

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.9312-9313/2010

NATHU RAM SHARMA

Appellant(s)

VERSUS

S. S. KUTLEHRIA & ORS.ETC.

Respondent(s)

WITH

CIVIL APPEAL NOS.2349-2350/2011 (XIV-A)

&

CIVIL APPEAL NOS.5241 - 005242/2022

[@ SLP [C] Nos.14127 - 014128 / 2022 @ Diary No(s).  
23144/2020 (XIV)]

O R D E R

CIVIL APPEAL NOS.9312-9313/2010 & CIVIL APPEAL NOS.2349-  
2350/2011

We have heard learned counsel for the respondents.

None has appeared for the appellant either in the pre-lunch session or the post-lunch session.

The question has been succinctly set out in the impugned judgment as under:

“The question which arises for decision in these cases is whether in the case of AMIE Engineers i.e. Diploma Holder Engineers who have qualified AMIE, the three years

service has to be counted only after they qualified AMIE or even the previous service can be counted."

On consideration of the judicial views of this Court, the conclusion reached was that it is the State which must decide as to what qualifying service should be rendered by the diploma holder or degree holder and the Court cannot substitute its opinion for that of the administrative view which is best to take such a decision.

The view which has been accepted is that as per the Rules, on obtaining the requisite qualification, the period of three years' qualifying service has to be counted from that date, more specifically keeping in mind the ratio of *Shailendra Dania & Ors. v. S.P. Dubey & Ors.* - (2007) 5 SCC 535.

We have no reason to interfere with the impugned judgment(s).

The appeals are accordingly dismissed.

**CIVIL APPEAL NO.5241-5242/2022**  
[ @ SLP [C] Nos.14127-14128/2022 ]  
[ Diary No(s). 23144/2020 (XIV) ]

Delay condoned.

Leave granted.

Learned counsel for the State states that in

view of the decision today in Civil Appeal Nos.9312-9313/2010 and Civil Appeal Nos.2349-2350/2011, really speaking, nothing survives in these appeals except one aspect arising from what is contended as the mis-reading of the instruction dated 19.07.2013 para 3.

That instruction is with respect to the step up pay. The instructions read as under:

"3.The above pay structure will be as a measure personal to the employee and shall have no relevance to his seniority position. As such no stepping up of the pay in pay band and grade pay would be admissible with regard to junior getting more pay than the senior on account of pay fixation as per above."

It is in the aforesaid context that it is submitted that the interpretation at para 10 would not be correct as the instruction 3 was only applicable to the issue of step up pay.

To that extent we set aside the observations in paras 8 and 10 of the impugned order.

The appeals are allowed to the aforesaid extent leaving parties to bear their own costs.

..... J.  
[SANJAY KISHAN KAUL]

..... J.  
[S. RAVINDRA BHAT]

..... J.  
[M.M. SUNDRESH]

NEW DELHI;  
AUGUST 11, 2022.

ITEM NO.108

COURT NO.4

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 9312-9313/2010

NATHU RAM SHARMA

Appellant(s)

VERSUS

S. S. KUTLEHRIA &amp; ORS.ETC.

Respondent(s)

WITH

C.A. No. 2349-2350/2011 (XIV-A)

Diary No(s). 23144/2020 (XIV)

FOR CONDONATION OF DELAY IN FILING ON IA 113931/2020  
FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA  
113933/2020

Date : 11-08-2022 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE S. RAVINDRA BHAT  
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Appellant(s)	Mr. Abhinav Mukerji, AOR Mrs. Bihu Sharma, Adv. Ms. Pratishtha Vij, Adv. Mr. Akshay C. Shrivastava, Adv.  Mr. Yash Pal Dhingra, AOR [N.P.]
For Respondent(s)	Mr. Neeraj Kumar Jain, Sr. Adv. Mr. Neeraj Sharma, Adv. Mr. Jugul Kishor Gupta, Adv. Ms. Ameena Upmanyu, Adv. Mr. Sanjay Singh, Adv. Mr. Surinder Kumar Gupta, AOR  Mr. Lokesh Kumar Choudhary, AOR  Mr. Abhinav Mukerji, AOR

UPON hearing the counsel the Court made the following

O R D E R

CIVIL APPEAL NOS.9312-9313/2010 & CIVIL APPEAL NOS.2349-2350/2011

The appeals are accordingly dismissed in terms of

the signed order.

Pending application(s) stand(s) disposed of.

Diary No(s). 23144/2020

Delay condoned.

Leave granted.

The appeals are allowed in terms of the signed order.

Pending application(s) stand(s) disposed of.

(ASHA SUNDRIYAL)  
ASTT. REGISTRAR-cum-PS

(CHARANJEET KAUR)  
ASTT. REGISTRAR-cum-PS

[Common signed order is placed on the file]