

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ Reserved on: 9th August, 2010

Pronounced on: 12th August, 2010

1. **W.P.(C) No.4542/2000**

BISWAJIT BASU & OTHERS

.....Petitioners

Through: Mr. Rajesh Gogna, Advocate
with Mr. Sanjay Jha,
Advocate.

VERSUS

UNION OF INDIA & OTHERS

.....Respondents

Through: Ms. Anita Pandey, Advocate
for the respondent No.1.
Mr. Satya Mitra Garg,
Advocate for the respondent
No.4.

2. **W.P.(C) No.2579/2001**

HARMOHINDER PAL SINGH & ANOTHER

.....Petitioners

Through: Mr. Rajesh Gogna, Advocate
with Mr. Sanjay Jha,
Advocate.

VERSUS

UNION OF INDIA & OTHERS

.....Respondents

Through: Ms. Anita Pandey, Advocate
for the respondent No.1.
Mr. Satya Mitra Garg,
Advocate for the respondent
No.4.

CORAM:

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

1. Whether the Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

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JUDGMENT

VALMIKI J. MEHTA, J

1. Both these writ petitions involve common issues and have been therefore heard together. They are therefore being disposed of by this common judgment. For the purpose of convenience, the facts being referred to are the facts in W.P.(C) No.4542/2000.

2. The challenge by means of this writ petition under Articles 226 and 227 of the Constitution of India is to the order of the Full Bench of Central Administrative Tribunal (CAT) dated 6.12.1999. By the impugned order, the CAT has interpreted the relevant clause 12 of the All India Radio Civil Construction Wing (Group 'A' and Group 'B' Posts) Recruitment Rules, 1998. The interpretation with respect to subject Rule was as to whether the

requirement of the experience of a particular number of years of service in the grade can be before or has to be after obtaining the degree in civil engineering. The CAT has answered the question by holding that the experience of the number of years of service need not be only after getting the degree, and it can be the years of regular service in the grade even before obtaining of the degree.

The relevant clause 12 of the Rules is reproduced as under:

“ (ii) Junior Engineers holding Degree in Civil Engineering with 5 years regular service in the grade; or

(iii) Junior Engineers holding diploma in Civil Engineering with 8 years regular service in the grade.

(The departmental officers in the feeder category who are in the direct line of promotion will not be eligible for consideration for appointment on deputation. Similarly, deputationists shall not be eligible for consideration for consideration for appointment by promotion. Period of deputation including period of depuration in another ex-cadre post held immediately preceding this appointment in the same or some other organization/department of the Central Government shall ordinarily not exceed 3 years).”

3. The Full Bench of the Tribunal, in the impugned order, has relied upon two decisions of the Supreme Court in the cases of ***M.B. Joshi Vs. Satish Kumar Pandey, 1993 (2) SCC 419*** and ***Stephen Joseph Vs. Union of India 1997 (4) SCC 753.***

The Tribunal distinguished the judgment of the Supreme Court in the case of ***N. Suresh Nathan Vs. Union of India AIR 1992 SC 564.***

4. The facts of the case are that in the year 1975 the Recruitment Rules were made for regulating direct recruitment of diploma holders in All India Radio Civil Engineering and Electrical Engineering to the posts of junior Engineers/Section Officers in Group 'C' (Class III) Posts. Simultaneously, All India Radio Civil Construction Wing (CCW) (Class I and II Posts) Recruitment Rules, 1975 were made for regulating the promotion and direct recruitment from Group 'C' grade of Junior Engineer/Section Officer to the Group 'B' grade of Assistant Engineer/Assistant Surveyor of Works and further from Group 'B' grade of AE/ASW to Group 'A' grade of EE/SW and from EE/SW to SE (Civil/Electrical)/SSW and then to Chief Engineer Civil. 50% of the posts of AE-s were to be filled by promotion and 50% by direct recruitment. Applicants in the O.A. before the Tribunal were appointed as Junior Engineers (Civil) during 1983 and 1984. They possess the requisite qualification of diploma. The applicants acquired the degree qualification during 1986, 1987 and 1990 respectively. Under the rules as they stood at the

time of appointment, Junior Engineers (JE-s) with 8 years of service were eligible to be considered for promotion to the next higher post, Assistant Engineer (AE). The recruitment rules were further amended on 28.3.1988. 60% of the posts of AE-s were to be filled by promotion of JE-s and the remaining 40% by direct recruitment. Holding degree in Civil Engineering are eligible to be promoted after completing only five years of service, whereas diploma holders should have 8 years of service. One Sh. N.C. Burman and two other diploma holders JE-s filed OA-1078/89 before the Calcutta Bench of the Tribunal, contending that the eligibility period of five years for those who acquired degree in the course of the service should be counted only from the date of acquiring the degree in Engineering and not from the initial date of their appointment in the cadre. Meanwhile, the department effected promotion to some JE-s who had acquired degree during service taking into consideration the total service in the posts of Junior Engineers for the purpose of eligibility. Two applicants being applicants 1 & 2 were promoted on 16.11.1991 and applicants 3 & 4 in the O.A. were promoted on 24.1.1990. However, since the OA was pending these promotions were made subject to the decision in the above OA. Eventually, Calcutta

Bench allowed the OA on 6.5.1994 holding that the five years eligibility should be counted only from the date of acquiring the degree qualification, relying on the judgment of the Supreme Court in ***N. Suresh Nathan Vs. Union of India, AIR 1992 SC 564***. When the promotions of the applicants were sought to be disturbed in implementing the directions given in the above OA, the applicants 1 & 2 filed Review Application before the Calcutta Bench. The Calcutta Bench, however, rejected the Review Application, holding that no rights of the applicants stood affected on the date of filing of the above OA. The applicants 1 & 2 then moved the Hon'ble Supreme Court by way of Special Leave Petition No.21236/95 on 29.9.1995. The Special Leave Petition was, however, permitted to be withdrawn, with liberty to pursue any remedy available in law. The applicants, therefore, filed the subject OA before CAT, seeking declaration that the five years regular service in the grade irrespective of the acquisition of the degree and to quash the order dated 27.6.1995 by which they were sought to be reverted.

5. The matter was referred to the Full Bench of the Tribunal because the Division Bench of the Tribunal before which the matter came up doubted the view of the Calcutta Bench of

the Tribunal and two questions were referred to the Full Bench as under:

“(1) Whether the applicants who were promoted subject to the result of the case pending before the Tribunal, are precluded from questioning the correctness of the order of the Calcutta Bench of the Tribunal and agitating their right to promotion on completion of five years of service irrespective of the date of the acquisition of the degree?

(2) If point No.(1) above is to be answered in negative, whether the view taken by the Calcutta Bench can still hold good in the light of the decisions of the Supreme Court in **M. B. Joshi’s** case and **Stephen Joseph’s** case”.

6. The first question referred to the Full Bench is not an issue before us and the counsel for the petitioners basically argued the point No.(2) and almost entirely placed reliance upon the decision of the Supreme Court in the case of **Shailendra Dania and others Vs. S.P. Dubey and others (2007) 2 SCC (L &S) 202**. Before we turn to the arguments as advanced by the learned counsel for the petitioner, we would seek to refer to some of the paragraphs in the impugned order of the Full Bench of the Tribunal, and which paragraphs contain the ratio of the judgment and the same read as under:

“**24.** We have given a careful consideration of the contentions. Before we proceed to appreciate the contentions it may be useful to notice the intendment behind the amendment of the rules. There is no

preamble to the rules nor any light is shed in the counter-affidavit, in this regard. But the stand taken by the respondents OA-764/88 filed before the Principal Bench is significant. In the said case a challenge was made to the validity of the rules. In its judgment dated 8.3.91 while dismissing the cases, it was observed that the respondents have taken the stand that in view of the expansion of the department, the Civil Construction Wing of AIR has taken up major and highly specialized nature of works. A need was, therefore, felt to encourage JE-s to acquire the degree in Engineering while in service so to equip themselves with the knowledge on handle such works. Accordingly the rules were amended reducing the length of service to JE-s who acquire degree qualification for promotion to the posts of AE-s. Heavy reliance is placed by the learned counsel for the applicants on the stand taken by the respondents in the above case. In the absence of any thing shown contrary in the counter-affidavit in the present OA, we are inclined to hold that the rule making authority may have been actuated with the intention to give incentive to JE-s to acquire higher qualifications, by reducing the length of service to give accelerated promotions.

25. Now, coming to the interpretation of column 12 of the Schedule of the Rules.

26. We have carefully examined the provision. For the purpose of promotion, JE-s are classified into two classes, one is JE-s, holding degree having five years' service in the grade and the other is JE-s, holding diploma with 8 years of service in the grade. Hence, the phrase "5 years regular service in the grade" can be referred only to the "Junior Engineer". The language does not yield to the meaning as to hold that the five years service is after obtaining the degree qualifications. Such an interpretation would only be doing violence to the language employed. If that is the intention behind the amendment of the rule, then the rule must have been Junior Engineers with 5 years' service after holding degree. In the absence to such an expression, if the plain meaning of the rule is taken, it

would only mean that JES with degree need to have only 5 years' service. The Calcutta Bench has, erred in taking the view that the five years service should commence after the acquisition of the degree. In our view, the date of acquisition of the degree is immaterial for the purpose of eligibility of JES. The view taken by the Calcutta Bench also works out contrary to the avowed object of the rule making authority inasmuch as the employee will not get any benefit out of the degree qualification.

35. It is apparent that the language used in the rule in the present case as well as the above three cases decided by the Supreme Court is almost identical. We are of the view that the construction put on the rule in the Suresh Nathan's case (supra) has no applicability to the present case for two reasons. Firstly, there is no such long standing practice as was found in that case. On the other hand, the respondents have adopted the practice of counting the entire service for the degree holders and have promoted certain JES including the applicants herein. If that can be called a practice, we have to uphold the practice is also in conformity with the rules. Secondly, the scheme of the rules in that case was found to indicate that three years service required for degree holders must mean the service after acquiring degree. No such design or scheme is discernible in the rules in the case on hand. On the other hand, the object being to confer benefit to the JE-s for acquiring degree while in service, their entire service has to be counted irrespective of the date of degree qualification.

36. The construction made by the Supreme Court M.B. Joshi's case (supra) and Stephen Joseph's case (supra), appears, in our view, applies' mutatis mutandis' to the rule in question. As in the former case, if the period of five years has to be counted from the date of obtaining the degree qualification, most iniquitous results would result, defeating the very purpose for which the rules are amended. The illustration as given in M.B.Joshi's case (supra) equally applies to this case. The first applicant Jagdish

Chandra was appointed in 1983 but he acquired the degree during 1990. If the five years service has to be reckoned from 1990, he would be eligible for appointment only in 1995. On the other hand, he would be eligible as a diploma holder in 1991 itself. It only shows that he would have no benefit of his degree qualification. The Supreme Court also held that in the absence of any indication there can be no reason for curtailing the length of service for reckoning seniority of an employee. On a plain reading of the language, the length of service in the grade of a Junior Engineer means the total length of service and not his service after obtaining the degree.

39. In view of the aforesaid discussion, we are of the opinion that the decision of the Calcutta Bench is per incuriam in the light of the decision in *M.B. Joshi's* case (*supra*) and *Stephen Joseph's* case, (*supra*) and that the applicants are entitled for promotion on completion of five years of regular service in the cadre of Junior Engineers irrespective of their date of acquisition of the degree in Engineering.”

(Emphasis added)

7. The issue before us is whether the facts of the present case are similar to the cases of ***M.B. Joshi(supra)*** and ***Stephen Joseph (supra)*** or the case of ***Shailendra Dania (supra)***. We may also note that the learned counsel for the respondents has referred to the judgment of ***A.K. Raghumani Singh and Others Vs. Gopal Chandra Nath and Others (2000) 4 SCC 30*** wherein the judgments of ***M.B. Joshi's*** case and ***Stephen Joseph's*** case were followed.

8. Learned counsel for the petitioners referred to paragraphs 37, 43 and 44 of **Shailendra Dania's** case and which read as under:

“37. The only question involved in these appeals and transferred cases can be stated thus: whether a diploma-holder Junior Engineer, who obtains a degree while in service, becomes eligible for promotion to the post of Assistant Engineer on completion of three years of service after he obtained the Engineering degree or on completion of three years of service prior to obtaining the degree in Engineering.

43. Taking into consideration the entire scheme of the relevant Rules, it is obvious that the diploma-holders would not be eligible for promotion to the post of Assistant Engineer in their quota unless they have eight years' service, whereas the graduate Engineers would be required to have three years' service experience apart from their degree. If the effect and intent of the Rules were such to treat the diploma as equivalent to a degree for the purpose of promotion to the higher post, then induction to the cadre of Junior Engineers from two different channels would be required to be considered similar, without subjecting the diploma-holders to any further requirement of having a further qualification of two years' service. At the time of induction into the service to the post of Junior Engineers, degree in Engineering is a sufficient qualification without there being any prior experience, whereas diploma-holders should have two years' experience apart from their diploma for their induction in the service. As per the service rules, on the post of Assistant Engineer, 50% of total vacancies would be filled up by direct recruitment, whereas for the promotion specific quota is prescribed for a graduate Junior Engineer and a diploma-holder Junior Engineer. When the quota is prescribed under the Rules, the promotion of graduate Junior Engineers to the higher post is restricted to 25% quota fixed. So far as the diploma-holders are concerned, their promotion to the higher post is confined to 25%. As an eligibility criterion, a degree is further qualified by three years' service for the Junior Engineers, whereas eight years' service is required for the diploma-holders. Degree with three years' service experience and diploma with eight years' service experience itself indicates qualitative difference in the service rendered as degree-holder Junior Engineer and diploma-holder Junior Engineer. Three years' service experience as a graduate Junior Engineer and eight years' service experience as a diploma-holder Junior Engineer, which is the eligibility criterion for promotion, is an indication of different quality of service rendered. In the given case, can it be said that a diploma-holder who

acquired a degree during the tenure of his service, has gained experience as an Engineer just because he has acquired a degree in Engineering. That would amount to say that the experience gained by him in his service as a diploma-holder is qualitatively the same as that of the experience of a graduate Engineer. The Rule specifically made difference of service rendered as a graduate Junior Engineer and a diploma-holder Junior Engineer. Degree-holder Engineer's experience cannot be substituted with diploma-holder's experience. The distinction between the experience of degree-holders and diploma-holders is maintained under the Rules in further promotion to the post of Executive Engineer also, wherein there is no separate quota assigned to degree-holders or to diploma-holders and the promotion is to be made from the cadre of Assistant Engineers. The Rules provide for different service experience for degree-holders and diploma-holders. Degree-holder Assistant Engineers having eight years of service experience would be eligible for promotion to the post of Executive Engineer, whereas diploma-holder Assistant Engineers would be required to have ten years' service experience on the post of Assistant Engineer to become eligible for promotion to the higher post. This indicates that the Rule itself makes differential in the qualifying service of eight years for degree-holders and ten years' service experience for diploma-holders. The Rule itself makes qualitative difference in the service rendered on the same post. It is a clear indication of qualitative difference of the service on the same post by a graduate Engineer and a diploma-holder Engineer. It appears to us that different period of service attached to qualification as an essential criterion for promotion is based on administrative interest in the service. Different period of service experience for degree-holder Junior Engineers and diploma-holder Junior Engineers for promotion to the higher post is conducive to the post manned by the Engineers. There can be no manner of doubt that higher technical knowledge would give better thrust to administrative efficiency and quality output. To carry out technical specialised job more efficiently, higher technical knowledge would be the requirement. Higher educational qualifications develop broader perspective and therefore service rendered on the same post by more qualifying person would be qualitatively different.

44. After having an overall consideration of the relevant Rules, we are of the view that the service experience required for promotion from the post of Junior Engineer to the post of Assistant Engineer by a degree-holder in the limited quota of degree-holder Junior Engineers cannot be equated with the service rendered as a diploma-holder nor can be substituted for service rendered as a degree-holder. When the claim is made from a fixed quota, the condition necessary for becoming eligible for promotion has to be complied with. The 25% specific quota is fixed for degree-holder Junior Engineers with the experience of three years. Thus, on a plain reading, the experience so required would be as a degree-

holder Junior Engineer. 25% quota for promotion under the rule is assigned to degree-holder Junior Engineers with three years' experience, whereas for diploma-holder Junior Engineers eight years' experience is the requirement in their 25% quota. Educational qualification along with number of years of service was recognised as conferring eligibility for promotion in the respective quota fixed for graduates and diploma-holders. There is watertight compartment for graduate Junior Engineers and diploma-holder Junior Engineers. They are entitled for promotion in their respective quotas. Neither a diploma-holder Junior Engineer could claim promotion in the quota of degree-holders because he has completed three years of service nor can a degree-holder Junior Engineer make any claim for promotion quota fixed for diploma-holder Junior Engineers. Fixation of different quota for promotion from different channels of degree-holders and diploma-holders itself indicates that service required for promotion is an essential eligibility criterion along with degree or diploma, which is service rendered as a degree-holder in the present case. The particular years of service being the cumulative requirement with certain educational qualification providing for promotional avenue within the specified quota, cannot be anything but the service rendered as a degree-holder and not as a diploma-holder. The service experience as an eligibility criterion cannot be read to be any other thing because this quota is specifically made for the degree-holder Junior Engineers."

(Emphasis supplied)

9. On the basis of above paragraphs of the judgment of the Supreme Court in ***Shailendra Dania's*** case, the counsel for the petitioners urged that the requirement of experience has to be after obtaining of the degree and not before.

10. We do not agree with the argument as raised by the learned counsel for the petitioner inasmuch as the judgment of the Supreme Court in ***Shailendra Dania's*** case has to be read in the context of the facts of the said case where the issue of requirement of number of years of service was in the context of

an inter se seniority issue between the degree holders and the diploma holders. It is in that context that the Supreme Court decided the case of **Shailendra Dania** to hold that since there was a continuous difference maintained between the degree holders and diploma holders throughout the entire service careers, it was necessary to maintain this difference by holding the service period to be after obtaining of the degree by a diploma holder otherwise two unequal categories will be treated as equal and Article 14 of the Constitution of India would thus be violated. That the judgment in **Shailender Dania's** case is given in the specific facts of that case becomes clear from the following paragraphs in **Shailendra Dania's** case:

“23. It is urged by Shri Jawahar Lal Gupta and Dr. Rajeev Dhavan, the learned Senior Counsel for the appellants, that under the promotion rule for promotion to the post of Assistant Engineer two separate channels are provided for diploma-holders and degree-holders within their respective quota and there would be no violation of the Rules if requisite experiences required on the post of Junior Engineer as diploma-holder and degree-holder are treated differently and it would be open for the Government to lay down and treat different period of experience as qualitatively different for two classes for further promotion to the post of Assistant Engineer.

28. From the aforesaid, it is clear that the Court was considering the experience/qualifying service of eight years and twelve years amongst the diploma-holder Sub-Engineers and not vis-à-vis the degree-holder Sub-Engineers. The reduction of the qualifying service from twelve years to eight years simply accelerated the entitlement to promotion for the post of Assistant Engineer by Sub-Engineers from twelve years to eight years. The qualifying service which was required to be

considered under the Rule was that of diploma-holder Sub-Engineers. The qualifying service has no relation with the degree of Engineering and it is said by the judgment in *N. Suresh Nathan case* that the Rule does not contemplate any equivalence of any period of service with the qualification of acquiring degree of graduation in Engineering.

32. The ambit of *N. Suresh Nathan case* is explained in *D. Stephen Joseph* wherein it is said in para 5 that the State Government is labouring under a wrong impression as to the applicability of the past practice as indicated in *N. Suresh Nathan case*. This Court, in the said decision, has only indicated that the past practice should not be upset if such practice conforms to the Rule for promotion and consistently followed for some time past. The Rule has been interpreted in a particular manner and *N. Suresh Nathan case* only indicates that past practice must be referable to the applicability of the Rule as interpreted by the Court's order in a particular manner consistently for some time and would lend support to the interpretation of the Rule. The Court emphasised that any past practice dehors the Rule cannot be taken into consideration as past practice consistently followed for long by interpreting the Rule and *N. Suresh Nathan case* was distinguished in the facts of that case and the language of the Rule which came up for consideration. *D. Stephen Joseph* provides for promotion to 50% quota from Junior Engineers possessing degree in Electrical Engineering from a recognised university with three years' regular service in the grade of Junior Engineers. On the plain language of the rule, this Court has held that the requirement of the Rule is three years' experience as Junior Engineer in the grade and not the acquisition of degree in Electrical Engineering. Thus, it cannot be said that in *M.B. Joshi* and *D. Stephen Joseph* the Court has taken a different view than what was taken by a three-Judge Bench in *N. Suresh Nathan case*. In *N. Suresh Nathan case* the Court has interpreted the Rule which provides for a particular length of service in the feeder post as qualifying service completed with educational qualification to enable the candidates to be considered for promotion and, thus the experience so obtained in the service would necessarily mean the experience obtained after the requisite qualification was acquired. Thus, the decision turns on the language of the Rule and has distinguished *N. Suresh Nathan case* on that basis.

36. From a reading of the decisions rendered by this Court, one thing is clear to us that the decisions in *N. Suresh Nathan*, *M.B. Joshi*, *D. Stephen Joseph*, *Anil Kumar Gupta*, *A.K. Raghumani Singh* and *Indian Airlines Ltd.* are based on the interpretation of the respective

rules called in question, giving meaning to the words used in the context of the entire scheme governing service conditions and the facts involved in each case and it cannot be said that the decisions rendered by this Court after the decision of *N. Suresh Nathan case* have taken a different view than what has been decided in *N. Suresh Nathan case*. Thus, we are required to decide the matter on the basis of the entire scheme of the Rules, the facts and circumstances at the relevant time and the Rules called in question before us, independently giving meaning to the words, the principle involved and the past practice, if any, which is in consonance with the interpretation given by us to the Rule. If we find that two views are possible after interpreting the Rule, then the Rule would be interpreted keeping with the practice followed in the Department for a long time and thus the practice practically acquired status of rule in the Department.” (Emphasis supplied)

In fact, ***Shailendra Dania’s*** case refers to the decision in the case of ***A.K. Raghmani Singh*** which is relied upon by the counsel for the respondents in paragraph 34 of ***Shailendra Dania’s*** case and the same reads as under:

“**34.** A two-Judge Bench of this Court gave its considered opinion on the subject by means of interpretation of the word “with” that appeared before the stated requirement of given period of experience in *A.K. Raghmani Singh v. Gopal Chandra Nath*. The Court considered the rules called “the Manipur PWD/Irrigation and Food Control/Public Health Engineering [Superintending Engineer (C)/Superintending Surveyor of Works] Recruitment Rules” wherein it is provided that the post of Superintending Engineer shall be filled up by promotion from Executive Engineer and Surveyor of Works possessing degree in Civil/Mechanical Engineering or its equivalent from a recognised institution with six years’ regular service in the grade. The contention was that six years’ regular service in the grade as eligibility criterion should be after the educational qualification was obtained. The Court interpreted the Rules and said that the Rule prescribed the eligibility criterion to be a prescribed educational qualification and six years’ experience as well. Giving a

plain meaning to the phrase, it would not be justified in reading “a qualification” into a conjunctive word and imply the word “subsequent” after the word “with”. The Court was of the view that six years’ regular service in the grade would not mean the service subsequent to obtaining the prescribed educational qualification. Para 9 of the judgment gives the Court’s reasoning as follows: (SCC p.32)

“9. Even on a point of principle it would be unreasonable to distinguish between the nature of the regular service required, as if the service in the grade subsequent to the obtaining of the necessary educational qualification were qualitatively different from the service in the grade prior thereto. In fact no such case has been made out.”

The decision rendered by the Court is based on interpretation of the Rule.” (Emphasis added)

11. A reading of the judgment in ***Shailendra Dania’s*** case shows that each rule has to be read in the context of the entire scheme governing the service conditions and facts involved in each case. In the present case, the important aspect on the interpretation of rules, and as noticed by the Full Bench of the CAT, was the stand of the Union of India that the need was felt to encourage Junior Engineers to acquire the degree in Engineering while in service so as to equip themselves with the knowledge on how to handle the works. The Tribunal, therefore, held that the rule making authority would have been actuated with the intention to give incentive to Junior Engineers to acquire higher qualifications, by reducing the length of service to give accelerated promotions. Accordingly, we are of the opinion that

the present case falls in the ratio of the decisions of the Supreme Court in the line of cases of **M.B. Joshi, Stephen Joseph** and **A. K. Raghumani Singh** and not the case of **Shailendra Dania** which was in fact dealing with the issue of inter se seniority disputes between degree holders and diploma holders. We find that the impugned order of the Full Bench of the Tribunal is well reasoned and correctly applies the ratio of the decisions in the cases of **M.B. Joshi (supra)** and **Stephen Joseph (supra)**. Though the Tribunal may not have correctly distinguished the case of **N. Suresh Nathan(supra)** by holding on one ground that the decision in **Suresh Nathan's** case was basically based upon the past practice and which basis of the judgment in **Suresh Nathan's** case has been negated by the Supreme Court in **Shailendra Dania's** case, however, that does not take away from the fact that the Supreme Court in **Shailendra Dania's** case itself has held that each rule has to be necessarily interpreted as per the facts of each particular case and the entire scheme of the rules.

12. According to us, there is no illegality or infirmity or any grave injustice which is caused to the petitioners by the impugned order of CAT, and which, in fact, in our opinion,

correctly lays down the legal proposition in the facts of the present case. We, therefore, do not find any reason whatsoever to interfere with the impugned order of the CAT and the writ petitions are therefore dismissed, leaving the parties to bear their own costs.

VALMIKI J. MEHTA, J.

AUGUST 12, 2010
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SANJAY KISHAN KAUL, J.