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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,
CIRCUIT BENCH, LUCKNOW
O.A. No. 225 of 1992(L)

Ayodhya Prasad Singh ... Applicant
Versus
Union of India and others ... Respondents

Fixed for 15.12.1992

REJOINDER

I, Ayodhya Prasad Singh, son of late Shri Ram Pragat Singh, resident of Village and Post ~~Chachikpur~~ Chachikpur, District Faizabad, do hereby state on oath as under :-

1. That the deponent is the applicant in the above noted case and is well conversant with the facts deposed to in this rejoinder. The deponent has been read out the contents of counter affidavit/written statement submitted on behalf of the respondents, explained the same in Hindi, which he has fully understood and is replying to the same.
2. That in reply to the contents of para 1 of the counter affidavit/written statement, it is stated that the respondent no. 3 has not furnished the purported authority to file reply on behalf of respondents nos. 1, 2 and 4 and for reason of that it is liable to be ignored in respect of respondents nos. 1, 2 and 4.
3. That para 2 of the counter affidavit/written statement needs no reply.

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4. That in reply to the contents of para 3, it is stated that giving any history of the case is in contravention of the provisions laid down in rule 12 of the C.A.T. (Procedure) Rules 1987 and as such it is redundant. However, the deponent is giving reply to the same.
5. That the contents of para 4 of the counter affidavit/written statement are wrong, misconceived and prejudicial and they are denied. There was no short payment of any amount as alleged to Smt. Udai Raji Devi, Smt. Launga Devi and Smt. Chaturi Devi, residents of village Saraijungal (Chachikpur), Faizabad. The payment to the said ladies were made on proper attestation and witnesses and anything to the contrary is wrong and false.
6. That in reply to the contents of para 5 of the counter affidavit/written statement, it is admitted that withdrawals to the aforesaid ladies were made on 11.12.91 and 12.12.91 on proper identification and witnesses of S/S Kaushalendra Pratap Tiwari and Suresh Kumar Jaiswal, residents of village Hirdaipur, P.O. Chachikpur, and the amounts were correctly paid to them. It is wrong and baseless to say that the deponent went to their homes and paid Rs.300/- to each of them against the withdrawals of Rs.500/- plus Rs.400/- i.e. Rs.900/-. It is also wrong to say that they affixed their left thumb impressions only on two places and were paid Rs.300/- only. The thumb impressions were taken before the identifier who attested them and the ~~witness~~ witnesses certified their payment. The payments were made after observing due formalities and the payments were made to them correctly as rightly admitted by the Scribe and witnesses. Anything to the contrary by the said ladies

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is false, motivated and a creation of the persons having ill will, grudge and enmity against the deponent to impair his social status, create hardships and damage his reputation.

7. That in reply to the contents of para 6, it is stated that in view of the unflinching and categorical statements of the Scribes and the witnesses, the integrity of the deponent cannot be called in question on the mere complaints of the payees lodged at the instigation and insinuation of the persons having enmical terms against the deponent. There is no prima facie case against the deponent and the put off order passed against him is unwarranted, misconceived and prejudicial.

8. That in reply to the contents of para 7 of the counter, the deponent states that he has already mentioned in paras 4(viii) and 4(ix) of his application about the evil designs of some of the policemen at P.S. Goshainganj and S/S Sheo Pratap Singh, Amar Pratap Singh and Dinesh Pratap Singh in engineering a plot against the deponent to get him involved and cause him injury. On F.I.Rs stated to have been lodged with the police by three laides are the creation of the aforesaid persons. They are false and motivated and the department was/is under obligation to act on its own enquiry and intimate the fact thereof to the police authorities before putting the deponent off duty at their instance. There was no justification to put the deponent off duty unless a prima facie case was established against him from

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departmental enquiry. The respondent no. 3 has himself admitted, vide para 5 of the counter that the payment

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was made on the proper attestation and witness and as such there was no irregularity much less any fraud and no justification to intimidate the deponent by order of put off damaging his reputation and social status.

9. That in reply to the contents of para 8 of the counter, it is stated that it was wrong and irregular to have put the deponent off duty at the instance of the police authorities, when there was nothing of misconduct against the deponent from departmental enquiries. The appointing authority has not considered the matter objectively before putting the deponent off duty on the prompting of the police. The put off order passed by the respondent no. 3 is wrong, indiscrete, irregular and ab initio void.
10. That para 9 of the counter affidavit/written statement calls for no reply.
11. That para 10 of the counter affidavit/written statement needs no reply.
12. That the contents of para 11 of the counter affidavit/written statement are denied as stated. Rule 9(1) of the EDA(Conduct & Service) Rules 1964, which has been re-produced in the application, provides that an E.D. employee can be put off duty on pendency of an enquiry into any complaint or allegation of misconduct, but the put off order dated 20.4.92 (Annexure - 1 to the application) does not indicate so. The deponent was not aware on 20.4.92 if any enquiry was pending against him. As already stated and also admitted by the

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respondents there was no irregularity in payments which were made on proper identification and witnesses. The deponent could/can not be put off on the prompting of the police authorities who acted prejudicially and biasedly. The deponent could be asked to secure himself from the competent court of law if there was any such report from the police. A copy of the alleged police demand has not been filed before this Hon'ble Tribunal. The deponent is a civil servant and no action should have been taken on a private complaint in respect of official transaction. It was for the department to make enquiry and take further action if at all necessary.

13. That in reply to the contents of para 12 of the counter, it is denied that it is not necessary to communicate the reasons in the order of put off duty. The put off duty order can be issued under certain prescribed circumstances laid down in rule 9(1) of the EDA(Conduct and Service) Rules 1964 and it is incumbent on the part of the concerning authority to specify the circumstances under which the put off duty order has been passed. Anything ^{to the} contrary is irregular, against rule and also against equity and natural justice. The deponent was not aware on the date of put off that any criminal case was under investigation against him by the police and they demanded his put off from duty. All that the deponent knew was that some interested persons had persuaded and coerced the three ladies to make F.I.R. with the police, but as the matter was already under enquiry with the department and proved to be unsubstantial from enquiry, the deponent could not even imagine that the police would go to the extent of

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demanding his put off from duty and apprehending him. The contents of para 4(iii) of the application are re-asserted. It is further stated that the police intervention was wrong and unwarranted when the matter was under enquiry with the department and no F.I.R. had been lodged by the department to the police.

14. That in reply to the contents of para 13, it is stated that it is wrong to say that the contents of para 4(iv) of the application are incorrect. Under rule the power to put an E.D. employee off duty is vested in the appointing authority who is to use his own discretion and act independently. But in the instant case, the competent authority has been prompted by the police, which is irregular, unwarranted, unjust and illegal. Since, the deponent has been put off duty by the respondents, it is for them to serve the charge sheet on the deponent and inform him of the charges against him and conclude the case within 4 months, as required under the D.G's instructions issued from time to time. The contents of para 4(iv) of the application are re-asserted.

15. That the contents of para 14 are evasive and they are denied and the contents of para 4(v) of the application are re-stated. The respondents have tried to side track the facts stated by the deponent, which could be enquired into and substantiated in the departmental enquiry conducted by the department. It may be stated that no lapse on the part of the deponent was noticed during departmental enquiry and as such there was no justification for his put off duty and damaging his reputation.

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16. That the contents of para 15 of the counter are denied and those of para 4(vi) of the application are re-iterated.
17. That the contents of para 16 of the counter are denied as stated and in reply the contents of para 4(vii) of the application are re-asserted. The application dated 26.12.91 was sent to the Chief Postmaster General U.P. Circle, Lucknow under registered post, and a photo copy of the relevant postal receipt is Annexure R-1. Its original shall be produced at the time of hearing.
18. That in reply to the contents of para 17 of the counter it is stated that the alleged complaints lodged by the three ladies are false, baseless, motivated and at the instigation, insinuation and persuasion of S/S Shiva Pratap Singh, Amar Pratap Singh and Dinesh Pratap Singh for ulterior motive. The department had already got the matter enquired into by its own agency and it was established that the transactions were fair and there was no lapse on the part of the deponent and prima facie there was no misconduct. In view of this fact, there was no justification to be guided by the police and put the deponent off duty at their instance. The contents of para 4(viii) of the application are re-stated.
19. That the contents of para 18 of the counter are denied and in reply the contents of para 4(ix) of the application and the averments made above are re-asserted.

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20. That the contents of para 19 of the counter are denied and those of para 4(x) of the application are re-iterated. From departmental enquiry made in the case, no lapse on the part of the deponent was found and yet he was prejudicially and unjustly put off duty. The put off order is liable to be recalled immediately.
21. That in reply to the contents of para 20 of the counter, the contents of para 4(xi) of the application are re-iterated.
22. That in reply to the contents of para 21 of the counter, it is stated that no prima facie case has been established against the deponent from departmental enquiries and the police action without any report from the department is malafide, irregular and illegal. However, the deponent cannot be adjudged to be guilty on the basis of the police report and punished by put off duty during the pendency of the case which has caused a great damage to his reputation. The deponent is entitled to be re-instated pending trial against him as under the D.G's instructions, an E.D. employee's case of put off duty should be decided within 4 months. The contents of para 4(xii) of the application are re-stated.
23. That para 22 of the counter needs no reply.
24. That the contents of paras 23 to 28 of the counter are denied as stated and the contents of para 5 and its sub-paras of the application are re-stated. It is again submitted that no lapse against the deponent

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could be found from departmental enquiry and the department did not lodge any F.I.R. with the police and as such there was no justification for putting the deponent off duty at the instance of the police. The relevant provision for doing so, under Cr.P.C. as stated by them, has not been cited.

25. That para 29 of the counter calls for no reply.
26. That the contents of para 30 of the counter are denied. The deponent has a just and sound case and the grounds taken by him are cogent and tenable in the eyes of law and the deponent is entitled to the reliefs sought for by him from this Hon'ble Tribunal.
27. That the contents of para 31 of the counter are emphatically denied and it is stated that on facts and circumstances detailed in the application and made out in this rejoinder, the application filed before this Hon'ble Tribunal deserves to be allowed with costs and special costs, as part of compensation for the damage caused to the deponent's reputation.

Lucknow :

Dated : 2.12.92

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paras 1 to 23 and 25 of this rejoinder are true to my knowledge and those of paras 24, 26 and 27 are believed to be true.

Signed and verified this day of December 1992 within the court's compound at Lucknow.

Lucknow :

Dated 2-12-92

Ayodhya Prasad Singh
DEPONENT

Ayodhya Prasad Singh
DEPONENT

I identify the deponent who has signed before me.

M. Dubey
(M. DUBEY),
Advocate.