of the applicant in Senior Grade clerk was given from 19.4.1986. The claim of the applicant is that as they are working on adhoc basis on the post of Senior Clerk from the year 1982-83, as such they are entitled to be treated as senior clerk from that date.

2. That, it is submitted that the applicants were appointed as Class IV employees and by virtue of their seniority they were given promotion to the post of clerk on adhoc basis. The criteria in the Railway Service Rule is that the suitability test for the post of Senior grade clerk is essential and necessary qualification unless and until suitability test is passed by the candidate he cannot be treated or promoted in the grade of Senior clerk. In the present case the applicants were no doubt working purely on adhoc on the post of Senior clerk, but as the qualification is passing the suitability test, the suitability test was held in the year 1988 and the result was declared on 22.8.1988, as such under the law they can be treated in the grade of senior clerk from the date of declaration of the result of suitability test.

/2/

3. That, it is also submitted that the private respondent in the aforesaid case namely Rajesh Pratap Singh , Lalji Tripathi, Brijesh Singh, Abhay Kumar , Smt. Nasreen Khan, B.P. Dixit were selected to the post of Senior grade clerk directly ~~thex~~ through Railway Service Commission.

4. That though the advertisement was made in the year 1982 for the post of Senior grade clerk ,but the examination was held subsequently and the result was declared in the year 1985 ,as the respondents ~~applicants~~ were directly recruited to the post of Senior clerk, as such they were given promotion to the post of Head clerk in the year 1988-89.

5. That, it is also important to submit here that the criteria for the recruitment of senior grade clerk is 20% by direct recruitment and 80% by promotion.

6. That as nobody can claim a right on the basis of their seniority as well as by virtue of any adhoc working on any post lower than senior clerk unless and untill he passes the suitability test In the present case the suitability test was held in the year 1988 and the result was declared on 22.8.1988 as such the applicants can be treated in the senior grade clerk only after passing out the suitability test which was held in the month of July, 1988.

A82

/3/

7. That in an informal meeting of the PNM the Controller of Stores ,Northern Railway ,Baroda House, New Delhi without considering the case of the respondents was pleased to issue an order to the effect that to give seniority to the applicants from 1.1.1984 though they have not passed the suitability test on that date . Subsequently on a representation made by the respondents the matter was reconsidered and the authority mentioned above has stayed the order till further orders . Subsequently on 18.10.1989 in an informal meeting which was held in the chambers of Chief Personnel Officer it was decided that the persons who are working on adhoc basis on the post of senior clerk their services be regularised from 19.4.1986, the applicant were given seniority without passing out the suitability test as stated above, the applicants have passed suitability test in the year 1988 as such under the Railway Establishment Manual it has been clearly held that unless and untill a candidate passes the suitability test he cannot be regularised on the said post .In the present case the applicants as well as the other persons have been given seniority only on the basis of their adhoc working on the post of senior clerk though they were not entitled for the same.

8. That on 15.11.1989 a list of regularisation

/4/

of certain candidates was published and they were treated on the post of senior clerk from 19.4.1986 the action of the authorities was wholly illegal and without jurisdiction as such the respondent in the aforesaid case have filed the petition before the Hon'ble Tribunal which is still pending for consideration.

9. That, it is submitted that the applicants in the present case are not entitled for any relief as they have not passed any suitability test for the post of senior grade clerk prior to 1988 as such they are not entitled to get any seniority on the post of senior clerk from 19.4.1986 .In the present case the applicants ~~xxxxx~~ claim is that they may be treated as senior grade clerk from the year 1983 ,under the law the same is not tenable and the petition is liable to be dismissed only on this ground alone as the applicants have passed the suitability test after the answering respondents in the present case.

10. That as stated above the respondents in the aforesaid case are directly recruited through Commission prior to the applicants on the post of senior clerk therefore they cannot be held senior only on the basis that they were working on adhoc and temporary basis on the said post.

11. That the Union representative has got no jurisdiction to fix the seniority of the employees of the Railway ,there is no statutory force

/5/

of the PNM meeting.

12. That the applicants in the present case have been made senior to the answering respondent without affording any opportunity to the respondents in the aforesaid case.

13. That the claim of the applicants is clearly in violation of 302 and 306 of the Railway Establishment Manual.

14. That this Hon'ble Court has decided in ATR 1990 (1) CAT 587, ATRas clearly held that suitability test for higher post is must, working on adhoc basis does not give any right to the incumbent.

15. That in the aforesaid judgement the Hon'ble Tribunal has relied upon certain Judgements delivered by Hon'ble Supreme Court which is cited below : 1975 (2) SLR 110, 1988 SCC (2) 648, 1985 (3) SLR 548.

16. That from the perusal of the aforesaid fact and the decisions of this Hon'ble Court as well as Hon'ble Supreme Court the claim of the applicants is liable to be dismissed as it has been clearly held in various cases that without essential qualification and examination no employee can be regularised on a particular post from retrospective date.

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/6/

P R A Y E R

It is, therefore most respectfully prayed that in view of the facts as stated above, it is expedient in the interest of justice that this Hon'ble Court may graciously be pleased to dismiss the petition~~er~~ filed by the applicants.

Dt/- 20<sup>th</sup> November, 1992

*XX* *Leung*

*Counsel for respondents*  
*No. 22, 26, 29*  
*and 23.*

ब अदायत बीमान

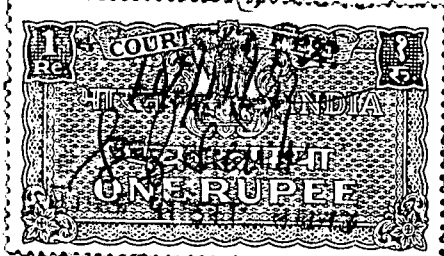
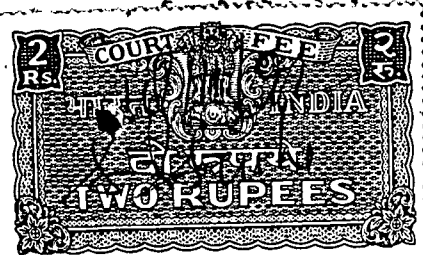
बादी अपीलान्त

Before the Hon'ble Central Adm'nistrative Tribunal  
Mumbai Bench महोदय

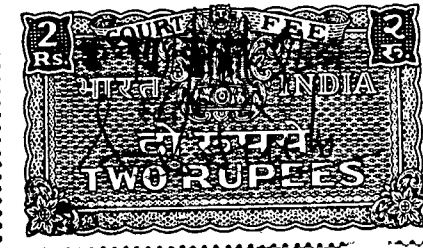
Spek. Lalji Tripathi and Abha

बकालतनामा A86

Ch. Pandey and others



(अपीलान्त)



बलिवादी (रेस्पाण्डेंट)

Union & Co. and others

पक्षी की हा. १६ ई.

पक्षी ओर से श्री ...

57/95, Gauragar, Alambagh,  
Mumbai

बकील  
महोदय  
एडवोकेट

को अपना बकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे  
देता हूँ कि इस मुकदमा में बकील महोदय स्वयं अथवा अन्य बकील  
द्वारा जो कुछ पत्रवाँ व जबाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल  
करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल  
करें या सुनहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर  
से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकदमा  
उठावें या कोई रुपया जमा करें या हमारी बिपक्षी (फरीकसानो) का  
दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (वस्तुस्थिति)  
रसीद से लेवे या पंच नियुक्त करें—बकील महोदय द्वारा की गई यह  
सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार  
करता हूँ कि मैं हर पेची पर स्वयं या किसी अपने परोकार को भेजता  
रहूंगा अगर मुकदमा अवम पंरवी में एक तरफा मेरे खिलाफ फैसला हो  
जाता है उसको जिम्मेदारी मेरे बकील पर नहीं होगी इसलिए यह  
बकालतनामा लिख दिया प्रमाण रहे और समय पर काम आये।

नाम बकालत  
मुकदमा न  
नाम फरीकस

Power  
Decepted  
Sent to  
Admiral

राजेन्द्र प्रताप सिंह  
Lalji Tripathi

हस्ताक्षर

अनय कुमार खन्ना

डाकी (बकाह)

साकी (बकाह)

विवाह

महोना

प्रीकृत

सन १२/९/६०

Judgement Reserved  
on 10/11/92 A87

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
AT ALLAHABAD, LUCKNOW BENCH, LUCKNOW  
Registration No.OA 148 of 1990(L)

C.K. PANDEY & OTHERS

VS

UNION OF INDIA & OTHERS

File  
Narrative brief by the respondents

No. 3 to 18

That the applicants are the respondents in the  
above noted case beg to submit as under :-

That Case No.1019 of 1989 R.P. Singh & others  
Vs. Union of India and others was filed at ALLAHABAD  
and the said case has been transferred from Allahabad  
to Lucknow Bench, Lucknow. Similarly a case No.550 of  
1990(L) M.D. Pal & others Vs. Union of India was also  
filed at Allahabad and now transferred to Lucknow Bench  
Lucknow.

We, the undersigned respondents are submitting  
the comments on subject matter to consider to accord the  
seniority on the basis of the rules prevailing in the  
Railway department.

That the facts of the case are given below :-

contd..2

That the minimum qualification to recruit the clerks is only High School but there is no bar about the recruiting of ~~candidates~~ candidates possessing the higher qualification. The candidates possess the qualification Intermediate and graduates and Post Graduates submit their applications as per notification.

That the panel is formed after qualifying the written and viva voce test.

That the Railway Board accorded the sanction for the restructuring the cadre of ministerial staff of departments other than per personal wherein it has been laid down that there shall be direct recruitment of graduates to the post of Sr Clerks in Rs 330-560 now Rs 1200-2040 to the extent of 20% of the total strength. The direct recruitment will be made by Railway recruitment Board and  $13\frac{1}{3}\%$  of the total posts of senior clerks in scale Rs 330-560 will be filled from amongst the graduate clerks already serving in the lower grades after allowing them the age relaxation. These vacancies will be filled up by the competitive examination. As per Railway Board's letter No. PC/III/81/UPG dated 18/6/81. The photo copy of the letter is enclosed and is marked in Annexure No.1.

That the test for filling up the vacancies of serving graduates was conducted in the year 1985 and respondents No.3 to 18 were qualified and promoted as Senior Clerk against the vacancies reserved for serving graduate clerks from 1-10-80. In this respect they are entitled to get their seniority from the date the vacancies were in existence for the serving graduate clerks.

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- 3 -

That the applicants of the case No.148 of 1990(L) C.K. Pandey & others Vs. Union of India & others were promoted only on ad-hoc basis staff/gap arrangements with the condition that they will not confirm their right against those posts for their regular promotion.

That the respondent No.21 to 29 were recruited against the graduate quota of 20% for filling up the vacancies of Sr Clerks in scale Rs 330-560 and posted as Sr Clerk in 1987 & 1988 prior to those that are applicants in petition 148 of 1990(L).

That Sri Hari Shanker Maurya Vs. Union of India & others filed an application before the Hon'ble High Court Lucknow Bench Lucknow which was subsequently transferred to Hon'ble Central Administrative, Allahabad. The said application was registered as T.A. No. 626 of 1987.

That the said noted cases decided by the Hon'ble CAT Allahabad and given direction to respondent - 2 to conduct the suitability test after considering the seniority of eligible staff in terms of para 302 and 306 of Indian Railways established manual. The judgment delivered on 14/12/87. Photostat copy of the judgment is enclosed and marked as Annexure No.2.

That the respondent No.2 of the above noted case did not inform the correct position to the GM(P). Thus he ordered to regularise the ad-hoc promotee from 1996 vide Order No.961-E/111/7/88/URMU/E.Union dated 18-10-89. On this basis applicants of the above noted case were regularised as senior clerk vide

order No. E/350 dated 15-11-89 from 1986, in scale Rs 330-560 and subsequently these applicants were promoted as Head Clerk from 19-4-86 vide office order No. E/155 dated 1-3-90. The order for regularisation in contrary to the decision of CAT Allahabad and the further promotion on the very same day is illegal and void.

That the applicants of the above noted case were qualified the suitability test vide order No. E/172 dated 22/8/88 are deserved to get their seniority from the date they qualified the suitability test in scale Rs 330-560. Now 1200-2040 in terms of para 302 of Indian Railway Establishment manual.

The case of Sri R.S. Pandey Vs. Union of India and others decided by the CAT Allahabad on 14/12/87. That in view of the pronounced of the Hon'ble Supreme Court the period of continuation officiation cannot be counted for the seniority, and therefore the petition on the ground that they should be given seniority not on the basis of their enpanelment 4-11-87 but on the basis of their ~~seniority~~ continuous officiation after their ad-hoc promotion is liable to be rejected. Certified copy will be submitted later on.


That the respondents from Srl. No.3 to 18 and 21 to 29 requested through their counsel to CAT Lucknow Bench on 18/11/92 and the Hon'ble Tribunal was pleased to accord time for two days to file the comments in the above not--ed case. The respondents No. 21 to 29 are filing the written argument through their counsel

and respondent No. 3 to 18 are filing the counter as well as narrative comments which may kindly be accepted. The ~~ix~~ respondents No. 21 to 29 have engaged Shri Sri Shishir Kumar Advocate of Allahabad who has prepared the written argument and desire to argue before this Hon'ble Tribunal on 11/12/92 which may kindly be fixed for final hearing.

The counter reply from respondent No. 3 to 18 is being filed for acceptance.

Dated, Lucknow:

20/11/1992

  
Respondents No. 3 to 18

Counsel for Respondents

1-10-1980

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NEW DELHI

Government of India  
Ministry of Railways  
(Railway Board)

No. PCIII/81/UPG/7

New Delhi, dt. 18.6.80

The General Managers,  
All Indian Railways,  
CLW, DLW, ICF, MPP (Railways) Calcutta,  
Wheel & Axle Project, Bangalore.

Subj: Restructuring of the Cadre of Ministerial  
Staff of Departments other than Personnel.

The Ministry of Railways have had under consideration the question of restructuring of the Ministerial Cadre of Non-accounts Departments other than Personnel in the wake of upgradations done in the case of Personnel Department vide their letter No. PCIII/80/UPG/21 dated 10.11.1980. As a result of agreement reached with the staff side in the Departmental Council (JCM), it has now been decided as under:-

- (i) There shall be direct recruitment of graduates to posts of Senior Clerks in scale Rs. 330-560 to the extent of 20% of the total strength. The direct recruitment will be made through the Railway Service Commission.
- (ii) 13.1/3% of the total posts of Senior Clerks in scale Rs. 330-560 will be filled from amongst the Graduate Clerks already serving in the lower Grades after allowing them the age relaxation already in force. These vacancies will be filled up by a competitive examination to be held by the Railway Service Commission. In the event of Graduate Clerks not being available from amongst the serving employees to fill this quota, the residual vacancies will be filled up by direct recruitment through the Railway Service Commission prior and above the 20% quota referred to in (i) above.
- (iii) Consequent upon induction of direct recruitment of Graduates at the level of Senior Clerks, the gradewise percentage distribution of posts in the Ministerial Cadre will now be as under :-

<u>Category</u>	<u>Scale of Pay</u> Rs.	<u>Percentage</u>
Office Supdt.	700-900	2.5%
Chief Clerk	550-750	7.0%
Head Clerk	425-700	13.0%
Senior Clerk	330-560	57.5%
Clerk	280-400	20.0%

2. These orders will take effect from 1.10.1980 but no arrears shall be payable on this account. The pay of an employee appointed to the upgraded post may be fixed proforma from 1.10.1980 but the actual payment of emoluments in the higher post should be allowed only from the date he takes over charge of the upgraded post. This has the sanction of the President.

AG3

3. All vacancies of Senior Clerks (Rs.330-560) existing on 30.9.1980 should be filled up in accordance with the orders in force prior to the issue of this letter. All vacancies arising on or after 1.10.1980 shall be filled in accordance with the proportion prescribed herein.

4. The staff of the Personnel Department will be governed by instructions contained in this Ministry's letter No. PC111/80/PSG/21 dated 10.11.1980 except that the level of direct recruitment in scale Rs.330-560 - in Personnel Department also will be 33.1/3%, and will be regulated in accordance with Para 1(i) & (ii) above.

5. This has the sanction of the President.

6. Hindi version will follow.

Sd/- x x x x  
Jt. Director, Establishment,  
Railway Board.

L. F. I. R.  
NATIONAL FEDERATION OF INDIAN RAILWAYMEN  
Central Office,  
2, Chelmsford Road,  
NEW DELHI - 55

Ref: DC-11(2), IV

Dt: 20th June, 1981

Copy forwarded for information and necessary action to:

1. All the affiliated Unions.
2. All the Members of the Working Committee.

*Keshav H. Kulkarni*  
(Keshav H. Kulkarni)  
General Secretary

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL? ALLAHABAD.

\*\*\*\*\*

Registration (T.A.) No. 626 of 1987 .

Hari Shanker Morya ..... Petitioner- Applicant.

Versus

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

\*\*\*\*\*

Hon'ble S. Zaheer Hasan, V.C.

Hon'ble Ajay Johri, A.M.

(Delivered by Hon. Ajay Johri, A.M.)

Writ Petition No. 1183 of 1982 has been received on transfer from the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow under section 29 of the Administrative Tribunal Act XIII of 1985. The petitioner, Hari Shanker Morya, was working as a Clerk in the Northern Railway Stores Department at Lucknow. In this petition he has said that the recruitment to the post of Clerk is made 33 1/3% by promotion from amongst class IV staff of the same Department and the remaining by direct recruitment through Railway Service Commission (RSC). Against the promotee quota of 33 1/3% in the year 1977 a panel of class IV employees of the Stores Department was drawn. This panel was announced on 4.11.1977. Respondents 3 to 11, who had participated in the selection did not find their names in the original panel. Those who were placed on the panel were promoted to the post from class IV category to class III category. The petitioner in this petition was selected through the RSC in the quota prescribed for direct recruits and was appointed with effect from 11.10.1979 in the Stores Department of the Northern Railway at Lucknow. Various types of pressures were brought by respondents 3 to 11 to get their names included in the promotee quota panel of class IV employees which was announced on 4.11.1977. Their requests were initially turned down by a letter dated 28.1.1980 (Annexure 'I' to the writ-petition). But

A95

-2-

ultimately on 15/3/80 the said respondents 3 to 11 were included in the panel of class IV employees which was announced on 4/11/77. According to the orders they were to be adjusted against the existing or future vacancies in the promoted grade. The petitioner's grievance is that he had already come through a regular source of direct recruitment and was senior to respondents 3 to 11 who joined as clerks on 18.3.80 but on their inclusion in the panel on 4/11/77 they become senior. According to the petitioner the inclusion of respondents 3 to 11 in the panel was illegal as the panel had a life of two years and it had exhausted on 4/11/79. In the order promoting respondents 3 to 11 it was also mentioned that they will be replaced on the availability of candidates selected by the PSC as the promotion order ( Annexure III ) to the writ petition ) shows. The Deputy Chief Controller of stores called 34 persons on 15/1/82 for a selection <sup>basis</sup> on seniority ~~basis~~ for further promotion to the post of <sup>includes</sup> ~~Senior~~ clerk. In this list respondents 3 to 11 were also ~~included~~ and the petitioner was eliminated and has not been called though he was an earlier appointee to the post of clerk. The petitioner has, therefore, challenged this action of the respondents no 12 and prayed for the issue of a writ in the nature of certiorari quashing Annexure II, III and IV to the writ petition after summoning the

-3-

in original ~~from~~ from respondents 1, 2 and 12 and a writ in the nature of mandamus commanding respondents 1, 2 and 12 to draw the list for consideration and selection of persons for the post of Sr. Clerks in accordance with the provisions contained in para 302 of the Railway Establishment manual on the basis of length of service on the post of clerk with all consequential benefit to him.

2. In the/ir reply to this petition the Government respondents have admitted that the petitioner was appointed as a temporary clerk after selection by respondents 3 toll were promoted as clerks against the 33, 1/3 % quota reserved for them, according to the <sup>respondents</sup> ~~respondents~~ the ~~moral~~ life of penal is for two years but it does not bar inclusion of the name in the panel subsequently. The <sup>panel</sup> ~~formed~~ on 4/11/77 was consumed on 9/11/77. but the ~~names~~ of 9 employees viz respondents 3 toll were included in March 1980 and they were also promoted in March 1980. The general Manager has full powers to make rules with regard to non <sup>gazetted</sup> ~~gazetted~~ railway servants under their control in terms of para 158 of the Indian Railway Establishment code volume I. It has further been stated in the reply that subsequently after formation of the panel of 4/11/77 three Schedule caste employees were included in the panel in April 1978, ~~non-employees were~~ ~~included in the panel in April 1978~~. Four employees were included in April 1978. Four employees were included in the panel in October 1978 and 9 employees were included in the panel in March 1980 and all employees included in the panel were promoted immediately after inclusion. The 9 employees viz respondents 3 toll were originally senior

A9)

senior in class IV category to some of those who were empanelled on 4/11/77 and who were included in the panel prior to them. It has further been said that the Indian Railway Establishment Manual and since these employees, viz respondents earlier-~~the~~ 3 toll were senior to those who were empanelled earlier the inter se seniority was maintained as provided in Rule 102 of the manual. It has further stated that in the group of RSC selected candidate it sometimes happens that a candidate of higher panel position is directed for appointment later than a candidate in a lower panel position and even a candidate selected at an earlier date is directed for appointment after the candidate of later selection. Therefore the date of appointment in the same group is not the criteria for determining the seniority and the General Manager (PO) is fully authorised to relax or modify the rules regarding recruitment and training of classes III and IV staff. They are also authorised to issue order for revision of these rules and they are also competent to frame rules with retrospective effect.

According to them the condition of replacement of RSC <sup>candidate</sup> selected ~~candidate~~ was only to protect the quota of direct recruits. This has no concern with the seniority of those already appointed and since these 9 employees respondents 3 toll were senior to those who were empanelled earlier and were given protection of their inter se seniority they become senior to the petitioner. A suitability test for senior clerks was held on 4/3/82 but the results had been withheld as per the High Court order dated 3/3/1982 in writ petition no 1027 of 1982 R.S. Pandey and others versus Union of India and others.

3. We have heard the learned counsel for the petitioner,

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Shri R.P. Srivastava. Shri G.P. Agarwal pleaded on behalf of the respondents. The main contention raised before us by the learned counsel for the petitioner was that these 9 employees, respondents 3 to 11 were put on the panel against future vacancies in promotee quota and they could only get their seniority from the date the vacancies arose. The petitioner had been recruited earlier and joining earlier to them cannot lose seniority to them. According to him the names were not included under any specific rule but on the request of a labour Union. Shri G.P. Agarwal submits that the panel formed on 4.11.1977 became non-existent in 1979.

However, since the amendment had been made retrospectively, it would be the natural corollary, that seniority should also be given to those whose names were included from a retrospective date would follow. Nothing else was contended before us.

4. According to para 158 of the Indian Railway

Establishment Code, Volume I which in the new edition of the code is para 124, the General Managers of Indian Railways have full powers to make rules with regard to Railway servants in Group C&D under their control provided they are not inconsistent with regard any rule made by the President or the Ministry of Railways. Under this para, therefore, according to the respondents the General Manager was fully competent to relax or modify the rules regarding recruitment and training of class III & IV staff and that this also gives them competency to frame rules with retrospective effect.

The point that has been raised in this petition is that a panel which was formed on 4.11.1977 and which was continued on 9.11.1977 was interfered with in 1980 when the life of the panel both on account of having been used & consumed and even if we take the life as two years, had exhausted. It is not a question of any

A99

power being exercised to make a new rule. The rule in regard to the life of the panel or in regard ~~the~~ to modification of panel has not been changed by the General Manager. What has been <sup>done</sup> ~~done~~ is that contrary to <sup>/the</sup> ~~existing~~ rules without any any modification having been done to them or without any new rule having been enunciated a panel which had expired was interfered with and new names were added in the panel. We do not agree to the contention raised by the learned counsel for the respondents that this addition of names in an exhausted panel was in terms of any revised rules that were made by the General Manager. No such <sup>rules</sup> ~~rules~~ have been brought to our notice by the learned counsel nor any such notification has been shown to us. The panels are normally drawn for the size as advertised both for reserved communities and others. In case some candidates have absented themselves from a particular examination and it becomes necessary to declare a panel before the supplementary examinations are held only a provisional panel is issued. This is not the position in this case. After the panel had been approved it was published and notified. In regard to amendment of a panel the orders issued by the Railway Board by their letter No. ENG 167 PM 1/47 dated 5.2.19-22 69 have not been superseded. This lay down that a panel once approved could not normally be cancelled or amended and if after formation of a panel and its approval any

--- irregularity

or other defects are found and it is considered necessary to cancel or <sup>amend</sup> ~~cancel~~ it this has to be done after obtaining the approval of the next higher authority than the person who approved the panel. Panels are normally modified only for clerical mistake, oversight or administrative error. Railway Board's letter No. R(NG)1-71 PM-103, dated 15.12.1971 which lays down life of the panel has also been modified. The currency of a panel starts from the date of its approval and it remains current till the panel is cancelled or with an added

whichever is earlier. It is for this reason that any representations against the panel are allowed to be made within two months of the publication. Such being the position in regard to the rules on the amendment and life of panels and there being no order show to us which has modified the rules on the amendment of panels or has authorised an amendment of a non-existent panel, i.e. after the life of the panel has expired, we reject the contention raised by the learned counsel for the respondents that the General Manager can change or modify a nonexistent panel and, therefore, he could not under the existing rules amend the panel after the same had exhausted.

5. Our attention has also been drawn to an office order no. 3/10, dated 28.1.1982 which has been annexed as Annexure 'A' to the rejoinder affidavit filed by the petitioner. This letter issued by the Deputy Controller of stores, shows that the employees whose names were included in the panel of clerks declared on 4.11.1977 were not eligible for proforma fixation as they were promoted after their names were considered and ~~XXXXXX~~ names included in the panel as a result of the special request made by the Union and not due to administrative error. If this was the position the vires of the General Manager amending the panel which has no administrative error can also not be accepted. The Selection Board has finalised a panel and the same was approved by the competent authority and announced on 4.11.1977. The fact that there was no administrative error in the formation of this panel will go to indicate that there was no administrative influence which were working behind the scenes which of itself resulted in the General Manager yielding to the special request made by the Union.

A(11)

-2-

6. In the affidavit filed by respondent no. 10 it has been stated that if the panel had inherent lacuna or irregularity it could be amended, modified or cancelled. It has further been said that in the present case the panel was not drawn according to para 216(h) of the Indian Railways Establishment Manual and a large number of seniors amongst successful candidates were overlooked. Para 216(h) of the Indian Railways Establishment Manual is about the arrangement of the names of selected candidates which is to be done in accordance with seniority, except for those who are declared outstanding and who are placed at the top of the list. We had summoned the selection proceeding to be done in accordance with seniority, to satisfy ourselves about the fact that the seniors were actually left out and para 216(h) had not been followed. We, however, were told that the selection proceedings are not any more available while it has been contended by the petitioner that they are not being deliberately brought before the Tribunal to avoid the facts being placed correctly. Whatever may be the situation the fact that the respondents have not been able to prove their case will go against them and we do not agree that seniors were actually left out ~~because~~ because if that would have been so the matter would have been agitated immediately after the publication of the panel and not after a long time. Perhaps if it was so the administration would have also taken steps to modify or cancel the panel within its currency. Therefore, the plea taken that seniors were left out though they were successful, because of the wrong arrangement of seniority i.e. in violation of para 216(h) is

is rejected. As a matter of fact as late on 23/1/1980 the deputy Controller of stores, Alambagh, Lucknow request to increase the panel from 40 to 50 had been rejected.

7. The respondents have relied on the case of Remesh Chand Malik Versus Union of India and others J.L.J. 1987 (2) 61801 in this case the cuttack bench of this Tribunal had hold that the applicant could not be made to suffer for mistake of the Department.

As has been pointed out above it had been admitted by the respondents that there was no administrative error and the inclusion of the name was done on the request of the Union.

Therefore it cannot be said that the panel was amended because there was a mistake made by the Department. No material has also been brought before us to support this view.

We can only say that the powers thus exercised by The General Manager were arbitrary and not in keeping with the principle of natural justice. To quote Benjamin Cardozo

J, "The judge, even when he is free, is still not wholly free he is not innovate at pleasure he is not a knight roaming at

will in pursuit of his own idea of beauty or of goodness. He is to draw his inspiration from consecrated principles, He is not to yield to spasmodic sentiment to vague and unregulated benevolence. He is to exercise a discretion informed

by tradition, methodized by analogy, disciplined, by system and subordinated to the principle of necessity of order

in the social life." There could be nothing better to say

in regard to the exercise of powers by those, who have to

judge an issue brought before them, we feel that the General

Manager had over stepped the principles enunciated and the panel could not be amended by him at that late stage.

8. In H.L. Vijn and others versus Union of India and others 1984(1) 3 L.R. 99 a Division bench of the Delhi High Court

had held that it is well settled that when material shows that

the decision has been made in total disregard of the principles enunciated in the said judgment, it is not binding.

10

considerations and not an existing or irrelevant basis the decision can only be described as arbitrary and it will fall of Article 14 of the Constitution. It was further observed that from a positivistic point of view, equality and arbitrariness are antithetical to each other. Equality is antithetical to arbitrariness and equality and arbitrariness are sworn enemies. One belongs to the rule of law while the other to the whim and caprice of an absolute monarch. Therefore the action of the General Manager in amending the panel after it had already exhausted can best be termed as arbitrary and not in accordance with rules and therefore it has to be set aside.

9. In Registration U.A no 314 of 1987, Suresh Prasad Chobey versus Union of India and others In para 7 we had said so

"The Government respondents have admitted that they included the name of the respondent no 3 in the panel declared on 7/4/82 on 22/2/85 after the Railway Board gave them instructions to enlarge the panel and to include the name of respondent no 3 as hand qualified in the selection held in 1981 but could not be empanelled because he was not senior enough. Since no panel existed after the panel of 7/4/82 got exhausted, there was nothing which should have been enlarged and the order given by the Railway Board by their letter no E(AG) 1/83 /111 /45/AFIR dated 30/1/85 was as a matter of fact an ineffective order and could not be enforced. In this letter the Railway Board have taken the plea that in 1981 LL administration did not take into account one post of Hindi Superintendent in the grade of Rs 700-900 created in LL and the consequent vacancy on account of the same in the category of Hindi Assistant Grade 1. They have further said that the post was to filled by a direct recruit earlier and after someone had

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When the Board decided that it should have been filled by promotion, they have taken action to fill it up as a regular measure and this was contrary justification given by BLA. There is no doubt that the post was sanctioned in 1981 but on Government respondents on overment this post fell in the quota of direct recruitment and was only on 29/5/82 that the Board took a decision to fill it up by promotion. Thus at the time when this post was declared to be filled by promotion, the panel, as a result of the selection held in 1981 had already been finalised and perhaps also exhausted. The blame, therefore for not counting this vacancy could not have been thrown on shoulders of BLA by the Railway Board. The fact remained that the panel was finalised on 7/4/82 and at that time the post of Hindi Superintendent was direct recruitment post and it would not have created a consequential vacancy which could have been included in the total number of post to be filled while forming the panel as a result of 1981 selection. Therefore we are not convinced that the orders given by the Railway Board were based on correct facts and that they were not in violation of the existing rules on the formation of panel. Such an order is, therefore, liable to be set aside as this may effect the promotion prospects of the petitioner and thus inclusion of the petitioner and thus inclusion of the respondents no 3 in the panel by enlarging it cannot be sustained."

10 -On the above observations we allow the petition. The orders issued by the respondents on 15/3/80, 12/7/80 and 15/1/82 which have been challenged by the petitioner are quashed. The

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~~and~~ The petitioner will be further eligible for being  
considered for the post of senior clerk in accordance  
with the seniority position which should be prepared in terms  
of para 302 of the Indian Railway Establishment Manual.  
The parties are left to bear their own costs.

Member J

Member A

Vice Chairman

Ajay Jauhari

Dated December 14/1987

बअदालत श्रीमान

Before the Hon'ble Central Government  
Muzamil, Allahabad  
Jehunw Branch, Lucknow  
वादी (मुद्दी) M. D. Pal, R. K. Gupta, B. L. Prasad  
मुद्दी (मुद्दालेह) M. D. Pal

महोदय

वकालतनामा

A106

Chs Pandey and others

Union of India and others

प्रतिवादी रेस्पान्डेन्ट

नं० मुकद्दमा

140

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पेशी की ता०

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

S. C. Tripathi, Advocate

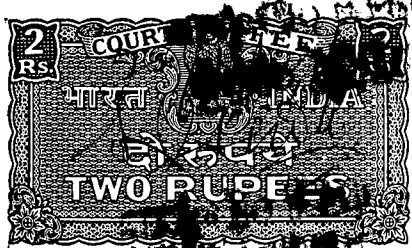
55/25, Gur Nagar, Alambagh, Lucknow

वकील

महोदय

एडवोकेट

को अपना वकील नियुक्त करके (इकरार) करता हूँ और लिखे देता हूँ इस



स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी करें या अन्य कोई कागज दाखिल करें या डिगरी जारी करावें और रुपया वशूल करें या तथा अपील व निगरानी हमारी ओर से हमारे ब्रल करें और तस्दीक करें या मुकद्दमा उठावें या हमारी या विपक्ष (फरीकसानी) का दाखिल करे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या होदय द्वारा की गई वह कार्यवाही हमको सर्वथा यह भी स्वीकार करता हूँ कि मैं हर पेशी नगर को भेजता रहूँगा। अगर मुकद्दमा अदम पैरवी फैसला हो जाता है उसकी जिम्मेदारी मेरे

वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

Power accepted  
S. C. Tripathi  
Advocate

हस्ताक्षर R. K. Gupta

Mahadeo Pal

साक्षी (गवाह)

साक्षी (गवाह)

S. C. Tripathi

B. L. Bejapati

दिनांक

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Before Central Administrative Tribunal

Lucknow bench, Lucknow

Index in

Counter Statement

In

Registration No, OA No. 148 of 1990

Chandra Kumar Pandey & others .....Petitioners

Versus

Union of India & others ..... Respondents

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Signature of the applicant (Respondent)

Mahadeo Pal

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In the Central Administrative Tribunal  
Lucknow Bench, Lucknow  
Counter Statement

In  
OA No. 148 of 1990

Chandra Kumar Pandey & others ..... applicants

Versus  
Union of India & others

The counter statement on behalf of Respondents No. 3 to 18 showeth as under:-

- (1) That the respondents have gone through the contents of petition filed by the applicants and understood the same. Respondents are in a position to reply the same.
- (2) That the contents of para(5) are wrong and denied, the application is extremely time barred.
- (2A) That the contents of para 6(i) of the application are not admitted as the same stand. The copy of seniority list of clerks dated 29.7.89 has not been attached with application to reveal the actual position of the seniority of the applicants.
- (3) That the contents of para 6(2) are not related to the respondents. However, it is stated that applicants were promoted as Sr. Clerk on adhoc basis.
- (4) That the contents of para 6(3) are admitted to the extent that the applicants were promoted on adhoc basis on different dates. The copies of promotion orders have not been annexed purposely with the petition by the applicants.
- (5) That the contents of para 6(4) are admitted. It is pointed out that the respondents No. 3 to 18 are serving graduates. All these respondents appeared in a selection for the post of Sr. Clerk for filling up the vacancies which arose for graduate clerks from 1.10.80 in terms of Rly. Boards letter No. PC-III-81/UPG/7 dated 18.6.81 copy of which is attached and marked as CA-I to this statement. It is also pointed out that these respondents qualified the selection on the basis of written test held on 2.6.85 followed by Interview on 14th & 16th August 1985 which was circulated by General Manager(P)/N.Rly/NDLS vide his letter No. 220E/1843/Pt II(Rectt) dated 23.9.85. All these respondents (serving graduates) were promoted

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Mahadeo Pal

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as Sr. Clerk on 8.10.85 on regular basis after they were selected by selection board. It is further stated that 6 respondents serving graduates had been officiating on Sr. Clerk on adhoc basis prior to their regular promotion from the above mentioned date. The period of adhoc promotees of the serving graduates are mentioned as below:

1. Shri Mahadeo Pal from 19.4.83 to 7.10.85
2. " K.K. Sharma from 19.4.83 to 7.10.85
3. " R.T. Tiwari from 31.12.83 to 7.10.85
4. " Sudhir Kumar from 6.12.83 to 7.10.85
5. " H.P. Singh from 6.12.83 to 7.10.85
6. " Girja Shankar from 19.4.83 to 7.10.85

- (6) That it is stated that although the above mentioned respondents have been promoted as Sr. Clerk on adhoc basis during aforesaid period but the same were not regularised in continuation of their regular promotion from 8.10.85. All these respondents serving graduates including the above 6 persons were given regular promotion from 8.10.85. Only after they were selected by the selection Board in accordance with the provision of Rly. Board's letter No. PC-III-81/UPG/7 dt. 18.6.81. As per direction of Rly. Board the regularisation of promotion can only be given after selection. It is also pointed out that most of the respondents of the adhoc promotees had been promoted on adhoc basis earlier to the promotion of applicants. Applicants No. 5, 9, 10, 11 to 15, 16 & 17 had been promoted on adhoc basis after the promotion of 6 respondents mentioned above. This fact has been revealed from their own submission in para 6(3) of the petition. Applicants No. 1 to 4 were promoted on adhoc basis from 19.4.83 when the respondents No. 3, 4 & 8 were promoted. It is stated that respondents can not be discriminated in continuation of this regular promotion from those of applicants who are seeking the wrong relief through the petition for regularisation of adhoc promotion.

- (7) Contents of para 6(5) are admitted.

- (8) Contents of para 6(6) are not related to the respondents.

....3/-

Mahadeo Pal

However, it is stated that staff transferred from one division to another can not be junior to the adhoc promotees in the same cadre.

- (9) Contents of para 6(7) are not related to the respondents.
- (10) Contents of para 6(8) are also not related to the respondents.
- (11) Contents of para 6(9) are not related to the respondents.
- (12) Contents of para 6(10) are denied. It is reasserted that the adhoc promotees can not be senior to those of the promotees on regular basis after they were only selected by the selection board. Allahabad High Court & different other high courts have held that the period of adhoc promotion can not confirm the right to the adhoc promotees for regularisation of the same. It is stated that respondents appeared in the selection board and qualified the same for the promotion in the cadre of Sr. Clerk. The respondents were given the regular promotion from 8.10.85 only after their selection. The applicants petitioners appeared in selection on 21.7.88 much after the selection of respondents and as such they were given the regular promotion from 22.8.88 as circulated by Dy. COS Nrly/AMV vide his office O/No E/172 dated 22.8.88. It has wrongly been mentioned that ~~the~~ the selection of the applicants could not be held because of ~~the~~ the stay order passed by Hon'ble High Court writ petition No. 1183 of 1982. This is falsified from the fact that no documents were annexed with the petition to this effect. The administration can know better about it.

- (12 a) It is stated that seniority panel of the respondents was circulated on 15.10.85 vide office O/No. E/282 by Dy. COS/ N.Rly/AMV/LKO which was not challenged by the applicants at that time. Further, it is pointed out that the panel of applicants was declared on 22.8.88 vide office O/No. E/172 by the respondent No. 2. Even then the seniority and panel position of respondents were not challenged by the applicants. It is mentioned that all the respondents promoted as Head Clerk from 13.4.88 vide office O/No. E/177 copy of which has been attached as annexure No. 3 with the application. Applicants did not challenge

In these cases where seniority dispute between adhoc promotee & regular promotee involved

the promotion order of the respondents in April 13, 1988. The seniority list of the respondents relating to the cadre of Sr. Clerk was never challenged. Copy of the seniority list dated this being attached and marked as annexure No. CA II.

(13) Contents of para 6(11) are admitted.

(14) Contents of para 6(12) are admitted. Para itself shows that the selection of the applicants was not withheld on account of any stay order passed by the Hon'ble High Court in writ petition of 1183 of 1982.

(15) That it is stated that promotion of the some of the applicants were regularised from 19.4.86 according to the *G.M.(P). N.D.L.S.* vide his letter No. 961 E/3/7/88 *#18 10/85*. This fact was not revealed by the applicants in the petition. According to these orders some of the applicants were allowed special pay and appointed to officiate as Head clerks from back dates. Copies of the letter dated 10.10.89 and 15.11.89 are attached and marks on annexure No. CA III to this statement. It is stated that respondents ~~XXXX~~ were promoted on regular basis from 8.10.85 whereas some of the applicants were given regular promotion from 19.4.86 in the cadre of Sr. Clerk. As such the respondents are legally entitled to be confirmed on the post of Sr. Clerk as well as Head Clerk prior to the confirmation of those applicants regularised on 19.4.86. It is also stated that above mentioned orders were also not challenged by the applicants at any time.

(16) Contents of para 6(13) are wrong and vehemently denied. It is reiterated that applicants have never challenged the seniority and promotion of the respondents in the cadre of Sr. Clerk as well as Head Clerk. The order dated 1.3.90 is nothing but back dating of 37 staff. It is neither an original promotion order nor a seniority list. Applicants have filed the petition much after the expiry of limitations under the provision of the act.

(17) Contents of para 6(14) are wrong and denied. The applicants have never approached to Dy. COS in connection with the seniority list of ministerial cadre.

(18) Contents of para 6(15) are not related to the respondents.

- (19) Contents of para 6(16) are wrong and misconceived. It is admitted to the extent that respondents have been confirmed on the post of Head Clerks with effect from 19.4.86. It is pointed out that the respondents have already been promoted on the post of Head Clerk and they were confirmed from 19.4.86 vide office order dated 1.3.90 alike some of the applicants and other staff of this office. It is reiterated that the applicants have appeared in the selection of Sr. Clerk on 22.8.88 but the promotion of some of the applicants were regularised from 19.4.86 in the cadre of Sr. Clerk. It is further stated that the applicant No. 1 Shri Chandra Kumar Pandey was promoted as Head Clerk from 23.6.89 but subsequently his promotion was back dated from 1.8.86 vide the same order dated 1.3.90. Similarly applicants No. 2 Shri T.N. Shukla was promoted as head clerk on 11.9.89 and his promotion was also back dated from 1.1.87 vide same order applicants No. 4 was promoted as Head Clerk from 15.10.89 and subsequently back dated from 1.9.87 in the same order. It is mentioned that the respondents have rightly been confirmed and applicants did not enlighten their back dating promotions vide the same order dated 1.3.90.
- (20) Contents of para 6(17) are not admitted on the same stands. It is stated that applicants No. 1 to 4 had been promoted on head Clerk on the different dates mentioned in para 19 above. The promotion of these applicants were given from back date vide office order dt. 1.3.90 alike the respondents. This fact has not been mentioned in para 6(17) of the petition.
- (21) Contents of para 6(18) are wrong and misconceived. It is stated that applicants are not entitled for regularisation of the adhoc promotion. The respondents appeared in the selection in June 1985 and were selected on 23.9.85 whereas applicants appeared in the suitability test of Sr. Clerk on 21.7.88 and they were selected and promoted from 22.8.88 on regular basis. It is also stated that applicant No. 12 Shri Kashi Prasad was appeared in selection of Sr. Clerk against the vacancies of serving graduate clerks held on 22.6.85 and failed in test whereas other applicants had no ~~chance~~ to fulfill the condition of the selection. Shri Kashi Prasad alongwith other

\* requisite eligibility

Seniority

applicants passed the suitability test of Sr. Clerk held on 21.7.88. By virtue of the above position and regular promotions the applicants are not entitled to be promoted and confirmed on the post of Sr. Clerk as well as head clerk prior to the dates of promotion and confirmation of the respondents.

- (22) Contents of para 6(19) are wrong and denied. It is stated that seniority positions of staff are governed with statutory provisions of Railway Establishment Manual and Railway Board's letter issued from time to time. It is stated that Hon'ble Supreme Court has not held for counting of seniority on the basis of adhoc promotions. It is also stated that Shri R.S. Pandey & others of this office have already filed a petition.....  
 CAT-ALD.....for regularisation of their adhoc officiation but the same was dismissed by Hon'ble tribunal. Copy of the judgement is attached and marked as annexure no. CA IV to this statement.
- (23) Contents of para 7 are denied.
- (24) That the contents of para 8 need not require any comments.
- (25) Contents of para 9 are denied. It is stated that applicants are not entitled for the relief as paid for.
- (26) Contents of para 10 are also denied. The applicants are not entitled for any interim relief. The grounds have not been setout by the applicants either for the relief or for interim order. It is mandatory within the provision of Central Administrative Tribunal act. The order dated 1.3.90 has been operated long before. The question of staying the operation at this stage does not arise.
- (27) Contents of para (11) to (13) need no comments.

VERIFICATION

We respondents No. 3 to 18 do hereby verified

Maheshwari Pal

....7/-

that contents of para 1 to 27 are true to our personal knowledge and belief based on perusal of records and legal advice. Nothing material facts have been concealed and suppressed.

Signed and verified on this date of .....

Respondents No. 3 to 18

Mahadeo Pal

S. C. Tripathi

Ramchandra Singh

Krishan Kumar Sharma

R. K. Gauram

B. L. Bajaj

H. P. Singh

A. K. Gupta

Sudhir Kumar

S. K. Srivastava

O. S. Verma

N. K. Srivastava

K. K. Srivastava

S. K. Singh

G. S. Sanyal

1-10-1980

A115

General Secretary  
Ministry of Railways  
100-2, Connaught Place  
NEW DELHI

Government of India  
Ministry of Railways  
(Railway Board)

No. PC111/81/UPG/7

New Delhi, dt. 18.5.80

8/

The General Managers,  
All Indian Railways,  
CIW, DLW, ICF, MTP (Railways) Calcutta,  
Wheel & Axle Project, Bangalore.

Subject: Restructuring of the Cadre of Ministerial  
Staff of Departments other than Personnel.

The Ministry of Railways have had under consideration the question of restructuring of the Ministerial Cadre of Non-accounts Departments other than Personnel in the wake of upgradations done in the case of Personnel Department vide their letter No. PC111/80/UPG/21 dated 10.11.1980. As a result of agreement reached with the staff side in the Departmental Council (JCM), it has now been decided as under:-

- (i) There shall be direct recruitment of graduates to posts of Senior Clerks in scale Rs.330-560 to the extent of 20% of the total strength. The direct recruitment will be made through the Railway Service Commission.
- (ii) 75.1/3% of the total posts of Senior Clerks in scale Rs.330-560 will be filled from amongst the Graduate Clerks already serving in the lower Grades after allowing them the age relaxation already in force. These vacancies will be filled up by a competitive examination to be held by the Railway Service Commission. In the event of Graduate Clerks not being available from amongst the serving employees to fill this quota, the residual vacancies will be filled up by direct recruitment through the Railway Service Commission, over and above the 20% quota referred to in (i) above.
- (iii) Consequent upon induction of direct recruitment of graduates at the level of Senior Clerks, the gradewise percentage distribution of posts in the Ministerial Cadre will now be as under:-

<u>Careerory</u>	<u>Scale of Pay</u> Rs.	<u>Percentage</u>
Office Suptt.	700-900	2.5%
Chief Clerk	550-750	7.0%
Head Clerk	425-700	13.0%
Senior Clerk	330-560	57.5%
Clerk	260-400	20.0%

*maheela Paul....*

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2. These orders will take effect from 1.10.1980 but no arrears shall be payable on this account. The pay of an employee appointed to the upgraded post may be fixed proforma from 1.10.1980 but the actual payment of emoluments in the higher post should be allowed only from the date he takes over charge of the upgraded post. This has the sanction of the President.

3. All vacancies of Senior Clerks (Rs.330-560) existing on 30.9.1980 should be filled up in accordance with the orders in force prior to the issue of this letter. All vacancies arising on or after 1.10.1980 shall be filled in accordance with the proportion prescribed herein.

4. The staff of the Personnel Department will be governed by instructions contained in this Ministry's letter No. PC111/30/013/21 dated 10.11.1980 except that the level of direct recruitment in scale Rs.330-560 - in Personnel Department also will be 33.1/3%, and will be regulated in accordance with Para 1(i) & (ii) above.

5. This has the sanction of the President.

6. Hindi version will follow.

Sd/- x x x x  
Jt. Director, Establishment,  
Railway Board.

L. F. I. R.  
NATIONAL FEDERATION OF INDIAN RAILWAYMEN  
Central Office,  
7, Chelmsford Road,  
DELHI - 55

Ref: DC-11(2), IV

Dt: 20th June, 1981

Copy forwarded for information and necessary action to:

1. All affiliated Unions.
2. All members of the Working Committee.

*Keshav H. Kulkarni*  
(Keshav H. Kulkarni)  
General Secretary

*m. Pal*

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CH-II

3 copies.

(10)

Provisional Seniority List of Sr. Clerks, SAs in Grade Ls.350-550(BS) of Stores/ AMV, CB, ISL/CB, RPD/CND,  
FIN / MDS, T.F.P./AMV as on 31.3.1979.

S.No. Name Dept. D.C.B. SO/SP D.O.A. SUB-C. Date of Sanctioned Strength = 115. Qualification Remarks.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.
L. Sri K.N. Dixit. AMV	21.6.34	No	1.1.57	3.1.57	350-550	21.4.66							
M. V.S. Gulleti	1.4.37	No	22.7.59	Clerk	260-400	21.4.66	Sr. Clerk	350-550	28-1-77				High School.
M. Mahadeo Pai	3.9.51	No	14.8.76	Ty. Clerk	260-400	19.1.77							Working as SDO
Krishnan Kumar	1.9.56	No	13.10.79	-do-	260-400	Ty. Clerk							
Pam. Pundaj	8-3-55	No	8.12.61	-do-	260-400	Ty. Clerk							
Surekha Kumar	1.7.58	No	18.1.83	-do-	260-400	Ty. Clerk							
Om Shanker Verma	3.7.60	No	17-3-80	-do-		Ty. Clerk							
Sudhakar Kumar	2-1-57	No	1.1.1.60	-do-		Ty. Clerk							
Surekha Kumar	1.8.54	No	5.12.80	-do-	260-400	Ty. Clerk							
Amal Kumar	6.9.54	No	5-4-68	-do-	260-400	Ty. Clerk							
K. Mahadeo Pai	5.4.55	No	11-3-61	-do-	260-400	Ty. Clerk							
S. Mahadeo Pai	10-5-57	No	3.3.57	-do-	260-400	Ty. Clerk							
P. Mahadeo Pai	15-3-56	No	24-3-57	-do-	260-400	Ty. Clerk							
M. Mahadeo Pai	1.10.58	No	2.10.58	-do-	260-400	Ty. Clerk							
M. Mahadeo Pai	12-1-58	No	10-1-57	-do-	260-400	Ty. Clerk							
M. Mahadeo Pai	23-7-58	No	3.7.58	-do-	260-400	Ty. Clerk							

2/1

per. Paid

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(11)

3 copies

1. Sri Girja Shanker	AMV	13.4.53	S.C.	5-10-79	Clerk	260-400	Ty. Clerk	Sr. Clerk	330-560	19-4-'83	Adhoc	B.A., L.L.B.
18. " Saral Kumar Sivasastava	CNB	15-6-57	MO	17-8-82	Clerk	260-400	Ty. Clerk	Sr. Clerk	330-560	8.10.85	Regular	B.A.
19. Smt. Veena Vohra.	AMV	16.10.57	MO	17-7-79	Clerk	260-400	Ty. Clerk	Sr. Clerk	330-560	20.11.81	Regular	H.S. Transferred Came on 12-6-'86.
20. Sri Satv Kumar Miera.	AMV	15.12.54	MO	17-8-82	Clerk	260-400	Ty. Clerk	Sr. Clerk	330-560	19.4.83	Regular	B.A. Comes on request.

No. 67/3.

Dated: 4-4-1987

The list is provisional and representative, if any should be submitted with in one month from the date of issue. If no representation received within this time the Seniority stand as it is.

Copy to : 1) DCOB/N.B.V./Charbagh, Lucknow. (2) JCOB/DBL/CB.LEO. (3) ACO SEED/CNB. (4) ACOB/VYN & MGS. (5) Secy/D.P.P./AMV, Lucknow. (6) Br. Secretary NEMU/AMV. (7) Br. Secretary CEMU/AMV. (8) Notice Board.

Dy. Controller of Stores,  
N.B.V. Alambagh, Lucknow.

m. Pal

CA 4 copies

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ANNEXURE No.A-1

Record notes on discussions of informal meeting held with General Secy.URMU in the Chamber of CPO on 18.10.1989.

The following were present :-

Administration sideUnion side

1. Sh.K.L.Sikka, CPO
2. Bhagwan Dass, SPO(U)
3. Miss Kanwal Sachdeva, SPO(HQ)

- Sh.P.N.Sharma;
- Genl.Secy./URMU

General Secy./URMU complained against non-implementation of decision arrived at in para-2 of the information meeting held with him in the chamber of COS on 28.3.89.

Under this para, a decision had been taken that since some junior persons had been given the benefit of regularisation with effect from 1.1.84, the senior persons who had been officiating as Sr.Clerk on ad hoc basis since 1983 onward pending suitability test may also be considered for regularisation as such w.e.f. 1.1.84.

During the discussion it was pointed out by SPO(HQ) that against the above mentioned decision a reference was received from Dy.COS/LKO vide his letter No.911-E/URMU Corr. dt.13 Sept.89 pointing out that there had been no upgradation in the cadre of UDCs as a result of restructuring and accordingly the question of some junior persons having been regularised as such w.e.f.1.1.84 does hardly arise. Also he pointed out that when the base on which the above mentioned decision against para 2 was given is not correct, it would not be correct to implement decision of regularising other Sr.Clerks w.e.f. 1.1.84 officiating on ad hoc basis earlier to that. The position was checked up and it was found that actually there had been no upgradation in the cadre of UDCs as a result of restructuring w.e.f. 1.1.84 in any office over Northern Railway. However, the fact remains that number of clerks Gr.260-400/950-1500(RPS) had been officiating on ad hoc basis as Sr.Clerk Gr.330-560/1200-2040(RPS) some time from 1983 because of the stay against suitability test given by the High Court/ALD on 16.3.82. It was only on 14.12.87 when a decision was given by CAT/ALD and suitability test could be arranged by the office on 21.7.88 and the result was declared on 22nd August '88. It was emphasised by the General Secy.URMU that the staff who had been continuously officiating on ad hoc basis on overall seniority against regular vacancy should not suffer for their regularisation because of the court case. He also drew the attention to the decision given against PNM item No.215/89 (review item 215/88) of NRMU in the PNM meeting held with G.M. on 5/6 September '89. As per this decision, certain clerks Gr.260-400/950-1500(RPS) of the office of DCOS/LKO who had been officiating on ad hoc in Gr.330-560/1200-2040(RPS) for a number of years have been ordered to be regularised from the date they have completed three years continuous ad hoc officiating in Gr.330-560/1200-2040(RPS).

After discussion it was decided that all those clerks Gr.260-400/950-1500(RPS) who were appointed to officiate as Sr.Clerk Gr.330-560/1200-2040(RPS) by Dy.COS/LKO in the year 1983 under Office Order No.E/81 dated 23.4.83 and they are continuously working as such without break may also be regularised from the date they have completed three years continuous officiating in Gr.330-560/1200-2040(RPS).

Sd/- Illegible  
(Bhagwan Dass)

for General Manager(P)

No.961-E/111/7/88/URMU/F.Union Dt.18.10.89

m. Patel

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-2-

Copy for information and necessary action to:-

1. Sr. Personnel Officer (HQ), N.Rly., Baroda House, New Delhi.
2. Genl. Secy. URMU.

for. Dal

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A/21

NORTHERN RAILWAY

ANNEXURE No.A-1

Office order No.1/350

Dated: 15.11.1989

(1) Regularisation orders of Sr.Clerks from 1.1.84 under restructuring orders, which were pending vide O/O E/251 dated 29.9.89 is now cancelled in terms of record notes on discussion of Informal Meeting held with General Secretary URMU in the Chamber of CPO on 18.10.89 circulated vide G.M.(P)/NDLS letter No.961E/III/7/88/URMU /E.Union dated 18.10.89.

In terms of minutes of PNM Meeting held with NRMU at GM (P)'s level on 5/9 & 6.9.89 vide item 215/88 the following Sr.Clerks working on adhoc basis are regularised as S/Clerk from 19.4.86,

- |    |                      |          |
|----|----------------------|----------|
| 1) | Sri Puram Masi       | Alambagh |
| 2) | Sri Ram Milan Tewari | Alambagh |
| 3) | Sri Shob Balak       | Alambagh |
| 4) | Sri Jagdish Prasad   | Alambagh |
| 5) | Sri Babu Singh       | Charbagh |
| 6) | Sri Ram Adhar Singh  | Charbagh |
| 7) | Sri S.N.Trivedi      | Alambagh |
| 8) | Sri Kishori Lal      | Charbagh |

(II) In terms of record notes on discussion of informal meeting held with the General Secretary URMU, circulated vide GM(P)/NDLS letter No.961E/III/7/88/URMU/E.Union dated 18.10.89 the following employees working as Sr/Clerk on adhoc basis since 19.4.83 and are continuously working as such without break are regularised as Sr/Clerk with effect from 19.4.86.

- |     |                        |             |
|-----|------------------------|-------------|
| 1)  | Sri S.Karamkar         | HC/DSB/AMV  |
| 2)  | " Radhey Shyam         | HC/DSB/AMV  |
| 3)  | " Panna Lal Seth       | HC/DSB/AMV  |
| 4)  | " Bal Kishore          | "           |
| 5)  | " C.K.Pandey           | "           |
| 6)  | " K.N.Kelviya          | "           |
| 7)  | " Gulshan Lal          | "           |
| 8)  | " Putti Lal            | Charbagh    |
| 9)  | " Ram Shankar          | CNE         |
| 10) | " R.D.Saxena           | HC/AMV      |
| 11) | " Mannu Ram            | DSK/III/MGS |
| 12) | " Rama Shankar         | HC/AMV      |
| 13) | " Shyam Sunder         | HC/CB       |
| 14) | " Radhey Lal           | HC/AMV      |
| 15) | " Jang Bahadur Shikla  | "           |
| 16) | " C.N.Tripathi         | DSK/III/CP  |
| 17) | " Jagmohan Lal         | HC/AMV      |
| 18) | " Sanketha Prasad      | S/Clerk/CP  |
| 19) | " T.N.Shukla           | HC/CB       |
| 20) | " R.S.Pandey           | HC/CB       |
| 21) | " Mohd.Yasin           | S/Clerk/CB  |
| 22) | " V.N.Asthana          | HC/AMV      |
| 23) | " Parasu Ram Singh     | HC/CB       |
| 24) | " Mohan Lal Singh      | HC/AMV      |
| 25) | " L.S.Pandey           | HC/AMV      |
| 26) | " Ilai Lal             | "           |
| 27) | " Sohan Lal            | "           |
| 28) | " Chandra Pal Singh    | "           |
| 29) | " Kailash Pandey       | DSK/III/MGS |
| 30) | " Ram Nath             | HC/AMV      |
| 31) | " Bachcha Ram          | DSK/III/AMV |
| 32) | " Shiva Kumar Misra(I) | DSK/III/AMV |
| 33) | " K.D.Tripathi         | "           |
| 34) | " D.C.Srivastava       | S/Clerk/AMV |
| 35) | " M.K.Sharma           | HC/CNE      |

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- |     |   |                  |             |
|-----|---|------------------|-------------|
| 36) | " | Hard Nath Pandey | "           |
| 37) | " | Kartar Singh     | " /CNB      |
| 38) | " | S. Paswan        | " /MGS      |
| 39) | " | Bishan Nar Dayal | DSK/III/CB  |
| 40) | " | Lalji Pasi       | " /AMV      |
| 41) | " | Sheo Behari      | " /AMV      |
| 42) | " | Sheo Ram         | " /CNB      |
| 43) | " | S.P. Dass        | DSK/III/AMV |
| 44) | " | A.K. Adhikari    | HC/AMV      |
| 45) | " | H.S. Maurya      | DSK/III/AMV |
| 46) | " | A.K. Mulviya     | HC/AMV      |

Note:- above regularisation is provisional as pending cases and regularisation of few seniors is under reference with Head Quarters.

Sd/- Illegible  
for Dy. Controller of Stores,  
Alambagh/Lucknow.

Copy to the following for information and necessary action:-

- 1) SAO(W)/AMV and CB. (2) DCOS/CB (3) ACOS/ETD/CNB, MGS, ASPS/TPP. (4) Branch Secretaries NRMU and URMU (5) Parties concerned.

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dated 16/10/1982 on the representations made by the petitioners on 16.2.1982 saying that the ad hoc promotions gives no claim and the persons who have brought on one and the same panel will maintain their original seniority, the inter se seniority not being disturbed. The third impugned order that has been challenged by the petitioners is dated 16.2.1982 which gives a list of the clerks working in the grade of B-260-400 (HS), who were required to appear in the suitability test for promotion as Senior Clerks. The petitioners have further asked for determination of the seniority in accordance with the provisions contained in para 302 of the Indian Railway Establishment Manual. In the grounds for preferring the writ petition they have only mentioned that seniority given to respondents 5 to 18 was in contravention of the statutory provisions of para 302 of the Indian Railway Establishment Manual because the petitioners were promoted much earlier than the respondents 5 to 18 and because their representations for giving them seniority from the date they started officiating have been rejected.

5. Para 302 of the Indian Railway Establishment Manual is on the subject of Seniority in Initial Recruitment Grade. It says that seniority among the incumbents of a post in a grade is governed by the date of appointment to the grade. It further goes on to say that in categories of posts partially filled by direct recruitment and partially by promotion, seniority should be determined by the date of promotion in the case of a promotee and date of joining of the working post in the case of direct recruit subject to maintenance of inter se seniority of promotees and direct recruits among themselves.

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The petitioners' claim is that since they started working on ad hoc basis in 1972 and 1974 they should be given seniority from those dates.

7. In the case of Arjun Gulati v. B.S. Jain (AIR 1983 S.C. 478) the Hon'ble Supreme Court had observed thus :-

"According to the accepted canons of service jurisprudence seniority of a person appointed must be reckoned from the date he became a member of the service.....It is well settled that an ad hoc or fortuitous appointment on a temporary or stop-gap basis cannot be taken into account for the purpose of seniority even if the appointee was qualified to hold the post of a regular basis, as such temporary tenure hardly counts for seniority in any system of service jurisprudence."

8. In the case of P.D. Agarwal & others v. State of U.P. & others (1987 (4) SCR 134) in para 27 of the judgment the Hon'ble Supreme Court had observed thus :-

"27. Similar observations were also made by this Court in the case of State of Gujarat v. C.G. Debai, (1974) 2 SCR 255. Therefore we make it clear that the period of service rendered by the ad hoc appointees before their service has been duly regularized in accordance with the regularisation rules cannot be taken into account in reckoning their seniority in service. Their seniority in service will be counted only from the date when such ad hoc appointees after regularisation in accordance with concerned rules have become members of the service."

9. The above ratios make it clear that the period of service rendered by the ad hoc appointees before their service has been duly regularized in accordance with the regularisation rules cannot be taken

ms. pal

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into account in reckoning their seniority in service. The length of continuous officiation cannot be reckoned as basis for determining the seniority in case of those who are appointed in purely ad hoc stop-gap arrangement basis against the rules of regular promotion. Seniority can only be reckoned from the date a person becomes a member of the service. The Hon'ble Supreme Court had held in Ashok Gulati's case that no principle or rule lays down that the length of continuous officiation is the only relevant criteria in determining seniority in a particular grade or cadre irrespective of any specific rule of seniority to the contrary. They had further said that the principles laid down in the two leading cases of 'K.K. Chughan & S.B. Patwardhan' which were reiterated by them and in 'Balshwar Dasa's case' and subsequently followed in several decisions are not an authority for any such proposition.

10. There is no doubt that the petitioners were appointed on ad hoc basis, one in 1972 and the other in 1974. In view of the aforesaid pronouncement by the Hon. Supreme Court the period of continuous officiation cannot be counted for giving them seniority and, therefore, their petition on the ground that they should be given <sup>not</sup> seniority on the basis of their empanelment on 4.11.1977 but on the basis of their continuous officiation after their ad hoc promotions is liable to be rejected.

11. On the above considerations we dismiss this writ petition without any order as to costs. (M)

Vice-Chairman.

Member (A).

Dated: December 14, 1987.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW

O.A. No. 148 of 1990

Chandra Kumar Pandey & others ..... Applicants

Versus

Union of India & others ..... Respondents

Rejoinder to the counter statement of  
respondent Nos. 3 to 18.

The applicants most respectfully submit as  
under :-

1. That the respondent Nos. 3 to 18 put in appearance after the arguments of applicants and opposite parties 1 and 2, that is, the Railway administration, were heard and the judgment was reserved. The aforesaid respondents were permitted to file only written arguments but apart from this they have also filed counter statement and as such the same is liable to be rejected.
2. That para 1 of the counter statement needs no comment.
3. That para 2 of the counter statement is baseless and as such the same is denied and the averments made in para 5 of the original application (herein-after referred to as application) are reiterated.
4. That the contents of para 2A of the counter state-

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Mohd Ilyas

ment as stated are denied and the averments made in para 6(1) of the application are reiterated as correct. It may be submitted here that the seniority position as mentioned in para 6(1) of the application has been accepted by the railway administration. Moreover the same position can be clarified by the seniority list dated 29.7.1989 of clerks circulated by the Dy. Controller of Stores.

5. That para 3 of the counter statement does not call for any comment. Para 6(2) of the application is reiterated.
6. That in reply to para 4 of the counter statement it is submitted that there is no dispute on the promotion date of the applicants to the post of senior clerk. It is submitted that promotion orders may be furnished before this Hon'ble Tribunal. Para 6(3) of the application is reiterated. Annexure-1 to the application shows the seniority position and the date of ad-hoc appointments to the post of senior clerk of the applicants.
7. That para 5 of the counter statement does not call for any comment as para 6(4) of the application has been admitted by the respondents.
8. That in reply to para 6 of the counter statement it is denied as alleged that the applicants are

Mohd-Ilyas

seeking wrong relief through the petition for regularisation of ad-hoc promotion to the post of senior clerks. It may be submitted here that those serving graduates, who were officiating on ad-hoc basis on the post of senior clerk, were given undue favour by holding their selection test for the post of senior clerk in 1985 while excluding the applicants. There was no reasonable basis for expediting the selection test for 'serving graduates' and excluding the applicants although both were similarly placed. Hence the action of the railway administration is arbitrary and discriminatory and intended to show undue favour to serving graduates. It is specifically submitted that the Hon'ble Supreme Court has ~~consistently~~ upheld that in the absence of any departmental rule in regard to seniority and promotion, the seniority from the date of officiating appointment should be counted for the purpose of seniority and promotion to the next higher post.

9. That para 7 of the counter statement needs no comment as para 6(5) of the application has been admitted by the respondents.
10. That para 8 of the counter statement as stated is denied and the averments made in para 6(6) of the application are reiterated as correct.
11. That paras 9 to 11 of the counter statement do

Mohd. Ilyas

Ans

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not call for any comment. The averments made in para 6(7) of the application are reiterated.

12. That the contents of para 12 of the counter statement are misleading and as such they are denied and the averments made in para 6(10) of the application are reiterated. It is further submitted that the regularisation test for the applicants was held on 22.8.1988 while the same test for serving graduates was held on 2.6.1985 and interview on 14th and 16th August, 1985. However, the applicants are entitled to be regularised on the said post of senior clerk from the initial date of ad-hoc promotion to the same post. The aforesaid position of counting the seniority on the basis of continuous officiation on the post on which the incumbent is subsequently regularised has been consistently upheld by the Hon'ble Supreme Court in number of cases.

- 12(a) That in reply to para 12(a) of the counter statement it is submitted that when the applicants came to know through the seniority list dated 4.6.1987 that the respondent Nos. 3 to 20 are placed in the seniority list of senior clerks and their names are not in the said seniority list though they were senior to them and working on the post of senior clerk in clear vacancy since 1983, they challenged the same by representation dated 23.6.1987. The applicants thereafter challenged the promotion order of the respondents by their representation dated 19.9.1988. Contrary

Mohd. Ilyas

averments made in para under reply are denied. It may be submitted here that there are 0115 sanctioned posts of senior clerks and the applicants have been promoted on ad-hoc basis in clear vacancy and subsequently passed the suitability test and as such they are entitled to be regularised on the post of senior clerk from the date of their initial appointment on the said post.

13. That para 13 of the counter statement needs no comment as para 6(11) of the application has been admitted in the same para of the counter statement.
14. That para 14 of the counter statement as stated is denied and the averments made in para 6(12) of the application are reiterated.
15. That the contents of para 15 of the counter statement are misleading and hence denied. It is submitted here that the order dated 18.10.1989 of G.M.(P) New Delhi for regularising a person from the date when he has completed 3 years continuous service on the post of senior clerk has no basis and as such the same cannot be applicable in the instant case. This order dated 18.10.1989 of the G.M.(P) was also opposed by the respondent Nos. 21 to 29 in their counter statement. It is further submitted that since the applicants were appointed in the <sup>substantive</sup> clear vacancy

Mohd. Ilyas

of senior clerk and are working continuously on the said post and subsequently passed the suitability test, they are entitled to be regularised on the said post since the date of their initial appointment on the post of senior clerk. It has already been mentioned in this rejoinder as well as in para 6(19) of the application that there are no departmental rules regarding seniority contrary to the aforesaid position of counting the seniority from the date of officiating appointment. This position of counting the seniority on the basis of continuous officiation on the post on which the incumbent is subsequently regularised has been consistently upheld by the Hon'ble Supreme Court in the case of G.P. Doval vs. Chief Secretary, 1985 UPLBEC(4) page 4 para 15 & 17, Narender Chadha & others vs. Union of India & others, 1986 UPLBEC 373 (SC) para 21, Direct Recruit Class II Engineering Officers' Association vs. State of Maharashtra & others (1990) 2 Supreme Court Cases page 715, Clause B of para 47 and 1992 Vol. II SVLR (L) page 284, M.B. Joshi & others vs. Satish Kumar Pandey & others with Ram Saran & ors. vs. The State of M.P. & ors. & Shri N.M. Ashthana & anr. vs. Shri Harish Kumar Ahuja & ors para 14. Contrary averments made in para under reply are denied.

16. That the contents of para 16 of the counter statement are misleading and contrary to the correct and factual position and as such they are denied

*Neha D. Dhyas*

in the light of the facts and circumstances stated hereinabove. The averments made in para 6(13) of the application are reiterated.

17. That para 17 of the counter statement is wrong and false and as such the same is denied. The averments made in para 6(14) of the application are reiterated as correct.
18. That para 18 of the counter statement does not call for any comment.
19. That the contents of para 19 of the counter statement are misleading and as such they are denied. The averments made in para 6(16) of the application and para 15 of this rejoinder are reiterated. It is pointed out that if the services rendered by the applicants on the post of senior clerks are reckoned from their initial date of appointment for the purpose of regularisation and seniority, some of them would be senior to the respondents. It is categorically denied that the respondents have rightly been confirmed on the post of head clerk.
20. That para 20 of the counter statement as stated is denied and the averments made in para 6(17) of the application are reiterated as the same are quite clear.
21. That the contents of para 21 of the counter

Mohd Ilyas

statement are denied in the light of the facts and circumstances stated hereinabove. The averments made in para 6(18) of the application are reiterated. It is further submitted that the applicants are entitled for regularisation on the post of senior clerk from the date of their respective officiating appointment on the said post and are further entitled for promotion as Head Clerks on the basis of their seniority position on the post of senior clerks.

22. That the contents of para 22 of the counter statement are baseless and meaningless and as such the same are denied. The averments made in para 15 of this rejoinder and para 6(19) of the application are reiterated. It is submitted here that Annexure CA IV is not applicable in the applicants' case.
23. That para 23 of the counter statement is wrong and false and as such the same is denied and the averments made in para 7 of the application are reiterated as correct.
24. That para 24 of the counter statement needs no comment.
25. That para 25 of the counter statement is baseless and as such the same is denied. The applicants are entitled to the relief as claimed in the application in the light of the facts and circum-

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A134

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tances stated hereinabove and in the original application.

26. That the contents of para 26 of the counter statement are categorically denied. The applicants have disclosed all the facts and circumstances in the application as well as in this rejoinder and as such they are entitled to the relief claimed in the application.
27. That para 27 of the counter statement needs no comment. In the light of the facts and circumstances stated hereinabove and in the original application, the application is liable to be allowed with costs.

Verification

I, Mohd. Ilyas, aged 32 years, son of late Mohd. Idreesh, resident of II-160 H Rest Camp Colony, N. Railway, Charbagh, Lucknow, do hereby verify that the contents of paras 1 to 27 are true to my personal knowledge and those of paras \_\_\_\_\_ are believed to be true on legal advice and that I have not suppressed any material fact.

*Mohd Ilyas*  
Applicant.

Date: 16/12/1992

Place: Lucknow.

A135

18/11/92

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW  
M.P. No. 1138 /92  
in  
O.A. No. 148/90

C.K. Pandey and others Applicants.

versus

Union of India & others Respondents.

The applicant most respectfully submits  
as under:

1. That in O.A. No. 148/90 no counter reply was filed on behalf of respondents 3 to 29 i.e. both the serving graduates and direct recruits. Hearing was held on 18.11.90 and on that day appearance was put on behalf of certain respondents.

The Hon'ble Tribunal permitted them to file written arguments only. On 20.11.92 apart from written arguments copy of the narrative brief by the respondents 3 to 18 alongwith ~~copy~~ counter was also filed on behalf of respondents 3 to 18. The applicants have come to know that the judgement is reserved.

2. That the above counter reply was filed by the respondents 3 to 29 without permission of

As judgement is reserved hence place this before the Lucknow Bench

Today 21/11/92

17.12.92

18/11/92

this Hon'ble Tribunal. It is necessary in the interest of justice that the applicants may be allowed to file rejoinder to the same to controvert the wrong and misleading averments made in the counter reply.

Wherefore, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to allow the applicants to file rejoinder to the counter reply filed by the respondents. The judgement in this case was reserved by this Court on 18-11-92

*[Signature]*  
Applicant.

Verification

I, C.K. Pandey, aged about 56 yearrs,  
son of J.P. Pandey, resident of Mardankhera  
near Raja Jee Dwar, the verifies that the contents  
of paras 1 and 2 of this application are true to  
my own knowledge and belief. No part of it is  
false and nothing has been concealed.

Lucknow: Dated: 11/12-92

*[Signature]*  
Applicant.

27 A13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD CIRCUIT BENCH  
LUCKNOW

M.P. No. 141/92 (C,

O.A.No. 148 of 1990

C.K.Pandey and others

Petitioners

Versus

Union of India and others

Opp. Parties

APPLICATION FOR EARLY HEARING

The applicants most respectfully submit as  
under:-

1. That the applicants are petitioner in the above stated case and so fully conversant with the facts and circumstances of the case.
2. That the applicant has sought relief in the above case that they should be declared senior to the respondents 3 to 29 in the seniority list of senior clerk and thereafter be promoted to the next higher post of Head Clerk on the basis of seniority list.
3. That the counter affidavit and rejoinder affidavit have been exchanged by respondents no.1 and 2 only, but other respondents have not filed counter affidavit.
4. That in term of a circular of the authority most of the respondent have applied for promotion to ~~class~~ Class II Services on the basis of they have completed 5 years service in the grade Rs.1400/- and above, while they are junior to the applicants.

Filed today

syw

11/2/92

Mohd. Ilyas

5. That if the respondents were promoted, the applicant will suffer irreparable loss and injury.

PRAYER

WHEREFORE, it is necessary in the interest of justice that the above application may be listed at an early date for final hearing <sup>so that</sup> and the applicant may spare from mental worries and financial losses.

Lucknow; Dated

Feb. 10, 1992

*(Signature)*

(L.P. Shukla)

Advocate

Counsel for Petitioner

VERIFICATION

I, Mohammad Ilyas aged about 32 years, son of Late Mohammad Idrees, resident of II/160 H rest camp Colony N.R. Charbagh Lucknow, do hereby verify that paras 1 to 5 of this application are true to my own knowledge and nothing material has been concealed.

Lucknow; Dated

Feb. 10, 1992

*Mohd Ilyas*  
(Applicant)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
(ALLAHABAD BENCH)

Regd. A/D  
23-A, Thornhill Road  
Allahabad. 211 001

Registration O.A. No. 140 of 1990 (1)

No. CAT/ALL/Jud 264 to 265

...G. K. Pandey....

Applicant(s)

Versus

...Union of India...

Respondent(s)

⑪ Koushal Kishore Srivastava officer of the  
Distt. Controller of Stores N. P. Ly chauri  
Lucknow

⑫ R. K. Gautam officer of the Dy Controller  
of Stores N. P. Ly Alambagh Lucknow

Please take notice that the applicant above named has  
presented an Application a copy of whereof is enclosed herewith  
which has been registered in this Tribunal and the Tribunal has  
fixed 27 Day of 3/91 . For. before the DR (1)

If, no appearance is made on your behalf, your pleader  
of any 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 14 Day  
of 2 1990.

For Deputy Registrar  
(Judicial)

Encl Copy of Petition with court, 8 order  
dt 7/2/91 passed there on.

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH LUCKNOW.

D.A.NO. 148 of 1950(L)

C.K.Pandey

.....  
Versus

Applicant

Union of India

.....

Respondents

Hon'ble Mr. Justice K. Nath, V.C.  
Hon'ble Mr. K. Dhayya, A.M.

Dated: 7.2.1991.

Notices issued to respondents 1 to 10, 12 to 16 & 18 to 29 are presumed served. No reply has been filed. Notices issued to respondents 11 & 17 have not been served. Office will re-issue notices to them and list before D.R. on 27.3.91 for fixing a date if possible, after completion of pleadings.

Checked

20-2-91

Sd/-  
A.M.

Sd/-  
V.C.

// True copy //

R.S.M.

A.K. Srivastava,  
Section Officer,  
Central Administrative Tribunal,  
Circuit Bench,  
LUCKNOW.