

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 2140/2009

MA 1439/2009

MA 388/2010

With

OA No. 2661/2010

MA 2102/2010

New Delhi this the 23rd day of December, 2010

Hon'ble Mr. Justice V.K. Bali, Chairman
Hon'ble Mr. L.K.Joshi, Vice Chairman (A)

OA 2140/2009

1. N.P.Gupta s/o Sh. Tara Chandra Gupta,
Working as Dy. CSTE/Tele. Western Railway,
Churchgate, Mumbai
r/o Flat No. 38, W. Rly. Officers Flats, Sky Scrapers Bldg,
Mumbai Central, Mumbai-8.
2. Tara Chandra s/o late Sh. Sohan Dass,
Working as Dy. CSTE/P/SW, Delhi
r/o 247/1-B, Rly. Officers' Colony,
Punchkuian Road, New Delhi-1
3. R.N.S.Dinkar s/o late Sh. Bal Kishan,
Working as Dy. CSTE/FOIS, Delhi,
r/o 4/596, Vaishali, Ghaziabad (UP)-201010
4. Umesh Kumar s/o Late Sh. Nirankar Sahai,
Working as ESTE/P-1, Lucknow,
r/o Type-V/2B, Rly Officers Colony,
Rafi Ahmad Kidwai Marg, Bandaria Bagh,
Dilkusha, Lucknow.
5. R.B.Prasad s/o Sh. P. Ram,
Working as DSTE/Tele, Northern Railway, Delhi,
r/o 111 A, Railway Colony, Thompson Road,
New Delhi. ... Applicants

(By Advocate Shri Mahavir Singh, Sr. Advocate with Shri Yogesh
Sharma)

VERSUS

1. Union of India through the Secretary,
Railway Board, Rail Bhawan, New Delhi.
2. The Secretary,
Railway Board, Rail Bhawan, New Delhi.
3. Union Public Service Commission,



Through its Chairman,
Dhaulpur House, Shahjahan Road,
New Delhi.

4. The Secretary,
Ministry of Personnel, Public Grievances and Pensions,
Department of Personnel & Training,
North Block, New Delhi. ... Respondents

(By Advocates Shri V.S.R.Krishna, Sh. Shailendra Tiwary and
Ms. Alka Sharma)

OA 2661/2010

1. Indian Railways Civil Engineering Officers
Association Office Dy. CE/Constn Office, Tilak
Bridge, New Delhi through its General
Secretary, Sh. Y.S.Chaudhary.
2. A. Jagannathan s/o Sh. A. Murugappa Mudalier,
Working as Dy. Chief Engr. S.Rly. Electrification,
Chennai, Egmore.
3. P.K.Ravindran s/o Sh. Kannan,
Dy. Chief Engr. (Track Machines),
S.Rly., Hqrs, Chennai.
4. Mohan Prasad Singh s/o Sh. U.N.Singh,
Dy. Chief Engr/Consts.
E.C.Railway, Hajipur.
5. Qashimuddin Ahmed s/o late Sh.Raisuddein Ahmad,
Dy. Chief Engr./Const.
E.C. Railway, Darbhanga.
6. Tula Ram s/o Sh. Budh Singh,
Sr. DEN/Special, N.R. Railway, Silcha.
7. Balbir Singh s/o Sh.Ganeshsa,
Working as Dy. Chief Engineer/Construction,
Jalandhar.
8. G.B.Singh s/o Sh. Shankar Lal,
Working as Dy.Chief Engineer/Track Machine/
Line, Northern Railway, State Entry Road,
New Delhi.
9. Hiteshwar Barua s/o Sh. Lt. Bimabadhar Baruah,
Working as Sr. DEN/G, N.F.Railway,
Tinsukia.
10. Tayeebur Raheman Barbhuyan s/o Sh. F.A.Barbhuiya,
Working as Sr. DEN/Spl. N.F. Railway,
Silchar.



11. S.Killivalavan s/o SH. N.Selvarsan,
Dy. Chief Engr./MTP,
S. Railway, Chennai.
12. N. Rama Krishnan s/o Sh. Rengaswamy,
Working as Deputy Chief Engineer/Const.
Southern Railway, Padanur.
13. S.D.P.Verma s/o Sh.Gurdev Singh
Working as Executive Engineer/TM,
Northern Railway, Baroda House,
New Delhi.

... Applicants

(By Advocate Shri Mahavir Singh, Sr. Advocate with Shri Yogesh Sharma)

VERSUS

1. Union of India through the Secretary,
Railway Board, Rail Bhawan, New Delhi.
2. The Secretary,
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Through its Chairman,
Dhaulpur House, Shahjahan Road,
New Delhi.

... Respondents

(By Advocates Shri V.S.R.Krishna, Sh. Shailendra Tiwary and Ms. Alka Sharma)

ORDER

Mr. L.K. Joshi, Vice Chairman (A):

We are dealing with both the OAs by a common order as the facts are identical and common questions of law are involved.

2. The only issue which we are called upon to adjudicate in these Original Applications is whether the delay in convening the meetings of the Departmental Promotion Committees (DPCs) by the Respondent, Railway Board, for the promotion of the Applicants in the OAs, was because of reasons beyond the control of the said Respondent or it

L.K. Joshi



was because of administrative delays for which the Respondent was to be held responsible.

3. OA number 2140 of 2009, N P Gupta V. Union of India and others.

The facts of the case are that the Applicants, initially appointed as Supervisors in the Ministry of Railways, rose to the post of Assistant Officer Group 'B' Gazetted Cadre in the Signal and Telecommunication Department of the Indian Railways on the dates indicated against their names in the table below:

Name	Date of Initial Appointment	Date of Promotion as AO
N.P.Gupta	27.08.1980	22.10.1990
Tara Chandra	14.09.1976	30.07.1993
R.N.S.Dinkar	11.06.1974	09.09.1993
Umesh Kumar	19.11.1974	06.09.1991
R.B.Prasad	07.04.1978	29.11.1995

The next promotion for the Applicants was through induction to the Group 'A' post of Assistant Officer (Junior Scale Group 'A'). In the cadre of Indian Railway Service of Signal Engineers (IRSSE) appointment to Group 'A' posts is 50 per cent by the direct recruitment and 50 per cent by promotion from Group 'B'. Group 'B' officers with three years' of regular service in that grade are eligible to be considered for promotion to Group 'A' through a DPC by the Union Public Service Commission (UPSC). The Applicants completed three years of service in Group 'B' between 1993 and 1998 and thus became eligible for promotion to Group 'A' from those years. The Applicants

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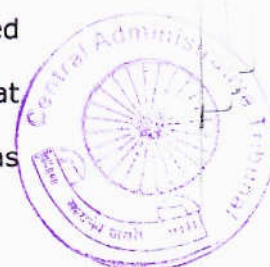


were, however, promoted on *ad hoc* basis to Group 'A' from the following dates:

Name	Date of completion of 3 Years Service i.e. due date of induction.	Date of ad hoc Promotion to Sr.Scale Group 'A'
N.P.Gupta	22.10.1993	27.05.1999
Tara Chandra	30.07.1996	05.03.2002
R.N.S.Dinkar	09.09.1996	17.06.2005
Umesh Kumar	06.09.1994	29.11.2001
R.B.Prasad	29.11.1998	14.09.2005

The DPCs for the years 1999-2000 and 2000-01, which as per the instructions should have been held by December 1998 and in December 1999 actually met on 15.03.2002. After the year 2002 the next DPC met only in the year 2008, after six years of the meeting of the last DPC. The aforesaid DPC met for considering promotions for the vacancies of the years 2002-03, 2003-04 and 2004-05. By the notification dated 10.09.2008, 32 Group 'B' officers were inducted to Group 'A', which also included the Applicants. The induction was given effect to from 22.07.2008. The Applicants submitted representations on 13.10.2008 seeking retrospective effect for the induction to Group 'A'. The first Respondent, the Railway Board, replied to the representations on 24.02.2009 stating therein that the promotions were given effect from the date the UPSC forwarded its recommendations to the Respondents, as per the instructions issued by the Department of Personnel and Training (DOP&T) and that promotions cannot be given effect to from a retrospective date. It was

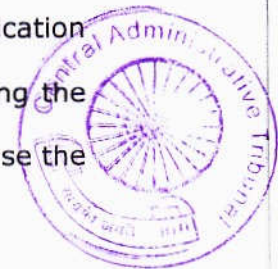
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also stated that the DPC for the years 2002-03, 2003-04 and 2004-05 could meet only after the review DPC for the years from 1994 to 2001-02 could be finalized by the UPSC following the directions of the Honourable Supreme Court in civil appeal number 92/1997.

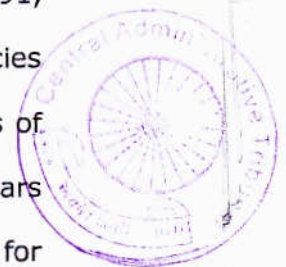
4. It may be useful for us to consider the plea of the Respondents regarding the delay in holding of the DPC being *bona fide* and for reasons beyond their control. It has been stated in the counter affidavit of the Respondent, Railway Board, that in view of acute stagnation prevailing in Group 'B' cadre of various departments, it was decided by the Respondents, in relaxation of the rules, to allot an additional quota of posts to Group 'B' cadre for promotion to Group 'A' in various departments of the Indian Railways. It was decided to fill up 463 additional posts over and above the quota prescribed in the recruitment rules. Out of these 463 additional posts, 76 posts were allotted to the Signal and Telecommunication cadre. These vacancies were clubbed with the promotion quota vacancies pertaining to the recruitment year 1990. The DPCs for the recruitment year 1989, 1990 and 1991 were held together in July 1992. Against the 153 vacancies of promotion quota, including the 76 additional vacancies, the DPC recommended 146 officers for promotion and seven unreserved vacancies were left unfilled as eligible officers were not available. Out of these 146 officers, 135 were substantively appointed in Group 'A', giving effect to their appointment from 23.07.1992. The recommendations in respect of 11 officers were kept in sealed cover. Some of the direct recruit officers of the Signal and Telecommunication cadre moved this Tribunal in OA number 574 of 1993 challenging the power of the Government to relax the recruitment rules to increase the

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vacancies in the promotion quota beyond 40 per cent (at that time the recruitment rules provided for the ratio of 60:40 in Group 'A' posts between the direct recruits and the promotees) as well as its power to carry forward the unfilled vacancies of a particular year to the next year. The Tribunal held in its judgement dated 04.08.1995 that the promotion quota could not be changed and although the vacancies could be carried forward, yet these are to be filled up in the succeeding years both by direct recruitment and by promotion. The orders of promotion issued for the years 1989, 1990 and 1991 were set aside by the Tribunal. The Tribunal directed that the vacancies of 1989, 1990 and 1991 should be treated as unfilled, as no DPC had met during these years, and to treat the vacancies of the three years, including the additional 76 vacancies of the year 1990, as carried forward to the year 1992, along with the vacancies of the years 1992, and these would be distributed between the direct recruits and the promotees in the ratio of 60:40. The Respondents decided to implement the directions of the Tribunal. By the time the directions of the Tribunal were received, the DPCs for the years 1992 and 1993 met in September 1993 and August 1995 respectively. In compliance of the directions of this Tribunal, the orders of promotion issued in September and November 1992, February 1993 and March 1994 were cancelled and fresh orders for regular promotions/*ad hoc* promotions were issued in September 1995 in April 1996. The officers already empanelled against the vacancies of the years 1989, 1990, 1991, 1992 and 1993 were re-adjusted against the re-calculated vacancies for the years 1992, 1993, 1994 and 1995. Because of this process of readjustment, no regular DPC was held for promotion for the years 1994 and 1995, as the vacancies for these years were utilised for

1994



adjusting the officers who had already been empanelled in the previous DPCs. It is further stated that the subsequent DPC for the years 1996, 1997 and 1998 was held in August 1997, September 1999 and November 2000 respectively. Meanwhile, the DOP&T had amended the crucial date of eligibility to first January of the relevant vacancy years. It was made effective from the vacancy year 2000-01. Accordingly the proposals for DPC for the vacancy years 2001-02 and 2000-01 was sent at the same time to the UPSC on 04.05.2001 and the DPC met in March 2002. In the meantime, the judgement of the Tribunal was challenged before the Honourable Supreme Court through Civil Appeal number 92/1997 by the Indian Railways Class II Officers' Federation. The Honourable Supreme Court by its judgement dated 23.09.2002 set aside the judgement dated 04.08.1995 of this Tribunal. By the time the judgement of the Honourable Supreme Court was delivered, DPCs for the years 1996, 1997, 1998, 1999 and 2000 had met. It is stated that for the implementation of the directions of the Honourable Supreme Court it was necessary to review the DPCs for the period from 1994 to 2000. The Respondents, however, decided in January 2003 to adjust the officers empanelled for the years 1996 onwards against the vacancies of 1994 onwards, subject to some conditions. The adjustment was made without holding a DPC. This adjustment resulted in 17 unfilled vacancies for the recruitment year 1999 (vacancy year 2000-01) and 28 unfilled vacancies for the recruitment year 2000 (vacancy years 2001-02). Accordingly, a proposal for review DPC only for the vacancy years 2000-01 and 2001-02 was sent to the UPSC in April and May 2003 respectively. The UPSC, however, did not approve the adjustment of vacancies for the years 1996 to 2000 against the vacancies of 1994 onwards. The UPSC

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suggested that all the DPCs for the years from 1994 onwards would have to be reviewed. It has been stated in the counter affidavit that some anomalous situation could have been created if the advice of UPSC were to be followed. Since no DPCs had been held in the year 1994 and 1995, there was no question of holding a review DPC and holding of fresh DPCs for those years would have become necessary. It has been contended that recommendations of such DPCs could only have been given prospective effect, that is, from the date of recommendation of the DPC, whereas the concerned officers had already been promoted from an earlier date. The Respondents made another suggestion to the UPSC to leave the empanelment done for the years 1996 to 2000 untouched and carry forward all the vacancies of 1994 and 1995 to the year 2002-03, for which year the DPC had not met. The UPSC, however, advised that the Respondent, Railway Board, should seek the advice of the DOP&T and the Ministry of Law in this regard. The DOP&T, however, suggested that the best solution should be worked out with the advice of the UPSC. A reference was made to the UPSC again in May 2005 reiterating the advice of the Respondent, Railway Board, to carry forward the vacancies of the years 1994 and 1995 to the year 2002-03. However, the UPSC did not agree and advised holding of DPCs for the years 1994 and 1995 and review DPCs for the years 1996 to 2000. In view of the advice of the UPSC, the competent authority sent a proposal for holding of meeting of DPC for the years 1994 and 1995 and the review DPC for the years 1996 to 2000, on 03.03.2006. It was, as mentioned in the counter affidavit, a mammoth exercise involving collection of ACRs, integrity certificate *et cetera* for large number of years. The proposals for holding fresh DPC for the year 1994 and 1995 and review DPCs for the years 1996 to

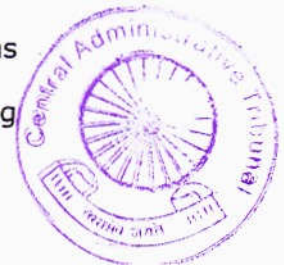
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2000 were sent to the UPSC on 19.05.2006. The DPCs were finally held on 31.03.2007, 01.04.2007, 06.04.2007 and 07.05.2007. The recommendations of the DPC were received by the UPSC's letter dated 11.05.2007 and the recommendation were approved by the competent authority on 20.07.2007. It is stated that for the years 1994 and 1995 the promotions have been given effect from 08.08.1997, while for the review DPCs the recommendations for 1996 to 2000, from the dates of the recommendations of the original DPC. It has further been stated in the counter affidavit that the DPCs for the subsequent years of 2002-03 onwards could be taken up only after the DPCs, which met in compliance of the judgement of the Honourable Supreme Court, had finished their work. The proposals for the DPCs of the subsequent years, that is, 2002-03, 2003-04 and 2004-05 were sent to the UPSC on 07.11.2005. The DPC met on 26-28.05.2009 and the notification for promotion was issued on 17.07.2009, to be effective from 29.05.2009. The case of the Respondents is that there is sufficient justification for holding the DPC belatedly because of the circumstances beyond their control and, therefore, the recommendations of the DPCs would be applicable prospectively only.

5. The pleas of the Respondents have been challenged by the Applicants as specious. It is contended that the long and rambling narration of events by the Respondents does not justify the delay. First, it was argued that the DPC for the year 2002-03 should have met well before the judgement of the Honourable Supreme Court in September 2002. Second, the delay in choosing a course of action to implement the judgement of the Honourable Supreme Court was unwarranted. The Respondents were guilty of seriously wrong

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judgement in suggesting that instead of holding review DPCs for the years 1994 to 2000, it was decided to adjust the officers and panel for the years 1996 onwards against the vacancies of 1994 onwards, without taking recourse to a review DPC, the need for which has itself been admitted in the counter affidavit in paragraph 7, where it has been stated that the judgement of the Honourable Supreme Court "*necessitated review for the entire period from 1994 to 2000.*" In spite of that wrong course of action was followed. Thereafter, the proposal for review of the DPCs for the vacancy years of 2000-01 and 2001-02 was sent to the UPSC in March 2003, six months after the judgement of the Honourable Supreme Court. Even after the rejection of this proposal, the Respondents have made further errors of judgement by not taking up the review DPCs for the years 1994 to 2000 and again sent nearly the same proposal to the UPSC on 08.11.2004, that is, 1 1/2 years after the rejection of earlier proposal by the UPSC. There is no explanation for this delay of one and half years. The UPSC again rejected the proposal on 14.03.2005, within four months of its receipt. Fresh proposal was sent on 05.04.2005, which was discussed with the UPSC only after six months on 22.09.2005. It was again rejected by the UPSC. It was only after six months of this rejection that the competent authority decided on 03.03.2006 to implement the judgement of the Honourable Supreme Court. The proposal for review was sent to the UPSC on 19.05.2006, but thereafter it took one year up to 07.05.2006 to reply to the queries of the UPSC. It is stated in the rejoinder that the judgement of this Tribunal dated 04.08.1995, which was against the Group 'B' cadre, was implemented within one month by September 1995, whereas the judgement of the Honourable Supreme Court in favour of the Group 'B' took more than seven years

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for implementation. It is urged that this showed the bias of the Respondent towards the Group 'B' officer. The sum and substance of the contention of the Applicants is that the delay in holding the meeting of the DPC for the year 2002-03 has been caused entirely due to the fault of the Respondents and, therefore, the Applicants should be promoted from the vacancy year. It has been urged that the case is squarely covered by the judgement of this Tribunal in OA number 280/2008, **Y S Chaudhary and others V. Ministry of Railways**, decided on 29.01.2010.

5. In Y S Chaudhary (supra) the officers of the Indian Railway Service of Engineers (IRSE) were before this Tribunal, with similar grievance. The applicants therein were Group 'B' officers and substantively promoted to Group 'A' of the IRSE with effect from 14.01.2005. The delayed promotion of the applicants was challenged in the aforesaid OA and directions were sought to be given to the respondents therein to induct the applicants in the Group 'A' of IRSE from 2002-03, when the vacancies arose. The contention of the applicants was that the DPC should have met before December 2001 for considering the vacancies of the vacancy year 2002-03. The reason for holding the meeting of the DPC belatedly, as given by the respondents in the aforesaid OA, was that several basic inputs like the seniority list, the complete ACRs of the preceding five years, vigilance clearance *et cetera* had to be provided to the UPSC, which was a major exercise and a time consuming process, which made the delay inevitable and unavoidable. This contention of the respondents in Y S Chaudhary (supra) case was rightly rejected by the Tribunal, by observing that if such a view were to be considered justified, then it

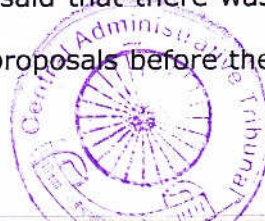
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would never be possible to hold any DPC in time in the Railways. It was observed that these reasons could not be considered to be beyond the control of the respondents. The case was held to be of unexplained delay and the OA was allowed. We respectfully agree with this judgement.

6. The facts in the instant OA are quite distinct. As a result of the judgement dated 04.08.1995, which was complied by the Respondents, orders of promotions issued in September, November, December 1992, February 1993 and March 1994 were cancelled and fresh orders for regular promotions and *ad hoc* promotions were issued from September 1995 to April 1996. In the process of readjustment and recalculation of vacancies, DPCs for the years 1994 and 1995 could not be held. As a result the other DPCs were also delayed. However, the proposals for the vacancy years 2001-02 and 2000-01 were also considered by the DPC held in March 2002. The judgement of the Honourable Supreme Court necessitated entire re-look at the promotions made from 1994 onwards up to the year 2000. There is no doubt that several complicated and complex issues arose as a result of this reconsideration. The suggestion of the Respondents to adjust the officers empanelled for the years 1996 onwards by a judgement against the vacancies of 1994 onwards was actuated by *bona fide* desire to cause least disturbance and protect the interest of the concerned officers. When the proposal was rejected by the UPSC, another alternative proposal was made, which was also rejected. With the advantage of the hindsight, these proposals may be considered to have been erroneous and wrong, but it cannot be said that there was any *malafide* of the Respondents in placing those proposals before the

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UPSC. Formulation and consideration of such proposals does take time because these have to be thought through as several complex issues are involved. It is not possible that immediately on receiving the advice of the UPSC, the alternative proposal should be ready the next day. While accounting for the time, we have to take into account the fact that administrative processes are such that the files have to travel from one level to the other, which would take some time. On the whole, it seems that the Respondents have been able to explain the reasons for delay in holding the meeting of the DPCs in a reasonable manner. There were certainly factors beyond the control of the Respondents. In view of this the judgement in Y S Chaudhary (supra) would not apply to the facts of this case, as the explanation given for delay in the former case was quite different from the explanation given for delay in the instant OA.

7. It may be useful at this stage to advert to the Office Memorandum dated 29.07.2004, which is extracted below:

".... Normally, there should be no delay in holding of DPCs and the system should be so streamlined that the delay, if any, are minimized. In fact, ideally the DPC should be held as per the model calendar prescribed vide DoPT OM dated 8th September, 1998. However, there may still be a case where the DPC may be delayed for a valid reason. If the Department is unable to hold the DPC in time for any bonafide reason, it does not give rise to any vested right for promotion from the date/year of vacancy in terms of some of pertinent judgments enclosed."

(emphasis added)

The Office Memorandum of the DOP&T regarding the guidelines for the meeting of the DPCs provide that:

" 6.4.1 Where for reasons beyond control, the DPC could not be held in a year (s), even though the

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vacancies arose during that year(or years), the first DPC that meets thereafter should follow the following procedures:-

(i) Determine the actual number of regular vacancies that arose in each of the previous year(s) immediately preceding and the actual number of regular vacancies proposed to be filled in the current year separately.

(ii) Consider in respect of each of the years those officers only who would be within the field of choice with reference to the vacancies of each year starting with the earliest year onwards.

(iii) Prepare a 'Select List' by placing the select list of the earlier year above the one for the next year and so on."

It is further provided that:

"6.4.4 Promotions only prospective.- While promotions will be made in the order of the consolidated select list, such promotions will have only prospective effect even in cases where the vacancies relate to earlier year (s)."

(Source: Swamy's complete manual on establishment and administration, 10th edition, 2006, pages 857 to 860.)

We are of the considered opinion that the delay caused in the holding of the meetings of DPCs was genuine and beyond the control of the Respondents. In view of this the instructions at paragraph 6.4.4 would apply and the promotion would be prospective from the date of recommendations of the DPC.

8. In view of this the OA is found to be without any merit and is, therefore, dismissed. There will be no orders as to costs.

9. OA number 2661 of 2010, IRCE Officers' Association V. Union of India and others.

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In this OA the Applicants belong to the Civil Engineering cadre of the Indian Railways. The Applicants were appointed to Group 'B' cadre between 1990 to 2000. They were eligible for induction to Group 'A' after three years of regular service in Group 'B' cadre. However, there has been inordinate delay in the induction of the Applicants in Group 'A' cadre because of delayed meeting of the DPCs. The reason for holding the meetings of the DPCs belatedly is the same as in the case of Y S Chaudhary (supra), to which we have already adverted to above. The learned counsel for the Respondents concede that the instant OA is covered by the judgement in Y S Chaudhary (supra), but would contend that the instant OA is not maintainable being barred by limitation in as much as the Applicants are seeking promotion to the Group 'A' posts from 01.04.2002. The learned counsel for the Applicant, on the other hand, would contend that some of the applicants in the case of Y S Chaudhary are junior to some of the Applicants in the instant OA. It is contended that the Applicants are only seeking the extension of the benefit of the judgement in Y S Chaudhary (supra). Reliance in this context has been placed on **K C Sharma and others V. Union of India and others**, (1997) 6 SCC 721. The appeal before the Honourable Supreme Court was directed against the judgement of this Tribunal in OA number 774 of 1994, decided on 25.07.1994. The appellants before the Honourable Supreme Court were employed as guards in the Northern Railway and retired as guards during the period between 1980 to 1988. They were aggrieved by a notification dated 05.12.1988 by which the Rule 2544 of the Indian Railways Establishment Code was amended with retrospective effect and the formula for calculation of running allowance was changed. The Tribunal (Full Bench) held the giving of

by order



retrospective effect to the notification of 1988 to be invalid in the case of **C R Rangadhamaiah V. Chairman Railway Board**. This judgement was later confirmed by the Honourable Supreme Court. The appellants before the Honourable Supreme Court were adversely affected by the notification of 1988, approached the Tribunal in OA number 774 of 1994 to give them the benefit of the Full Bench judgement in the aforesaid case. The said application of the appellants was dismissed by the Tribunal on the view that it was barred by limitation. The Constitution Bench of the Honourable Supreme Court, comprising five learned judges, held that:

"6. Having regard to the facts and circumstances of the case, we are of the view that this was a fit case in which the Tribunal should have condoned the delay in the filing of the application and the appellants should have been given relief in the same terms as was granted by the Full Bench of the Tribunal. The appeal, is therefore, allowed, the impugned judgment of the Tribunal is set aside, the delay in filing of OA No. 774 of 1994 is condoned and the said application is allowed. The appellants would be entitled to the same relief in the matter of pension as has been granted by the Full Bench of the Tribunal in its judgment dated 16-12-1993 in OAs Nos. 395-403 of 1993 and connected matters."

All other arguments raised in this OA have been fully considered by the learned coordinate bench of this Tribunal in YS Chaudhary case (supra). The Respondents have complied with the directions given in the case of Y S Chaudhary (supra).

10. In the light of the above, the OA is allowed. The Respondents are directed to give to the Applicant herein the benefit of the judgement dated 29.01.2010 in the above cited case of Y S Chaudhary in OA number 280/2008 by promoting the Applicants to the Group 'A' posts with effect from 01.04.2002 with all the consequential benefits.

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These directions would be complied with within eight weeks of the receipt of a certified copy of this order. There will be no orders as to costs.

(L.K.Joshi)
Vice Chairman (A)

(V.K.Bali)
Chairman

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