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INDEX - SHEET

CAUSE TITLE C.A. 672/86 OF 198

Name of the Parties Amresh Kumar Shukla

VERSUS

Union of India. m/Defence.

Part A, B and C

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19/11

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

3-A, Thornhill Road, Allahabad-211001

Registration No. 172 of 1986

APPLICANT (s) Amresh Kumar Shukla

RESPONDENT(s) Union of India through Secretary, Ministry of Defence

Department of Defence Research & Development New Delhi
& 4 others

Particulars to be examined

Verdict as to result of Examination

1. Is the appeal competent?
2. (a) Is the application in the prescribed form?
(b) Is the application in paper book form?
(c) Have six complete sets of the application been filed?
3. (a) Is the appeal in time?
(b) If not, by how many days it is beyond time?
(c) Has sufficient case for not making the application in time, been filed?
4. Has the document of authorisation/Vakalat-nama been filed?
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-
6. Has the certified copy/copies of the order (s) against which the application is made been filed?
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed?
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly?

Yes

Yes

Yes

Yes, 10 sets filed

Yes

—

—

Yes

Yes

Yes

Yes

Yes

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

NO

672

OF 198 5

A.K. Shukla VS U.O. 1

SL NO of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
19-11-86	19-11-86	Hon.D.S. Misra -AM Hon.G.S.Sharma -JM Heard.Admit.Issue notice to the respondents to file reply within a month. AM } JM	19-12-86 H/er case vide 10-15/5 on 21-11-86 on 2/12/86
19-12-86	19-12-86	Hon. Ajay John -AM Hon. G. S. Sharma -JM As prayed, the case is adjourned to 9-1-87 for hearing. Counter-affidavit to be filed within (15) days. AM } JM	OR respondents have not filed any reply so submitted for order 2/1
9-1-87	9-1-87	Hon. D.S. Misra - AM Hon. G.S. Sharma - JM Sri Radhika Karmam for the applicant and Sri K.C. Sinha for the respondents are present. Respondents have filed their reply today and on the request of applicants learned counsel, he is allowed to file rejoinder within two weeks. The case be now listed for hearing on 10-3-87. AM } JM	R.D. sent by post today on 17/2/87 OR Applicant has sent his rejoinder by post which has been received in the office on 17.2.87. Case is submitted for hearing. 2/1 6/3

AM.

JM.



आ० अ० अ-18
I. A. T-18

आदेश पत्रक
ORDER SHEET

अपील
निर्देश आनेदन रजिस्टर में सं०
No. in Reference Application Register
Appeal

Registration No. 672/86

Amresh Kumar Shukla vs. Union of India & others.

अपील अधिकरण
Appellate Tribunal

अपीलार्थी
आनेदक

Appellant
Applicant

अपीलार्थी
आनेदक द्वारा

बनाम

प्रत्यर्थी

Appellant
Applicant

Vs.

Respondent

प्रत्यर्थी द्वारा
Respondent

आदेश की क्रम संख्या
और तारीख
Serial number of
order and date

संक्षिप्त आदेश, निर्देश दते हुए, यदि आवश्यक हो
Brief order, mentioning reference, if necessary

पालन कैसे हुआ और पालन
करने की तारीख
How complied with and
date of compliance

9-9-87

Hon. S. Zahed Husain, V.C.
Hon. Ajay John, Jm.

Shri Radhika Raman for applicant
Shri K.C. Sinha for respondents.

Amendment allowed as prayed
and the same be incorporated
in the original application. The
reply has already been filed.

No further reply will be
filed. But up on 29-10-87.
In the meantime the learned
counsel for the respondents should file
documents submitted by applicant.

V.C.

3/87
Am.

OR
An application
has been moved
in behalf of the
applicant, summoning
the records and the
same is placed
on the file.

submitted.
Sripal
3/9/87

OR
Amendment allowed
has not been incorporated
so far. No documents
have been filed.

submitted
Sripal
20/10/87

(क०६०३०/P.T.O.)

AI/6

ORDER SHEET
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

..... O A No. 672 of 1986

Amresh Kumar Shukla Vs. Union of India & Others

Sl. No. of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
		<p>OF</p> <p>An application for transfer of this case to Lucknow circuit Bench ^{in bench} has been filed before D.R. (S) and the same is submitted for orders.</p> <p>If approved 28th April, 1988 may be fixed in this case before the Lucknow Circuit Bench. Notice issued to parties Submitted.</p> <p><u>Di Pathi</u> 7/4/88</p>	
20/4/88		<p><u>DR.</u></p> <p>Put up before Lucknow bench on 28/4/88.</p> <p><u>DR(S)</u></p>	

①

ALLAHABAD

672

..... **VS**

SL NO of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
	10-3-07	no entry	

26.10.88 fixed for hearing

26.8.88 Hon. A. John A.M.
Hon. G. S. Sharma J.M.

On the request of the
Counsel for the Appellant
Case is adjourned to 28.10.88
for hearing.

Adg
26/8

A.M.

J.M.

28.10.88

Hon. D.S. Misra, Am
Hon. G.S. Sharma, JM

Sri K.C. Sinha, learned Counsel for the
respondents is present. On the request
of the learned Counsel for the appellant
the case is adjourned to 25.11.1988
for hearing.

JM

Am

28.10.88

keep

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

O.A./T.A. No. 672 1986

A.K. Shukla

Applicant(s)

Versus

Union of India & Others

Respondent(s)

Sr.No.	Date	Orders
	25-1-89.	<p>Hon. & S. Misra, Am. Hon. G.S. Sharma, Jm.</p> <p>Shri Radhika Raman for the applicant and Shri K.C. Sinha for the respondents are present.</p> <p>The learned counsel for the applicant filed supplementary rejoinder and it is stated that new facts have come to the notice of the applicant and it is necessary to file Supplementary rejoinder. Under the Rules and Procedure adopted by this Tribunal this sort of Supplementary rejoinder on the ground stated by the learned counsel for the applicant is not permitted and is accordingly rejected. The applicant has moved another application for full compliance of our order dated 27-5-88. The order had been misquoted in the application and it appears that the compliance was already made on the date the order was passed as only documents available on that date were allowed to be inspected. As some documents were left out and are available with Shri Sinha today the applicant is allowed to inspect the same and take their extracts now. There is another application by the applicant for prosecuting respondent No. 4 for committing perjury. This type of application is also ^{to be} moved as a separate misc. application petition and not as an application.</p>

No orders or action is called
for on this application. The case is
adjourned to 24-2-89.

Jm.

Am.

AI
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O.A. No. 672/86 (L)

Hon^e DS. Misra, A.M.

Hon^e DK. Agrawal, J.M.

30/3/89

Written argument of the applicant Shri A.K. Shukla has been filed. Shri K.C. Sinha learned counsel for the respondents is present and states that he has already made his overall submissions and he did not want to submit written argument in reply to the written argument filed on behalf of the applicant. The learned counsel for the applicant requests for adjournment of the case. Since the pleadings in this case are complete and arguments heard, the case is adjourned for orders. ~~No date will be fixed.~~ The date will be fixed for pronouncement of judgement only.

J.M.

A.M.

(sns)

31/3/89
31/3/89
01/5/89.

4/12/89
amit
not to stop
S-2-25

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

A L L A H A B A D

O.A.No. 672 of 1986(L) 938(L)
~~Ex.A.No.~~

DATE OF DECISION 28/4/89.

Amresh Kumar Shukla Petitioner

Mr. R. Raman Advocate for the Petitioner(s)

Versus
Union of India & ors

Respondents

Shri K.C. Sinha Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. D.S. Misra, A.M.

The Hon'ble Mr. D.K. Agrawal, J.M.

- ✓ 1. Whether Reporters of local papers may be allowed to see the Judgement ?
- ✓ 2. To be referred to the Reporter or not ?
- ✓ 3. Whether their Lordships wish to see the fair copy of the Judgement ?
- ✓ 4. Whether to be circulated to other Benches ?

Dinesh/



CENTRAL ADMINISTRATIVE TRIBUNAL

Circuit Bench at LUCKNOW

.....

Gandhi Bhawan, Lucknow

April , 1989

Registration O.A. No. 672 of 1986

Shri Amresh Kumar Shukla Applicant

Vs.

Union of India & ors Respondents

Hon' Mr. D.S. Misra, A.M.

Hon' Mr. D.K. Agrawal, J.M.

(Hon' Mr. D.S. Misra, A.M.)

In this application, under section 19 of Administrative Tribunals Act, No. XIII, of 1985, the applicant has prayed for quashing the orders contained in Annexure Nos. II, III, IV, V, VII, VIII, IX, XIII and the order dated 31-10-1986 (Annexure No. XIV), terminating the services of the applicant, and to declare the applicant as continuing on his post with all the consequential benefits of service including arrears of salary. Subsequently the application was amended to include the relief, that the applicant be declared, to have been confirmed on his post on 19-11-85, and entitled to the difference of salary of the post of Senior Scientific Assistant and Junior Scientific Assistant.

2. The brief facts of the case are that the applicant was appointed to the post of Junior Scientific Assistant Grade I, in the pay scale of

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Rs.425-700 against the existing vacancy of Senior Scientific Assistant in the office of the Chief Resident Engineer, Resident Technical Office, Directorate of Aeronautics, Post Bag No. 2, H.A.L. Post Office, Lucknow (hereinafter called C.R.E. Office). The applicant was appointed on probation for 2 years and he reported for duty on 19-11-1983. The applicant was issued a written warning on 9-11-1984 (copy Annexure-II) stating that the performance of the applicant has been unsatisfactory, and various tasks assigned to him were either not completed, or performed unsatisfactorily. This letter further states that this fact has been communicated to him verbally by his superiors on a number of occasions, but he does not seem to have made any effort to improve upon his performance, on the contrary his performance has deteriorated, steadily. He was informed that in case, he did not show marked improvement in his working, it will effect his chance for continuing in service. The annual confidential report of the applicant for the period 19-11-83 to 31-12-84, contained several adverse remarks, which were communicated to him, vide letter dated 25-4-1985 (copy Annexure No.III). In the first assessment report for the period 19-11-83 to 18-11-84, certain adverse remarks were communicated to the applicant by letter dated 3-5-85 (Annexure-No.IV). By another letter dated 30-3-85 (Annexure No.V), the applicant was informed that he was found missing from his work spot on 25-3-85, at 15.45 hrs, and the reasons given by him were found

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to be unsatisfactory and a written warning was given to him to refrain from such behaviour in future. Another warning for being habitually missing from duty post was given to the applicant, vide letter dated 21-6-1985 (Copy Annexure-VII). The assessment report of the applicant for the period ending July, 1985, was examined, and it was noticed that there was no sign of improvement and the official was informed that his probation has been extended by one year with effect from 19-11-1985, vide letter dated 16-8-1985 (Copy Annexure-No.VIII). The Annual Confidential Report of the applicant covering the period from 1-1-85 to 31-12-85, also contained adverse entries, and it was noticed that there was marked deterioration in the performance of the applicant. The adverse remarks in the ACR for the year ending 31-12-1985 was communicated to the applicant vide letter dated 26-2-86 (Annexure No.IX). The case of the applicant was placed before the Departmental Promotion Committee, under the Chairmanship of the Chief Resident Engineer (Air Craft), Resident Technical Office, Directorate of Aeronautics, Research and Development Organisation, Ministry of Defence, Bangalore. On the basis of the recommendation of the Departmental Promotion Committee, the services of the applicant were terminated with effect from 1-11-86 by the appointing authority, vide their letter dated 31-10-86 (Annexure No. XIV).

3. The petitioner had made representation, to the Scientific Adviser to Raksha Mantri, Government of India, on April 29, 1986, making various allegations

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against the various authorities of the organisation, and praying for being fitted as Senior Scientific Assistant, expunction of the warnings and the adverse remarks given to the applicant, quashing the order dated 16-8-1985, extending the period of probation with effect from 19-11-1985. The applicant was informed by a letter dated 31-10-1986 (copy Annexure No. XIII), informing the applicant as follows :

" The competent authority has directed the undersigned to convey to you that your above mentioned representations have been gone through in detail. It has been found after going through relevant records, that there is no ground to say that there has been any injustice caused to you in any form. "

4. The applicant filed his written argument, and the learned counsel for the respondents made oral submission. In his application, as well as, written argument, the applicant has alleged that the impugned order of termination dated 31-10-1986 (copy Annexure No. XIV), was passed arbitrarily and maliciously. We have examined the record and we have failed to find any evidence indicating arbitrariness or malice on the part of the respondents in passing the impugned order of termination of the service of the applicant. The second contention of the applicant is that, there is no provision for extension of period of probation, and that on completion of probation, period, the applicant should have been given permanent status, or his services should have been terminated. The applicant has not produced any rule on this subject, prohibiting the extension of probation period. On the other hand, there are several decisions of the Hon' Supreme Court, in which, it has been held that in

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the absence of rules to the contrary, the competent authority can extend the period of probation. When a person is appointed as probationer for specified period, confirmation does not follow automatically on expiry of that period. In the case of Kedar Nath Vs. State of Panjab, AIR 1972, SC 873 and in the case of H.G. Raghu Vs. Supdt. of Police 1984 (1) SLR 695 (Karnatak), it was held that termination of services of a probationer, can be terminated even one month prior to completion of probation period, because of unsuitability. In the present case, the period of probation of the applicant was extended with a view to enable him to improve his work and conduct. The record shows that the applicant did not avail of this opportunity, and the respondents were fully justified in terminating his services. We are of the opinion that, there is no merit in this contention of the applicant.

5. The third contention of the applicant is that, the D.P.C. which considered further extension of his probation period was not properly constituted, as Shri S.N. Gupta (Respondent No. 4) who was having malice, prejudice and ill will against the applicant, was also a member of this Departmental Promotion Committee. The respondents have stated in para 11 of their supplementary counter affidavit, that the D.P.C. was constituted by Government of India, and all the Chief Resident Engineers, in this country, were the members of this Committee. We have considered this matter, and we are of the opinion that there is no

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(19/11/85)

illegality in the formation of the D.P.C. which considered the case of the applicant. The next point urged by the applicant is that the assessment report for the period from 19-11-84 to 18-11-85 (Annexure No VIII) was finalised about the 4 months before the completion of the year and it was made effective for the full assessment year. In this case, the period of the probation of the applicant was expiring on 19-11-85, it was necessary to finalise, the assessment of the applicant regarding his confirmation or extension of probation, and there is no illegality in the procedure adopted by the respondents in starting the assessment procedure 3 or 4 months in advance of the period of completion of the probation.

6. The applicant has also contended that he was given other work in addition to his work, as a Technical Officer and it was not his responsibility to perform, such additional duties. The respondents have explained that the office, where the applicant was employed was a small office and the additional duties given to him were negligible to the total quantum of work load required to be performed by the applicant. In para 14 of their reply, it is stated that the total time required to carry out all the jobs mentioned by the applicant would not take, on an average of more than one hour in a week. It is also stated that, these duties were specifically put in writing, as the applicant was questioning the authority of his superiors, every time he was asked to do the job. The respondents have given instances of lack of effort and application in the discharge of duties entrusted to the applicant by the competent

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fit person to be continued in government service.
On the facts and circumstances of the case, we find
no merit in the application and accordingly we dismiss
the same without any order as to cost.

JK G...
MEMBER (J) 28.4.89

Shm
MEMBER (A)

(sns)

Lucknow,

APRIL 28, 1989.

(12/1)

authorities. We have considered the matter and we find that there is no merit in this contention of the applicant that it was not his responsibility to carry out the additional duties entrusted to him by his superior officers.

7. The applicant has also prayed for issue of a direction that he is entitled the difference of salary of the post of Senior Scientific Assistant with that of Junior Scientific Assistant on the ground that he was appointed against a sanctioned post of Senior Scientific Assistant. The respondents have stated that the post of Senior Scientific Assistant was down graded and the applicant was given appointment on the post of Junior Scientific Assistant, and he joined the post of his own free will and he is debarred from taking the plea that he is entitled to a salary of a Senior Scientific Assistant. We find no merit in this claim of the petitioner and the same is rejected.

8. We have given careful consideration to all the points urged by the applicant in his application and from the narration of events, we find that the work and conduct of the applicant was found unsatisfactory, and he was informed about it and was also given warning in writing from time to time to refrain from such activities. From a perusal of confidential reports and the assessment reports of the applicant, during the period of his employment under the respondents, it is established that the work and conduct of the applicant was most unsatisfactory and he was not a

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In the Central Administrative Tribunal
Additional Bench Allahabad
Application No.
District Lucknow

Dr. Amresh Kumar Shukla - - Applicant
Versus

Union of India & others - - Respondents

(A 3/2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD

Application No.

Sri Amresh Kumar Shukla Versus Union of India and others

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19.	Five envelops containing 5-75 35 each Postage Stamps.	

November 10, 1986

3/11/86
APPLICANT

(1)

Application under Section 19 of the Administrative
Tribunal Act, 1985.

For use in Tribunal's Office

Date of filing or Date of
receipt by post

Registration No.

Signature of Registrar.

Reg. No. 672 of 1986
Central Administrative Tribunal
Additional Bench
ALLAHABAD/PATNA/GOALPUR
Date of Filing... 10.11.86 OR
Date of Receipt by Post
Deputy Registrar.

In the Central Administrative Tribunal,
Additional Bench, Allahabad.

Sri Amresh Kumar Shukla S/o. Sri Ram Gopal Shukla
aged 33 years, Resident of Cooks Compound,
Ghasiari Mandi, Lucknow.

Applicant

Versus

1. Union of India through Secretary, Government
of India, Ministry of Defence, Department of
Defence, Research and Development, New Delhi.
2. Group Captain P.C. Joshi (Retired) Resident
of B-347 Indranagar Colony, Lucknow.
3. Chief Resident Engineer, Resident Technical
Office, Research and Development
Organisation, Ministry of Defence,
Government of India, Lucknow.
4. Sri S.N. Gupta, Scientist 'D', Resident
Technical Office, Research and Development
Organisation, Ministry of Defence, Govern-
ment of India, Lucknow.
5. Sri S. Ramesh, Scientist 'B',
Centre for Aeronautics Systems Studies and
Analysis, Government of India, Ministry of
Defence, Research and Development
Organisation, Jeevan Bima Nagar, Bangalore.

Respondents

Details of Application

1. Particulars of applicant

- | | |
|---|--|
| (i) Name of Applicant | Sri Amresh Kumar Shukla |
| (ii) Name of Father | Sri Ram Gopal Shukla |
| (iii) Designation and
Office where employed. | Junior Scientific Assistant
(Grade I) Resident Technical
Office, Directorate of Aeronau-
tics, Ministry of Defence, |

Contd ... 2

(2)

Government of India, Research and
Development Organisation, Lucknow.

(iv) Address for: Cooks Compound, Ghasiari Mandi, Lucknow
Service of
all
notices.

2. Particulars of respondent

Name/Designation	Office address	Address for service of all notices
1	2	3
(1) Union of India	Through Secretary, Government of India, Ministry of Defence, Department of Defence, Research and Development, New Delhi.	As in Column No. 2
(2) Group Captain P.C. Joshi.	B-347 Indranagar Colony, Lucknow.	-do-
(3) Chief Resident Engineer.	Resident Technical Office, Directorate of Aeronautics, Ministry of Defence, Government of India, Research and Development Organization, Post Bag No. 2, H.A.L. Post Office, Lucknow.	-do-
(4) S.N. Gupta 'Scientist D'	As above	-do-
(5) Sri S. Ramesh Scientist 'B'	Centre of Aeronautics Systems Studies and Analysis, Government of India, Ministry of Defence, Research and Development Organisation, Jeevan Bima Nagar, Bangalore.	-do-

3. Particulars of the orders against which the application is made.

- (1) Order No. R.T.O. (L)/225/16/Adm, dated 9.11.84 (Annexure-II), order No. R.T.O. (L)/225/13/Adm, dated 30.3.85 (Annexure V) and order No. R.T.O. (L)/225/16/Adm, dated 21.6.85 (Annexure VII) regarding warnings administered by C.R.E.
- (2) Order No. R.T.O. (L)/225/3/Adm, dated 25.4.84 (Annexure III) and order No. R.T.O. (L)/224/3/1/Adm, dated 26.2.86 (Annexure IX) containing malicious and baseless adverse entries given by C.R.E.
- (3) Order No. R.T.O. (L)/224/3/Adm, dated 3.5.84 (Annexure IV) regarding assessment report of 1984 and order No. R.T.O. (L)/224/3/1/Adm, dated 16.8.85 (Annexure VIII) regarding assessment report of probation and 2nd year and extension of probation passed by C.R.E.

Contd 3

(3)

- (4) Order No. R.T.O.(L)/224/3/2/Adm, dated 31.10.86 (Annexure XIII) of C.R.E. intimating rejection of representation by Competent Authority.
- (5) Order No. R.T.O.(L)/219/1/Adm, dated 31.10.86^(Annexure XIV) passed by C.R.E. terminating the services of the applicant.

4. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

6. Facts of the case

The facts of the case are given below :-

- (1) That two posts of Senior Scientific Assistants (hereinafter called S.S.A.) were created in the scale of Rs.550-900 in the office of the Chief Resident Engineer of Resident Technical Office. Directorate of Aeronautics, Post Bag No. 2 H.A.L. Post Office, Lucknow (hereinafter called C.R.E. Office) but only one post was filled by Junior Scientific Assistant (Grade I) (hereinafter called J.S.A.) and the other post is lying vacant.
- (2) That C.R.E. asked the names of suitable candidates from Employment Exchange for the post of S.S.As., to be filled by J.S.A. The applicant's name along with many others was sent by Employment Exchange to the C.R.E. The applicant along with others appeared in written test and on being successful thereat he along with others was interviewed by the Selection Committee consisting of C.R.E. Group Captain P.C. Joshi, Sarvsri S.N. Gupta, Scientist D, S.Q. Zama of C.R.E. Office and Krishna Lal Kanaujia, Junior Scientific Officer of Chief Resident Inspector's Office. The Selection Committee had adjudged the applicant suitable in all respects for the post. Applicant was told orally by C.R.E. to join after being relieved from the post on which he was working. Principal of Jawahar Lal Nehru Polytechnic, Mahmudabad, District Sitapur where he was working as Instructor informed the applicant that first th

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appointment letter should be made available and then only he can be relieved. The applicant accordingly informed C.R.E. Thereafter the letter of appointment for the post of J.S.A. was given to the applicant. In the said appointment order the applicant was placed on 2 years probation. After producing this appointment letter before the aforesaid Principal of the Polytechnic, the applicant was relieved on the A/N of 18.11.83 and he submitted the joining report to C.R.E. on the F/N of 19.11.83. A copy of the appointment Order is being filed herewith as Annexure I.

Ann.I

- (3) That according to standing orders of Government of India (hereinafter called Government) the Character and antecedents of the official should have been got verified through the Police prior to his taking over charge on the post. It is also condition precedent to obtain the Medical Fitness Certificate from Chief Medical Officer by the candidate before allowing him to take over charge according to standing orders of Government. In contravention of these instructions C.R.E. allowed the applicant to join as J.S.A. before obtaining fitness certificate from Chief Medical Officer and without getting the Character and antecedents verified through the Police.
- (4) That the authorities did not allot any work to the applicant for about 3 months i.e. from 19.11.83 to 5.2.84.
- (5) That applicant was recruited for attending to the technical work of C.R.E. Office, but after 3 months of joining his post on 6.2.84 under letter No. 1/84, he was allotted the work of (1) maintenance of files

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(5)

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from 280/Adm onwards (2) maintenance of library Register (3) maintenance of Receipt/Issue Vouchers connected with library. These duties were in addition to the technical duties which were not specified. A perusal of this letter will reveal that though the applicant was recruited for the technical work, but he was assigned purely clerical work though clerical staff was available in the office. Thus the work of clerical nature which could have got done by an official of much lower scale than than the scale which was admissible to the applicant.

(6) That vide letter No. 1/85 dated 27.6.85 the work already assigned to the applicant was changed and he was allotted the duties of (1) maintenance of files from 280/Adm onwards (2) maintenance of library and connected records (3) maintenance of type approval register (4) maintenance of local modification Register (5) maintenance of Production Permit concession Register and (6) Preparation of Contingent Bills, RV/IV connected with library. These duties were in addition to technical duties. It will be seen that the work load of the applicant was appreciably increased while changing the duties of the applicant in June 1985. Even in this order it was not specifically mentioned as to what were technical duties of the applicant. The facts stated in para 6(4) and 6(5) will show that the authorities were fully satisfied by the performance of the applicant and therefore his work-load was further augmented in the subsequent order changing the duties of the applicant though it was practically very difficult for a person to carry out efficiently the entire work allotted to the applicant.

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(b)

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(7) That in letter No. 2/85 dated 3.10.85 orders were issued that under special emergent circumstances, the applicant will carryout duties assigned by any officer of the establishment superior in rank and on completion of the task applicant will give details of such tasks to his direct superior. Due to assignment of additional duties referred to above, the applicant became direct subordinate to all the officers of C.R.E. Office with the result that every Officer wanted the disposal of the work assigned by him on priority basis at one and the same time. Obviously any person in the position of the applicant could not carry out such duties according to the wishes of so many officers at one and the same time.

(8) That in addition to the duties allotted to the applicant he was orally directed by C.R.E. to do despatch work, which was done by the applicant for period of about a year i.e. from 14.8.84 to 2.7.85. The applicant was also orally directed by C.R.E. to carry out the work of circulation of non-technical magazines to all the officers as well as for all clerical staff and peons and driver. When the applicant requested the authorities that the services of a peon be made available for circulating the magazines, C.R.E. ordered that the work will be done by the applicant because the services of additional peon cannot be made available for the purpose. Therefore the applicant had to carry out the work of circulation of these magazines to employees of C.R.E. Office including peon and driver ^{though} ~~through~~ the applicant was already over-loaded.

(9) That despite the fact that applicant attended the duties assigned to him most conscientiously, honestly

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and with a high sense of responsibility and with the best of his ability but in course duties he thought it his sacred duty to bring to light the various irregularities detected by him in the working of library as well as Despatch work. Some of the irregularities pointed out by applicant are as under:

- (i) Out of 18 volumes of T-237 (Encyclopedia of Science of Technology) Volume I was issued to S.S.Q. Zama, Scientist C on 9.7.82 and its return was shown under the forged signatures of S.S.S. Negi, Accountant but it was not available in the library. When the applicant pointed out this matter to the authorities, this book was made available, but no enquiry on the point of forged signatures of Sri Negi has been conducted despite several requests of the applicant. To ensure that such irregularity may not recur in future, it was necessary to make an enquiry in the interest of guarding against loss of valuable books.
- (ii) Railway Time Table and P-935 (Method of Test of Air Craft) were taken by Sri S.N. Gupta, Scientist D on 2.3.76 and 9.5.80 respectively without giving his signatures in token of receipt of these books nor he had returned these books.
- (iii) Group Captain P.C. Joshi C.R.E. had taken Railway Time Table on 7.12.82 without giving its receipt nor he had returned it.
- (iv) T-75 (Basic Electronics) and Electronics Design were taken by Sri S. Halim of C.R.I. Office on 16.5.78 and 21.1.81 respectively without giving his signatures in token of

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receipt nor these books were returned.

- (v) Air Force order No. 734/76, Alternative Energy, T-108 (Master of Hand Book) were given to A.F.L., Sri F.M. Sonawala of H.A.L. and Director of Aeronautics on 4.1.82 and 11.11.82 respectively without obtaining signatures nor these books were returned.
- (vi) File No. R.T.O.(L)/235/Adm has been shown to have been issued without writing the name/designation of the person to whom it was issued and without obtaining his signatures. The file is missing.
- (vii) D-44 (Supply Bureau) was neither available in the library nor its Receipt/Issue Voucher was prepared.
- (viii) Book "Into Their Air" received in gift was not entered in the stock register.
- (ix) Ledger register of books from T-1 to T-23 are not available.
- (x) Ledger registers were not on prescribed form nor these were complete. However fresh registers are being prepared by Sri Kamlesh Goel Scientist B the successor of Sri S. Ramesh Scientist B as a result of mistake pointed out by the applicant.
- (xi) Applicant found that several registered letters were lying in the office for several days. He, therefore, verbally requested Sri S. Ramesh Scientist B, the Officer-in-charge of Despatch work to make arrangements for despatching these letters, but nothing was done by him. The applicant therefore requested by writing in

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the External Despatch Register for disposal of the said registered letters, but it was taken ill by Sri S. Ramesh who considered it as a complaint against him.

- (xii) Applicant was deputed many times to H.A.L. for getting the coolers, Air Conditioner repaired which were purchased through M.E.S. and were in Guarantee period. H.A.L. authorities refused to repair on the ground that these are not the H.A.L. property. Their repairs should be arranged by M.E.S. as these were in guarantee period. However these have been got repaired through private Mechanic instead of repair by M.E.S.

The above facts infuriated Sri S. Ramesh (Reporting Officer) as these facts reflected adversely on his efficiency, who was office in charge of library and Despatch. He also influenced the higher officers so much so that the latter also developed prejudice against the applicant. The result was that the applicant was subjected to untold harassment at the hands of his officers on one plea or the other. Further cause of displeasure and prejudices of Group Captain P.C. Joshi, C.R.E. (Grading Officer) and Sri S.N. Gupta, Scientist D (Reviewing Officer) was that applicant had brought ^{on} a record the fact that these officers have taken books from library but they have not given any receipt regarding their issue to them.

- (10) That all of a sudden without giving the reasonable opportunity C.R.E. informed the applicant in his letter No. RTO(L)/225/16/Adm dated 9.11.84 that his performance has been found unsatisfactory.

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A perusal of the said letter will show that the contents thereof are wholly vague and no specific instances have been indicated showing that the performance of the applicant was unsatisfactory nor it has been specified as to which work assigned to him was not completed or was performed unsatisfactorily. The said assessment about the performance of the applicant is wholly vague, baseless and is the outcome of displeasure, prejudice and ill will developed by Reporting/Reviewing/Grading Officer because the applicant pointed out that various books taken by them from the library were not returned and missing and various irregularities which came to the notice of the applicant were brought to light in writing which adversely reflected on the efficiency of Reporting/Reviewing/Grading Officers. It is also asserted that even once the applicant was not orally informed about any short coming in his work and conduct. The said adverse comments on the performance of the applicant being based on the malafide and prejudice of Reporting/Reviewing/Grading Officer against the applicant are not sustainable in the eyes of law and are liable to be declared null and void. It is also stated that the said adverse comments had been made malafide so as to cause hinderance in the confirmation of the applicant on the post on the completion of probation period so as to cause irreparable damage to his career for the reasons pointed out above. The adverse remarks carry the same weight for the applicant as an adverse entry in A.C.R. and as such the remarks should have been brought on record only after giving oral warnings followed by written warnings in case any short comings were detected in the work and conduct of the applicant

by observing the principle of natural justice, but these orders of Government which have statutory force have been violated by the authorities concerned. On this ground also, the adverse comments conveyed to applicant are illegal and deserves to be quashed. A copy of the letter dated 9.11.84 is being filed herewith as Annexure II.

Ann.II.

- (11) That the applicant had pointed out various irregularities in the functioning of the office in the library so that the defects may be removed and the working of the library may improve but Respondent No. 2 to 5 became so much prejudiced against the applicant that not being satisfied with the adverse comments on the performance and conduct of the applicant contained in letter dated 9.11.84 (Annexure II) awarded a highly adverse and damaging entry in the A.C.R. of the applicant for the period from 19.11.83 to 31.12.84. The perusal of the said said adverse remarks would show that whatever work was done by the applicant was unsatisfactory and that he did not do any useful work during the period in question. This clearly shows the tainted mind of O.P. No. 2 to 5 and their prejudice and malafide against the applicant stands substantiated from the tenor of the entry. It is also significant to state that the entry in question does not conform to the requirements of standing orders of Government on the subject of recording of annual entries in A.C.Rs of Central Government employees. According to those orders Reporting/Reviewing/Grading Officer should give their assessment separately with their dated signatures but all these requirements have been disregarded by the said respondents and as such

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inconcievable that the applicant did not do any work at all during the period in question. The said assessment report being therefore clearly the outcome of prejudice and malice of Opposite Party No. 2 to 5 against the applicant, is unsustainable in the eye of law and deserve to be declared null and void. A copy of the said assessment report is being filed herewith as Annexure IV.

Ann. IV

- (13) That the applicant made a written representation dated 18.5.85 to C.R.E. praying for expunction of the said adverse entry and assessment report on the basis of the grounds mentioned therein.
- (14) That the representation in question along with full circumstances of the case have been forwarded by Opposite Party No. 3 to the next higher authority, but he illegally rejected that representation himself vide his letter dated 24.6.85. Thus his action is wholly illegal and actuated by his prejudice and ill will. In this letter, a number of baseless defects of the applicant have been highlighted with an oblique motive for damaging the career of the applicant.
- (15) That Opposite Party No. 2 was so much prejudiced against the applicant that he gave a written warning alleging that applicant had absented from duty spot on 25.3.85, so that a good back ground is created for spoiling the service record of the applicant with an oblique motive. This written warning was given without giving an opportunity to the applicant to clarify his position. The said warning is, therefore void *ab-initio* being in contravention of principal of natural justice. In fact, the allegation made in the said written warning were based

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on malice of Opposite Party No. 2. The applicant had left his seat only for a short while to lock the cycle at the cycle stand as he forgot to lock it on return from lunch. The applicant also made a representation against the said warning stating the facts and prayed therein that the said warning be cancelled. Opposite Party No. 2 without considering the applicant's representation on merit rejected the same and issued another letter dated 21.6.85 adding further that the applicant has been habitually found missing from duty spot, though there was no such change in the previous warning. A copy of letter dated 30.3.85, representation dated 18.4.85 and letter dated .6.85 are filed as Annexures V, VI, and VII.

Ann. V, VI & VII

- (16) That vide letter dated 16.8.85, Opposite Party No. 2 awarded adverse assessment report for the 2nd year of probation and also extended probation period for one year w.e.f. 19.11.85. It will be seen that three months prior to the expiry of probation period of the applicant, the probation period has been extended and the adverse assessment report has also made before November 18, 1985 upto which date the said assessment report has been made effective. This shows the malafide of Opposite Party No. 2 against the applicant. In fact assessment report should have been given after 18.11.85 and ~~the probation period too should have been given after 18.11.85~~ and the probation period too should have been extended near about November 18, 1985. It is also stated in this context that according to Rules of Departmental Promotion Committee contained in Civil Service Regulation Volume II (Part I) the probation period could only be extended on the recommendation of Departmental

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Promotion Committee (hereinafter called D.P.C.) Thus the mandatory provisions have been violated in extending the period of probation period and as such the same is liable to be declared null and void. It will also be seen that Opposite Party Nos. 2 to 5 have through out been harassing the applicant by administering him written warnings on flimzy and baseless grounds so as to create adverse back ground for terminating the services of the applicant due to bearing malice ill will and prejudice against the applicant. There is obviously no justification to adversely comment in the assessment report in respect of 2nd year of probation period ending 18.11.85 when no oral or written warning was ever given to the applicant on any point which from the subject matter of the said assessment report and as such the same is not sustainable on account of the fact that the standing orders of the Government to the effect that adverse reports against Government servants should not be made unless oral warnings followed by written warnings do not result in improvement in the performance of the official concerned in case any default in his work and conduct is detected for the period to which such adverse report relates. A copy of the letter dated 16.8.85 of Opposite Party No. 2 containing said adverse assessment report and extension of probation period is being filed as Annexure VIII.

Ann. VIII

- (17) That Opposite Party No. 4 in his letter intimated the applicant the adverse remarks recorded in his A.C.R. from 1.1.85 to 31.12.85. The perusal of the entry will reveal as if the applicant did not do any useful work of the post on which he was working and.

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did not lack any defect which could be conceived on the surface of the earth. The entry will itself show that Opposite Party No. 4 was highly prejudiced against the applicant. This entry is also illegal in the sense that the view expressed by the Reporting/ Reviewing/Grading Officer should have been shown separately so that applicant could know as to what remarks were given by which officer namely Sarvsri S. Ramesh, S.N. Gupta and Group Captain P.C. Joshi. Therefore this entry being not in conformity with the standing orders of Government on the subject is liable to be declared illegal. ~~No oral or written~~ No oral or written warning was given to the applicant during the year 1985 on any point mentioned in the impugned adverse remarks made in the A.C.R. and thus the said remarks are also illegal ^{on} ~~on~~ the ground of Contravention of standing orders of Government. A copy of the adverse remarks is enclosed as Annexure IX .

Ann. IX

- (18) That letter No. DTSR/70442/RD-25(c) dated November 19, 1985 from the Director General, Research and Development, Ministry of Defence was received in the office of Opposite Party No. 3 in which it was stated that Defence Institute of Fire Research is conducting General Course in Fire Fighting from 28.12.85 to 21.3.86 at Delhi. In this letter it was stated that this course is exclusively meant for Defence Fire Service staff and personnel engaged in anti-fire Installation of Defence Organisation. Candidates to be deputed for such training should preferably have passed Middle School or Class VIII Examination of a recognized School or Army I Class Examination in Hindi/English. These trainees were required to be in possession of medical certificate

from competent authority declaring that they are physically fit for full fire fighting duties involving heavy physical efforts (straneous course). It is thus evident that the said course was meant for class IV employees of Defence Fire Service having high standard of physical fitness. The applicant being J.S.A. belonging to service Class III category was obviously not required to undergo the said course. Moreover he did not belong to the Defence Fire Service staff and engaged in anti-fire Organisation of Defence Installations. The applicant was however deputed to attend the said course without requiring the applicant to obtain a Medical Certificate showing his fitness for full fire fighting duties involving heavy physical efforts (straneous course). He was only asked to appear before C.M.O. who had been directed to examine him and grant him general fitness certificate. Due to bearing malice, ill will and prejudice against the applicant and to subject him to harrassment and physical strain Opposite Party No. 3 intentionally deputed the applicant for the said course, though he was not required to undergo that course as he did not conform to the requirements as laid down in the aforesaid letter. A copy of this letter is being filed herewith as Annexure X of this application.

Ann. X

- (19) That the applicant completed the said course successfully and was awarded a certificate for having passed the examination Grade II by Defence Institute of Fire Research, Delhi, though he had to bear considerable strain during the said course. A copy of this certificate is filed herewith as Annexure XI of this application.

Ann XI

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- (20) That due to bearing malice against the applicant Opposite Party No. 3 maliciously did not credit into the Bank A/C of the applicant the pay for the months of January and February 1986, though he had given pre-receipted Revenue Receipt with the result that he had to face considerable financial hardship for non-disbursement of his pay for the said months in time.
- (21) That on return from the said Fire Fighting Course, the applicant submitted T.A. Bills on 16.6.86, but it was returned with objection on 23.6.86. The applicant submitted again T.A. Bill on 11.7.86 after removing objections. No action was taken on corrected T.A. Bill and therefore the applicant sent a reminder on 11.8.86. On 20.8.86, the applicant was informed that the T.A. Bill in question has been misplaced with the result that the amount of T.A. admissible to the applicant has not so far been paid to him. This evidently proves as to how highly prejudiced is the Opposite Party No. 3 against the applicant.
- (22) That during the extended period of probation from 19.11.85 upto date not a single warning either oral or in writing or any other adverse comments/Assessment Report has been communicated to the applicant and during the said period he has also completed the said Fire Fighting Course of 12 weeks with credit. This clearly shows that the work and the conduct of the applicant during the extended period of probation upto now has been upto the mark unless Opposite Party No. 3 maliciously award any adverse entry or written ^{warning} on baseless grounds to the applicant to cause irreparable damage to his career.

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- (23) That the fact narrated above clearly show that Opposite Party No. 2 to 5 have constantly been harassing the applicant by issuing warnings, adverse assessment report and awarding adverse entries on the baseless and flimsy grounds. All these actions are clearly outcome of the prejudice and malice of Opposite Party Nos. 2 to 5 against the applicant and are therefore illegal and deserve to be declared null and void.
- (24) That the applicant had made a detailed representation dated 29.4.86 to Scientific Advisor to Raksha Mantri of Government of India praying for expunction of adverse entries in A.C.R., assessment report and warnings and to transfer him to Kanpur on the ground that all the adverse reports have been made on account of malafide of Opposite Party No. 2 to 5, so that the injustice already done to the applicant may be rectified at the level of Government of India and the applicant may also be saved from continuous harassment at the hands of Opposite Parties Nos. 2 to 5. A copy of the said representation is being filed as Annexure XII of this application.
- (25) That letter dated 31.10.86 was received by the applicant on 31.10.86. In that letter it was intimated that representation made by the applicant against the written warnings, assessment reports and adverse entries has been rejected by the Competent Authority and even the letter in which the representation has been rejected by Competent Authority has not been made available to the applicant. A copy of the said letter dated 31.10.86 is being filed as Annexure XIII.

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- (26) That the applicant was also delivered on 31.10.86 the letter dated 31.10.86 by which the services of the applicant have been terminated with immediate effect. A copy of that letter dated 31.10.86 is being filed as Annexure XIV.
- (27) That the applicant's apprehension that his services will ultimately be terminated by Opposite Parties 2 to 5 came true when the said two letters of 31.10.86 (Annexure XIII and XIV) were received by the applicant rejecting his representation and terminating his services with immediate effect.
- (28) That though there was neither any oral or written warning about the unsatisfactory performance of the applicant during the extended period of probation, yet his services have been maliciously and arbitrarily terminated with immediate effect.
- (29) That the representation of the applicant against the malicious action taken against the applicant by Opposite Parties No. 2 to 5 has already been rejected by Competent Authority and on that basis, the services of the applicant have been terminated.
- (30) That the impugned termination order is not only based on the malafide, prejudice and malice of Opposite Parties Nos. 2 to 5 against the applicant, but it is also based on the alleged misconduct, alleged unauthorised absence from duty referred to in Annexures III, IV, V, VII and IX and as such the disciplinary proceedings should have been initiated against the applicant and he should also have been allowed reasonable opportunity to disprove them and to prove his innocence. Thus though the termination order purports to be the order of termination of service of the applicant, but it is by way of punishment and is punitive in nature.

and is clear violation of provisions enshrined in Article 311 of the Constitution. Hence the termination order is liable to be declared to be unconstitutional and liable to be declared as null and void.

- (31) That the adverse remarks in A.C.R., adverse assessment reports, extension of period of probation and termination of services of the applicant are the outcome of the malice and prejudice of Opposite Parties Nos. 2 to 5 against the applicant as well as are on the basis of alleged misconduct and alleged unauthorised absence and these are the sole cause of action for filing this application before this Hon'ble Tribunal and as such Annexures II to V, VII to IX and XIII and XIV deserve to be quashed ^{as} ~~and~~ unsustainable in the eyes of law.
- (32) That since termination does not come within the nomenclature of punishment within the meaning of Temporary Service Rules, 1965 of Central Civil Services, There is no provision for appeal or representation against termination of services. Hence the question of exhausting departmental remedies does not arise.
- (33) That in these circumstances now the applicant is left with no other speedy efficacious and effective remedy except to invoke the jurisdiction of this Hon'ble Tribunal for enforcement of his legal and constitutional rights.
- (34) That the applicant is therefore filing this application before this Hon'ble Tribunal in whose jurisdiction the matter falls, amongst others, on the following grounds :-

GROUND

- (A) Because adverse entries, warnings and adverse assessment reports have been made the basis of the termination of services, but Article 311 of the Constitution has not been complied.
- (B) Because alleged misconduct is the basis of termination of services. As such Article 311 of the Constitution has been violated because no opportunity has been given to the applicant by initiating Departmental proceedings.
- (C) Because alleged un-authorized absence from duty could not be made the basis of termination of services without giving the opportunity as laid down in Article 311 of the Constitution.
- (D) Because though the termination order purports to be the order of termination of services of the applicant, but it is by ^{way of} punishment.
- (E) Because the impugned adverse entries, adverse assessment reports, warnings and extension of probation period and termination of applicant's services being based on the malafide of Opposite Party Nos. 2 to 5 are liable to be declared illegal.
- (F) Because Opposite Parties Nos. 2 to 5 became highly displeased with the applicant who in good faith had appointed out a number of irregularities found in maintaining library records, Despatch and other work so that steps may be taken to improve the working of the office. The applicant incurred the displeasure of Opposite Parties Nos. 2 to 5 who thought that the applicant has high-lighted the

for 10/10/22

said defects which reflected adversely on their efficiency and administrative capability.

(G) Because the perusal of the adverse reports, adverse assessment reports and written warnings and institution of enquiry against the applicant on trivials and termination of his services would itself show that these were the outcome of prejudiced minds.

(D) Because any impartial Officer in the circumstances
(H) in which the applicant was made to work, would have awarded very good reports on the basis of his conscientiousness, devotion to duty and integrity and would have also confirmed the applicant on his post on expiry of probation period.

(E) Because the extension of probation period is also illegal as Departmental Promotion Committee have not been consulted before passing the said order though it was necessary to obtain the recommendation in the matter.

(F) Because the adverse report, assessment reports have been given without following the mandatory provisions of the Standing Orders on the subject.

(H) Because the termination order is based on the prejudice malafide and malice of Opposite Parties Nos. 2 to 5 against the applicant and the same is therefore liable to be quashed.

② Addl. Secy. to Govt. of India, 23/9/87

(H) Because the applicant performed the functions of the post of Senior Scientific Assistant Grade I which is in contravention of Article 39(d) of Constitution of India and as such the applicant is legally entitled to the amount representing the difference of Senior Scientific Assistant Grade I and Junior Scientific Assistant Grade I.

(L) Because when no oral or written warning was administered to the applicant ~~was~~ during the period 1.1.86 to 30.10.86 and as such termination of his services without assessing his performance during the said period is illegal and deserves to be quashed due to non-compliance or the principle of natural justice.

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7.

RELIEFS SOUGHT

In view of the facts mentioned in para 6 above, the applicant prays that the Hon'ble Tribunal be pleased to quash written warnings (Annexure II, V and VII), adverse entries in A.C.R. (Annexure III and IX), adverse assessment report of 1984 (Annexure IV, adverse assessment report of 1985 and extension of period of Probation (Annexure VIII) as well as letter dated 31.10.86 (Annexure XIII) rejecting the representation of the applicant and letter dated 31.10.86 (Annexure XIV) terminating the services of the applicant and declare the applicant as continuing on his post with all the consequential benefits of service including arrears of salary with interest @ 12 % per annum from the date these accrue due till their pay. The applicant may also be awarded any other relief to which he is entitled in the circumstances of the case including the costs of this application.

⑧ The applicant he declared to have been confirmed on his post on 19-11-85 and entitled to the difference of salary of the post of Senior Scientific Assistant Grade I and Junior Scientific Assistant Grade I.

8.

INTERIM ORDER

Pending final decision on the application, applicant seeks issue of following interim order:-

This Hon'ble Tribunal be also pleased to stay the operation of the impugned termination order dated 31.10.86 (Annexure XIV)

9. Details of remedies exhausted

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

" The applicant had submitted a representation dated 29.4.86 to Scientific Adviser to Raksha Mantri of Government of India, but the same has been arbitrarily rejected.

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10. Matter not pending with any Court etc.,

The applicant further 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. Particulars of Postal Order in respect of application fee

- (1) No. of Indian Postal Order ^{DD}_y 998422
- (2) Name of Issuing Post Office G.P.O. Lucknow
- (3) Date of issue of Postal Order 5-11-86
- (4) Post Office at which payable. Central Post Office Allahabad

12. Details of Index

An index containing the details of documents to be relied upon is enclosed as Annexure XV.

13. List of enclosures

- (1) C.R.E's letter No. RTO (L)/219/10 Adm, dated 1.11.83
- (2) C.R.E's letter No. RTO (L)/225/16/Adm dated 9.11.84
- (3) C.R.E's letter No. RTO (L)/225/3/Adm dated 25.4.84
- (4) C.R.E's letter No. RTO (L)/224/3/Adm dated 3.5.85
- (5) C.R.E's letter No. RTO (L)/225/13/Adm, dated 30.3.85
- (6) Application dated 18.4.85.
- (7) C.R.E's letter No. RTO (L)/225/16/Adm dated 21.6.86
- (8) C.R.E's letter No. RTO (L)/224/3/1/Adm dated 16.8.85
- (9) C.R.E's letter No. RTO (L)/224/3/1/Adm dated 26.2.86
- (10) Director General's letter No. DTSR/70442/RD-25 (c) dated 19.11.85.
- (11) Certificate of passing of Fire Fighting Course.
- (12) Representation dated 29.4.86 to Scientific Adviser to Raksha Mantri

31/10/86

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- (13) C.R.E's letter No. RTO (L)/224/3/2/Adm dated 31.10.86
- (14) C.R.E's letter No. RTO (L)/219/1/Adm, dated 31.10.86
- (15) Index as stated in para 12 of the application.
- (16) Postal Order.
- (17) Vakalatnama.

14. In Verification:

I, AMRESH KUMAR SHUKLA, S/o. Sri Ram Gopal Shukla, age 33 years J.S.A., Grade I resident of Cooks Compound, Ghasiari Mandi, Lucknow, do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Amresh Kumar Shukla

Signature of the applicant

Place: Allahabad

Date: 10-11-86

To

The Registrar,
Central Administrative Tribunal,
Additional Bench,
Allahabad.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD

Application No.

Sri Amresh Kumar Shukla versus Union of India & others

Annexure No. 1

GOVT. OF INDIA, MIN. OF DEFENCE
RESIDENT TECHNICAL OFFICE
DIRECTORATE OF AERONAUTICS
RESEARCH & DEVELOPMENT ORGANIZATION

POST BAG NO. 2
HAL POST OFFICE
LUCKNOW-226013

No. RTO(L)/219/1/A dm

Date: 01 Nov'83

To

Shri Amresh Kumar Shukla,
C/o. Shri Ram Gopal Shukla
Cooks Compound, Gasiari Mandi,
LUCKNOW

Sub: APPOINTMENT FOR THE POST OF JSA GDE I: OFFER OF

As a result of test & interview conducted on 25.10.83, we are glade to inform you that you have been found suitable for the post of JSA Gde I on a pay of Rs. 425/- in the scale of Rs. 425-15-500-EB-15-560-20-700.

2. You will also be entitled to draw allowances, if any at the rates admissible under and subject to the conditions laid down in rules and orders governing the grant of allowances in forces from time to time.

3. The terms & conditions of appointment are as follows :

- i) The post is temporary but likely to continue indefinitely. In the events of its becoming permanent, your claims for permanent absorption will be considered in accordance with the rules in force.
- ii) You will be on probation for a period of two years from the date of joining.
- iii) The appointment may be terminated at any time by a months notice given by either side viz you or the appointing authority without assigning any reasons. The appointing authority however reserves the right of terminating your services forthwith before the expiry of the stipulated period of notice by making payment to you of a sum equivalent to the pay and allowances for the period of notice or the unexpired period thereof.

iv) You will be required to serve anywhere in India.

v) You will be subject to conditions of services as
Contd ... 2

Checked
Simpb
29/11/86

Attested Letter only
29/11/86
Junior Scientific Officer
O.C.R.I., D.I.D. & P. [Air]
Ministry of Defence, Lucknow

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applicable to temporary Civilian Govt. Servant paid from Defence Services Estimates in accordance with the orders issued by the Govt. of India from time to time.

- vi) If any declaration given or information furnished by you proves to be false or if you are found to have wilfully suppressed any material information you will be liable to removal from service and such other action as Govt. may deem necessary.

4. If you accept the offer on the terms and conditions mentioned above, you should intimate your acceptance to this office latest by 22nd Nov'83

Sd/- P.C. JOSHI

(P.C. JOSHI) CDR.
CHIEF RESIDENT ENGINEER

Copy to:

1. Directorate of Personnel,
R&D Orgn. Min. of Def.,
NEW DELHI-110011
2. Area Accounts Office,
Controller of Defence Accounts,
Central Command,
LUCKNOW CANTT

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Swamy

29/11/83

Attested letter only

Asan
Junior Scientific Officer
O.C.R.I., D.I.D. & P. [Air]
Ministry of Defence, Lucknow

A3/32 29

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,

ALLAHABAD

Sri Amresh Kumar Shukla versus Union of India and others

Application No.

ANNEXURE NO. II

CONFIDENTIAL

GOVT. OF INDIA, MIN. OF DEFENCE
RESIDENT TECHNICAL OFFICE
DIRECTORATE OF AERONAUTICS
RESEARCH AND DEVELOPMENT ORGANIZATION
POST BAG No. 2
HAL, POST OFFICE
LUCKNOW - 226013

No. RTO (L)/225/16/Adm

Date: 9 Nov '84

To

Shri A.K. Shukla, JSA - Gde I
Office of CRE, RTO,
Dte. of Aero (R&D)
LUCKNOW

1. You were appointed in this office to the post of JSA Gde I vide this office letter No RTO (L)/219/1/Adm dated 01 Nov 83 *on a probation of two years. You reported for duties on 19 Nov. 83.*
2. During the probation period, your performance and conduct is being constainlly assessed and it has been found that so far your performance has been unsatisfactory. Various tasks assigned to you were either not completed or performed unsatisfactorily. This has been communicated to you verbally by your superiors on a number of occasions but you do not seem to have made any efforts to improve upon your performance. On the contrary your performance has deteriorated, steadily.
3. You are therefore informed that in case you do not show a marked improvement in your working, it will affect your chance for continuation in service.

Sd/- P.C. JOSHI
(P.C. JOSHI) GP. CAPT,
CHIEF RESIDENT ENGINEER

CONFIDENTIAL

*Checked
Supd
29/11/84
Attested & attch
20/11/86
Junior Scientific Officer
O.C.R.I. D.T.D. & P. [Air]
Ministry of Defence, Lucknow*

13/35

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,

ALLAHABAD

Sri Amresh Kumar Shukla versus Union of India and others

ANNEXURE NO. IV

CONFIDENTIAL

Tele BGram : RESTECHOFF Resident Technical Office,
PHONE: 75357 Directorate of Aeronautics,
R&D Orgn. Min. of Def.,
Post Bag No. 2,
HAL, Post Office,
LUCKNOW-226016

No. RTO (L)/224/3/A dm 03 May '85

To

Shri A.K. Shukla, JSA-G-de I
Resident Technical Office,
Dte. of Aeronautics,
R&D Orgn. Min. of Def.,
HAL Post Office
LUCKNOW-226016

The following adverse remarks have been reported
in your Assessment Report for the period 19.11.83 to 18.11.84.

" The officer had been indifferent in his attitude throughout the assessment year in his duties and assign-ment given to him. His performance is poor and he has totally failed to come upto the requirements of his job. Though the officer has some capability as regards his technical duties, he has not done anything worth while. He shirks responsibility and needs to be coerced for the completion of his tasks. He is not punctual in coming to the office. He is often absent from his workspot for long periods without valid permission from his superiors. The retention of the officer in his present appointment may be considered only after observing his attitude towards work for some more time."

Sd/- S.N. GUPTA
(S.N. GUPTA)
SCIENTIST 'D'
for CHIEF RESIDENT ENGINEER.

CONFIDENTIAL

Checked
Simp
29/11/88
Attested letter only
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29/11/86
Junior Scientific Officer
O.C.R.I., D.I.D. & P. [Air]
Ministry of Defence, Lucknow

" He does not seem to be having any aptitude for work pertaining to Research or Development".

" The individual is defiant in character and indifferent to the job assigned to him. If he is to be retained after the probation period, he may be entrusted with the practical work, the type of which is available in ADE, GIRE etc, rather than the supervisory nature of work available in this office"

" The officer has adequate technical capability required for the job but the zeal to work is completely missing. He completely lacks the basic ingredients required out of technical, administrative or maintenance of technical documents - he completely shirked from it, and whatever he was able to complete, was totally unsatisfactory. He was often found missing from his work spot for long periods without permission. He does not maintain the basic decorum of the office. He is also unpunctual in coming to the office"

" The officer's lack of interest in the work continued throughout the period of this report inspite of several verbal warnings and written warning issued to him in Nov'84 "

" The officer lacks initiative and needs to be reminded frequently for completion of tasks. His performance as regards his technical duties is poor and lacks in quality"

The following adverse remarks have been given in your ACR for the period 19.11.83 to 31.12.84

Shri A.K. Shukla,
J.S.A. Gde I
Resident Technical Office,
Dte. of Aeronautics,
R&D Orgn. Min. of Def.,
Post Bag No. 2, HAL PO,
LUCKNOW-226016

To

No. RTO (I)/224/3/Adm

25 Apr 11 '85

Resident Technical Office,
Dte. of Aeronautics,
R&D Orgn. Min. of Def.,
Post Bag No. 2,
HAL Post Office,
LUCKNOW-226016

Tele : Gram : RSTECHOFF
Phone: 75357

CONFIDENTIAL

Annexure No. III

Sri Amresh Kumar Shukla versus Union of India and others

ALAHABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,

Junior Scientific Officer,
O.C.R.L.D.I.D. & P. (Air)
Ministry of Defence, Lucknow

20/1/86
C. T. C.

Shukla
28/1/86

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,
ALLAHABAD

Sri Amresh Kumar Shukla versus Union of India and others

ANNEXURE NO. V

CONFIDENTIAL

Tele Gram: RESTECHOFF
Phone: 73374

Resident Technical Office
Directorate of Aeronautics
R&D Orgn. Min. of Defence
Post Bag No. 2 HAL Post Office
Lucknow-226016

No. RTO (L)/225/13/Adm

Date: 30 Mar, 1985

To

Shri A.K. Shukla,
JSA. Gde I
Resident Technical Office
Directorate of Aeronautics
R&D Orgn. Min. of Def.,
Post Bag No. 2 HAL P.O.
LUCKNOW-226016

It has come to the notice of the undersigned that you were found missing from your work spot on 25.3.85 at about 1545 hrs. On an enquiry by your superior officer, you had informed that you had gone to lock your bicycle which you had forgotten to do so earlier and which was kept outside. However, on the same evening, you were seen leaving the office, at pack-up time, on your scooter by all the employees of this office.

2. Your action in absenting yourself from duty during the duty hours, without valid permission from your superiors and then giving a wrong explanation for your conduct amounts to gross indiscipline and is viewed with serious concern. This aspect of absenting yourself has also been noticed in the past, for which you have been orally warned.

3. You are hereby warned to refrain from such indisciplined behaviour in future.

Sd/- P.C. JOSHI
(P.C. JOSHI) GP.CAPT.
CHIEF RESIDENT ENGINEER

Copy to :-

Personal file No. RTO (L)/225/16/Adm

CONFIDENTIAL

Checked
Sup
29/4/88
Attested letter only
Junior Scientist
O.C.R.I., D.F.D. & P. [Air]
Ministry of Defence, Lucknow

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,

ALLAHABAD

Sri Amresh Kumar Shukla versus Union of India and others

ANNEXURE NO. VI

सेवा में,

मुख्य आवासिक अभियन्ता,
आवासिक तकनीकी कार्यालय
वैमनिकीय निदेशालय
भारत सरकार, रक्षा मंत्रालय
पोबो नं० २ एच० ए० एल डाकघर
लखनऊ

संदर्भ:- पत्रांक आर० टी० ओ० (एल) २२५/१३/एडीएम दिनांक ३०-३-८५ के सम्बन्ध में
महोदय,

निवेदन है कि आपके कार्यालय से उपरोक्त पत्र संख्या आर० टी० ओ० (एल) २२५/१३/एडीएम ३०-३-८५, हमें दिनांक ६ अप्रैल, ८५ को प्राप्त हुआ। जिससे कि मेरे ऊपर आरोप लगाया गया है कि मैं दिनांक २५-३-८५ को १५-४५ बजे साईकिल की चाबी लेने गया और सायंकाल कुट्टी के समय मुझे कार्यालय के कर्मचारियों के द्वारा स्कूटर से जाते देखा गया। इस सम्बन्ध में मुझे निवेदन करना है कि -

- १- मेरे वरिष्ठ अधिकारी जिन्होंने इस बात की शिकायत की है कि मैं उन्हें बगैर बताए कार्यालय से चला गया। यह पूर्णतया असत्य एवं निराधार है। क्योंकि उनके ही कथन द्वारा यह स्पष्ट होता कि कार्यालय से साईकिल स्टैंड जो कि एच० ए० एल० परिसर में ही है तक चाबी लेने गया था।
- २- दिनांक २५-३-८५ को मोजनावक्ता से १२-३० बजे मैं श्री एस० एस० नेगी जोकि कार्यालय के ही कर्मचारी एवं मेरे सहकर्मी हैं। वे साईकिल मांग करके एच० ए० एल० गेट तक खाना खाने गया था। और उसके तुरन्त बाद ही मैंने वह साईकिल स्टैंड पर खड़ी कर दी थी। किन्तु संयोग से मैं उसमें ताला लगाना भूल गया था जिससे कि ताला लगाने के लिए मैं साईकिल स्टैंड जो कि एच० ए० एल० परिसर के अन्दर है, तक बताकर के गया था।
- ३- कार्यालय से कुट्टी होने के बाद तो मैं किसी भी सञ्चित साधन से घर जा सकता हूँ।

अतः ऐसी दशा में आपसे प्रार्थना है कि उपरोक्त सभी आरोपों

को निरस्त करने का कष्ट करें।

महान कया होगी।

भवदीय

ह० ।-

(अमरेश कुमार शुक्ला)

जे० एस० ए० ग्रेड-१

Checked
 28/4/86
 Attested letter only
 Junior Scientific Officer
 O.C.R.I.D.I.D. & P. [Air]
 Ministry of Defence, Lucknow
 दिनांक १८-४-८५

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(15/38)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,
ALLAHABAD

Sri Amresh Kumar Shukla versus Union of India and others

ANNEXURE NO. VII

CONFIDENTIAL

Tele Gram : RESTECHOFF
Phone : 73374

Resident Technical Office
Dte. of Aeronautics,
R&D Orgn. Min. of Def.,
Post Bag No. 2,
HAL Post Office,
LUCKNOW-226016

No. RTO (L)/225/16/A dm

21 Jun '85

To

Shri A.K. Shukla, JSA Gde I
Resident Technical Office,
Dte. of Aeronautics,
R&D Orgn. Min. of Def.,
Post Bag No. 2,
HAL PO, LUCKNOW - 226016

1. With reference to your application dated 13.4.85.
2. Shri S.S. Negi, from whom you say you had borrowed the bicycle does not remember having giving you the bicycle on particular day. However, even conceding that the bicycle was given to you, cycle stand does not fall within the premises of the CRE office. Your leaving the office for whatever small duration, should have been, by prior permission of your superior officer/officers. This was not obtained in this case. The warning has been issued because you have been habitually found missing from your duty spot.

(seal)

Sd/- P.C. JOSHI
(P.C. JOSHI) GP.CAPT.
CHIEF RESIDENT ENGINEER

CONFIDENTIAL

checked
Supb
30/2/86
Attested letter only
Pranab
Junior Scientific Officer,
O.C.R.I., D.I.D. & P. [Air]
Ministry of Defence, Lucknow

A3/39 36

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,

ALLAHABAD

Sri Amresh Kumar Shukla versus Union of India and others

ANNEXURE NO. VIII

CONFIDENTIAL

Tele: Gram : RESTECHOFF
Phone: 75357

GOVERNMENT OF INDIA
MIN. OF DEFENCE
DIRECTORATE OF AERONAUTICS
RESEARCH & DEVELOPMENT ORGANIZATION
POST BAG No.2
HAL. POST OFFICE
LUCKNOW-226013

No. RTO (L)/224/3/1/Adm

Date: 16 Aug'85

To

Shri A.K. Shukla,
J.S.A. Gde-I,
Resident Technical Office,
Directorate of Aeronautics,
R&D Orgn. Min. of Def.,
HAL Post Office,
LUCKNOW-226016

Sub: PROBATION PERIOD: EXTENSION OF

It is to inform you that following comments have been made in your Assessment Report for the 2nd year.

" The officer continues to be recalcitrant." " Technical-ly the officer lacks the skill to discern and understand the results of Rig tests or elicit any meaning out of it. He lacks endeavour towards his new assignments and sidesteps the responsibility altogether".

2. Based on the remarks and your performance throughout, it is to inform you that you can not be confirmed in your present post. However, to give you another opportunity to prove yourself worthy of the job, your probation period is hereby extended by one year wef 19 Nov'85.

Sd/- P.C. JOSHI
(P.C. JOSHI) GP.CAPT.
CHIEF RESIDENT ENGINEER

CONFIDENTIAL

Checked
Swip
30/8/88
Attested letter only
R. Sankar
Junior Scientific Officer
O.C.R.I., D.I.D. & P. [Air]
Ministry of Defence, Lucknow

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,

ALLAHABAD

Sri Amresh Kumar Shukla versus Union of India and others

ANNEXURE NO. IX

CONFIDENTIAL

Tele - 73374/75357

(SEAL)

Gram - RESTECHOFF

GOVT. OF INDIA MIN. OF DEFENCE

RESIDENT TECHNICAL OFFICE

DIRECTORATE OF AERONAUTICS

RESEARCH & DEVELOPMENT

ORGANISATION HAL POST OFFICE

LUCKNOW - 226016

No. RTO (L)/224/3/1/Adm

Date 26 Feb '86

To

Shri Amresh Kumar Shukla, JSA Gde I,
Resident Technical Office,
Directorate of Aeronautics,
R&D Orgn. Min. of Def.;
Post Bag No. 2,
HAL Post Office,
LUCKNOW-226016

Sub: ADVERSE REMARKS IN ACR: COMMUNICATION OF

In your ACR of 1985 (Period covered from 1.1.85 to 31.12.85) following adverse remarks have been made:

- " The officer has shown a very poor performance in the year 1985 also. He has failed to improve upon his earlier performance. As for his technical assignments, the officer's ability to perform stress calculations, examination of repair schemes or material substitution etc. were found poor and reveals lack of understanding. The officers performance, as regards his administrative assignment were generally incomplete and often required to be vigorously persued for completion. In all he was not able to perform anything independently except for sterio-typed and methodical work.
- " The officer was given opportunity to prove himself in various assignments as to be useful for the office, but failed in all of them to show any fruitful results. He was assigned the job of collecting data from the files regarding defect investigation which he could have completed in fifteen days but left task unfinished even after six months. Similarly, he was assigned to carry out stock verification of library, but did not complete the work even after repeated persuasions. Many books were found missing and were located in places where they should not have been. Books were not taken on ledger charge in time. The contingent bills preparation assigned to him was left incomplete and was prepared by another officer. He has compounded the problems of the office further by misplacing bills, documents,

*Checked
Suppl
30/12/86*

Attested letter only

30/10/86
Junior Scientific Officer,
O.C.R.I., D.I.D. & P. [Air]
Ministry of Defence, Lucknow

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service lables etc., issued by him in the course of his work. He was assigned the simple job of witnessing the tests, but his association was either half-heated or he was missing from the spot.

" The officer lacks initiative and has to be reminded often. He has generally not completed the assignment given to him and he sends the files back to the file racks or misplaces it somewhere. Whatever job he has completed was incomplete and was done with a lackadical attitude. The officer has no adherence to punctuality. He has tendency to leave his work spot often; takes early lunch during office hours and leaves away during lunch recess period. In spite of repeated advises from his superiors over the past year he has shown virtually no improvement.

" He was assigned different job on different occasion by Head of Establishment. Everytimes he showed negative attitude towards his work. For a simple job of collecting (and not collating) the data for analysis he said " This is the job to be handled by an engineer and not by a Diploma Holder". On another occasion, when he was asked to get himself medically examined, he took nearly 20 days. Every time, like a small child, he would come back for further instructions. It indicates that there is total bankruptcy of common sense in the official"

If any representation against the remarks in your ACR, is to be made by you, it may be done within 6 weeks of the issue this letter.

Sd/- S.N. GUPTA
(S.N. GUPTA)
SCIENTIST 'D'
for CHIEF RESIDENT ENGINEER

CONFIDENTIAL

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Swip
30/12/88
Attested letter only
Asan
20/10/86
Junior Scientific Officer
O.C.R.I., D.I.D. & P. [Air]
Ministry of Defence, Lucknow

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,
ALLAHABAD

Sri Amresh Kumar Shukla versus Union of India and others

ANNEXURE NO. 7

Tel. 3012430

No. DTSR/70442/RD-25(c)
Ministry of Defence,
Research & Development Orgn.,
Dte. of Trg & Sponsored Research
'B' Wing, Sena Bhavan,
NEW DELHI-11

19 Nov. '85

To

All R&D Labs/Estt.
RTO, Lucknow.

Sub: 111TH GENERAL COURSE IN FIRE FIGHTING AT
DIFR, DELHI FROM 28 DEC '85 TO 21 MAR '86

Defence Institute of Fire Research (DIFR) Delhi is conducting 111th General Course in Fire Fighting of 12 weeks duration and is scheduled to commence from 28th Dec.'85 to 21th Mar.'86 at DIFR, Delhi.

2. The above course is exclusively meant for defence fire service staff and personnel engaged in the anti-fire organisation of defence installations/units of full time/part time basis.

3. The candidate detailed should not normally be more than 45 years of age and should not preferably be within 3 years of age of retirement.

4. The trainee detailed should be in possession of medical certificate from a competent authority declaring that the trainee is physically fit for full fire fighting duties involving heavy physical efforts (STRENUOUS COURSE) and having been protected against small pox and Typhoid group of diseases.

5. The trainee should preferably have passed middle school/ or class VIII examination from a recognised school or the army first class examination in Hindi/English or eqvt examination of the Navy/Air Force and the sponsored trainee should have sufficient knowledge to follow the professional/technical instructions in Hindi/English.

6. The trainee are required to stay at the hostel for t-actical and various other exercises.

7. You are requested to nominate the personnel engaged in fire fighting units of your establishment and forward the same direct to the Director, DIFR, Probyn Road, Delhi-110007 under intimation to this Hqs. Please ensure that the sponsored trainee carry the nominal roll proforma appended overleaf of this letter duly filled in along with the movement while reporting for the above course at DIFR.

Sd/- xxxxxxxx
Asstt. Dire Trg & S R/Adm
for DIRECTOR GENERAL RESEARCH & DEVELOPMENT
(KEHAR SINGH)

Checked
Swish
20/10/86

Attested letter
any
Branch
21.10.86
Junior Scientific Officer
O.C.R.I. D.T.D. & P. [Air]
Ministry of Defence, Lucknow

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,
ALLAHABAD

Sri Amresh Kumar Shukla versus Union of India and others

ANNEXURE NO. XI

GRAMS : FIRE RESCH

PHONE : 233236

No. DIFR/08201/111th/Trg
Raksha Mantralaya
Raksha Anusandhan Tatha Vikas Sansthan
RAKSHA AGNT ANUSANDHAN SANSTHAN
Probyn Road,
DELHI-110007, the 8th August, 1986.

TO WHOM IT MAY CONCERN

Certified that JSA GRADE-I SHRI AMRESH KUMAR SHUKLA
trainee of 111th GENERAL COURSE IN FIRE FIGHTING had passed
the Examination in SECOND Grading.

This certificate is Provisional pending the issue
of actual Certificate in due course.

(SEAL)

Sd/- Illigible
Sc.'E'
UP NIDESHAK
KRITI NIDESHAK
(P.K. CHATTERJEE)

Checked
Swish
20/8/86

Attested by letter only
20/8/86

Junior Scientific Officer
U.C.R.I. J.T.D. & P. [AIR]
Ministry of Defence, Lucknow

(A3/44) 41

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD

Application No.

Sri Amresh Kumar Shukla versus Union of India & others

Annexure No. XII

To

The Scientific Adviser,
to
Raksha Mantri,
Government of India,
New Delhi.

(Through proper Channel)

Respected Sir,

Before submission of the grounds of representation, the representationist respectfully submits the following facts:-

1. That he has passed the Diploma in Mechanical Engineering in 1976 from Hewett Polytechnic, Lucknow (U.P.)
2. That he was appointed as Instructor in Scale Rs. 550-940 in Regular arrangement in Jawahar Lal Nehru Polytechnic Mahmoodabad District Sitapur, U.P., where he joined on 26.9.1981.
3. That his name was registered in technical group at No. T/6318/76 in Employment Exchange, Lucknow.
4. That two posts of Senior Scientific Assistants in scale of Rs. 550-900 were created in C.R.E. Office, Lucknow, U.P. but instead of appointing the candidates the above posts, C.R.E. got the designation of the post of S.S.A. changed to the posts of J.S.A.
5. That above named C.R.E. asked Employment Exchange, Lucknow to send the name of suitable candidates for the so called posts of J.S.As. for the work of S.S.A.

6. That employment Exchange, Lucknow sent the name of
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30/10/86
After checked only
30.10.86
Major Scientific Officer
C.R.I., D.I.D. & P. [Air]
Ministry of Defence, Lucknow

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(2)

representationist along with many other candidates to C.R.E. Lucknow.

7. That the representationist along with many other candidates appeared for test and viva before C.R.E., Lucknow on 25.10.1983.

8. That the representationist was the only person who was successful in the test and viva.

9. That thus the representationist was selected and appointed for the work of S.S.A.

10. That on being so selected C.R.E. Lucknow ordered verbally the representationist to join his office immediately after being relieved from J.L. N Polytechnic Mahmoodabad of District Sitapur (U.P.).

11. That in compliance with the above order of C.R.E. the representationist tried to get himself relieved from above-named polytechnic but it could not be done for want of appointment order of C.R.E. Office.

12. That therefore the representationist met C.R.E. on 1.11.1983 and got the appointment order under which he was placed on probation for a period of 2 years (Annexure-1)

13. That after getting the appointment order from C.R.E. the representationist was relieved from above named Polytechnic.

14. That representationist, after being relieved from Polytechnic submitted the joining report to C.R.E. on 19.11.1983 who without obtaining medical fitness Certificate and getting the character and antecedent verified by the Police, C.R.E. allowed the representationist to join on that very date.

That the representationist requested C.R.E. that he

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O.C.R.I., D.I.D. & P. [Air]
Ministry of Defence, Lucknow

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may be treated as S.S.A. from the date of his joining and given all the consequential benefits of pay and status etc., but invain.

16. That from 19.11.83 to 5.2.84 (2 months 17 days) no duties were allotted to the representationist during the 1st year of probation.

17. That on 6.2.1984 for the first time duties were allotted to the representationist (Annexure - 2). According to this order, non-technical and clerical work of maintenance of files, Library Registers and RV/IV connecting the library in addition to technical duties were allotted to the representationist, but the technical duties were neither specified nor defined.

18. That on 27.6.1985 duties were amended (Annexure - 2). Under this order, the representationist was allotted the non-technical and clerical work of maintenance of filed, library, type approved Registers Local Modification Register, Production Permit/Concession Register, and preparation of contingent bills, RV/IV of Library in addition to technical duties. Even in this order the technical duties were neither defined nor specified.

19. That again on 3.10.85, the duties were amended (Annexure No. 2) in which it was provided that any officer superior in rank can take the work from the representationist. Under this order every officer became a representationist immediate superior with the result that all these officers used to take work of different nature from the representationist at one and the same time and thereby the representationist was placed in very awkward position.

That the representationist was also given the work.

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of circulation of Non Technical Magazines to all the persons of the staff including L.D.C. Driver and peon, who were much below in rank, although the work never found place in the duties list of the representationist. When the representationist requested for the services of a peon for this work, he was informed that this can not be done. The names of these magazines are :- (1) Saptahic Hindustan, (2) Dharamyug (3) Mukta (4) Sarita (5) Grih Shobha and (6) Today etc.

21. The representationist was also given the despatch work for about one year i.e. 14.8.84 to 02.7.85 although it did not find place in the duty list.

22. That till 8.11.1984 every thing remained normal but on 9.11.1984 all of sudden, representationist was given a warning (Annexure - 3) without giving the representationist a chance of reasonable opportunity to defend himself, which is against the principle of natural justice. The warning is of general nature and against the facts. Prior to this even no verbal warning was ever given to the representationist who did his best but for the unknown reasons his work was not appreciated.

23. That on 30.3.85 without giving reasonable opportunity to explain again a warning was given to the representationist (Annexure - 4). The matter was very trifling. A perusal of the warning will show that there is something at the back of it.

24. That on 18.4.1985 the representationist submitted an application to C.R.E. (Annexure - 5) that the warning is baseless although there was no evidence against the representationist even then he did not accept the bonafides of representationist (Annexure - 6) It is wrong that the representationist was found missing from duty spot. The cycle stand is not in C.R.E. Office. All the cycles of C.R.E. Office

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are kept in the cycle stand of H.A.L. It is also wrong to say that the representationist left the office without the permission.

25. That on 25.4.85 C.R.E. gave the adverse remark in A.C.R. for the period of 19.11.83 to 31.12.84 (Annexure - 7). Although these are adverse remarks, yet it has been certified that representationist has adequate technical capability required for the job and is fit for practical work. No work was allotted to the representationist for a period of two months 17 days i.e. 19.11.83 to 5.2.84. Verbal warning were never issued. No administrative work was entrusted. Technical duties were never specified or defined. The representationist has been punctual.

26. That on 3.5.85 it was intimated that adverse remarks have been reported to the Assessment Report from 19.11.83 to 18.11.84 (Annexure No. 8) in which it has been said that representationist has some capability as regards technical duties.

27. That the representationist submitted representation on 18.5.1985 (Annexure No. 9) against the adverse remarks mentioned in para 25 and 26 above.

28. That C.R.E. has intimated under his letter dated 24.6.85 (Annexure 10) that the adverse remarks have been allowed to be retained in the A.C.R. The contents of the above letter dated 24.6.85 are against the facts and are after thoughts as will be clear from the following few facts:-

- (a) During the period under report immediate superior was Sri S. Ramesh Scientist. He was appointed on ad-hoc basis and was placed on probation which has recently been completed.

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- (b) During the period under report the representationist and his immediate superior were new to the C.R.E. Office. His immediate superior has no practical experience whereas the representationist has more than two years practical experience.
- (c) The representationist's superior never told the representationist as how to collect the information despite representationist verbal requests ~~that were~~ therefore, there was no other alternative except to request in writing in the file. It is clear that my writing was taken ill and the correct position was not given by him to C.R.E.
- (d) It is wrong to say that the work of Library was given as technical jobs do not interest the representationist. The fact is that the library work was given even from the very beginning (Annexure - 2).
- (e) The library work was in mess. Many books were missing from library at that time. Some books were issued and their return was entered in the register but they were not available at that time. For example out of 18 vol. of Encyclopedia of Sciences of Technology Vol. No. 1 was issued to Sri Zama, Scientist 'C' and its return was intered under the Signatures of Sri S.S. Naigi, Accountant, but this volume was not available in the library. On enquiry Sri S.S. Naigi told that his signatures are ferzi whereas Sri Zama, Scientist 'C' told that he has returned it. On persuing the matter this volume was made available but the representationist got displeasure and annoyance. Similarly Railway Timetable, T-75 Basic Electronics, Air Force Order No. 734/76, p-935 Method of Test of

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Air Craft, Electronics Design, Alternative Energy, T-108, Master of Handbook and Railway Timetable have been shown to have been issued on 2.3.76, 16.5.78, 4.1.79, 9.5.80, 21.1.81, 8.1.82, 11.11.82 and 7.12.82 to Sarvasri S.N. Gupta, S. Halim, A.F.L.E., S.N. Gupta, S. Halim, F.M. Sonawala, Director of Aeronautics and P.C. Joshi respectively but signatures of the recipients have not been obtained on the register.

The representationist was asked to prepare a proposal for writing off the missing book without any valid reason. When he wanted to know the reason for it he faced annoyance. Exact position will be very clear from the perusal of the library papers and physical verification of the library books.

29. That 2nd year of probation was from 19.11.84 to 18.11.85 but three months before completion of this period i.e. on 16.8.85 (Annexure No. 11) assessment Report of the 2nd year was made and probation was extended for one year from 19.11.85.

30. That general course in Fire Fighting is meant for Class IV employees and Fire Fighting is not one of the duties of the representationist.

31. That general course in Fire Fighting in D.I.F.R. at Delhi was held from 28th December 1985 for a period of 12 weeks without consent of representationist he was deputed in this course.

32. That in the above course of Fire Fighting with the exception of representationist, Chaukidars, Chaprasies, helpers etc., of R. & D Department were deputed with the result that the representationist had to work there as colleagues of these Class IV employees.

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33. That deputing the representationist in General Fire Fighting Course without his consent not only amounts to harrasment, and torture the representationist and to keep him out of his duties for 12 weeks during the probation period, but is also wastage of Government money in the shape of T.A. etc., which could have been saved by deputing class IV employees as was done by all other units of R & D organisations.
34. That deputing the representationist from 28.12.85 for 12 weeks in Fire Fighting Training during the extended period of probation for one year from 19.11.85 shows that the representationist has been kept out of his duties for the period of 12 weeks during the period of his probation.
35. That on 3.12.85, the representationist was ordered to appear before C.M.O., C.G.H.S., Lucknow for medical examination who refused to do it saying that he is not competent for it. Again on 6.12.85, the representationist was ordered to appear before C.M.O., Civil Hospital, Lucknow. In Civil Hospital, Lucknow he was told that there was no post of C.M.O. there. Consequently the representationist was ordered on 11.12.85 to appear before C.M.O. Lucknow. The representationist appeared thereon 12.12.85 and obtained fitness certificate which has already been submitted in C.R.E. Office along with receipt of Rs. 16/- which has not been paid to him so far. The above details will show that representationist was not only sent to wrong persons but also Government money in the shape of T.A. etc., has been wasted for and for this period the representationist was kept out of duties.

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36. That at the time of departure to Delhi for F.F. Course, the representationist had requested that his pay may be credited to his Bank Account. His pay for the month of December, 1985 was credited but instead of crediting the pay for the month of January and February, 1986 in his Bank Account, a letter No. RTO (L)/23/1/Account dated 6.2.86 (probably back dated) (Annexure - 12) was sent to the representationist which was received on 4.3.86 that receipt be sent so that it may be credited. The representationist sent a reply on 6.3.86 (Annexure - 13) that the receipt had already been given to Sri Vyas, Scientist. Thus the pay for January and February 1986 was credited in Bank Account in the middle of March 1986.
37. That C.R.E's letter No. R.T.O. (L)/225/16/Adm dated nil of February 1986 (Annexure - 14) was received by the representationist Court of enquiry has held that the representationist has torn page of Internal Despatch Register which reflects on his integrity and will reflect in his A.C.R. of 1985. The representationist was asked to show cause why disciplinary proceedings should not be taken against him. The representationist submitted the explanation on 3.3.86 (Annexure - 15). The so called Court of enquiry never gave the reasonable opportunity to explain and the matter has been prejudged and this is the matter of double jeopardy. The members of the So called Court of enquiry namely Sri Zama and Sri Vyas the Immediate Subordinate of Sri Zama are prejudiced against the representationist for the reasons mentioned

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in the representation. The representationist is not at fault. C.R.E. has given the warning against which application has been submitted (Annexure - 17),

38. That under letter No. RTO (L)/224/3/1Adm, dated 26.2.86 (Annexure - 16), the representationist was given adverse remarks in A.C.R. of 1985 without any basis or ground. The representationist has submitted reply on 15.4.86 (Annexure - 18). During the year under reference no warning with the exception of warning mentioned in para 23 was given to which he has suitably replied. This warning does not relate to work.
39. That though the representationist has been punctual in attending the office, yet he has been harrassed from time to time. For example, the representationist had submitted ½ day C.L. application of 27.12.85 to settle the family problems as he had to leave Delhi for F.F. Course on the night of 27.12.85, but in the attendance register it has been noted that the representationist has been verbally warned. On 27.3.86, the office was opened at about 9 A.M.
40. That what hashappened with the representationist clearly indicates that great injustice has been done for some unknown reasons and the representationist apprehends that he will be got involved in one or the other matter even at the cost of his service.
41. The representationist therefore submits this representation amongst many of the following grounds.

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GROUNDS

- (a) Because the general rule that Character and antecedents should be verified and medical fitness certificate obtained before joining the service have not been followed.
- (b) Because the representationist was appointed for the work of Senior Scientific Assistant but he has been paid the pay etc. of Junior Scientific Assistant despite request.
- (c) Because no duties were allotted to the representationist from 19.11.83 to 5.2.84 (2 months 17 days) during the probation of 1st. year i.e., from 19.11.83 to 18.11.84.
- (d) Because non-technical duties were given even from the date the duties were allotted to the representationist i.e. 6.2.84.
- (e) Because technical duties which the representationist is required to do have never been defined or specified.
- (f) Because under order dated 3.10.85 every officer superior in rank was made the immediate superior of the representationist with the result that all the officers used to order the work of different nature at one and the same time and thereby the representationist was placed in very awkward position.
- (g) Because the representationist was given several items of work such as Despatch, Circulation of non-technical magazines to Class IV employees also and training in Fire Fighting at Delhi which are not in the duty list of the representationist.

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30.10.86. (g)
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- (h) Because the warning dated 9.11.84 was given to the representationist against the principle of natural justice without giving the representationist reasonable opportunity to explain.
- (i) Because the warning dated 30.3.85 has given without any basis on some non-existent extraneous grounds.
- (j) Because the adverse remarks in A.C.R. and adverse remarks in Assessment Report from 19.11.83 to 31.12.84 differ each other.
- (k) Because C.R.E. has rejected the representation dated 18.4.85 without any valid reason.
- (l) Because C.R.E. has certified in his letter dated 25.4.85 that representationist has technical capability for the job and the representationist can be interested with practical work.
- (m) Because the representation dated 18.5.85 has not been accepted for no valid reason.
- (n) Because the library was in mess and the representationist's superior Sri Ramesh who was incharge of the library felt a lot the stock verification by the representationist, his immediate subordinate.
- (o) Because the stock verification of library by immediate subordinate is bad in the eyes of law.
- (p) Because exact short commings were never pointed out and no proper guidance was given during the period of probation.
- (q) Because the 2nd year's probation was from 19.11.84 to 18.11.85 but three months before i.e. on 16.8.85, the assessment Report was finalized.

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- (r) Because the representationist was deputed to General Course of Fire Fighting at Delhi without his consent.
- (s) Because in the above Fire Fighting Course employees of Class IV i.e. Chaukidars, helpers, chaprasies etc., with the exception of the representationist who is senior employee of Class III were deputed from R & D organisation.
- (t) Because the representationist was degraded in the Fire Fighting Course as he had to work there as Colleagues of Class IV employees.
- (u) Because the Government money has been wasted in the shape of representationist's T.A. etc. Had the Class IV employee been sent to Fire Fighting Course at Delhi, very little amount would have been spent in T.A. etc.
- (v) Because during the extended period of probation from 19.11.85 to 18.11.86, the representationist has been kept out of his duties for a period of 12 weeks by deputing in Fire Fighting Course.
- (w) Because the representationist was harassed by sending him to wrong places for medical examination and there has been wastage of Government money in the shape of T.A. etc.
- (x) Because the pay of the representationist for the month of January-February 86 was not paid despite request till the middle of March 86 with the result that representationist and his family was made to suffer unnecessarily.

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Junior Scientific Officer
O.C.R.I., D.I.D. & P. [Air]
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- (y) Because the matter of turning the page was prejudged and it amounts to double jeopardy and the members of Court of enquiry are prejudiced against the representationist.
- (z) Because the adverse remarks for 1985 are baseless.
- (AA) Because the principles of natural justice has not been followed and the representationist has not been given reasonable opportunity to defend himself.
- (BB) Because the career of the representationist has been spoiled for some ulterior motives.
- (CC) Because in 1985 no warning with the exception of warning mentioned in para 23 has been given against which he has suitably replied and this warning does not relate to work.
- (DD) Because the representationist has been punctual but he has been harassed on this score.
- (EE) Because the representationist apprehends that he will be put to trouble without any valid reasons.
- (FF) Because the warning mentioned in para 37 has been given without giving reasonable opportunity.

Wherefore it is respectfully prayed that -

- (1) the representationist be treated as Senior Scientific Assistant from the date he joined C.R.E. office and given all consequential benefits in the shape of pay etc., from that date.
- (2) the warnings and adverse remarks mentioned in this representation be expunged.

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Ministry of Defence, Lucknow

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- (3) the C.R.E.'s. letter dated 16.8.85 extending the the period of probation be quashed and the representationist be confirmed on 19.11.85 on completion of 2 year's period of probation.
- (4) In view of the facts narrated above, in case of non-acceptance of above prayer, the representationist may be transferred to D.M.S. R.D.E. at Kanpur which is near to his place of residence so that he may also look after his old parents and save himself from unnecessary harassment and mental torture.
- (5) The representationist be given a chance of personal hearing.
- (6) Any other relief which the representationist is found to be entitled be also given.

Yours faithfully,

(AMRESH KUMAR SHUKLA)

J.S.A. Gde I

Office of C.R.E., R.T.O.,

Dte. of Aero (R&D),

Lucknow.

Dated: April 29, 1986

Enclosure: 1 to 18

Annexures (49 pages).

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Junior Scientific Officer
O.C.R.I., D.I.D. & P. [Air]
Ministry of Defence, Lucknow

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(13/59)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD.

Application No. _____

Sri Amrish Kumar Shukla Versus Union of India and others

Annexure No. XIII

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No. RTO (L)/224/3/2/Adm

GOVT OF INDIA MIN. OF DEFENCE
RESIDENT TECHNICAL OFFICE,
DIRECTORATE OF AERONAUTICS
RESEARCH & DEVELOPMENT
ORGANISATION HAL POST OFFICE
Post Bag No. 2,
LUCKNOW - 226016.
Date - 31.04.86

To

Shri A.K. Shukla, JSA Gde I,
Resident Technical Office,
Directorate of Aeronautics,
R&D Orgn. Min. of Def.,
Post Bag No. 2,
HAL PO, LUCKNOW-226016

Sub: REPRESENTATION : DISPOSAL OF

Reference is made to your representation dated 29 April '86 and 5.9.86 to S.A. to RM.

2. The competent authority has directed the undersigned to convey to you that your above mentioned representations have been gone through in detail. It has been found after going through relevant records, that there is no ground to say that there has been any injustice caused to you in any form.

3. This disposes off all your earlier representations.

Sd/- S.N. GUPTA
SCIENTIST 'D'
CHIEF RESIDENT ENGINEER.

Confidential

Lettr attested.
Ashwame
7.11.86
Senior Scientific Officer Gde, II
O.C.R.I., D.T.D. & P. [Air]
Ministry of Defence, Lucknow

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(13/10/86)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD.

Application No. _____

Sri Amrish Kumar Shukla Versus Union of India and others

Annexure No. XIV.

Government of India
Ministry of Defence
Defence Research & Development
Orgn., Directorate of Aeronautics
Office of the Chief Resident
Engineer, H.A.L. Post Office,
Lucknow-226013

RTO(L)/219/1/Adm

Dated: 31 Oct 86

To

Shri Amresh Kumar Shukla
JSA Gde I
Resident Technical Office
Directorate of Aeronautics (R&D)
HAL Post Office, Lucknow-226013.

Order of Termination of Service issued under the proviso
to Sub-rule (1) of Rule 5 of the Central Civil Services
(Temporary Service) Rule, 1965.

In pursuance of the proviso to Sub-rule (1) of Rule 5 of Central Civil Services (Temporary Service) Rule 1965, I hereby terminate forthwith the services of Shri Amresh Kumar Shukla, JSA Gde I and direct that he shall be entitled to claim a sum equivalent to the amount of his pay and allowances for a period of one month (in lieu of the period of notice) calculated at the same rate at which he was drawing them immediately before the date on which this order is served on or, as the case may be, tendered to him.

Sd SN Gupta
Scientist 'D'
Chief Resident Engineer
(Appointing Authority)

*Contents of letter attached.
certified true copy*

7.11.86
Senior Scientific Officer Gde, II
O.C.R.I., D.T.D. & P. [Air]
Ministry of Defence, Lucknow

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH
ALLAHABAD

Application No .

Sri Amresh Kumar Shukla Versus Union of India and others

ANNEXURE XIII

LIST OF DOCUMENTS TO BE RELIED UPON

- (1) C.R.E's letter No. RTO (L)/219/10/Adm dated 1.11.83
- (2) C.R.E's letter No. RTO (L)/225/16/Adm dated 9.11.84
- (3) C.R.E's letter No. RTO (L)/225/3/Adm dated 25.4.84
- (4) C.R.E's letter No. RTO (L)/224/3/Adm dated 3.5.84
- (5) C.R.E's letter No. RTO (L)/225/13/Adm dated 30.3.85
- (6) Application dated 18.4.85
- (7) C.R.E's letter No. RTO (L)/225/16/Adm dated 21.6.86
- (8) C.R.E's letter No. RTO (L)/224/3/1/Adm dated 16.8.85
- (9) C.R.E's letter No. RTO (L)/224/3/1/Adm dated 26.2.86
- (10) Director General's letter No. DTSR/70442/RD-25(c) dated 19.11.85
- (11) Certificate of passing of Fire Fighting Course.
- (12) Representation dated 29.4.86 to Scientific Adviser to Raksha Mantri
- (13) C.R.E's letter No. RTO (L)/224/3/2/Adm dated 31.10.86
- (14) C.R.E's letter No. RTO (L)/219/1/Adm, dated 31.10.86



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व अदालत भीमान

[वादी] अपीलान्त

प्रतिवादी [रैस्पाडेन्ड]

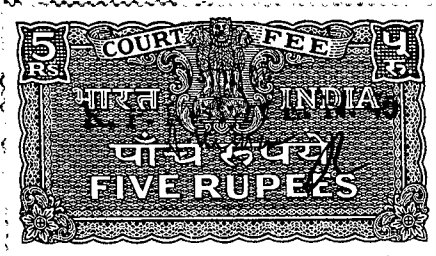
Central Administrative Tribunal Andhra Pradesh

Allahabad

वकालतनामा

Amresh Kumar Shukla

Applicant



Versus

वादी (अपीलान्त)

Union of India v. Shukla

बनाम

प्रतिवादी (रैस्पाडेन्ड)

नं० मुकद्दमा

सन

पेशी की ता०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Rashika Daman Advocate

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वकील

महोदय

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नाम अदालत
मुकद्दमा नं०
नाम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पंरवी व जबाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील सहोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पंरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Receipt

Rajendra Kumar

(RADHIKA RAHMAN)

साक्षी (गवाह)

C-4 Sector A

Maharaja, Lucknow

हस्ताक्षर

Amresh Kumar Shukla

साक्षी (गवाह)

दिनांक

महीना

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स्वीकृत

Receipt

Rajendra Kumar

R.G. Shukla

Cook's Compound

Ghasiani Mahuli, Lucknow

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET
CA. A. NO. 42/89 in O.A. 672/86

CAUSE TITLE OF

NAME OF THE PARTIES..... Amresh Kumar ShuklaApplicant

Versus

..... S. N. GuptaRespondent

Part A, B & C

Sl. No.	Description of documents	Page
1	Order sheet	A1
2	Judgment dt 06-12-89	A2 to A3
3	Petition / Annexure	A4 to
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		

CERTIFICATE

Certified that no further action is required to taken and that the case is fit for consignment to the record room (decided)

Recd. on Dated... 21-2-12 File B/C destroyed on 09-5-12

Counter Signed.....

Section Officer / In charge

Signature of the
Dealing Assistant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

CM An 42/89 (L)

REGISTRATION No. 672 of 1986

APPELLANT
APPLICANT

VERSUS

DEFENDANT
RESPONDENT

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
<u>22/5</u>	<p>No sitting. Adjourned to 11/7/89 for orders</p> <p>11-7-89</p> <p>Hon. D.K. Agrawal - Jm</p> <p>No sitting of Division Bench adjourned to 20.9.89 for orders.</p> <p>De member (J)</p> <p>by Hon. M. D.K. Agrawal, J.M.</p>	<p>OR</p> <p>C.M. An No 42/89 (L) filed by the learned Counsel for the applicant. On directed by the S.O. Submitted for order</p> <p>Submitted for order</p> <p>L 19/4</p>
<u>20/9/89</u>	<p>The applicant is present and prays for adjournment on the ground that his Counsel is ill. Adjourn this case to <u>6-12-89</u> for orders.</p> <p>De J.M.</p> <p>(S.N.S.)</p>	<p>Submitted for order</p> <p>L 5/12</p>

37/21/89
02-1-90

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CIRCUIT BENCH AT LUCKNOW.

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Versus

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Hon'ble K.J. Raman, A.M.

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2. It is stated in the application that Sri S.N.

3. The learned counsel for the applicant refers to

2

filed in a case when the main petition itself has been dismissed. It would have been a different matter if the main petition had succeeded and it was found that the respondent had filed false affidavits. A prosecution in those circumstances would have been in the interests of eradication of the evil of perjury, but where the main petition itself fails, there is not much to be said on the truthfulness or otherwise of the counter version.

4. The learned counsel for the applicant says that a S.L.P., against the decision of this Tribunal, is pending in the Hon'ble Supreme Court. If the judgment of this Tribunal happens to be set aside in the S.L.P., an occasion may arise to consider whether or not the respondent had committed perjury and should be prosecuted. For the time being, no such action would be appropriate.

5. In these circumstances, the application is dismissed.


MEMBER (A).


VICE-CHAIRMAN.

Dated: December 6, 1989.

PG.

Before Central Administrative Tribunal
Circuit Bench, Lucknow.

Misc. Petition No. / 1989

In Re: Application Registration No. 672/86

Sri Amresh Kumar Shukla aged 35 years

S/o Sri Ram Gopal Shukla R/O Cooks

Compound, Ghasiari Mandi, Lucknow.

Petitioner/
Applicant.

versus

Sri S.N. Gupta, Chief Resident

Engineer, Resident Technical

Office, Research & Development

Organisation, Ministry of Defence,

HAL Post Office, Lucknow.

....Respondent.

Petition for initiating action to punish under
Section 193 of I.P.C. against Sri S.N. Gupta,
Respondent who has been impleaded as Respondent
No.4 by name in application No.672/1986.

The petitioner, above named, most respectfully
states as under:-

1. That the petitioner had filed the above noted
application before this Hon'ble Tribunal challenging
the order by which his services were maliciously

Shri Sushil Kumar terminated by Respondent No.4 Sri S.N. Gupta in
collusion with other officers. In that application
various warnings, adverse remarks and illegal
extension of petitioner's period of probation etc.
had also been challenged.

~~1st def~~
court on
22/5/89

malafide
30/5/89

2. That Sri S.N. Gupta, Sri S. Ramesh and Group
Captain P.C. Joshi had been made party by name as
malafide had been alleged against them in the said
application.

3. That it was found that Shri S.N. Gupta had given

1/5

false evidence on affidavit in the said application maliciously with a view to cause irreparable damage to the interest of the petitioner and also to spoil service career by misleading this Hon'ble Tribunal and thereby to secure the dismissal of the applicant with oblique motive.

4. That section 30 of the Central Administrative Tribunal Act, 1985 provides that all the proceedings before the Central Administrative Tribunal (hereinafter referred to Tribunal) shall be deemed to be judicial proceedings within the meaning of section 193 of I.P.C.

5. That the said provisions as contained in Section 30 of the Act has been provided with a view to ensure that no body should give false evidence before the Tribunal. The intention of the legislature to make provision as contained in section 30 of the Act is to ensure that who/^{so}ever makes any averment which is false should be punished for perjury under section 193 of I.P.C. so that justice be done to the applicants and the provision may serve as deterrent and discourage every one to give false evidence.

6. That Sri S.N. Gupta Respondent while making averments in Counter-Affidavit and Supplementary Counter-Affidavit has given false evidence within the meaning of section 191 of I.P.C. and is therefore liable to be punished under section 193 of I.P.C. by the competent court having jurisdiction in the matter.

7. That in the counter-affidavit and Supplementary Counter-Affidavit, Sri S.N. Gupta Respondent has given false evidence on affidavit before this Hon'ble Tribunal as would be evident from the following facts:-

(a) Under C.R.E's letter No. 2/85 dated 3.10.85

contd.....3

3rd/10/85

(Annexure-VII of written arguments in the said application) it was ordered that under special/emergent circumstances, the applicant will also carry out duties assigned by any officer of the establishment, superior in rank and on completion of the task the applicant will ^{give} details of such tasks to his direct superior officer.

but

Sri S.N. Gupta, Respondent has wrongly said on affidavit in para 15 of Counter-Affidavit in the above noted application No.672/86 that the arrangement was made that any officer, other than the applicant's immediate superiors, could ask the applicant to do some technical work only after the permission of his immediate superiors and when the applicant was not engaged in any other work.

(b) (1) In para 6(8) of the above mentioned application filed in this Hon'ble Tribunal the petitioner had stated that he was directed by C.R.E. to carry out the work of circulation of non-technical magazines to all the officers as well as to the clerical staff and peons and Drivers, but in para 16 of the Counter-Affidavit of the above noted application, Sri S.N. Gupta said on affidavit that it is absolutely wrong on the part of the applicant to say that he was asked to circulate the magazines to all the officers and staff.

(11) The petitioner, therefore, proved by filing Annexure R-IV of Rejoinder-Affidavit in the above noted application that the above version of Sri S.N. Gupta is wrong. A perusal of this annexure

makes it clear that the applicant was ordered on 1.1.85 to ensure proper circulation of non-technical magazines. When the petitioner requested the services of a peon for this item of work, it was ordered by Sri P.C. Joshi Respondent No.2 in the above noted application No.672/86 that no peon is available in the office for this work. Petitioner should, therefore, do this item of work himself after consulting Sri S.N. Gupta, Respondent No.4 in the above noted application. Then Sri S.N. Gupta, Respondent changed his version and wrongly said on affidavit in para 19 of Supplementary Counter-Affidavit in the above noted application that the petitioner was keeping a record of all magazines etc.

(c) (i) In para 6(8) of the above noted application, the petitioner had also stated that the applicant was orally directed by C.R.E. to do despatch work. This item of work was done by the petitioner for a period of about 1 year i.e. 14.8.84 to 2.7.85, but Sri S.N. Gupta Respondent has wrongly said on affidavit in para 16 of the Counter-Affidavit in the above noted application that the applicant was not asked to do the despatch work. He was simply put in charge of registry and contradicting his own version of the above noted para 16 of the Counter-Affidavit, he wrongly said on affidavit in para 18 of the Counter-Affidavit in the above noted application, that supervision of despatch was entrusted to the applicant.

(ii) The petitioner, therefore, to prove the falsity of the above version of Sri S.N. Gupta Respondent, filed Annexure R-III in the Rejoinder-Affidavit in the above noted application. A perusal

of this Annexure will show that the despatch of all the letters i.e. ordinary and registered letters was entrusted to the petitioner. Then Sri S.N. Gupta Respondent changed his version of paras 16 and 18 of the Counter affidavit and wrongly said on affidavit in para 19 of the Supplementary Counter-Affidavit in the above noted application that the petitioner was making entries in the register of all letters being despatcher.

(iii) The petitioner was allotted duties only three times i.e. under order no. 1/84, 1/85 and 2/85 (Annexure No. V, VI and VII of the written arguments in above application). A perusal of these duty lists will show that the petitioner was never put incharge of registry or he was given the work of supervision of despatch work.

8. That the petitioner in course of the proceedings in the said application before this Hon'ble Tribunal moved an application for initiating action against Sri S.N. Gupta Respondent under section 193 of I.P.C.

9. That the Hon'ble Tribunal passed orders on that application mentioned in para 8 above as extracted below:-

This type of application is to be moved as a separate misc. application and not as an application in this case. No orders or action is called for.

10. That according to the orders dated 25.1.89 passed by this Hon'ble Tribunal, the petitioner is submitting this misc. petition before this Hon'ble Tribunal for initiating action under section 191 read with Section 193 of I.P.C. against Sri S.N. Gupta Respondent for

having given false evidence on a affidavit in the said application before this Hon'ble Tribunal as stated above.

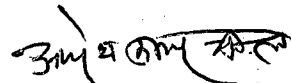
11. That in the circumstances mentioned above, it is necessary in the interest of justice that the action may be initiated against Sri S.N. Gupta Respondent under section 193 I.P.C. to punish him for having committed perjury before this Hon'ble Tribunal so that it may serve as deterrent for any one not muster up courage to make false evidence before this Hon'ble Tribunal.

P r a y e r

Wherefore, it is respectfully prayed that the notice be issued to Sri S.N. Gupta, Respondent, to initiate action against him under section 193 of I.P.C.

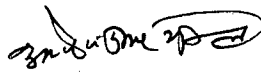
Dated, Lucknow:

March 8 , 1989.

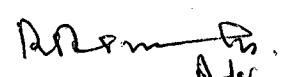

Petitioner.

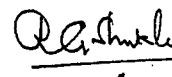
Verification

I Amresh Kumar Shukla s/o. Sri Ram Gopal Shukla, aged 35 years R/o. Cooke Compound, Ghaziari Mandi, Lucknow do hereby verify that the contents of above para 1 to 11 are true to my personal knowledge and belief and that I have not suppressed any material fact.


Petitioner

Dated, Lucknow
March 8, 1989


Adv.
(RADHIKA RANAN)
Counsel for the Applicant


Adv.
Counsel for Petitioner

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R. P.-51 (a)

Stamps affixed except in case of unregistered letters of not more than the initial weight prescribed in the Post and Telegraph Guide on which no acknowledgment is due.

Received a V. P. Registered *Gable*

addressed to *Chief Receiver Genl*

..... *Write here: letter, parcel, or railway receipt.*
Sig. of Receiving Officer with the word 'insured' before it when necessary.

To be filled in only when the article is to be insured; otherwise to be crossed out by means of two diagonal lines.

Insured for Rs. (in figures) (in words)

weight | rates



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
: ADDITIONAL BENCH - ALLAHABAD:

CIVIL MISC. APPLICATION NO. _____ OF 1986
(Under Section 151 C.P.C.)

ON behalf of

Union of India & Applicants
Others

IN

Registration No. 672 of 1986

Amresh Kumar Shukla Applicant

Versus

Union of India & others.... Respondents

To

The Hon'ble Vice-Chairman and his
other Members of the Hon'ble Tribunal.

The humble application of the
abovenamed applicant Most Respectfully
Showeth as Under;

- 1- That the full facts have been
set out in the accompanying counter-affidavit.

Reasons by
Amresh
9/1/87

-2-

2- That for the facts and reasons stated in the accompanying Counter-Affidavit, it is necessary in the interest of justice that the reliefs sought by the applicant in his aforesaid application, may kindly be rejected.

P R A Y E R

It is, therefore most respectfully prayed that this Hon'ble Tribunal may be pleased to allow this application and reject the reliefs sought by the applicant in his aforesaid application for the facts and reasons stated in the accompanying Counter-Affidavit;

And/or be further pleased to pass such other and further orders which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.


(K.C. SINHA)

ADDITIONAL STANDING COUNSEL
CENTRAL GOVERNMENT

Dt/- Dec., 1986/

1986
AFFIDAVIT
82
HIGH COURT
ALLAHABAD

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH - ALLAHABAD

COUNTER -AFFIDAVIT

1 to 5
On behalf of Respondent nos. 1, 2 & 3

IN

Registration No. 672 of 1986/

Amresh Kumar Shukla Applicant

Versus

Union of India & others Respondents

Affidavit of Sri S. N. GUPTA
aged about 42 years son
of Sri C. L. GUPTA posted
as Chief Resident Engineer,
Ducknow.

(Deponent)

I, the deponent abovenamed do
hereby solemnly affirm and state on oath
as under:-

1-

That the deponent is posted

✓ as Chief Resident Engineer and has read over

Sample

-2-

the contents of application filed by the applicant and is in a position to reply the same.

2- That before giving a parawise reply, the following facts are being narrated in order to facilitate this Hon'ble Tribunal in administering justice.

3- That the applicant was appointed for the post of Junior Scientific Assistant Grade-I in the pay scale of Rs. 425-700/- against the existing vacancy of Senior Scientific Assistant in this office. The applicant was appointed on probation for two years against the temporary post and he reported for duty on 19-11-1983. The post of Senior Scientific Assistant was filled by Junior Scientific Assistant- Grade-I, on the guide lines issued by the government.

4- That the performance of the applicant was not satisfactory. He was orally warned on several occasions and when the department did not see any improvement in his work-output, he was given written warning on

See serial

-3-

9th November, 1984. His annual confidential report was raised for the period 19-11-83 to 31-12-84 and initiating Officer/Reviewing Officer did not find him to the mark.

5- That the adverse remarks/entries were communicated to him. His assessment report for the first year covering the period 19-11-83 to 18-11-84 also contained adverse entries which were also communicated to the applicant. Since there was no sign of improvement in the said official, his assessment report was raised at the end of July, 1985 and the official was informed that his probation has been extended by one year i.e. the applicant was to be on probation till 18-11-86.

6- That the Annual Confidential Report covering the ~~per~~ period 1-1-1985 to 31st December 1985 was raised in January, 1986 and this also contains adverse entries and it was noticed that there was marked deterioration in the performance of the applicant. The adverse entries were also communicated to the applicant again. The applicant represented to the Head of the Department on 29th April, 1986 i.e. (Secy.-

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Department of Defence Research and Development).

7- That the department of Personnel, Defence Research and Development Organisation issued a circular through which, It was directed that all the cases of the confirmation, removal from probation, etc, are to be discussed in Departmental Promotion Committee. For this office, Chief Resident Engineer (Aircraft), Resident Technical Office, Directorate of Aeronautics, R & D Organisation, Ministry of Defence, Bangalore is the Chairman of Departmental Promotion Committee. On the basis of the recommendations of Departmental Promotion Committee, the services of the applicant was terminated w.e.f. 1st November, 1986 by the appointing authority. This order of termination of the services of the applicant was passed on the basis of over all assessment of his performance.

8- That the contents of paragraph no. 1, 2, 3, 4 and 5 of the application need no comments.

9- That in reply to the contents of

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paragraph no.6(1) of the application, it is submitted both the vacancies of Senior Scientific Assistants were to be filled by Junior Scientific Assistants Grade-I in view of the guide lines laid down in the Government of India's letter dated 16th April, 1983. Normal procedures of filling the posts is first notifying to all R & D Establishments of Defence Research and Development Organisation and when no serving employee was available, the vacancies were notified vide letter No. RTO(L)219/1/Adm. dated 28-5-83 to Central Employment Exchange. One post of Junior Scientific Assistant Grade-I was to be filled by Mechanical Engineering stream and the other by Electrical Engineering Stream. Interviews for the two posts were simultaneously held on two consecutive days. No candidate was found suitable for the Electrical Engineering disciplines. Sri A.K.Shukla(Applicant), was selected and appointed for the Mechanical Engineering discipline in November, 1983. The Government of India imposed a ban on recruitment vide their letter no. Ministry of Finance(Deptt- of Expenditure) OM No.F.7(1)-E(Coord)/84 dated 3rd January, 1984 and the ban still exists. This is the reason, the second post of

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Senior Scientific Assistant has not been filled up.

10- That in reply to the contents of paragraph no.6(2) of the application, it is submitted that because of increasing work load in the office and paucity of staff, the applicant was requested to join immediately in the interview itself. The applicant agreed to join immediately and he was offered appointment vide this office letter no. RT0(L)219/1/Adm. dated November, 1st, 1983. He reported for duty on 19th November, 1983.

11- That in reply to the contents of paragraph no.6(3) of the application, it is submitted that prior to joining this establishment, the applicant was serving as instructor(Workshop) In Jawaher Lal Polytechnic, Mahamudabad, Sitapur where Character verification and Medical examination might have been already been carried out. On the basis of this presumption the appointing authority waived the requirement of prior character verification and medical examination before joining the service. Subsequent to joining the service however, action was taken immediately to fulfil these requirements.

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-7-

Moreover, a working hand was urgently required, as stated in reply to paragraph no.6(2) above and also by this administrative action, the applicant's interest has in no way been jeopardised.

12- That in reply to the contents of paragraph no.6(4) of the application, it is submitted that Junior Scientific Assistant Grade-I is a technical post and he has to assist the Scientist under whom he has to work. The technical duties assigned by the Scientist are his technical duties. This was made clear to him by his superiors at the time of induction into service. His immediate superior was accompanying him for 6-8 months in the workshop and Laboratories of M/S Hindustal Aeronautics Limited (Lucknow Division) where this office has to supervise the technical work. The applicant was also explained how to maintain the technical records in the office.

13- That the contents of paragraph no.6(5) of the application are not correct and as such denied. It is further submitted that since the office is very small, there is no post of Librarian, Administrative Officer, Accounts-Officer, Stores Officer. The various jobs to be carried out in the office are apportioned

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amongst the officers and staff. Thus, secondary duties, in addition to primary duties are carried out by all officers and staff. The applicant was in the scale of Rs. 425-700/-, whereas the PA of CRE, who is also supposed to do the work of Clerical nature, is also in the scale of Rs. 425-700/-.

14- That the contents of paragraph no.6(6) of the application are not correct and as such denied. It is further stated that the Scientist~~s~~ under whom the applicant was put, was looking after the maintenance of Library and carrying out technical work. The duties mentioned by the applicant are the ones his superior was to carry out and the applicant was supposed to assist him. As regards the quantum of work load, it was almost negligible. The total time required to carry out all the jobs mentioned by the applicant would not take, on an average, more than one hour in a week. These duties were specifically put in writing as the applicant was questioning the authority of his superior, every time he was asked to do any job.

15- That the contents of paragraph

Secretary

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no.6(7) of the application are not correct and as such denied. It is further submitted that at the time ~~or~~ when the applicant was assisting his superior in the library work, another officer, not in his chain of command, wanted some publication. The applicant refused to obey him. It was, therefore, felt necessary that the orders be given in writing. The arrangement made was, that any officer, other than the applicant's immediate superior's, could ask him to do some technical work only after the permission of his immediate superiors, and when the applicant was not engaged in any other work. It was, however, never put in practice.

16- That the contents of paragraph nos.6(8) of the application are not correct and as such are denied. It is further submitted that the applicant was not asked to do the despatch work. He was simply put in charge of the registry. As has been said earlier, the office is small and the complete work is apportioned amongst the officers and staff. Also, all the work which the applicant has mentioned, was not entrusted to

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to him simultaneously. When the applicant was not found suitable in one type of work he was tried in other, but no work, technical or administrative in nature, interested him. It is absolutely wrong on the part of the applicant to say that he was asked to circulate the magazine to all the officers and staff.

17- That the contents of paragraph nos. 6(9)(i) to 6(9)(x) of the application are not correct and as such are denied. In reply it is further submitted that the technical books and magazines were being loaned to the officers and staff of CRE (sometimes to the high ranking officers of sister organisation, if a book is rare) on a well patterned procedure. It was only when the applicant was given charge of Library, that the irregularity started. When it was noticed that the costly books are being loaned to irresponsible lower rung staff of M/S HAL(LD) the applicant was removed from the library. A physical stock verification was made after getting all the books back from loanees. All the stores of library are in order. His short-comings in the maintenance of Library was

Seemable

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specially highlighted in his Annual Confidential Report for the period 1-1-1985 to 31-12-85. It is further submitted that in the Ministry of Defence, audit of stores and ledger is carried out regularly by Local Audit Officer(I), who is an independent agency functioning under Controller General of Defence Accounts, New Delhi.

18- That the contents of paragraph no.s 6(9)(xi) of the application are not correct and as such are denied. It is further submitted that at no time, the registered letter signed by the officer was allowed to remain in the office for more than one day. It was only when the supervision of despatch was entrusted to the applicant that the inefficiency crept in. This led the Head of Establishment to take this work also from him. He was also warned in writing for this inefficiency.

19- That the contents of paragraph no.s 6(9)(xii) of the application are not correct and as such are denied. It is further submitted that once or twice the applicant was asked to liaise with the maintenance department of M/S. HAL(ID). M/S HAL(ID) lend the services of their

Scanned

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maintenance department personnel, whenever any small help is required. It is true that this office gets the repair work done on cooler, Air Conditioner etc. from private agencies on competitive basis as empowered by Government of India's letter No. 93916/RD-26/11 5242/D (R&D) dated 15th October, 1985.

20- That the work of the applicant was not judged with any prejudice. As regards the books taken on loan by the officers mentioned by the applicant, it has already been explained in reply to preceeding paragraphs and not require any repeatation.

21- That the contents of paragraph no. 6(10) of the application are not correct as such are denied. It is further submitted that a written warning about his poor performance was given on 9th November, 1984 after watching the applicant for about a year and after giving him oral warning a number of times by his immediate superiors. As stated above, the applicant's job was to assist the scientist in the latter's Scientific and Technical work. The applicant had appealed against his written warning and the appeal was

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-13-

was considered by the competent authority who did not find any merit in the representation and, therefore, rejected the same. It may be significant to mention that all the allegations against the officers were started by the applicant only after written warning was given to him about his poor performance.

22- That the contents of paragraph no. 6(11) of the application are not correct as stated and as such are denied. It is further submitted that all the efforts were made to provide detailed guidelines to train and orient the applicant towards carrying out his assignments. For this, purpose, he was being taken by his immediate superiors to various work places and meetings, as well as, given continuing advices as to how to deal with scientific and technical matters. His response was not at all satisfactory. Initially, a number of oral warning were given but as these not result in any improvement, written warnings were given, as it is evident from the various assessment reports and Annual Confidential Reports and there has been very sharp deterioration in the performance of the applicant.

Sample

AY
16

-14-

23- That the contents of paragraph nos.6(12) of the application are not correct as stated and hence denied. It is further submitted that the applicant was appointed on 19th November, 1983 on probation for a period of two years. As per rules laid down by the government, the yearly assessment report be raised. Thus, the adverse entries made in his assessment report covering the period 19-11-83 to 11-11-84 were communicated to him in May, 1985. The adverse entries communicated to the applicant on 24-4-85 pertained to his Annual Confidential Report. In fact, the Annual Confidential Reports are generally raised from the Calendar year, but since the applicant had joined service in November, 1983, the period covered was from the start of his service till the end of next calendar year.

24- That in reply to the contents of paragraph nos. 6(13) and 6(14) of the application it is submitted that the applicant had made a representation against the entries in his Annual Confidential Report to Chief Resident Engineer on 18-5-85 and the said representation was rejected which was also communicated to the applicant. The applicant

Specimen

AY
17

-15-

did not go in appeal to the next higher authority.

25- That the contents of paragraph no.6(15) of the application are not correct and as such are denied. It is further submitted that the applicant habitual of leaving workshop without permission and for which, he was orally warned a number of time. His absence was a great handicap in the working of the office. Being a Ministry of Defence office, the work is always of emergent nature. On 25th March, 1985 his absence was felt for quite some time and it was considered necessary that he be warned for such acts.

26- That the contents of paragraph nos. 6(16) of the application are not correct as stated, hence they are denied. It is further submitted that the probation period in normal circumstances should have been over on 18-11-85 as it is laid down in the rules and circular dated 3rd April, 1979, if there is likelihood of the extension of the probation period, the applicant should be informed three months in advance. It is, for this reason that the applicant's assessment report was raised early and the decision to extent his probation was communicated

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14/18

-16-

in August, 1985. It is also laid down in the rules that if no communication is received by the end of 2 years by the employee, it will be presumed that the employee has completed his probation ~~satisfactorily~~ satisfactorily. The decision to discharge the applicant from service was finally arrived by the Departmental Promotion Committee.

27- That the contents of paragraph no. 6 (17) of the application are not correct as stated, hence denied. It is further submitted that the applicant was orally warned by his superiors number of times. The assessment report for the applicant for 2nd year was raised in August, 1985 and the adverse entries were communicated to him in August, 1985. This, along with other oral warnings, formed the base for writing his Annual Confidential Report for the year 1985.

28- That in reply to the contents of paragraph no. 6(18) of the application it is submitted that the office being small and having acquired a new building of its own and also the fire fighting equipment, it was necessary to train some staff member for such emergencies such as fire, and the applicant

Specimen

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19

-17-

was selected for the job. Being a Ministry of defence office and having important document in the custody, Govt. of India has laid down guidelines for such contingencies. It is not laid down anywhere in the letter received from the Defence Institute of Fire Research, that only class-IV employees be deputed for such courses. As required by conditions of service, he is required to serve anywhere in India and that he will be governed by the rules laid down by the government of India from time to time.

29- That in reply to the contents of paragraph no. 6 (19) of the application it is submitted that the applicant has passed the DIFR in second Grading, does not mean that his performance throughout the service is satisfactory. The sum total of his performance in the three years of service did not make him eligible to be retained in Government service.

30- That in reply to the contents of paragraph no. 6 (20) of the application, it is submitted that as per rules laid down, the pay and allowances of non-gazetted staff is to be paid in cash and not by cheque. The applicant is

Sacramento

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-18-

a non-gazetted government servant .Also, the applicant while proceeding for the course in December,1985,had given pre-receipted application only for the month of December,1985. A copy of the application is attached herewith as Annexure-CA-I to this affidavit. At the time of disbursement of pay for the month of January, 1986, it was noticed that the applicant had not given any authorisation for collection of his pay and allowance. A letter no. RT09L)/23/1/ Accts dated 6th February,1986 was sent to him requesting him to send the necessary authorisation. His reply was received in the office on 12-3-86 and considering the hardship, his family might be facing, pay and allowances for January,1986 was credited to his bank account the same day.

31- That in reply to the contents of paragraph no.6 (21) of the application,it is submitted that the applicant was given an advance of Rs.855/-for meeting travelling and daily expenditure as per the bill submitted by him before proceeding for the fire fighting course. As per the rules laid down, the employee are required to fill their final TA/DA claim soon after return from TD. The applicant had returned and reported for duty,after the course on 24.8.86

Saurabh

AY
27

-19-

✓ He submitted his TA/DA claim on 19-6-86.

The bill was not in order and therefore, it was returned to him vide our letter No.

RT0(L)/40/2/Accts dated 23rd June, 1986

intimating that the bill be put up again after correction. The applicant again filed the

bill on 11th July, 1986 and again there were certain incoherences. Head of the establishment

✓ then directed Shri K.D. Vyas, SC 'B', looking after Accounts, to help the applicant in filling

the TA/DA claim. This file was put up to the said Scientist but the letter alongwith the

bill was misplaced during transit. A search

was made in all the rooms and when the bill was not traceable, the applicant was informed

at the earliest, vide letter no. RT0(L)/40/2/Accts dated 2nd August, 1986 that he may submit

another copy of TA/DA bill. This was followed

by letters no. RT0(L)/40/2/Accts dated 10-9-86, 6-10-1986 and 21-10-86 but the applicant did

not file the TA/DA bill, till 31st October, 1986.

32-

That in reply to the contents

of paragraph no. 6(22) of the application, it

is submitted that the the annual Confidential

Report of the applicant was raised for the

period 1-1-85 to 31-12-85 and the adverse

entries which are considered as written

warnings, were communicated to him vide letter

See serial 4

A4
72

-20-

no. RTO(LD/224/3/1/Adm. dated 26th February, 1986. After February, 1986, no warning was given because the applicant had appealed on 29th April, 1986 to the Scientific Adviser (Head of the Department) against the adverse entries against him. Any warning by a lower authority, during the period when the appeal is pending, with the higher authority, would have been construed as prejudicial. However, his performance was constantly watched, and was far below par.

33- That in reply to the contents of paragraph no. 6 (23) of the application, it is submitted that on over all assessment, of the applicant, it was found that he was not an asset to the government. There was absolutely no prejudice or malafide attitude of any of his superiors.

34- That in reply to the contents of paragraph no. 6 (24) of the application, it is submitted that the applicant was inducted into government service by Chief Resident Engineer, Lucknow. The letter assessed his capacity and capability to do technical work and other secondary duties. He was not found fit for any work assigned to him from time to

Secretary

AY
23

-21-

time during the three years of his service. No useful purpose would have been served by transferring the applicant to any other establishment.

35- That in reply to the contents of paragraph no.6 (25) of the application, it is submitted that the relevant portion of the letter received from competent authority, rejecting his representation, had been communicated to the applicant. It was not found necessary to give a copy of the letter received from the competent authority.

36- That in reply to the contents of paragraph no.6 (26) of the application, it is submitted that as per his condition of service, the services of the applicant could be terminated at any time during the probation by the month's notice or by paying one month pay and allowances. He was to be on probation till 18-11-86. His services have been terminated on 31-10-86 forthwith by paying him one month pay and allowances. The decision to discharge him from service was taken by Departmental promotion committee.

Spencer

14/24

-22-

37- That the contents of paragraph
(6)
nos. 27, 28, 29, 30 and 31 of the application have
already been replied, hence need not be
repeated here again.

38- That in view of the facts
stated above, the services of the petitioner
was terminated on over all assessment of
service record of the applicant and it was
found that he was not fit to be confirmed
as such termination order was passed.

39- That the contents of paragraph
nos. 6(32), (33) and (34) of the application
raises legal issue, hence need no mention the
counter-affidavit which related to arguments.
However, the deponent is advised to state
that the termination order which was passed
is valid and within the ambit of legal provisions
of Rule-5 of Temporary Services Rules, 1965. As
stated above, the termination order was passed
after over all assessment of the performance
of the services of petitioner and since the
performance of the petitioner was not
satisfactory, order for termination was passed.
Moreover, none of the grounds taken by the
petitioner are sustainable in the eye of law.

Seemle

-23-

40- That in reply to the contents of paragraph no.7 of the application, it is submitted that the petitioner is not entitled for any reliefs sought by him as he failed to make out any prima-facie case in his favour.

41- That in reply to the contents of paragraph no.8 of the application, it is submitted that since the petitioner has not been able to make out any prima-facie case in his favour as such, no interim order can be granted in the presence circumstances of the case and the application of the applicant is liable to be rejected.

42- That the contents of paragraph no.9,10,11,12,13 are matters of records hence need no comments.

I, the deponent abovenamed do hereby swear on oath that the contents of paragraph nos 1 and 2 of this affidavit are true to my personal knowledge; that those of contents of paragraph nos 3 to 39 are based on perusal of official record; those of contents of paragraph nos 40, 41 are based on legal

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-24-

advice to which I believe to be true; that no part of it is false and nothing material has been concealed in it.

So help me God.

Deponent

I, D.S. Chaubey, Clerk to the Sri K.C. Sinha Advocate, High Court of judicature at Allahabad do hereby declares that the person making this affidavit alleging himself to be Ak Shukla is known to me from the perusal of papers which he had produced before me in this case.

Clerk

Solemnly affirmed before me on this 14th day of December, 1986 at 5:00 am/pm by the deponent who has been identified by the aforesaid Clerk.

I have satisfied myself by examining the deponent that he has understood the contents of this affidavit which have been read over and explained to him by me.

OATH COMMISSIONER
84/132
14/12/86

27/12

सेवा में,

मुख्य आवासिक अभियन्ता
आवासिक तकनीकी कार्यालय
H.A.P.O. लखनऊ

प्रहोदय,

आपके आदेशानुसार मैं दिल्ली DFR में
पाठ्यक्रम के सम्बन्ध में जा चुका हूँ।

इस सम्बन्ध में आपसे विवरण

है कि मेरे सभी मासिक वृत्त एवं अन्य प्रकार के कर्षण देयों
का स्थापना मेरे खाता संख्या 6696 आमेराकुमार युमल C.R.E.
Officer /o HAL Lucknow पंजाब स्टेट बैंक HAL Township
वाराणसी रोड के पते पर कर दिये जायें।

आपके इस महान कार्य के लिए

मैं आपका जीवत आभारी हूँगा।

दिनांक

27/12/85

[Signature]

14/12/86
प्रत्यक्ष

8/13

आमेराकुमार युमल
J.S.A.E

दिसम्बर माह का वृत्त उत्तर किया



21/12/85

Counter signed

[Signature]

Cheque No. B ^{A18} 315338
100

Credited to me as per

the month of Dec-85.

Cheque no 315357 dt. 12-3-86 for Rs 3139/80 has been
deposited in the a/c no. 6696 of Shri A.K. Shukla SSA at
P.W.B. HAL township branch Ho,

Ministry of Defence
LUCKNOW

मुख्य आवासिक अभियन्ता
Chief Resident
आवासिक तकनीकी कार्यालय
Record & Planning
Directorate of A.
Ministry of Defence
LUCKNOW

(Bh) (S)

**Before Central Administrative Tribunal
Additional Bench Allahabad**

Registration No. 672 of 19 86
District Lucknow

Arunesh Kumar Shukla Applicant

VERSUS

Union of India & Others Respondents

I/We S. N. Crupla a/g. 42 years
Chief Resident Engineer HKW

in the above matter hereby appoint and retain

SHRI KRISHNA CHANDRA SINHA, Advocate High Court

to appear, act and plead for me/us in the above matter and to conduct/prosecute and defend the same in all interlocutory or miscellaneous proceedings connected with the same or with any decree or orders passed therein, appeals and or other proceedings therefrom and also in proceedings for review of judgment and for leave to appeal to Supreme Court and to obtain return of any documents filed therein, or receive any money which may be payable to me/us.

2. I/We further authorise him to appoint and instruct any other legal practitioner authorising him to exercise the powers and authorities hereby conferred upon the Advocate whenever he may think fit to do so.

3. I/We hereby authorise him/them on my/our behalf to enter into a compromise in the above matter, to execute any decree/order therein, to appeal from any decree/order therein and to appeal, to act, and to plead in such appeal or in any appeal preferred by any other party from any decree/order therein.

4. I/we agree that if/we fail to pay the fees agreed upon or to give due instruction at all stages he/they is/are at liberty to retire from the case and recover all amounts due to him/them and retain all my/our monies till such dues are paid.

5. And I/We, the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my own acts, as if done by me/us to all intents and purposes.

Executed by me/us this 15 day of 12 1986 at

S. N. Crupla
Signature

Executant/s are personally known to me he has/they have signed

Satisfied as to the identity of executant/s signature/s.

(where the executant/s is/are illiterate blind or unacquainted with the language of vakalat)

Certified that the contents were explained to the executant/s in my presence in the language known to him/them who appear/s perfectly to the same and has/have signed in my presence.

Accepted

K.C. SINHA

Advocate

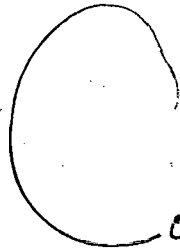
Additional Standing Counsel

Central Government
High Court-Allahabad

Counsel for Applicant/Respondents
No.

I

Supply -



Counter Affidavit

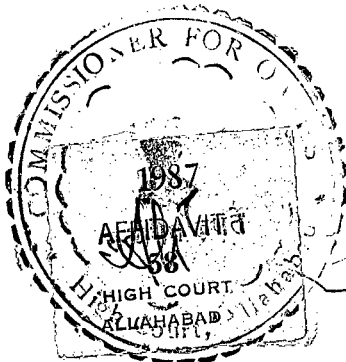
in

Registration No 672/86

Aravesh Kumar Shukla

VS

Union of India & Others



AS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH ALLAHABAD.

:SUPPLEMENTARY COUNTER AFFIDAVIT:

IN

REJOINDER AFFIDAVIT

IN

REGISTRATION NO. 672 OF 1986/

AMRESH KUMAR SHUKLAAPPLICANT

VERSUS

UNION OF INDIA AND OTHERS..... RESPONDENTS

AFFIDAVIT of Shri S. N. GUPTA

aged about 42 years son of

Shri C. L. GUPTA posted

as Chief Resident Engineer

LUCKNOW.

'Deponent'

I, the deponent abovenamed do hereby
solemnly affirm and state on oath as under:-

1-

That the deponent is working
as Chief Resident Engineer and has read
over the contents of the Rejoinder-Affidavit

Successfull

(17/2)

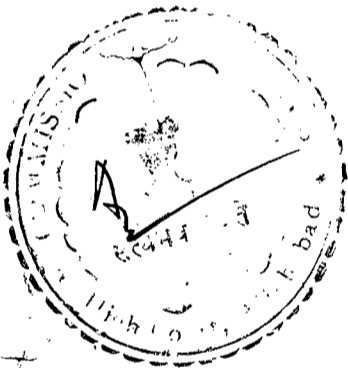
-2-

filed by the applicant (Amresh Kumar Shukla) in the aforesaid case and has fully understood the contents thereof and as such, is fully acquainted with the facts of the case deposed to below.

2- That the applicant has filed the aforesaid Rejoinder-Affidavit in the instant case stating certain new facts and as such, it has become necessary to file this supplementary counter-affidavit which may be read in evidence and may be kept on record as part of the record.

3- That the contents of paragraph no.1 and 2 of the rejoinder affidavit are formal and needs no comment.

4- That in reply to the contents of paragraph no.3 of the rejoinder-affidavit, it may respectfully be submitted that the respondents made by the applicant in the aforesaid case had acted in their official capacity during the tenure of service of the applicant. The counter-affidavit has been filed by Shri S.N.Gupta in his official capacity of Chief Resident Engineer and not as individual.



S.N. Gupta

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-3-

5- That in reply to the contents of paragraph no.4 of the rejoinder affidavit it may respectfully be submitted that the respondent no.5 Shri ~~Ramesh~~ S. Ramesh, was the initiating officer for Shri A.K.Shukla, the applicant for filling up his probation Report and Annual Confidential Repprt(ACR). These reports were reviewed and graded by higher authorities with full knowledge. There was no malice, ill will or prejudice of any officer against the deponent.

6- That the contents of para-5 and 6 of the rejoinder-affidavit need no reply.

7- That the contents of paragraph no.7 of the rejoinder-affidavit are not admitted and in reply the contents of para-3 of the counter affidavit are reiterated and reaffirmed.

8- That the contents of para-8 of the ~~counter-affidavit~~ rejoinder-affidavit are not admitted as stated. In reply the averments made in para-4 of the counter-affidavit are reiterated and re-affirmed.

9- That in reply to the contents of

Samir

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-4-

para-9 of the rejoinder-affidavit, it may respectfully be submitted that as regards the extension of probation by DPC, it is to state that clarification that the cases of extension of probation also comes within the purview of DPC, was received vide Govt. of India, Defence Research & Development Organisation letter no. 0620/RD/Pers-1 dated 3rd February, 1986. The probation of the applicant was extended in August, 1985. There was no mala fide intention in extending the probation by Head of the Establishment.

10- That in reply to the contents of para-10 of the rejoinder-affidavit, it may respectfully be submitted that for most of the part, facts have already been stated in counter affidavit. It is only to clarify that the Secretary to the Department is also Scientific Adviser to Raksha Mantri.

11- That in reply to the contents of para-11 of the rejoinder-affidavit, it may respectfully be submitted that the Departmental Promotion Committee has been constituted by Govt. of India and all the Chief Resident Engineers in the country are members of the committee. Shri

Sacsmo

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-5-

S .N.Gupta had attended the Departmental Promotion Committee proceedings in the capacity of Chief Resident Engineer. As regards, personal hearing by the DPC is concerned, it is neither laid down any where in the rules nor customary nor was considered necessary. It has not been possible to lay our hands on GIMH affirms letter mentioned in the paragraph under reply and cannot be replied suitably for want of knowledge in absence of the same.

12- That the contents of paragraph no.12 and 13 of the rejoinder affidavit needs no comments.

13- That in reply to the contents of paragraph no.14 of the rejoinder-affidavit it may respectfully be submitted that there was never any contravention of rules. The averments made in para-10 of the counter-affidavit are re-affirmed and reiterated.

14- That in reply to the contents of para-15 of the rejoinder-affidavit, the averments made in para-11 of the counter-affidavit are re-affirmed and reiterated.

15-

That in reply to the contents

See memo

15/6

-6-

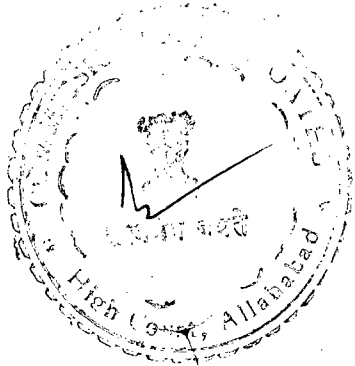
of para-16 of the rejoinder-affidavit, the averments made in para-12 of the counter-affidavit are re-affirmed and reiterated.

16- That in reply to the contents of para-13 of the rejoinder-affidavit, it may respectfully be submitted that certain secondary duties were assigned from time to time to the applicant. These duties were not clerical nature and could have been carried out by any person of average intelligent level.

17- That in reply to the contents of para-14 of the rejoinder affidavit, the averments made in para-18 of the ~~xxx~~ counter-affidavit are reiterated~~ing~~ and re-affirmed.

18- That in reply to the contents of para-19 of the rejoinder affidavit, the averments made in para-15 of the counter-affidavit are reiterated and reaffirmed.

19- That in reply to the contents of para-20 of the rejoinder affidavit, it may respectfully be submitted that keeping a record of the document and actually despatch of letters are two different things. The applicant was



Seemle

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-7-

only making entries in the register of all letters being despatcher. Similarly, he was keeping a record of all the magazines etc.

20- That in reply to the contents of para-21 of the rejoinder, the averments made in para-17 of the counter-affidavit are reiterated and re-affirmed.

21- That in reply to the contents of paragraphs no.22,23,24,25,26,27,28 and 29 the averments made in paragraph nos.18,19,20, 21,22,23,24 and 25 of the counter-affidavit are reiterated and re-affirmed.

22- That in reply to the contents of para-30 of the rejoinder-affidavit, it may respectfully be submitted that as regards the extension of probation by DPC, it is to clarify that the cases of extension of probation also comes within the purview of DPC, was received vide Govt. of India, Defence Research & Development Organisation letter No. 0620/RD/Pers-1 dated 3rd February, 1986. The probation of Shri

S. S. S. S.

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-8-

Shukla was extended in August, 1985. There was no malafide intention in extending the probation by Head of the Establishment.

23- That in reply to the contents of paragraph nos. 31, 32, and 33 of the rejoinder-affidavit, the averments made in paragraph nos. 26, 27 and 28 of the counter-affidavit are reiterated and reaffirmed.

24- That in reply to the contents of para-34 of the rejoinder-affidavit, it may respectfully be submitted that pre-receipt given by the applicant will indicate that receipt was given only for the month of December, 1985.

25- That in reply to the contents of paragraph nos. 35, 36, 37, 38 of the rejoinder, affidavit, it may respectfully be submitted that averments made in paragraph nos. 31, 32, 33 and 34 of the counter-affidavit are reiterated and re-affirmed.

26- That in reply to the contents of paragraph no. 39 of the rejoinder-affidavit, it may respectfully be submitted that it is not

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-9-

considered necessary to give the copy of the order who rejected the representation..

27- That in reply to the contents of para-40 of the rejoinder-affidavit, it may respectfully be submitted that clarification that the cases of extension of probation also comes within the purview of DPC, was received vide Govt. of India, Defence Research & Development Organisation Letter no. 0620/RD/Pers-I dated 3rd February, 1986. The probation of Shri Shukla was extended in August, 1985. There was no malafide intention in extending the probation by Head of the Establishment.

28- That in reply to the contents of para-41 of the rejoinder-affidavit, the averments made in ~~para-37 to 41~~ para-37 to 41 of the counter-affidavit are reiterated and re-affirmed.

I, the deponent abovenamed do hereby verify that the contents of paragraph nos 1, 2 of this affidavit are based on person knowledge; those of paragraph nos 3 to 24, 26 to 27 are based on record;

Deponent

AS/0

-10-

those of paras 25 are based on level advice; ~~knowing~~ to which I believe to be true; that no part of it is false and nothing material has been concealed in it.

So help me God.

Saemrable
(Deponent)

I, D.S. Chaubey, Clerk to Shri K.C. Sinha, Advocate, High Court, Allahabad do hereby declares that the person making this affidavit and alleging himself to be the same is known to me from the perusal of papers which he has produced in this case.

Chaubey
Clerk

Solemnly affirmed before me on this 31st day, of March, 1987 at 9-00 am/pm by the deponent who has been identified by the aforesaid Clerk.

I have satisfied myself by examining the deponent who has been identified by the aforesaid Clerk that he has understood the contents of this affidavit which has been read over and explained to him.

Saemrable

Al Javed OATH COMMISSIONER
OATH COMMISSIONER 31.3.87
High Court, Allahabad
Sl. No. 8/58/408
Date - 31/3/87

ORIGINAL COPY

In the Central Administrative Tribunal
Addl. Bench Allahabad

Depositor Affidant

Amresh Kumar Shukla vs Union of India & others
Application No. 672 of 1986

District Meerut

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1

1987
AFFIDAVIT
81 M
DISTT. COURT
U. P.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD

Application No. 672 of 1986

Amresh Kumar Shukla

...

Applicant

Versus

Union of India and others

...

Respondents

Fixed on 10.3.87 for hearing.

REJOINDER AFFIDAVIT OF THE ABOVE NOTED APPLICANT
IN REPLY TO THE COUNTER AFFIDAVIT STATED TO HAVE
BEEN FILED ON BEHALF OF RESPONDENT NOS. 1 to 5.

I, Amresh Kumar Shukla, aged about 33 years S/o.

Sri Ram Gopal Shukla resident of Cook's Compound, Ghasiari
Landi, Lucknow, do hereby state on oath as under:-

That the deponent above named has read and understood
the contents of the said Counter Affidavit and is well
acquainted with the facts deposed to hereinafter.

That before submitting parawise reply to the Counter
Affidavit of Sri S.N. Gupta officiating Chief Resident
Engineer, the facts in the following paras are submitted
herewith in the interest of justice.

3.

That since respondents No. 2 and 5 have been made party
by name on account of having malice, ill will and
prejudice against the deponent, only the said respondents
are competent to deny or admit the allegations made
against them and no one else is competent to file any
affidavit on behalf of the said respondents No. 2 and 5
who have personal knowledge about the allegations made
against them. Counter Affidavit filed by respondent
No. 4 cannot therefore be deemed to be Counter Affidavit
on behalf of respondents No. 2 and 5. The malice of
respondent No. 4 becomes evident as he has filed the
Counter Affidavit also on behalf of other respondents,
who have not authorized him to file Counter Affidavit

Contd 2

A6
27

on their behalf denying the allegations made against Respondents 2 & 5 to damage the interest of the deponent.

4. That from the date of joining of the deponent on 19.11.83 to 2.7.86 Sri P.C. Joshi was the Chief Resident Engineer and the grading Officer, and Sri S.N. Gupta was Reviewing Officer. From 3.7.86 Sri S.N. Gupta became the grading officer. Sri S. Ramesh was the reporting Officer from 19.11.83 to 25.2.86. Sri Kamesh Goel became the reporting officer from 26.2.86 and since that date nothing adverse has been commented against the deponent. These facts clearly establish the fact that O.P. No. 5 was obviously prejudiced against the deponent and as such all the adverse remarks etc. made by him are liable to be declared illegal.

5. That it is also pertinent to state in this context that the grounds mentioned in the application filed by learned Additional Standing Counsel, Central Government are misconceived and are based on incorrect facts and grounds and therefore that application is liable to be rejected and the deponent deserves to be allowed all the reliefs claimed by him in his application on the facts and grounds mentioned therein.

6. Paras 1 and 2 of the Counter Affidavit need no reply.

7. That in reply to para 3 of the Counter Affidavit it is stated that since the deponent was appointed against the vacancy of Senior Scientific Assistant and as such it is unconstitutional and illegal to allow the deponent the pay of Junior Scientific Assistant Grade I on the alleged guide lines, if any, which are unconstitutional and illegal and accordingly the applicant is entitled to pay and allowances of Senior Scientific Assistant including arrears of salary etc. for the entire period.



2nd/11/2007

8. That the contents of para 4 are denied. No oral warning was issued. Written warning as given only 9 days before the close of first year of probation period without giving reasonable opportunity to explain the facts which is against the principle of natural justice. This warning is itself vague and baseless. In the warning it has been stated that various tasks were assigned to the deponent, but in para 12 of the Counter-Affidavit it has been stated that the work of the applicant was only to assist the Scientist. Adverse remarks in A.C.R. from 19.11.83 to 31.12.84 are the outcome of the malice, prejudice and illwill of Respondents Nos. 2 to 5 as explained in the application and in this Rejoinder Affidavit. Adverse remarks are also against the facts. For example, no administrative work was ever given to the applicant. Besides, there are many points in the adverse remarks which do not find place in the warning of November 9, 1984. For example the points of missing from work spot, maintenance of office decorum, punctuality and defiant character are not mentioned in the warning of November 9, 1984. Thus the adverse remarks on these points have been given without giving any written warnings. Award of adverse remarks without giving written warning is against the standing orders of Government of India and therefore the same are liable to be quashed. Besides the adverse remarks are baseless. Remarks of Initiating Officer and Reviewing Officer relating to A.C.R. 1984 have not been communicated with the result that applicant has been deprived of reasonable opportunity to disprove the subject matter of adverse remarks. The remarks are also self contradictory because the entry says that the applicant has adequate technical capability, but it also says that applicant completely lacks the basic ingredients required out of technical ^{hand 34} ~~hand~~nd. Further the entry is

Signature of [Name] 3/1/85

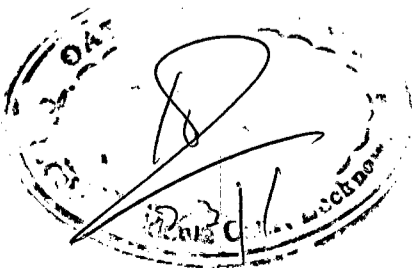
Signature of [Name]



not definite about aptitude for work pertaining to Research or Development because the entry says that the applicant does not seem to have an aptitude for Research and Development work and this part also being wholly vague is liable to be declared unenforceable.

9. That the contents of para 5 of the Counter Affidavit are emphatically denied. It is also stated that although the assessment report and adverse remarks in A.C.R. are of one and the same period, yet they differ each other. For example, in assessment report ^{it} ~~is~~ has been stated that deponent has some capability as regards his technical duties, but in the A.C.R. it has been mentioned that the deponent has adequate technical capability required for the job and the deponent may be entrusted with practical work. Besides, the assessment report is for the period upto July 1985, but it was taken to hold good till 18.11.85. Adverse entries in the A.C.R. are not in conformity with the standing orders of Government of India which clearly lay down that remarks awarded by the Initiating Officer, Reviewing Officer and Grading Officer should have been given separately. According to the Appendix 29 of Civil Service Regulations Vol. III it is mandatory to consult Departmental Promotion Committee (hereinafter called D.P.C.) before extending probation period of the deponent. Non-observance of the mandatory provisions has rendered illegal the order extending the period of probation. The relevant order extending the period of probation deserves to be declared as null and void. In these circumstances, the deponent shall be deemed to have acquired the permanent status on his post after expiry of probation period of 2 years i.e. on 19.11.85.

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10. That the contents of para 6 of the Counter Affidavit as stated are not admitted. Adverse entry in A.C.R. of 1985 were not made against the standing orders of Government of India which lay down that the adverse remarks should only be made if there is no improvement in performance after the award of written warning. In 1985, no written or oral warning was given on the points mentioned in the adverse remarks. Besides the remarks of Initiating officer and Reviewing Officer have not been communicated in accordance with Government orders. The deponent had represented to Scientific Adviser to Raksha Mantri but in the Counter Affidavit it has wrongly been said that the applicant had represented to the Head of Department i.e. Secretary to the Department.
11. That the contents of para 7 of the Counter Affidavit are not admitted as stated. The question of consideration by D.P.C. does not arise as the deponent has acquired permanent status in 1985 as submitted in para 8 above. Besides D.P.C. was biased on account of presence of Sri S.N. Gupta respondent No. 4 who has prejudice, malice and ill will against the deponent. Further-more, D.P.C. did not give the deponent the chance of personal hearing despite deponent's request. D.P.C. considered the baseless warnings, adverse remarks etc., which have ingredients of misconduct and are outcome of malice illwill and prejudices of respondent Nos. 2 to 5. The assessment of deponent's suitability cannot be said to be fair ^{on the} as the basis of assessment comprised of warning, adverse remarks which are based on prejudices, malice and illwill of respondent No. 2 to 5. According to orders contained in G.I.M.H. Affairs Memo No. 4/10/66-Ests(c), dated 26th August 1976 of Government of India,

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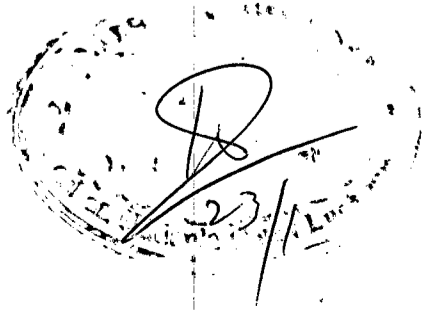
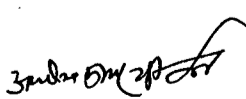
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the services of a probationer cannot be terminated under rule 5(1) Central Civil Services (Temporary Service) Rules. On this aforesaid ground also the termination order is illegal and liable to be declared null and void. In 1986, there was no warning, adverse remarks etc. Copy of wireless showing the presence of Sri S.N. Gupta respondent No. 4 in D.P.C. of 1986 and copy of application showing that deponent be given a chance of personal hearing are filed herewith as

Ann. R-I,II Annexure R-1 and R-2 respectively.

12. That para 8 of the Counter Affidavit needs no comments.
13. That in reply to para 9 of the Counter Affidavit, it is submitted that the contents of this para are not disputed except that since the deponent performed the duties of Senior Scientific Assistant, but he was allowed the pay of Junior Scientific Assistant Grade I. This arrangement was unconstitutional under Article 39 (d) of the Constitution and as such the deponent is entitled to the pay and allowances admissible to Senior Scientific Assistant.
14. That in reply to para 10 of the Counter Affidavit it is stated that respondent No. 2, 3 and 4 acted arbitrarily without following the rules and regulations. Their action against the deponent through out has been in violating of standing orders and rules. This assertion stands substantiated from the fact that the deponent was asked to join at once without giving him the appointment letter and without being relieved from Jawahar Lal Nehru Polytechnic Mahmudabad District Sitapur where the deponent was working in permanent capacity.



15. That para 11 of the Counter Affidavit are not admitted as stated. There is no provision to defer the requirements of ^{prior 3d} proper character verification and medical examination on the ground of presumption. What the deponent means to say is that Rules etc. have no sanctity for the respondents. The plea of presumption is only after thought, and this shows their disregard to Rules and Regulations etc.
16. That the contents of para 12 of the Counter Affidavit are not admitted as stated. It is asserted that it was not made clear to the deponent at the time of his entry in service that he has to assist the Scientist under whom he will be posted. It is wholly vague and it is not clear as to what were the duties assigned by the Scientist and what were the technical duties. In fact technical duties involve the operation of various machines and the deponent being an experienced diploma holder in Mechanical Engineering was well acquainted with the working latest machines and it cannot be said that the technical duties are to attend to Clerical work of routine nature which can be done by clerks in much lower pay scale and having experience in that line. The averments made in the para of the Counter Affidavit are wrong and the assertion of the respondent that the deponent was being accompanied by his immediate superior in workshops etc., for 6 to 8 months as assertion made in para 6 (4) of the application ~~and~~ are correct having been supported by documentary evidence referred to therein and the same can be got summoned and perused by the Hon'ble Tribunal in order to verify the voracity of the said assertion.
17. That the contents of para 13 of the Counter Affidavit are not admitted as stated, and it is asserted that

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there is no post of P.A. to C.R.E. and it is not necessary that a purely technical hand getting the pay which is admissible to Clerks/Stenos whose nature of duties are purely clerical nature, should be made to do purely clerical work because a technical hand having no experience of clerical work is bound to prove a round-peg into a square^{hole}~~hole~~. This para of Counter Affidavit does not correctly reply to para 6 (5) of the application. It is, therefore, obvious that this reply being evasive, the answering respondent shall be deemed to have admitted the contents of para 6 (5) of the application.

18. The contents of para 14 of the Counter Affidavit are wholly wrong and are emphatically denied as the assertions made in para 6 (6) of the application are reiterated.
19. That the contents of para 15 of the Counter Affidavit are wholly wrong and are emphatically denied and the assertions made in para 6 (7) of the application are reiterated. No reliance can be placed on the assertions made in para 15 of the Counter Affidavit as the same is not supported by any documentary evidence.
20. That the contents of para 16 of the Counter Affidavit are wholly false and baseless and the contents of para 6 (8) of the application are correct as will be evident from the photo-stat copies of two statements showing the work done by the deponent relating to work of despatch and circulation of magazines which are being filed as Annexure R III & R-IV of this Rejoinder. This clearly shows the malafides of respondents who have concealed the said facts to damage the interest of the deponent and they are liable to be punished for committing purgery for giving false evidence on affidavit.

Ann. R-III &
R-IV

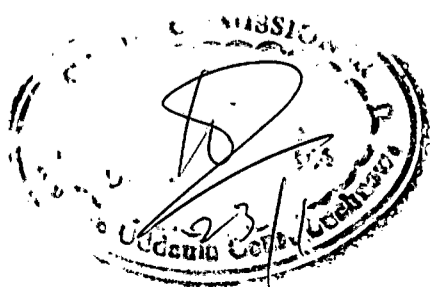
Handwritten signature

21. That the Contents of para 17 of the Counter Affidavit are wholly incorrect and are emphatically denied and the contents of para 6 (q)(1) to (x) of the application are re-iterated.

Making no enquiry on the point of forged signatures of Sri Negi clearly substantiate the submission of the deponent made in para 6 (q)(1) ^{of the application} that there are forged signatures. In case this Hon'ble Tribunal is pleased to summon the register and ~~and call upon Sri Negi~~ get the enquiries made by Hand Writing Expert the position will be very clear. Submissions made in para 6 (q)(ii) to (vi) of the application relate to issue of books without obtaining signatures. This position will be clear from the perusal of the relevant registers whether the column for the receipt of the books are still blank or real/forged signatures have been obtained after pointing out the mistakes by the deponent.

Submissions made in para 6 (q)(vii) relate to books valued Rs. 432.96 named BSI 9765, AMD 3437, and AMD 3796 purchased under C.R.E's. letter No. RTO(L)/280/8/Adm, dated 10.7.85 from Book supply Bureau, Delhi. Neither RV/IV was prepared nor these books are available in the library. In case this Hon'ble Tribunal summons and peruse the RV/IV, relevant records, stock register and books, it will be substantiated that these books are missing and the statement of respondents are evasive and wholly wrong. Moreover auditors are not supposed to make physical verification of stores. Photostat copy of the letter of supplier showing that the books were purchased is filed herewith as Annexure R-V of this Rejoinder Affidavit. The book mentioned in para 6 (q)(viii) of the application is the book which was received in Gift. It was not entered in stock register. It cannot

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be possible for any body or audit agency to detect the shortage unless the book and the relevant papers are available to it. As regards para 6 (q) (ix) and (X) it is submitted that ledger register of books from T-1 to T-23 were not available and ledger register of other books were not prepared on prescribed form nor these were complete. It is wrong to allege that the deponent was given the charge of library. Answering respondent has clearly admitted in para 14 of the Counter Affidavit that the duty of deponent's superior was to maintain the library. Besides the charge of library was never given to the deponent nor any book was issued to any person without specific orders of superiors.

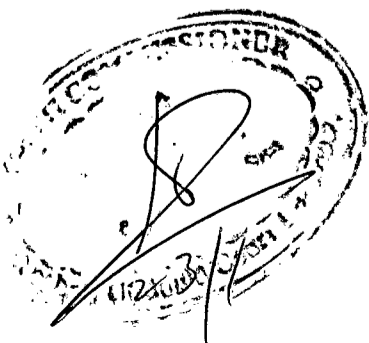
22. That the contents of para 18 of the Counter Affidavit are denied and contents of para 6 (q) (xi) ^{of the application ✓} are re-iterated. If this Hon'ble Tribunal direct respondents to produce ^{relating to serial No. 302 and 303 of Annexure R-3 ✓} the External Despatch Register and peruse it the assertion of the deponent contained in para 6 (q) (xi) of the application will be substantiated.
23. That the contents of para 19 of the Counter Affidavit are not correct and are denied. Contents of para 6 (q) (xii) [✓] of the application are re-iterated. It is also asserted that during the guarantee period the responsibility to remove the defects lies with the supplier who is supposed to remove the defects free of charge. Obviously Government of India's order quoted in the Counter Affidavit, does not authorise to incur expenditure on repair of goods during the guarantee period. The assertion made in the last sentence of Counter Affidavit implies that respondents have committed serious irregularities by incurring expenditure on repairs within guarantee period.





24. That the contents of para 20 are denied emphatically. Prejudice, illwill and malice of respondents against the deponent stands substantiated by the facts mentioned in the application and Rejoinder Affidavit.
25. That contents of para 21 of the Counter Affidavit as stated are not admitted, and the contents of para 6(10) ^{of the application} re-iterated. It is also asserted that no oral warning whatsoever was given to the Deponent. The written warning referred to in this para was served only 9 days before the expiry of first year's probation period. It is also stated that the technical duties have never been defined as will be clear from the contents of para 12 of the Counter-Affidavit. The deponent's representation did not relate only to expunction of Warnings, Adverse remarks, but also its ^{contained} combined ^{3/2} a request for transfer of deponent from Lucknow to Kanpur lab., as well as for allowing the pay admissible to S.S.A. and only Scientific Adviser to Raksha Mantri was competent to take a decision on the said two matters but the respondents got the representation rejected by an officer of lower rank maliciously and that authority was not competent to pass any order on the deponent's request for transfer from Lucknow to Kanpur lab., and allowing the pay of S.S.A. The rejection of representation being beyond jurisdiction of the so-called competent authority is invalid. Even the copy of the order was not given to deponent.
26. That the contents of para 22 are emphatically denied and averments made in para 6 (11) of the application are re-iterated. It is also submitted that ^{this} the para of the Counter Affidavit does not cover categorical

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reply regarding giving of the impugned Adverse entry in utter disregard of standing orders of Government of India on the subject. Therefore it implies that respondents have admitted that the adverse entry in question has been recorded in contravention of the orders of Government of India and on that ground also the said adverse entry is liable to be declared null and void as if no adverse entry has been given to the deponent.

27. That the contents of para 23 of the Counter Affidavit are not admitted as stated, and the contents of para 6 (12) of the application are re-iterated. The perusal of assessment report and adverse remarks recorded in A.C.R. of the same period reveals, that there is apparent inconsistency in these two reports in the sense that in A.C.R. it has been stated that deponent has adequate technical capability required for the job while in assessment report it has been stated that deponent has some capability for technical duties. This shows that the assessment report does not represent the correct assessment of work of the deponent and the same is based on the prejudice, illwill and malice of respondent No. 2 to 5 against the deponent.

28. That in reply to para 24 of the Counter Affidavit, it is stated that respondent No. 3 maliciously rejected the deponent's representation against the impugned assessment report and Adverse remarks in A.C.R. as he was not competent to pass any order thereon himself and it was incumbent on his part to forward that representation along with his parawise comments to the next higher authority who was the competent authority to pass orders on the representation. The order passed

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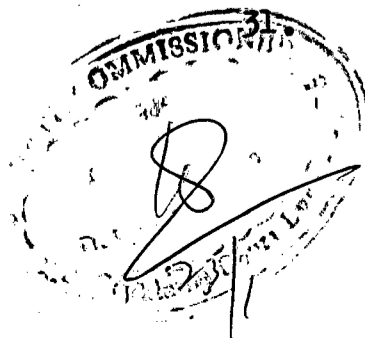
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by Respondent Nos. ^{2 and} 3 rejecting the representation being beyond jurisdiction is nullity in the eyes of law.

29. That the contents of para 25 of the Counter Affidavit are not admitted, and the contents of para 5 (15) are re-iterated. It is also stated that the warning in question was issued to the deponent without giving an opportunity of being heard which was in violation of principle of natural justice and as such it is unsustainable in the eyes of law. The representation of the deponent against the warning was rejected there was no evidence in support thereof and respondent Nos. ^{2 and} 3 had in fact did not record the evidence of the staff ~~fixt~~ and rejected the representation on no concrete grounds. The rejection of Deponent's representation is illegal on this ground also.

30. That the contents of para 26 of the Counter Affidavit as stated are not admitted and the submission made in para 6 (16) of the application are reiterated. It is also stated that respondents have avoided to deny deny the allegations that D.P.C. was not consulted for extending deponent's probation period and as such the assertions made in para 6 (16) of the application stand admitted by respondents. This implies that the order extending period of probation is invalid and the deponent will be deemed to have completed the probation period satisfactorily and therefore he will be treated to have acquired substantive/permanent status on the post held by him.

That the contents of para 27 of the Counter Affidavit are emphatically denied and ~~assert~~ assertions made in para 6 (17) of the application are re-asserted. It will



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be seen that this para does not cover fully the assertions made in para 6 (17) of the application, and their reply being evasive, it will be deemed that such assertions, having not been categorically denied, ~~these assertions~~ will be deemed to have been admitted by respondents. It is also asserted that the deponent was not assigned any administrative work as will be evident from the list of duties, the details of which are mentioned in para 6 (5 to 8) of the application. The deponent was given letter No. RTO(L)/227/3/Adm, dated 3.12.85 addressed to C.M.O. of C.G.H.S., Lucknow directing the deponent to get himself medically examined, who returned the letter with the remark that C.M.O. of State Government Hospital is competent to examine and report fitness of class III employees (male) of Central Government employees. On 6.12.85 another letter No. RTO(L)/227/Adm dated 6.12.85 addressed to C.M.O. Civil Hospital, Lucknow was given by respondent no. 4 to the deponent directing him to appear before that authority for medical examination. The deponent contacted the Civil Hospital Authorities, Lucknow, ^{where he was sent} ~~who~~ told that no such officer is posted in that hospital. Then on 11.12.85 respondent No. 4 gave another letter dated 11.6.85 addressed to C.M.O. Lucknow to the deponent directing him to appear before that authority for medical examination. On 12.12.85, the deponent appeared before C.M.O. Lucknow to examine and hand over his letter to deponent, who examined the deponent on 12.12.85 and gave the fitness certificate, which was immediately given to respondent No. 4 by the deponent. It will be seen that there is no fault on the part of the deponent in the delay in Medical examination as it was due to



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respondent No. 4 himself who took 9 days in obtaining the medical fitness certificate but he has wrongly stated in the adverse remarks that deponent took 20 days in obtaining the said medical certificate. In fact the delay was caused due to ignorance of respondent No. 4 regarding competent authority to grant the requisite Fitness Certificate. These facts clearly show that the adverse remarks in question are against the facts and it shows the tainted mind and prejudice of respondent No. 4 against the deponent. The impugned adverse entry on the basis of which the services of deponent have been terminated being factually incorrect and out-come of prejudice of respondents, deserves to be declared as null and void.

32. That the contents of para 28 of the Counter Affidavit are not admitted as stated and the contents of para 6 (18) of the application are re-asserted. It is also stated that candidates having passed Middle School/ Class VIII or Army I Class examination were to be given preference for that course. This shows that the persons of lowest qualifications were eligible for the said training. Obviously persons possessing such lowest qualifications cannot hold Class III posts. This proves that this course was meant for class IV employee and deponent was obviously deputed for the course to harass him with the clear intention that deponent was bound to fail in this course and that will form a suitable adverse material against the deponent to terminate his services. The deponent did not belong to the class of the staff to whom the said course was meant. Respondents have evaded to reply on this point. Therefore it implied that they



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have admitted that deponent does not belong to the class of staff for whom the course was meant. It is also stated that the persons to be deputed to Fire Fighting Course should have a certificate of being physically fit for full fire fighting duties involving heavy physical efforts (Strenuous efforts) but the deponent was asked to obtain a general fitness certificate. This was deliberately done so that deponent may suffer physical injuries while pursuing the course which entailed risky exercise.

33. That the contents of para 29 of the Counter Affidavit are not admitted as stated and the contents of para 6 (19) of the application are re-asserted. It is also also stated that the averments made in the last para of the Counter Affidavit are irrelevant in this context and are emphatically denied.

34. That the contents of para 30 as stated are not admitted and the contents of para 6 (20) ^{of the application} are re-asserted. It is also also stated that deponent had already given pre-receipted receipts separately for each month to Sri K.D. Viyas Scientist B.

35. That in reply to para 31 of the Counter Affidavit it is stated that it is evident from which has been stated by Respondents in this para that the T.A. Bill of the deponent was deliberately misplaced mala fide to harass the deponent. It is also stated that respondents did not take any action against the person responsible for misplacing the bill which shows that respondents got the T.A. Bill deliberately misplaced with the intention of causing financial hardship to the deponent.

That the contents of para 32 of the Counter Affidavit

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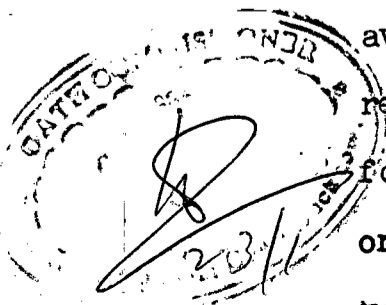
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are misconceived and are emphatically denied and the contents of para 6 (22) of the application are re-asserted. It is also pointed out that the ground adduced by respondents^{is} that no warning was given after 26.2.86 because the deponent had made a representation on 29.4.86 to higher authority against the adverse entries etc., of 1984 and 1985. Obviously this ground is fully misconceived and baseless, as the warning for the period commencing from January 86, could not have proved prejudicial because the said representation relates to ^{entries in} ~~entries~~ of 1984 and 1985 only.

37. That the contents of para 33 of the Counter Affidavit are emphatically denied and the contents of para 6 (23) are re-asserted. The facts mentioned in preceding paras of this rejoinder affidavit and in the application clearly show that respondents were highly prejudiced against the deponent.
38. That the contents of para 34 are denied and the assertions made in para 6 (24) of the application are re-asserted. It is further stated that answering respondent has himself stated in Annexure III of the application that the deponent has adequate technical capability and he may be entrusted with practical work which is available in other units of the Department and as such the services of the deponent ought to have been recommended for transfer to such units where his capabilities could have been utilized best. The deponent had made a written request for transferring him to Kanpur where practical work of technical nature is available, but instead of acceding to this legitimate request and forwarding the case to higher authorities for orders, respondent No. 4 himself did not seek the orders of competent authority in the matter and he

~~himself decided~~

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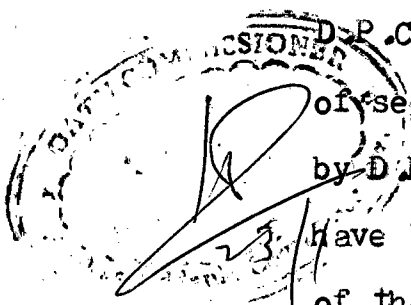


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himself decided that no useful purpose will be served by transferring the deponent else where. This decision of respondent No. 3 & 4 being beyond jurisdiction and also smacks of definite malafide against the applicant.

39. That in reply to para 35 of the Counter Affidavit it is stated that it was obligatory on the part of respondent No. 3 & 4 to have made available the copy of the order by which the co called Competent Authority rejected the representation so that the deponent may come to know the grounds on which his representation was rejected to enable him to seek his remedy more effectively. The contents of para 6 (25) of application are also re-asserted.
40. That in reply to para 36 of the Counter Affidavit it is stated that the termination of services of deponent was made under rule 5 (1) Central Civil Services (Temporary Service) Rules was illegal. In fact his services should have been terminated according to the terms of appointment order. The termination of services as well as extension of probation period are illegal as it was mandatory to obtain the concurrence of D.P.C. before extending the probation period and as such all subsequent actions including the termination of services have been rendered invalid and not enforceable in the eyes of law and the deponent shall be deemed to have acquired substantive status on the post on expiry of probation period on 19.11.85. It is also stated that O.P. No. 4 who participated in the meeting of D.P.C. which met on 1986 on the eve. of termination of services of the deponent. Thus the advice tendered by D.P.C. being biased was also illegal and should not have been acted upon for the termination of the services of the deponent. Moreover, the deponent was denied



Subramanian

the opportunity of personal hearing by D.P.C. as prayed for by the deponent in his application (Annexure R-II)

41. That the contents of paras 37 to 41 of the Counter Affidavit are not admitted as stated and the averments made in para 6 (27 to 34) and paras 7 and 8 of the application are re-asserted. It is also re-asserted that the award of written warnings, adverse entries in A.C.R., adverse remarks in assessment reports, extension of probation period and termination of services of deponent, and rejection of representation are based on the malice, prejudice and ill will of respondent Nos. 2 to 5 deserves to be declared as null and void and all the reliefs claimed in the application deserves to be allowed together with the cost of the the application along with the pay for the post of S.S.A. and declaration that the deponent has acquired permanent status on 19.11.85.
42. That the contents of para 42 of the Counter Affidavit need no reply as ~~respondents~~ respondents have admitted the contents of paras 9 to 13 of the application.
43. That the Annexures R-1 to +R-V are true copies of the originals .

23.1.87

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Deponent

Verification

I, the above named deponent do hereby verify that the contents of paras 1, 2, 4 to 8, 10, 12 to 19, 21 to 25, 27 to 29, 32 to 43 and parts of paras 3, 7, 9, 11, 30, 31 are true to my personal knowledge and belief and those of part of paras 3, 9, 11, 30, 31 and paras 5 & 26 of this rejoinder affidavit are based on legal advice, which I believe to be true. No part of it is false. So help me God.

Signed and verified today at Collectorate Compound, Lucknow.

23.1.87

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Deponent.

In the Central Administrative Tribunal,
Additional Bench, Allahabad

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16/90

Application No. 672 of 1986

Amresh Kumar Shukla - - - - - Applicant

Versus

Union of India & others - - - - - Respondents

Annexure - R-1

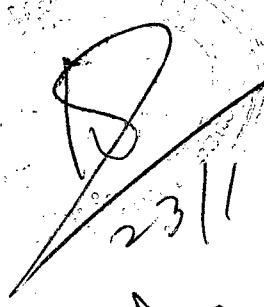
T/67 dated August 13, STOP From CRE (Aircraft) To
Sri S. N. Gupta, Stop.

Ref. your letter RTO(L)/224/3/2/Adm dated 28 July. STOP

DPC III meeting Convened on 25 Aug. 86 to Consider Sri
Shukla's case at RTO (Aircraft) Bangalore. STOP.

Please attend meeting personally.

13-8-86


23/11
2nd floor

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Application No. 672 of 1986

SECRET

23/11 3rd yr BSc 2nd Sem

577	S.C.D.A. Funds & C. Account can't find office Army LEO Area Account	26/6/85 Exterior statement of 6.11 of No. 4 558109m 70m. Bail samples 1.0.0. correction of	6/11/85 25/9/85	250 Sunt 14, 126	End
578	min. def. R30 org. M. R3-28 N. Balli 110011	Provision of admin. Tech. and Resid. in accomoda. N. by OC R3 CRE ESTT. at LEO	235/11 Bdu 24/6/85	-50	End
579	Area Sects. Office, C.D.A. CC. + LKO cant.	Office order P+I 9800.6/R70/staff/05 24/6/85		*50 Sunt with 126	End
580	C.C.D.A.C.C. Mergt cant.	Do		-50	End
581	LAO-I LKO cant.	Do		-50	End
582	Dir. of 2000. R30 org. serva blow N. Balli	Do		200 0=50	End
583	- Dir. - R30 org. serva N. Balli - New Balli R.D.-32	Do		-50	End
584	SO to CC(V) New Balli N. Min. def. serva blower	Do		-50	End
585	Min. def. serva R30 org. N. Pans-3 New Balli 110011	Quarterly strength return for the period ending 31-3-85	27/6/85 22/1/1/85 27/6/85	66=50	End

2000
1/1/85
1/1/85

Annexure - R-4

[illegible]

11 Feb

16/5/25

In the Central Administrative Tribunal,
Addl Bench, Allahabad

Application No. 672 of 1986

Amresh Kumar Shukla Versus Union of India & others

Annexure-R-5

PACKING SLIP

PAGE 1

BOOK SUPPLY BUREAU

HEAD OFFICE: D 44 SOUTH EXTENSION 1, NEW DELHI 110049.
PHONE: 611991

GRAM: STANDBOOK

CHIEF RESIDENT ENGINEER
DIR. OF AERONAUTICS-R&D ORGN. (MIN. OF DEFENCE)
POST BAG NO. 2 HAL POST OFFICE
LUCKNOW 226 013

INV. NO. 6466
DATE 23.07.85
PARTY CODE 437

YOUR REF.: RTO(L)/280/B/Adm

DT. 10.07.85

QTY.	PARTICULARS	CODE	UT.	PRICE	RS.	P.
1	BSI 9765	1978	PD.	16.20	265.68	
1	AMD 3437		PD.	7.00	114.80	
1	AMD 3797		PD.	3.20	52.48	
TOTAL AMOUNT					432.96	

CONVERSION RATES
RS. 16.40 TO A POUND. (PD.)

CERTIFIED THAT CORRECT PRICES AS PER ANSI/BSI/IEC/ISO/DIN
CATALOGUE HAVE BEEN CHARGED.

CERTIFIED THAT THESE ARE ANSI/BSI/IEC/ISO/DIN SPECIFICATIONS
AND AS SUCH NO DISCOUNT CAN BE OFFERED.

CERTIFIED THAT THE STANDARDS SUPPLIED
ABOVE ARE ALL OF LATEST EDITIONS.

PRERECEIPTED
PAYMENT AGAINST THIS BILL
HAS BEEN RECEIVED IN FULL.

[Handwritten signature and date 23/11]

(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH ALLAHABAD,
CIRCUIT BENCH, LUCKNOW.

Application No. 672/86

Amresh Kumar Shukla Versus Union of India & others

Supplementary Rejoinder Affidavit of Sri Amresh
Kumar Shukla aged 35 years S/o. Sri Ram Gopal
Shukla R/o. Cooks Compound, Ghasiari Mandi, Lucknow.

The above named deponent, Amresh Kumar Shukla,
solemnly affirms and states as under :-

1. That the deponent is the applicant in the above noted application and is fully acquainted with the facts of the case as deposed to below.
2. That on the basis of certain new facts which have come to light after perusing the copies of some documents furnished by Respondents in compliance with the orders of this Hon'ble Tribunal, it has become necessary in the interest of justice to file a Supplementary Rejoinder Affidavit by the applicant in support of his case, which may be read in evidence and kept as part of the records of the case.
- 3(a) That a perusal of photo stat copies of three duty orders furnished by Respondents will show that no item of work was allotted to the deponent for a period of about three months in the probation period of first year. For the first time some items of works which are of purely clerical nature were given to the deponent in addition to technical duties under order No. 1/84 of 6.2.84. under Order No. 1/85 of 27.6.85 some more items of works of clerical nature were given in addition to technical duties. In order No. 2/85 dated 3.10.85, the deponent was put in a very awkward position as he was made direct subordinate to all the officers superior

Contd ... 2

in rank in office, who used to take work from the deponent directly at one and the same time. Obviously it was not possible to keep satisfied all the superiors who insisted simultaneously to comply with the orders on priority basis. Photo stat copies of these orders are filed herewith as Annexure ASRA I, II & III of this affidavit.

- (b) The above three orders also clearly show that the technical duties for which the deponent was recruited were never defined and specifically allotted. The items of works given to the deponent were of clerical nature which did not fall under the duties of either J.S.A. Grade I or S.S.A. Charge of registry, supervision of despatch, making entries in Despatch Register, Keeping of records of magazines and charge of library were given to the deponent according to averments made in paras 16, 17 and 18 of Counter Affidavit and para 19 of Supplementary Counter Affidavit of Respondents, but these items of works are not mentioned in any of the above three orders.
- (c) The adverse remarks awarded to deponent pertaining to technical duties which were never defined and specifically allotted, items of such works which do not come under the duties of J.S.A. Grade I/S.S.A. and items of work which were never given, being baseless as well as malicious, deserve to be declared as null and void.

4. That photo stat copies of three letters dated 3.12.85, 6.12.85 and 11.12.85 furnished by Respondents relating to obtaining medical fitness certificate and fitness certificate dated 12.12.85, show that letter dated 3.12.85 was addressed to C.M.O. of C.G.H.S. Lucknow who replied that he is not competent to give fitness certificate and letter dated 6.12.85 was addressed to C.M.O. of Civil,

Hospital, Lucknow but this letter was returned on the ground that there was no such post in Civil Hospital. Letter dated 11-12-85 was sent to C.M.O., Lucknow who gave the fitness certificate on 12-12-85. These facts clearly show that fitness certificate was obtained in one day. This shows that Respondents did not know who was competent authority for issuing fitness certificate and they sent the deponent to incompetent authorities on several dates and wasted Government money in the shape of Conveyance Allowance etc. The remarks given in A.C.R. of 1985 (Annexure IX of application) to the effect that deponent took nearly 20 days in obtaining medical fitness certificate are wholly baseless and it shows utter prejudice against the deponent. Photo stat copies of aforesaid three letters and fitness certificate are filed herewith as Annexure ASRA IV to VII of this affidavit.

5. That photo stat copy of the entries of ledger register from T-1 to T-23 given to deponent shows that when the deponent pointed out the incompleteness of records these entries which relate to 1973 to 1975 were completed by Sri S. Ramesh, the immediate superior, Reporting Officer of the deponent in his own handwriting who joined the office of Respondent No. 3 in 1982/83. As such it is fully proved that the entries were made atleast after a period of about 10 years. A photo stat copy of these entries of the ledger register is filed herewith as Annexure No. ASRA VIII of this affidavit.

That Sri P.C. Joshi Respondent No. 2 was C.R.E. and head of office from the beginning of the deponent's service till 2.7.86. All the warnings, adverse remarks which are at Annexure II, III, IV, V, VII, VIII and IX of the application, were issued either under his signatures

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A

(4)

or on his behalf by Sri S.N. Gupta, Respondent No. 4.

Sri Joshi, Respondent No. 2 has said in his letter dated 12-12-86 that he has not been party to the action taken against the deponent except in the routine administrative manner as head of establishment. The matter may be heard and decided in favour or against the deponent and he does not consider himself as interested party in the case.

This letter clearly shows that he (Respondent No. 2) has been associated with the issue of warnings and adverse remarks only in a routine manner and he did not apply his mind in the issue of warnings and adverse remarks etc. and set his seal of approval in the routine manner in the entries maliciously proposed by Reporting and Reviewing Officer.

7. That the deponent was appointed on a probation for two years as specifically mentioned in Annexure I of the application, in which there is no provision for extension of period of probation. Therefore the order of extension of period of probation (Annexure VIII of the application) is beyond jurisdiction.
8. That the deponent was appointed against vacancy of S.S.A. as admitted by Respondents in para 9 of the Counter Affidavit, in C.R.E. office of Research & Development Organisation Aeronautical Development Establishment of Ministry of Defence where there are many posts of S.S.As. Respondents have not been able to prove that there was a vacancy of J.S.A. Grade I against which the deponent was appointed. Guide Lines, if any, for filling the vacancy of S.S.A. by J.S.A. Grade I is discriminatory within the meaning of Article 14 and 16 of the Constitution in the sense that the holders of some of them have been allowed the pay of S.S.A. and some the pay

Contd ... 5

[Handwritten signature]

11/6

(5)

of J.S.A. Grade I though all of them have performed the functions of S.S.A. Thus it amounts to denial of equal pay for equal work. The deponent is entitled to get the pay etc. of S.S.A. for the entire period.

Dated : 12/10/88

Amresh Kumar Shukla
DEPONENT

VERIFICATION

I, the above named deponent, Amresh Kumar Shukla, do hereby verify that the contents of this affidavit are correct to my personal knowledge and are believed to be correct. Nothing material has been concealed. So help me God.

Verified today at Lucknow.

Amresh Kumar Shukla
DEPONENT

Dated : 12/10/88

11-30/11/88
C. 3/11/88
Amresh Kumar Shukla
In Reg. Shukla
Advocate

I know & Amresh Kumar Shukla
deponent personally who has signed
before me.

R. C. Shukla
Advocate
12/10/88

12/10/88

The following distribution of work for the staff members of this office will come into force with immediate effect.

SHRI S.N. SINGH, STENO-CDE-II

- i) All admin files from 200/Adm to 279/Adm & work related these files.
- ii) Service Book of officers & Staff.
- iii) To maintain the MT Ledger & Records.
- iv) To maintain the Draft DO Pt II register.
- v) To maintain the RV/IV Control Register.
- vi) All returns pertaining to the file admin.
- vii) To maintain the Leave Records of officers & Staff.
- viii) To maintain the Inward Register.
- ix) General Upkeep of office.
- x) To maintain the Expendable and Non expendable register.
- xi) To maintain the Railway Warrant Register.
- xii) To maintain the furniture Register.
- xiii) To maintain the MC Notes Register.
- xiv) To maintain the Service Book Register.

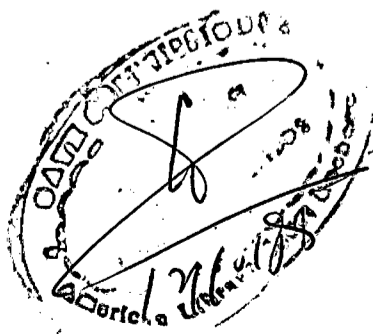
SHRI AMRESH KUMAR SHUKLA, JSA-I

- i) To maintain the file from 280/Adm to 282/Adm onwards.
- ii) To maintain the Library Register.
- iii) To maintain the RV/IV connecting with Library.

The above duties will be performed in addition to his technical duties.

SHRI S.S. NEGI, STENOGRAPHER-III

- i) All accounts files from 1/Accts to 199/Accts.
- ii) To prepare the Pay Bill of officers & Staff.
- iii) To prepare the TA/DA claim in r/o officers & Staff.
- iv) To maintain the despatch Register.
- v) To maintain the Bicycle Register.
- vi) To prepare the RV/IV connecting with accounts file.
- vii) CGHS Control Register.



ESTABLISHMENT ORDER 1/85 BY CRE

The following distribution of work for the staff members of this office will come into force with immediate effect.

SHRI S.N. SINGH, STENO-GDE II

- 20/6/88
- i) All admin files from 200/Adm to 279/Adm & work related these files.
 - ii) Service book of officers & staff.
 - iii) To maintain the MT ledger & records.
 - iv) To maintain the MT ledger & Records.
 - v) To maintain the Draft DO Pt II register.
 - vi) All returns pertaining the admin files.
 - vii) To maintain the leave records of officer & Staff.
 - viii) General upkeep of office.
 - ix) To maintain the ledgers connecting with stores.
 - x) To maintain the Railway Warrant, Form 'D' etc.,
 - xi) To maintain the furniture, Bicycle & CGHS register.
 - xii) To maintain the PC Notes register.
 - xiii) To maintain the Issue voucher and Expense voucher.
 - xiv) Any other works assigned from time to time.

SHRI AMRESH KUMAR SHUKLA, JSA GDE I

- 31/20/6/88
- i) To maintain the file from 280/Adm onwards.
 - ii) To maintain the library and connecting documents.
 - iii) To maintain the Type Approval Register.
 - iv) To maintain the Local Modification Register.
 - v) To maintain the Production permit/concession register.
 - vi) To prepare the contingent bill, RV/IV connecting the library.

The above duties will be performed in addition to his technical duties.

SHRI S.S. NEGI, STENOGRAPHER GDE III

- 20/6/88
- i) All accounts file from 1/Accts to 199/Accts.
 - ii) To prepare the paybill of Officers & Staff.
 - iii) To prepare the TA/DA claim in r/o officers & staff.
 - iv) To maintain the Inwards register.
 - v) All return pertaining to Accounts file.
 - vi) To prepare the RV and maintaining of RV folder and register
 - vii) To prepare the contingent bill.
 - viii) To maintain the Budgetary control register.
 - ix) Any other works assigned from time to time.

SHRI RAVI SHANKER, LDC

- 20/6/88
- i) To maintain the technical file from 300/tech to onwards.
 - ii) To maintain the despatch register.
 - iii) To type out the letters pertaining to library.
 - IV) Any other works assigned from time to time.
- 17/10/88

Before Central Administrative Tribunal Addl Bench Allahabad
Civil Bench Lucknow
Amresh Kumar Shukla - v/s Union of India
Annexure No. ASRA-III

ESTABLISHMENT ORDER 2/85 BY CRE

Further to Establishment order 1/85 dated 27.6.85,
add the following, under the duties of Shri Amresh Kumar Shukla,
after clause (vi):

"(vii) under special/emergent circumstances he will also
carry out duties assigned by any officer of the
establishment, superior in rank and on completion of the ta
task, he will give details of such tasks to his direct
superior officer".

Dated 3 Oct '85
Lucknow

(प्र. च. जोशी, ग्रुप कप्तन, मुख्य जावासिक अभियन्ता
(P. C. JOSHI), Gp. Capt; Chief Resident Engineer
ईम ० निदेश, रक्षा मंत्रालय, एच.ए.एस. परिक्षण,
Dir. of Aero; Min. of Defence, HAL Premises, Lucknow

31/10/85
[Signature]

[Circular Stamp: 31/10/85]
[Signature]

Before Central Administrative Tribunal Addl Bench Allahabad
Circuit Bench Lucknow
Amresh Kumar Shukla - vs Union of India & others
Annexure No. ASRA-10

Gram: RESTECHOFF
Tela
Phone: 73374

Resident Technical Office,
Directorate of Aeronautics,
R&D Orgn. Min. of Def.,
Post Bag No 2,
HAL Post Office,
LUCKNOW-226016

N RTO(L)/227/3/Adm

3 Dec '85

To

Chief Medical Officer,
C.G.H.S.,
9, Rana Pratap Marg,
LUCKNOW

Sub: MEDICAL FITNESS CERTIFICATE IN RESPECT OF
SHRI A.K. SHUKLA

Dear Sir,

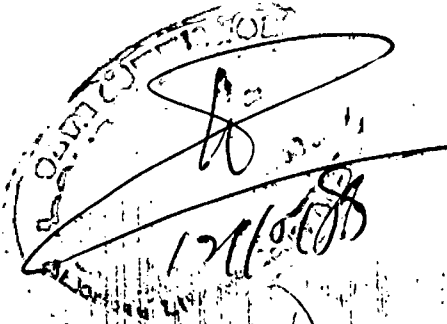
Shri A.K. Shukla, employed in this office as Junior Scientific Assistant Gde I is required to be medically examined. It is requested that he may be medically examined and, if found fit, he may be issued Medical Fitness Certificate. It may also be confirmed that Shri A.K. Shukla is protected against Small-Pox and Typhoid.

Yours faithfully,

Copy to:

(P.C. JOSHI) GP. CAPT.
CHIEF RESIDENT ENGINEER

Shri A.K. Shukla, JSA-I

min file


R. I. O

no in his remarks that no such medical examination is done for class II candidate (male) under c. a. 115.
It is advised that This can may be directed to C. M. O. State Govt Hospital who is competent for medical

Ta

Thm C. R. U.

5/12/85
Chief Resident Engineer

Central Government

3/12/85


Gram: RESTECHOFF
Tele:
Phone: 75357

Resident Technical Office,
Directorate of Aeronautics,
R&D Orgn. Min. of Def.,
Post Bag No 2,
HAL Post Office,
LUCKNOW-226016
p2

No RTO(L)/227/3/Adm

Dec '85

To

Chief Medical Officer,
Civil Hospital,
Hazratganj,
LUCKNOW

Sub: MEDICAL FITNESS CERTIFICATE IN RESPECT OF
SHRI A.K. SHUKLA

Dear Sir,

1. Shri A.K. Shukla, whose specimen signatures are appended below, is employed in this office. He is required to be Medical examination. It has been intimated by CMO, CGHS, that the competent authority in this regard is CMO, State Govt. Hospital. It is therefore requested that the official be medically examined and, if found fit, may kindly be issued with the Medical Fitness Certificate. It may also kindly be confirmed that Shri A.K. Shukla, has been protected against Small-Pox and Typhoid.

2. As the matter is of urgent nature, action may kindly be taken immediately.

Yours faithfully,

(S.N. GUPTA)
SCIENTIST'D'
for CHIEF RESIDENT ENGINEER

Copy to:

1. Shri A.K. Shukla, JSA gde I- You are required to produce the medical fitness certificate at your earliest.
2. C.M.O.
CGHS, 9 Rana Pratap Marg,
Lucknow - This has reference remarks your office has written on the office copy of our letter even No dt. 03 Dec '85.



To : G.O. : 12/10/88
Phone : 75357

Assistant Technical Officer
Directorate of Aeronautics
Gen. G.O. : 12/10/88
HAL Post Office
LUCKNOW - 226016

No. : 12/10/227/3/ASRA

Dated : 11 Dec '88

To

The Chief Medical Officer,
Lucknow (C.M.O.)

Sub : MEDICAL EXAMINATION OF SHRI A.K. SHUKLA
OF CIVIL AIR SERVICE

Dear Sir,

1. Shri A.K. Shukla, whose specimen signatures are appended below, is employed in this office. He is required to get medical examination. It has been intimated by CMO, CGHS, that the competent authority in this regard is CMO, State Govt. Hospital. It is, therefore, requested that the official be medically examined and, if found fit, may kindly be issued with the Medical Fitness Certificate. It may also kindly be confirmed that Shri A.K. Shukla, has been protected against Small-Pox and Typhoid.

2. As the matter is of urgent nature, action may kindly be taken immediately.

[Signature]

[Signature]

[Signature]

Yours faithfully,

[Signature]

(S. K. SINGH) ASSISTANT TO

OFFICE ASSISTANT

Copy to :

1. Shri A.K. Shukla, J. 1-1 : You are responsible to get yourself medically examined from the competent authority, where ever it might be. If the fees for the medical certificate is to be paid, the same will be reimbursed on production of necessary receipt. You will report for duty only after producing medical certificate of fitness or otherwise.

[Signature]
12/10/88

C.M.O., CGHS, 9 A Lane
Pratap Marg, Lucknow

This has reference to the copy of our letter even No. dt. 03. Dec '88.

[Signature]

CERTIFICATE OF FITNESS FOR GOVERNMENT SERVICE
(See Rule 10 of Fundamental Rules)

I do hereby certify that I have examined Amresh Kumar Shukla
a candidate for the appointment in the Director Accounts, R.D. Org.
department and can not discover that he/she has any disease
constitutional weakness or bodily infirmity except

Amresh Kumar Shukla No. 11/12

I do not consider this a disqualification for
employment in the above department. The candidate's age
according to his /her own statement is 32 years
and by appearance 32 years.

LUCKNOW
DATED

12/12/01

Signature of the
Attending Medical Officer

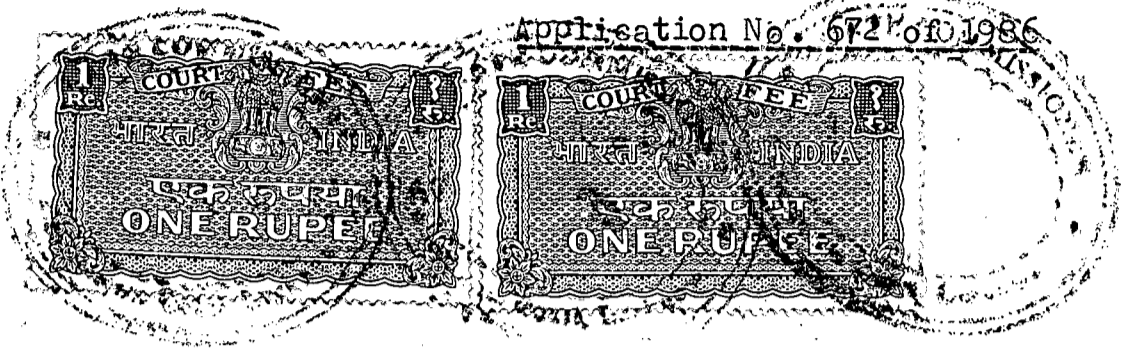
CHIEF MEDICAL OFFICER,
LUCKNOW.

Mr. Black, CHIEF MEDICAL OFFICER,
LUCKNOW.

Amresh Kumar Shukla

12/10/88

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH,
ALLAHABAD



Amresh Kumar Shukla

.....

Applicant

Versus

Union of India and others

Respondents

Fixed on 20.5.87 for hearing

Supplementary Rejoinder-Affidavit of the above-named applicant in reply to Supplementary Counter-Affidavit filed by Sri S.N. Gupta posted as Chief Resident Engineer, Lucknow.

I, Amresh Kumar Shukla aged about 34 years S/o. Sri Ram Gopal Shukla, resident of Cooks Compound, Ghasiari Mandi, Lucknow, hereby state on oath as under :-

1. That the deponent above-named has read and understood the contents of the said Supplementary Counter Affidavit and is well acquainted with the facts deposed to hereafter.

2. That the para 1 of Supplementary Counter-Affidavit needs no reply.

3. That the contents of para 2 of Supplementary Counter-Affidavit are not admitted as stated. It has not been stated as to what new facts were introduced in the Rejoinder-Affidavit, which necessitated the filing of the Supplementary Counter-Affidavit. Supplementary Counter-Affidavit has been filed to delay un-necessarily the decision on the application. Therefore it should neither be read in evidence nor be kept on record.

Contd 2

4. That para 3 of Supplementary Counter-Affidavit needs no reply.

5. That the contents of para 4 of the Supplementary Counter-Affidavit are denied and the assertions made in para 3 of Rejoinder Affidavit are reiterated. Assertions made in Supplementary Counter-Affidavit and of Counter-Affidavit clearly prove that Counter-Affidavit in respect of Respondent No. 3 only. Therefore the averments made against Respondent Nos. 2 and 5 who have been made party by name due to bearing malice etc., against the applicant remained un-controverted and shall be deemed to have been admitted by them and as such personal allegations made against Respondent No. 4 about etc., remains un-controverted and the presumption of law that the said allegations stand admitted.

6. That the contents of para 5 of Supplementary Rejoinder Affidavit do not cover fully the reply to para 4 of Rejoinder Affidavit and as such it is not relevant. Since the allegation of malice and prejudice made against Respondent No. 5 who has been impleaded as party by name has not been controverted on affidavit by Respondent No. 5, the allegation of malice, ill will and prejudices of Respondent No. 5 against the applicant shall be deemed to have been admitted by him. The contents of para 4 of Rejoinder Affidavit regarding there being nothing adversely commented upon against the applicant after the transfer of Respondent No. 5 are re-iterated.

7. That para 6 of Supplementary Counter-Affidavit does not require any reply.

8. That the contents of para 7 of supplementary Counter-Affidavit are emphatically denied and the submissions made in para 7 of Rejoinder Affidavit are reiterated. As respondents have admitted in para 3 of the Counter-Affidavit that the

applicant was appointed against the vacancy of Senior Scientific Assistant, the applicant is entitled to get the pay and allowances etc., of the post.

9. That the contents of para 8 of the Supplementary Counter-Affidavit are not admitted as stated and the assertions made in para 8 of Rejoinder Affidavit are reiterated. It is also asserted that the assertions of the applicant have not been disproved by Respondents and therefore these assertions will be deemed as proved.

10. That the contents of para 9 of Supplementary Counter-Affidavit are not admitted as stated and the assertions made in para 9 of Rejoinder-Affidavit are reiterated. Respondents have kept mum on all the points except ^{the} point of D.P.C. Hence these points will be deemed to have been admitted by Respondents. As regards D.P.C. it is submitted that D.P.C. Rules are in force since 1976. Supplementary Counter-Affidavit makes it clear that D.P.C. was not consulted before extending the period of probation in August, 1985. Hence the order extending the period of probation is illegal, null and void and the applicant deserves to have automatically acquired permanent status on 19.11.85 i.e., on his post on expiry of probation period.

11. That the Contents of para 10 of Supplementary Counter-Affidavit are denied and the assertions made in para 10 of Rejoinder-Affidavit are re-iterated. As the assertions made in para 10 of Rejoinder-Affidavit have not been disproved by Respondents, these assertions will be deemed to have been admitted by Respondents.

12. That the Contents of para 11 of Supplementary Counter-Affidavit are not admitted as stated and the assertions made in para 11 of Rejoinder Affidavit are reiterated. According

(4)

to supplementary Counter-Affidavit all the C.R.E. of the country whose number is at least 12 are the members of D.P.C., but according to D.P.C. Rules, in case of employees of C & D category, the number of members is restricted to 3 and one of them acts as Chairman. Hence it stands proved that D.P.C. was not properly constituted. Sri S.N. Gupta Respondent No. 4 attended the D.P.C. who has malice, ill will and prejudice against the applicant. On these grounds, the proceedings of D.P.C. as well as the consequential action taken in the matter are illegal.

The applicant had requested vide Annexure R II of Rejoinder Affidavit that he may be given a chance of personal hearing, but neither he was given such chance nor his application has been replied to. D.P.C. Rules clearly provide that normally opportunity of personal hearing will not be allowed but this was a case of allegations of malice of Respondents against the applicant and as such, applicant should have been given opportunity of personal hearing before passing final orders in the said special circumstances of the case. In these rules, there is no categorical prohibition to deny the said opportunity of personal hearing. Hence the said denial amounts to violation of principle of natural justice.

Respondent's ignorance about the instructions of Government of India which have also been published in Central Civil Services (Service) Rules cannot give any benefit to them and the applicant cannot be made to suffer on this account and the assertions will be deemed to have been admitted by Respondents. Other points of Rejoinder Affidavit have not been replied by Respondents. Hence these points shall be deemed to stand admitted by the Respondents.

13. That the contents of para 12 of Supplementary Rejoinder Affidavit need no reply.

Contd 5

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14. That the contents of para 13 of Supplementary Counter Affidavit are emphatically denied and the submissions made in para 14 of the Rejoinder Affidavit are reiterated. Respondents have not been able to disprove the contention of the applicant that he was asked to join without giving appointment order and without being relieved from Jawahar Lal Nehru Polytechnic, Mahmudabad, District Sitapur where the applicant was working. This clearly shows that they were in the habit of not following the rules and acting arbitrarily.

15. That the contents of para 14 of Supplementary Counter-Affidavit are denied and the submission made in para 15 of Rejoinder-Affidavit are reiterated. Respondents have not shown any provision to defer the requirements of prior Character verification and medical examination on the ground of any presumption. These facts clearly show that Rules etc., have no sanctity for them and they act arbitrarily at their whim.

16. That the contents of para 15 of Supplementary Counter-Affidavit are denied and the assertions made in para 16 of Rejoinder Affidavit are reiterated.

17. That the contents of para 16 of Supplementary Counter-Affidavit are not admitted as stated, and the submissions made in para 17 of Rejoinder Affidavit are reiterated. Supplementary Counter-Affidavit settles the controversy that these duties are not of technical nature because it says that these duties can be carried out by any person of average intellegent level. Besides, the perusal of these duties itself show that these duties are of only of clerical nature. It is also asserted that there is no post of P.A. in C.R.E. Office and this fact has not been denied and as such the assignment of clerical work to

Contd 6

3/11/80

the applicant on the analogy of P.A. does not help to establish their stand.

18. That the contents of para 17 and 18 of the Supplementary Counter-Affidavit are emphatically denied and the submissions made in para 18 and 19 of Rejoinder Affidavit are reiterated.

19. That the contents of para 19 of Supplementary Counter-Affidavit are not admitted as stated, and submissions made in para 20 of Rejoinder Affidavit are reiterated. In Counter-Affidavit, Respondents had stated on oath that the applicant was not given the despatch work and work of circulation of magazines as the applicant was only put incharge of registry. When the applicant proved by filing Annexure R III and R IV of Rejoinder-Affidavit that this version of Respondents is wrong and the work of dispatch and circulation of magazines was given to the applicant, Respondents are saying on affidavit in Supplementary Counter-Affidavit that applicant was only making entries in the register of all letters being dispatched and similarly applicant was keeping a record of all magazines etc. A perusal of Annexure R III and R IV will show that the work of dispatch and circulation of magazines was entrusted to the applicant and Respondents are guilty of giving false evidence on affidavit. It is requested that this Hon'ble Tribunal may pass suitable orders. A perusal of the duty list will show that the work of dispatch, circulation of magazines, registry, keeping a record of all the letters dispatched and keeping a record of magazines were not in the duties of applicant. Thus it is clear that applicant was given those items of work which are not in the duty list of the applicant.

20. That the contents of para 20 of Supplementary Counter Affidavit are not admitted as stated, and the submission of para 21 of Rejoinder Affidavit are reiterated. There is no

Contd 7



categorical denial about the submissions made relating to Annexure R-V of Rejoinder Affidavit. Hence these submissions shall be deemed to be admitted by Respondents. Besides, Respondents have not been able to prove by any documentary evidences that the applicant had the charge of library or the applicant issued books without orders. Hence the respondents are guilty of ~~fiving~~ ^{giving} false evidence on affidavit.

21. That the contents of para 21 of Supplementary Counter Affidavit are not admitted as stated and the submissions made in para 22 to 29 of Rejoinder Affidavit are reiterated. A perusal of External Dispatch Register will reveal that Respondents have given the wrong facts on affidavit. Besides Respondents have failed to produce any order authorising them to incur expenditure on repairs of goods during guarantee period. Hence it will be deemed that they have admitted that they have committed serious financial irregularities.

22. That the contents of para 22 of Supplementary Counter Affidavit are emphatically denied and the submissions made in para 30 of Rejoinder Affidavit are reiterated. The Respondents have admitted that D.P.C. was not consulted before extending period of period in August 1985. Consultation with D.P.C. is mandatory since December 1976. As such the order extending the period of probation is illegal and deserves to be quashed and the applicant deserves to be declared to have been confirmed on his post w.e.f. 19.11.85 i.e., on completion of two years probation period.

23. That the contents of para 23 of Supplementary Counter Affidavit are denied and the submissions made in para 31 to 33 of Rejoinder Affidavit are reiterated. Respondents have not been able to contradict the contention of applicant by any documentary evidence. Hence the submission of the applicant will be deemed to have been admitted by Respondents.

Signature



24. That the contents of para 24 of Supplementary Counter-Affidavit are denied and the submissions made in para 34 of Rejoinder-Affidavit are reiterated. Pre-receipts were given to Sri K.D. Vyas, who had prejudice and illwill against the applicant.

25. That the contents of para 25 of supplementary Counter-Affidavit are denied and the submissions made in paras 35 to 38 of Rejoinder Affidavit are reiterated. The amount of T.A. Bill has not yet been paid to the applicant. It is also asserted that in Supplementary Counter Affidavit that para 25 thereof is based on legal advice. In this connection it is stated that all the paras of Rejoinder Affidavit to which para 25 of supplementary Counter-Affidavit relates contain facts and it is not understood how that said para 25 has been stated to be based on legal advice.

26. That the contents of para 26 of Supplementary Counter-Affidavit are not admitted as stated and the assertions made in para 39 of Rejoinder Affidavit are reiterated. As the copy of the order was not given, the applicant was denied opportunity of seeking the aid of law for enforcement of his legal and constitutional rights which have been violated due to illegal acts of Respondents in not supplying a copy of the order by which the representation of applicant was rejected.

27. That the contents of para 27 of Supplementary Counter-Affidavit are denied and the submissions made in para 40 of Rejoinder Affidavit and para 22 of this affidavit are reiterated. It is also asserted that action of the Respondents has been always arbitrary in contravention of Rules etc.

18/10

(9)

28. That the contents of para 28 of Supplementary Counter Affidavit are not admitted as stated and the submission made in para 41 of Rejoinder Affidavit are reiterated. The applicant deserves to get all the reliefs claimed in the application.

Lucknow:

DEPONENT

Dated: 11.5.1987

VERIFICATION

I, the above named deponent do hereby verify that contents of paras 1, 4, 7, 6, 9, 10, 13 to 18, 20, 23, 24, 25, 26, 27, 28 are true to my personal knowledge and belief and paras (last) 19 & 21 are based on record and that of paras (last) 5, 6, 10, 12, 21, 22, 27 & 28 are based on legal advice which I believe to be true. No part of it is false. So help me God.



Handwritten signature

11/5/87

signed and verified today at Collectorate Compound, Lucknow.

DEPONENT

Lucknow:

Dated: 11/5/87

*10 copies to be made
to be signed by T.I. before me
Phone 341 (1981)
11/5/87*



11/5/87

*Amresh Kumar Shukla
R.K. Shukla*

11/5/87

*Adya
11/5/87*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,
ALLAHABAD

Application No. 672 of 1986

Amresh Kumar Shukla ...

Applicant

Versus

Union of India and others ...

Respondents

Rejoinder Affidavit of Amresh Kumar Shukla
aged 34 years son of Sri Ram Gopal Shukla,
resident of Cooks Compound, Ghazipur Mandi,
Lucknow in reply to Counter Affidavit of
Sri S.N. Gupta, C.R.E., against the amendment
application of the applicant.

The abovenamed deponent states on oath as under:-

1. That before submission of parawise reply of the above
noted Counter Affidavit, it is submitted that the
Counter Affidavit has been filed on behalf of Union
of India i.e. Respondent No. 1 by Sri S.N. Gupta.
It is not beyond doubt that Sri S.N. Gupta has not
been authorized to file this affidavit as no such
authority of Union of India has been filed along with
Counter Affidavit. These facts also clearly establish
the malafide, prejudice and illwill of Sri S.N. Gupta
against the applicant. Besides that copy of the Counter
Affidavit given to the applicant does not disclose
the paras which are based on his personal knowledge
and which paras are based on records and which paras
are based on legal advice as the space for writing
the number of paras has ~~xxx~~ been kept blank. Further-
more, this copy of Counter Affidavit does not show
the date on which Sri S.N. Gupta has verified the
contents of this affidavit, the date on which Sri D.S.
Chaubey, Clerk to Sri K.C. Sinha, Advocate has
identified Sri S.N. Gupta and the date on which Oath
Commissioner has satisfied himself that the contents
are understood by deponent.

Contd 2



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Shukla
Clerk to C.C.S.
29/10/87



3rd 25/10/87

2. That the Contents of paras 1 and 2 of the Counter Affidavit do not need any comments.
3. That contents of para 3 of the Counter Affidavit are admitted to the extent that the duties and responsibilities attached to the post of Senior Scientific Assistant are entirely different from that of Junior Scientific Assistant Grade I, and the remaining contents of the said para are emphatically denied and the averments made in para 3 of the amendment application are reiterated.
4. That the contents of para 4 of the Counter Affidavit are emphatically denied and the assertions made in para 4 of the amendment application are reiterated. It is also asserted that the order extending the probation being against the authority of law ~~is~~ is wholly illegal.
5. That para 5 of Counter Affidavit no longer needs any reply as the amendment application has already been allowed.
6. That the contents of para 6 of the Counter Affidavit are emphatically denied and the assertions made in para 6(1) of the application are reiterated.

That the contents of para 7 of the Counter Affidavit are emphatically denied and the assertions made in para 6(2) of the application are reiterated. D.P.C. Rules were enforce from 1976 under which the consultation of D.P.C. is mandatory before extending the period of probation.
8. That in reply to para 8 of Counter Affidavit, it is submitted that the amendment in question has already been allowed by the Hon'ble Tribunal and the prayer contained in this para of Counter Affidavit stands automatically rejected.

Dated:

3/10/87

DEPONENT.

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VERIFICATION

I, Amresh Kumar Shukla, the above named deponent do hereby solemnly affirm and verify that the contents of all the paras of this affidavit are based on personal knowledge which I believe to be true. No part of it is false and nothing material has been concealed. So help me God.

Verified today at Lucknow.

Dated: 3/10/87

Amresh Kumar Shukla
Deponent.

I know *Amresh Kumar Shukla* ^{deponent} personally who has signed before me.

Q. A. Sharma
3/10/87

Amresh Kumar Shukla
Amresh Kumar Shukla
Shukla

3/10/87

A10

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH
ALLAHABAD (CIVIL BENCH, LUCKNOW)

Application No. 672 of 1986

Amresh Kumar Shukla Versus Union of India and others

Applicant's reply against the objection
of Respondents dated 23.11.88.

The applicant most respectfully states as under:-

1. That before furnishing parawise reply to the objection dated 23.11.88 of Respondents, it is submitted that after hearing both the parties on 27.5.88, the Hon'ble Tribunal was pleased to order that the applicant is allowed to inspect the documents mentioned in the application dated 20.5.87 and obtain the extracts thereof. This order is binding on both the parties.
2. That Out of the seven documents mentioned in the afore-said application, the photostat copies of the documents mentioned at Serial No. 1, 5, 6 and 7 have already been given by Respondents but copies of the following documents mentioned at Sl. No. 2, 3 and 4 of the application dated 20.5.87 have not so far been given to the petitioner nor the inspection of these documents have been allowed to be made:-
 - (i) External despatch register relating to the entire period from 14.8.84 to 27.6.86 relating to serial No. 70 to 585 of the register.
 - (ii) File No. RTO (L)/235/ Admn. of the Office of the Respondent No. 3.
 - (iii) Three books (887/9765, AMD 3437 and AMD 3797 mentioned in annexure R-V of Rejoinder Affidavit along with receipt voucher, issue voucher and ledger.
3. That to prove the falsity of the averments made by respondents, the inspection of these records and

Copy has been sent by
Registered post and Registered
Original receipt is affixed
on back the Supplementary
Respondent Affidavit.

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23/11/88



obtaining extracts thereof as already ordered by this Hon'ble Tribunal is very essential in the interest of justice.

4. That the objection filed by the Respondents is non-compliance of the orders of the Hon'ble Tribunal and amounts to contempt of Court.
5. That in reply to para 1 of the objection it is stated that the application dated 26.8.88 was moved praying that as per orders of the Hon'ble Tribunal dated 27.5.88 the Counsel for Respondents be directed to allow the inspection of the records.
6. That the para 2 of the objection needs no comments except that the photostat copies of the document mentioned at Sl.No. 5 has already been furnished by the Respondent.
7. That the contents of the para 3 of the objection are not admitted. ~~The documents are photostated documents~~ (and Hon'ble Tribunal has already passed orders on 27.5.88 after hearing both the parties that applicant is allowed to inspect the documents and to take extract thereof. This order is binding on the parties.
8. That the contents of para 4 are not admitted. The objection has no leg to stand in view of clear and specific orders dated 27.5.88 of this Hon'ble Tribunal. By presenting this objection, an attempt has been made to disregard of the orders of this Hon'ble Tribunal which amounts to Contempt of Court.

PRAYER

Wherefore it is respectfully prayed that the Hon'ble Tribunal be pleased to direct the Respondents to comply with their orders dated 27.5.88 and direct the Counsel for the Respondents to allow the applicant to inspect the documents and obtain extracts thereof.

Dated: November 30, 1988.

APPLICANT

(14)

Before Hon'ble Central Administrative Tribunal,
Additional Bench, Allahabad (Circuit Bench, Lucknow)

Application No. 672/86

Amresh Kumar Shukla - Versus Union of India & others

Application for issue of notice to O.P.
No. 4 Sri S.N. Gupta to show cause why
notice may not be taken under section
193 of Indian Penal Code (45 of 1960)
against him for giving false evidence
on affidavit.

In the above application, the applicant most
respectfully begs to submit as under:-

1. That the applicant has filed the above noted appli-
cation before the Hon'ble Tribunal and is fully
acquainted with the facts of the case.
2. That the Counter Affidavit and Rejoinder Affidavits
have been exchanged between the parties and the case
is now fixed for final hearing.
3. That Sri S.N. Gupta, Respondent No. 4 has filed
the Counter Affidavit on behalf of all the
Respondents.
4. That the proceedings in the above noted application
are the judicial proceedings before this Hon'ble
Tribunal U/s. 30 of Administrative Tribunal Act.
5. That Sri S.N. Gupta Respondent No. 4 has given or
fabricated false evidence in the judicial proceed-
ings of the above noted application as mentioned
below:-

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A copy has been
sent by Registrar
to the Respondent.
Original receipt
is affixed on
the back

Amresh Kumar Shukla

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(2)

- (a) That under C.R.E's letter No. 2/85, dated 3.10.85 a photostat copy of which has been given to the applicant by Respondents, it was ordered that under special/emergent circumstances, the applicant will also carry out duties assigned by any officer of the establishment, superior in rank and on completion of the task he will give details of such tasks to his direct superior officer, but Sri S.N. Gupta, Respondent No. 4 has wrongly said on oath in para 15 of the Counter Affidavit that " that the arrangement was made that any officer other than the applicant's immediate superiors, could ask him to do some technical work only after the permission of his immediate superiors and when the applicant was not engaged in any other work". A photostat copy of the C.R.E's aforesaid letter dated 3.10.85 is filed herewith, as annexure I of this application.
- (b) That Sri S.N. Gupta, Respondent No. 4 has wrongly said in para 16 of the Counter Affidavit that it is absolutely wrong on the part of the applicant to say that he was asked to circulate the magazines to all officers and staff, and in para 19 of the Supplementary Counter Affidavit he has said that he was keeping a record of all magazines etc. The applicant has provided by filing Annexure R-iv of the Rejoinder Affidavit that his versions are wrong. A perusal of Annexure R-IV of the Rejoinder Affidavit makes it clear that the applicant was ordered on 1.1.85 to ensure proper circulation of non-technical magazines mentioned in the Annexure of the Rejoinder Affidavit and when the applicant requested the services of a peon for this item of work it was ordered by Respondents No. 2 and 3 that no peon is available in this office for work. Therefore after consulting Respondent No. 4, the applicant may do this item of work himself.

3rd Nov 1985

Contd 3

(d) That in para 16 of the Counter Affidavit Sri S.N. Gupta Respondent No. 4 has said that the applicant was not asked to despatch work. He was simply put incharge of registry and in para 18 of Counter Affidavit, he has said that supervision of despatch was entrusted. When the applicant proved by filing photostat copy of the external despatch register (Annexure R-III of Rejoinder Affidavit) that despatch of all the letters i.e. ordinary and registered letters was entrusted to him, aforesaid Sri Gupta changed his version of paras 16 & 18 of the Counter Affidavit and said in para 19 of Supplementary Counter Affidavit that the applicant was making entries in the register of all letters being despatcher. Photostat copy of duty list under order 1/84 and ^{1/85}~~2/85~~ have been given to the applicant by Respondents. Under order 1/84, the despatcher was Sri S.S. Negi, Stenographer-III and under order 1/85 to maintain despatch Register was the duty of Sri Ravi Shanker L.D.C. Photo stat copies of these orders are filed herewith as Annexure II and III of this application.

6. The above facts clearly show that Sri S.N. Gupta Respondent No. 4 has deliberately given false evidence on Affidavit in order to mislead the Hon'ble Tribunal with a view to cause irreparable loss to the applicant. Aforesaid Sri Gupta has therefore rendered himself liable to be punished u/s,

(d) That in para 16 of the Counter Affidavit Sri S.N. Gupta Respondent No. 4 has said that the applicant was not asked to despatch work. He was simply put incharge of registry and in para 18 of Counter Affidavit, he has said that supervision of despatch was entrusted. When the applicant proved by filing photostat copy of the external despatch register (Annexure R-III of Rejoinder Affidavit) that despatch of all the letters i.e. ordinary and registered letters was entrusted to him, aforesaid Sri Gupta changed his version of paras 16 & 18 of the Counter Affidavit and said in para 19 of Supplementary Counter Affidavit that the applicant was making entries in the register of all letters being despatcher. Photostat copy of duty list under order 1/84 and ^{1/85}~~2/85~~ have been given to the applicant by Respondents. Under order 1/84, the despatcher was Sri S.S. Negi, Stenographer-III and under order 1/85 to maintain despatch Register was the duty of Sri Ravi Shanker L.D.C. Photo stat copies of these orders are filed herewith as Annexure II and III of this application.

6. The above facts clearly show that Sri S.N. Gupta Respondent No. 4 has deliberately given false evidence on Affidavit in order to mislead the Hon'ble Tribunal with a view to cause irreparable loss to the applicant. Aforesaid Sri Gupta has therefore rendered himself liable to be punished U/s. 193 of the I.P.C.

PRAYER

WHEREFORE it is respectfully prayed that a show cause notice may be issued by this Hon'ble Tribunal to Respondent No. 4 Sri S.N. Gupta to explain why action may not be initiated against him for having given false evidence on Affidavit which is punishable U/s. 193 of I.P.C.

3/10/88

APPLICANT

Dated: 28.10.88

Before Central Administrative Tribunal

Addl. Bench Allahabad (Circuit Bench Lucknow)

Application No. 672/86

A. Amresh Kumar Shukla v/s Union of India & others

Annexure I

11/4

ESTABLISHMENT ORDER 2/85 BY CRE

Further to Establishment order 1/85 dated 17.6.85,
add the following, under the duties of Shri Amresh Kumar Shukla,
after clause (vi):

"(vii) under special/emergent circumstances he will also carry out duties assigned by any officer of the establishment, superior in rank and on completion of the task, he will give details of such tasks to his direct superior officer".

Dated 3 Oct '85
Lucknow

(प्र. च. जोशी, ग्रुप कप्तान, मुख्य कार्यालय अभियंता)
(P. C. JOSHI), Gr. Capt; Chief Resident Engineer
वेम ० निदेश, रक्षा मंत्रालय, एच.ए.एन. परिसर,
Dir. of Aero; Min. of Defence, HAL Premises, 240.

24/10/85
Smt. Omprakash

SHRI AMRESH KUMAR SHUKLA, JSA-I

- i) All accounts files from 200/Adm to 202/Adm onwards.
- ii) Service Book of officers.
- iii) To maintain the RV/IV Control Register.
- iv) To maintain the RV/IV Control Register.
- v) To maintain the RV/IV Control Register.
- vi) All returns pertaining to the file office.
- vii) To maintain the Leave Records of officers & staff.
- viii) To maintain the Inward Register.
- ix) General Upkeep of office.
- x) To maintain the Expendable and Non expendable register.
- xi) To maintain the Railway Warrant Register.
- xii) To maintain the furniture Register.
- xiii) To maintain the MC Notes Register.
- xiv) To maintain the Service Book Register.

SHRI AMRESH KUMAR SHUKLA, JSA-I

- i) To maintain the file from 280/Adm to 282/Adm onwards.
- ii) To maintain the Library Register.
- iii) To maintain the RV/IV connecting with Library.

The above duties will be performed in addition to his technical duties.

SHRI S.S. NEGI, STENOGRAPHER-III

- i) All accounts files from 1/Accts to 199/Accts.
- ii) To prepare the Pay bill of officers & Staff.
- iii) To prepare the TA/DA claim in r/o officers & Staff.
- iv) To maintain the despatch Register.
- v) To maintain the Bicycle Register.
- vi) To prepare the RV/IV connecting with accounts file.
- vii) CGHS Control Register.

Contd.....2/

Annexure No - III

SHRI S.S. NEGI, STENOGRAPHER GDE III

- 1) All admin files from 200/Adm to 279/Adm & work related to these files.
- ii) Service book of officers & staff.
- iii) To maintain the MT ledger & records.
- iv) To maintain the MT ledger & Records.
- v) To maintain the Draft DO Pt II register.
- vi) All returns pertaining to the admin files.
- vii) To maintain the leave records of officer & Staff.
- viii) General upkeep of office.
- ix) To maintain the ledgers connecting with stores.
- x) To maintain the Railway Warrant, Form 'D' etc.,
- xi) To maintain the furniture, Bicycle & CGHS register.
- xii) To maintain the PC Notes register.
- xiii) To maintain the Issue voucher and Expense voucher.
- xiv) Any other works assigned from time to time.

SHRI AMRESH KUMAR SHUKLA, JSA GDE I

- 1) To maintain the file from 280/Adm onwards.
- ii) To maintain the library and connecting documents.
- iii) To maintain the Type Approval Register.
- iv) To maintain the Local Modification Register.
- v) To maintain the Production permit/concession register.
- vi) To prepare the contingent bill, RV/IV connecting the library.

The above duties will be performed in addition to his technical duties.

SHRI S.S. NEGI, STENOGRAPHER GDE III

- 1) All accounts file from 1/Accts to 199/Accts.
- ii) To prepare the paybill of Officers & Staff.
- iii) To prepare the TA/DA claim in r/o officers & staff.
- iv) To maintain the Inwards register.
- v) All return pertaining to Accounts file.
- vi) To prepare the RV and maintaining of RV folder and register.
- vii) To prepare the contingent bill.
- viii) To maintain the Budgetary control register.
- ix) Any other works assigned from time to time.

SHRI RAVI SHANER, LDC

- 1) To maintain the technical file from 300/tech to onwards.
- ii) To maintain the despatch register.
- iii) To type out the letters pertaining to library.
- IV) Any other works assigned from time to time.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH : ALLAHABAD.

OBJECTION

ON BEHALF OF RESPONDENTS

IN

REGISTRATION NO. 672 of 1986

A.K. Shukla

.Applicant

Versus

Union of India & others.

.Respondents.

To

The Hon'ble The Vice Chairman and His
Companion Members of the aforesaid Tribunal.

The humble ~~xxx~~ respondents most respectfully ~~shaves~~ as under :

1- That in the aforesaid application, the petitioner moved an application requesting therein for summoning certain documents and also sought permission of this Tribunal to have inspection of certain documents.

2- That the documents mentioned at S.No. 1

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and 6 as well as 7 were given to the applicant. However
in the interest of justice again photostat copy of
certificate dated 12th December, 1985 is enclosed
Ann-I . herewith and marked as Annexure-I to this application.

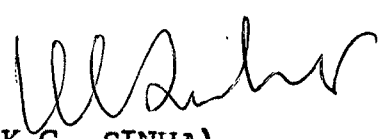
3- That the documents mentioned at S.No. 2, 3, 4
and 5 shall be shown to this Hon'ble Tribunal at
the time of hearing of the petition. The applicant
has got no right to have access over those documents

4- That in the interest of justice the applica-
tion dated 26.8.88 moved by the applicant is liable
to be rejected.

P_R_A_Y_E_R

It is therefore, Most Respectfully prayed
that the application dated 26.8.88 moved by the
applicant may be rejected by this Hon'ble Tribunal,.

Dt/- 23-11-88


(K.C. SINHA)
ADDL. STANDING COUNSEL
CENTRAL GOVT.
COUNSEL FOR THE RESPONDENTS.

CERTIFICATE OF FITNESS FOR GOVERNMENT SERVICE

(See Rule 10 of Fundamental Rules)

I do hereby certify that I have examined S. Anand Kumar Shukla
a candidate for the appointment in the Dyestuff & Accessories RD & G
department and can not discover that he/she has any disease
constitutional weakness or bodily infirmity except

Varicella & Measles Recd 15-12-12

I do not consider this a disqualification for
employment in the above department. The candidate is 32 years
according to his/her own statement and 32 years
and by appearance. His 52 years old years

He has not been vaccinated against Typhoid

LUCKNOW
DATED

12/12/00

CHIEF MEDICAL OFFICER,
LUCKNOW.

Signature Attached

CHIEF MEDICAL OFFICER,
LUCKNOW.

Black ink on
the lower part of
right side of back

BEFORE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD (CIRCUIT BENCH, LUCKNOW)

Application No. 672 of 1986

Amresh Kumar Shukla

Vs. Union of India & others

Written Argument of the applicant Sri Amresh
Kumar Shukla.

This application was filed before this Hon'ble Tribunal challenging the illegal termination of services of the applicant and various adverse remarks maliciously recorded by Respondant No. 5 who was highly prejudiced against the applicant and finally approved by Respondent No. 2 without application of mind as has been admitted by him in reply to the notice issued to him by this Hon'ble Tribunal. The extension of period of probation of the applicant without consulting Departmental Promotion Committee (hereinafter called D.P.C.) is also under challenge in this application.

2. Brief facts of the case are as under:-

(i) That before joining the office of C.R.E. (Respondant No. 3), the applicant was working as Instructor in Jawahar Lal Nehru Polytechnic, Mahmudabad in District Sitapur (U.P.) (Para 6 (2) of application). Two vacancies of Senior Scientific Assistants were created in the office of Respondant No. 3 (Para 6 (1) of application). To fill in these vacancies on regular basis, names of candidates possessing the required qualifications were called for from Employment Exchange Lucknow. Many candidates including the applicant appeared in written test and via voce test. Applicant was the only candidate who was selected against one of the vacancies of S.S.A., but he was given appointment order on 1.11.83 for the post of J.S.A. (Grade I and was placed on probation for two years. Applicant joined on 19.11.83 (Annexure I and Para 6 (2) of the application). Probation period was extended

Amresh

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for one year on 16.8.85 (Annexure VII of application). Applicant's services have arbitrarily and maliciously been terminated on 1.11.86 (Annexure XIV of application) after preparing background by the concerned Respondants to justify their malicious and illegal action and to spoil the service career of the applicant.

(ii) That as per Annexure I of the application, the period of probation was two years only in which there is no provision for extension of period of probation nor there is any Service rule pertaining to this post having provision for extension of probation period. In terms of the Annexure, either the applicant's services should have been terminated on completion of probation period or the applicant should have been given permanent status on completion of probation period.

(iii) That the consultation of D.P.C. is mandatory before extending the period of probation according to Rule I (c) of D.P.C. Rules which are in force since 1976 (Foot note of Appendix 29 relating to D.P.C. in S.S.R. Volume III by Lakhi Singh Chaudri Satya Chaudhri) but the probation period has been extended in 1985 (Annexure VIII of application) without consulting D.P.C. There being no provision for extension of probation period in the Appointment Order (Annexure I of application) and extension of probation period without consulting D.P.C., the order of extension of period of probation is illegal. The presumption of law, therefore, is that the order of extension of probation period is illegal. As the applicant has been allowed to continue in service beyond probation period without any legal order for extension of probation period he will be deemed to have automatically acquired permanent status on his post.

(iv) That probation period is extended only when the

Handwritten signature

work of an employee is not such as to warrant the termination of services, but on the other hand, there is likelihood of improvement in his performance. During the extended period of probation, not a single warning was given. On the other hand, applicant had also passed Fire Fighting Course of three months duration at Delhi during the extended period of probation (Annexure XI of application). In the circumstances there was no justification for termination of the services of the applicant.

(v) That Respondants say that the services were terminated on the recommendation of D.P.C. held in 1986. The question of consulting D.P.C. in 1986 was uncalled for as the applicant had already acquired permanent status in 1985 as explained above. Besides D.P.C. of 1986 was biased because Sri S.N. Gupta Respondant No. 4, who bore malice prejudice and illwill against the applicant, attended this D.P.C. (Annexure R-1 of R.A.) which was also not properly ~~conducted~~ ^{constituted} because according to Rule 5 of D.P.C. Rules, the number of members of D.P.C. should be three only but Respondents have said that all the C.R.Es (Para 11 of S.C.A.) whose numbers is atleast 12 are said to be the members of D.P.C. Further more the D.P.C. did not give the opportunity of personal hearing despite applicant's request (Annexure R-II of R.A.)

As the work of the applicant was good during the extended period of probation, Sri S.N. Gupta Respondant No. 4 who bore malice etc. against the applicant, attended D.P.C. of 1986 and the applicant's request for personal hearing was neither rejected nor the applicant was given the opportunity of personal hearing before D.P.C. of 1986, it is clear that the recommendation of D.P.C. of 1986 is biased and is not based on full and correct facts.

(vi) That the termination order is based on the alleged misconduct because respondents have said in para 38 of C.A. that the services were terminated on the basis of record, which is contained in Annexure III to V, VII and IX of the application in which misconduct has been alleged as Annexure III says about missing for work-spots, not maintained office decorum, unpunctuality, defiance in Character, in Annexure IV, non-punctuality has been alleged and Annexure V & VII relate to missing from work spot and in Annexure IX it has been alleged that the applicant sends back the files to file racks or misplaced them, the applicant has no adherence to punctuality, has tendency to leave work spots, takes ^{early} ~~every~~ lunch, leaves away during lunch recess period, the applicant said that job of collecting the data for analysis is to be handled by an Engineer and not by a diploma-holder. The services cannot be terminated on the ground of misconduct unless departmental proceedings are started and finalized after giving the applicant the opportunity to defend himself. The termination order is bad on this ground also and deserves to be quashed and it will be deemed to be in violation of Article 311 (2) of the Constitution of India.

In these circumstances, the order of extension of probation period without consulting D.P.C. and order of termination of services deserves to be quashed and the applicant shall be deemed to have acquired permanent status on 19.11.85 on completion of 2 years probation period.

(vii) That, all the warnings, adverse remarks relate to the period of Sri P.C. Joshi, Respondent No. 2. These

Contd ... 5

[Signature]



were issued either under his signatures or under the signatures of Sri S.N. Gupta Respondant No. 4, on his behalf. Sri Joshi, Respondant No. 2 has said in his letter dated 12.12.86 in reply to the notice issued by the Hon'ble Tribunal that he has not been party to the action taken against the applicant except in the routine administrative manner as head of establishment. He does not consider himself interested party to this case. These facts clearly show that Respondant No. 2 did not apply his mind in ~~iss~~ judging the propriety or otherwise of issuing these warnings and adverse remarks. Besides the adverse remarks etc. have been made on the items of work which were not allotted to the applicant or the item of works which though allotted but do not come under the duties of J.S.A. Grade I/S.S.A. or undefined technical duties. Detailed submissions are as under:-

(a) The warning of Annexure II of the application given on 9.11.84 ^{was} ~~was~~ wholly vague. In this warning, specific defects were not mentioned with the result that the applicant could not know exactly the so called defects. According to para 1 (f) of Guide lines for completing A.C.Rs. filed on 8.9.87, the purpose of the warning is that the employee should be apprised of his short comings, failings defects etc., in time so that he could improve his performance/conduct etc. Besides, this warning was given without giving the reasonable opportunity to explain only 10 days before the completion of probation period of 1st. year. Giving the warning at the lag end of probation period of 1st. year without giving reasonable opportunity to explain and without mentioning the exact shortcomings failings, and defects etc, does not ^{serve} ~~serve~~ any purpose except the spoiling the record of the applicant. Besides, warnings is vague and baseless. All the facts show the malice etc. of Respondents against the applicant and the warning has no leg to stand.

Defence

(b) The warning of Annexure V of application was given on 30.3.85 without giving the reasonable opportunity to explain. In this warning it has been stated that the applicant was found missing on 25.3.85 at 15.45. On enquiring he informed that he had gone to lock the cycle, but on the same ^{evening} ~~enquiry~~ he was seen leaving the office on his scooter by all the employees of the office. Applicant submitted a representation (Annexure VI of application) against this warning but it was rejected vide Annexure VII of Application without giving reasonable opportunity although the facts mentioned in the representation could not be disproved by Respondants. Inflicting the warning without giving reasonable opportunity when the facts mentioned in the representation were not disproved, is not maintainable in the eyes of law. This fact also clearly prove the malice etc. of Respondants.

(c) As regards adverse remarks in the A.C.Rs. of 1984 and assessment report from 19.11.83 to 18.11.84 which are contained in Annexure III and IV of the application it is submitted that the adverse remarks ~~and~~ in A.C.Rs. and assessment report relate to nearly to one and the same period but these differ from each other for example, in Annexure III the application it has been stated that the applicant has adequate technical capability but in Annexure IV it has been stated that the applicant has some capability as regards to technical duties. Besides although no administrative work was ever entrusted to the applicant, yet the administrative work of the applicant has adversely been commented. According to para 1 (g) of Guide lines for completing A.C.Rs., adverse remarks should be given only ^{when} ~~while~~ written warning has not resulted in any improvement but in contravention of these Guide lines, adverse remarks have been given without giving written warnings on the point of missing from work spot,

maintenance of office punctuality and defiant Character. Further more, the adverse remarks do not conform the requirements of standing orders which lay down that Reporting, Reviewing and Grading Officer should give their assessment separately. The remarks about Research and Development work are not definite as in remarks it has been stated that the applicant does not seem to have any aptitude for these items of work. The remarks of Reporting and Grading Officers have not been communicated with the result that the applicant was denied the reasonable opportunity to submit a more effective representation. Applicant submitted a representation against the adverse remarks but Respondant No.3 instead of forwarding it to the next higher authority himself rejected it illegally without giving any opportunity to applicant to defend himself. The adverse remarks are against the facts and in contravention of the Standing Orders. These facts clearly prove the malice etc. of Respondants. Adverse remarks therefore, deserve to be quashed.

(d) With regard to assessment report from 19.11.84 to 18.11.85 (Annexure VIII) it is submitted that the report was finalized about 4 months before the completion of the current year, but it ^{was} made ~~not~~ effective for the full assessment year. This assessment report is vague and the adverse remarks, being against the Guide Lines and without giving written warnings, are illegal in the eyes of law and the same deserve to be declared null and void.

(e) Adverse remarks of A.C.R. of 1985 are at Annexure IX of the Application. In contravention of the Guide Line, the adverse remarks have been given on the points on which no warning has been given. Besides, the remarks relate to the items of works which were never entrusted to the

Dr. Ram



applicant. For example, no administrative work was ^{ever} ~~ever~~ entrusted to the applicant, but adverse comments have been made on this item of work. It has wrongly been said in these remarks that the applicant ^{took} ~~took~~ 20 days in ^{medical} ~~in~~ examination because the fact is that the applicant took only 1 day which is clear from the copies of letter for medical examination and fitness certificate given to the applicant in compliance with orders of this Hon'ble Tribunal. These are filed herewith as Annexure No. I, ^{II and III} In Annexure I and II Respondants had sent the applicant to wrong persons who were not competent to issue fitness certificate, Annexure III was issued on 11.12.85 to C.M.O. Lucknow from where fitness certificate was obtained on 12.12.85 vide Annexure IV. Further more, Reporting/Reviewing/Grading Officers have not given their remarks separately according to the requirements of law/rules. All these facts clearly show the tainted and prejudice mind of Respondants against the applicant. As the adverse remarks have been given against the facts and without giving any warnings ^{as} provided in standing Orders, and Reporting/Reviewing/Grading Officers have not given their remarks separately. ^{The} adverse remarks deserve to be quashed.

(viii) As regards the pay of S.S.A., it is submitted that Respondants have admitted in para 9 of C.A. that the applicant was appointed against the vacancy of S.S.A. in C.R.E. Office of Research Development Organisation Aeronautical Development Establishment of Ministry of Defence where there are many posts of S.S.A. AND SOME PERSONS doing the work of S.S.A. are already getting the pay of S.S.A. Guide Lines, if any, as stated by Respondants that J.S.A. Grade I should do the work of S.S.A. but he will get the pay of J.S.A. Grade I is discriminatory within the meaning of Article 14 and 16 of the Constitution ⁱⁿ ~~in~~ the sense that some persons



assigned for the first time (Annexure V of Written Arguments), which were enhanced on 27.6.85 and 3.10.85 (Annexure VI & VII of written arguments). Additional duties given on 3.10.85 (Annexure VII of Written Arguments) placed the applicant in a very awkward position because he became direct subordinate to all the persons superior in rank as in ~~this~~ ^{the} order, it was ordered that applicant will also carry out duties assigned by any officer of the establishment, superior in rank and on completion of the tasks, the applicant will give details of such tasks to his direct superior officer, but Respondents have wrongly said in para 15 of C.A. that any officer other than applicant's immediate superior, could ask him to do some technical work only after the permission of his immediate supervisor, and when the applicant was not engaged in any other work. As such Respondants have given false evidence on affidavit before this Hon'ble Tribunal.

The applicant was also given the work of despatch (Annexure R-III of R.A.) and Circulation of non-technical magazines (Annexure R-IV of R.A.), but these items of works do not find place in the duty lists of the applicant (Annexure I to III of written Arguments).

A perusal of the duty lists (Annexure V to VII of Written Arguments) will show that the technical duties for which the applicant was recruited were not defined and a perusal of R III & R IV of R.A. and the above duty lists will show that the applicant was also given the items of works which were never in duty lists of the applicant. A photostat copy of the duty lists are filed herewith as Annexure V to VII of the written Arguments.

15. On 29.4.86 applicant submitted a representation

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H. S. M. G.



to Scientific Adviser to Raksha Mantri requesting that (1) applicant be treated as Senior Scientific Assistant and given all consequential benefits (2) warnings, and adverse remarks be expunged (3) C.R.E's letter dated 16.3.85 extending period of probation be quashed and applicant to be confirmed w.e.f. 19.11.85 on completion of 2 years probation (4) applicant be transferred to Kanpur so that he may be saved from harassment and (5) the applicant be given a chance of personal hearing and any other relief which the applicant^{is} found entitled.

The above representation was addressed to Scientific Adviser to Raksha Mantri who was only competent to give orders on all the above mentioned reliefs, but it was got rejected by the so-called competent authority without giving a chance of personal hearing despite the fact that specific request to this effect was made. Thus the applicant was deprived of reasonable opportunity to defend himself. The designation of the so-called authority has neither been disclosed nor the copy of the order has been given. Besides, the order is not self speaking order which is bad in law. Rejection of representation by an authority who is not competent to pass final orders on all the points of the representation, without passing self-speaking order and without giving reasonable opportunity is not maintainable and is liable to be quashed.

As regards malice, prejudice and ill will ^{which have} ~~has~~ been alleged against Sarv Sri S.N. Gupta, S. Ramesh Respondant No. ~~2~~ 4 and 5 respectively who have been made Respondants by name, ^{it} ~~it~~ is submitted that the person against ^{whom} ~~malafide~~ and malice has been alleged ^{are} ~~only~~ competent to deny or admit the allegations therefore because only they ^{have} ~~before~~ the personal knowledge ^{about} ~~about~~ these allegations.

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Sri P.C. Joshi, Respondant No. 2 has stated in reply to the notice sent by this Hon'ble Tribunal, that he has not been a party to the action taken against the applicant except in routine administrative manner. This makes it clear that he did not apply his mind while setting the seal of his approval on recommendation of this subordinate officers. A perusal of Annexure II to V, VII to IX of Application (warnings and adverse remarks) will show that these were either issued under his own signatures or issued after his approval by Sri S.N. Gupta, Respondant No. 4. In these circumstances all these warnings and adverse remarks shall be deemed to be illegal.

Sri S. Ramesh, Respondant No. 5 has ~~also~~ not filed Counter Affidavit at all denying the malafide alleged against him. It will, therefore, be deemed that he has ~~also~~ admitted his malice etc. against the petitioner.

Sri S.N. Gupta is Respondant No. 4 bore malice etc. against the applicant, is clear from the fact that he has filed the C.A. on behalf of other respondants also but there is nothing on record to show that other Respondants have authorized him to file C.A. on their behalf. Filing of Counter Affidavit on behalf of other Respondants without being authorized cannot be treated as part of the record. Besides in para 4 of Supplementary Counter Affidavit Sri Gupta has said that he has filed Counter Affidavit in official capacity. At the time of filing of Counter Affidavit Sri Gupta was C.R.E. who is Respondant No. 3. As such according to ^{his own} version of Sri Gupta he has ^{not} filed Counter Affidavit as Respondant No. 3.

Respondant No. 5 was the Reporting Officer, Respondant No. 4 was Reviewing Officer and Respondant No. 2 was the Grading Officer of the applicant. Respondant No. 5 was also immediate superior of the applicant and officer-in-charge of library and Despatch. The applicant had pointed out certain

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defects and irregularities in the working of library and despatch. Respondant felt that a complaint has^{been} made against him by the applicant and as such he developed prejudice against the applicant. He also managed to poison the ears of Respondant No. 4 and 2 who were already displeased and prejudiced because the applicant had pointed out that they had taken the books from library without giving their signatures in token of the receipt of these books, they became all the more prejudiced against the applicant.

Following facts also prove the malice etc. of Respondant No. 4 and 5 against the applicant:-

(a) Under order No. 2/85 dated 3.10.85 it was ordered that applicant will carry out duties assigned by any officer of the establishment superior in rank and on completion of task, applicant will give details of such tasks to his direct superior officer. A copy of the order which has been given to the applicant in compliance with orders of the Hon'ble Tribunal is enclosed herewith as Annexure VII. But Sri S.N. Gupta, Respondant No. 4 has stated in para 15 of Counter Affidavit that any officer other than the applicant's immediate superior could ask the applicant to do some technical work only after the permission of his immediate superior.

(b) The applicant was entrusted the work of circulation of non-technical magazines (Annexure R-IV of R.A.) which was not in the duty list of applicant but Sri S.N. Gupta, Respondant No. 4 has said in para 16 of Counter Affidavit that this item of work was not given to the applicant.

(c) The applicant was given the work of despatch (Annexure III of R.A.) External Despatch Register which has been got inspected by Respondants to the applicant in compliance with the orders of this Hon'ble Tribunal dated 27.5.88 and 25.1.89 ~~from~~^{prove} clearly that the despatch work which was never

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[Signature]

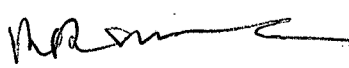
in the duty list of the applicant, was given to him, but Sri S.N. Gupta, Respondant No. 4 has said in para 16 of Counter Affidavit that this item of work was not given to the applicant.

(d) A perusal of the duty list, copies of which have been given to the applicant under the orders of this Hon'ble Tribunal and which are at Annexure V, VI and VII of the written Arguments shows that no administrative work was ever entrusted to the applicant, but it has been adversely commented in A.C.R. of 1984 (Annexure III of the application) and A.C.R. 1985 (Annexure IX of the application)

(e) A perusal of the letter issued for the medical examination of the applicant and fitness certificate, copies of which were given to the applicant under the orders of the Hon'ble Tribunal and which are at annexure I to III of the written Argument show that Annexure I and II were issued to authorities who were not competent to issue fitness certificate. Annexure No. III was issued on 11.12.85 to C.M.O. from where the applicant obtained fitness Certificate on 12.12.85 (Annexure IV of the written Argument), but in A.C.R. of 1985 (Annexure IX of the application) Respondants have said that the applicant took 29 days for medical examination.

(f) Fire Fighting Course was exclusively meant for defence fire service staff and personnels engaged in anti-fire organisation of defence installation (Annexure X of the application) but during the extended period of probation the applicant was sent for this course although he did not belong to the fire fighting class.

(g) Sri S.N. Gupta, Respondant No. 4 has wrongly said in para 16 of Counter Affidavit that the applicant was put in charge of Registry, but a perusal of the copies of the duties given to the applicant under the orders of this H.T.



which are at Annexure V to VII of the written Arguments will show that this work was never entrusted to the applicant.

(h) In para 18 of Counter Affidavit Sri S.N. Gupta, Respondant No. 4 has wrongly said that supervision of despatch was entrusted to the applicant, ^{because} ~~but~~ the copies of duty lists (Annexure V to VII of written Argument) shows that no such work was given to the applicant.

(i) In para 19 of Supplementary Counter Affidavit Sri S.N. Gupta, Respondant No. 4 has said that the applicant was making entries in the register of all letters being despatcher but the perusal of the copies of the duty list which are at Annexure V to VII of written Arguments, will show that the applicant was never despatcher.

(j) A perusal of the duty lists (Annexure V to VII of the written Arguments) will show that keeping a record of magazines was never the duty of the applicant, but Sri S.N. Gupta, Respondant No. 4 has wrongly said in para 19 of Supplementary Counter Affidavit that the work of keeping of magazines was entrusted to the applicant.

(k) In para 6 (9) of the application, the applicant has stated that he had brought to light the various irregularities detected by him in the working of library as well as Despatch work. These facts infuriated the Respondants No. 4 & 5. Examples of such irregularities are mentioned in para 6 (9) of the application.

(l) In para 6 (9)(vii) of the application, the applicant had stated that the books mentioned therein were not available in the library nor its Receipt/Issue Vouchers were prepared, but Sri S.N. Gupta, Respondant No. 4 had stated in para 17 of C.A. that the stores (books) of the library are in order. To prove the falsity of the statement of Respondant No. 4, the applicant

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[Signature]



had presented an application before this Hon'ble Tribunal for summoning of these books along with Receipt/Issue Voucher and ledger. The Hon'ble Tribunal was pleased to order on 27.5.88 and 25.1.89 that these books etc be got inspected by the Respondants to the applicant, but Respondants did not got make available these books along with Receipt/Issue Voucher and ledger for inspection. This proves the assertion of the applicant ^{made} ~~made~~ in para 6 (9) VII of the application.

(m) In para 6 (9)(ix) of the application, it was asserted that ledger register of books from T-1 to 23 are not available. In compliance with the orders of this Hon'ble Tribunal of 25.7.88, a photostat copy of the ledger register has been given and in compliance with the orders of this Hon'ble Tribunal dated 25.1.89, ledger register was inspected by the applicant. Photostat copy of ledger of these books which is at Annexure VIII of the written Arguments shows that these entries relate to years 1973 to 1975 and Sri S. Ramesh Respondant No. 5 who joined the service in 1982/1983 has made these entries. A perusal of the ledger register shows that a new ~~written paragraph~~ ^{pages} written by Sri S. Ramesh Respondant No. 5 has been added in the ledger register subsequently. These facts clearly show that ledger register of ^{books} ~~books~~ from T-1 to T-23 was missing and this deficiency has been made good by adding a new page when this irregularity was pointed out by the applicant.

(n) In para 6 (9) of the application, the applicant had mentioned that he brought to light the irregularities detected by him in the working of library and had quoted several such irregularities in the application and in para 6 (9)(xi) of the application, the applicant had mentioned that several registered letters were lying in office. This was brought

to the notice of the authorities.

External Despatch Register shown to the applicant by the Respondants in compliance with the orders of this Hon'ble Tribunal shows that ^{at} page No. 67 between serial ~~xxxxxx~~ No. 304 and 305, the applicant had written महोदय, रजिस्ट्री

क्रम सं० ३०३, ३०३ के सम्बन्ध में वस्तु स्थिति से श्रीमान जी को कल ही अवगत करा दिया था। अतएव इस सम्बन्ध में उचित आदेश प्रदान करने का कष्ट करें

Sd/- A.K. Shukla, JSA I 14.1.85.

This infruitated Sri S. Ramesh, Respondant No. 5, the immediate superior of the applicant and officer-in-charge of library and despatch work as these facts reflected adversely on his efficiency. He also influenced Respondant No. 4 (Review Officer). Further cause of displeasure of Respondant No. 4 was that the applicant had brought on record that this officer had taken books from library without giving ~~xxxx~~ his signature in token of receipt of these books. Facts mentioned in the written Argument and the application clearly proves the malice, prejudice and illwill of the Respondant No. 4 and 5 against the applicant.

In view of facts narrated above, the warnings of Annexure II, V and VII of application, adverse remarks of Annexure III, IV, VIII and IX of application, order for extension of probation period (Annexure VIII) and the orders rejecting the representation to scientific adviser to Raksha Mantri (Annexure XIII) ^{and order for termination of service (Annexure XIV of application)} be quashed and the applicant be declared to have been confirmed on his post on 19.11.85 after completion of 2 years probation and declared to be in service with all consequential benefits including arrears of salary etc. with interest @ 12 % per mensem from the date these accrued due till the date of their payment and the applicant be allowed the pay etc. of Senior Scientific Assistant for the entire period.

Radhika Raman

Radhika Raman
Advocate, High Court and
Services Tribunals,
C-4 Sector - A-1,
Mahanagar, LUCKNOW

Amresh Kumar Shukla (P. Union of India) 804115

Resident Technical Office

Gram: RESTECHOFF
Tela
Phone: 73374

Resident Technical Office,
Directorate of Aeronautics,
R&D Orgn. Min. of Def.,
Post Bag No 2,
HAL Post Office,
LUCKNOW-226016

120
189
121
18

N. RTO(L)/227/3/Adm

3 Dec '85

To

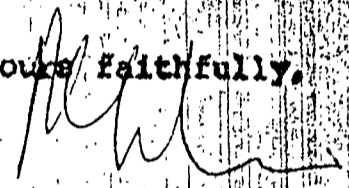
Chief Medical Officer,
C.G.H.S.,
9, Rana Pratap Marg,
LUCKNOW

Sub: MEDICAL FITNESS CERTIFICATE IN RESPECT OF
SHRI A.K. SHUKLA

Dear Sir,

Shri A.K. Shukla, employed in this office as Junior Scientific Assistant Gde I is required to be medically examined. It is requested that he may be medically examined and, if found fit, he may be issued Medical Fitness Certificate. It may also be confirmed that Shri A.K. Shukla is protected against Small-Pox and Typhoid.

Yours faithfully,



(P.C. JOSHI) GP. CAPT.
CHIEF RESIDENT ENGINEER

Copy to:

Shri A.K. Shukla, JSA-I

min
ple
in

R.I.O

in his remarks that no such medical examination is done for class D candidate (Male) under C.A.H.S.
It is advised that this can may be directed to C.M.O. State Govt Hospital who is competent for medical
To

Th. C. R. U.

Amish Kumar

Chief Medical Officer
Central Government Hospital

Ann. II

Before Court of Law: Tribunal Petition Bench All India. C.Y. Court Bench Lucknow
Amresh Kumar Shukla vs Union of India & others

Gram: RESTECHOFF
Tele: [unclear]
Phone: 75357

Resident Technical Office,
Directorate of Aeronautics,
R&D Orgn. Min. of Def.,
Post Bag No 2,
HAI Post Office,
LUCKNOW-226016

No RTO(L)/227/3/Adm

Dec '85

To

Chief Medical Officer,
Civil Hospital,
Hazratganj,
LUCKNOW

Sub: MEDICAL FITNESS CERTIFICATE IN RESPECT OF
SHRI A.K. SHUKLA

Dear Sir,

1. Shri A.K. Shukla, whose specimen signatures are appended below, is employed in this office. He is required to be Medical examination. It has been intimated by CMO, CGHS, that the competent authority in this regard is CMO, State Govt. Hospital. It is therefore requested that the official be medically examined and, if found fit, may kindly be issued with the Medical Fitness Certificate. It may also kindly be confirmed that Shri A.K. Shukla, has been protected against Small-Pox and Typhoid.

2. As the matter is of urgent nature, action may kindly be taken immediately.

Yours faithfully,

(S.N. GUPTA)
SCIENTIST 'D'

for CHIEF RESIDENT ENGINEER

Copy to:

1. Shri A.K. Shukla, JSA gde I- You are required to produce the medical fitness certificate at your earliest.

2. C.M.O.
CGHS, 9 Rana Pratap Marg,
Lucknow

- This has reference remarks your office has written on the office copy of our letter even No dt. 03 Dec '85.

Group : TECHNICAL
 Phone : 75357

Resident Technical Office
 Directorate of Aeronautics
 420 Crim. Min. of Defence
 HAL Post Office
 LUCKNOW - 226016

No. TH 100/227/2/117

Dated : 11 Dec '85

To

The Chief Medical Officer,
Lucknow (H.D.)

Sub : URGENT MATTER - SHUKLA - 11/12/85
OF CRIM. MIN.

Dear Sir,

1. Shri A.K. Shukla, whose specimen signatures are appended below, is employed in this office. He is required to get medical examination. It has been indicated by CMO, CGAS, that the competent authority in this regard is CMO, State Govt. Hospital. It is, therefore, requested that the official be medically examined and, if found fit, may kindly be issued with the Medical Fitness Certificate. It may also kindly be confirmed that Shri A.K. Shukla, has been protected against Small-Pox and Typhoid.

2. As the matter is of urgent nature, action may kindly be taken immediately.

Amresh Kumar Shukla

30/12/85

11/12/85

Yours faithfully,

Amresh Kumar Shukla

(Sd/-) AMRESH KUMAR SHUKLA

TECHNICAL OFFICER

Copy to :

1. Shri A.K. Shukla, J-1-2 : You are responsible to get yourself medically examined from the competent authority, where ever it might be. If the fees for the medical certificate is to be paid, the same will be reimbursed on production of necessary receipt. You will report for duty only after producing Medical certificate of fitness or otherwise.

2. CMO, CGAS, 9 A Rane
 Pratap Marg, Lucknow

(This has reference to the copy of our letter even No 40, 03. Dec '85.)

Amresh Kumar Shukla

CERTIFICATE OF FITNESS FOR GOVERNMENT SERVICE
(See Rule 10 of Fundamental Rules)

Ann. No. 1880/227 IV
 178
 21

I do hereby certify that I have examined Sh. Amrish Kumar Shukla a candidate for the appointment in the Director's Accounts, R.D. Org. department and can not discover that he/she has any disease constitutional weakness or bodily infirmity except

Varicella Scars R/C/12 N/C/12

I do not consider this a disqualification for employment in the above department. The candidate's age according to his /her own statement is 32 years and by appearance 32 years.

LUCNOW
 DATED

12/12/07

Signature Attending

12/12/07

M. Black, CHIEF MEDICAL OFFICER,
 LUCKNOW.

CHIEF MEDICAL OFFICER,
 LUCKNOW.

Subscribed

The following distribution of work for the staff members of this office will come into force with immediate effect.

SHRI S.N. SINGH, STENO-CDE II

- i) All admin files from 200/Adm to 279/Adm & work related these files.
- ii) Service Book of officers & Staff.
- iii) To maintain the MT Ledger & Records.
- iv) To maintain the Draft DO Pt II register.
- v) To maintain the RV/IV Control Register.
- vi) All returns pertaining to the file admin.
- vii) To maintain the Leave Records of officers & Staff.
- viii) To maintain the Inward Register.
- ix) General Upkeep of office.
- x) To maintain the Expendable and Non expendable register.
- xi) To maintain the Railway Warrant Register.
- xii) To maintain the furniture Register.
- xiii) To maintain the MC Notes Register.
- xiv) To maintain the Service Book Register.

SHRI AMRESH KUMAR SHUKLA, JSA-I

- i) To maintain the file from 280/Adm to 282/Adm onwards.
- ii) To maintain the Library Register.
- iii) To maintain the RV/IV connecting with Library.

The above duties will be performed in addition to his technical duties.

SHRI S.S. NEGI, STENOGRAPHER-III

- i) All accounts Files from 1/Accts to 199/Accts.
- ii) To prepare the Pay bill of officers & Staff.
- iii) To prepare the TA/DA claim in r/o officers & Staff.
- iv) To maintain the despatch Register.
- v) To maintain the Bicycle Register.
- vi) To prepare the RV/IV connecting with accounts File.
- vii) CGHS Control Register.

ESTABLISHMENT ORDER 1/85 BY CRE

The following distribution of work for the staff members of this office will come into force with immediate effect.

SHRI S.N. SINGH, STENO-GDE II

- i) All admin files from 200/Adm to 279/Adm & work related these files.
- ii) Service book of officers & staff.
- iii) To maintain the MT ledger & records.
- iv) To maintain the MT ledger & Records.
- v) To maintain the Draft DO Pt II register.
- vi) All returns pertaining the admin files.
- vii) To maintain the leave records of officer & Staff.
- viii) General upkeep of office.
- ix) To maintain the ledgers connecting with stores.
- x) To maintain the Railway Warrant, Form 'D' etc.,
- xi) To maintain the furniture, Bicycle & CGHS register.
- xii) To maintain the MC Notes register.
- xiii) To maintain the Issue voucher and Expense voucher.
- xiv) Any other works assigned from time to time.

SHRI AMRESH KUMAR SHUKLA, JSA GDE I

- i) To maintain the file from 280/Adm onwards.
- ii) To maintain the library and connecting documents.
- iii) To maintain the Type Approval Register.
- iv) To maintain the Local Modification Register.
- v) To maintain the Production permit/concession register.
- vi) To prepare the contingent bill, RV/IV connecting the library.

The above duties will be performed in addition to his technical duties.

SHRI S.S. NEGI, STENOGRAPHER GDE III

- i) All accounts file from 1/Accts to 199/Accts.
- ii) To prepare the paybill of Officers & Staff.
- iii) To prepare the TA/DA claim in r/o officers & staff.
- iv) To maintain the Inwards register.
- v) All return pertaining to Accounts file.
- vi) To prepare the RV and maintaining of RV folder and register.
- vii) To prepare the contingent bill.
- viii) To maintain the Budgetary control register.
- ix) Any other works assigned from time to time.

SHRI RAVI SHANKER, LDC

- i) To maintain the technical file from 300/tech to onwards.
- ii) To maintain the despatch register.
- iii) To type out the letters pertaining to library.
- iv) Any other works assigned from time to time.

ESTABLISHMENT ORDER 2/85 BY CRE

Further to Establishment order 1/85 dated 27.6.85,
add the following, under the duties of Shri Amresh Kumar Shukla,
after clause (vi):

"(vii) under special/emergent circumstances he will also
carry out duties assigned by any officer of the
establishment, superior in rank and on completion of the task,
he will give details of such tasks to his direct
superior officer".

Dated 3 Oct '85
Lucknow

(प्र० च० जोशी, ग्रुप कॅप्टन, मुख्य ब्राह्मणिक अभियन्ता,
(P. C. JOSHI), Gp. Capt; Chief Resident Engineer
इंज० ० निदेश, रक्षा मंत्रालय, एच.ए.एल. परिसर,
Dir. of Aero; Min. of Defence, HAL Premises, Lucknow.

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31/10/85

Amresh Kumar Shukla

10/12

Amresh Kumar
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD

Application No. 672 of 1986

Amresh Kumar Shukla Versus Union of India & others
Fixed on 10.3.87 for hearing

Application for amending the original application

The above named applicant most respectfully begs to state as under:-

1. That the application No. 672 of 1986 was filed before this Hon'ble Tribunal in November, 1986 and this Hon'ble Tribunal was pleased to admit the application on 19.1.87 for hearing the Counsel of the applicant.
2. That Counter-Affidavit and Rejoinder Affidavit have been exchanged between the Contesting parties and the case is fixed for hearing on 10.3.87.
3. That after perusing the Counter Affidavit filed on behalf of respondents, the averments made in para 9 thereof has come to light that in fact the post on which the applicant was appointed was of the rank of Senior Scientific Assistant in scale of Rs. 550-900 revised to Rs. 1600-2900 from January 1, 1986, but in spite of the fact that the applicant performed the duties which were attached to the said post, he was given the status of Junior Scientific Assistant Grade I and was allowed the pay scale of Rs. 425-700 which is lower than the pay scale admissible to the holder of post of Senior Scientific Assistant. It is thus obvious that the action of respondents is contrary to the principle of equal pay for equal work as laid down in Article 39 (d) of the Constitution of India. The applicant is, therefore, entitled to the pay admissible to Senior Scientific Assistant from the date he took charge of his post in the office of Respondent. he is legally entitled to the amount repre-

Received Comy
Chakraborty
Clerk to K-C-Sinhs
10/3/87

3rd May 1987

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difference of salary between the salary of the post of Senior Scientific Assistant and Junior Scientific Assistant Grade I. The guide lines of Government of India to fill the post of Senior Scientific Assistant by Junior Scientific Assistant Grade I, being in contravention of the said provisions of Article 39 (d) of Constitution of India are illegal and un-enforceable.

4. That the extension of the period of probation of the applicant being illegal by virtue of not obtaining the approval of Departmental Promotion Committee as provided in Appendix 29 of Civil Service Regulations Vol. III, the applicant will be deemed to have acquired substantive status on the post held by him and subsequent order of termination being based on the malafides of Respondent No. 2 to 5 the applicant has to be treated to have been confirmed on his post.
5. That in the interest of justice, it is necessary to amend the application claiming the salary of the post of Senior Scientific Assistant by the applicant and for declaring him as having been confirmed on his post on the grounds mentioned in the above paras of this application.
6. That in the circumstances, the applicant may kindly be allowed to amend the original application as under:-
 - (1) Under Caption Grounds, after ground (L), the following ground (M) may be added :-
 - (M) Because the applicant performed the functions of the post of Senior Scientific Assistant, but he was allowed the salary of junior Scientific Assistant Grade I which is in contravention of Article 39 (d) of Constitution of India and as such the applicant is legally entitled to the amount representing the difference of salaries

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(3)



of Senior Scientific Assistant and Junior
Scientific Assistant Grade I

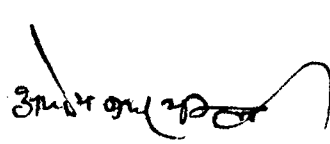
- (2) Under the Column ' Relief sought ' the following
further relief may be allowed to be added at the end
of para 7 of the application :-

" The applicant be declared to have been confirmed
on his post on 19.11.85 and also entitled to the
difference of salary of the post of Senior Scientific
Assistant and Junior Scientific Assistant Grade I."

7. That these amendments are consequential and these do not
change the nature of the case.

P R A Y E R

Wherefore it is prayed that the Hon'ble Tribunal
be pleased to allow the aforesaid amendments in the original
application.


APPLICANT

Dated: March 10 , 1987

April 13,

(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD

Application No. 672 of 1986

Amresh Kumar Shukla versus Union of India and others

-4-

Application for summoning of records

The applicant most respectfully states as under :-

1. That in order to prove the falsity of the statement made by Respondents on affidavit and to prove their malafide against the applicant it will be in the interest of justice that this Hon'ble Tribunal be pleased to direct Respondent No. 3 to produce the under mentioned records on the date of hearing of this application.
 - 1) Lists containing the details of duties assigned to the applicant from time to time during the period he remained employed in the office of Respondent No. 3, showing the signatures of applicant in token of service of the same on him.
 - 2) External Despatch Register relating to entire period of Annexure R-3 of Rejoinder Affidavit.
 - 3) File No. RTO(L)/235/Adm of the office of Respondent No. 3
 - 4) Book mentioned in Annexure R-V of Rejoinder Affidavit along with its Receipt voucher, Issue Voucher and ledger.
 - 5) Ledger register of books from T-1 to T-23
 - 6) Copy of letter No. RTO(L)227/3/Adm, dated 3.12.85, 6.12.85 and 11.12.85 regarding medical examination of the applicant.
 - 7) Copy of fitness certificate dated 12.12.85 given to the applicant by C.M.O. Lucknow.

It is, therefore, requested that this Hon'ble Tribunal be pleased to allow the request of the petitioner for summoning the records mentioned above.

* APPLICANT

Dated: May 20, 1987.

1-7-1987

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD

Application No. 672 of 1986

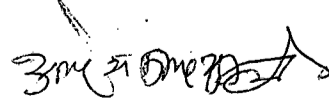
Amresh Kumar Shukla versus Union of India and others

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 - 4) Book mentioned in Annexure R-V of Rejoinder Affidavit along with its Receipt voucher, Issue Voucher and ledger.
 - 5) Ledger register of books from T-1 to T-23
 - 6) Copy of letter No. RTO(L)227/3/Adm, dated 3.12.85, 6.12.85 and 11.12.85 regarding medical examination of the applicant.
 - 7) Copy of fitness certificate dated 12.12.85 given to the applicant by C.M.O. Lucknow.

It is, therefore, requested that this Hon'ble Tribunal be pleased to allow the request of the petitioner for summoning the records mentioned above.



APPLICANT

Dated: May 20, 1987.

1-7-1987

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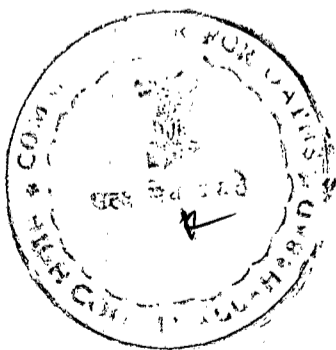
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as Chief Resident Engineer and has read over the contents of the application filed by the applicant for amending the original application., and is in a position to reply the same.

2- That the contents of para-1 and 2 of the application for amendment does not call for any comments.

3- That in reply to the contents of para-3 of the application, it may respectfully be submitted that the facts have already been stated in the counter-affidavit. It may however, be clarified that the duties and responsibilities attached to the post of senior Scientific Assistant(SSA) are entirely different from that of Junior Scientific Assistant(JSA-I). The applicant was interviewed, selected and appointed to the post of JSA-I. He performed the duties of JSA-I and not that of SSA.

4- That in reply to the contents of para-4 of the application, it may respectfully be submitted that it has already been stated in the supplementary Counter-Affidavit that the



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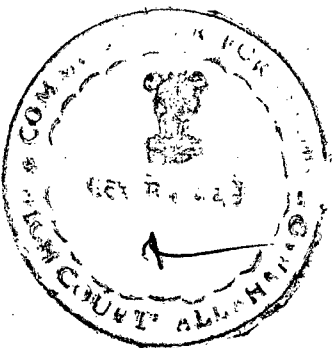
clarification that the cases of extension of probation also comes within the purview of DPC was received from the Government of India, Defence Research & Development Organisation, vide their No. 0620/RD/para-1 dated 03 February, 1986, whereas the probation of the applicant was extended in August, 1985.

5- That in reply to the contents of para-5 of the application, it may respectfully submitted that as no new point has been raised by the applicant in para-3 and 4 above. These points have already been raised in the original application itself. So, there is no need for making any amendment and the amendment application is liable to be rejected.

6- That in reply to the contents of para-6(i) of the application, it may respectfully be submitted that the applicant did not perform the duties of Senior Scientific Assistant. He was appointed for the post of JSA-I and was paid for that post till the time, he was in service.

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That in reply to the contents of



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para-6(2) of the application, it may respectfully be submitted that as has already been stated in counter-affidavit and supplementary counter-affidavit, the probation of the applicant was extended by the appointing authority till 19-11-1986

8- That in the interest of justice, it is prayed that the application for amendment filed by the applicant may kindly be dismissed.

I, the deponent above named do hereby verify that the contents of paragraph nos 1, 2 of this affidavit are based on personal knowledge; those of paragraph nos 3 to 8 are based on record ;those of para — 8 are based on legal advice to which I believe to be true; that no part of it is false and nothing material has been concealed.

So help me God.

(Deponent)



I, D.S. Chaubey, Clerk to Shri K.C. Sinha, Advocate, High Court, Allahabad do hereby declares that the person making this affidavit and alleging himself to be the same, is

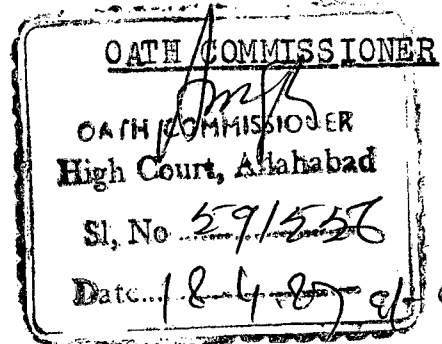
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known to me from the perusal of the papers
which he has produced before me in this
case.

Shukla
Clerk

I have satisfied myself by examining
the deponent that he has understood the
contents of this affidavit, which has been
read over and explained to him by me.



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD

Application No. 672 of 1986

Fixed For - July 1, 1987

Amresh Kumar Shukla Versus Union of India and others

The above named applicant, Amresh Kumar Shukla, begs to submit that applicant has stated that adverse remarks should only be made after giving oral warnings followed by written warnings in case any short-comings etc., were detected. Respondents have given evasive reply. It will, therefore, be presumed that they have admitted the above assertion of the applicant.

However, to make the position very clear it is absolutely necessary in the interest of justice to file the copy of the instructions contained in Appendix of Government of India Order No. 10349/Pers/RD-24 (a)/80/III, dated 5-1-81 issued by Director General, R.D., Ministry of Defence, Research and Development Organisation, New Delhi which lay down that the adverse remarks should be recorded only after the award of oral and written warnings.

It is, therefore, prayed that the enclosed photo stat copy of the aforesaid instructions may kindly be ordered to be kept on record.

Amresh Kumar Shukla
APPLICANT

Dated: 8-9-87

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APPENDIX - A

GUIDE LINES FOR COMPLETING ACRs

1. The aim of rendering of ACRs is to assess the individual's performance during the period covered by it. As these reports play a very vital part in the future prospects/career of the persons concerned as their promotions, etc., and as it also greatly affects the efficiency of the establishment, it is of vital importance that these are rendered objectively. Considerable care should, therefore, be exercised while rendering these ACRs. Some of the lacunae noticed in the ACRs are listed below:-

- (a) In many cases, the remarks recorded in the ACRs are very vague and in some cases these have no bearing on the work supposed to have been performed by the officer during the year. In a number of cases, the reports are also colourless.
- (b) Often contradictions exist between the views expressed by the initiating officers and the reviewing officers.
- (c) Vague statements like "I generally agree with the views expressed by the officer, etc." should not be recorded, by the reviewing officers. They should be specific in their views.
- (d) Integrity should not be described as 'excellent', 'beyond reproach', 'above board', 'very high order', 'very good', 'good', 'honour', 'average', 'NIL', etc. Since the superior officers cannot always be sure of all facets of all their subordinates, it would be better for them to state against the 'Integrity' Column that "Nothing adverse has come to my notice" (except in cases where specific instances of lack of integrity are known to them).
- (e) The final grading awarded in many cases is not correlated to the capabilities/performance of the officer concerned as reported upon by the initiating/reviewing officers. Sometimes, the officer who grades the ACR either upgrades or downgrades the grading of the officer without indicating his reasons for doing so thereby giving an impression of arbitrariness.
- (f) In many cases, adverse remarks or remarks relating to the shortcomings, failings, defects, etc., of the individual are reflected in the ACR but these are not conveyed to the individual concerned in writing by the Estt/Labs as required under the existing orders. As and when these were noticed by this HQ, we had

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to request the Estis/Labs concerned to convey the same to the individual in writing. This, in many cases involved belated communication of the remarks to the individual concerned and consequently it defeated the very purpose of this exercise, namely, that the individual should be apprised of his shortcomings, failings, defects, etc., in time so that he could improve his performance/conduct, etc., and also seek redress against these remarks, if he felt aggrieved. Non-communication of such remarks to the individuals concerned in time is also likely to vitiate the proceedings of the DPC/selection board which may decide the cases of these individuals on the basis of these reports.

- (g) Superior officers are not only required to supervise the work of their subordinates but also to help and guide them constantly in their duties, so that, if they have any failings, shortcomings, defects, these may be pointed out to them with suggestions for improvement, the aim being essentially corrective. The individual should be progressively advised verbally once or twice during the year about his failings, shortcomings, defects, etc., and also be told to improve them. If these verbal advices fail to correct him, he should be told of these in writing and if in spite of it, he still does not show the desired improvement, then only should the adverse remarks, failings, shortcomings, etc., be reflected in his ACR. If this drill is followed scrupulously, there should be no difficulty or hesitation on the part of the superior officers in communicating the shortcomings, failings, defects, etc., to the individual when they have recorded in his ACR. The individual too will not then have any grounds to protest that he was taken unaware by such remarks or that he was never apprised of his shortcomings, failings, defects.

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3m 6/24/20