

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

29

O.A. NO. 521/89.
T.A. NO.

DATE OF DECISION 23-9-94.

Ashokbhai Jivanlal Pakhali. **Petitioner**

Mr. S.C.Shah. **Advocate for the Petitioner (s)**

Versus

Union of India & Another. **Respondent**

Mr. Akil Kureshi **Advocate for the Respondent (s)**

CORAM

The Hon'ble Mr. N.B.Patel : Vice Chairman

The Hon'ble Mr. V. Radhakrishnan. : Member (A)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

J.W.
Nil.



Shri Ashokbhai Jivanlal Pakhali,
Khasbazar, Dhanbai Malinu Dehlu,
Near Karanj Police Station,
Ahmedabad.

... Applicant.

Versus.

1. The Union of India
through the Chief Post Master General,
Navrangpura, Ahmedabad.
2. The Assistant Superintendent
of Post Offices,
Ahmedabad City South Sub Division,
Ahmedabad.

... Respondents.

ORAL ORDER.

O.A.No.521/89.

Per : Hon'ble Mr. N.B.Patel

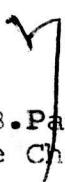
: Vice Chairman.

Applicant and his advocate Mr. Shah are not present.

Dismissed for default. No order as to costs.



(V.Radhakrishnan.)
Member (A).

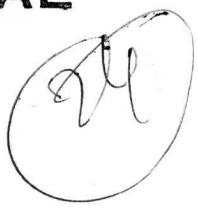


(N.B.Patel.)
Vice Chairman.

63

Date	Office Report	ORDER
21.11.94		<p>Heard. M.A. allowed. Order dismissing O.A. No: 521/89 set aside. O.A. restored to file. Adjourned to 8.12.1994.</p> <p>(K.Ramamoorthy) Member (A)</p> <p>(N.B. Patel) Vice Chairman</p> <p>npm</p>
8.12.94		<p>The applicant and his advocate are not present though twice called out. The case is very old. In fact it is liable to be dismissed for default. However, in order to give one last opportunity to the applicant, the case is adjourned to 20.12.1994.</p> <p>No further time will be given.</p> <p>(K.Ramamoorthy) Member (A)</p> <p>(N.B. Patel) Vice Chairman</p> <p>npm</p>
20.12.94		<p>Sick note filed by Mr.Shah.</p> <p>Adjourned to 6.1.1995.</p> <p>Interim relief to continue till then.</p> <p>(K.Ramamoorthy) Member (A)</p> <p>(N.B. Patel) Vice Chairman</p> <p>npm</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH



O.A. NO. 521 OF 1989.

~~xx,xx,NOx~~

DATE OF DECISION 6.1.1995.

Shri Ashokbhai Jivanlal Pakhali, Petitioner

Mr. S.C. Shah, Advocate for the Petitioner (s)

Versus

The Union of India & Anrs. Respondent s

Mr. Akil Kureishi, Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. N.B. Patel, Vice Chairman.

The Hon'ble Mr. K. Ramamoorthy, Admn. Member.

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No.

BS
25

Shri Ashokbhai Jivanlal Pakhali
residing at Khasbazar, Dhanbai
Malinu Dehlu, Near Karanj Police
Station, Ahmedabad.

..... Applicant.

(Advocate: Mr. S.C. Shah)

Versus.

1. The Union of India
Notice to be served through
the Chief Postmaster General
Navrangpura, Ahmedabad.

2. The Assistant Superintendent
of Post Offices,
Ahmedabad City Sough Sub Division
Ahmedabad. Respondents.

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

O.A. No. 521 OF 1989

Date: 6.1.1995.

Per: Hon'ble Mr. N.B. Patel, Vice Chairman.

This O.A is disposed of with the following
directions at the joint suggestion of both the learned
counsels, namely Mr. S.C. Shah for the applicant (who
is personally present in the Court Room and under whose
instructions Mr. Shah has joined with Mr. Kureshi in
making the suggestion) and Mr. Akil Kureshi for the
respondents:

(i) The respondents shall, within 30 days from the
date of the termination of Criminal Case
No. 1133/87 pending in the Court of the learned
Metropolitan Magistrate, Ahmedabad, review the
question whether the applicant should be

(P)

continued on "put off duty". If the applicant feels aggrieved by the decision which may be taken on such review, it will be open to him to challenge the said decision in accordance with law.

(ii) So far as the question of payment of allowance, if any, to the applicant for the period during which he is kept on "put off duty" is concerned, the respondents shall abide by the decision of the Supreme Court ^{W.S.L.P.} arising from the judgment of the Bangalore Bench of the C.A.T in the case of Superintendent of Post Offices V/s. Peter D'soza reported in (1989) 9 A.T.C. 225. In other words, in the event of the Supreme Court deciding in favour of the employees, the respondents shall make payment to the applicant in accordance with the decision of the Supreme Court notwithstanding the disposal of this O.A and without the applicant having to approach the Tribunal again for the said purpose.

There will be no order as to costs.


(K. Ramamoorthy)
Member (A)


(N.B. Patel)
Vice Chairman

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD

Original Application No. 521 of 1989

Applicant: Ashokbhai Jiwanlal Pakhali

V/s.

Defendant: Union of India and Ors.

The applicant seeks to produce the following documents by this list in the above application.

No.	Nature of Documents	Date	Annx.	Page
1.	Appointment Order	30.5.77	A ₁	15
2.	Suspension Order	12.2.87	B ₂	16
3.	Extract of Newspaper Report	29.1.87	C ₃	17
4.	Xerox Copy of Application given by applicant in Criminal Court.	16.4.88.	A ₄	18
5.	Letter written by the Secretary, Gujarat Legal Aid Committee to Commissioner of Police, Ahmedabad.	31.7.89	A ₅	20

Advance copy
served to
Smt. J. D. Bhave
Adv.

6-12-89
S. B.

No.	Name of Document	Date	Annx.	Page
-----	------------------	------	-------	------

6 Letter written by applicant to Jansatta Newspaper 18.9.89
etc..

21

A₆

Ahmedabad)

Dt. 21-11-1989)

S. M.

S. M. (Signature)

Slc no 53881
21/11

②

BEFORE THE ~~GENERAL~~ ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD

DIST:AHMEDABAD CITY

ORIGINAL APPLICATION NO. 521 of 1989

Shri Ashokbhai Jivanlal Pekhali
residing at khasbazar, Dhanbai
Malinu Dehlu, Near Karanji Police
Station, Ahmedabad ..Applicant

versus

(1) The Union of India

Notice to be served through
the Chief Postmaster General
Navrangpura, Ahmedabad

(2) The Assistant Superintendent

of Post offices,

Ahmedabad City South Sub Division

Ahmedabad

... Respondents

To

THE HON'BLE THE VICE CHAIRMAN AND THE HON'BLE
MEMBERS OF THE ADMINISTRATIVE TRIBUNAL AT
AHMEDABAD BENCH

(2)

THE HUMBLE APPLICATION OF
THE APPLICANT ABOVENAMED

MOST RESPECTFULLY SHEWETH:-

1. Particulars of the Applicant:-

(i) Name of the applicant:- Shri Ashokbhai J.Pakhali

(ii) Name of Father:- Shri Jivanlal Pakhali

(iii) Designation ~~and~~ As E.D.Paeker at Behrampura
office in which
employed Post office, Ahmedabad

(iv) office address As above

(v) Address for service As shown in the cause
of notices title

2. Particulars of the Respondents:-

(i) Name and/or designation 1. The Union of India
of the respondents (notice to be served
through the Chief Post
Master General, Navrangpura
Ahmedabad.

2. The Assistant Superintendent
of Post offices,
Ahmedabad City Sub Division
Ahmedabad. 380002

(3)

(3)

(ii) Office addresses
of the respondents As shown above.

(iii) Address for services
of all notices As shown above.

4. Particulars of the
order against which the
application is made

(i) Order number:- PF/A.J.Pakhali

(ii) Date 12-2-1987

(iii) passed by Mr.S.J.Ninama, Assistant
Superintendent of Post offices
Ahmedabad City South Sub
Division, Ahmedabad.2

5. Subject in brief:-

(1) By way of this application, the applicant seeks to challenge the order of suspension passed by the respondent no.2 on the basis of newspaper reports on 12-2-1987 and continuing the same till today without any further proceedings against the applicant and against nonpayment of suspension allowance since thereafter till today.

(2) The applicant says that applicant was appointed by the respondent no.2 as E.D.Packer by order no.

4
(4)

1P-Z/EDA/AJP/77-78 dt. 30-5-1977 and was posted at Behrampura Post office, Ahmedabad. The applicant served with utmost integrity and carried out all his duties and responsibilities upto the full satisfaction of his superior - others. The applicant's service is clean and blotless and earned very good remarks from his superior others. The applicant seeks to produce the appointment order alongwith this application which is marked as Annexure "A".

Annex.A,

(3) The applicant says that on 24-1-1987 after performing office duty at about 5-30 p.m. applicant was proceeding on his cycle from Behrampura towards khamasa. On the way some police officers stopped the applicant and asked questions as to whether applicant had consumed any liquor and thereafter straightway arrested the applicant and took the applicant to the Astodia Police Station in Rikshaw. The applicant was thereafter locked up with some other persons. The applicant denied all the wrong allegations against him and therefore he was locked up. The applicant was thereafter produced before - the Magistrate, but was not informed about the - charges levelled against him. The applicant was thereafter on 26/1/1987 released on bail on certain conditions. The bail application was preferred by one of applicant's relative. The applicant was asked to come as and when called for, but since then is never

STW

(5)

The applicant thereafter called thereafter/was on leave as fell sick due to unnecessary harassment caused by the police authorities.

(4) The applicant thereafter reported for duty on 11-2-1987 and was entrusted duties in the nightshift. The applicant worked on that day. Thereafter on 12/2/1987 during duty hours at about 10-30 p.m. the applicant was called by his officer and was served with the order placing the applicant under suspension. The applicant produces herewith copy of the suspension order as Annexure "A". As stated in the suspension order the petitioner came to know that authorities have relied upon some false newspaper reports and placed him under suspension only on the ground that some criminal investigation case is pending.

The petitioner is till then under suspension since February 1987. The applicant says that the applicant is entitled to receive suspension allowance as per rules, during the period in which suspension order is in force; however the respondents have not paid suspension allowance as per rules. The applicant says that the respondents have relied upon the fact published in the newspapers copy of which is annexed

(6)

herewith and marked as Annexure A₃. As per Annex A₃ newspaper reports, the applicant was - arrested in theft case and when applicant was taking some goods in handlorry, was - stopped and goods worth Rs.7040/- was recovered. It is also stated in the newspaper report that applicant alongwith one Mr. Sanjay alias Bhagwandas committed theft of those goods. The applicant says that above reports are absolutely false and far from the truth. As stated above applicant was - going on his bicycle and not with any alleged goods. Apparently some wrong reports were published. The applicant was placed wrongly under suspension. Even after the suspension, and often the applicant - was released on bail, no inquiry is initiated against the applicant till today. The applicant is kept under suspension since long without payment of suspension allowance. When approached for the setting aside the suspension order and taking the applicant back on the duty the applicant was orally asked to procure the copy of the summons issued by the criminal court alongwith Bail application and order passed on it. The applicant was thrown from pillar to post as shuttlecock between respondents and police authorities and criminal court, but nobody was giving any correct information regarding any criminal or departmental proceedings taken against the applicant by either of them.

(5) The applicant thereafter on 16-4-1988 applied

(7)

to the Magistrate's court to supply the copy of the chargesheet filed against the applicant, if ~~xx~~ filed, as he was not informed about any proceedings taken against him. On that application after verifying the record of the case filed against the applicant the Hon'ble Metropolitan Magistrate passed an order to the effect that as no chargesheet is filed, the copy cannot be given and therefore ordered to payback the deposit amount. The zerox copy of the certified copy of the above application alongwith the order passed on it is annexed herewith and marked as Annex ~~A~~ Ay.

Again the applicant went personally alongwith the above order to the respondent no.2 and requested him to revoke the suspension order on the ground that ~~xxx~~ no criminal investigation is pending against the applicant, but the respondent no.2 didnot pay any heed to it and refused to take applicant on the duty. On the otherside the applicant was also not given suspension allowance during that period. So the applicant felt helpless and without any hopes, staring at the administrative functions of the society, broken financially socially and from all sides, of the world. The applicant at present is struggling for his own existence, having burden to maintain his family members, without any support.

(6) The applicant on 3/7/1989 requested to the

8
(8)

Secretary to the Gujarat State Legal Aid Committee and Advisory Board, for issuing necessary directions to police authorities to give necessary information regarding - investigation made by them, so as to submit it before the respondents to cancel the suspension order. The Secretary in response to applicant's letter dt. 3/7/89, wrote letter to the Commissioner of Police, Ahmedabad on 31/7/1989 for doing needful. The copy of which is annexed as Annexure "A". Annex. A
Again on 7/9/89 the applicant requested the Police Inspector, Astodia police station, to furnish necessary details regarding investigation against the applicant, but no reply, on the contrary, the police authorities have started harassment the applicant again by calling to the police station. On 18/9/1989 the applicant wrote letter to the Editor, Jansatta Newspaper, Ahmedabad, asking on what basis, the news involving the applicant in Criminal case was published in the newspaper of 29/8/1987. The copy of the same is annexed as Annexure "B". The same remained in Annex. B their file unanswered. Again on 29/9/1989, the applicant requested the Commissioner of Police Ahmedabad requesting him to intervene as the police authorities of Astodia police station were unnecessarily harassing the applicant by coming at nighttime and also giving threat to family members to face appropriate steps.

(7) The applicant as last resort to demand justice is before this Hon'ble Tribunal by way of this application. The applicant submits that from the date of suspension till today, the applicant is not paid any amount towards suspension allowance and thus denied legal right to receive the amount for maintenance of the applicant as well as family members. The applicant submits that the basic object of providing suspension allowance to the employees against whom some proceedings are pending and/or contemplated; is to allow him to maintain himself, as well as family members, on the other hand by payment of suspension allowance, the employee is prevented from engaging himself in any other service. By nonpayment of suspension allowance, and also keeping the applicant, under suspension for longtime, even not proceeding with the applicant departmentally, and waiting for result of criminal investigation, which on the face of it wrong proceeded by some other authority; and keeping the applicant helpless, the respondents have not only frustrated the object of suspension but also violated the principles of natural justice. The respondents have kept hanging sward on the petitioner, neither punishing nor maintaining the applicant and the applicant is being penalised everyday for no fault of him. The applicant submits that so far as Criminal

(10)

investigation is concerned, it is proceeded - with by different authorities for different purposes, while so far as service conditions of the petitioner is concerned, the respondents are not entitled to deny service to the petitioner. Even otherwise so far as criminal investigation is concerned, the concerned authority may reach any conclusion, either punishing the applicant or acquitting from the charges; so far as respondents are concerned, they have to consider as to what are the effects or implications of the said criminal investigation, with duties as servant of the - respondents. In the present case, even in criminal investigation, after the applicant was released on bail, no further steps are taken against the applicant; even after the preliminary investigation, even no chargesheet is filed against the applicant, and - thus it is crystal clear that no case is found out even by investigating officers so as to proceed against the applicant and therefore no chargesheet is filed. Now as on today about three years have passed and therefore, criminal proceedings initiated against the applicant is deemed to have ended, and therefore at present, no criminal case against the applicant is pending much less any case involving moral turpitude; and therefore the suspension order in the circumstances is liable to be set aside by this Hon'ble court.

8.. The applicant submits that even assuming for

a moment that at the time when suspension order was passed, circumstances were such justifying the suspension order; the same being continued for a longtime, is liable to be set aside. The petitioner submits that after the suspension order till today the applicant is not informed about any steps taken departmentally against the applicant and therefore suspension order requires to be set aside. The applicant submits that even after the suspension, the applicant is not paid any amount towards suspension allowance and therefore order is liable to be set aside. The applicant submits that after placing the applicant under suspension, respondents have never taken care to review or revise or cancel their decision. The respondents have even not taken care to pay any subsistence allowance to the petitioner. In one Supreme Court decision, it is observed that while paying the subsistence allowance also, the Government is obliged to review its decision from time to time, where proceedings drag on for a longtime; even though there may be no express rule insisting on such review. In the instant case, the applicant is not at all responsible for the delay in any proceedings and therefore respondents are obliged to - reconsider whether the order of suspension should be continued or whether the subsistence allowance

(12)

should be varied to his advantage or not. In the above circumstances, the suspension order is liable to be set aside.

9..The applicant submits that suspension order made against him before he is found guilty, is to ensure smooth disposal of the proceedings against him; and such proceedings should be - completed expeditiously in the public interest and also in the interest of concerned employee. In the instant case, not a single step is taken by respondents except by placing the applicant under suspension and therefore suspension order is liable to be set aside. The applicant submits that respondents are not paying any amount by way of suspension allowance, and are continuing their wrongful act day by day every month and therefore proper directions to the respondents are necessary to start paying suspension allowance from date of this application till suspension order is revoked or set aside by this Tribunal.

10..The applicant declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

11.The applicant declares that he has availed of all the remedies available to him under the relevant service rules.

The applicant therefore prays that:-

(A) YOUR HONOUR may be pleased to quash and setaside the suspension order dt. 12/2/1987 at Annexure A, passed by the Assistant Superintendent of Post offices, Ahmedabad City South sub division, Ahmedabad, being illegal unjust, improper and liable to be setaside.

(B) YOUR HONOUR may be pleased to direct the respondents to permit the applicant to perform his duties, as if no suspension order is passed, with all consequential benefits.

(C) YOUR HONOUR may be pleased to direct the respondents to pay to the applicant the legally permissible subsistence allowance, till the suspension order is revoked or setaside by this Tribunal pending hearing of this application.

(D) YOUR HONOUR may be pleased to pass ex parte interim order as prayed in sub para (c) above.

(E) YOUR HONOUR may be pleased to grant other and further orders as it may deem just and proper in the circumstances of the case in the interest of justice.

14
(14)

13. Particulars of Postal order in respect of application fee:-

(1) Number of Indian post order. DD 194262
6

(2) Name of the issuing office:- *Wazir Hinglaj Post Office*

(3) Date of issue of postal order 21/11/1989

(4) Post office at which payable

14. An index in duplicate containing the details of the documents is enclosed.

AND FOR THIS ACT OF KINDNESS AND JUSTICE
THE APPLICANT AS DUTY BOUND PRAY FOREVER.

Ahmedabad

dt 21-11-1989

S.C. Shah
SANDIP C.SHAH

Advocate for the applicant.

VERIFICATION

Brahmanagar

age 30 yrs under suspension, residence

I, Ashokbhai Jivanlal Pakhali, applicant herein do
hereby state and verify that what is stated ^{in paras 1 to 5(6)} ~~above~~
is true to my knowledge, belief and information and paras 5(7) to 10
I believe the same to be true on legal advice and that I have not
suppressed any material fact

dt-21-11-1989

Brahmanagar

Filed by Mr. *Sandip Shah*
Learned Advocate for Petitioners
with second set & *2* spares
copies copy served/not served to
other side

dt. 21/11/89 Dy. Registrar C.A.T (J
A'bad Bench) *C. Shah*

ADDA

(Copy of memo no 1P-2/EDA/AJN/77-78)

Dated 30-5-77

15
9

Post and Telegraph department

C/o Inspector of Post offices

Ahmedabad city - South Sub Div.
Ahmedabad 380004.

Memo No 1P-2/EDA/AJN/77-78

Dated 30-5-77

Shri A.J. Pakhali security furnished outside is
hereby appointed as ED. factor at Behrampura P.O.
w.e.f. 9-5-77 in vacant post vice Shri M.C. Thakore
promoted in class IV cadre. He shall be paid such
allowances as admissible from time to time.

2. Shri A.J. Pakhali should clearly understand that
his employment as ED. factor shall be in the nature
of contract liable to be terminated by him or the
undersigned notifying orders in writing and that he
shall be governed by the Post and Telegraphies extra
departmental Agents (conduct and service) rules 1964 as
amended from time to time.

3. If these conditions are acceptable by him,
he should communicate his acceptance in the
format enclosed herewith.

Sd -

C.V.T. Sheth
Inspector of Post offices
Ahmedabad city South Sub Div
Ahmedabad 380002

Copies issued for information and info to

- (1) Shri A.J. Pakhali - at Behrampura P.O.
- (2) The S.P.M. Behrampura P.O.
- (3) The P.M. Ahmedabad Gr. P.O. Am 380001
- (4) PF of official concerned
- (5) S.P.M.

True Copy

Enthekar
Ass't Supdt of Po's 2-9-89
Ahmedabad City (South) Sub Div
Ahmedabad-380002.

True copy

S.P.M.

:- Department of Posts- India :-

Office of the

-Asstt Super of PO's
Ahmedabad City South Sub Dn.
Ahmedabad - 380 002.

No.PF/A.J.Pakhali dtd at Ahd. 2 the 12/8/87.

:- ORDER :-

Whereas a case against Shri A.J. Pakhali E.D. Night Guard Behrampura P.O. in respect of a Criminal offence is under investigation.

And whereas the said Shri.A.J.Pakhail was detained in custody and a criminal charges involving moral turpitude is pending.

Now therefore the said Shri.A.J.Palkali E.D. Night Guard Behrampura P.O. is deemed to have been put off duty with effect from the date of detention ie the 24-1-87 in terms of rule 9 of the E.D.A. (Conduct and Service) Rules 1964 and shall remain under put off duty untill further Order.

It is further ordered that during the period that this order remain in force the head quarter of Shri.A.J.Pakhali should be Ahmedabad and said Shri.A.J.Pakhali shall not leave head quarter without obtaining the prior permission of the under signed.

(S. J. Ninama)

Asstt. Supdt. of PO's
Ahmedabad City South Sub Division
Ahmedabad- 380 02.

Copy issued To:-

Regrd AD

- ✓ Shri. Ashok Jivanlal Palkhali Phoolgali
Khamasa Dhanbai Malinu delu Ahmedabad
380001.
2. Sr. Supdt of PO's Ahmedabad City Dn,
Ahmedabad- 380 001.
3. The Chief Postmaster Ahmedabad 380001
4. The S.P.M. Behrampura Ahmedabad-22.
5. Case File
6. Spare.

Done copy
8/24/19

AMX. AM

18

8. 3. 77 29415

10. 3. 00

9-20 29415

024 29415

024 29415

9-3-29415

29415

12

29415

29415
29415

29415 29415 29415 29415

23. 2. 9. 3515

(36187).

29415 29415

29415

29415 29415 29415 29415

29415 29415 29415 29415

29415 29415 29415 29415

29415 29415 29415 29415

29415

29415

29415 29415 29415 29415

29415 29415 29415 29415

29415 29415 29415 29415

29415 29415 29415 29415

29415 29415 29415 29415

29415 29415 29415 29415

True copy
S. S.

19

(3)

2nd year.

91.9518155

ବେଳ ବ୍ୟାଙ୍ଗ ପରିବାର ମୁଖ୍ୟମ୍ୟ

S.D. R. ~~ପରିବାର~~

ବ୍ୟାଙ୍ଗ ମିଳ. ମାତ୍ର, ମୋହାର୍ଦ୍ଦିତ
କାଳ ଏବଂ ଏହି ମହିନେ ମୁଖ୍ୟ ମାତ୍ର.

S.D.I.-

2212155

ବ୍ୟାଙ୍ଗ ମିଳ ପିଲାଇ, ଶ୍ରୀମାତ୍ର.

V.25.1.5281.

S.D. I.S.S. Panchal.

ବ୍ୟାଙ୍ଗ ମିଳ

ଶ୍ରୀମାତ୍ର, ପରିବାର

ବ୍ୟାଙ୍ଗ, ୨୧-୨୨ ବ୍ୟାଙ୍ଗମିଳ୍ୟ, ମେନ୍ଦିପୁର

S.D. R. ~~ପରିବାର~~

ମୁଖ୍ୟ

୧୩

୧୦

୧୧

୧୨

અને અને

20

15



ગુજરાત રાજ્ય કાનૂની સહાય અને આધાર બોર્ડ

કેન્દ્રાંતર કાનૂની સહાય

નાઈટ કેન્દ્રાંતર કાનૂની સહાય

અમદાવાદ-૩૮૦ ૦૦૧.

ગુજરાત રાજ્ય કાનૂની સહાય અને આધાર બોર્ડ

સાધ્યાંશી

શ્રી આમદાદાના ગોધરી
માનનીય માયોરિટીની

સાધ્યાંશી

માનનીય માયોરિટીની
શ્રી મી. આર. ગેઠુંડાયાન
માનનીય માયોરિટીની

સાધ્યાંશી

માનનીય માયોરિટીની
શ્રી. એસ. બી. મજબૂદાર
માનનીય માયોરિટીની

સાધ્યાંશી

શ્રી. બી. બી. દેસાઈ
ના. ૪૪૨૪૩ (ચેફી)
ના. ૪૪૨૯૮ (રેફ.)

સાધ્યાંશી
શ્રી. પુ. બી. રૌથદ
ના. ૪૪૨૪૩ (ચેફી)
ના. ૪૪૨૯૮ (રેફ.)

નાયોર્ડ ના. ૩૬૩૧૬૬ ૨૯/૮૮ ૧૧૩૧ - ૭-૧૯૮૮

અનુભૂતિ કાનૂની સહાય

પોલીસ કાનૂની સહાય
માનનીય માયોરિટીની

દિનાંશી શ્રી નાયોર્ડ અનુભૂતિ કાનૂની સહાય

શ્રી માન.

નાયોર્ડ કાનૂની સહાય ના. ૩૬૩૧૬૬

૩. શ્રી નાયોર્ડ અનુભૂતિ કાનૂની સહાય ના. ૩૬૩૧૬૬
નાયોર્ડની નાયોર્ડ ના. ૩૬૩૧૬૬ માટી નાયોર્ડ

૪. અનુભૂતિ નાયોર્ડ ના. ૩૬૩૧૬૬ નાયોર્ડ ના. ૩૬૩૧૬૬
નાયોર્ડ ના. ૩૬૩૧૬૬ નાયોર્ડ ના. ૩૬૩૧૬૬

નાયોર્ડ દિનાંશી

નાયોર્ડ ના. ૩૬૩૧૬૬

નાયોર્ડ ના. ૩૬૩૧૬૬

નાયોર્ડ ના. ૩૬૩૧૬૬

શ્રી નાયોર્ડ અનુભૂતિ કાનૂની સહાય ના. ૩૬૩૧૬૬

નાયોર્ડ ના. ૩૬૩૧૬૬ નાયોર્ડ ના. ૩૬૩૧૬૬

નાયોર્ડ ના. ૩૬૩૧૬૬

True copy
S. G.

8/22/24 -

ବୁଝିବାରେ - ଯାଇବାରେ । ଯାଇବାରେ -

21. 25 - (- - 1 - 1 -)

2021-2022-09-11 10:17:47

~~Free copy
now~~

1290
D 22
W

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT

A H M E D A B A D.

O.A. No. 521 of 1989.

Ashokbhai J. Pakhali .. Applicant

Versus

Union of India & Ors. .. Respondents

REPLY on behalf of the respondents :

I, Birwanath Tripathy working

as Sr. Subdt. of Post Office in the office of the Sr. Subdt.
of Post Office, Ahmedabad

do state as under :

18.1.90
That I have read the copy of the application
and am conversant with the facts and circumstances
of the case and therefore I am competent to file
this reply on behalf of the respondents. I say
that I am filing this reply for the purpose of
opposing the admission of the application and
do reserve my right/s of filing further reply/s
if any need there be.

1. At the outset, I say that I deny the all
averments made by the applicant in this application
except which are specifically admitted by me here
inafter. I further say that the contents of this

application are misconceived by the applicant and the same is not maintainable and deserves to be dismissed. It is further submitted that the action of the respondents is in accordance with the law, therefore, the application being devoid of any merits deserves to be dismissed.

2. With regard to para 2 and 3, I say that the applicant is impugning the order dt. 12.2.1989 (87) therefore the application is time barred and is not maintainable. I further say that the applicant has not exhausted the remedies available under the rules and therefore, the Hon'ble Tribunal has no jurisdiction to entertain the same.

3. With regard to para 4, I say that I deny the contents thereof. I say that the applicant was serving as Night Guard at Behrampura and it was the duty of the applicant to preserve and watch concerned the property of the Post Office. It is submitted that the respondent - offices were informed by the Police Inspector, Kagdapith Police Station that the applicant Shri A.J. Pakhali was arrested on 25.1.89 (87) in connection with theft case of cloths and was sent in custody of the learned Metropolitan Magistrate, Court No. 4 as an accused of theft case. Therefore, having come to know the same fact, the respondent-

offices have taken steps under the Posts & Telegraphs Extra Departmental Agents (Conduct & Service) Rules, 1964 and therefore the respondents are pursuing their action under the relevant rules.

* It is submitted that when the respondents knew that the applicant is involved in a criminal case, the respondents offices made inquiries regarding this involvement and after detecting some materials, information relevant as regards the applicant, the applicant was suspended on 12.2.1987. It is submitted that the order of suspension was served upon the applicant by registered post. The applicant intentionally without informing of this criminal case resumed duty on 11.2.1987 after having remained absent from 24.1.1987 to 10.2.1987. The applicant, E.D. Agent - Guard, Behrampura had not obtained prior ~~prior~~ permission for leave for the period from 25.1.1987 to 11.2.1987. I make it clear that the respondents have not merely relied upon the news which were published in 'Sandesh' newspaper but also inquired with the police station, Astodia and it was revealed from the Police Station, Astodia that the case of the applicant was transferred to Karanj Police Station which ultimately

registered the Criminal case Being numbered C.R. No. 36/87 under section 380 and 457 of the Indian Penal Code. The respondents also ascertained the fact from the police station that he was arrested by the police and ultimately, the applicant was made to be "PUT OFF" duty. Therefore, the applicant is not entitled to any allowance as per Rule 9(3) of Post & Telegraphs Extra Departmental Agents (Conduct & Service) Rules, 1964 which reads as follow:

"Rule 9(3):

An employee shall not be entitled to any allowance for the period for which ~~he~~ he is kept off duty under this rule."

4. With regard to para 5, I deny the contents thereof and I say that the respondents offices are informed by the police that the applicant does not attend the Court regularly and hence the case is in dormant file in the court. The criminal case has already ^{been} filed in the Court of learned Metropolitan Magistrate, ~~and~~ count No. 4 but the applicant is knowingly avoiding his attendance to go on with the criminal case.

5. With regard to para 6, I deny the contents thereof and I say that the averments made by the applicant in this paragraph are not relevant with the subject matter of this case and the same are

misconceived by the applicant and cannot be looked into for adjudication of this application. I further say that the applicant has tried to mislead the Court by making averments that he is innocent and is being harassed by the department unnecessarily. I say that the department has made ample inquiries regarding the criminal case of the applicant and therefore the say of the applicant that there is nothing against him, cannot be believed until any strong proof is received by the respondents from any competent authority. Therefore, the action ~~of~~ of the respondents is valid and legal. I further say that the applicant has not tried to make this doubt clear whether was there any progress in the criminal case or not. Therefore, in view of the materials received by the respondents from the police authorities, it is justified that the applicant may not be permitted to resume duty.

6. With regard to para 7, I deny the contents thereof. I deny that the criminal proceedings which are pending in the criminal court should be deemed to have ended and at present there is no case pending against the applicant. I further say that to support the say of the applicant, the applicant has not produced any valid document, judgement or order acquitting the applicant from the criminal

case nor he has produced any reliable evidence to the satisfaction of the respondents that there is nothing pending against the applicant which can give ~~rise~~ to the concept of the respondents that the applicant has been proved innocent by the competent authority and therefore, the pendency of any proceedings of the department is not justified therefore, it is submitted that unless and until it is clarified by any reliable source, the applicant being an accused, any criminal case punishable under section 380 and 457 of the Indian Penal Code cannot be permitted to function as a Government employee, which is clearly ~~prohibited~~ prohibited under the P & T E.D.A. (Conduct & Service) Rules, 64. Therefore the applicant does not deserve to say that the action of the respondent is illegal, invalid and unjustified in this set of circumstances. I further say that in view of the above stated facts, it is clear that the applicant cannot be given any allowance as an E.D. Agent when he is already placed "PUT OFF" duty. ~~and I say that the E.D. Agents are not in a prevented from~~ ^{applicant is} position to engage himself anywhere when he is 'PUT OFF' duty and I say that the E.D. Agents are not prevented from engaging themselves in any other job. The services are

not denied to the applicant but the department is awaiting to see that the applicant is honourably made free, acquitted from the charges levelled against him by the police authorities. It is further submitted that the respondents' offices being public employment ~~are~~ cannot define the orders of the courts. Therefore, if the applicant is ordered to be taken back in job or acquitted by a competent court, he will be taken back in the job as per the relevant rules.

7. With regard to para 8, I deny the contents thereof. I deny that the continuing suspension of the applicant is not justifying and I say that the action of the respondents keeping the applicant under suspension is justified unless and until it is pointed out by the applicant or it is brought to the notice of the respondents that the applicant is honourably acquitted or free by the competent authority. I further reiterate that the applicant has not made any effort to show to the ~~exp~~ respondents that the criminal proceedings pending against him have been ended in any manner.

8. With regard to para 9, I deny the contents thereof. I deny that the action of the respondents is belated and I say that the applicant has knowingly

avoided the proceedings before the criminal court
and police authority as reported by the police.

Therefore, it appears that there has not been any
progress in criminal case and it is also reported
by the police authority that the applicant is not
regularly attending the criminal court so that he
can take any steps ahead.

In view of the foregoing paragraphs, it is
submitted that the applicant has not exhausted the
remedy available under the rules nor the application
bears any merits, and therefore it deserves to be
dismissed.

Place : Ahmedabad

Date : 1/1/1990

(Biswanath Tripathy)

Verification

I, Biswanath Tripathy son of S.B. Tripathy
aged about 30 years working as Sr. Supdt. of Post Offices
in the office of Sr. Supdt. of Post Offices, Ahmedabad

do state and verify that what has been stated by
me hereinabove is true to my knowledge and belief
and I believe the same to be true.

Place : Ahmedabad

Date : 1/1/1990

(Biswanath Tripathy)
(Deponent)

Reply/Rejoinder/written submission
filed by Mr. J. D. Agarwal
learned advocate for petitioner
Respondent with second copy
Copy served/not served by other copy
C. S. Gaur
Dy. Registrar C.A.T.-P.
A'bad Benad

Dt. 19/1/90

83
20

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

AT AHMEDABAD.

DISTRICT : AHMEDABAD CITY.

ORIGINAL APPLICATION NO. 521 OF 1989.

Shri Ashekbhai Jivanbhai Pakhali.Applicant.

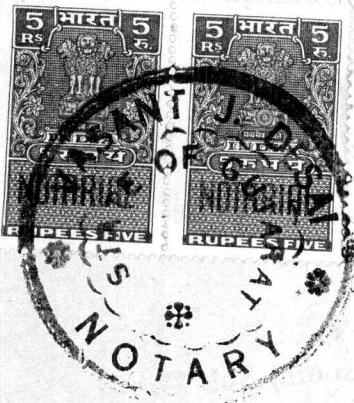
V/s.

The Union of India & Ors.Respondents.

AFFIDAVIT

I, Pravin C. Bhatt Asst. Supdt. of post South Sub Division do hereby solemn affirmation and state as under :-

1. That I have personally inquired from the Kagadapith Police Station I have been informed that the Criminal Case No. 1133 of 1987 has been filed before the Court. Its G. R. No. is 36 of 1987. The said case is pending before the Hon'ble Judicial Magistrate's Court No. IV. I am also informed that the applicant herein is not attending the court, the warrant was issued but he could not be traced out by Police authority and at present the above referred case is fixed on 4.6.1993. Thus the delay has been caused because of the absence of the applicant of the above referred O. A. So far as the applicant is involved in criminal case as per the Government Rules and Regulations he can not be taken on duty till the criminal case is completed I am also pointing out the post on which the applicant was serving,



has been abolished on Administrative ground and the applicant has refused to accept the posting on another place which was offered as per the policy of the department in view of the aforesaid facts as well as looking to the fact that the application is pending before the Hon'ble Tribunal and the criminal case is pending. The department has instructed to continue the applicant under put off duty till the O. A. is decided by the Hon'ble Tribunal. So far as the aspect of subsistence allowances is concerned rule provides that the Extra Departmental Agents is not entitled to have the subsistence allowance during the put off duty period.

I also state, what is stated hereinabove is true to the best of my knowledge, information and belief and I believe the same to be true.

Solemnly affirmed at Ahmedabad on this
7th day of April, 1993.

Explained and interpreted
in Gujarati to the deponent
by me.

Identified by me,

Clerk to Mr. Jayant Patel
Advocate.

D E P O N E N T .
Asstt. Supdt of Po's
Ahmedabad City (South) Sub D.
Ahmedabad-380002.

S NO 2559/ 1993
SOLEMNLY AFFIRMED
BEFORE ME

V. J. Desai
NOTARY
D/ 7/4/93

Filed by Mr. S. Shah
Learned Advocate for Petitioners
with second set of N.I.C. as
copies copy served/return to
other side

Openen
Dy. Registrar C.A.T.(J)
A'bad Bazaar

Cholab

MAILED & STAMPED



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

AT AHMEDABAD.

Misc. Civil Application No. 616 of 1993.
IN
Original Application No. 521/1989.

Applicant :- Ashokbhai J. Pakhali,

Versus.

Opponent :- Union of India and others.

*Leave
Hear* to amend Application.

The application of the
applicant abovenamed;

MOST RESPECTFULLY SHEWETH THAT :

1. The applicant has filed above application challenging the order passed by opponents putting the applicant of the duty exercising power of Post and Telegraph Extra Departmental Agents (conduct and service) Rules 1964.
2. The impugned order is under challenge. The applicants has also prayed ~~to-applicant~~ for interim allowance payable to applicant. In reply to application, the opponents rely upon Rule 9(3) of above rules which provides that an employee shall not be entitled to any allowance for the period for which he is kept off duty under the rule.

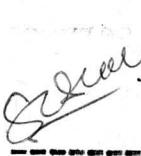
3. The applicant submits that the said Rule 9 (3) is set aside by Hon'ble Bench ~~at~~ in case of Peter De Souze reported in (1989) 9 A.T.C. 225. That said ~~judgment~~ was delivered ~~after~~ open filing of this application. The applicant ~~relied~~ upon the ratio laid down in that case in this case on same grounds. The said rule is violative of fundamental rights guaranteed under the constitution of India, and hence this Hon'ble Court may be pleased to take same view in this matter.

4. Under the circumstances, the applicants therefore, prays :-

- (A) be pleased to permit this application to amend and add para (F) as stated in the schedule herewith,
- (B) be pleased to dispense with affidavit of this application.

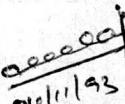
Ahmedabad.

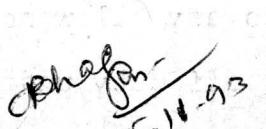
Dt. 4.11.1993.

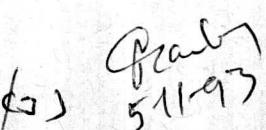

(Applicant for the Advocate.)

Submitted,

Application has been scrutinized and found to be in order. May be placed before Hon'ble Bench for necessary orders.


04/11/93


5.11.93 SO(3)


02/11/93 5/11/93

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE
TRIBUNAL, AHMEDABAD BENCH, AT AHMEDABAD.

original application 521 189

A. J. Patelwala

Applicant.

vs.

M.O.T & others

Respondents.

List of documents

I the advocate for respondent
bega to submit following documents in the
record of aforesaid C.A. which may kindly be
taken on record.

- (1) Extract of Panchnam.
- (2) Letter reviewing the case of
the applicant.

Above referred documents may
kindly be taken on record in the interest of
justice.

5-11-93

Ahmedabad.

Recd
Advocate for respondent.

(3)

2nd
Bhagwan 5-11-93

2010-02-21 11:57:28 (EST) 2010-02-21 11:57:28 (EST)
2010-02-21 11:57:28 (EST) 2010-02-21 11:57:28 (EST)
2010-02-21 11:57:28 (EST) 2010-02-21 11:57:28 (EST)

9119162

519962 07/11/1998 10:00-10:12
07/11/1998 10:00-10:12
07/11/1998 10:00-10:12

22-2-63

186

2018-01-01

22/2/6

8m2m 82mm 120.

Беларусь

27th June
1938

1816

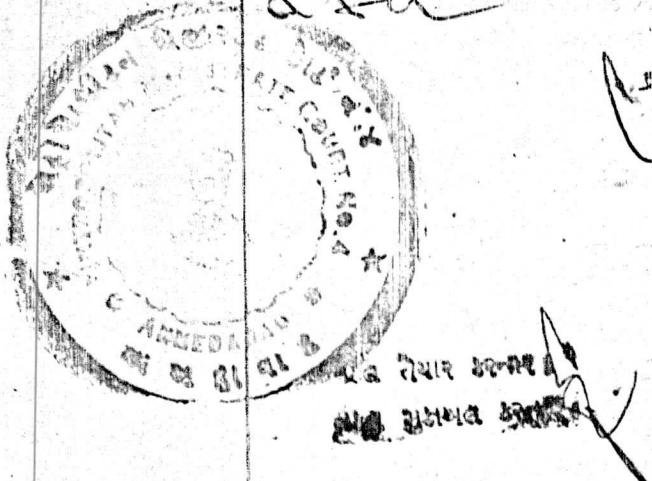
۱۹۸۶

8M23A12mvi.

38771

2-4

٦١٦



25/12/2000
मुमुक्षु विवरण
कृष्ण, 25/12/2000

revocation and is continue in
Govt duty office. Moreover the
criminal case is pending in
a court.

In light of above, I do not
find any justification for revocation
of officer at this stage.

W
विश्वामित्र, दाक घर, अस्सीगांड गांड
Senior Superintendent of Post offices and City D.
काशीगंडा, कोड. अस्सीगांड-३४०००१

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE
TRIBUNAL AT AHMEDABAD.

MISC. CIVIL APPLICATION NO. 555 OF 1994

IN
ORIGINAL APPLICATION NO. 521 OF 1989.

(For Restoration of original application)

Recessed
Shri Ashokbhai Jivanlal Pakhalgi,
residing at Khasbazar, Dhanbai
Mali's Delhla, Near Karanji
Police Station. Ahmedabad.

.. Applicant.

21/10/94

Versus.

1. The Union of India
Notice to be served through
the Chief Post Master General,
Navrangpura. Ahmedabad.

2. The Assistant Superintendent
of Post Offices.
Ahmedabad City South Sub
Division. Ahmedabad.

.. Opponents.

To
The Hon'ble the Vice Chairman and the Hon'ble
Members of the Administrative Tribunal at
Ahmedabad.

The application of the
applicant abovenamed;

MOST RESPECTFULLY SHEWETH:-

1. The applicant filed above original application
No. 521 of 1989 on 21-11-1989 in this Hon'ble Court
praying for quashing and setting aside the order of
respondents placing applicant under put off duty
on 12-2-1987 and for all consequential benefits. The
application was admitted and respondents have
appeared and filed their reply. That Hon'ble Court

Filed by Mr. C. Shekhar
Learned Advocate for the Respondents
With second copy
Copies copy served on other side
Other side

By Register C.A.T.O
A. D. P. S.

10/10/94
10/10/94

also granted interim relief, which was not complied
coupled with by respondents, hence application No.31
of 1990 was also filed for taking out contempt proceedings against respondents. That respondents also filed M.A.No.262 of 1991 for modification of interim relief.

2. That above application's were placed for hearing on 23-9-1994. That Advocate Shri Shah could not remain present since he was busy in Consumer Disputes Redressal Commission Court throughout day. That applicant's brother Nareshkumar Jivanlal died on 20-9-94 and applicant could not remain present in court. Since he was engaged in social commitments. That applicant also could not inform Advocate regarding death of his brother. That every time applicant tried to cooperate with above proceedings. But on 23-9-94 the applicant could not remain present due to above genuine reason. That there was no intentional absence of applicant or his advocate on 23-9-1994. That there was no wilful negligence of applicant or his advocate for not remaining present in the court. That application is dismissed for default of appearance and is not heard on merits. That if prayers made in this application is not granted, the applicant shall suffer irreparable loss which cannot be compensated. The applicant produces herewith copy of death certificate as part of this application. That applicant is ready and willing to proceed with the matter on the date fixed by Hon'ble Court. That if application is restored to file, the opponents are not likely to be prejudiced

3. Under the circumstances as said above and upon those which may be urged at the time of hearing this application; the applicant therefore prays that Your Honour may :-

- (A) Be pleased to admit this application.
- (B) Be pleased to set aside order passed in O.A. 521 of 1989, C.A.No.31/90 and M.A.No.261/1991 on 23-9-1994, dismissing the same for default of appearance and be pleased to restore above application on file;
- (C) Be pleased to pass any other and further order as deem just and proper under the circumstances.

Ahmedabad.

DT-21-10-1994.

2180341707

VERIFICATION

I, Ashokbhai J. Pakhali, applicant herein do
hereby solemnly ~~affirm~~ and state ~~on oath~~ that what is
stated above is true to the best of my knowledge, belief
and information and I believe the same to be true.

22.1.6.1.1.3.1 (n-1)

Submitted

Contents explained
to applicants and
Identified by me.

~~Science~~ Advocacy
(SANDIP C SHAFF)

Application has been scrutinized
and found to be in order.
May be placed before
Hon'ble Bench for necessary
order.

ceelad
osirilau

2000
soc.)

100-1115
DEC 3

S.C.Shah

CAT/J/13

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 521/89.

T.A. NO.

DATE OF DECISION 23-9-94.

Ashokbhai Jivanlal Pakhali.

Petitioner

Mr. S.C.Shah.

Advocate for the Petitioner (s)

Versus

Union of India & Another.

Respondent

Mr. Akil Kureshi

Advocate for the Respondent (s)

ORAM

The Hon'ble Mr. N.B.Patel

: Vice Chairman

The Hon'ble Mr. V. Radhakrishnan.

: Member (a)

Shri Ashokbhai Jivanlal Pakhali,
Khasbazar, Dhanbai Malinu Dehlu,
Near Karanj Police Station,
Ahmedabad.

... Applicant.

Versus.

1. The Union of India
through the Chief Post Master General,
Navrangpura, Ahmedabad.

2. The Assistant Superintendent
of Post Offices,
Ahmedabad City South Sub Division,
Ahmedabad.

... Respondents.

ORAL ORDER.

O.A.No.521/89.

Per.: Hon'ble Mr. N.B.Patel

: Vice Chairman.

Applicant and his advocate Mr. Shah are not present.

Dismissed for default. No order as to costs.

Sd/-
V.Radhakrishnan
Member (A)

Sd/-
N.B.Patel
Vice Chairman

Prepared by: H.P.(Molush)
Compared by: U/T/10/10/10

TRUE COPY

Section Officer (A)
Central Administrative Tribunal
Ahmedabad Bench

પદ્ધોય નં. :- ૧૩૦/૧૦૦

નકલ માટે અરજી કર્યો તારીખ :- ૨૬-૬-૬૪

નકલ બનાવ્યા તારીખ :- ૨૮-૬-૬૪

નકલ આપ્યા તારીખ :-

કિલોત રૂ. ૧-૦૦

અરી નકલ

મરણનું પ્રમાણેપત્ર

(જન્મ અને મરણ નોંધણી અધિનિયમ ૧૯૬૮ ની કલમ ૧૨/૧૭ મુજબ)

યુઝરાત સરકાર

નમુનો ક્રમાંક ૧૦

જાહેર આરોગ્ય ખાતું

આખી પ્રમાણેપત્ર આપવામાં આવે છે કે નીચેની માહિતી મરણવા સુણ રેકર્ડમાંથી લેવામાં આવી છે જે યુઝરાત રાજ્યના અમદાવાદ શહેરના ૨૧થિયે ૨૦૮૮ વાર્ષના પાના નં. ૩૬૫૪ અને ૧૯૬૮ ૪ માર્ચ. ૧૯૬૮ ના રજીસ્ટરમાં

૧. નામ નરેશકુમાર	૨. જાતઃ (સા. / યુ.)	૫૦
૩. મરણ તારીખ ૨૦-૬-૬૪	૪. નોંધણી કેમાંક ૧૫૭	
૫. મરણ સ્થળ ૨૧થિયે	૬. નોંધણીની તારીખ : ૨૬-૬-૬૪	
૭. પિતાનું નામ શ્રવણભાઈ ૨૧જૂન	૮. માતાનું નામ : -	
૯. પરિત્યાજક નામ -	૧૦. મરણના માલણનું ઉલ્લેખ મરણનારકું સરનારું ખાસખાઈ ૨૧થિયે અમદાવાદ	

નાય :- મરણના દાખલામાં મરણના કારણ સંબંધી રજિસ્ટરમાં દાખલ કર્યો પ્રમાણેની વિગત જાહેરમાં પ્રગટ કરી શકાશે નહીં. [કલમ-૧૭(૧)અ]

(૧) નકલ કરનારની સહી

(૨) મુકાબલ કરનારની સહી

તારીખ

કાઢી આપનાર સત્તાવિકારીની સહી
આરોગ્ય ખાતું (જન્મ મરણ વિલાગ)
મુનિસિપલ કોર્પોરેશન
અમદાવાદ.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

C/ M.A. No. 31 of 1990

in

O.A. No. 521 of 1988-1989

Mr. Ashokbhai J. Pakhalia... Applicant

V/s

Union of India and anr. Opponents

I n d e x

Sr.No.	Particulars	Appx. Pages
1	Memo of Application	1 to 5
2	Order passed by Court on 13.12.89.	A 1

THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

M.A. No. 31 of 1989

in

Original Application No. 521 of 1989

(Under Sec. 17 of C.A.Tribunal Act).

Mr. Ashokbhai J. Pakhali,

Khasbazar, Near Karanj

Police Station, Ahmedabad... Applicant

v/s

1. Union of India,

to be served through

the Chief Post Master General

Mr. K. P. Biswas
Navrangpura, Ahmedabad.

2. The Assistant Superintendent

of Post Offices,

Mr. R. K. Chauhan
Ahmedabad City South

Sub-Division, Ahmedabad... Opponents

1... The applicant has filed the above mentioned Original Application No. 521 of 1989, challenging the suspension order dated 12.2.1987 by the respondents on the grounds inter alia that the respondents are continuing suspension order illegally without any departmental proceedings since long; respondents are also not paying the suspension allowance to the applicant since order of suspension. That so called criminal investigation had ended in favour of applicant,

however respondents are not taking any action taking back applicant in service. That the applicant at present is continued under suspension without being paid any suspension allowance and therefore applicant is ~~extremely~~ struggling hard to maintain himself as well as family members. The applicant has also challenged the suspension order on the grounds mentioned in the Original Application .

2... The above-mentioned Original Application No.521/1989 came up before the Hon'ble Tribunal for admission hearing on 13.12.1989. The advance copy of the petition was served to Respondents' Advocate Shri J.D.Ajmera. The Hon'ble Court after hearing both sides has admitted the above O.A.No.521 of 1989 on the question of interim relief, the Hon'ble Court, after hearing both the sides, has directed the respondents by way of ad-interim relief, to pay legally available subsistence allowances to the petitioner within 30 days from the date of the order i.e. on 13.12.1989. The respondents were also directed that they should explain their defence. I crave leave to refer to and rely upon the above order as and when necessary.

3... The respondents' Advocate was present at the time of hearing as well as respondents have knowledge of Hon'ble Court's Order dated 13.12.89.

The applicant humbly submits that till to-day respondents have not complied with the directions issued by this Hon'ble Court. The respondents have filed their reply to above Original Application but have not carried out by Hon'ble Court's directions. The respondents have taken false defence and wrong excuses in their reply against the well settled provisions of law.

4... For sometime as this Hon'ble Court was not available, the Original Application was not placed on Board. The respondents are not complying with the directions issued by this Court and are committing breach of directions wilfully and deliberately and are not paying any suspension allowance to the applicant. The respondents are committing Contempt of this Hon'ble Court's Order day to day. The respondents should not be allowed to be heard unless they purge before this Hon'ble Court. The respondents cannot commit breach of the order under wrong pretext and on false excuses. First they should comply with Hon'ble Court's Order thereafter they be allowed to be heard.

5... The applicant files this Application inviting this Hon'ble Court's directions against the respondents to take appropriate action for -

Contempt of this Hon'ble Court's Order.

6.... Under the circumstances, the applicant prays that:-

(A). Your Lordships be pleased to admit this Application.

(B). Your Lordships be pleased to take appropriate steps against the respondents by holding that they have committed Contempt of this Hon'ble Court.

(C). Your Lordships be pleased to direct the respondents to ~~not~~ obey and carry out this Hon'ble Court's Order dated 13.12.1989 forthwith;

(D). Your Lordships be pleased to fix the early date of hearing of above Original Application No.521 of 1989.

(E). Your Lordships be pleased to grant any other and further reliefs as deem just and proper.

And for this act of kindness and justice the applicant as in duty bound shall for ever pray.

Ahmedabad)

Dt. 16.7.1990) -----
Applicant's Advocate

~~20/7/90~~
U2

Verification

I, Ashokbhai son of Jivanlal Pakhali, age adult, at present under suspension in the Office of the respondent no.2, resident of Ahmedabad, do hereby verify that the contents of para 1 to 3 are true to my personal knowledge and paras 4 to 5 believed to be true on legal advice and that I have not suppressed any material fact.

Ahmedabad

Dt. 16.7.1990

Br. No 3464615767

Applicant

5232
24

~~3~~ ~~3~~ ~~3~~
~~3~~ ~~3~~ ~~3~~
~~3~~ ~~3~~ ~~3~~

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.



CONTEMPT PETITION NO. 31 OF 1990

IN

ORIGINAL APPLICATION NO. 521 OF 1989.

Shri A.J.Pakhali,

..... Petitioner.

Versus.

Union of India
and others.

..... Respondents.

Additional Affidavit

B.S. Patel,

I, M.M.Raval, Assistant Post Master

General (Staff), Gujarat Circle, on behalf of
Chief Post Master General, Ahmedabad do hereby
solemnly affirm and state as under :-

1. I say and submit that during course of
hearing in the aforesaid Contempt Application,
on behalf of the applicant, it was submitted
before the Hon'ble Tribunal that the Rule providing
put of duty without payment of any subsistence
allowance to the employee is declared unconsti-
-tutional by Central Administrative Tribunal,
Benglore Bench in case of Pitar J. Disoza V/s.
Superintendent of Post Offices and others. At
the relevant time, the respondents had no sufficient
information as to whether the decision of the



(270)
Jasrajan Patel
Jasrajan Patel

Central Administrative Tribunal, Bengaluru
Bench is challenged by the department by
preferring Special Leave Petition before
the Hon'ble Supreme Court of India or not and
if any proceedings are pending what is the
out-come of it ?

2. I say and submit that with a view to
complete record and also with a view to appraise
the Hon'ble Tribunal regarding correct legal
position, I am filing this additional affidavit.

3. I say and submit that against the decision
of Central Administrative Tribunal, Bengaluru
Bench in O.A.No. 553 of 1987 to 556 of 1987
in case of Pitar J. Dizoza V/s. Superintendent
of Post Offices, the Superintendent of Post
Offices and the Union of India have preferred
S.L.P. Nos. 9334 of 1990 to 9341 of 1990 before
the Hon'ble Supreme Court of India and in the
said S.L.Ps. the Hon'ble Supreme Court of India
has passed the order dt. 22-8-1990 whereby the
notices have been issued to the respondents
and in the meantime, operation of the impugned
order passed by the Tribunal is stayed. The
copy of the order dt. 22-8-1990 passed by the
Hon'ble Supreme Court of India in the aforesaid
S.L.Ps. is produced herewith and marked Annex A/1. ANNEX A/1.
for ready reference to the Hon'ble Tribunal.
It may be stated that the aforesaid S.L.Ps. are

S 28
14

pending, the petitioner has received the aforesaid information from the office of the Post Master General, Karnataka Circle, Bengaluru as letter per order dt. 23-10-1991. The copy of the letter dt. 23-10-1991 issued by the Post Master General Karnataka, Bengaluru is annexed herewith and marked Annexure A/2.

4. I therefore say and submit that in view of the above referred legal position, no reliance can be placed by the applicant upon the decision given by the Central Administrative Tribunal, Bengaluru Karnataka as the stay order has been granted by the Hon'ble Supreme Court of India as stated above. I say and submit that the relevant rule on the Statute Book remains as it is and reliance placed by the Department on the wrong reply as well as in the affidavit in reply filed earlier is justified and the same is in accordance with law.

What is stated above is true and correct.

25.11.91
Date: 25.11.1991.
Place: Ahmedabad.

Serial No. 523279115
Book No. IV
Page No. 25
Date 25/11/91

M. M. RAVAD
A.P.M.G. (Staff)
O/O C.P.M.G.
Gujarat Circle,
Ahmedabad-380009

V. J. Desai
Notary

Director
A.P.M.G. (Staff)
O/O C.P.M.G.
Gujarat Circle
Ahmedabad-1

SOLEMNLY AFFIRMED
BEFORE ME

V. J. Desai

(P.T.O.)

NOTARY

17-1-88 (40/1988)

Item No. 3

Court No. 3

Section 11

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) For Special Leave To Appeal (Civil/2000) No. (s) 13009-19 of 1988
 (with 112(C) No. 9354-748/90, 9353/90, 9407/90) from the High Court of
 Gujarat dated 15.7.88
 In Appn No. 953-556/87, CV Nos. 987-990/87 & Admin. Appn Nos. 103/87 & 104/88
 Superintendent of Post Office, A.S.O.S.

Peter J. D'Souza ... RESPONDENT(S)
 (with appn for stay & appn. for impleading party)

Date : 22.8.90 : This/These petition (s) was/were called on for hearing today

CORAM :

179
 Hon'ble Mr. Justice K.N. Singh
 Hon'ble Mr. Justice T.K. Thosar
 Hon'ble Mr. Justice Kuldip Singh

For the Petitioners

Mr. TS Murthy Iyer, & Adv
 Mr. A. Bubba Rao, Adv
 Mr. TC Sharma, Adv
 Mr. CV Bubba Rao, Adv.

For the Respondents

UPON hearing counsel the Court made the following
ORDER

Issue fresh notices to un-served respondents.

Meanwhile, impugned order of the Tribunal is stayed.

(Monoj Ben)
 Court Master

(K.R. Suresh)
 Court Master

Attested Copy

महायक पोस्टमास्टर गेनरल (स्टेट)
 Asstt. Postmaster General (CTM)
 गुजरात संकाल, अहमदाबाद-380006
 Gujarat Circle, Ahmedabad-380006



ANNEXURE A/2

B.L. Subbaramaiah
A.P.M.G(S)



अ. स. संख्या LC/2-51/87/II
D. O. No.

दाकतार महाध्यक्ष का कार्यालय

कर्नाटक परिमंडल,
बैंगलूरु-560 001

OFFICE OF THE POSTMASTER GENERAL
KARNATAKA CIRCLE,
BANGALORE-560 001

दिनांक Dated..... 23.10.91

Dear Raval

Kindly refer to your DO letter no. STA/24-19/CC/43/B9 dt. 8.10.91 a/t to Sri. T.S.Govindarajan Director (Staff) o/o the O.G.Posts and copy endorsed to this office regarding grant of stay by the Supreme Court in the SLP filed in Peter J.O'Sa and others case in application no. 553 to 556/87 etc.

138

SS
Staff
18/26/91
A copy of Supreme Court's stay order dt. 22.8.1990 granted in SLP nos 9334 to 41/90 Etc is enclosed herewith as desired. The decision of the Ahmedabad Bench in CA no. 521/89 with a copy of the judgement may be sent to this office when it is decided.

(I) with regards

Yours sincerely

[Signature]
/B.L.SUBBARAMAIAH/

DA: As refd to

SS
WIE
To:
Shri. M.M.Raval
A.P.M.G.(Staff)
o/o the P.M.G. Ahmedabad- 380001.
Ahmedabad- 380 001

Attested Copy

[Signature]
सहायक पोस्टमास्टर (स्टाफ)
Assit. Postmaster General (STAFF)
ગुजરાત સફિલ, અહમ્દાબાદ-380001
Gujarat Circle, Ahmedabad-Gujarat



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH AT AHMEDABAD

Civil Appln. No. 31 of 1990

in

O. A. NO. 521 of 1989

Ashokbhai J. Pakhali
Khas Bazar,
Near Karanj Police Station,
Ahmedabad.

.. .. APPLICANT

v/s

1. The Union of India

through The Chief Postmaster
General, Navrangpura,
Ahmedabad.

2. The Assistant Superintendent
of Post Office Shri R.K.Chauhan
Ahmedabad City South Sub-
Division, Ahmedabad.

OPPONENTS

AFFIDAVIT-IN-REPLY

I, R. K. Chauhan, Office Supervisor
Office of the Senior Superintendent of Post Offices,
Ahmedabad City Division, Ahmedabad, herein, do hereby
state as follows.

1. I say that the Hon'ble Tribunal has
issued a notice in Form No. III against me in

Tendered by Legd. on 24/10/91
Court of Legd. on 24/10/91

:2:

above mentioned application on the accusation to the effect that I have not complied with the order dated 13.12.1989 of the Hon'ble Tribunal in the case No. O. A. 521 of 1989 and I am called upon to/ appear in person or through the duly authorised advocate and to show cause as to why such action as is deemed fit under the Contempt of Courts Act, 1970 should not be taken against me and in reply thereto I beg to state as follows.

2. I say that I am not filing this reply with an intention to justify the action and/or accusation of non-compliance with the order passed by this Hon'ble Tribunal. I say that I have highest regards for this Hon'ble Tribunal and the order passed by this Hon'ble Tribunal. I tender my unconditional apology for the non-compliance with the order dated 13.12.1989 passed by this Hon'ble Tribunal in case No. O. A. 521 of 1989 being filed by the abovenamed applicant.

3. I state that I am not holding the post of Assistant Superintendent of Post Office, Ahmedabad City South Sub-Division, Ahmedabad. I state that I am a serving as Office Supervisor, Office of the Senior Superintendent of Post Offices, Ahmedabad City

Division, Ahmedabad-1, and as such it appears that the applicant has joined me through bonafide mistake but, apart from this fact I state as follows.

4. That In the above mentioned Original Application this Hon'ble & Tribunal passed the order on 13th December, 1989. I crave leave to reproduce hereinbelow the order passed by this Hon'ble Tribunal on 13th December, 1989 as follows.

~~xx~~ "Heard Mr. S.C.Shah and Mr. J.S.Yadav for Mr.J.D.Ajmera, learned Advocates for the applicant and respondents respectively. Application is admitted. By way of interim relief, it is hereby directed that the respondents should pay the subsistence allowance admissible to the applicant within 30 days of the issue of this order. So far as the question of suspension is concerned, issue notices to the respondents to reply on merits within one month of this order. Registry to take necessary action.

The aforesaid order was communicated to the Office of the Assistant Superintendent of Post Offices, Ahmedabad City South Sub Division, on 1st January, 1990, and the hearing was kept on 15th January, 1990. The copy of the said notice issued to the office of the Assistant Superintendent of Post Offices, Ahmedabad City South Sub-Division,

Ahmedabad is annexed herewith and accordingly the written reply was filed in the above mentioned Original Application. I crave leave to reproduce hereinbelow the paragraph No. 3 of the written Reply filed in the above mentioned Original Application:--

"3. With regard to para 4, I say that I deny the contents thereof. I say that the applicant was serving as Night Guard at Behrampura and it was the duty of the applicant to preserve and watch the property of the concerned Post Office. It is submitted that the respondent Office were informed by the Police Inspector, Kagdaphith Police Station that the applicant Shri A.J.Pakhali was arrested on 25.1.1989(87) in connection with theft case of cloths and was sent in custody of the learned Metropolitan Magistrate, Court No.4 as an accused of theft case. Therefore, having come to know the same fact, the respondent Offices have taken steps under the Posts & Telegraphs Extra Departmental Agents (Conduct & Service) Rules, 1964 and therefore, the respondents are pursuing their action under the relevant rules."

Accordingly in view of the provisions contained in Rule 9 (3) of the Post and Telegraphs Extra Departmental Agents (Conduct & Service) Rules, 1964, the applicant

was not entitled to any subsistence allowance and the respondent No. 2 was carried away with the impression that the subsistence allowance are to be paid to the original applicant as admissible to the applicant but since in view of the provisions contained in Rule 9(3) of the P & T E. D. A. (Conduct and Service) Rules, 1964 which was not admissible to the applicant and under bonafide mistake the same could not be paid to the applicant. Thus on account of the facts and circumstances stated hereinabove, the respondent No. 2 could not make payment of subsistence allowance to the applicant. Apart from this fact I would also like to point out that after the applicant being placed on put of duty the said post was abolished subsequently on administrative ground and on account of these facts and circumstances the respondent No. 2 was unable to pay the subsistence allowance since the post was abolished by the Competent Authority. On account of the facts and circumstances stated hereinabove, the respondent No. 2 could not make payment of subsistence allowance to the applicant. I, therefore, state and submit that there was no intention to flout or infringe the order passed by this Hon'ble Tribunal, the respondent No. 2 was carried away with the above mentioned true circumstance. In view of these facts and circumstances the respondent No. 2 could not comply with the order passed by the Hon'ble

:6:

Tribunal and for that I tender my unconditional apology for the non-compliance with the order passed by this Hon'ble Tribunal.

5. I assure this Hon'ble Tribunal to pay the subsistence allowance to the applicant within a reasonable period since the post in question on which the applicant was serving is abolished long back, some period is likely to consume for completion of procedure.

6. I say that I have highest regards for this Hon'ble Tribunal as well as the proceedings and orders of this Hon'ble Tribunal. I say that I have never disobeyed or flouted the order passed by this Hon'ble Tribunal in my entire career of service as a Government employee. I, therefore, humbly pray that this Hon'ble Tribunal will be pleased to withdraw the notice issued to me in form NO.III in the above mentioned civil application.

PLACE : AHMEDABAD

DATED: 24-4-1991

lenuj

o.s.

Mo one s.s.p.

And. I.

7

~~Signature 1~~
~~Signature 2~~
~~Signature 3~~
~~Signature 4~~
~~Signature 5~~
:7:

VERIFICATION

I, R. K. Chauhan, Office
Supervisor, Office of the Senior Superintendent
of Post Offices, Ahmedabad City Division,
Ahmedabad, do hereby verify and state that
what is stated above is true to my knowledge,
information and belief and I believe the same
to be true. and nothing material is concealed
by me.

Place : Ahmedabad

Date: 24/4/1991

R.K. Chauhan
DEPONENT

O.S. S/o She
S.S.P. Ahmedabad

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH AT AHMEDABAD

MISC. APPLICATION NO. 31 OF 1990

IN

O. A. No. 521 OF 1989

Ashokbhai J. Pakhali

of Ahmedabad

Applicant

v/s

1. The Union of India
and Anr.

Respondents

The respondents Nos: 1 & 2
herein, beg to submit as follows.

1. That the post which was held by the applicant has been abolished and therefore, it would take some time to pass appropriate orders for payment of subsistence allowance to the applicant. I say that all the formalities will be over within a period of about 4 weeks. I therefore pray to grant me time for payment of subsistence allowance from today.

2. I say that thereafter, the applicant will be paid the subsistence allowance as per the orders of this Hon'ble Tribunal.

AHMEDABAD

DATED: -04-1991

Office ~~Supervisor~~
Office of the Sr. Superintendent of Post Offices,
Ahmedabad City Division,
Ahmedabad-380001.

Central Administrative Tribunal
Ahmedabad Bench

O.A./521/89

Shri A.J. Pakhali

..... Applicant

Shri S.C. Shah

..... Advocate

V/s.

Union of India & Ors.

..... Respondents

Shri J.D. Ajmera

..... Advocate

CORAM : HON'BLE MR. J.N. MURTHY
HON'BLE MR. M.M. SINGH

: JUDICIAL MEMBER

: ADMINISTRATIVE MEMBER

13.12.1989

Heard Mr. S.C. Shah and Mr. J.S. Yadav for Mr. J.D.

Ajmera, learned advocates for the applicant and respondents respectively. Application is admitted. By way of interim relier, it is hereby directed that the respondents should pay the subsistence allowance admissible to the applicant within 30 days of the issue of this order. So far as the question of suspension concerned. Issue notices to the respondents to reply on merits within one month of this order. Registry to take necessary action.



SD/-

(M M SINGH)
ADMINISTRATIVE MEMBER

SD/-

(J N MURTHY)
JUDICIAL MEMBER

C. A. T.
Ahmedabad Bench

(a) Serial Number of the Application: 139190
(b) Name of the Applicant: Shri S.C. Shah
(c) Date of presentation of application for copy: 16/04/90
(d) Number of Pages: One (1)
(e) Copying fee charged
(f) Date of calling for deposit of copying fee
(g) Date of deposit of copying fee
(h) Urgent fee charged if any
(i) Date of receipt of record for copy
(j) Date of preparation of copy: 01/08/90
(k) Date of Delivery of copy to the adducant: 21/4

RS. 5/-
(FIVE ONLY)
Receipt
No. 3438
Dtd. 16/04/90

Prepared by: P.T.P
Compared by: 01/08/90

TRUE COPY
(Signature)
(K. B. SANE)
Section Officer (J)
Central Administrative Tribunal,
Ahmedabad Bench.

True copy
S. M.
Adv.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT
AHMEDABAD.

CIVIL APPLICATION NO. 31 OF 1990
in
ORIGINAL APPLICATION NO. 521 OF 1990. 89

Mr. Ashokbhai J. Pakhali.

.. Applicant.

Versus.

The Union of India and others.

.. Opponents.

REJOINDER TO REPLY FILED BY
OPPONENT NO. 2. Mr. R.K. Chauhan.

I, Ashokbhai J. Pakhali, applicant is ~~sever~~
served with the copy of reply on 7-6-91 by Advocate appear-
ing on otherside in reply thereto I submit as under :-

1. All statements, averments, submissions made in
the aforesaid reply dated 24-4-1991 are false and
denied except which are specifically admitted hereinabove.
All statements made by opponent, which are against the
contentions raised in my application are not true and
hereby denied.

2. Before submitting any further, at the outset I
beg to point out that till date the order passed by the
Hon'ble Court is not complied with. The matter was placed
for hearing on 7-6-1991, on which date ~~demanded~~ Advocate
of opponents and Mr. R.K. Chauhan who was present in the
court along with other responsible officers were orally
directed by the Tribunal to comply with the earlier
directions. The Hon'ble Court (Coram: M.M. Singh &
R.C. Bhatt JJ) on 7-6-1991 had again directed the opponents
to calculate the amount payable to the applicant and
further directed even to offer an amount to the applicant.

Copy served
to Smti. P.M.
Parval
Smti. P.M.
10/7/91

: 2 :

The above directions are also not complied with till date. The learned Advocate on instructions from his officers made statement before the court that within a period of 15 days the applicant will be offered the amount. This applicant has waited for one month after 7-6-1991 date but till date the directions are not complied with. This Hon'ble Court's directions are thus not complied with and opponents are flagrantly violating the directions which must be viewed seriously and opponents be now punished for intentionally violating the directions of this Court.

3. Without prejudice to aforesaid submission, With regard to para 2 and 3 of the reply, it is submitted that opponent has admitted that order is not complied with and hence appropriate action be taken.

4. With regard to para 4 of the reply, it is submitted that the grounds mentioned therein for non compliance of directions has no reference at all and hence opponents cannot be permitted to violate the directions issued by this Court. It is submitted that order dated 13-12-1989 was passed by this Hon'ble Court after hearing the learned Advocate Mr.J.S.Jadav for opponents and hence, the said directions are binding to them and all their explanation or defence on merits of the case has no reference at all. The opponents cannot take shelter of their defence for non-compliance of the directions. I am filing rejoinder to main original application in support of my contentions in my application.

16/10/2022
BG

It is submitted that on page 5 of the opponent's reply, the reason for non compliance is stated as under :-

"....the respondent No.2 was carried away with the impression that the subsistence allowance are to be paid to the original applicant as admissible to the applicant, but since in view of the provisions contained in rule 9(3) of P & T EDA (conduct and service) Rules 1964, which was not admissible to the applicant and under the bonafide mistake the same could not be paid to the applicant..."

It is submitted that the impression or bonafide belief can never be the excuse for noncompliance with the directions. If it was really so, the opponents could have approached the Hon'ble Court for necessary clarification of above mandatory direction, which till date is not done. The directions issued are clear in terms and without any ambiguity. It is therefore submitted that the opponents have knowingly ignored the directions and serious actions should be taken against opponent No.2. Mr. R.K.Chauhan. It is submitted that the fact that post was abolished subsequently is not ground to ignore the directions issued by this Court. The administrative reasons have no concern with the compliance of the directions. It is submitted that circumstances mentioned in the reply do not show any valid justification for non compliance of the directions. It is submitted that the respondent No.2 cannot be permitted to take shelter of alleged circumstances for non compliance of the directions.

: 4 :

5. Even otherwise opponents cannot avail of shelter of Rule 9(3) of the P & T. EDA (Conduct and Service) Rules, 1964; since the said Rule is no longer existing, in view of decision reported in (1989) 9 ATC ~~and~~ page 225 delivered by Madras Bench, wherein aforesaid Rule is struck down being violative of constitutional provisions. The opponents are very well aware about the same, since Union of India was party to that proceedings. The opponents in this case are defying the directions issued by this Court on the false pretext of interpretation of rule 9(3) which is no longer existing and hence such attitude of opponents is misleading to this Hon'ble Court for which also appropriate action be taken against opponents.

6. With regard to para 5 and 6 of the reply, it is submitted that even after such contentions raised on 24-4-1991 again on the date of hearing on 7-6-1991; after hearing concerned Advocates and Mr. R.K. Chauhan himself, this court has again directed them to calculate the amount payable to the applicant and further directed to offer the same to the applicant. These directions are also not complied with by the opponents. The oral submission was made before the Court. That opponents experience difficulties in calculation; to which I submit that such is no excuse in the eye of law for non compliance and therefore the opponents be punished for flagrant violation of the directions issued by this Court ~~and~~ also for misleading the Court.

: 5 :

7. The opponents have taken sufficient time to comply with the directions issued by this Court and hence further time should not be granted on any excuses of administrative reasons or otherwise, for the compliance of the directions of this Hon'ble Court.

Date: 21/07/2019

VERIFICATION

I, Ashokbhai son of Jivanlal Pakhali, age Adult at present under suspension in the office of respondent No.2, resident of Ahmedabad, do hereby verify that the contents of para 1,2,3 are true to my personal knowledge and para 4,5,6 and 7 are believed to be true on legal advice and that I have not suppressed any material fact.

Ahmedabad.

Date: 21/07/2019

Reply/Rejoinder written submissions
filed by Mr. S. ... Shah
Learned advocate for Respondent
Respondent's advocate
Copy forwarded

Dt: 10/7/19

Mr. Patel
F