

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

O.A.No 67/92

TA .No.

Date of Decision : 9.6.99

All India Postal Employess Union Postmen & Ors. : Petitioner(s)

Mr.P.H.Pathak

: Advocate for the petitioner(s)

Versus

Chief Post Master General & Ors.

: Respondents

Mr.B.N.Doctor

: Advocate for the respondent(s)

CORAM

Hon'ble Mr. V. Radhakrishnan

: Member(A)

Hon'ble Mr. P.C.Kannan

: Member(J)

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

1. All India Postal Employees
Union Postmen & Class IV EDA
Having office at Baherampura,
Opp. Post Office, Ahmedabad.

2. R.O.Bariya,
All India Postal Employees
Union Postmen & Class IV EDA
Having office at Baheranpura,
Opp. Post Office, Ahmedabad.

: Applicants

Advocate: Mr.P.H.Pathak

Versus

1. The Post Master General
Gujarat Circle,
Khanpur, Ahmedabad.

2. Senior Superintendent of Post Office,
Bhavnagar Division,
Bhavnagar-364 001.

: Respondents

Advocate: Mr.B.N.Doctor

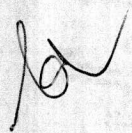
ORAL ORDER
OA/67/92

Date: 9/6/99

Per: Hon'ble Mr.V.Radhakrishnan

: Member(A)

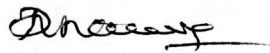
Heard Mr.P.H.Pathak and Mr.B.N.Doctor, learned counsel for the applicants and the respondents respectively.

 The applicants in this case have sought relief against the alleged violation of Section 9 A of the Industrial Disputes Act. The law is now well settled in the Hon'ble Supreme Court's decision in the case of Krishna Prasad Gupta vs. Controller Printing and Stationery (1996) 1 SCC-69, and repeated in Supreme Court order in Civil Appeal No.3370/96, arising out of Special Leave Petition No.28462/95 that the Administrative Tribunal does not have

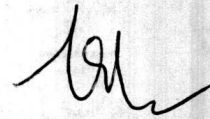
:3:

any jurisdiction to deal with the application alleging violation of provisions of I.D.Act. Accordingly, the OA is dismissed, however, with liberty to the applicant to file a petition in the appropriate industrial forum.

OA is disposed of accordingly. No costs.



(P.C.Kannan)
Member(J)



(V.Radhakrishnan)
Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, DE LHI

Application No.

9A/67/92

of 19 .

Transfer application No.

Old Write Pet. No.

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated: 09/07/99

Countersigned.

Section Officer/Court Officer.

9A/138/99

Signature of the Dealing Assistant.

MGIPRRND—17 CAT/86—T. S. App.—30-10-1986—150 Pads.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CAUSE TITLE

ca/62/92

NAME OF THE PARTIES

All India Postal Employees

VERSUS

C.P.M.C. 802

SR NO.

DESCRIPTION OF DOCUMENTS

PAGE

ca-

1-27

ca-2926

28-37

ca-272 09/6/95

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CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.

Submitted: C.A.T./JUDICIAL SECTION.

Original Petition No: _____

of 1992.

Miscellaneous Petition No: _____

of _____.

Shri All India Postal Employees Union Petitioner(s)

Versus.

Chief Postmaster General Respondent(s).

This application has been submitted to the Tribunal by
Shri P.H. Patil.

Under Section 19 of the Administrative Tribunal Act, 1985.

It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The Applications has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant/Advocate may be advised to rectify the same within 14 days/draft letter is placed below for signature.

ASSTT:

S.O.(J):

D.R.(J):

KNP181191

Advocate has mention for place ^{to day} at 3:00 P.M. we
may fixed at 3 P.M. Board
12-2-92
12-2-92

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

APPLICANT(S)

All India Postal Employees Union &ers

RESPONDENT(S)

Chief postmaster General &ers

PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO
RESULT OF EXAMINATION.

-
1. Is the application competent ? Yes
 - (A) Is the application in the prescribed form ? Yes
 - (B) Is the application in paper book form ? Yes
 - (C) Have prescribed number complete sets of the application been filed ? Yes
 3. Is the application in time ? Yes
If not, by how many days is it beyond time ? Yes
Has sufficient cause for not making the application in time stated ? Yes
 - Has the document of authorisation/ Vakalat Namabeen filed ? Yes
 5. Is the application accompanied by D.D./I.P.O. for Rs.50/- ? Number of D.D./I.P.O. to be recorded. Phone 80 826989
 6. Has the copy/copies of the order(s) against which the application is made, been filed ? Yes
 7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed ? Yes
 - (b) Have the documents referred to in (a) above duly attested and numbered accordingly ? Yes
 - (c) Are the documents referred to in (a) above neatly typed in double space ? Yes
 8. Has the index of documents has been filed and has the paging been done properly ? Yes

PARTICULARS TO BE EXAMINED.

ENDORSEMENT TO BE RESULT OF
EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application ? *yes*
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal ? *no*
11. Are the application/duplicate copy/copies signed. ? *yes*
12. Are extra copies of the application with annexures filed ? *yes*
- (a) Identical with the Original.
- (b) Defective.
- (c) Wanting in Annexures
- No. _____ Page NOs. _____ ?
- (d) Distinctly Typed ?
13. Have full size envelopes bearing full address of the respondents been filed ? *yes*
14. Are the given addressed, the registered addressed ? *yes*
15. Do the names of the parties stated in the copies, tally with Name(s) those indicated in the application ? *yes*
16. Are the translations certified to be true or supported by an affidavit affirming that they are true ? *yes*
17. Are the facts for the cases mentioned under item No6 of the application ? *yes*
- (a) Concise ?
- (b) Under Distinct heads ?
- (c) Numbered consecutively ?
- (d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for, stated with reasons ? *yes*

KNP30192.

*Checked
B. J. J. J.*

From :

Advocate,

URGENT NOTE

To,

The Registrar,

~~High Court of Gujarat~~ C.A.T.

AHMEDABAD.

Re :

District :

Sir,

The above matter is an urgent one and. I want to move the Hon'ble Court for obtaining an order for stay / injunction / bail Be pleased therefore. to direct the Office to place this matter before the Court for admission no 12-2 1992 I personally undertake to remove all office objection and to pay the default court fee stamps, if any

Urgent order is require to be obtained

Ahmedabad.

Yours faithfully,

Date 11-2-92


Advocate for Petitioners.

Done
Sol 87/92

MS 43/92
11/6/92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

ORIGINAL APPLICATION NO. 67 OF 1992

All India Postal Employees Union & or. .. applicants

vs.

Chief Postmaster General & ors. .. respondents

Application under Rule 4(5) of the
Administrative Tribunal Rules

MAY IT PLEASE THE HON'BLE TRIBUNAL :

1. That the present O.A. is filed by the applicant union representing the cause of its members. That the impugned order in the Original Application is ex facie bad in law and by the said order the respondents have effected illegal change in the service of the members of the applicant union. That under the guise of abolition of posts, large number of employees working under the respondent No.2 are affected.
2. That the union is recognised union and the affected employees are the members of the applicant union. That the cause of action arisen due to the impugned order passed by the respondent No.2. That due to change in the working hours and intervals etc. large number of employees are affected. That prior to effecting the change, no notice whatsoever under the ~~guise of~~ provisions of Industrial Dispute Act was given. Thus, the cause of action and the legal submission etc. are the same for all the affected employees, who are the members of the applicant union and therefore, the joint application under Rule 4(5) of the Administrative Tribunal Rules is required to be granted.


3. That granting of the prayer under Rule 4(5) of the Administrative Tribunal Rules will not any way adversely affect the right of the respondents. On the contrary, it will be helpful to avoid the multiplicity of the proceeding and the expenditure etc. on both the sides. That the end of justice will meet with if the union is allowed to represent the cause of its members, in representative capacity. That I rely on the contentions and submissions of my Original Application to point out my justification to allow the present application.

4. In the abovementioned facts and circumstances of the case, the applicants pray that

(A) The Hon'ble Tribunal be pleased to allow the applicant No.1 union to file the present application in representative capacity, under Rule 4(5) of the Administrative Tribunal Rules.

(B) Any other relief to which the Hon'ble Tribunal deems fit and proper in interest of justice together with cost.

Date : 11/2/92
Ahmedabad


(P. H. Pathak)
Advocate for the applicants

MAST-43/92
11/2/92
D/o on 801 876929

IN THE ~~MXM~~ CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD.

ORIGINAL APPLICATION NO. 6) OF 1992

All India Postal Employees
Union Postmen & Class IV
EDA

.. Applicants.

Verus :-

The Postmaster General
& Others.


.. Respondents.

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Recd Copy
21/11/92

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Date :- 11/2/92
Ahmedabad.


P.H. Pathak
Advocate for the applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDNAD.

ORIGINAL APPLICATION NO. 6 OF 1992.

I. Applicants.

: 1. All India Postal Employees
Union Postmen & Class IV EDA
having office at Baherampura
Opp. Post Office, Ahmedabad.

2. R.O. Bariya

All India Postal Employees
Union Postmen & Class IV EDA
having office at Baherampura
Opp. Post Office, Ahmedabad.

II. Respondents :-

1. The Post Master General
Gujarat Circle
Khanpur, Ahmedabad.

2. Senior Superintendent of Post
office, Bhavnagar Division,
Bhavnagar 364 001.

III. Order Under Challenge :-

Order No. B2/26 dt.

issued by the respondent no.2
effecting illegal change in the
service of the employees under
the guise of abolition of posts.

IV. Jurisdiction
& Limitation :-

The applicant declare that the
subject matter of this appli-
cation is within the jurisdic-
tion of this tribunal and limi-
tation prescribed under section
21 of the Administrative
Tribunal Act.

V. FACTS OF THE CASE : 3

1. That the present application is require to be filed by the Union, representing the grievances of its members against total arbitrary and illegal order of effecting change in working hours and reduction in numner of posts of group D and Extra department Agent. The applicant no.1 is a recognised registered Trade Union under the provisions of the Trade Union Act. 1926. That applicant no.2 is one of the effected employee by illegal change. Impugned order passed by the respondent no.2 is annexed & marked as Annexure 'A' to this application.

2. That by the impugned order the respondent no. 2 has under the guise of introduction of private mail motor replacding the services render by the state Raod Transport Corporation decided to abolish & posts. Five are of group 'D' employees and one is of Extra Departmental messenger. That so far the introduction of private mail motor is concerned, its work is to supply the mail begs from main post office Bhavnagar to verious villeges. That the begs carrying the posts from one station to other is know as mail beg. That prior to introduction of private motor services the begs are carried in the S.T. Buses. That the postman or EDA. Collects the begs from Local bus station and handover the begs of out goings post to the Transport authorities. That now, reason best known to respondent no.2, has introduce private contract of vichele. That for the said contract, as per information of union, private party is paid higher amount then paid the the state Transport Corporation.

It is pertinent to note that earlier the amount for transportation was paid to the public Body i.e. S.T. but now higher amount is offered to the private party for the reason best known to the respondent no.2. That the amount is to be paid from the contribution of citizens. That the why the union has opposed the mal-fide exercise of powers exercised by the respondent no.2.

3. That nature of work as stated above by the private vehicle or by state Transport is to transportation of mail bags. That whether the private motor is used or any other it will not effect the time factor fixed for working of employees. That so far the respondent department concerned the sanction of parent or Extra department Agent depend upon the work load and time test figure. That time factors in seconds & minutes are decided for every month work of postman. That as an example I am annexing a detail chart of time Test figure of village Bhandariya, effected by the impugned decision as annexure A/1. That as per the information of the union this is the last time test. The total working hour is more than 9 hours i.e. requirement of fulltime employee.

4. Now whether any post can be abolished or not or whether further sanction is to be done is require to be decided on the basis of the time test. That so far as the Annexure A/1 is concerned is as an example I will provide details of all the effected post offices to the Hon'ble Tribunal at the time of hearing of the case. That at annexure A the average work is decided on basis of six days. Howmany, mails registered articles, VP etc dealt

with by a postman. That item No. 6 & 7 prescribed time factor for each work in minutes and last column about Total minutes. That on the last page total minutes are 551.78 i.e. 9 hours and 11 minutes. That at village Bhandariya there is only one Group D which the respdt. no.2 has decided to abolish. The reason given is due to introduction of private transportation. The said decession is exfacie bad in law. & is require to be set-a-side. That by the decession the burden of work and working hours of extra department mental agent is increased. It adversely affecting the hours of working and period of intervals etc of the memebres of the union.

6. It is pertinent to note here that so far the engagement of Extra Departmental agents are concerned. their duty hours must not increase more then 5 hours. That as per rules for payment of wages to EDA concerned it provide maximum amount of salary of 5 hours work. That extra departmental agents are not paid wages for more then 5 hours and therefore to shift the burden of work of 9 hours on them amounts to forced labour. A⁺ present i.e. prior to change, they workings are about 5 hours. That the respondent no 2 wants to exploit the extra departmental agents. He further want to justify his fayour to owner of private motor on the ground of economy, which is nothing but eyewash. In any case there is no justification for the said abolition of posts.

7. That the ~~xx~~ second important aspect of non application of mind is abolition of post of ED Messenger from Talaja. That so far the duties of messenger are

concern the has to deliver the Teligrams. That so far teligrammes are concerned it comes directly & not through transport. Therefore whether mails reach to villages through S.T. or private motor, will never effect the working of employee, delivering teligrammes. It is a special tipe of urgent duty. I call upon the respondent to give justification for abolition of the post of messenger. That contum of work at Mahuva - Talaja is more then full time employee. That the duties performed by the ED. massager, is not possible to abolish. By shifting the said burden on other E.D. employees, the working hourse will be more then 9 hours.

8. It is further submitted that the respondent No.2 has decided to shift the burden of work on the Extra Departmental Agents. That as stated above, the workload at all the places from where the post of Group 'D' is to be abolished, is more than 8-10 hours. That prior to abolition of the post also, the Extra Departmental Agents were working. That so far the sanction of the post of Extra Departmental Agents or Group 'D' employees are concerned, it is strictly as per the time test figures. That prior to the decision of the abolition of the post at Bhandaria, the sanction was of full timer Group 'D' employee. That at Trapaj, over and above Group 'D' employee two Extra Departmental Agents are working for 5 hours. That at Talaja, the working hours are more than 10 hrs. and at Mahuva also, the staff is insufficient. Now the burden of work of full timer employees cannot be shifted to Extra Departmental Agents. That the Hon'ble Tribunal (Bangalore Bench) has categorically deprecated the policy

of the respondent department to engage Extra Departmental Agents. That by engagement of the Extra Departmental Agents, the respondents are exploiting the employees. On paper, they show that the work of Extra Departmental Agents is less than 5 hours and for that they are paid maximum amount for 5 hours work. That actually there is a need of full timer employees, but by dividing the work of permanent employees into two parts, the respondent department engage Extra Departmental Agents and as a result of which the exploitation of unemployed persons are continued. Being a state authority, it is unfair on the part of the respondent department to deprive the employees of their benefits and status of regular employees by way of adopting such systematic practice of Extra Departmental Agents. That by introduction of private motor for transportation of mail bags, hardly it will affect the working hours of the Postman. Moreover, the population, area and number of posts are increased time and again. Thus, there is a need of further sanction of the regular staff and not of reducing the staff, with a view to effect the illegal change. Thus, the change which is effected by the respondents is required to be quashed and set aside and the original position is required to be restored in interest of justice and particularly to achieve the goal of the constitutional aim and object to end the poverty and discrimination and exploitation of the labour. The Hon'ble Supreme Court has reiterated these principles time and again and lastly in the case of Grih Kalyan Kendra employees. Therefore, the impugned action of the respondent No.2 to employ EDAs by abolishing the permanent posts is not only illegal but also unconstitutional.

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g. Thus, from the above mentioned para, it is prima facie clear that it is a clear case of increasing the duty hours of the Extra Departmental Agents and for the said increasing hours, they will not get salary. That here is a clear case of change in working hours and intervals by introducing the new system of private vehicle. That the respondent No.2 has issued a letter dt. 25.11.91 which gives the effect of new system from 1st Dec. '91 regarding refixation of the working hours. That a copy of the letter is annexed and marked as Annexure A12 to this application. The letter mentions that on introduction of private MMS working hours are revised and refixed as under :

As per schedule, the duty starts from 9.00 hrs. to 17.00 hrs. prior to this introduction of private service, now it is from 7.30 to 10.30 and 14.00 hrs. to 18.00 hrs. It can be seen that the hours of working namely the shift is changed. That prior to this change, no notice whatsoever was given to the union or the concerned employees affected by such change. Further glaring example of non application of mind is, at most of the villages, the employees concerned have to work or stay there beyond their working hours. As an example, at village Bhandaria, the duty hours are mentioned 7.30 to 10.30 and 14.00 hrs. to 18.00 hrs. while in the next column, dispense of mail mentions 18.50 means the employees at Bhandaria, though his working hours are upto 18.00 hrs. but the dispense of mail is 18.50. He has to wait till 18.50 i.e. about one hour more than his fixed time of his duty. In the same manner, in village Tansa, 30 minutes more. My advocate will explain the said differences at every village. That at village Pithalpur, the changed working hours mention from 10.00 A.M. to 18.00 P.M. while the column of receipt of mail mentions 8.10 A.M. means though the duty starts from 10.00 o'clock, but for receipt of mail from the private vehicle, the employees concerned

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: 8 :

has to report at 8.10 A.M. in the morning. At village Thalia, the situation is also same there. Both the time are beyond the working hours. Receipt of mail at 8.10 hrs. and dispense is 17.50 while duty hours are 9.00 to 17.00. Thus, while trying to help the private owners of the vehicle, the respondent No.2 has hurriedly decided to abolish the posts, but while doing so, he has flouted the provisions of law and the provisions of rules and therefore, the said decision is required to be quashed and set aside.

19. It is further submitted that the respondent deptt. comes within the purview of sec. 2(j) of the Industrial Dispute Act. Sec.9A provides that when an employer want to effect the change, it is his duty and obligation to give 21 days notice to the concerned employees to point duty hours, and to point out the justification etc. Here while changing the duty hours of the employees, time of intervals, and working hours of shifts, no notice whatsoever is given to the union or the employees concerned. That breach of Sec.9A leads to penal consequences and therefore, the Hon'ble Supreme Court has in case of Food Corp. of India, clearly mentioned that when the breach of labour legislation amounts to a penal offence under sec. 9A of the Industrial Dispute Act, the employer should not be permitted to commit an offence, but when the law helps to prevent such practice, it should be nipped in the bud. Here the respondent has decided to effect the change without any legal notice to the affected employees. Not only this but it can be seen from Annx. 'A' that the abolition will be from retrospective effect. That the letter is issued on 23.1.92 and the post will be abolished from 28.10.91.

... 9/-

That most of the affected employees are till date not relieved from their present villages. That the employees have also opposed such abolition and their transfer etc. That under protest when the respondents have asked for the place of their choice in case the abolition is to be effected, the employees have given the names of the Post Offices also. The impugned action is in flagrant violation of the mandatory provisions of Industrial Dispute Act and as pointed out earlier, it is in flagrant violation of Art. 14 of the Constitution of India, being non application of mind is required to be quashed and set aside. The power exercised by the respondent No. 2 is reason best known to him, but it is prima facie reading of the union that it is with a view to favour the private vehicle owner and to justify the favouritism to him, he has tried to create an impression that it is an act of economy measure., which is merely eye-wash.

10. It is further submitted that so far the reduction in the posts are concerned, and shifting of its work to the Extra Departmental Agents or other employees are concerned, the employees as well as concerned Postmasters have also opposed the same and pointed out that there is no justification in abolition of the posts. That the union has also protested against such practice and made a representation that in case the respondents will effect the change or abolition, the union shall be constrained to agitate against the same. A copy of the translation of the letter addressed by the union dt. 31.1.92 is annexed and marked as Annexure A13 to this application. That the letter dt. 15.11.91 addressed by Shri R. O. Bariya also clearly shows that there is no decrease in the work of Group D by introduction of private mail motor, a copy of which is annexed and marked as

Annexure A14 to this application. Not only this but Postmasters of the concerned offices have also addressed letters to the Supdt. of Post Office i.e. the respondent No.2 pointing out that it is not necessary to abolish the post and the work is of full time employee. If the respondent wants smooth working of the office, it is necessary to continue Group D employees. As an example, copies of the letters addressed by Trapaj Sub Postmaster are annexed and marked as Annexure A15 to this application, dated 28.1.92 and 28.10.91. That my advocate will point out the further details about the representations to the respondents concerned. As stated above, the respondent No.2 has decided to favour the private owner of the vehicle and therefore, though he was apprised of his non application of mind and difficulty in smooth working of the Post Offices, he has not cared to change his decision. That the employees are adversely affected by the said decision. Not only this but the aim and object of our constitutional goal is to increase the chances of employment and particularly by the Govt. sector while the respondent No.2 is acting contrary to it and favour private owner of the vehicle and deprive the State of that money of the Govt. and on the other hand, by abolition of the post, he has created more unemployment situation in the country, which is not at all justified and is being baseless, is required to be quashed and set aside.

12. Thus looking to overall circumstances of the case, it is a clear case of non application of mind and favouritism to private owners of the vehicle by the respondent No.2. That there is no base or legality and logic in abolition of posts. As stated above, the

the respondent No.2 wants to divert the concentration of the deptt. and the employees from his favouring to the private owners of the vehicle and therefore, under the guise of economy measure, he has put forward the practice of abolition of posts otherwise he will not be in a position to adopt the theory by which the private owner can be favoured. That it is a clear case of camouflage and eye-wash. It adversely affect the condition of service of the employees, working hours etc. as well as the smooth working of the Post Offices and service rendered to the citizens. In no case, such an arbitrary exercise of power can be tolerated or permitted to continue a day more. That the balance of convenience is also in favour of the employees.

By this method, the respondents want to change the working hours without following Sec.9A and by effecting the abolition of the post, the working hours of the Extra Departmental Agents will increase or the service to the society by Postal Department will suffer a lot and ultimately the sufferer will be the citizens and therefore, the interim relief prayed for in the application is required to be granted. Non granting of the interim relief will lead the application unfructuous and the respondent No.2 will succeed in his aim and object to favour the owner of the private vehicle and will constrain the Extra Departmental agents to work more than 5 hours, though for more hours they will not be paid the salary. That granting of the interim relief will not any way adversely affect the right of the respondents but it will support the smooth working of the department and service to the villagers. It is submitted that yet the employees mentioned at Annx. 'A' most of them are not relieved and are working on their present post and at present villages.

VII. Relief sought for :

In the abovementioned facts and circumstances of the case, the applicant pray that :

- (A) The Hon'ble Tribunal be pleased to declare the decision of the respondent vide his letter dt. 23.1.92 at Annex. 'A' regarding effecting the change in working hours of the employees, without following the due procedure of law, as illegal, invalid and inoperative in law and be pleased to quashed and set aside the same.
- (B) Be pleased to declare that there is no justification available to the respondents to abolish the posts of Group 'D' and Extra Departmental Messengers and under the guise of introduction of private mail motor service and therefore, be pleased to quash and set aside the decision of abolition of the posts, which is circulated vide letter dt. 23.1.92.
- (C) Be pleased to declare that the decision of abolition of posts by the respondent No. 2 is non application of mind and is violative of Art. 14 of the Constitution of India.
- (D) Be pleased to direct the respondent No. 2 to continue these posts as it was existing prior to 23.1.92 and further direct to produce the details before the Hon'ble Tribunal about the expenditure and contract to the private owner of the vehicle.
- (E) Any other relief to which the Hon'ble Tribunal seems fit and proper in interest of justice.

VIII. Interim Relief :

- (A) Pending admission and final disposal of the application be pleased to restrain the respondents from implementing the illegal change in the services of the employees working under him and suspend the further implementation and operation of the order dt. 23.1.92.
- (B) Be pleased to restrain the respondents No. 2 from further implementing the order dt. 23.1.92 and direct to maintain status quo as on 22.1.92 with regard to the abolition of post and condition of service of the employees.
- (C) Any other relief to which the Hon'ble Tribunal deems fit and proper in interest of justice together with cost.


IX. The applicants have not filed any other application in any other court including the Hon'ble Supreme Court of India, with regard to the subject matter of this application. The applicants have no other alternative remedy available except to approach this Hon'ble Tribunal by way of this application.

X. Details of Postal Order :

Postal Order No. 876929 Dated : 11-2-92
Issued by : High Court of Guj. at Ahmedabad
Amount of Rs 50/-

- XI. An index in duplicate containing the document is produced herewith.
- XII. List of enclosures as per above index.

Date : 11-2-92
Ahmedabad


(P. H. Rathak)
Advocate for the applicants

VERIFICATION :-

I, Shri *R. D. Baryan* adult, resident of
occupation has gone through the application
and do hereby verify that the contents of para
1 to 12 are true to my personal knowledge and
I believe the same to be true and that I have
not suppressed any material facts.

Date : - *11-7-92*
Ahmedabad.

H. P. Karsish
X *2012-2017 GURU*
Deponent.
X *2017-11-11*
2017/11-11
2017/11-11

Filed by Mr. *P. H. Pathak*
Learned Advocate for Petitioners
with second set of *two* spares
copies *not* served to
other side

11/12/92
By Registrar C.A.T.O.
Ahmedabad Bench

15

ANNEXURE A-

DEPARTMENT OF POSTS : INDIA ::

Office of the Senior Superintendent of Post Offices,
Bhavnagar Division, Bhavnagar 364 001.

Memo No. B2/26/92 Dated at Bhavnagar the 23.1.92

In pursuance of the introduction of private MMS between Bhavnagar-Mahuva-Mota Khuntavda vide this office memo No. G2/10/MHV/90 dated 22.10.91 and 23.10.1991.. Following post in the cadre of Group 'D' are to be abolished w.e.f. 28.10.91.

1. One Group 'D' Bhandaria S.O.
2. One Group 'D' Trapaj S.O.
3. One Group 'D' Talaja S.O.
4. One Group 'D' Mahuva S.O.
5. One Group 'D' (Msg) Mahuva S.O.
6. One post of EDA Messenger Talaja S.O. at Rs 407+DA 'CA' - Creation One Post of ED Packer at Bhandaria S.O.

Following transfer and allotment order are hereby is used with immediate effect in the interest of service otherwise mentioned in the remark column.

S.No.	Present Post	Allotted to	Remark
1.	Shri M.B. Zala Group-D Bhandaria	ASPOS (W) S/Dn. Bhavnagar	-
2.	Shri R O Baraiya Group D Talaja	-do-	
3.	Shri D J Gohil Group D Talaja	Senior Postmaster Request and cost. Bhavnagar H.O.	
4.	Shri N R Sandish Group D Mahuva	SPM Palitana	R/O

1. All concerned SPM should relieve the official immediately without fail and direct them to join at their new assignment as per orders issued by concerned unit.

2. ASP(West) S/Dn. should issue the posting order immediately,

Necessary charge reports be sent to this office and all concerned.

Senior Supdt. of Post Offices,
Bhavnagar Dn. Bhavnagar-364001-

16

: 2 :

Copy of memo is issued to ::::

- 1/2. The Senior Postmaster Bhavnagar H.O.
- 3/4. The ASPOs Bv. West S/Dn. Bhavnagar
- 5/6. The SDI(P) South S/Dn. / SDI(P) Mahuva
- 7/11. The SPM Bhandaria/Trapaj/Talaja/Mahuva
Pailtana.
12. The SPM Talaji, He should intimate the action
taken regarding abolition for the post of
ED Messenger Talaji at 407 +DA*CA w.e.f.
28.10.91 immediately without fail.
- 15/16. Official concerned.
- 17/20 PFs of the official.
21. Gradation list.
- 22/23. A and G branch for information and further n/a
- 24/25 Office copy and spare

True copy

PROFORMA ADHOC STANDARD

Sl. Item.	Six days figures						Total work load of 6 day	age work load	Time factor/ Congested area Mta.	work hrs. less congested area Mts.	Remarks
	1/7	2/7	3/7	4/7	5/7	6/7					
1. Unregistered mails	314	289	201	272	274	203	1493	249	0.75	0.75	188.50
2. Regd. & Parcels mails (excluding Ins-& VP)	12	1	7	-	-	6	6		2.50	2.50	2.50
3. Regd. & Parcels mails issue under special list.									4.50 per list	4.50 per list	6.00
4. VP & CD articles	2	2					2		3.00	3.00	
5. VP & CD articles returned		1					1		2.50	2.50	2.50
6. Money order paid	4	2	2			2	8		4.00	4.00	4.00
7. Money orders returned							2		2.50.	2.50	2.50
8. Unpaid articles	-	2	-	-	-	1	1		2.00	2.00	2.00
9. Insured articles returned	-	-	-	-	-	-	-		2.50.	2.50	2.50
10. Ins. articles delivered							2		3.50.	3.50	3.50
11. Distance (a) on foot travelled (b) on cycle									a) 18 Mts. per km. b) 9 mts. per km.	a) 12 Mts. per km. b) 6 mts. per km.	144.00 255.50

(please see instruction over leaf)

Signature & Designation

True Copy

Standard for Mail peons, and Packers

18

	17/	2/7	2/7	2/7	3/7	4/7	5/76/7	Total	Daily average.	Norms	Production in Mts.
1.	Work Connected with cleaning of Stamp & Seals and change of date and hour types	6	6	6	6	6	6	=36	6	2.Mts.Per type	12-
2.	Exchange of mails included loose Parcels.	3	2	2	2	1	2	=12	2	0.5 Mts. (Min. 10Mts. per ecchange.)	20-
3.	Opening of bags of all types.	15	13	13	13	9	15	=78	2	1.0 Mts.	2-
4.	Closing of Bags.	13	13	13	13	13	13	=78	4	4.0 Mts.	16-
5.	Work connected with articles of unregd. mail received for delay. (Stamping of articles by hand, by stamp cancellation machine).	314	289	201	272	204	203	-1493	124.41	0.11 Mts. per article in office having double stage sorting & 0.091 Mt.per article by st.cancellation machine and 0.075 Mt.per art. in office in single stage Stg. & 0.058 Mt.by St. cancellation Machine.	13.75/ ----- 63.05

#. 1/7 2/7 3/7 4/7 5/7 6/7 3. 4. 5. 6. 19

6. Work connected with arts. of urged mail posted for despatch stamping of articles a) by hand b) by st-cancellation machine 762 616 612 611 515 449 3565 297.07 18
 a) 0.06 Mts.
 b) 0.037 by st-cancellation machine

7. Tying of bundles of unregistered etc. 7 7 7 7 7 7 42 7 1.00 mts. per bundle 7

8. Work connected with VP registered and VP letter booked 0.07 mts. per article.

9. Work connected with regd parcels booked 1 1 2 2 - 1 7 0.17 mts. per articles 1.19

10. Sealing of regd. bundles 1.50 Mts. per articles

11. Work connected with 2 2 4 0.14 mts. per article in office having double stage stg. & 0.08 in all other offices. 0.48 mts. per par. in officer having double stage stg. & 0.07 Mts. in all other offices. .56

12. Work connected with regd./VP parcels received for delay 2 2 0.74

	1/7	2/7	3/7	4/7	5/7	6/7	3.	4.	5.	6.
13. Stamping & stamping of vouchers etc.	32	52	24	22	8	15	153		0.1 Mt per 11st or voucher	15.3
14. Stamping & stamping of 11ste etc.	12	12	12	11	7	11	65		HO 0.05 mts. per 11st so 0.13 mts. per receipt.	8.45
15. Stamping of money order issued.	1	3	2	2	-	2	10		0.1 mt. per MO issued.	1.40
16. Work connected with payment.	15	23	10	9	3	6	66		0.22 mt. per MO	14.52
17- stamping of blank money order forms for sale									0.05 mt. per MO form	
18. Stamping of unpaid etc.	3	2	-	-	1	1	7		0.11 mt. per art.	.77
19. Stamping of articles prepaid with cash.									0.025 mts. per article	
20. Clearance of LBS.	3	3	3	3	3	3	18		Street L.Bs. 1.5 mt. per L.B. per clearance.	-27-
	1	1	1	1	1	1	6		Office L.B. 3.5 mts. per LB per clearance.	19.
21. Transfer of Regd.									0.4 mts. per bag/bundle	86.04

21

	1.	2.	1/7	2/7	3/7	4/7	5/7	6/7	3.	4.	5.	6.
22. By hand transfer of telegrams etc.	-	-	-	-	-	-	-	-	-	-	2.Mts. per tele	
23. Transfer of TMO advise to tele.Br.	-	-	-	-	-	-	-	-	-	-	5.Mts.Per TMO	
24. Pasting of economy slips.	2	6	4	6	4	2	30	2	0.5 Mts.per cover	15		
25. Periodical weighing	-	-	-	-	-	-	-	-	0.03 Mts.per bag.			
26. Deposit/withdrawal of cash bag from police station.	-	-	-	-	-	-	-	-	10 Mts. per day			
27. Transfer of binders between Sds Deptt. of HOS and SBCO	-	-	-	-	-	-	-	-	0.15 Mts. per binder held.			
28. Replacing of binder in cabinets/almirah in head offices.	-	-	-	-	-	-	-	-	0.1 Mt.per binder held.			
29. Distance travelled for conveyance of mails, clearing of St. LBS etc.	4	4	4	4	4	4	26	26	Areas on foot 3.33Kms per hr. 4Kms on Bicycle 8 kms per hr.	24	8	

30. Co-efficient for miscellaneous items of works.

ALL Offices except T/S Sds/10%

22
Ann A/2 A/2

:: DEPARTMENT OF POSTS INDIA ::

Office of the ~~sendon~~ Superintendent of Post offices,
Bhavangar Dn. Bhavnagar ;;;;;;;;;;;;;;;364 001.

No: G/210MHV/90 Dated at Bhavnagar the 25.11.91.
.....

On introduction of private M M S between Bhavanagar-Mota khuntavada (Via Mahuva). The following post offices working hours and delivery timing are hereby revised and refixed W.E.F. 1.12.91.

Sl	Name of Pos	<u>Working hours.</u>		Receipt Desp. of mails of Mails	Delivery timing	
		Present	proposed		Present	proposed.
1.	Bhandaria	0900-1700	0730-1030 1400-1800	0710 1850	0200	0900
2.	Tansa	0900-1700	0730-1030 1400-1800	0725 1830	1030 1115	"
3.	Trapaj	1000-1800	"	0745 1810	1330	0930
4.	Talaja	"	" 0800-1100 1330-1730	0810 1750	1200I 1530II	1000
5.	Datha	0990-1700	0900-1700	0850-1700 1000-1600	1000- 1100	1100
6.	Bhadrod	0990-1700	" "	0910-1645	1000	1100
7.	Mahuva	"	" "	0925-1630	1000I 1430II	1100
8.	Pithalpur	1000-1800	1000-1800	0810 1750 1130 0850	1300	1300
9.	Thalia	0900-1700	0900-1700	0810 1750 1020 1405	1115	1115
10.	Bhavnagar Para	0900-1700	0800-1100 1300-1700	0835 1645 1330	1030 1500	1000I 1430II

Conted. 2/-

23

: 2 :

Stage list :- Talaja - Tithalpur S.O. Line.

Talaja SO 0900 1430 4 Km By EDDA/CA pavthi BO
HQ at Talaja on
cycle line.

Pavthi BO ~~x909~~
0930 1310 5 Km
0935 1100

Fulsar BO 1010 1020
1020 1010 5 Km By EDDA/CA pithalar
SO on cycle line.

Unchadi BO 1100 0930
1105 0920 4 km

Pithalpur 1130 0850

Deputy Supdt. of Post Offices
Bhavnagar Dn., Bhavnagar.

Copy forward to :-

1020/

- 1/10 The SPM Bhandaria, Tansa Talaja, Talaja Datha
Bhadrod Mahuva Pithalpur Thalia, Bhavnagar para,
They will please adjust the timing of LB clearance
accordingly and furnish revised LB statement.
- 11/13 The ASPOs/SDIs bhavnagar-west S/Dh. Bhavnagar south
S/Dn. Mahuva S/dn. of Bhavnagar Dn. They will adjust
duty hours of Group 'D' Postmen and EDDA under intimation
to this office also furnish revise stage timing of
effected BOs.
- 14/15 The Senior Postmaster Bhavnagar HO for information &
necessary action.
- 16 The Postmaster General, Rajkot Region, Rajkot 360001.
F/O information
17. The SRM Rajkot D. Rajkot-360001.
- 1820 The SRO RMS Rj. Dn., Bhavnagar (with 2 two spare copies)
- 21 v IR brach Division office Bhavnagar.
- 22/31 Concered office file,
- 32/40 O/c and spare.

True copy
MB

AMV A/3
24

ALL INDIA POSTAL EMPLOYEES UNION
POSTMEN CLASS IV & EDA
BHAVNAGAR BRANCH, BHAVNAGAR.

Ref.No. 139/91-92

Dated 31.1.1992

To

Sr. Supdt. Sahab
Sr. Supdt. of Post. Offices
Bhavnagar Division
Bhavnagar

Sub : ~~Alternative~~ Allotment of EDA
at the place of abolished post of
Group 'D' at village Trapaj

/due to

With reference to the abovementioned item, due to introduction of new mail motor service, a post of Group 'D' is abolished from village Trapaj. That who will perform the duties of Group 'D' at Trapaj is not informed from your end and sudden abolition of the post the work will suffer. That prior to introduction of new mail motor service, you have informed the PMG Sahab (Rajkot) about allotment of EDA at Trapaj because of heavy burden of work, but unfortunately, no such arrangement is made and therefore, till the EDA is appointed, request is not to abolish the post of Group 'D'.

sd/-

A.I.P.E.U. Postman Class IV & EDA
Bhavnagar Division
Bhavnagar

Translation of
letter. True copy
[Signature]

25

ANNEXURE - A/4

R.O. Bariya
Group D Trapaj
Bhavnagar 364150

Dated :- 15.11.91

To
Sr. Supdt. of Post.
Bhavnagar dn.,
Bhavnagar 364001

Sub. +Request to retain the group 'D' post at this office x
regarding

Ref :- Your office Memo No. TZ/10/Mahuva/90 BV dated 24.10.91

Hon. Sir,

I, the undersigned Shro R.O. Bariya group 'D' Trapaj beg to state that I had been out since 1980 and had got the chance to be near of my family from last 3½ years. I have honour to appeal to your kind majority on the following grounds which may be kept in your kind while finalisation of the oblition of the above post at this so.

- a) As regards the duty of receipt of mail begs there is no change in my duty. I was taking over the charge of case at the S.F. stand previously also. At present I am doing the same job from private RMS both the taken because vehicle had to hand-over the begs at the road. So in this way there is no change in the previous arrangement at all. The distance from P.O. to read is 1/2 K.M. also.,
- b) The second thing, which I have to bring to your kind notice that is the work on the P.O. is at all not decreased but it has gone up. I am ready to work as per the direction of higher authorities I have passed my service with satisfactory result and also promise your honour to satisfy each and every one by my service in this future.
- c) As per my knowledge, my work is not decreased at all, so the justification regarding the abolition of the post of Group 'D' does not arise.

I hope that your kind majesty will examine the work and keep in your kind heart the poor appeal of an employee of the department by retaining the post of Group 'D' at this office. I am sure that your kind sir will take suitable and favourable action in my favour.

Thanking yours

With regards yours most obedient

(R.O. BARAIYA)
GROUP 'D'
TRAPAJ S.O. 364150

Submitted through S.P.M. Trapaj S.O.
Copy to Hon. Post master General -Rajkot-Region.Rajkot for
information.

Tran
for

From : SUB-POSTMASTER
TRAPAJ

TO : Sr. SUPDT. OR POST OFFICER
BHAVNGAR DN. BHAVNGAR.

DATED AT TRAPAJ 28/1/92

Sub :- Transfor of Shri R.O. Baraiya to ASPOS west Sub Dn.,
Bhavngar.

Ref :- SSP Br. No. B2/26/92 Br. Date 23.1.92

Respected Sir,

I have, vide my letter No. 150 Dt. 25/10/91 demanded
posting of ED Packer at the place of Mr. R.O. Bariya in
interest of smooth & efficent working of this office.

That the work of group-D has not reduced due to intro-
duction of Mail motor Van. Both the time the mail begs are
exchanged from out side the Road.

Therefore saction E.D. packer immediatly ~~Till~~ Till
you sanction new ED packer. Kindly sand the duty list How
to xcarry on they work of Group D.

EDA No.1 & 2 do not want to work as group D and have
planed to proced on long leave. therefore kindly advise in this
regard.

Yours faithfully

Sd/-

Sub Post Master

Trapaj.

The copy
[Signature]
2

27

ANNEXURE - A/5
(1)

From : -

To, Sr. Supdt. of Post Offices

No. 150 Dated 28.10.91

Sub : - Abolition of Gr. G. Trapaj SO along with other
fine abolition

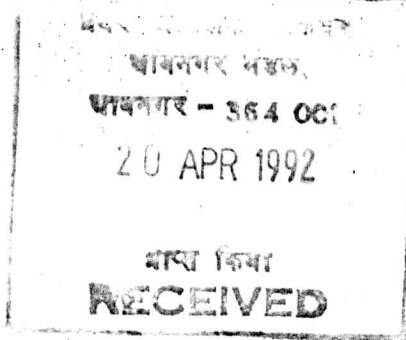
Ref. : - Sr. No. G2/10/OMV/90 Br. Dt. 24.10.91

Respected Sir,

With not to above I beg to request that only
^{one} ~~Mr.~~ Gr. D. was here. It ~~is~~ at least ED Packer Trapaj
is not, kindly approved^{ved} by your Honour, smooth and
efficient working is likely to ^{suffer} further a lot I request
~~to consider~~
to consider me matter if deem proper.

Truly
Yrs

Yours faithfully



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH AT AHMEDABAD

ORIGINAL APPLICATION NO. 67 OF 1992.

All India Postal Employees Union
Postmen & Class IV EDA.
Bhavnagar.

..... APPLICANTS.

Versus.

Union of India and
others.

..... OPPONENTS.

Written reply

I, K. A. Vyas Design: Senior
Superintendent of Post Offices, Bhavnagar
Division, Bhavnagar- respondent no.2 herein, do
hereby submit this written reply to the contents
of the application of the applicant as under :-

1053
30/4/92

1. I say and submit that I am well conversant
with the facts of the present case and I am
competent to file this written reply on behalf
of the respondents. I say and submit that I am
submitting this written reply on the basis of
the information derived by me from the record
of the case and the knowledge which I possess
pertaining to the present case.

I say and submit that the present application
is neither maintainable on law nor tenable on
facts of the present case. I deny all the

-2-

avements made in the application except specifically admitted or dealt with by me hereinafter. I say and submit that the applicant in this application has given twisted picture of the correct facts and therefore to bring on record the correct facts of the case, I am filing this written reply.

2. As regards contents of Para V.1 of the application, it is submitted that the Private Mail Motor Service between Bhavnagar- Mota-khunta via Mahuva line is introduced with effect from 28-10-1991 for the better augmentation of the Postal services affecting benefits to 407621 souls of the area covered on this line. The expenditure of this Pvt. Mail Motor Service ~~contract~~ contract comes to about Rs.12,876-05 Ps. per month and average expenditure comes to 0.031 ps. per souls. I say and submit that consequent upon introduction of this Mail Motor Service, the necessary change in working hours of the Sub Post Offices, re-adjustment of the duties of the officials and reduction of the posts as approved by the Post Master General, Rajkot Region, Rajkot vide memo No. Mails/Pv-20/DVR/91 dt. 8-10-1991, has taken place. Copy of the memo dt. 8-10-1991 is annexed herewith and marked Annexure R/I. I say and submit that the reduction of posts is made at the offices

ANNEX R/I.

viz. Bhandaria, Trapaj, Talaja and Mahuva on account of examination and actual work load that was having with these offices. Therefore, it is further submitted that the contention of the applicant that the change made is arbitrary and illegal order of effecting change in working hours and reduction of posts of Group-D and ED Staff is totally incorrect. I say and submit that similarly the applicant no.2 is also shifted on account of reduction of this post and to be abolished or to be redeployed where justified. It is submitted that the posts were to be abolished or were to be vacated for want of work and subject to the officials affected being provided on other posts. The applicant no.2 was serving in Bhavnagar South Sub Division and as per condition of the services, the applicant no.2 was liable to be transferred even in normal course in the sub-division. It is submitted that the applicant no.2 applied for his transfer in the same division at his request and at his cost vide his application dt. 28th January 1992. Copy of the application submitted by the applicant no.2 vide dt. 28th January 1992 is annexed herewith and marked

ANNEX R/II. Annexure R/II. I submit that this was in super-session to the previous reply dt. 22-10-1991 of the applicant no.2. Copy of the previous reply dt. 22-10-1991 submitted by the applicant no.2 in super-session is annexed herewith and marked

ANNEX R/III. Annexure R/III. I say and submit that the

applicant no.2 was allotted to the Unit of SDI (P) South Bhavnagar at his request and cost vide SSPOs Bhavnagar Division Bhavnagar memo no. B.2/26/92 dt. 3-2-1992 and accordingly the applicant no.2 joined as Group-D Bhavnagar Takhteshwar Sub Post Office from 9-3-1992 After Noon. The allegations made by the applicant no.2 in this para are totally denied and are totally incorrect.

3. As regards contents of Para V.2 of the application, it is submitted that the averments made by the applicant are not true. It has been decided to examine conveyance of mails by contractual transport arrangement in Mail Management Meeting of Western Zone held at Jaipur on 6th and 7th July 1990. It is further submitted that in this regard, a conference of all heads of Divisions at Rajkot was held by the Post Master General, Rajkot Region, Rajkot on 5-6/2/1991, wherein it was decided to examine the proposal for introduction of Private Mail Motor Service between Bhavnagar - Motakhuntavda via Mahuva to eliminate over night detentions of mails at 4 Sub Post Offices and 64 Branch Post Offices and villages under these BOs. The copy of the decision taken in conference held on 5/6-2-1991 is annexed herewith and marked Annexure R/IV. I say and submit that in view ANNEX R/IV of the decision taken, the tenders were invited through local daily news-paper named 'Saurashtra

32 30

-5-

Samachar ' on 2-8-1991 and ' Phulchhab ' dt.
2-8-1991. The last date of receipt of the
tenders was fixed on 26th August 1991.

Accordingly in all eight tenders were received
from the following parties :-

	<u>Rate per K.M.</u>
1. Shri Jorubhai V. Chadhal of Chalala.	Rs. 3-25.
2. Shri M.D.Zala of Bhavnagar	2-85.
3. Shri S.H.Pandya of Devgana via Tana.	3-00
4. Shri J.A.Vala of Chalala	2-90.
5. Shri D.J.Dhamelia of Rajpara No.2 Via: Tansa.	2-90.
6. Shri V.R.Jani of Sathra Via. Trapaja.	3-24.
7. Shri S.H.Deraiya of Bhavnagar	2-10.
8. Shri V.B.Cosai of Mota Khuntavda	2-70.

I say and submit that the lowest rate in
tenders submitted by the above parties was found
of Shri S.H.Deraiya and after the negotiation
with said Shri S.H.Deraiya, the tender at the
revised rate of Rs.2-05 per K.M. was agreed.
and ultimately said Shri S.H.Deraiya has been
awarded the contract and the contract was
introduced with effect from 28th October 1991.
Copy of the contract awarded and introduced
with said Shri S.H.Deraiya vide SSPOs Bhavnagar
Division, Bhavnagar Memo No. G2/10/MHV/90
dt.22-10-1991 is annexed herewith and marked

ANNEX R/V.

Annexure R/V. It may be stated that the

aforesaid contract was for the period of three years without any change in rate. Prior to introduction this Private Mail Motor Services, the ST routes which were abolished were conveyed by seven different routes. The cost of the Private Mail Motors Service comes to about Rs.12,876-05 ps. P.M. Whereas five posts of Group-D are to be abolished/redeployed vide SSPOs Bhavnagar Division, Ev.memo No. G.2/10/MHV/90 dtd. 24-10-1991. The copy of the memo dt. 24-10-1991 is annexed herewith and marked Annexure VI. It is submitted that the allowa- ANNEX VI. -nces of affected ED Staff are revised and refixed according to the work load vide SSPOs Bhavnagar Division, Bhavnagar Memo No. G2/10/MHV/90 dt. 25-2-1992. Annexed hereto and marked Annexure VII is the copy of the memo issued by SSPOs Bhavnagar, dt. 25-2-1992. It may be stated that the further allowances are also increased as per increase in work load. I say and submit that prior to introduction of Private Mail Motor Service, the mails were exchanged by the Gr.D or Extra Departmental Staff with ST buses and with Railway Station frequently. They had to go earlier and wait at Railway Station or ST bus stand, if they play late. Late running of S.T. buses are experienced by one and all. This has been eliminated. I say and submit that total amount of subsidy of Rs.3,870/- was paid to ST authority in respect of seven ST routes. After calculation of the cost of abolition of

posts of Group-D and refixing the allowances of Extra Departmental Staff, the matching savings to the department comes to about Rs. 65-38 ps. i.e. Rs.12,941-43 ps minus Rs.12,876-05. However the matching savings is immaterial looking to the better facility provided to the members of public of those areas for the sake of facility of Staff and therefore the public members cannot be deprived of their rights to get their mails early. I say and submit that with a view to avoid waiting and going at Railway Station or ST Bus Stand for Group-D or Extra Departmental Staff, the Private ~~MMS~~ Mails Motor Services Van is exchanging mails at each post offices. It may be stated that the said Pvt.MMS Van is running in time regularly as per scheduled fixed by the department. I say and submit that the as per policy of the department to provide better mail arrangement to the general public of those areas, the Private Mail Motor Service has already been introduced and it is found that it is running satisfactory. I say and submit that for the sake of benefit of employees, people will not tolerate more now in case of delay to mails.

4. As regards contents of Para V.3 of the application, it is not true that what is stated by the applicant in this para are true. I deny all the averments made by the applicant in this

paragraph. I say and submit that the allowances are fixed according to the work load. I say and submit that it is fixed for less than 2 hours of work at the rate of Rs.240/- plus D.A., for ~~Esxx~~ ~~more~~ more than two hours, minimum Rs.270/- plus D.A. and maximum at Rs.420/- plus D.A. per month i.e. three hours of work at the rate of Rs.320/- plus D.A., for four hours, at the rate of Rs.370/- plus D.A., for four and half hours, at the rate of Rs.395/- plus D.A. and for five hours at the rate of Rs.420/- plus D.A. It may be stated that the work is to be extracted from the ED Staff as per their duty in hours and minutes and they are being paid the allowances accordingly. From 28-10-1991, the Pvt. MIS is introduced, the allowances of affected ED Staff are revised and refixed accordingly. As per revised allowances, allowances of some ED employees are increased or decreased. I deny the calculation made by the applicant at Annexure A/1 regarding time test figures of Bhandaria which is for the years 1991. I say and submit that looking to the office records, the work ours of Group-D was 5 hours and 58 minutes 19 second for the six days figures from 1-7-1991 to 6-7-1991. Annexed hereto and marked Annexure R/VII is the copy of the office record showing the six days figures from 1-7-1991 to 6-7-1991, at the time when mails were conveyed by ST Bus. I say and submit x that as per latest figures from the office of Bhandaria S.O. in respect of Group-D for the period from 24-3-1992 to

26-3-1992, the work hours of Postman comes to 3 hours, 04 minutes and 15 seconds and the work hours of Group-D comes to 2 hours, 17 minutes and 12 Second. The copy of the chart showing the above position i.e. for 5 hours, 21 minutes and 27 second maintained by Bhandara

ANNEX R/VIII

S.O. is annexed herewith and marked Annexure R/VIII

I say and submit that the excess work hours of 21 hours, 17 minutes have been distributed to the other ED Agents at the same office fixing 5 hours work only. I say and submit that for this purpose, one post of additional ED Agent has been created at Bhandaria S.O. who is paid the allowance at the rate of Rs.420/- plus D.A. plus Rs.20/- as Cycle allowance due to reduction of post of Group-D with a view to cope up with the said work. For this purpose, some work is also given to other ED employees appropriate to the allowance.

5. As regards contents of Para V.4 of the application, it is submitted that as there is no work for them at these offices, the posts of Group-D have been abolished/redeployed. I deny the calculation made for the work hours of 9 hours 11 minutes of Bhandara S.O. by the applicant. I say and submit that correct and true facts are already dealt with by hereinabove. I am not repeating the same so as not to burden the record of this Hon'ble Tribunal. I say and

submit that on abolition of post of Group-D at Bhandaria S.O., one post of Extra Departmental Packer, Bhandaria S.O., for 5 hours at the rate of Rs.420/- plus D.A. and Rs.20/- for Cycle Allowance has come into existence.

Under the circumstances, I say and submit that by doing this arrangement, the burden of work on the ED Agents is not increased. I say and submit that there is now no grievance for the concerned Official of Group-D post of Bhandaria S.O., regarding this.

6. As regards contents of Para X V.6 of the application, it is submitted that the duty hours of the Extra Departmental Agents are not increased more than five hours. I say and submit that the working hours for making the business with the members of the public of Bhandaria, Tansa, Trapaj and Talaja Sub Post Offices are revised. I say and submit that the early delivery of mails at Bhandaria, Tansa, Trapaj and Talaja Post Offices are made by changing timings of delivery of mails. I say and submit that the department has prepared the duty list of Extra Departmental Agents in order to establish that the work is not extracted for more than five hours and they are being paid the allowances accordingly. For ready reference of this Hon'ble Tribunal, the duty list

of the following ED Agents is prepared :-

1. ED Packer Bhandaria S.O.
2. EDDA/CA Bhandaria, S.O. (Sanodar line).
3. EDDA-1, Trapaj S.O.
4. EDDA/CA Trapaj Bungalow (H/Q Trapaj).
5. EDDA/CA-II Trapaj S.O. (Bela line).
6. EDDA/CA Lakadia BO (HQ Trapaj S.O.).
7. EDDA/CA Sakhvadar line (H/Q Talaja S.O.).
8. EDDA/CA Makhania line (H/Q Talaja S.O.).
9. EDDA/CA Talaja S.O. (Dakana line).

I say and submit that from the above, there is no question of exploitation of ED Agents and favouritism to the owner of Private MMS. Looking to the duty list as stated hereinabove, the work of ED Agents is not extracted for more than five hours. As stated hereinabove, the posts of Group-D are vacated for abolition or deployment for want of work on introduction of Pvt. MMS. Therefore, there is no no work for them. I say and submit that ~~the~~ justifying the work load at the concerned Post Offices, the posts are retained.

7. As regards contents of Para V.7 of the application, it is submitted that considering less receipt of telegrams received for delivery, post of ED Messenger Talaja S.O. is abolished. I say and submit that as per the rules framed by the department, each ED Messenger has to deliver

three messages in a hour on cycle. I say and submit that according to the figures of telegrams received for delivery during working day, for the year December 1990 to November 1991, total figure of receipt of telegrams comes to about 4838 and daily average comes to only 16.12. and thus the work hours comes to 5 hours, 22 minutes and 02 second. Copy of statement showing receipt of telegram for the aforesaid period is annexed herewith and marked Annexure R/IX. ANNEX R/IX.

There were two posts of ED messengers at Talaja Post Office and each post is of 5 hours duty and hence one of the post of ED messenger has been abolished. Therefore there does not arise any question of shifting the burden of work on other ED Agents. I say and submit that till there had been no Private MMS, the persons who were holding these posts were given work on postal side due to work of conveyance and exchange of mails at ST Stand vide Director General, Department of Posts, New Delhi Memo No. 6-52/87-PE-II(1) Dt. 11-12-1987 and another No. 41-4-34/87-PE-II dt. 14-12-1987. The copies of memos dt. 11-12-1987 and dt. 14-12-1987 issued by DG, Department of Posts, New Delhi are annexed herewith and marked Annexure R/X and XI. ANNEX R/X & R/XI. respectively.

8. As regards contents of Para V.8 of the application, it is submitted that the

averments made by the applicants in this para are far from the truth and therefore I deny the same. As a matter of fact there is no burden of work on Extra Departmental Agents. However the work from the ED Agents as per duty lists is extracted and on the contrary, the allowances are paid accordingly. I say and submit that considering the work load of that office and reduction of work on introduction of Private MMS as a whole, the posts of Group-D have been abolished/redeployed or kept vacant. It is further submitted that the posts of Group-D are ~~not~~ also retained at Talaja and Mahuva Post Offices on its justification according to work load and as per time test figures. I say and submit that at Bhandaria, Post of Group D is vacated due to non-justification and according to work load, a post of ED Packer has been provided for 5 hours work to cope-up with the work of Group-D. At Talaja S.O., one departmental messenger and one post of messenger have been vacated due to non-justification. Two posts of Group-D and one post of ED Messenger are retained as per work hours of the office. At Trapaj, because there is no work and no justification, one post of Group-D has been vacated. The remaining work of Group-D has been distributed amongst the ED Agents, but no work is extracted for more than 5 hours and allowance paid

accordingly. At Mahuva, due to non-justification, one post of Group-D (mail peon) and one post of Deptt. Messenger (Group-D) are vacated, while other posts of Group-D and Department Telegram messengers are retained. I say and submit that prior to introduction of Pvt. MMS, the Group-D employees were exchanging mails at ST Bus Stand and Railway Station. As a matter of fact, this work has been reduced. As stated earlier, the staff at each office are retained as per work load of that Post office. The contention of the applicant that the action of the SSPOs Bhavnagar Division, Bhavnagar to abolish the posts of Group-D and ED Agents is illegal and unconstitutional and is not correct.

9. As regards contents of Para V.9 of the application, it is submitted that the duty hours of the Extra Departmental Agents are not increased. However they are paid the allowance as per work hours not more than 5 hours. I say and submit that as per Annexure-A/2 to this application, the explanatory information of each office is furnished. I say and submit that the working hours of Bhandaria, Tansa, Trapaj and Talaja Post Offices are revised as 07-30 to 10-30 and 14-00 to 18-00 hrs. and from 08-00 to 11-00 and from 13-30 to 17-30 hrs at Talaja S.O. respectively. I say and submit that in order to make the business for

the members of public with the post offices, these timings are fixed. It may be clarified that these are not the duty hours of ED Employees. I say and submit that in the case the mails received or despatched beyond the working hours of these offices, the same are exchanged by the ED Agents and for this, they are paid for and prescribed in their duty lists. It may be stated that none of them is given the duty of receiving or despatching mails with Pvt. MMS beyond their duty hours. I say and submit that as per condition of service, the Sub Post Masters of these Post Offices are provided with rent free quarters and they are supposed to receive or despatch mails beyond the working hours of the Post Office. I say and submit that as regards Pithalpur and Thalia, the timings are shown as 08-10 A.M. and 17-50 pm. are the receipt and despatch of mails at Talaja only with Pvt. MMS. Pithalpur despatches mails 08-50 a.m. to Talaja by EDDA/CA on cycle and received the mails at 11-30 hrs. from Talaja. However on introduction of Pvt. MMS, the over-night detention of mails for Thalia at Talaja has been eliminated.

10. As regards contents of Para V-10 of the application, it is submitted that the SSPOs Bhavnagar Division, Bhavnagar has issued orders vide No. G2/10/MHV/90 dt. 22-10-1991 for the introduction of Pvt. MMS between Bhavnagar-Motakhuntavda via Mahuva giving effect from

28-10-1991. I say and submit that order regarding abolition of posts etc. are issued by the SSPOs Bhavnagar Division, Bhavnagar vide its Memo No. G2/10/MHV/90 dt. 24-10-1991. It may be stated that the transfer orders have been issued by the SSPOs Bhavnagar Division, Bhavnagar vide Memo No. B2/26/92 dt. 23-1-1992, after receiving willingness from the concerned and affected employees. It may be further stated that they were working on the said posts till they were relieved for their choicable places. I say and submit that Shri M.B.Zala joined at Bhavnagar Head Office from 2-4-1992, Shri R.O. Baraiya joined at Bhavnagar T'shwar from 9-3-92 After Noon, Shri D.J.Gohil joined at Bhavnagar Head Office from 4-3-1992 and Shri N.R.Sandish joined at Palitana S.O. from 1-2-1992 ^{and at} ~~xx~~ their own requests and costs ~~xxx~~ they are transferred at the respective posts as stated above. And therefore there is no question of favouritism is made to the owner of Pvt.MMs. as alleged. As stated hereinabove, the whole procedure has been narrated and therefore I am not repeating the same.

11. As regards contents of Para V.11 of the application, ~~ix~~ I deny all the averments and contentions made in this para. I say and submit that the applicants have made incorrect averments in this para. As stated above, the posts of

Group-D are abolished or redeployed or kept vacant as there is no work and there is no justification. I say and submit that on introduction of Pvt. MMS, the work of each Post Office is running smoothly and the allowance is being paid as per work hours. I say and submit that Group-D Trapaj had to convey mails between Trapaj- Velavadar which is having journey of about 16 Kms. and thereafter the posts was continued though there had been less work but on further reduction of work of conveyance of mails to ST Stand and to wait there on introduction of Pvt. MMS, there remained no justification at all to continue the post. I say and submit that the information furnished by the SPM Trapaj is not correct. However the copy of previous duty list prepared by this office is enclosed herewith ANNEX R/XII. and marked Annexure R/XII. for ready reference of this Hon'ble Tribunal. I say and submit that as per the policy of the department, a Pvt. MMS has been introduced after observing due procedure. for the benefits of the general public of these areas, and therefore the question of favouritism to the owner of the Pvt. MMS does not at all arise.

12. As regards contents of Para V.12 of the application, it is submitted that the Pvt. MMS between Bhavnagar- Motakhuntavda via: Mahuva has been introduced with effect from 28-10-1991 and only four Group-D officials are affected. It may be, as stated hereinabove, stated that they are transferred and posted at their choice places at

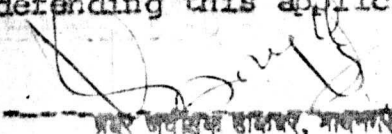
their own requests and costs; the work of conveyance of mails and delivery of mails is running smoothly at each connected Post Offices and not a single ED Agent has to work more than 5 hours and they are being paid the allowance according to their work hours.

I say and submit that the stage list of conveyance of mails ~~prior~~ prior to introduction of Private Mail Motor Service and after introduction are as shown in Annexure-B by the applicant. I say and submit that on introduction of Private Mail Motor Service, any layman can realise that delay to mails are ~~xx~~ eliminated to much extent.

Considering the facts and circumstances pointed out hereinabove and those which may be pointed further by the counsel of the respondent no.2 at the time of hearing of this application, the Hon'ble Tribunal ~~xx~~ will be pleased to find that there is no substance in this application and the applicant is not entitled to any of the reliefs as prayed for in Para 7 much less any interim relief as prayed in Para 8 of the application. It is, therefore, prayed that the Hon'ble Tribunal will be pleased to dismiss the application of the applicants with costs. and the applicants may be directed to pay the costs to the respondents for defending this application.

Place: Ahmedabad.

Date : -4-1992.


Senior Superintendent of Post Office
Bhavnagar Dn., Bhavnagar 364 001

VERIFICATION

I, K. A. Vyas Design: Senior
Superintendent of Post Office, Bhavnagar Division,
Bhavnagar- respondent no.2, do hereby verify and
state that what is stated hereinabove is true
and I believe the same to be true and correct
as per my knowledge, belief and the information
gathered from the record of the case. I have
not suppressed any material facts.

Verified today on this
th day of April, 1992
at Ahmedabad.

प्रवर जयशंकर हाकबर, भावनगर डिवीजन
Senior Superintendent of Post Office
Bhavnagar Dn., Bhavnagar 364 001

Identified by me.

(Jayant Patel)
Additional Central Government
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Reply/Response/written submission
filed by Mr. Jayant Patel
learned advocate for petitioner/
Respondent with second set.
Copy cc: vcc/set served & other cos

29/4/92 By Registrar G.A.V. (1)
Sd/-

SECRET

TO: SAC, NEW YORK
FROM: SAC, BOSTON
SUBJECT: [Illegible]

[Several lines of illegible teletype text follow]