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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Transferred Application No. 28 of 1986 (L)

Rameshwar Dayal Applicant

Versus

Union of India & Others Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. K. Obayya, Member (A)

This is a transferred application, received from the court of District Judge, Bareilly. The applicant was appointed as Civilian Clerk in the Artillery Brigade, Bareilly under the Ministry of Defence w.e.f. 9.1.1964. The appointment was subject to confirmation regarding suitability and the applicant was put on probation upto 9.2.1964. Thereafter with one month's notice dated 18.2.64, he was discharged from service w.e.f. 18.3.1964. The applicant preferred appeal against the discharge, but the same was rejected. He made several representations and also took up the matter with the ministry of Defence, and was informed that the Ministry is unable to concede to his request. Feeling aggrieved, the applicant filed suit (167/74) in the court of Additional Civil Judge, Bareilly, praying for declaration that the applicant continues to be in service as if he was never removed from service as Civilian clerk and that the orders of the respondents dated 18.2.64, 2.5.64 and 14.3.1972 are illegal, void and in-operative and that the applicant is entitled for decree for salary amounting to Rs. 66,771.73 from 18.3.1964 to the date of filing of the suit.

2. It was contended by the applicant that his

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appointment was on a permanent substantive post and though, he was put on probation, the probation was not extended, as such he is deemed to have been made permanent. The termination thereafter without notice or opportunity is violative of Article 311 of Constitution and also Rule 17 of Civilian in Defence Services (Classification, control & Appeal), Rule 1952.

3. The case was contested by the respondents. According to them, the applicant was only employed casually in a temporary capacity w.e.f. 9.1.1964 in the vacancy of a combatant clerk purely on temporary basis. He was put on probation upto 9.2.1964 and ^{as} his work was found to be not satisfactory, he was given time for another ten days to show improvement, but the desired improvement was not there, consequently, the applicant was discharged after giving one month notice. The notice was given on 18.2.1964 and he was discharged w.e.f. 18.3.1964. The respondents also stated that the applicant absented from duty from 11.3.1964 and that all his emoluments and entitlements were settled. As the applicant was only a temporary employee, his discharge was not by way of punishment, hence no notice was necessary nor charge-sheet was to be issued and there was no violation of any provision of the Constitution or principles of natural justice.

4. After hearing the counsel of parties and considering the contentions of both sides and also the record, the suit was dismissed by order and judgement dated 18.8.1981. Against the dismissal, the applicant

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preferred an appeal before the District Judge, Bareilly and the appeal (73/84) stood transferred to the tribunal by operation of law.

5. The lower court judgement is assailed inter alia on ground that as his appointment as Civilian clerk was an substantive post and that he was kept on probation, which was never extended as such he acquired status of permanent government servant and the Lower Court erred in holding that he was only temporary employee and his termination is legal and valid, and that though, Rule 17 of the Civilian in Defence Services (Classification, Control & Appeal), Rules 1952 has not been complied with ^{there was} and no illegality in passing the impugned order. The applicant has also urged that in the terms and conditions of the appointment, there was no provision to extend the probation and if the probation was extended, that was violation of conditions of contract and that the terms of employment did not indicate that the service would be terminated after giving one month notice. There was no evidence for establishing his unsuitability for the post.

6. We have given our anxious consideration to the rival contentions. The applicant has submitted lengthy written arguments wherein he has explained his case elaborately and also referred to the case law; we have carefully gone through the record. We have also perused the judgement of the lower court. The learned Additional Civil Judge considered the case of the applicant by framing 16 issues. The plea of limitation

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set-up by the respondents was considered as issue no. 4. It was held that the suit was barred by time in as much as, though, the cause of action arose in 1968/ but the judgement proceeded to consider the case of the applicant on merits and on the main issue relating to nature of the appointment and the validity of the termination etc. are dealt with under issues 1,2,3,8,14 and 15 etc. All these issues have been answered in the negative. The judgement has dealt comprehensively on all the issues raised. The appointment order of the applicant which is on record clearly indicates that the appointment was subject to confirmation of suitability and the applicant was put on probation for a month i.e. upto 8.2.1964. The probation was extended by 10 days and the applicant was given opportunity to show improvement in his work; As his work was found to be unsatisfactory at the end of this extended period, he was discharged from service. The assertion that the applicant was appointed on a regular basis on a substantive post and that he has acquired permanent status is factually incorrect. There is no automatic deeming of satisfactory completion of probation unless it is specifically declared by an order of the competent authority.

7. The applicant being a temporary employee was discharged with one months notice; He had no vested right for the post. In these circumstances the plea that termination was without notice or opportunity has no substance. Services of temporary employee can be terminated without any notice or opportunity and the provisions of the constitution or principles of natural

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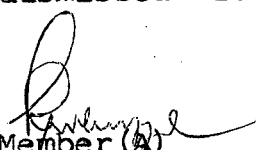
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justice are not attracted. In state of U.P. Vs. Kaushal Kumar Shukla(1991 SCC(L&S) 587), The Supreme Court held, :-

"that where termination of an adhoc temporary Government servant is effected on assessment of work, there is no violation of articles of the Constitution and that such termination is not punitive to attract Article 311(2).

Reference may be made to the decision of the Supreme Court in Purushottam Lal Dāngra Vs. Union of India, where in the Supreme Court laid down that two tests namely whether the temporary Government servant has right to the post and whether he has been visited with evil consequences have to be applied if either of that is satisfied, then termination has to be held as punitive. In the instant case, the applicant being a temporary employee, having worked for a brief period of one month and 10 days, acquired no status or right on the post, and the lower court rightly held that his termination was valid and there was no violation of law or principles of natural justice. We do not see any ground made out for our interference. The application has no merit and accordingly it is dismissed with no order as to costs.


Member (A)


Vice-Chairman

Lucknow Dated: 23rd 2, 1993.

(RKA)

जिला न्यायालय

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इस बात की सूचना कि प्रतिलिपियां हस्तगत किये जाने के लिए तैयार हैं

एतद्द्वारा यह सूचित किया जाता है कि निम्नलिखित प्रतियां हस्तगत किये जाने के लिए तैयार हैं

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| 50 | पुस्तक वगैरह | 3 2-50 | 11-9-84 |
| 51 | दस्तावेज | 3 | 10-9-84 |
| 52 | Annexure | 9 | 4 |
| 53 | Affidavit | 5 | 4 |
| 54 | Application | 9 | 4 |
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| 62 | Affidavit | 1 | 4 |
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186/81

22/11/81

27.11.81

आज कोर्ट की कार्रवाई में
हम जानें कि कार्रवाई 12/11/81
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पूरा है।

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बरेली

16-12-81

आज कोर्ट की कार्रवाई में पूरा हो चुका
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22/12/81

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DISTRICT JUDGE
BAREILLY.

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29/11/82

DISTRICT JUDGE
BAREILLY

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DISTRICT JUDGE
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Papers

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DISTRICT JUDGE
BAREILLY.

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rejected

The state is duly represented
application for redressal

is rejected for default

Case for the present

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Court of law

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No. 186/81 (2)

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12/82

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बाबा दया 101 अथवा 102
दिनांक 1.1.83 का पत्रिका
व।

DISTRICT JUDGE
BAREILLY

7/1/83

महाराज का लाल बहादुर शास्त्री
द्वारा प्रेषित लाल बहादुर शास्त्री
लाल दिनांक 25/4/83 को ही

DISTRICT JUDGE
BAREILLY

(20)

25/4/83

माता प्रेम कुमा लाल बहादुर शास्त्री
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द्वारा लाल बहादुर शास्त्री
दिनांक 25/4/83 को ही
दिनांक 8/10/82 रजिस्ट्रार लाल देवी
महेन्द्रा जी बहादुर शास्त्री
पुस्तिका दिनांक 25/4/83 को ही
पत्रिका लाल बहादुर शास्त्री

DISTRICT JUDGE
BAREILLY

(21)

5/3/83

दिनांक 5/3/83 को लाल बहादुर शास्त्री
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 श्री. ल. प्रभाकर. 46/4 प्रहारे
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1-3-84

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कमलद आदेश-पत्र
(अध्याय 4, नियम 3)

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प्रतिवादी
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आदेश संख्या

दिनांक

आदेश अथवा आदेश का विषय

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कानूनी दायित्व

26/9/84

अपने दावे के साथ मॉरु के तहत दावा

37/2/84

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10-9-84

Heard appellant in person.

Let copies of application and affidavit be served upon the counsel for respondents and put up on 26-9-84 for objection and disposal.

D.J.
10-9-84

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26/9/84

दोनों मामलों का एक ही वकालत
उपरोक्त दिनांक 22/11/84 पर ही

DISTRICT JUDGE
BAREILLY.

(90)

22/11/84

मामलों का एक ही वकालत
दोनों मामलों का एक ही वकालत
उपरोक्त दिनांक 4/11/85 पर ही

DISTRICT JUDGE
BAREILLY.

26/9/84
27/10/84
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22/11/84
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क्रमबद्ध आदेश-पत्र

(अध्याय 4, नियम 3)

न्यायालय

स्थान

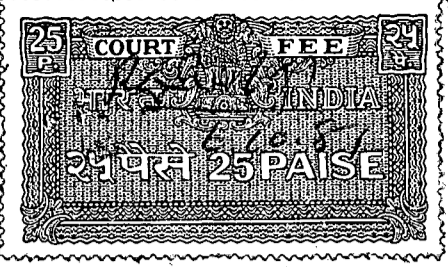
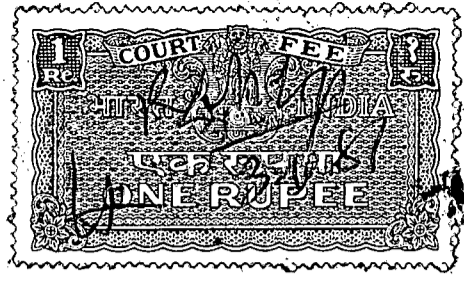
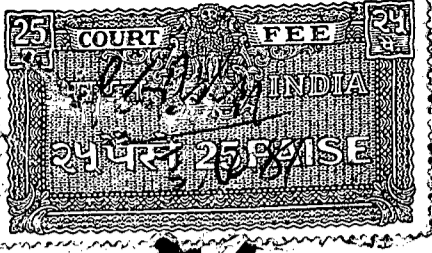
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सरकार सिन्धु प्रान्त सरकार का (सुप्रीम कोर्ट)

निवासी

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| | | <p><u>M/s. Mushtaq Ahmad Submal</u> <u>Allahabad in view of order of the</u> <u>Mushtaq Ahmad Submal.</u></p> | <p><u>Bhanna</u></p> | |

CA 73



CA
Main No. 186/01

BEFORE THE DISTRICT JUDGE, BAREILLY.

Civil Appeal No. 73/81 of 1981.
Original Suit No. 167/74

Rameshwar Dayal s/o Shri P.L. Rastogi aged about 45 years R/o 38 Gali patwa, Bareilly....Plaintiff - Appellant.

Versus

1. Union of India through the Secretary Government of India, Ministry of Defence, New Delhi.
2. Maj. O.C. HQ 6 Mtn Arty. Bde C/o 56 APO.
3. Lt. Col. AA & QMG HQ 6 Mtn Div., C/o 56 APO

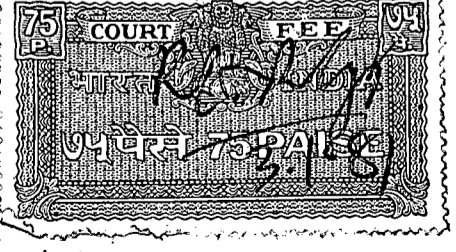
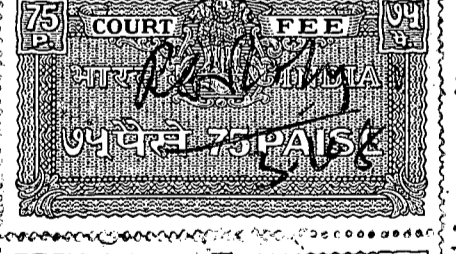
..... Hereby called the defendant Respondents.

Appeal against the judgment, decree and order date 18.8.81 passed by Shri Irshad Husain, Additional Civil Judge, Bareilly in suit No. 167/74 Rameshwar Dayal Vs. Union of India and others dismissing the plaintiff's suit with costs. Certified copy of judgment, decree and order are enclosed herewith which were received on 24.9.81 hence the appeal is within time.

GROUNDS OF APPEAL.

1. Because the judgment, decree and order of the learned lower court is against law, equity and facts on records. In the circumstances of the case the suit was liable to be decreed with costs and the decision of the court below to the contrary erroneous and deserves to be set aside.
2. Because the impugned termination notice is despoil illegal, and contrary to the Rules of the department and amounts to illegal exercise of jurisdiction by the defendant's respondents.
3. Because the learned lower court has erred in holding that the appointment of the appellant - plaintiff was on probation on temporary basis. The fact is that the appellant plaintiff was appointed against a substantive post of a civil clerk with effect from 9th Jan. 1964 on the ground that the appointment of the appellant plaintiff was on probation regarding his suitability and his probation period was never extended as such w.e.f. 9th Feb. 64 the plaintiff appellant acquired the status of permanent Government servant and the findings and decision of the court below to the contrary is erroneous and deserves to be set aside.

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R. Dayal

4. That the learned lower court has erred in holding that the impugned termination order of the plaintiff-appellant is legal and not void. The fact is that the termination of ~~the~~ appellant plaintiff was against the provision of law and Rules applicable in this behalf. In the alternative if the appointment of the appellant plaintiff is held to be on probation though not admitted, even then the compliance of Rule 17 of the Civilian in Defence Services (Classification, Control & Appeal) Rules 1952 was a must. In the present case no opportunity of Show-cause notice as required under the said rule has ever been awarded to the plaintiff appellant. As such the impugned order of termination is mala fide, illegal, void and non est.
5. Because the learned lower court has erred in holding that the condition of Rule 17 of Civilian in Defence Service (Classification, Control & Appeal) Rules 1952 has been complied with. The fact is that no such notice has ever been served on the plaintiff appellant and the non-compliance of Rule 17 vitiates the impugned termination order and ~~the~~ findings of the court below to the contrary are wrong and pervert.
6. Because the impugned termination order is void and inoperative. That the defendants respondents particularly the defendant respondent No. 2 have already made up his mind to adjudged the plaintiff ~~respondent~~ appellant inefficient and so, the impugned termination notice is vitiated.
7. Because the ~~cause~~ case of the plaintiff appellant has been PREJUDGED and so, he is not getting the opportunity envisaged either in Rules or by the principle of any law of the land and equity. BIAS of the defendants respondents is apparent on the face of the record. ~~The proceedings~~ Therefore the impugned notice of termination of the services of the plaintiff appellant is vitiated.
8. Because as per condition of the Rule 17 of Civilian in Defence Services (Classification, Control & Appeal) Rules, 1952 an opportunity to show cause is to PRECEDE the issuance of termination notice and not to FOLLOW it. This has obviously not been done in the present case and, therefore the condition precedent for the termination of services, envisaged by section 17 of the Rules has not been fulfilled and this invalidates the impugned order of termination itself.
9. Because the issue of show-cause notice before issuing any termination order is not the matter of mere formality in view of the mandatory provisions of Rule 17 of Civilian in Defence Service (Classification, Control & Appeal) Rules 1952 hence otherwise findings of the learned lower court on this point are wholly unjustified.
10. Because the impugned termination order casts stigma as it appears a punitive flavour as is evident ~~from~~ from the impugned termination order itself, and subsequent conduct exhibited by the defendants respondents vide their letter dated 18 July, 1967 (Paper No. B40) hence the impugned order is void, ab initio and vitiated being in contravention to the Civilian in Defence Service (Classification, Control & Appeal) Rules 1952 and any finding and decision of the court below to the contrary is erroneous and deserves to be set aside.
11. Because in fact there was no show cause notice, but even as presumed by the court below the presence of the same is to be treated nothing except formality

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the eye of law being issuance of impugned termination notice PREDETERMINED, and any finding and decision of the ~~tribunal~~ court below to the contrary is erroneous and deserves to be set aside.

12. Because the plaintiff appellant was appointed on probation vide contract letter dated 18th Jan 1964 (paper No. Kha 20) subject to confirmation regarding his suitability. There was nothing empowering the defendants respondents to extend the probation period after exhausting the original period of probation or to terminate the services on one month's notice or pay in lieu ~~of~~ of the notice. As per terms of the contract the probation period of the plaintiff appellant was satisfactorily exhausted on 8th Feb. 1964, and the appellant plaintiff with effect from 9th Feb. 1964 acquired the status of permanent Government servant. The result is that the impugned order of termination is crystal clear violates to the terms and conditions of the contract letter, and the same is liable to be set aside, specifically when the default was ~~not~~ ^{not} subsequently ~~subsequent~~ ^{subsequent} ~~to~~ ^{to} ~~the~~ ^{the} ~~contract~~ ^{contract} ~~letter~~ ^{letter} ~~and~~ ^{and} ~~one~~ ^{one} ~~present~~ ^{present} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~contract~~ ^{contract} ~~as~~ ^{as} ~~well~~ ^{well} ~~as~~ ^{as} ~~it~~ ^{it} ~~is~~ ^{is} ~~clear~~ ^{clear} ~~that~~ ^{that} ~~the~~ ^{the} ~~plaintiff~~ ^{plaintiff} ~~appellant~~ ^{appellant} ~~was~~ ^{was} ~~clear~~ ^{clear} ~~convinced~~ ^{convinced} ~~by~~ ^{by} ~~the~~ ^{the} ~~tribunal~~ ^{tribunal} ~~below~~ ^{below} ~~to~~ ^{to} ~~set~~ ^{set} ~~aside~~ ^{aside} ~~the~~ ^{the} ~~same~~ ^{same} ~~is~~ ^{is} ~~liable~~ ^{liable} ~~to~~ ^{to} ~~be~~ ^{be} ~~set~~ ^{set} ~~aside~~ ^{aside}.
13. Because there was no condition to terminate the employment of the plaintiff appellant on one month's notice or pay in lieu of the notice, but even for a moment for the sake of arguments if it is accepted though not admitted but that can not be any assistance for the defendants respondents to make the impugned termination order valid for the reason that the requisite amount at one stage in terms of the alleged condition has not been paid in to the hands of the plaintiff appellant or made available to him simultaneously at that time on and from the date his right to serve the deptt. was ceased by the defendants respondents unlawfully. Hence it is clear that the termination of the services of the plaintiff appellant was not in accordance with the terms even as alleged subsequently by the defendants respondents and therefore the impugned termination order can not be maintained and is liable to be quashed.
14. Because the view of the learned lower court that the defendants respondents were empowered to terminate the service of the appellant plaintiff after expiry of the probation period or after the end of extended period of probation ~~and~~ which never specifically mentioned is wholly illegal, ~~unlawful~~ ^{unlawful} ~~and~~ ^{and} ~~perverse~~ ^{perverse} and wholly unjustified as is apparent on the face of the appointment order of the appellant plaintiff.
15. Because the impugned order of termination is also bad even as per defendants respondents allegation be presumed, for for a moment for the sake of arguments though not admitted, that the ^{probation} period of the plaintiff respondent was extended upto 18.2.64 (by giving another 10 days as alleged by them) as such his discharge from duty with effect from ~~18.2.64~~ ^{17.2.64} ~~is~~ ^{is} ~~premature~~ ^{premature}, and gives the defendants respondents no right to terminated the services of the plaintiff ~~respondent~~ ^{appellant} appellant before 18.2.64 (stipulated period) had expired.
16. Because it is not the case of the defendants respondents that there was any further extension of the probation period beyond 17th Feb. 1964. What was the nature and character of service of the plaintiff appellant from 18th Feb. 1964 when even the alleged extended period of probation expired and termination of his services on March 17, 1964. He is unquestionably not on probation. and also there being nothing in terms of contract letter empowering the defendants respondents to terminate the services of the plaintiff appellant on giving one month's notice or one month's pay in lieu of notice. Consequence in law is that he will be treated permanent Government servant as per the rules governing the contract of employment between the plaintiff appellant and the defendants respondents. How is it open then to the learned lower court to record a finding that the

Can still even beyond the date in issue

P. B. Singh

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services of the plaintiff appellant was terminated during the period of probation on account of unsatisfactory work and conduct which did not improve inspite of extending the period of probation and during the entire period of notice. The learned lower court concluded that notwithstanding the fact that the appellant was not shown to have been placed on probation during the entire period of his service but in view of the subsequent extension of the probation period for another 10 days i.e. upto 18.2.64 and that his services were terminated during the extended period of probation. This is gross error apparent on the face of the record which, if not interfered with, would result in miscarriage of justice. Also there was no justification, cause, rhyme or reason to discharge him from service, as such discharge of the plaintiff appellant from service was malafide, colourful exercise of powers and liable to be set aside.

17. Because the services of the plaintiff appellant have been purported to be terminated on the grounds of unsuitability but the plaintiff appellant had never been known the reason during ~~the~~ his service period on the basis of which he was adjudged to be unsuitable or inefficient to the post. That even before the learned lower court there was no evidence adduced on behalf of the defendants respondents to show that the work or conduct of the plaintiff appellant was unsatisfactory and he was inefficient. There was also no document produced on behalf of the defendants respondents to illustrate the unsatisfactory work, conduct or inefficiency of the plaintiff appellant. Hence for the foregoing reasons there was no proof of the alleged misconduct on the part of the plaintiff appellant, and there was no justification for ~~any terminating~~ his services and in face of complete absence of evidence in regard to the unsatisfactory work, misconduct, and inefficiency of the plaintiff appellant, the discharge of the plaintiff appellant from service was malafide, ab initio and liable to be set aside.

18. That vide letter dated 18th July 1967 (paper No. B40) issued by the defendant respondent No. 2 clearly admitted that the probation period of the plaintiff ~~was 2 years~~ appellant was 2 years, whereas this version of the defendants respondents is ex parte hence does not bind the plaintiff appellant even in that case the consequence of this version will certainly go against them i.e. the plaintiff appellant's services can not be terminated before the aforesaid stipulated period of 2 years and the findings and decision of the court below to the contrary is erroneous and deserves to be set aside.

Because the learned lower court has erred in giving undue weight to the evidence of the defendants respondents and ignoring the documentary and genuine evidence of the plaintiff appellant.

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jurisdiction of the authority can not be deviated even on admission or compromise by the parties. Although it has already been ^{made} clear that the appeal of the plaintiff appellant was decided only on 14.3.72 vide paper No.B/78 which is further crystal clear on face of the record on file of the case. As a matter of fact the appeal of the plaintiff appellant has been rejected by the Under Secretary to the Government of India Ministry of Defence his letter dated 14.3.72 (paper No.B/78) hence the period of limitation in the present case should be counted from the date when the rejection of the appeal was made, and the period of limitation commences from that date. Hence the suit was filed well within time, the findings and decision of the court below the contrary is erroneous and deserves to be set aside.

23. ~~Because~~ Because the plaintiff appellant could not come before exhausting all the normal official channels and remedies by way of rules incorporated in Govt. servants conduct Rules, and law of Limitation as per settled law is inapplicable to cases where departmental remedy or remedies were provided.

24. Because the impugned termination order dated 18.2.64 (paper No. 1) is in breach of mandatory provision i.e. statutory Rule called Civilian in Defence Services, (Classification, Control & Appeal) Rules 1952 hence the aforesaid impugned termination order is void and inoperative and is non est. The RESULT is that being the said impugned termination order void, ab initio, the -
TERMINATED PLAINTIFF APPELLANT WILL BE DEEMED THROUGH-OUT TO BE IN SERVICE OF THE DEPARTMENT WITH ALL BENEFITS OF SERVICE AND IN CONTINUITY OF HIS SERVICE DEEMING THAT THE IMPUGNED TERMINATION ORDER IS DECLARED VOID OR SET ASIDE, and findings and decision of the learned lower court to the contrary is erroneous and lacks any basis in law, and deserves to be set aside.

25. Because the learned lower court has erred not holding that plaintiff appellant has not discharged his duties upto 24.3.64. The learned lower court has also erred in not giving an adverse inference in not producing the Attendance Register which was specifically summoned and which was deliberately not produced by the defendants respondents.

26. Because the learned lower court has erred in intertaining the evidence of the defendants respondents witness and also given undue weight to the evidence of the DW-1.

27. Because the impugned order dated 18.2.64 (paper No.21B) purports to terminate the services of the plaintiff appellant w.e.f. 17.3.64 but the said order was not given effect and the plaintiff appellant was allowed to continue upto 24.3.64 and this fact has already been disclosed in the appeal and reminders of the plaintiff appellant at the initial stage i.e. in the year 1964 which were sent to the defendants ^{respondents} and their copies were present on the above case file hence the impugned termination order became inoperative and void as no other order was issued for terminating his services. And also there was no justification for terminating his services before his superannuation being in face of record he has right to hold the post till that date. The result is that the plaintiff appellant is deemed to continue in his service with all benefits and pay, etc. ^{as provided in the depld}

I have also considered him on all beyond in date in view

28. Because the defendants respondents have grossly failed to produce the factum of weeding out of the Attendance register the best evidence available with them hence they were not legally entitled to produce the secondary evidence.

R. Bajaj

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On the basis of the pleading of the plaintiff appellant continued to work on the post upto 24.3.64 i.e.

end of the stipulated period of the impugned termina-

tion, and signed over the attendance register upto 24.3.64

the learned lower court was pleased to summon the Attendance Register which was not produced by the defendants respondents

although the existence of the said register was admitted vide their paper No.119 Gha and thereafter they came up with an

after-thought plea that the attendance register has been weeded out. Thereafter the learned lower court ordered the defendants

respondents vide court order dated 23.7.80 on paper No.122C to produce the original weeding letter which too has not been

produced for which under Rules they were duty bound to maintain it permanently, and in order to fill a lacuna to substantiate

their after-thought plea and ill founded motive having no cause or reason produced a witness Sri Ram Autar DW-1 who too has not

corroborated the contention of the defendants respondents that the said register has been weeded out. The whole version of

Ram Autar DW-1 is hear say and can not be relied and liable to be rejected and the findings of the court below to the contrary is erroneous to be set aside.

Because the defendants respondents have also not produced the proceedings of the Board in which the document (attendance

Register) in question was presumed weeded out particularly when they were under rules duty bound to maintain and produce

the same before the court, hence the plea of the defendants respondents is quite untenable and it is clear that they have

withhold the document from the perusal of the Hon'ble court on account of malice, specifically when they are failed to

produce the admitted and available documents with them in connection with the said proceedings i.e. proceeding of the

Board in which the documents in question was supposed to be weeded out. The result that the required document Attendance

Register was never weeded out and the same is still in their custody and any finding of the court below to the contrary is erroneous to be set aside.

Because the learned lower court has also erred in holding that the documents filed by the appellant plaintiff have not been

properly proved hence the findings of the learned lower court are erroneous and against law and not legally maintainable.

Because the view of the learned lower court that the defendants respondents were empowered to change the terms and conditions

of the service of the appellant plaintiff exparte is wholly erroneous particularly being absence of any existing statutory

rules.

It is a settled law and as well as defined under S.R. that probationer means a servant employed on probation

against a substantive vacancy in the cadre of a department. In this definition it appears quite clear that unless there

is a substantive vacancy none can be appointed as a probationer. It should not be shown with reference to any other rule as to

whether this expression can be used in case of temporary -
ment.

(d) Pamper ~~Amr... A 2A~~ (1)
Indigent (20)

BEFORE THE DISTRICT JUDGE, BAREILLY.

Civil Appeal No. 73 of 1981

Misc. No. 186/81

Original Suit No. 167/74

Rameshwar Dayal S/o Shri P.L. Rastogi aged about
45 years R/o 38 Gali Patwa, Bareilly....Plaintiff
Appellant.

Versus

1. Union of India through the Secretary,
Government of India, Ministry of Defence
New Delhi.
2. Maj. O.C. HQ 6 Mtn Arty Bde
C/o 56 APO
3. Lt. Col. AA & QMG
HQ 6 Mtn Div.,
C/o 56 APO

.....Hereby called the
defendants Respondents

Appeal against the judgment, decree and order dated
18.8.81 passed by Shri Irshad Husain, Additional
Civil Judge, Bareilly in suit No.167/74 Rameshwar -
Dayal Vs. Union of India and others dismissing the
plaintiff's suit with costs, Certified copy of the
judgment, decree and order are enclosed herewith
which were received on 24.9.81 hence the appeal
is within time.

GROUNDS OF APPEAL.

1. Because the judgment, decree and order of the learned
lower court is against law, equity and facts on records.
In the circumstances of the case the suit was
liable to be decreed with costs and the decision of
the court below to the contrary is erroneous and
deserves to be set aside.
2. Because the impugned termination notice is despotic,
illegal, and contrary to the Rules of the department
and amounts to illegal exercise of jurisdiction of
the defendants respondents.
3. Because the learned lower court has erred in holding
that the appointment of the appellant plaintiff
was on probation on temporary basis. The fact is
that the appellant plaintiff was appointed against
a substantive post of a Civilian Clerk with effect
from 9th Jan. 1964 on the ground that the appointment
of the appellant plaintiff was on probation regarding
his suitability and his probation period was never
extended as such w.e.f. 9th Feb. 64 the plaintiff
appellant acquired the status of permanent Government
servant and the findings and decision of the court
below to the contrary is erroneous and deserves to
be set aside.

Contd.... 2

R. B. Rastogi

4. That the learned lower court has erred in holding the impugned termination order of the plaintiff is ~~is~~ legal and not void. The fact is that the termination of the appellant plaintiff ~~was against the appointed against the substantive post of a Civilian Clerk~~ was against the provisions of law and Rules applicable in this behalf. In the alternative if the appointment of the appellant plaintiff is held to be on probation though not admitted, even then the compliance of Rule 17 of the Civilian in Defence services (Classification, Control & Appeal) Rules 1952 was a must. In the present case no opportunity of show cause notice as required under the said Rule has ever been awarded to the plaintiff appellant. As such the impugned order of termination is ~~melafide~~, illegal, void and non est.
5. Because the learned lower court has erred in holding that ~~the~~ condition of Rule 17 of Civilian in Defence Service (Classification, Control & Appeal) Rules 1952 has been complied with. The fact is that no such notice has ever been served on the plaintiff appellant and non-compliance of Rule 17 vitiates the impugned termination order and the findings of the court below to the contrary are wrong and pervert.
6. Because the impugned termination order is void and inoperative. That the defendants respondents particularly the defendant respondent No.2 have already made up his mind to adjudged the plaintiff appellant inefficient and so, the impugned termination ~~order~~ notice is vitiates.
7. Because the case of the plaintiff appellant has been PREJUDGED and so, he is not getting the opportunity envisaged either in Rules or by the principle of any law of the land and equity. Bias of the defendant respondents is apperent on the face of the record. Therefore the impugned notice of termination of the services of the plaintiff is vitiates.
8. Because as per condition of Rule 17 of Civilian in Defence Services (Classification, Control & Appeal) Rules, 1952 an opportunity to show cause is to PRECEDE the issuance of termination notice and not to FOLLOW it. This has obviously not been done in the present case and, therefore the condition precedent for the termination of service, envisaged by ~~section~~ 17 of the Rules has not been fulfilled and this invalidates the impugned order of termination.
9. Because issue of show cause notice before issuing any termination order is not the matter of formality in view of the mandatory provisions of Rule 17 of Civilian in Defence Service (Classification, Control & Appeal) Rules, 1952 hence otherwise findings of the learned lower court on this point are wholly unjustified.
10. Because the impugned termination order costs stigma as it appears a punitive flavour as is evident from the impugned termination order itself and subsequent conduct exhibited by the defendants respondents vide their letter dated 18 July, 1967 (Paper No.B/40)

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hence the impugned order is void, ab initio and vitiated being in-contravention to the Civilian in Defence Service (Classification, Control & Appeal) Rules, 1952 and any finding and decision of the court below to the contrary is erroneous and deserves to be set aside.

11. Because in fact there was no show cause notice, but even as presumed by the court below the presence of it the same is to be treated nothing except formality in the eye of law being issuance of impugned termination notice **PREDETERMINED** and any finding and decision of the court below to the contrary is - erroneous and deserves to be set aside.

12. Because the plaintiff appellant was appointed on probation vide contract letter dated 18th Jan 1964 (paper No. Kha 20) subject to the confirmation regarding his suitability. There was nothing empowering the defendants respondents to extend the probation period after exhausting the original period of probation or to terminate the services on one month's notice or pay in lieu of the notice. As per terms of the contract the probation period of the plaintiff appellant was satisfactorily exhausted on 8th Feb. 1964, and the appellant plaintiff with effect from 9th February 1964 acquired the status of permanent Government servant. The result is that the impugned order of termination is crystal clear violates to the terms and conditions of the contract letter, and the same is liable to be set aside, specifically when the defendants respondents vide their subsequent letters received by the plaintiff appellant and are present in the case file as well as from their W.S. clearly established that the plaintiff appellant was clearly considered by them on roll even beyond the date in issue.

13. Because there was no condition to terminate the employment of the plaintiff appellant on one month's notice or pay in lieu of the notice, but even for a moment for the sake of arguments if it is accepted though not admitted but that can not be any assistance for the defendants respondents to make the impugned termination order valid for the reason that the requisite amount at one stage in terms of the alleged condition has not been paid in to the hands of the plaintiff appellant or made available to him simultaneously at the time on and from the date his right to serve the department was ceased by the defendants respondents unlawfully. Hence it is clear that the termination of the services of the plaintiff appellant was not in accordance with the terms even as alleged subsequently by the defendants respondents and therefore the impugned termination order cannot be maintained and is liable to be quashed.

PSR Singh

14. Because the view of the learned lower court that the defendants respondents were empowered to terminate the services of the appellant plaintiff after expiry of the probation period or after the end of extended period of probation which never specifically mentioned is wholly illegal, perverse and wholly unjustified as is apparent on the face of the appointment order of the appellant plaintiff.
15. Because the impuned order of termination is also bad even as per defendants respondents allegation be presumed for a moment for the sake of arguements though not admitted that the probation period of the plaintiff appellant was extended upto 18.2.64 ~~XXXXX is~~ (by giving another 10 days as alleged by them) as such his discharge from duty with effect from 17.2.64 (A.N.) is PREMATURE, and gives the defendants respondents no right to terminate the services of the plaintiff appellant before 18.2.64 (Stipulated period) had expired.
16. Because it is not the case of the defendants - respondents that there was any further extension of the probation period beyond 17th Feb. 1964. What was the nature and character of service of the plaintiff appellant from 18th February 1964 when even the alleged extended period of probation expired and termination of his services on March 17, 1964. He is unquestionably not on probation, and also there being nothing in terms of contract letter empowering the defendants respondents to terminate the services of the plaintiff appellant on giving one month's notice or one month's pay in lieu of notice. Consequently in law is that ~~he~~ he will be treated permanent Government servant as per the Rules governing the contract of employment between the plaintiff appellant and the defendants respondents. How is it open them to the learned lower court to record a finding that the services of the plaintiff appellant was terminated during the period of probation on account of unsatisfactory work and conduct which did not improve inspite of extending period of probation and during the entire period of notice. The learned lower court concluded that not withstanding the fact that the appellant of the subsequent extension of the probation period for another 10 days i.e. upto 18.2.64 and that his services were terminated during the extended period of probation. This gorss error apparent on the face of the record which, if not interfered with, would result in miscarriage of justice. Also there was no justification, cause, rhyme or reason to discharge him from service, as such discharge of the plaintiff appellant from service was malafide, colourful exercise of power liable to be set aside.
17. Because the services of the plaintiff appellant have been purported to be terminated on the grounds of unsuitability but the plaintiff appellant had never been known the reason during his service period on the basis of which he was adjudged to be unsuitable or inefficient to the post. That even before the

Robt. G. J.

learned lower court there was no evidence adduced on behalf of the defendants respondents to show that the work or conduct of the plaintiff appellant was unsatisfactory and he was inefficient. There was also no document produced on behalf of the defendants respondents to illustrate the unsatisfactory conduct or inefficiency of the plaintiff appellant. Hence for the foregoing reasons there was no proof of the alleged misconduct on the part of the plaintiff appellant, and there was no justification for terminating his services and in face of complete absence of evidence in regard to the unsatisfactory work, misconduct, and inefficiency of the plaintiff appellant, the discharge of the plaintiff appellant from service was malafide, ab initio and liable to be set aside.

18. That vide letter dated 18th July 1967, (Paper No. B40) issued by the defendant Respondent No.2 clearly admitted that the probation period of the plaintiff appellant was 2 years, whereas this version of the defendants respondents is exparte hence does not bind the plaintiff appellant, even in that case the consequence of this version certainly go against them i.e. the plaintiff appellant's services can not be terminated before the said aforesaid stipulated period of 2 years and the findings and decision of the court below to the contrary is erroneous and deserves to be set aside.
19. Because the learned lower court has erred in giving undue weight to the evidence of the defendants respondents and ignoring the documentary and genuine evidence of the plaintiff appellant.
20. Because the learned lower court has erred in holding that the suit is not within time.
21. Because the learned lower court has erred in holding that the period of limitation be reckoned in the case of the plaintiff appellant with effect from 29.3.68 instead of 14.3.72, and also further erred in holding to be against the provision of Article 113 of the Indian Limitation Act 1963.
22. Because it has been wrongly held by the learned lower court that the cause of action to file the suit accrued to the plaintiff appellant with effect from 29.3.68 deeming the letter dated 29.3.68 (Paper No.45B) issued by the defendant respondent No.2 is the rejection of the appeal whereas it is well settled law that the appeal can be rejected only by the appellate authority i.e. those who are holding above the rank to the appointing authority. This principle i.e. jurisdiction of the authority can not be deviated even on admission or compromise by the parties. Although it has already been made clear that the appeal of the plaintiff appellant was decided only on 14.3.72 vide paper No. B/78 which is further crystal clear on face of the record on file of the case. As a matter of fact the appeal of the plaintiff appellant has been rejected by the Under Secretary to the Government of India Ministry of Defence vide his letter dated 14.3.72 (Paper No. B/78) hence the period of limitation in the

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case should be counted from the date when the rejection of the appeal was made, and the period of limitation commences from that date. Hence the suit was filed well within time, the findings and decision of the court below to the contrary is erroneous and deserves to be set aside.

23. Because the plaintiff appellant could not come before exhausting all the normal official channels and remedies by virtue of rules incorporated in Government servant Conduct Rules, and law of limitation as per settled law is inapplicable to cases where departmental remedy or remedies were provided.
14. Because the impugned termination order dated 18.2.64 (Paper No.21B) is in breach of mandatory provision i.e. statutory Rule called Civilian in Defence Services, (Classification, Control & Appeal) Rules 1952 hence the aforesaid impugned termination order is void and inoperative and is non est. The RESULT is that being the said impugned termination order void ab initio, the TERMINATED PLAINTIFF APPELLANT WILL BE DEEMED THROUGH OUT TO BE IN SERVICE OF THE DEPARTMENT WITH ALL BENEFITS OF SERVICE AND PAY, ETC. IN CONTINUITY OF HIS SERVICE DEEMING THAT THE IMPUGNED TERMINATION ORDER IS DECLARED VOID OR SET ASIDE, and the findings and decision of the learned lower court to the contrary is erroneous and lacked any basis in law ~~and~~ and deserves to be set aside.
25. Because the learned lower court has erred not holding that the plaintiff appellant has not discharged his duties upto 24.3.64. The learned lower court has also erred in not giving an adverse inference in not producing the Attendance Register which was specifically summoned and which was deliverately not produced by the defendants respondents.
26. Because the learned lower court has erred in entertaining the defendants respondents witness and also given undue weight to the evidence of the D.W.1.
27. Because the impugned order dated 18.2.64 (Paper No.21B) purporting to terminate the services of the plaintiff appellant w.e.f. 17.3.64 but the said order was not given effect and the plaintiff appellant was allowed to continue upto 24.3.64 and this fact has already been disclosed in the appeal and reminders of the appellant plaintiff at the initial stage i.e. in the year 1964 which were sent to the defendants respondents and their copies are present on the above case file hence the impugned termination order became inoperative and void as no other order was issued justification to terminate ~~the~~ his services before his superannuation being on face of record he has right to hold the post till that age. The result is that the plaintiff appellant is deemed in continuing in the service with all benefits and pay etc. particularly the defendants respondents have also considered him on roll beyond the date in issue.
28. Because the defendants respondents have grossly failed to prove the factum of weeding out of the Attendance - Register through the best evidence available with them hence they were not at all legally entitled to produce the secondary evidence.

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29. Because on the basis of the pleadings of the plaintiff appellant that he continued to work on the post upto 24.3.64 i.e. after expiry of the stipulated period of the impugned termination order, and signed over the attendance register upto 24.3.64 the learned lower court was pleased to summon the Attendance Register which was not produced by the defendants respondents although the existence of the said Register was admitted vide their paper No.119 Gha and thereafter they came up with an after-thought plea that the attendance register has been weeded out. Thereafter the learned lower court ordered the defendants respondents vide court order dated 23.7.80 on paper No.122C to produce the original weeding letter which too has not been produced for which under Rules they were duty bound to maintain it permanently, and in order to file a lacuna to substantiate their after-thought plea and all founded motive having no cause or reason produced a witness Sri Ram Autar D.W.1 who too has not - corroborated the contention of the defendants - respondents that the said register has been weeded out. The whole version of Ram Autar DW.1 is hear-say and can not be relied and liable to be rejected and the findings of the court below to the contrary is erroneous to be set aside.
30. Because the defendants respondents have also not produced the proceedings of the Board in which the documents (Attendance Register) in question was presumed to be weeded out particularly when they were under rules duty bound to maintain and produce the same before the court, hence the plea of the defendants respondents is quite untenable and it is clear that they have withheld the documents from the perusal of the Hon'ble court on account of malice, specifically when they are under rule duty bound to maintain and produce the same before the court, hence the plea of the defendants respondents is quite untenable and it is clear that they have withhold the document from the perusal of the Hon'ble court, on account of malice, specifically when they are failed to produce the admitted and available documents with them in connection with the said proceedings i.e. proceeding of the Board in which the documents in question was supposed to be weeded out. The result is that the required document Attendance Register was never weeded out and the same is still in their custody and any finding of the court below to the contrary is erroneous to be set aside.
31. Because the learned lower court has also erred in holding that the documents filed by the appellant plaintiff have not been properly proved hence the findings of the learned lower court are erroneous and against law and not legally maintainable.
32. Because the view of the learned lower court that the defendants respondents were empowered to change the terms and conditions of the service of the appellant plaintiff exparte is wholly erroneous particularly being absence of any existing statutory law or rules.

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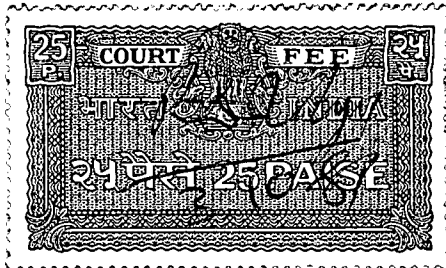
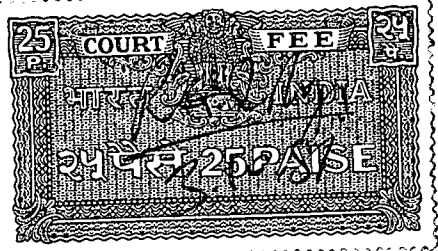
33. Because it is settled law and as well as defined under S.R.3(15) that probationer means a servant employed on probation in or against a substantive vacancy in the cadre of a department. From this definition it appears quite clear that unless there is substantive vacancy non can be appointed as a probationer. It could not be shown with reference to any other rule as to whether this expression can be used in case of temporary appointment.
34. Because the findings of the learned lower court in respect of Issue No.1 and 15 are against the principle and rules cited above in the preceding para, and the findings of the court below to the contrary are wrong and pervert, and liable to be set aside.
35. Because it is settled law that no Government servant can be terminated before concluding the enquiry or final disposal of the show cause if any, and he will be deemed in continuous service through-out till the final disposal of the enquiry or show cause notice.
36. Because the findings of the learned lower court in respect of issue Nos. 3, 12 and 14 are against the principle cited above particularly when in the present case there was no show cause notice as already discussed in para 5 above, and the findings of the court below to the contrary are wrong and pervert, and liable to be set aside.

PRAYER

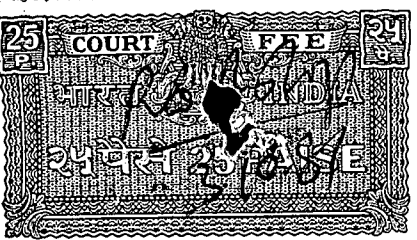
It is therefore prayed that the judgment, decree and order of the court below may kindly be set aside and the appeal be allowed with costs throughout.

R. B. Dayal
Rameshwar Dayal
Plaintiff Appellant.

Dated 6.10.1981.



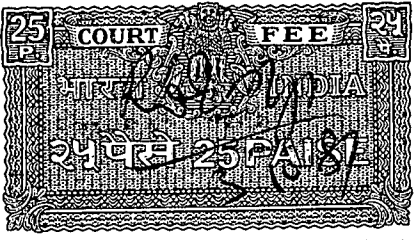
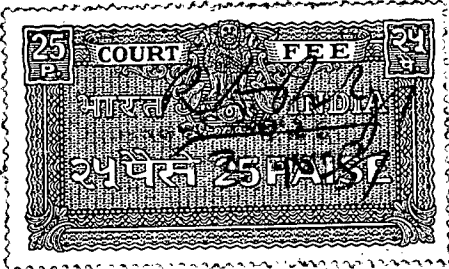
45) (36)



BEFORE THE DISTRICT JUDGE, BAREILLY.

Civil Appeal No. M.N. 186/81

of 1



Original Suit No. 167/74.

Rameshwar Dayal Vs. Union of India & others.

Sir,

The plaintiff appellant has filed the original suit as indigent person and the present appeal is being also presented as an indigent person. The appellant plaintiff has no means to pay the requisite court fees on the memorandum of appeal. The list of property in possession of the plaintiff appellant is enclosed herewith.

Prayed that the plaintiff appellant be allowed to present/file the present appeal as an indigent person.

R. Dayal
(Rameshwar Dayal)
Plaintiff Appellant.

Dated: 6.10.81



BEFORE THE DISTRICT JUDGE BAREILLY.

Civil Appeal No. _____ of 1981,

Original Suit No.167/74

Rameshwar Dayal Vs. Union of India and others.

LIST OF MOVEABLE AND IMMOVABLE PROPERTY IN
POSSESSION OF THE PLAINTIFF APPELLANT.

.....

I. IMMOVABLE PROPERTY - NIL

II. MOVEABLE PROPERTY.

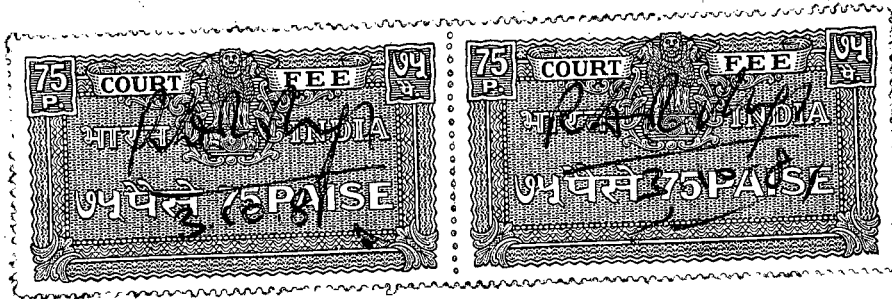
| Srl.No. | Name of old and used articles. | Estimated value. |
|---------|--------------------------------|------------------|
| | | Rs. |
| 1. | Shirt one No. | 4/- |
| 2. | Bushirt 1 No. | 4.50 |
| 3. | underwear 1 no. | 0.75 |
| 4. | Paint 1 No. | 4.50 |
| 5. | Pajama 1 No. | 2.00 |
| 6. | Dhoti 1 No. | 3.50 |
| 7. | Half paint 1 No. | 1.00 |
| 8. | Lota 1 No. | 1.25 |
| 9. | Glass 1 No. | 1.75 |
| 10. | Thali 1 No. | 3.00 |
| 11. | Jersey 1 No. | 4.50 |
| 12. | Kurta 1 No. | 1.50 |
| 13. | Dari 1 No. | 3.00 |
| 14. | Gadda 1 No. | 6.00 |
| 15. | Leaf 1 No. | 9.00 |
| 16. | Towel 1 No. | 0.75 |
| 17. | Banyan 1 No. | 0.50 |
| 18. | Kot 1 No. | 6.00 |
| 19. | Handcurchief 1 No | 0.10 |
| 20. | Shocks & pair | 0.75 |
| 21. | Belt 1 No. | 1.50 |
| 22. | Charpai 1 No. | 1.50 |
| 23. | Shoe 1 pair | 3.75 |
| 24. | Chappal 1 pair | 0.75 |
| 25. | Saddle 1 pair | 2.00 |
| 26. | fountain pen 1 No. | 0.40 |
| 27. | pencil 1 No. | 0.30 |
| 28. | Cash in hand | 15.00 |
| 29. | Ration | 5.00 |
| 30. | Mirror 1 No. | 0.50 |
| 31. | Comb 1 No. | 0.20 |
| 32. | Fuel | 1.00 |
| 23. | Saving material | 1.00 |
| 24. | B. Sheet | 1.50. |

Total Rs. 92.75

Verified that the contents as above are true to my personal knowledge and belief.

Verified this day 6th Oct. 1981 at Bareilly.

R. Dayal
Plaintiff Appellant.



211
230

BEFORE THE DISTRICT JUDGE BAREILLY.

Civil Appeal No. _____ of 1981.

Original Suit No..167/74.

ms no 186/81

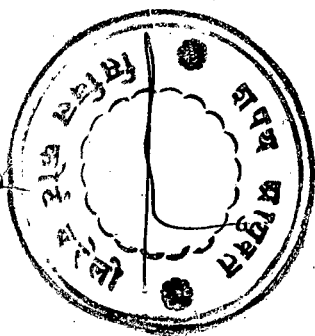
Rameshwar Dayal Vs. Union of India & others.

Sir,

1. It is respectfully submitted that the plaintiff appellant has filed original suit as indigent person the same has been dismissed on 18.8.81 and the learned lower court has sent a copy of the order to the Collector Bareilly for recovery of the court fee. The appellant plaintiff has filed the present appeal and has every hope to success ~~for~~ in the appeal but the District Revenue authorities are in hurry to recover the court fees from the plaintiff appellant indigent.
2. Under the circumstances it is respectfully prayed that the recovery of court fee against the plaintiff appellant be stayed till the disposal of the appeal.

R. Dayal
(Rameshwar Dayal) 6.10.81
Plaintiff appellant.

Dated: 6.10.81



under what provision of
law this order has
been made

on 20/10/81

ms no 186/81

com

तामिल के प्रयोजन के लिये पता

(आदेश ७, नियम १६-२६, आदेश ८, नियम ११ और १२, आदेश ४१, नियम ३८, आदेश ४६, नियम ८, आदेश ४७, नियम १० और आदेश ५२, नियम १ के अधीन)

न्यायालय

मूलवाद/मामला संख्या

167/74

सन १९७६ ई०

स्थान

Beneil

९७७

वादी

Rameshwar Dayal

बनाम Umang Singh

प्रतिवादी

यह पता उस जिला न्यायालय के अधिकार-क्षेत्र के भीतर का होगा जहां वाद संस्थित किया जाय या उस जिला न्यायालय के अधिकार-क्षेत्र के भीतर का होगा जहां पक्षकार साधारणतः निवास करता हो, किन्तु शर्त यह है कि वह जिला उत्तर प्रदेश राज्य की सीमाओं के भीतर स्थित हो, और किसी अन्य प्रदेश की सीमा के भीतर स्थित न हो।

| नाम, पिता का नाम और जाति | निवास स्थान | परगना या तहसील | डाकघर | जिला |
|---|-------------------|----------------|--------|--------|
| Rameshwar Dayal S/o S. P. L. Rastogi | 38 yale Pantua | Beneil | Beneil | Beneil |

न्यायालय का नाम
 यदि संख्या
 पक्षकारों के नाम

सन १९७६ के ७८८ के ३ दिवस को दिनांकित।

भविष्य में कुल सम्मन, सूचनायें या आदेश इस वाद में मेरे उपरिवर्णित नाम और पते के अनुसार निकाले जायें जब तक कि मैं कोई परिवर्तन की सूचना दाखिल न करूं। यदि इस पते में पुनः कोई परिवर्तन होगा तो मैं ऐसे परिवर्तन की सूचना तत्काल दाखिल करूंगा, जिसमें कुल नई विशिष्टियां वर्णित होंगी।

R Dayal
पक्षकार के हस्ताक्षर

वादी

अपने मुवकिल (नाम) (और हैसियत)

..... के अनुसार मैं उपरिवर्णित पता दाखिल करता हूँ।

अभिवक्ता के हस्ताक्षर

टीपन :- जैव यह प्रोप न्यायालय में प्राप्त हो तो यह आवश्यक है कि उस पर प्राप्त होने के दिनांक की मुद्रा लगाई जायें और वह संस्थित किये गये वाद या मामले के अभिलेख में सम्मिलित किया जाये।

फैहरिस्त

व अदालत

Ramshoo Singh

जिला

Amritsar 511

मुकदमा नं०

Appeal No

सन

1981

Original Suit No 167/67

मुद्दाई

Rameshwar Singh बनाम Union of India & Ors

फैहरिस्त दस्तावेज मदखल हमराह अर्जी दावा बाबत समाश्रत अक्वल

मिन्तानिब

Rameshwar Singh मुद्दाई/मुद्दालय Appellate

इस फैहरिस्त को

3-10-81 ने आज बतारीख

पेश किया।

| न० | कागजात तफसील | मिलान एरिजबिट | लिफाफे में बन्द करने की तारीख | कैफियत |
|----|--------------|---------------|-------------------------------|--------|
|----|--------------|---------------|-------------------------------|--------|

1. Copy of judgment ~~1878781~~ dated 3/10/81
87-1878781

2. Copy of Decree 87/1878787 1151
dated 3/10/81

Ramshoo Singh
3/10/81

38

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15
2008.01

copy of Judgment

In the Court of Addl. Civil Judge, Bareilly
Smt No 167 of 1974

Rameshwar Dayal ——— Plff.
Versus

Union of India ——— Deflt

See CN & DMS 8/85
Captioned — 4/8/87
Rameshwar Dayal vs Union of India

In the court of the Additional Civil Judge, Boudh
Present: - Shri Greshad Husain (59)

Suit No. 167 of 1974 107

Pannikwar Dayal _____ Plaintiff
Ver. vs _____

1. The Union of India, through the Secretary Government of India, Ministry of Defence, New Delhi.
 2. Maj. O.C.; HQ 6 Mtn Arty Bde, C/O 56 A.P.O.
 3. Lt. Col. A.H.B. & MG; HQ 6 Mtn Div; C/O 56 A.P.O.
- Defendants.

Judgment

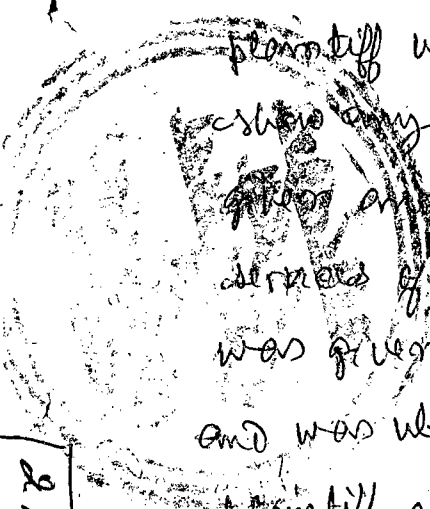
This is a suit for declaration and for recovery of arrears of salary.

The plaint case in short is that the plaintiff was appointed as a civilian clerk w.e.f. 9.1.64 by defendant No. 2 and was on probation upto 8.2.64; that the appointment of the plaintiff was subject to confirmation regarding his suitability; that the defendant no. 2 vide his notice dated 18.2.64 intimated the plaintiff that due to inefficiency his services will be terminated with effect from 8.3.64; that the plaintiff continued to work under the employment of the defendant upto 24.3.64; that the plaintiff was not afforded any opportunity to show cause against his termination which is violative of Article 311 of the constitution of India; that the order of termination is also in contravention of the service rules namely civilians in defence services (classification-

2/2-2011-11-29-118
E. Appellate No. 2-181
R. O. No. 152-03-2-11

service with advantages as if he was never removed from the services as civilian clerk of the defendants because the notice dated 18.2.64 of defendant no. 2 including order dated 2.5.1964 passed by defendant no. 3 and also the order dated 14.3.72 of rejection of his appeal passed by the Under Secretary Govt. of India Ministry of Defence, New Delhi are illegal, null and void and inoperative.

Defendants contested the suit and denied plaintiff allegations. They pleaded that the plaintiff was employed casually in a temporary capacity w.e.f. 8.1.1964 in lieu of combatant clerk purely on temporary basis; that the plaintiff was put on probation for one month that is upto 8.2.64; that the plaintiff was not found fit for the job and failed to show any improvement in spite of the fact that he was given another 10 days to show improvement; that the services of the plaintiff was no longer required and he was given one month's notice for discharge on 18.2.64 and was ultimately discharged on 18.3.64; that the plaintiff also absented himself from duty without leave w.e.f. 11.3.64 and was therefore, not entitled to get any salary from 11.3.64 upto 18.3.64; that the allegations of the plaintiff that he was permanent or became permanent are wrong; that the plaintiff was employed as civilian in defence services and therefore, Article 311 of the constitution of India did not apply to him; that the plaintiff was not discharged from the services by way of punishment and as such was not entitled to any charge sheet or any other opportunity for defending himself; that the suit is barred by



21/11/64
 18/3/64
 2/5/64
 14/3/72

(5)

Findings

1077

7

Issue No. 5:- This issue was decided on 12.7.76 and needs no fresh adjudication.

Issue No. 4:- I propose to take this issue first of all for decision.

It is not disputed that one month's notice of discharge from service was given to plaintiff on 18.2.64. As per the terms of this notice the plaintiff ceased to be in the service of the defendant w.e.f. 18.3.64. It has been clearly pleaded by the plaintiff in para No. 7 of the plaint that this appeal or representation was rejected by the concerned authority on 29.3.68. Plaintiff has sent first notice under section 80 CPC on 25.4.70 and the copy of the same filed by him on the record is paper No. 70C. Plaintiff has not proved this notice but its contents can be read against him as he has placed reliance on it. In this notice it has been asserted by him in para No. 12 that the cause of action arose to him firstly on 18.2.64 when he was served with one month's notice of termination of his service by the defendant No. 2 and thereafter and lastly on 29.3.68 when his appeal was rejected and he was finally informed that his case can not be considered and that his case has been closed. Plaintiff has filed alleged order of rejection of his appeal passed on 29.3.68 and is paper no. 45/B on the record. Even if it is assumed that the plaintiff was required to exhaust departmental remedies before seeking redress in a court of law it could be safely said that though the sue had accrued to him on 29.3.68 the date of rejection of his appeal and representation by the departmental authority. It is settled

7.
this contention be placed reliance on the appointment letter paper no 20 B which has not been duly proved by plaintiff's evidence. However, the perusal of this appointment letter did suggest that the plaintiff was appointed permanently. Rather the said appointment letters shows that the plaintiff was selected for employment as civilian clerk and was kept on probation for a month.

Learned counsel for the plaintiff submitted that the probation period of the plaintiff was never extended and on expiry of the period of probation the plaintiff has become permanent w. d. 9.2.64 and also that the appointment letter does not empower the defendants to extend the probation period of the plaintiff. The case of the defendants is that the probation period of the plaintiff was extended by 10 days so as to give him an opportunity to show improvement in his work. The plaintiff, Ramnath war Dayal PW1, was cross-examined on this point and he gave evasive reply that he do not know whether his probation period was extended by 10 days or not. Plaintiff has also placed reliance on paper No 23B which is alleged to have been received by him from defendant no 3 in response to his complaint about his termination. In this letter there is mention of the fact that the period of the probation was extended by 10 days so that the plaintiff may have time to show improvement in his work. Taking into account the evidence of the plaintiff himself it could be safely said that the plaintiff was appointed on probation on temporary basis and was neither confirmed or nor made permanent by the defendant. The

2/10/64 - 10/11/64
Ramnath war Dayal
PW1

to the rule and submitted that no fair opportunity was afforded to the plaintiff before the order of termination was passed against him and that the order being in contravention of the said rule is void and is liable to be set aside. In discharge notice dated 18.2.64 relied upon by the plaintiff in para 10 & 11 B. It is perusal make it obvious that the plaintiff was given one month's advance notice on 18.2.64 that he will be discharged from the service w.e.f 18.3.64 due to inefficiency. This makes it clear that the plaintiff was made aware in advance of the proposal to discharge him from the service and had ample time to represent his case before the concerned authority. The evidence of the plaintiff Rameshwar Doyal shows that he had availed this opportunity of making representation. He stated in cross-examination in chief that on receipt of the discharge notice he met his superior authorities and that he was permitted to work even beyond the date 18.3.64. In deciding the present issue it need not be considered here as to whether the claim of the plaintiff that he worked beyond 18.3.64 is correct or not. However it is fully established from the evidence that the plaintiff had availed the opportunity and had met concerned authorities to have his say against his proposed discharge from the service. There was thus sufficient compliance of the rule 17 in the case of the plaintiff it cannot be said that the order of discharge was passed in contravention of the said rule. It would

plaintiff. Taking into account all the circumstances of the case I hold that the plaintiff was not in service upto 24.3.64. Issue is decided accordingly and against the plaintiff.

Issue No. 10 :- Plaintiff was discharged from service w.e.f. 18.3.64 and has been admittedly paid salary upto 17.3.64 and therefore this issue is redundant. The plaintiff is not entitled to any salary for the period for which he was under employment of the defendant. Issue answered accordingly.

Issue No. 11 :- Learned counsel for the defendant conceded that suit for declaration to the effect that the impugned orders of termination of the plaintiff is illegal and void is maintainable. Issue answered accordingly.

Issue No. 12 :- In view of the findings aforesaid the plaintiff is not entitled to the reliefs claimed and the suit is liable to be dismissed with cost.

Order

The suit is dismissed with cost. Plaintiff has filed this suit as an indigent person. Let the court fees be realised from the plaintiff according to law and a diller be sent to the District Magistrate in that regard.

Sd. G. Prasad Hussain

18.8.81

(G. Prasad Hussain)

Addl. Civil Judge

Bareilly

Judgment signed, dated and pronounced in open court today.

Sd. G. Prasad Hussain

18.8.81

(G. Prasad Hussain)

Addl. Civil Judge

Bareilly.

Copied By. Anil Kumar
OS By. P. B.
Words. 3500

~~11/5/81~~
11/5/81

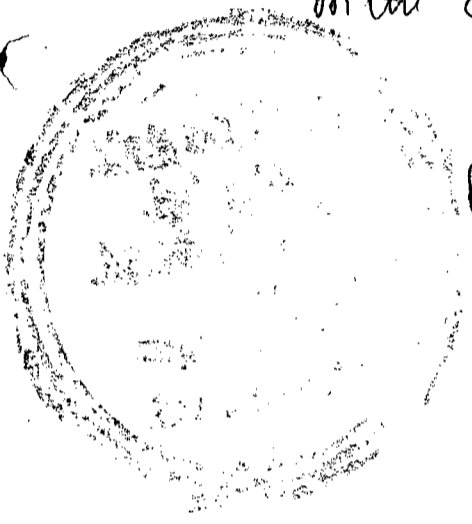
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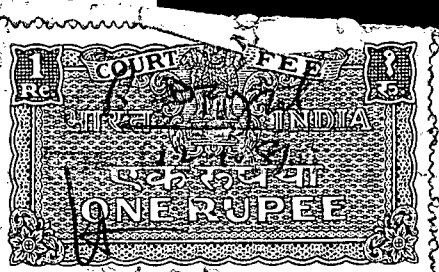
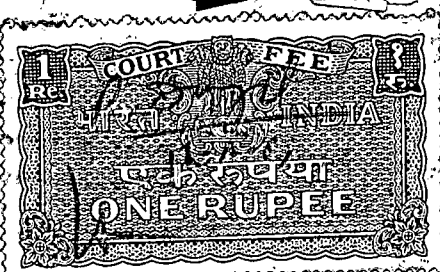
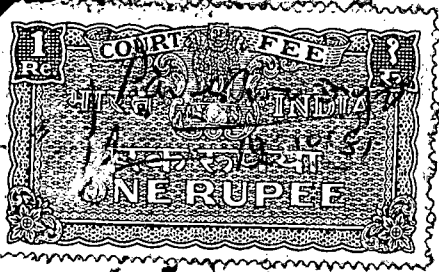
Copy of Decree

In the court of Hon. C. Judge, Basilly
Suit No. 167/79



Rameshwar Dayal
versus
Union of India

In the court of Hon. C. Judge
Basilly
S. No. 167/79
Rameshwar Dayal vs Union of India



32-1-3, 81
before the District Judge, Bareilly

Civil Appeal No _____
original suit No. 167/74

7/1981
N. No. 124/15/81
P.L. Rasgotra
Plff Appellant

Rameshwar Bajaj s/o Smt. P.L. Rasgotra,
Plff Appellant

VS.

Union of India and others — Defd's Respondents
F/F. 13.10.81

Sir

In the above named case it is submitted that 13-10-81 is fixed for identification of the appellant on the appellant's application but on account of the appellant's sickness he is not in a position to attend the court on the date fixed.

Allowed. Put up on 20.10.81 for identification and further action.

D. J. 13.10.81.

In the circumstances it is respectfully prayed that the date for the purpose of identification may be adjourned and some other date for the purpose may kindly be fixed. Medical in support of the application is being enclosed herewith

12-10-81

Rameshwar Bajaj
Appellant Applicant
Advocate

कड़ी मेहनत का फल आत्मविश्वास और आत्मनिर्भरता ।

मूल वाद में आज्ञाप्ति

(आदेश २०, नियम ६-७)

न्यायालय *Mad. el. JUDGE*

स्थान *Bareilly*

11/2) जिला *Bareilly*

मूल संख्या 167/74 of J

संस्थित-दिनांक 17.5.74

मास

सन् १६

ई०

Ram Kumar Singh vs. Union of India 18 years 10 months 15 days
Ex. Civilian Clerk No. 38, Gali Patwan, Bareilly

- ① The Union of India through the Secretary Govt. of India Ministry of Defence, New Delhi.
- ② Maj. DC. H. Q. 6 Men. Warty Bde P/O APO
- ③ Jt. Col. AA & Q MG H. Q. 6 Men Div P/O 56 APO

न्यायालय का नाम—
वाद संख्या—
पक्षकारों के नाम—

प्रतिवादी

को छोड़कर,

टिप्पणी— जो पते ऊपर लिखे गये हैं, वह पक्षकारों ने जो उपस्थित नहीं हुए, तामील के प्रयोजन से दखिल किये हैं।
के लिये दावा। 11/5=23

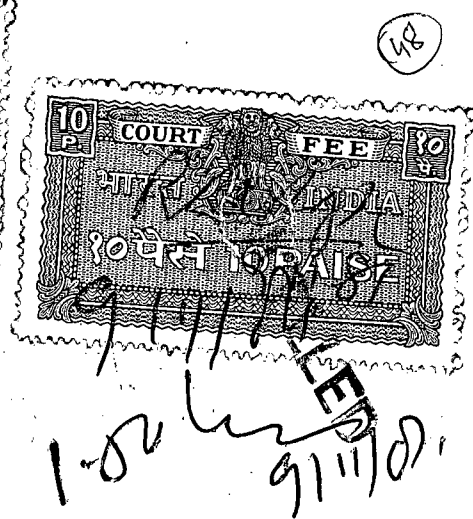
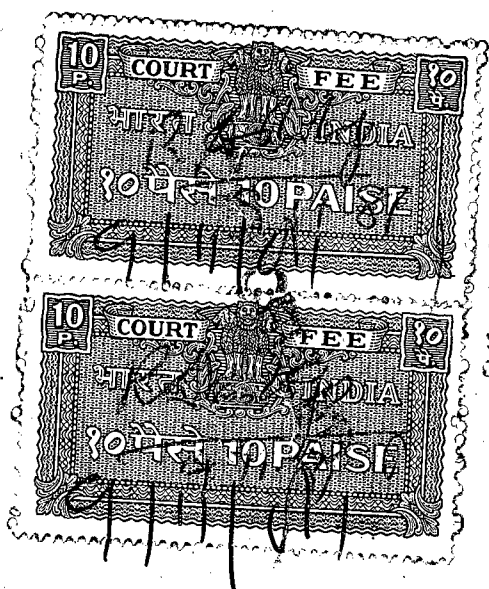
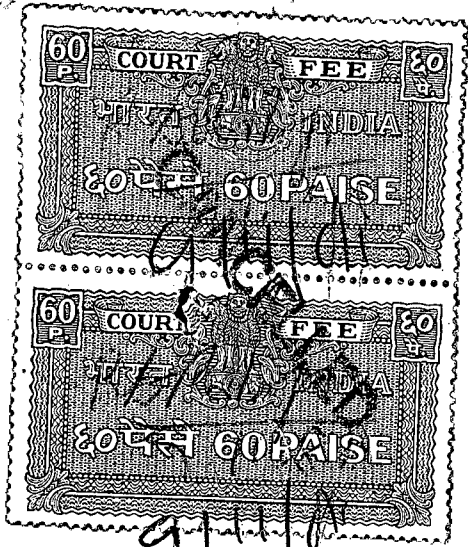
- ① It is to be declared that the order No. 378/11/AFW dated 18 Feb. 1964 issued by deft. No. 2 terminating the services of the plff. under imp. order No. 1040/61 dated 2 May 1964 of Jt. Col. AA & Q MG H. Q. 6 Men Div. P/O 56 APO the deft. No. 32 the order No. 1020/11/AFW dated 19/5/64 3/158557 D (Lals) dated 11th March 1972 issued by the Union Secretary to the Govt. of India, Ministry of Defence, New Delhi holding that the plff. cannot be reinstated as back to his job are illegal, void & inoperative in law & that the plff. be deemed entitled in continuous service as civilian clerk of the deft. from the date of termination of his services till the date he is reinstated back to his post.
- ② That the intervening period from the date of termination of the services to the date of reinstatement of the plff.

पी० एच० वू० पी०—०२० एच० सी० जे०—१५-७-७६—१,००,००० (जाब) ।

be ordered to be treated towards duty and increment.

P.T.D.

G.L. Govt. of India
B. Appellate—1961
R. Singh vs. Union of India



In the Court of Dist. Judge, Benauli
 Appeal No _____ of 1981
 original suit No 167/74
 Misc No 186/81
 1371

Rameshwar Dayal VS Union of India & others

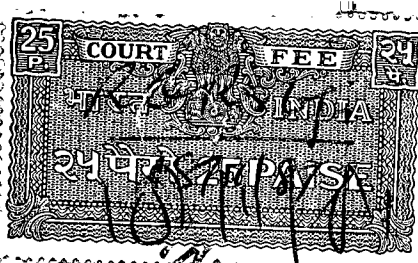
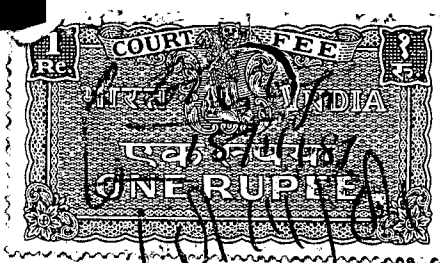
Sir
 Humbly submitted that the original
 suit NO. 167/74 between Rameshwar Dayal
 VS Union of India & others was tentatively
 valued for the declaration at Rs 300/-
 and for consequential Relief at
 Rs ~~16771~~ Rs 16771 = 73.

Prayed that the valuation of
 this appeal be kindly deemed the
 same as valued in the original
 suit.

9-11-81

Ed. Rameshwar Dayal
 Plaintiff Appellant
 9-11-81

1682/50



50

Before the Distt. Judge, Bareilly

REMINDER

Civil Appeal No. _____ of 1981
original suit No. 167/74.

Rameshwar Buzul vs Union of India & others.

14/11

Sir,

It is respectfully submitted that the plaintiff appellants has filed original suit as indigent person the same has been dismissed on 18-8-81 and the learned Bareilly for recovery of the Court fee. The indigent appellants plaintiff has filed an appeal and has every hope to success in the appeal. Notices has already been issued to the opposite parties. The District Revenue Authorities are in hurry to recover the Court fees from the plaintiff appellants indigent.

PRAYER

Under the circumstances as already submitted vide my application dated 6-10-81 duly supported with the necessary affidavits it is respectfully prayed that the recovery of court fee against the indigent plaintiff appellants be stayed till the disposal of the appeal.

Dated: 18-11-1981

Rameshwar Buzul
Plaintiff appellants

Witnessed by
Rameshwar Buzul
18/11/81

Signature
18/11/81

32-1
1/10
2
10/11/81
DIXIT
19/11/81

18/11/81

Stamp not available due to R. Dayal (4)

Before the District Judge, Bawani

Appeal no. —

2481 15/11

O.S. No. 267/74

Rameshwar Dayal vs Union of India & Ors,
SIT,

It is respectfully submitted that the applicant is an indigent person hence has not engaged any counsel in this case.

That the hearing of the case for the disposal of stay application for the record of court file is fixed for 20th Nov 1981.

That the applicant has to go to attend his ailing brother at Nilokh hence unable to attend the proceedings in the hon'ble Court on the date fixed.

It is therefore prayed that the case may kindly be adjourned to fix some other date.

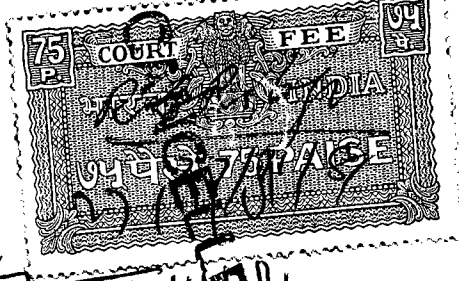
Put up on 27.11.81.

D.J.
18.11.81

Dated: 18/11/81

Rameshwar Dayal
Plt. Appellant

Dr. Anil
18/11/81



(5)

Before the District Judge, Bareilly
 Civil Appeal No. _____ of 1981
 Original Suit No. 167/74
 Rameshwar Dayal VS Union of India & others

Application under order XLIV Rule (3) & R(1)
 read with sections 108 & 109 O. XXXIII R & CPC
 & O. 21 R 26(1) CPC.

Sir,

The applicant has preferred the present appeal as an indigent person. The applicant was also indigent person during the proceedings of the original suit and the learned lower court had found the applicant as an indigent person after conducting proper enquiry and after dismissal of the suit of the plaintiff applicant he still continues to be an indigent person, and has no means to pay the requisite court fee on the memorandum of the appeal. Since the appeal is in continuation of the suit, and the applicant has not ceased to be an indigent person since the date of the decree appealed from.

It is therefore, prayed that the recovery of the court fees levied on the plaint be stayed till the disposal of the present appeal, deeming the applicant as an indigent person throughout. Necessary affidavit in support of the above contentions is enclosed herewith.

Dated: - 27-11-1981
 Rameshwar Dayal
 Applicant

Sonebadri
 Dec. 22. 81
 for
 when will
 submission of
 court fee
 & stay of
 R
 16. 12. 81

डॉ. भदन मोहन त्रिपाठी
बी. ए. एम. एस.

मदारी दरवाजा
बरेली

दिनांक 11/10/81

To Whom it may concern

Certified that

R.D. Rastogi is suffering from
Amoebic Dysentery; He is under
my treatment & advise him bed rest
with effect from 11-10-81. about
15 days 25-10-81 for medical case

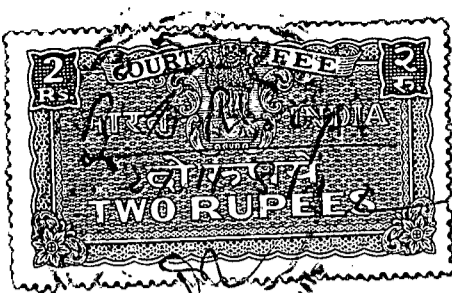
R. D. Rastogi

Signature
Attending Patient

Dr. Bhatnagar

Dr. Bhatnagar

भदन मोहन त्रिपाठी
बी. ए. एम. एस.
मदारी गेट, बरेली



Handwritten signature and date: 27/11/81

(171)

Before the District Judge, Bareilly.
Civil Appeal No _____ of 1981
ORIGINA SUIT NO. 167/74.

1711

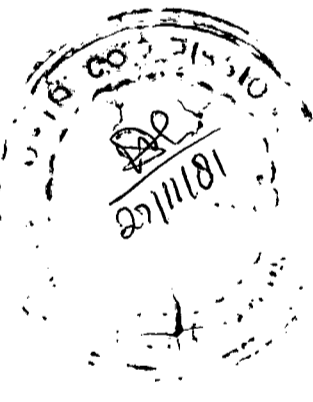
Rameshwar Dayal VS Union of India & others

AFFIDAVIT.

I, Rameshwar Dayal s/o late Shri P. L. Rastogi aged about 45 years R/o 38 Yash Patwa, Bareilly do hereby take oath and solemnly state as under:-



1. That the deponent is the plaintiff/appellant in the present case and is well versed with the facts of the case.
2. That the deponent had filed the suit in the learned lower court as an indigent person.
3. That the learned lower court after conducting proper enquiries was pleased to hold the deponent as an indigent person and was allowed to sue the suit as such.
4. That the deponent has no means to pay the requisite fees on the memorandum of appeal.
5. That no change has taken place in the financial position of the deponent after passing the decree in the original suit and he has not ceased to be an indigent person since the date of the decree appealed from.
6. That the court fees throughout in the above case are not paid as a result of the circumstances beyond the control, and extreme poverty having no source of income of the deponent.
7. That the deponent is rightly entitled under the circumstances as submitted, and as it may be to get stay order of the recovery of the court fees till disposal of the present appeal.
8. That since the appeal is in continuance of the suit, the recovery of the court fees from the deponent is liable to be stayed in the interest of justice.
9. That the deponent has every hope to success in the present appeal.



12

signed by Rameshwar Dayal
Deponent
27/11/81
Contd... 2

27/11/81

17/11

I, Rameshwar Bayal the aforesaid deponent do hereby affirm that the contents of Para 1, 2, 3, 4, 5, 6, 7 and 8 are true to my personal knowledge and belief and para no. 9 is based on legal advise which I believe to be true. Nothing material has been concealed nor anything is false so help me god.

Verified this 27th day of November, 1981 at Bangalore.

signed by Rameshwar Bayal
 by
 Advocate
 27/11/81
 Deponent,

 27/11/81

27/11/81
 12-1982

 27/11/81

16/12/81

Indigent Person

1981 (54)

Before JJ Adell / Dist. Judge, Council

Appeal no _____

7 1981

original suit no. 167/74

Rambhoo Bujal vs Union of India & others

FIF 22/12/81

Sir,

In the above case 22/12/81 is fixed whereas the applicant is going to see his wife's son who is ~~in~~ nursing in most dangerous condition with acute heart trouble and will remain with him at Delhi for about a month.

It is therefore prayed that the above date may kindly be adjourned to some other date in the last week of Jan 1981 be fixed

16/12/81

Rambhoo Bujal
Applicant-appellant

5

IN THE COURT OF DISTRICT JUDGE BAREILLY.

Misc. Case No. 186/1981.

Rameshwar Dayal vs Union of India

21/05

Sir,

Objections against application to prefer appeal as indigent person on behalf of State:-

- 1) That the application has not presented in accordance with law.
- 2) That the applicant is not an indigent person and can easily pay the requisite Court fee.
- 3) That the application is not entitled to prefer an appeal.
- 4) That the application is mala fidi and against law.

Prayed that the application be dismissed with costs to the State.

~~22/1/83~~
~~29/1/83~~
 14/5/82

(Counsel for State)
 P. J. ...
 BAREILLY.

...
 ...
 ...

*Recd
19/10/82*

(5)

IN THE COURT OF DISTRICT ~~COURT~~ JUDGE BAREILLY.

No. _____ of 1982.

Misc. No. 186/81
OS. No. 167/74.

23/10

Rameshwar Dayal Vs. Union of India & others.

LIST OF PAPERS AND DOCUMENT FILED BY THE
PLAINTIFF, APPELLANT APPLICANT TODAY IN THE
ABOVE NAMED CASE.

S.No. Particulars of papers.

1. Medical certificate from 6th to 12th Oct. 1982 in original.
2. Application dt. 19.10.82 for disposal.
3. " dt. 19.10.82 " "
4. " " " " "
5. - do -
6. Affidavit dt. 19.10.82.

R. Dayal

Pltt. appellant

Dated 19.10.82.

Applicant.

*Admitted
Signature of
R. Dayal*

R. Dayal

*W. S. Dinesh
Lalgaron*

In the court of Distt. Judge, Bareilly

Misc no. 186/81

O.S. no. 167/74.

Rameshwar Dayal vs. Union of India & others

Medical certificate
from 6-10-82 to 12-10-82

Medical Certificate

No. 7

Dated 15/10/82

I have carefully examined Sri/Smt. Rameshwar Dayal

He/She is suffering from Fever and Dysentery
and rest is very essential for recuperation of his/her health Kindly
allow him/her Seven days leave with effect
from 6/10/82 to 12/10/82

Rameshwar Dayal
Signature or thumb-
Impression of the patient

Dr. Brij Mohan Sharma
B. A. M. S. Bhesham
Registered Medical Practitioner
Regd. No. 32753

15/10/82

R. Dayal

P.L.B. Appellor
Appellor

In the court of Distt. Judge
Misc no. 186/81
R. Dayal vs. U.O. & others

19/10/82
Pauper

(4)

IN THE COURT OF DISTRICT JUDGE BAREILLY.

No. _____ of 1982.

Misc. No. 186/81
OS. No. 167/74.

Rameshwar Dayal Vs. Union of India and others

F/F 8.11.82.

Sir,

For the reasons disclosed in the accompanied affidavit along with Medical certificate and (as also prayed in the enclosed applications separately in token of avoiding the technicalities as required under rules or law) it is respectfully prayed that the rejection order dated 8.10.82 in the above named case be set aside and the indigenous application be restored to its original number and decided on merits after hearing the parties, and the impugned order of ~~the~~ said date (8.10.82) for depositing the court fee having set aside the same may also be postponed till the final disposal of the said indigenous application in question on merit and the adjournment application dated 7.10.82 of the applicant-pltr. appellant be allowed deeming that the entire impugned order dated 8.10.82 was never passed.

Prayer

It is therefore prayed that the entire impugned orders dated 8.10.82 be set aside and the order of that date in connection with the depositing of court fee be stayed/postponed till the decision on merit is made having restored the said indigenous application in question after hearing the parties on its merits and the adjournment application of the pltr. appellant - applicant be granted.

Dated 19.10.82.

R. Dayal
Pltr. Appellant

Applicant,

W. Dayal
R. Dayal
A. S.
19/10/82

19/10/82

(5)

PAUPER

BEFORE THE DISTRICT JUDGE BAREILLY.

Ni. _____ of 1982
Misc. No. 186/81
OS.No. 167/74.

Neti

Rameshwar Dayal Vs. Union of India & others.

F/F 8.11.82.

Sir,

For the reasons disclosed in the accompanied affidavit alongwith relevant Medical Certificate filed with a separate list in the above named case it is respectfully prayed that;

- (i) The applicant plaintiff appellant's adjournment application dated 7.10.82 may kindly be allowed having set aside the impugned rejection order in regard of dated 8.10.82 which is prayed in this application; and
- (ii) The other reliefs as are prayed in the separate applications filed alongwith this application may also kindly be granted having considered the same separately alongwith this application deeming that the entire impugned order dated 8.10.82 was/were never passed.

P R A Y E R

It is, therefore, prayed that the applicant's adjournment application dated 7.10.82 may kindly be allowed having set aside the impugned order in this regard of dated 8.10.82.

Dated 19.10.82,

R. Dayal
Platff. Appellant,
Applicant.

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19/10/82
19/10/82

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19/10/82

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Pauper

IN THE COURT OF DISTRICT COURT BAREILLY.

No. _____ of 1982

Misc. No. 186/81.
OS No. 167/74

27/51

Rameshwar Dayal Vs. Union of India & others.

F/F 8.11.82.

Sir,

1. For the reasons disclosed in the accompanied affidavit alongwith relevant Medical Certificate filed ~~with~~ with a separate list herewith in the above named case it is respectfully prayed:-

- (i) That the indigineous application of the applicant pltrf. appell ant having set aside the impugned order dated (rejection order dt.8.10.82) be restored to its original number and the same (indigineous application) decided on merits after hearing the parties which is prayed in this application; and
- (ii) The other reliefs as are sought in the separate applications filed alongwith this application may ~~be~~ also be granted having considered the same separately alongwith this application.

P R A Y E R

It is, therefore, prayed that the indiginous application in question having set aside the impugned rejection order dated 8.10.82 in the above named case be restored to its original number and decided on merits after hearing the parites.

Dated 19.10.82.

R. Dayal
Plaintiff-appellant,
Applicant

19/10/82
R. Dayal
[Signature]
[Signature]

W. D. Dayal
Pamer

(61)

IN THE COURT OF DISTRICT JUDGE BAREILLY.

No. _____ of 1982.

Misc. No. 186/81
OS. No. 167/74.

W. D. Dayal

Rameshwar Dayal Vs. Union of India & Others.

F/F 8.11.82.

Sir,

1. For the reasons disclosed in the accompanied affidavit alongwith relevant Medical Certificate filed with a separate list herewith in the above named case it is respectfully prayed:

- (i) That the impugned order dated 8.10.82 for depositing the court fee having set aside it may kindly be postponed till the disposal of the applicant-pltff. appellant's ~~indigneous~~ ^{indigneous} application on merits having heard the parties on merits which is prayed in this application; and
- (ii) That the other reliefs as are prayed in the separate applications alongwith this application may also be granted having considered the same separately alongwith this application deeming that the entire impugned order dated 8.10.82 was/were never passed.

P R A Y E R

It is, therefore, prayed that the impugned order dated 8.10.82 for depositing the court fee having set aside it may kindly be stayed/postponed till the disposal of the applicant-pltff. appellant's indigneous application on merits having heard the parties.

19.10.82. *W. D. Dayal*
Plaintiff appleeelant
Applicant.

W. D. Dayal
W. D. Dayal
W. D. Dayal
W. D. Dayal

Pauper

M
19/10/82

(12)

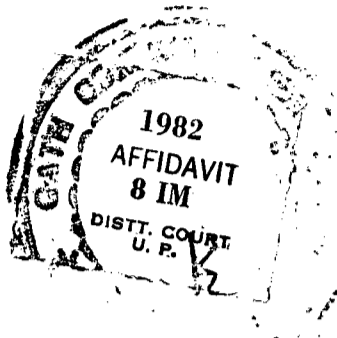
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IN THE COURT OF DISTRICT JUDGE BAREILLY.

No. _____ of 1982.

Misc.No.186 of 1981.

O.S.No.167 of 1974.



Rameshwar Dayal Son of Shri P.L. Rastogi R o
38 Gali Patwa, Bareilly Applicant (Pltiff. Appellant).

vs.

1. The Union of India through the Secretary, Government of India, Ministry of Defence, New Delhi.
2. Maj. O.C. HQ. 6Mtn Arty Bde C o 56 APO.
3. Lt. Col. A.A. & QMG HQ 6 Mtn Div C o 56 APO ,,,,,,,,,,,,,, Defendent Respondents

AFFIDAVIT

I Rameshwar Dayal aged about 42 years Son of Shri P.L. Rastogi Resident of 38 Gali Patwa, Bareilly took oath and solemnly state as under:

1. That the deponent is a plaintiff appellant in the above named case and is well acquainted with the facts and circumstances of the case.
2. That the deponent from 6th to 12th October, 1982 due to fever and Dysentery was confined to bed and there was no body else except the ailing deponent on the date 8.10.82 fixed in the case.
3. That when it could some how possible for the deponent having released from the clutch of sickness he rushed to the court and on enquiry it was found that the indigenous application of the deponent has been rejected having ordered to deposit the court fee in default his presence as his adjournment application dated 7th Oct. 1982 was rejected as it was not accompanied with an affidavit or Medical Certificate simultaneously.
4. That the relevant Medical Certificate ~~is available~~ alongwith this affidavit are being filed today at the earliest within the purview of threshold period.
5. That there was nothing before this Hon&ble court to disbelieve the application of the deponent dated 7.10.82 hence the order dated 8.10.82 is premature and provisional in the sense to be a mere formality.

contd... 2



Rameshwar Dayal

29/10/82

2951
2

Under the circumstances as it may be no finality can be attached to it.

6. That the impugned order dated 8.10.82 is not maintainable in law.

7. That the order of rejection dated 8.10.82 has caused substantial loss to the deponent.

8. That the deponent was allowed to sue as an indigent person in the lower court from whose decree, appeal is preferred and still he has not ceased to be an indigent person since the date of the decree appealed from.

9. That in the interest of justice it is necessary that orders of rejection dated 8.10.82 be set aside and the indigenous application be restored to its original number and the same having heard the parties be decided and till its final disposal on merits, the orders dated 8.10.82 for depositing the court fee having set aside it be also postponed besides allowing the deponent's adjournment application dated 7.10.82.

Dr. K.M. Nigam

Rameshwar Dayal
Deponent. 19/10/82

I, Rameshwar Dayal verify that the contents under para 1 to 9 are true to my personal knowledge. Nothing is false but true. So help me GOD.

Signed and verified at Bareilly dated 19th October, 1982.

Dr. K.M. Nigam

Rameshwar Dayal
Deponent. 19/10/82



19/10/82 का समय
Rameshwar Dayal
जिनकी उत्प्रेषित
पदकर सुना जा रहा है और
K.M. Nigam
200/- मुक्त जमान
K.M. Nigam
Advocate

IN THE COURT OF DISTRICT JUDGE BAREILLY.

No. _____ of 1982.

Misc. No. 186/81
OS. No. 167/74.

Rameshwar Dyal Vs. Union of India and others

F/F 8.11.82.

Sir,

For the reasons disclosed in the accompanied affidavit alongwith Medical certificate and (as also prayed in the enclosed applications separately in token of avoiding the technicalities as required under rules or law) it is respectfully prayed that the rejection order dated 8.10.82 in the above named case be set aside and the indigenous application be restored to its original number and decided on merits after hearing the parties, and the impugned order of that date (8.10.82) for depositing the court fee having set aside the same may also be postponed till the final disposal of the said indigenous application in question ^{on merit} and the adjournment application dated 7.10.82 of the applicant p't'r. appellant be allowed deeming that the entire impugned order dated 8.10.82 was never passed.

Prayer

It is therefore prayed that the entire impugned orders dated 8.10.82 be set aside and the order of that date in connection with the depositing of court fee be stayed/postponed till the decision on merit is made having restored the said indigenous application in question after hearing the parties on its merits and the adjournment application of the p't'r. appellant - applicant be granted.

Dated 19.10.82.

P't'r. Appellant
Applicant,

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IN THE COURT OF DISTRICT COURT BAREILLY.

No. _____ of 1982

Misc. No. 186/81.
OS No. 107/74

Rameshwar Dayal Vs. Union of India & others.

T/T 8.11.82.

Sir,

1. For the reasons disclosed in the accompanied affidavit alongwith relevant Medical Certificate filed with a separate list herewith in the above named case it is respectfully prayed:-

- (i) That the indigenous application of the applicant plaintiff, appellant having set aside the impugned order dated (rejection order dt. 8.10.82) be restored to its original number and the same (indigenous application) decided on merits after hearing the parties which is prayed in this application; and
- (ii) The other reliefs as are sought in the separate applications filed alongwith this application may be also be granted having considered the same separately alongwith this application.

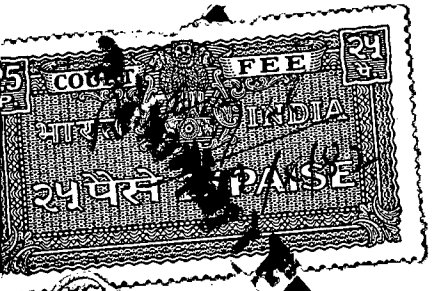
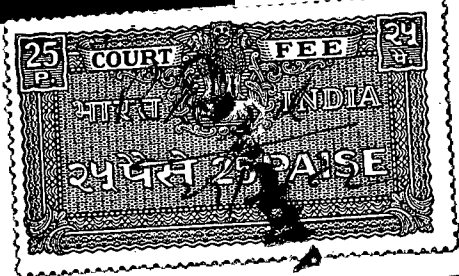
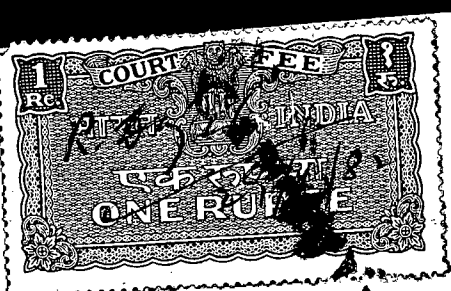
PRAYER

It is, therefore, prayed that the indigenous application in question having set aside the impugned rejection order dated 8.10.82 in the above named case be restored to its original number and decided on merits after hearing the parties.

Dated 19.10.82,

Plaintiff-appellant,
Applicant

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IN THE COURT OF THE DISTRICT JUDGE BAREILLY.

No. _____
Misc. No. 186/81
O.S. No. 167/74.

17/10/82

Rameshwar Dayal Son of Shri P.L. Rastogi R/o
38, Gali Patwa, Bareilly Applicant-Plaintiff Appellant.

Vs.

1. The Union of India through the Secretary, Government of India, Ministry of Defence, New Delhi.
2. Maj. O.C. HQ. 6 Mtn. Arty Bde C/o 56 APO.
3. Lt. Col. A.A. & QMG HQ 6 Mtn Div. C/o 56 APO. Defendant Respondents.

Handwritten signature/initials

Sir,

The applicant named above beg to submit as under:-

1. That the applicant is a plaintiff appellant in the above named case and is well acquainted with the facts and circumstances of the case.
2. That the applicant has moved an indigent appeal.
3. That 8.10.82 was fixed for disposal of the application of indigency.
4. That the applicant was suffering from dysentery and fever with effect from 6.10.82 to 12.10.82 on account of which he was not in a position to attend the court on the date fixed.
5. That there was no other person of his family who could attend the court on the date fixed.
6. That the applicant's application for adjournment dated 7.10.82 has been rejected and the applicant has been ordered to deposit the court-fees accordingly.
7. That the dismissal of the indigency application of the applicant has caused him substantial loss.
8. That in the interest of justice the order dated 8.10.1982 is liable to be set aside and the applicant's application for indigency is liable to be decided on Merit.
9. That the Medical Certificate of this effect had already been filed on 19.10.82, and necessary affidavit is also being filed herewith which could not be filed with the adjournment application.

Hears the applicant and persons who appear in hearing absence due to dispute between...

In view of the applicant's cause, the applicant is entitled to the relief sought by him as per his default. It is recommended that the order dated 8.10.1982 be set aside and the application for indigency be decided on merit.

PRAYER

It is, therefore, prayed that the order dated 8.10.1982 be set aside and the application for indigency be decided on merit.

Dated: 29.10.1982

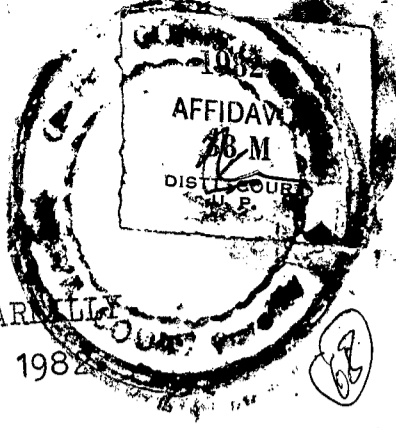
Let the order be set aside and the application for indigency be decided on merit.

Let notices of the application be issued for 15/74 to the parties.

Handwritten signature and initials

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available 2/2

2/11/82



IN THE COURT OF THE DISTRICT JUDGE BAREILLY
of 1982

No. _____
Misc.No.186 of 1981.
O.S.No. 167 of 1974.

Rameshwar Dayal Son of Shri P.L. Rastogi R/o
38, Gali Patwa, Bareilly Applicant -Plaintiff
Appellant.

Vs.

1. The Union of India through the Secretary, Government of India, Ministry of Defence, New Delhi.
2. Maj. O.C. HQ. 6 Mtn. Arty Bde C/o 56 APO.
3. Lt. Col. A.A. & QMG HQ 6 Mtn Div. C/o 56 APO Defendant Respondents.

AFFIDAVIT.

I, Rameshwar Dayal aged about 45 years son of Shri P.L. Rastogi R/o 38 Gali Patwa, Bareilly took oath and solemnly state as under:-

1. That the deponent is a plaintiff appellant in the above named case and is well acquainted with the facts and circumstances of the case.
2. That the deponent has moved an indigent appeal.
3. That 8.10.82 was fixed for disposal of the application of indigency.
4. That the deponent was suffering from dysentery and fever with effect from 6.10.82 to 12.10.82 on account of which he was not in a position to attend the court on the date fixed.
5. That there was no other person of his family who could attend the court on the date fixed.
6. That the deponent application for adjournment dated 7.10.82 has been rejected and the deponent has been ordered to deposit the court fees accordingly.
7. That the dismissal of the indigency - application of the deponent has caused him substantial loss.
8. That in the interest of justice the order dated 8.10.1982 is liable to be set aside and the deponent application for indigency is liable to be decided on merit.



28/11

Sd/- R. Dayal
Deponent

I, Rameshwar Dayal verify that the contents under para 1 to 8 are true to my personal knowledge. Nothing is false but true. So help me GOD.

Signed and verified at Bareilly dated 29th October, 1982.

Sd/- R. Dayal
Deponent.

29.10.82
Rameshwar Dayal
I hereby verify that the contents of the above affidavit are true to my personal knowledge. Nothing is false but true. So help me God.
Signed and verified at Bareilly on 29.10.82
Rameshwar Dayal

(65)

BEFORE THE DISTRICT JUDGE BAREILLY.

Nl. _____ of 1982
Misc. No. 186/81
OS. No. 157/74.

Rameshwar Dyal Vs. Union of India & others.

F/F 8.11.82.

Sir,

For the reasons disclosed in the accompanied affidavit alongwith relevant Medical Certificate filed with a separate list in the above named case it is respectfully prayed that;

- (i) The applicant plaintiff appellant's adjournment application dated 7.10.82 may kindly be allowed having set aside the impugned rejection order in regard of dated 8.10.82 which is prayed in this application; and
- (ii) The other reliefs as are prayed in the separate applications filed alongwith this application may also kindly be granted having considered the same separately alongwith this application deeming that the entire impugned order dated 8.10.82 was/were never passed.

P R A Y E R

It is, therefore, prayed that the applicant's adjournment application dated 7.10.82 may kindly be allowed having set aside the impugned order in this regard of dated 8.10.82.

Dated 19.10.82.

Platff. Appellant,
Applicant.

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IN THE COURT OF DISTRICT COURT BAMBILLY.

No. _____ of 1982

Misc. No. 186/81.
OS No. 107/74

Rangshwer Dayal Vs. Union of India & others.

T/S 8.11.82.

Sir,

1. For the reasons disclosed in the accompanied affidavit alongwith relevant Medical Certificate filed with a separate list herewith in the above named case it is respectfully prayed:-

(i) That the indigineous application of the applicant pltrt. appellnt having set aside the impugned order dated (rejection order dt. 8.10.82) be restored to its original number and the same (indigineous application) decided on merits after hearing the parties which is prayed in this application; and

(ii) The other reliefs as are sought in the separate applications filed alongwith this application may be also be granted having considered the same separately alongwith this application.

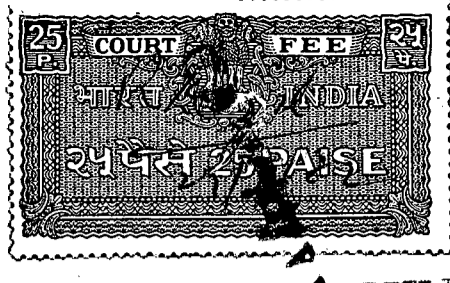
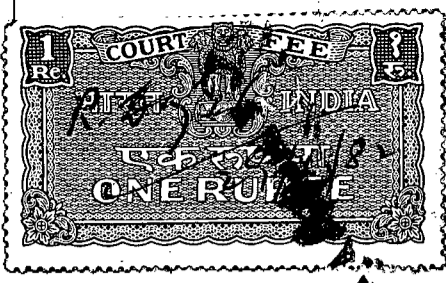
PRAYER

It is, therefore, prayed that the indigineous application in question having set aside the impugned rejection order dated 8.10.82 in the above named case be restored to its original number and decided on merits after hearing the parties.

Dated 19.10.82,

Plaintiff-appellant,
Applicant

TC
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17



IN THE COURT OF THE DISTRICT JUDGE BAREILLY.
No. _____ of 1982.

Misc. No. 186/81
O.S. No. 167/74.

Handwritten signature and scribbles

Rameshwar Deyal Son of Shri P.L. Rastogi R/o
38, Gali Patwa, Bareilly Applicant-Plaintiff Appellant.

Vs.

1. The Union of India through the Secretary, Government of India, Ministry of Defence, New Delhi.
2. Maj. O.O. HQ. 6 Mtn. Arty Bde C/o 56 APO.
3. Lt. Col. A.A. & CMG HQ 6 Mtn Div. C/o 56 APO. Defendent Respondents.

Handwritten mark

Sir,

The applicant named above beg to submit as under:-

1. That the applicant is a plaintiff appellant in the above named case and is well acquainted with the facts and circumstances of the case.
2. That the applicant has moved an indigent appeal.
3. That 8.10.82 was fixed for disposal of the application of indigency.
4. That the applicant was suffering from dysentery and fever with effect from 6.10. 82 to 12.10.82 on account of which he was not in a position to attend the court on the date fixed.
5. That there was no other person of his family who could attend the court on the date fixed.
6. That the applicant's application for adjournment date 7.10.82 has been rejected and the applicant has been ordered to deposit the court-fees accordingly.
7. That the dismissal of the indigency application of the applicant has caused him substantial loss.
8. That in the interest of justice the order dated 8.10.1982 is liable to be set aside and the applicant's application for indigency is liable to be decided on Merit.
9. That the Medical Certificate of this effect had already been filed on 19.10.82, and necessary affidavit is also being filed herewith which could not be filed with the adjournment application.

Heard the applicant and persons who appear in explanation absence due to dysentery between 6/10 to 12/10

In view of his superior cause, the applicant is entitled to the relief sought by him and the order dated 8/10/82 is liable to be set aside and the application for indigency be decided on merit.

PRAYER

It is, therefore, prayed that the order dated 8.10.1982 be set aside and the application for indigency be decided on merit.

Dated: 29.10.1982.

R. Deyal
Applicant
Pltff. Appell

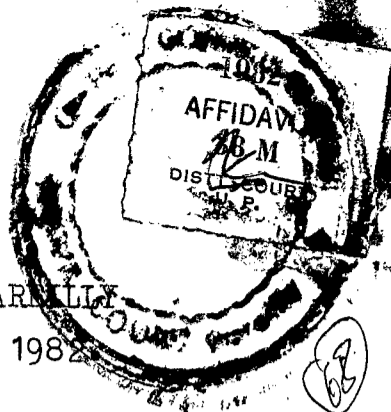
Handwritten signature and scribbles

Handwritten signature

Let the order be set aside and the application for indigency be decided on merit. Reason be as stated for hearing held on 29.10.82. Steps will be taken for disposal. Sd/- 25/10

slipped & available date 2/2

Handwritten signature/initials



IN THE COURT OF THE DISTRICT JUDGE BAREILLY

No. _____

of 1982

Misc.No.186 of 1981.
O.S.No. 167 of 1974.

Rameshwar Dayal Son of Shri P.L. Rastogi R/o
38, Gali Patwa, Bareilly Applicant -Plaintiff
Appellant.

Vs.

1. The Union of India through the Secretary, Government of India, Ministry of Defence, New Delhi.
2. Maj. O.C. HQ. 6 Mtn. Arty Bde C/o 56 APO. *3/1/82*
3. Lt. Col. A.A. & QMG HQ 6 Mtn Div.
C/o 56 APO
..... Defendent Respondents.

AFFIDAVIT.

I, Rameshwar Dayal aged about 45 years son of Shri P.L. Rastogi R/o 38 Gali Patwa, Bareilly took oath and solemnly state as under:-

1. That the deponent is a plaintiff appellant in the above named case and is well acquainted with the facts and circumstances of the case.
2. That the deponent has moved an indigent appeal.
3. That 8.10.82 was fixed for disposal of the application of indigency.
4. That the deponent was suffering from dysentery and fever with effect from 6.10.82 to 12.10.82 on account of which he was not in a position to attend the court on the date fixed.
5. That there was no other person of his family who could attend the court on the date fixed.
6. That the deponent application for adjournment dated 7.10.82 has been rejected and the deponent has been ordered to deposit the court fees accordingly.
7. That the dismissal of the indigency - application of the deponent has caused him substantial loss.
8. That in the interest of justice the order dated 8.10.1982 is liable to be set aside and the deponent application for indigency is liable to be decided on merit.

Sd/- R. Dayal
Deponent

I, Rameshwar Dayal verify that the contents under para 1 to 8 are true to my personal knowledge. Nothing is false but true. So help me GOD.

Signed and verified at Bareilly dated 29th October, 1982.

Sd/- R. Dayal
Deponent.



Handwritten initials 'R.D.' and '2'

Handwritten notes in Hindi/English at the bottom left, including dates and names.

29/10/82

IN THE COURT OF THE DISTRICT JUDGE BAREILLY.

No. _____ of 1982.

Misc. No. 186/81
O.S. No. 167/74.

(69)

Rameshwar Deyai Son of Shri P.L. Rastogi R/o
38, Gali Patwa, Bareilly Applicant-Plaintiff Appellant.

Vs.

1. The Union of India through the Secretary,
Government of India, Ministry of Defence,
New Delhi.
2. Maj. O.C. HQ. 6 Mtn. Arty Bde O/o 56 APO.
3. Lt. Col. A.A. & QIG HQ 6 Mtn Div.
O/o 56 APO. Defendant Respondents.

Sir,

The applicant named above beg to submit as under:-

1. That the applicant is a plaintiff appellant in the above named case and is well acquainted with the facts and circumstances of the case.
2. That the applicant has moved an indigent appeal.
3. That 8.10.82 was fixed for disposal of the application of indigency.
4. That the applicant was suffering from dysentery and fever with effect from 6.10.82 to 12.10.82 on account of which he was not in a position to attend the court on the date fixed.
5. That there was no other person of his family who could attend the court on the date fixed.
6. That the applicant's application for adjournment dated 7.10.82 has been rejected and the applicant has been ordered to deposit the court-fees accordingly.
7. That the dismissal of the indigency application of the applicant has caused him substantial loss.
8. That in the interest of justice the order dated 8.10.1982 is liable to be set aside and the applicant's application for indigency is liable to be decided on Merit.
9. That the Medical Certificate of this effect had already been filed on 19.10.82, and necessary affidavit is also being filed herewith which could not be filed with the adjournment application.

PRAYER

It is, therefore, prayed that the order dated 8.10.1982 be set aside and the application for indigency be decided on merit.

Dated: 29.10.1982.

Applicant
Pliff. Appellant.

TC
A

IN THE COURT OF THE DISTRICT JUDGE BARILLI

No. _____ of 1982.

Misc. No. 186 of 1981.
O.S. No. 167 of 1974.

Rameshwar Dayal son of Shri P.L. Hastogi R/o
58, Gali Katwa, Barilli Applicant - Plaintiff
Appellant

vs.

1. The Union of India through the Secretary,
Government of India, Ministry of Defence,
New Delhi.

2. Maj. O.C. No. 6 Mtn. Army Bde C/o 56 APO.

3. Lt. Col. V.V. & Co. No. 6 Mtn Div.

C/o 56 APO

..... Independent Respondents

AFFIDAVIT

I, Rameshwar Dayal aged about 45 years son of
Shri P.L. Hastogi R/o 58 Gali Katwa, Barilli took oath
and solemnly state as under:-

1. That the deponent is a plaintiff appellant in the
above named case and is well acquainted with the facts and
circumstances of the case.

2. That the deponent has moved an indigent appeal.

3. That 8.10.82 was fixed for disposal of the application
of indigency.

4. That the deponent was suffering from dysentery and
leave with effect from 6.10.82 to 12.10.82 on account of
which he was not in a position to attend the court on the
date fixed.

5. That there was no other person of his family who could
attend the court on the date fixed.

6. That the deponent application for adjournment dated
7.10.82 has been rejected and the deponent has been
ordered to deposit the court fees accordingly.

7. That the dismissal of the indigent application
of the deponent has caused him substantial loss.

8. That in the interest of justice the order dated
8.10.1982 is liable to be set aside and the deponent
application for indigency is liable to be decided on
merits.

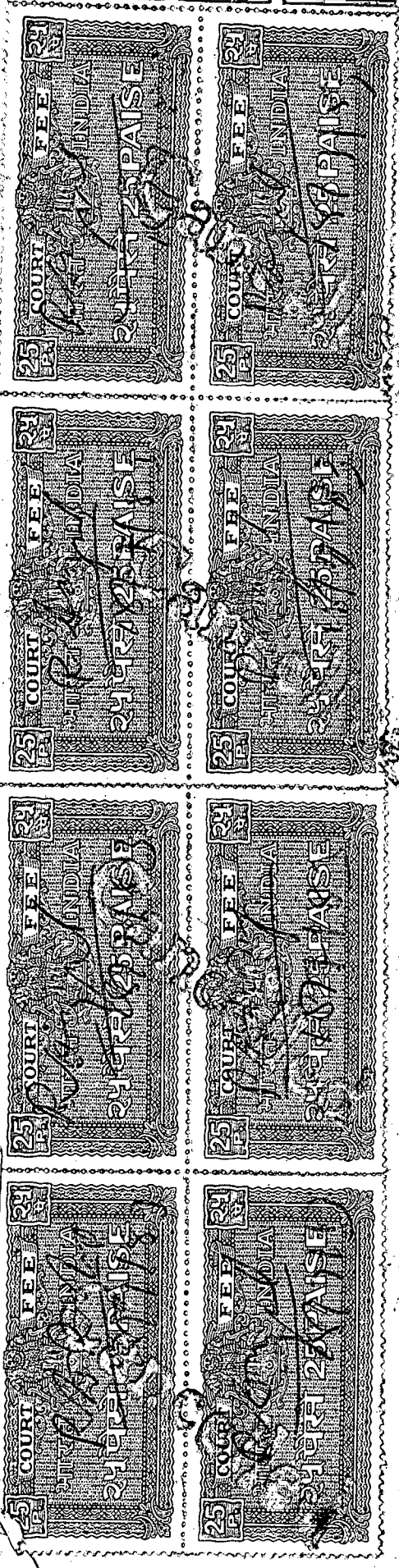
Deponent

I, Rameshwar Dayal verify that the contents under
para 1 to 8 are true to my personal knowledge. Nothing
is false but true. So help me God.

Signed and verified at Barilli dated 29th October,
1982.

Deponent

[Handwritten signature]



PAID

PAID

PAID

PAID

19/5/83

Before His Hon. Judge, Bench

Appellate No. 181
MISC No. 186/81

D.S. No. 167/74

33/11 (70)

Rameshwar Buzul vs Union of India & others

Talwara

for staying orders etc. -

1. Union of India through the Secretary,
Govt. of India, Ministry of Defence,
New Delhi.

2. ~~Major J. A. A. Rang~~ ^{Major} D. C. H. 6 M. W. Army. Bde
~~HA 6 M. W. Bde~~ 4056 APO
~~4056 APO~~

3. Lt. Col. A. A. Rang,
HA 6 M. W. Div.
4056 APO

4. G. C. (Genl)
Bareilly

one of 124/1
5/3/83

5/3/83

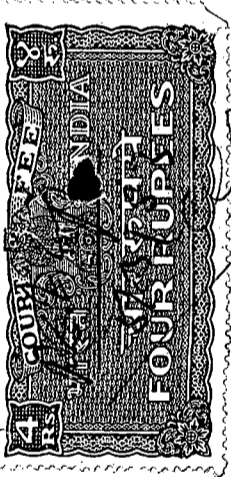
R. Buzul
Appellant

End order etc.

PS: - I also request that ^{the appropriate} compliance are to be made by the
appellant as per orders pronounced above
in the above noted case.

5/3/83

R. Buzul
App
38 Yali Park
Rowee



In the Court of Dist. Sud. (1)
Bareilly

32/51

N.C. No. 186/81

Rameshwar Goyal vs Union of India & others

Submission of court-fee stamps to be affixed on applications & Affidavits of 18/1/82 & 29/1/82 already filed

| S. No. | No. of stamp | Value each | Amount |
|--------|--------------|------------|-----------------|
| 1. | 6 | Rs 1/- | RS 6.00 |
| 2. | 8 | 0.50 | RS 4.00 |
| | <u>14</u> | Total | <u>RS 10.00</u> |

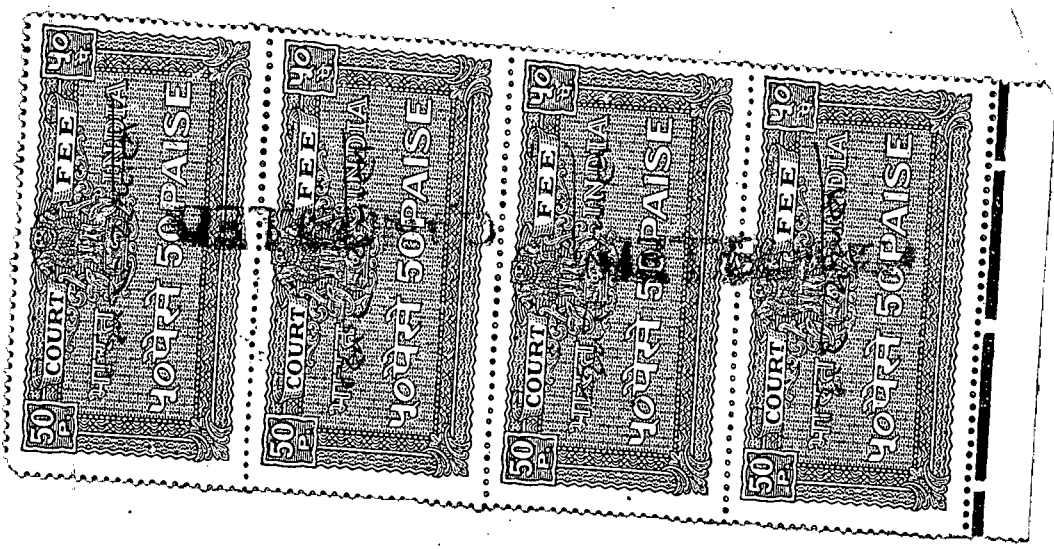
(Rupees Ten only)

9/4/82

Rameshwar Goyal

INC. F 10/-

Applicant -
Appellant -
9/4/82



P.T.O

सम्मन मुद्दालय

38/10

(77)

बन्धदालत District Judge जिला Bareilly
मुकदमा नं० Appeal no. — MISC no. 186/81 सन 1981

Rameshwar Baysal बनाम Union of मुद्दई
बनाम D.G.C (Civil) Bareilly India & others मुद्दालय
चूकि मुसम्मी Rameshwar Baysal — ने आपके नाम एक नालिश

वास्ते as per memorandum of appeal के दायर की है लिहाजा आपको हुक्म
दिया जाता है कि बातारीख etc enclosed herewith असालतन या मारफत किसी
वकील के जो हालात मुकदमा से बखूबी वाकिफ हो मय कागजात मुतलका के हाजिर हो वना
आपकी गैरहाजिरी में मुकदमा हाजा फसला होगा।

आज बतारीख

26/7

मेरे दस्तखत व मोहर अदालत से जारी किया गया है।

जज
D. G. C. (Civil) Bareilly
1981

सम्मन मुद्दालय

बन्धदालत District Judge जिला Bareilly
मुकदमा नं० Appeal no. — MISC no. 186/81 सन 1981

Rameshwar Baysal बनाम Union of मुद्दई
बनाम D.G.C (Civil) Bareilly India & others मुद्दालय
चूकि मुसम्मी Rameshwar Baysal — ने आपके नाम एक नालिश

वास्ते As per memorandum of appeal के दायर की है लिहाजा आपको हुक्म
दिया जाता है कि आप बतारीख etc enclosed herewith असालतन या मारफत किसी
वकील के जो हालात मुकदमे से बखूबी वाकिफ हो मय कागजात मुतलका के हाजिर हो वना
आपकी गैरहाजिरी में मुकदमा हाजा फसला होगा।

आज बतारीख

26/7

मेरे दस्तखत व मोहर अदालत से जारी किया गया है।

जज
D. G. C. (Civil) Bareilly
1981

contention of the defendants respondents that the said register has been weeded out. The whole version of Ram Autar DW.1 is hear-say and can not be relied and liable to be rejected and the findings of the court below to the contrary is erroneous to be set aside. (11)

30. Because the defendants respondents have also not produced the proceedings of the Board in which the documents (Attendance Register) in question was presented to be weeded out particularly when they were under rules duty bound to maintain and produce the same before the court, hence the plea of the defendants respondents is quite untenable and it is clear that they have withheld the documents from the perusal of the Hon'ble court on account of malice, specifically when they are under rule duty bound to maintain and produce the same before the court, hence the plea of the defendants respondents is quite untenable and it is clear that they have withheld the documents from the perusal of the Hon'ble court on account of malice, specifically when they are failed to produce the admitted and available documents with them in connection with the said proceedings i.e. proceeding of the Board in which the documents in question was supposed to be weeded out. The result is that the required document Attendance Register was never weeded out and the same is still in their custody and any finding of the court below to the contrary is erroneous to be set aside.

31. Because the learned lower court has also erred in holding that the documents filed by the appellant plaintiff have not been properly proved hence the findings of the learned lower court are erroneously and against law and not legally maintainable.

Contd.... 11

Before the District Judge, Bareilly
Civil Appeal No. — of 1981
Original Suit No. 157/74

Rameshwar Dogal vs Union of India & others 29

1. The plaintiff appellant has filed the original suit as an indigent person and that he has not ceased to be an indigent person since the date of decree appeal preferred from the appellant-plaintiff has no means to pay the requisite court fees on memorandum of appeal. The list of property in possession of the plaintiff appellant is enclosed herewith. It is therefore, prayed that the present-plaintiff be allowed to present/file the present-appeal as an indigent person.

M- 6-10-81

Rameshwar Dogal
Plaintiff Appellant

True copy



Before the District Judge, Bareilly (B)

Civil Appeal No _____ of 1981

Rameshwar Dayal vs Union of India and others

Affidavit

I, Rameshwar Dayal s/o Shri P.L. Rastogi aged about 45 years R/o 38 Yali Patwa, Bareilly do hereby take oath and solemnly state as under: -

1. That the deponent is a plaintiff applicant in the case and is well acquainted with the facts and circumstances of the case.

2. That Para No.1 of the enclosed application dated 6-10-81 is true to my personal knowledge having based on legal advise which I believe to be true

Deponent

I, the aforesaid deponent do hereby affirm that the contents in Para 1 and 2 are true as stated above. Nothing is false and no material has been concealed. So help me god

verified this day 6-10-1981 at Bareilly

Deponent

True copy
R. Dayal

Cont Court fee 1/50 S

To

The Distt. Judge, ^{Wazirpur}
Bareilly

28/9/83

Misc. No. 186/81

Rameshwar Dayal Vs. Union of India and others.

Sir,

In the above named case today (16.9.83) it was fixed for the objection of the defendants respondents for which Registered A/D notices have been sent to the parties concerned, Today when I (Appellant) in the above noted case came and attended this Hon'ble Court and wanted to know the further date for further proceedings, I have not been informed about the same by the clerk concerned. I remain in the court upto 4.30 P.M. and the clerk concerned have ultimately told me that no orders for further proceedings in the above case have been obtained by him. Since under certain unavoidable circumstances I will be out of station it shall be very difficult for me for such type of off and on dates.

It is, therefore, prayed that it may be facilitated to have the knowledge of further date by post at the address as given in the bottom or any other convenient means deems fit.

R. Dayal Rastogi

(Rameshwar Dayal Rastogi)
House No. 2214,
Sector No. 16,
Faridabad (Old) H.R.

Dated: 16.9.1983.

No Post card
& attached

as V.D.H.

for
Domestic - sub 16/9/83

17/9/83

Handwritten notes on the left margin:
F paid
20/9/83
16/9/83

'6'

(86)

40/11

LETTER TO THE DIRECTOR, ...

SIR,

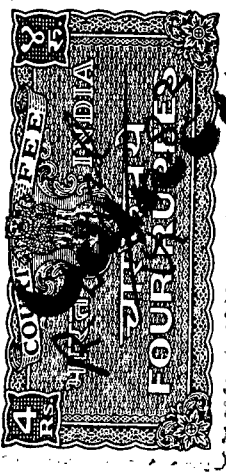
Misc. No. 100/31

Re: ...

DETAILS

1. ...
Secretary, Government of India,
...
New Delhi. (Respondent No. 1).

2. Lt. Col. ...
...
C/ ...



19.5.53.

R. Deyal
(Respondent No. 2)
Plaintiff-appellant

4/11
19/9/53

19 OCT 1983

R No. 269/XV dt. 19.10.83

UNDER CERTIFICATE OF POSTING.

C.F. Stamps due Rs.1.50

BEFORE THE DISTRICT JUDGE, BAREILLY.

Misc. (Appeal) No. 186/81

O.S. No. 167/74

Rameshwar Dayal Vs. Union of India & Others.

Fixed for 21.10.83.

Sir,

It is submitted as under:-

1. That the above case is fixed for 21.10.83 but the undersigned appellant-plaintiff could not attend the proceedings of the case on this date due to his illness and confining on bed. Necessary medical Certificate is being sent under a separate cover.
2. That a period of a month will take place for the restoration of my health and treatment.
3. That there is also no body else except the ailing applicant (appellant-plaintiff) to attend the case on the aforesaid fixed date i.e. on 21.10.83
4. That the absence of the applicant on the date fixed is due to cause beyond his control as such the adjournment is sought for, with the request that the necessary intimation of the next date as and when fixed in the case may kindly be intimated to the undersigned applicant, for which a self-addressed envelop is also being sent under a separate cover.

P R A Y E R

Under the circumstances stated above the case may kindly be adjourned for some other suitable date under intimation to the applicant.

R. Dayal

(Rameshwar Dayal)
Appellant Plaintiff,
Applicant.

Dated: 14.10.83.

H.No. 2214,
Sector No. 16,
Faridabad (old) Hr.

*Recd
19/10/83*

4/1/83

*Admitted on the
date fixed*

19/10/83
*Mr. J. S. R. 21 (Civil). Present
Hr. No. 2214*
27/10

Recd 22/10/83

Rep. AD

Before the Distt. Judge

Bareilly

(24)

HISC (Appeals) no. 186/8, u.s. no

O.S. no 167/74

Rameshwar Deyal vs u.o.d. & others

PIF 21.10.83

LIST of Papers

Sr. no. Description

1. Application dt- 16/x/83 for adjournment

2. Medical certificate for one month u.e.f 14/x/83 to 13/11/83 in original

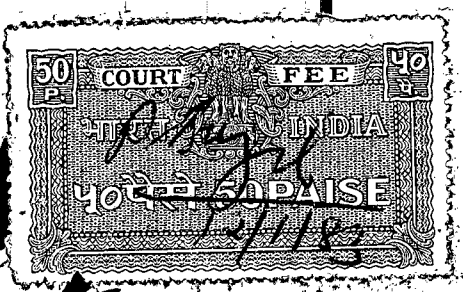
3. Self addressed envelope, stamp 0.50

16/x/83

R. Deyal

Appellant
Plf. no

Applicant



Recd. A.L.D.

C.F. Stamps due Rs. 2.50 (2 stamps) (1)

BEFORE THE DISTRICT JUDGE, BAREILLY.

Misc. (Appeal) No. 186/81

O.S. No. 167/74 47/26

Rameshwar Dayal Vs. Union of India & Others.

Fixed for 21.10.83.

Sir,

It is submitted as under:-

1. That the above case is fixed for 21.10.83 but the undersigned appellant-plaintiff could not attend the proceedings of the case on this date due to his illness and confining on bed. Necessary medical Certificate is being sent ~~under a separate cover.~~ *herewith*.
2. That a period of a month will take place for the restoration of my health and treatment.
3. That there is also no body else except the ailing applicant (appellant-plaintiff) to attend the case on the aforesaid fixed date i.e. on 21.10.83.
4. That the absence of the applicant on the date fixed is due to cause beyond his control as such the adjournment is sought for with the request that the necessary intimation of the next date as and when fixed in the case may kindly be intimated to the undersigned applicant, for which a self-addressed envelop is also being sent ~~under a separate cover.~~ *herewith*.

P R A Y E R

Under the circumstances stated above the case may kindly be adjourned for some other suitable date under intimation to the applicant.

R. Dayal

(Rameshwar Dayal)
Appellant Plaintiff,
Applicant.

Dated: 14.10.83.

16

H.No. 2214,
Sector No. 16,
Faridabad (old) Hr.

॥ ओ३म् ॥

PRACHIN DAWAKHANA

CHRONIC & SKIN DISEASES SPECIALIST

प्राचीन दवाखाना

un/it

कदीराज के० एस० बन्सल

वंद्य वाचस्पति

पेचीदा व जिल्दी इमराज के माहिर

रजिस्टर्ड मैडिकल प्रैक्टिशनर L-III (LAHORE)

L-28991 [HARYANA]

विपरीत माल गोदाम

रेलवे रोड फरोदाबाद

(9)

तिथि 14-X-83

Certificate that *Shri Rameshwar Dargal*

is suffering from 'ACUTE' Dysentery

& slight fever ~~and~~ ^{with} He has been

advised to complete rest ^{bed rest} to be treated.

I, therefore recommend him leave for

one month w.e from 14-X-83 to 13¹¹/₈₃

He may be examined from due / moment

He has signed below
in my presence

P. Bujal

Witnessed



L-28991

U.P.C.

BEFORE THE DISTRICT JUDGE, BAREILLY.

MISC. No. 186/81

Rameshwar Dayal Vs. Union of India & Others.

F/F 15.11.83.

Sir,

In the above noted case Postage stamps worth Rs. 2/- (Rupees Two) ~~more~~ ^{get} accompanied herewith to the notices issued in question to the defendents as already submitted. The total stamps submitted is as under:-

1. Stamps already (Postage) affixed on the requisite envelopes Rs. 8.30.
2. Stamps - postage accompanied herewith - 20 Nos. of 0.10 Ps. each = Rs. 2.00

Total Postage Stamps = Rs. 10.30.

Further compliance on the part of the applicant appellant-plaintiff may also be communicated by post for which necessary self-addressed and stamped envelope is also enclosed herewith. The cause of getting information due to his sickness having confined on bed and there is no body else except ailing applicant which is much less than that even in your letter dt. 22.11.83 no hint even disclosed as to what type of compliance is needed from the applicant.

Dated: 30.10.1983.

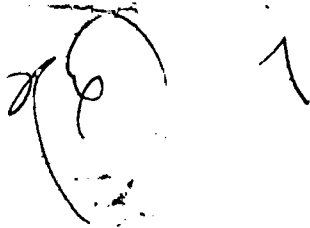
R. Dayal
(R.D. Rastogi)
H. No. 2214, Sector 16,
Faridabad (Old) Haryana

Appellant-Pltff.

Encl: As above.

PS; Necessary Medical Certificate must have received in your office by now which has since been sent through Registered A/D.

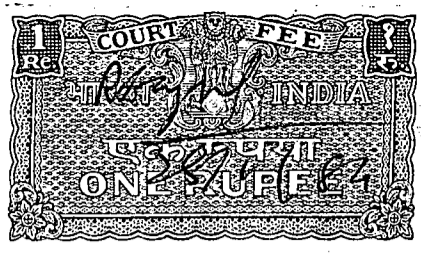
2/1/19



~~2/1/19~~
 2/1/19
 2/1/19
 2/1/19

2/1/19
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2/1/19
 2/1/19
 2/1/19
 2/1/19



Rs 3/2
 30/11/84
 20/11/84

In the Court of District Judge Bareilly
 MISC. NO. 186 of 1981

Rameshwar Singh vs Union of India & others
 Fixed for 17-2-84

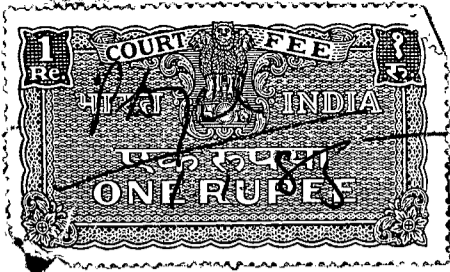
Sir,
 Due to sudden death of my mother the undersigned applicant appellant - plff. has to perform certain religious duties hence unable to attend the court to look after the interest of him in the above noted case.

It is, therefore, prayed that the present date 17.2.84 as fixed in the above case may kindly be adjourned and a next date in the end of March 1984 may kindly be fixed under intimation to the undersigned applicant, for which necessary self addressed envelop is enclosed herewith.

28/1/84 R. Singh
 Appellant plff

Encl - self addressed Envelop duly stamped as above with a PC - slip.
 H-NO. 2214 Sector 1 Faridkot (Punjab)

Put up before the P.S. office
 dated 20/11/84



3/-

19

30 F/A 2
11/85

Before District & Sessions Judge,
Bareilly

93

Appeal no 73/84

48/11

Rameswar Singh vs Union of India & others.

4/1/85

Sir,

F/A 4-1-85

In the above noted case O.P. has to submit against the certain applications moved by the undersigned appellant; whereas the appellant due to sudden unavoidable family circumstances has to go to Lucknow just now hence unable to attend the proceedings on the fixed date 4-1-85.

Prayer

It is therefore prayed that the case may kindly be adjourned and a suitable date may kindly be fixed in the month of Feb 1985.

01-6-1-1-85

R. BR Singh
Appellant

Order

Put up on the date fixed.

D.J.
2-1-85

Allowed & fixed
1. 3.85 for disbursement
4/1

सवाल मुभाइना

30/11/85
 22/11/85
 R. K. Reddy
 30/11/85

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|--|---------------------|---|---|---|
| <p>श्रीमत् सत्यल श्रीर उसको एजेन्ट का</p> | <p>किसम मुबत्ता</p> | <p>श्रीया कुल मिसिल का मुभाइना मतलुब है या किसी खास दस्तावेज का</p> | <p>श्रीया सायल फरीक है या उसका एजेन्ट</p> | <p>श्रीार सायल फरीक या उसका एजेन्ट नहीं है तो वजह मतलुबी मुभाइना</p> |
|--|---------------------|---|---|---|

under appeal
 73/82
 R. K. Reddy
 Romu Ramu Dnyd
 VS
 Union of Andhra
 & others

Whole file
 Part -

R. K. Reddy
 Appellant -
 22/13/85

Previous Date
 was 1/3/85

Prayd
 Kamin Dk
 22/11/85

STEADY ADVANCE
 (any advance and
 8-2913

12/11/85
 (105)

10/9/84

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In the Court of District Judge Bareilly
C. Appeal No. 73/84

Rameshwar Bajaj vs Union of India & others
P/F 26-9-84

LIST OF APPLICATIONS & AFFIDAVITS
FILED IN THE ABOVE CASE BY & ON BEHALF
OF THE APPELLANT PLAINTIFF

Sul. No. - Contents Pages

1 (a) Application dt 6.9.84 Reg.
Production of Documents from the
defendants - Respondents in duplicate
each containing 3 Pages

(b) Annexure - list of Documents
to be Produced by the Respondent-
defendants in duplicate each
containing 9 Pages

(c) Affidavit dated 6.9.84 in
support application and list of
documents shown above at sub
suo 1(a) & 1(b) in duplicate each -
containing 5 Pages

2 (a) Application^{10.9.84} reg. to Strick
out the defence of the respondents
defendants in default of non-
Production of documents and other
defaults in duplicate each 9 Pages
containing

(b) Affi-davit^{10.9.84} in support of the
above application shown at sub 2(a) 1 Page
in duplicate each containing

contd-2

Recd Copies

12/9/84

505

Srl no. contents Page

3 (a) ⁰¹⁻¹⁰⁻⁹⁻⁸⁴ Application reg. vague
 Verification on the return
 filed by Brig 61th Arty Bde
 not-dealing with the case
 on behalf of the defendants
 respondents hence it should
 not be read in evidence
 in duplicate each containing — 1 Page

57

565

(b) ⁰¹⁻¹⁰⁻⁹⁻⁸⁴ Affidavit in support of the
 application shown above
 at srl no. 3(a) in duplicate
 each containing — 1 Page

57

4(a) ⁰¹⁻⁶⁻⁹⁻⁸⁴ Application reg. Confirmation of
 the appellant w.e.f 9th Feb 1964
 & non-extension of Probation Period
 in duplicate each containing — 4 Pages

58

(b) ⁰¹⁻⁶⁻⁹⁻⁸⁴ Affidavit in support of the
 above application at srl no. 4(a)
 in duplicate each containing — 1 Page

59

5. (a) ⁰¹⁻¹⁰⁻⁹⁻⁸⁴ Application Reg.
 Interim Relief in duplicate
 each containing — 2 Pages

60

(b) ⁰¹⁻¹⁰⁻⁹⁻⁸⁴ Affidavit in support of the
 above application at srl no. 5(a)
 in duplicate each containing — 4 Pages

61

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/ 3
(98)

| <u>Sul No.</u> | <u>contents</u> | <u>Page</u> |
|----------------|--|-------------|
| 6. | Affidavit dt- 10-9-84 in support of memorandum of Appeal dated 6.10.1981 in duplicate each - Containing _____ | 1 Page |

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| | | |
|----|--|--------|
| 7. | Application dated 10.9.84 regarding disposal of applications shown above at Sul no. 1(a), 2(a), 3(a), 4(a) and 5(a) pending disposal of the above noted appeal and proceedings fixed for 26.9.84 in duplicate each Containing _____ | 3 Page |
|----|--|--------|

| | |
|----------------------------|---------|
| Total no. of original Page | 44 Page |
|----------------------------|---------|

R. Dayal
Appellant - Plaintiff

Dated: 10-9-1984

5/12/84
3

9. That the court below has drawn the presumption prejudicially at the detriment of the appellant-plaintiff hence to go back the said prejudicial and detrimental presumption and for the cause of justice in the instant case the summoning of all the documents as per list annexed to this application are most essential. (10)

10. That in the instant case it is estonishing and important to note that vide order dated 21.2.80 the court below in the presence of the parties the court below and the respondents itself accepted the appointment letter (Paper No.20 B) as proved document but in the final judgment the court below in deciding the Issues Nos. 1 and 15 contrary to the aforesaid findings dated 21.2.80 having no cause and without applying its mind on the record and proceeded on errouneous assumption that the aforesaid appointment letter is not proved. Thus it is clear that in the instant case the orders of the court below itself speaking in different ways contrary to one another, hence it is further crystal clear more than hypothetical level that the findings and decision of the court below remained without applying its judicial mind which is much less than that the court below did not apply its mind on the record of the present case; and,

11. That an affidavit is also being accompanied with this application having too again disclosed the relevancy against all those requisite documents mentioned in the list annexed to this application being treated as part of the accompanied affidavit; and,

That under the circumstances stated above and on face of record its aforesaid order dated 21.2.80 to the extent in denying the relevancy of all the requisite - documents is erreheous, void, and not maintainable under any law of the land.

P R A Y E R

It is, therefore, prayed that the respondents - defendents may kindly be asked to produce all the documents mentioned in the list annexed to this application for the cause of justice, proper disposal of the Issues involved and for pronouncement of a just and effective - judgment in the instant case.

Dated: 6-9-84

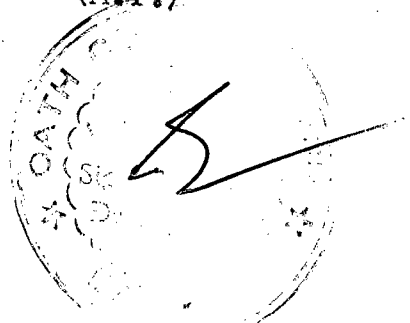
R. B. Rasbi
Appellant

ANNEXURE

(6)
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LIST OF DOCUMENTS TO BE PRODUCED BY THE RESPONDENTS DEFENDENTS IN APPEAL NO. ~~73/1974~~ OF 1984 PREFERRED AGAINST THE DECREE AND ORDER OF THE LOWER COURT IN (O.S. SUIT NO. 167/74) IN RAMESHWAR DAYAL VS. UNION OF INDIA & OTHERS WHICH ARE IN THEIR POSSESSION, CUSTODY, POWER TO BE PRODUCED BEFORE THIS HON'BLE COURT IN THE INSTANT CASE ON THE FIRST DAY OF THE HEARING IN THE ABOVE APPEAL.

| Sl.No. | Particulars of the documents required from the respondents defendents to be recovered and produced in the instant appeal/ case. | Purpose and relevancy of the documents. |
|--------|---|--|
| 1. | Copy of appointment letter No. 372/ARTY dated 18 Jan.'64 issued by the Maj OC HQ 6 Mtn Arty. Bde C/o 56 APO to the appellant-pltff. in the instant case. | Original already filed (Paper No.20 B) to prove the same |
| 2. | Copy of letter No.372/7/ARTY dated 18 Feb. 1964 issued by the Maj. O.C. HQ 6 Mtn Arty Bde C/o 56 APO to the appellant-pltff. | To prove the original already filed (paper No. 21B) as per pleadings of the appellant-pltff for his beneficial cause having declared the same is inoperative in law. |
| 3. | Original letter dated 4.4.1964 sent by the plaintiff appealing to the Head Quarters 6 Mtn Div. C/o 56 APO, Controller of Defence Accounts Meerut, Army HQ Delhi and HQ Army Education Pachmani (M.P.) | copy filed (Paper No.22C) to prove the same. |

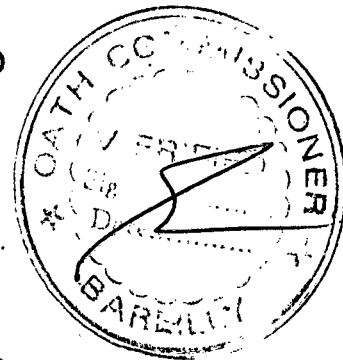


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S.No. Particulars of the documents required from the respondents to be recovered and produced in the instant appeal/case. Purpose and relevancy of the documents.

5. Original letter dated 30.5.64 sent by the plttf. to the Brigadier 6 Mtn. Artillery Brigade C/o 56 APO To prove the copy already filed by the plttf. (Paper No.25 C).
6. Original letter dated 30.5.64 sent by the plttf. to the Brigadier 6 Mtn Artillery Brigade C/o 56 APO. - do - (paper No. 26 Ga)
7. Original letter dt. 30.5.64 sent by the plttf to:- -do- (paper No. 24 C)
1. Col. HQ 6 Mountain Div. C/o 56 APO.,
 2. Col. Head Quarters 6 Mtn Arty Bde C/o 56 APO.,
 3. I/c Army HQ New Delhi,
 4. I/c HQ Army Education, Pachmani (M.P.),
 5. Chief of the Army Govt. of India, New Delhi.
 6. Controller HQ 6 Mtn Arty Bde C/o 56 APO.,
 7. Brigadier 6 Mtn Arty Bde C/o 56 APO
 8. Army HQ Adjutant General Branch DHQ P.O., New Delhi through proper channel Maj OC HQ 6 Mtn Arty Bde C/o 56 APO sending advance copies to all the above authorities from/srl.1 to 8 under serial 7, above.
8. Original letter dt.23.9.64 sent by the plttf. to the authorities as mentioned above at serial No.7 and copy to Maj O.C. HQ 6 Mtn Arty Bde C/o 56 APO. To prove the copy already filed by the appellant-plttf. (Paper No.28 Ga).
9. Original letter dated 5.1.65 sent by the plttf. to the above authorities at serial No.8. - do - (paper No.29 Ga)
10. Original letter dt.4.3.65 sent by the plttf. to:- - do - (Paper No.30 Ga)
1. Col. Hq. 6 Mtn Arty Bde C/o 56 APO.
 2. Col. HQ 6 Mtn Div. C/o 56 APO
 3. I/c HQ Army Education, Pachmani (MP)
 4. Chief of the Army Govt. of India, New Delhi.
 5. Controller HQ 6 Mtn Arty Bde C/o 56 APO.
 6. Brigadier 6 Mtn Arty Bde 7, Army HQ Adjutant General's Branch DHQ P.O. New Delhi and copies to (i) Lt Col. AA & QMG 6 Mtn Div. C/o 56 APO and Maj OC HQ 6 Mtn Arty Bde C/o 56 APO

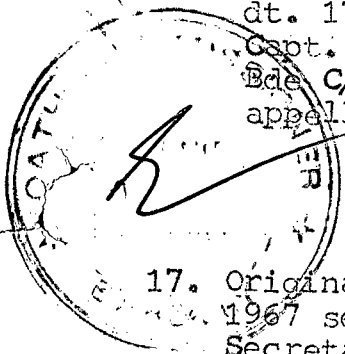


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| S.No. | Particulars of the documents required from the respondents to be recovered and produced in the instant appeal/case. | Purpose and relevancy of the documents. |
|-------|---|---|
|-------|---|---|

- | | | |
|-----|---|---|
| 11. | Original letter dt. 21st Sept. 1965 from the Pltff. to:- 1. Col. HQ 6 Mtn Arty Bde C/o 56 APO. 2. Col. HQ 6 Mtn Div. C/o 56 APO 3. I/C HQ Army Education, Pachmani (MP). 4. Chief of the Army, Govt. of India, New Delhi. 5. Controller HQ 6 Mtn Arty Bde C/o 56 APO. 6. Brigadier 6 Mtn Arty. Bde C/o 56 APO. 7. Army Adjutant General's Branch DHQ P.O. New Delhi. | To prove the copy already filed by the pltff - (Paper No.31 Ga) in case file. |
| 12. | Original letter dated 9th Feb. 1965 from the Pltff. to as shown above at srl. No.11. | -do- (Paper No.32Ga) |
| 13. | Original reminder letter dt.9th Aug. 1966 sent by the pltff to the authorities as shown above at srl.11. | -do- (Paper No.33 Ga) |
| 14. | -do- dt. 2nd Nov. 1966 | -do- (Paper No.34 Ga) |
| 15. | -do- dt. 18th March 1967 | -do - (Paper No. 35Ga) |
| 16. | Copy of letter No. 373/35/Arty dt. 17 June '67 issued by the Capt. for Maj OC HQ 6 Mtn Arty Bde C/o 56 APO to the pltff-appellant. | To rebut the contention of the respondents defendents that the pltff. with effect from 11.3.64 was found absent - without leave from duty, etc. (Paper No.42 B) |
| 17. | Original letter dt. 27th June 1967 sent by the pltff. to the Secretary Govt. of India Ministry of Defence, New Delhi through proper channal Maj OC HQ 6 Mtn Arty Bde C/o 56 APO. Its copy sent to Maj I/c 6 Mtn Arty Bde C/o 56 APO and Army HQ Adjutant Branch DHQ P.O. New Delhi. | To prove the copy already filed by the pltff. (Paper No. 38 Ga). |
| 18. | Copy of letter No. 373/37/ARTY dt. 18 Jul '67 from Maj OC HQ 6 Mtn Arty Bde C/o 56 APO to the Pltff. (Rameshwar Dayal). | Original already filed by the pltff. to prove the same for the beneficial cuase of the appellant-pltff. |



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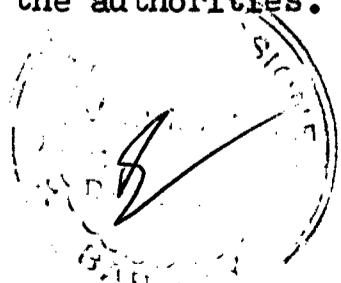
| Sl.No. Particulars of the documents required from the respondents defendents to be recovered and produced in the instant case/ appeal. | Purpose and relevancy of the documents. |
|---|---|
| 19. Original letter dt. 24th July 1967 from the plttf. to Maj HQ 6 Mtn Arty Bde C/o 56 APO | Copy filed to prove the same (Paper No. 42 C). |
| 20. Original reminder letter dt. 20th Jan. 1968 from the Plttf. to Maj OC HQ 6 Mtn Arty Bde C/o 56 APO | -do-(Paper No.45C) |
| 21. -do- dt. 21st March 1968 | -do-(paper No. _____) |
| 22. Original reminder dt.25.3.68 from the Plttf to the Secretary Govt. of India Ministry of Defence, New Delhi. | -do-(paper No.49 C) |
| 23. Copy of letter No. 373/RD/44/ARTY - dt. 29 March '68 to the plttf from Maj. DDA & QMG | Original filed to prove this letter is and can not be decision of the departmental appellate authority in the instant case (paper No.45B), and to prove that since the impugned - termination order dt.18.2.64 is without jurisdiction as it based on no evidence hence this order dt. 29.3.68 is also bad in law and without jurisdiction too. |
| 24. Reminder dt. 23rd April 1968 from the plttf. to the Secretary, Govt. of India Ministry of Defence, New Delhi and copy sent to: (1) Maj OC 6 Mtn Arty Bde C/o 56 APO (2) Maj D.A.A. & QMG HQ 6 Mtn Arty Bde C/o 56 APO | copy already filed to prove the same (Paper No.52C) |
| 25. Original reminder dt.25th June, 1968 from the plttf. to the Secretary, Govt. of India Ministry of Defence, New Delhi and copies sent to:- 1. Maj. OC HQ 6 Mtn Arty Bde C/o 56 APO. 2. Maj DDA 6 QMG 6 Mtn Arty Bde C/o 56 APO | -do- (Paper No.56 C). |
| 6. -do- dt.9.12.68 | -do-(Paper No.62C) |
| 7. -do- dt. 17.3.69 | -do-(paper No.63C) |
| 8. -do- dt. 13.6.69 | -do-(paper No.64 C) |

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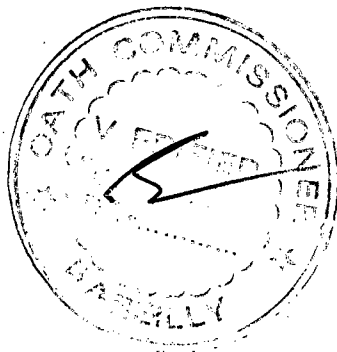
S.No. Particulars of the documents required from the respondents to be recovered and produced in the instant appeal/case. (106) purpose and relevancy of the documents.

29. Original reminder letter dated 8.9.69 from the plttf. to the Secretary Govt. of India Ministry of Defence New Delhi and copy sent to :- Copy filed. To prove the same (Paper No. ~~65~~ 65 C).
1. Maj OC HQ Mtn Arty Bde C/o 56 APO.
 2. Maj DAA & QMG 6 Mtn Arty Bde C/o 56 APO
30. -do- dt. 17.9.69 -do- (paper No. ~~65~~ 65 C).
31. ~~30~~ dt. 10.2.70 (original reminder) from the plttf to the Secretary Govt. of India Ministry of Defence, New Delhi. -do- (paper No. 66 C).
- 32.1. Original reminder dt. 28.3.1970 from the plttf to the Secretary, Govt. of India Ministry of Defence New Delhi. having addressed to :- -do- (Paper No. 67 C)
2. Maj OC HQ 6 Mtn Arty Bde C/o 56 APO
 3. Maj DAA & QMG HQ 6 Mtn Arty Bde C/o 56 APO.
 4. HQ 6 Mtn Div C/o 56 APO
33. Original reminder letter dt. 25.4.70 to the Union of India through the Secretary Govt. of India, Ministry of Defence, New Delhi and ~~Maj. OC~~ HQ 6 Mtn Arty Bde C/o 56 APO. -do- (paper No. 70 C)
34. Original reminder letter dt. 3.8.70 from the plttf to the Secretary Govt. of India Ministry of Defence, New Delhi and copies sent to the Authorities as shown above at Srl. No. 11 on page 3 and Maj. OC HQ 6 Mtn Arty Bde C/o 56 APO -do- (paper No. 25 C)
35. Original reminder dt. 10.3.71 from the plttf. to the Secretary Govt. of India Ministry of Defence, New Delhi. -do- (paper No. 76C)
36. Original Attendance Register for the year 1964 for the plaintiff as maintained in the office of the Maj. O.C. HQ 6 Mtn Arty Bde C/o 56 APO by the authorities. (1) To prove that the plttf. worked in the Department upto 24.3.64 and thereafter he was deprived to work from ~~25-3-64~~ 25-3-64. Hence he is again entitled even alone for this reason for the reliefs claimed in the original suit & appeal.
- (2) And to rebut the contention of the defendant that the plttf. did not work upto 24.3.64 as pointed out too in the plaint *paper*.



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| S.No. Particulars of the documents required from the respondents to be recovered and produced in the instant case/appeal. | Purpose and relevancy of the documents. |
|---|---|
| 37. Original reminder letter dt. 19.7.71 sent by the plttf to the Secretary Govt. of India, Ministry of Defence, New Delhi. | Copy filed to prove the same (Paper No.77C) |
| 38. Copy of letter No.F.02051/Appeal/GS/ARTY.3/15855/D(Lab) dated 14 March 72 sent by the Under-Secretary to the Govt. of India, Ministry of Defence, New Delhi to the Plttf.(Sri R.D.Rastogi) | Original filed to prove the same for the beneficial cause of the appellant plttf. as per his pleadings in the case, (Paper No.78 B). |
| 39. Original Notice U/s 80 CPC dated 28th Oct. 1972 from the plttf. to the:- 1. Union of India through the Secretary Govt. of India, Ministry of Defence, New Delhi. 2. Maj. OC. HQ 6 Mtn Arty Bde. 3. Lt. Col. AA & QMG HQ 6 Mtn Div C/o 56 APO | Copy already filed to prove the same (Paper No. 80 C). |
| 40. Original letter No. 373/ARTY dt. 24th July '74 sent by G.C.Singh, Capt. Offg. DAA and QMG Comdr. HQ 6 MTN Arty Bde C/o 56 APO to Shri Rajendra Kumar, Advocate, D.G.C.(Civil) Bareilly(U.P.) and its copy to Rameshwar Dayal(Plttf.) S/o Sri Piarey Lal 38 Gali Patwa, Bareilly under Registered Cover. | Copy as received to the plttf. is already filed (Paper No._____) for the beneficial cause of the appellant-plttf. as per his pleadings in the instant case. |



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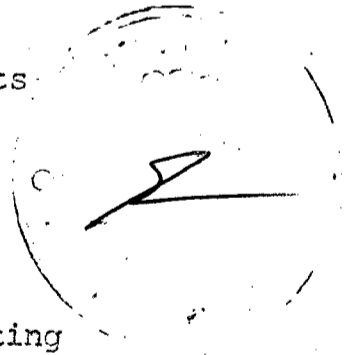
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| S.No. Particulars of the documents required from the respondents to be recovered and produced in the instant appeal/case. | Purpose and relevancy of the documents. |
|---|---|
| <p>original</p> <p>41. Salary and notice payment register, vouchers, payment documents either payment made in the office or through Money order etc. to the plttf.</p> | <p>To prove that the appellatant was present on his duties throughout. And to prove that the contention of the respondents that the plttf. was absent from his duties as alleged in their W.S. in para 3 is wrong.</p> |
| <p>42. Copy/original appointment letters for all the persons made from 1964 to date on the post civilian clerks</p> | <p>To prove that the appellatant was the senior most from those clerks which were subsequently appointed after the appointment of the appellatant.</p> |
| <p>43. Original files, Registers, etc. etc. as maintained in the office of the defendents in connection with the present suit/appeal from 1964 to date.</p> | <p>To prove ^{for the} beneficial cause to the plttf. and to prove that the required attendance register as summoned at srl.No.36 above must and is not weeded out till now. Now And to prove that the plttf./appellatant is entitled for the relief as claimed in his original suit, and all benefits of the service pay and allowance retrospectively till date, as mentioned in the ^{Present appeal}</p> |
| <p>44. All the documents including as alleged by Mr. Ram Autar DW 1 in the instant case to ascertain :-</p> <p>(i) Under whose authority's order the requisite attendance register of 1964 as shown above at Srl.No.36 has been sent to Kathgodam,</p> <p>(ii) Despatch regiser/document to ascertain its entry for sending to the aforesaid register to Kathgodam alongwith the name of the person who has actually despatched the said attendance register.</p> <p>(iii) The name of the person who has actually received the aforesaid attendance register for 1964 at Kathgodam alongwith the record in which it was shown and entered for its having received at Kathgodam,</p> | <p>To rebut the original oral statement of DW1 (Ram Autar) in the instant case. And to prove that the</p> |

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| S.No. Particulars of the documents required from the respondents defendants to be recovered and produced in the instant appeal/ case. | Purpose and relevancy of the documents. |
|---|---|
|---|---|

- | | |
|--|---|
| 44. (iv) The name and designation of the person who actually weeded out or destroyed the said Attendance Register of 1964 alongwith original records maintained in proof for weeding or destroying the said attendance register. | requisite Attendance register of 1964 as shown above at srl.No.36 is still with the respondents |
| (v) The name and designation of the person/authority who has actually ordered to get the aforesaid Attendance Register of 1964 to be weeded out alongwith its actual order for weeding or destroying the same. | defendants, in order to prove the relevant point in the instant case that the appellatnt plttf. remained in the service of the Department concern upto 24.3.64 where- |
| (vi) The name and designation of the authority alongwith original orders in writing who has witness- ed in proof that whether the aforesaid attendance register has actually been weeded out. | after w.e.f.25.3.64 he was illegally deprived to work. As such again even on this point the appella- |
| (vii) The year and date of the weeding out of the said Attendance Register of 1964, as shown above at Srl.No.36. | nt plttf. is entitled for the entire reliefs as claimed in his original suit. |
| (viii) Besides above all the relevant records, file, register, orders, etc. to ascertain whether the said attendance register of 1964 has been weeded out or not. In other words to prove that the aforesaid Attendance Register as shown above at Srl. No.36 is still in the custody and power of the respondents defendants to produce before this Hon'ble court in the instant case/appeal. | |
| (ix) Names and designation of the Board members etc. who have taken decision in the Board's meeting for destroying the said attendance register of 1964 alongwith the date of the Board's meeting for destroying the said Attendance register of 1964 as alleged their(Defendants') witness Ram Autar DW 1. in the court below in the instant suit. | |
| (x) All the Record in original xx of the Board's meeting for destroying the said Attendance Register as alleged by their (Defendants) witness Ram Autar DW.1 in his cross-examination in the court below on 30.7.81. | To rebut the contention of the defendants respondents the requisite said Attendance Register has been destroyed. In other words that the Requisite attendance |



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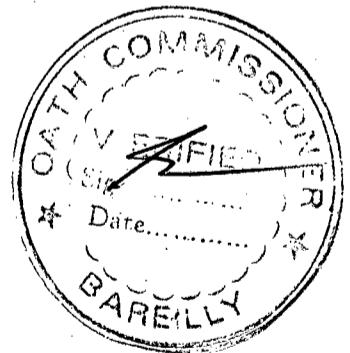
 Srl.No. Particulars of the documents required from the respondents and defendants to be recovered and produced in the instant appeal/ case. purpose and relevancy of the documents.

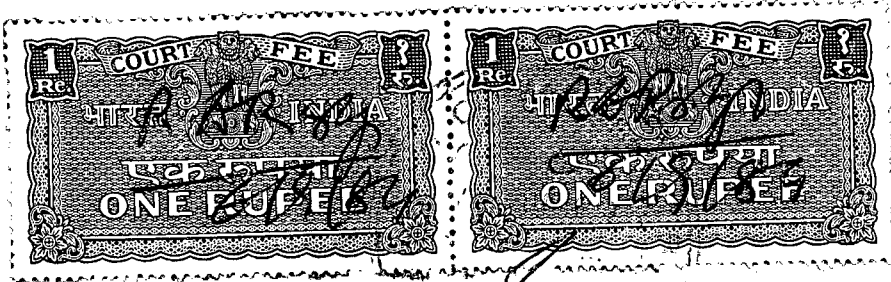
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Register
 as shown above at
 srl. No.36 is still
 in the custody and
 power of the -
 respondent defendants.

Dated: 6/9/84

R. B. Singh
 Appellant-Plaintiff.





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IN THE COURT OF THE DISTRICT JUDGE, BAREILLY.

C. Appeal No. 73

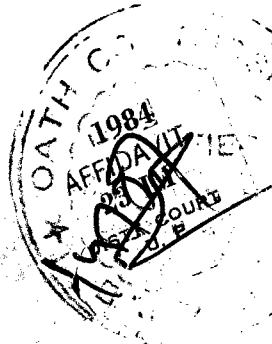
of 1984.

O.S. No. 167/74

Rameshwar Dayal Vs. Union of India & others.

AFFIDAVIT.

I, R.D. Rastogi S/o Shri P.L. Rastogi aged about 45 years R/o 38 Gali Patwa, Bareilly, do hereby take oath and solemnly affirm as under:-



1. That the deponent is the appellant-plaintiff in the above named case and well versed with the facts and circumstances of the case.
2. That the application dated 6-9-84 accompanied to this affidavit treated part of this affidavit, and it is stated that its para 1 to 12 are true to the best of my knowledge based on record while the contents of para 13 are legal which is a just and bonafide prayer which I believe to be true on legal advice.
3. That the documents desired to be summoned and produced before this Hon'ble court as mentioned in the aforesaid list which is accompanied to the said application alongwith this affidavit, are;
 - (a) very much relevant and pertinent documents for the purpose and just disposal of the Issues - involved, and for pronouncement of a just and effective judgment in the instant case; and
 - (b) to ascertain that the impugned termination notice dated 18th Feb. 1964 (Paper No.21B) is void, illegal; and,
 - (c) to ascertain the factum that the termination of the appellant deponent in the instant case was contrary to the terms and conditions of the aforesaid appointment letter and law of the land; and,

R. Rastogi

Id June
for seek
6/8/84

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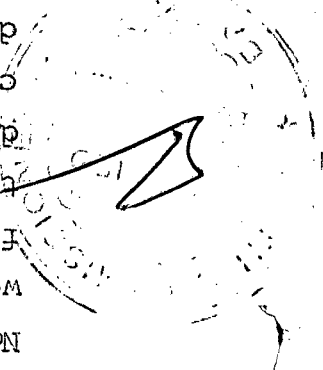
(d) to establish that the respondents concern's letter dated 2 May, 1964 (paper No.23B) if read either independently and/or with the impugned termination notice dated 18 Feb. 1964 (Paper No. 21B) makes it clear that the services of the deponent were terminated as punishment and there is an aspersion regarding the character of the deponent for which he was never told about the charges leveled against him vide their letter dated 2 May, 1964, and also he was never informed and/or disclosed the documents on which such charges are based; and,

(e) that the Respondent defendant No.2 who issued the impugned termination order dated 18.2.64

(Paper No. 21) alleging therein that the cause of terminating the deponent's services is due to inefficiency whereas the name Respondent No.2 in their subsequent letter dated 18.7.67 (Paper No. B 40) purporting it to be charge sheet which was issued after a gap of more than three years from the date of issuing the aforesaid impugned termination order dated 18.2.64 vide which the deponent was required to show cause against certain charges as laid therein including the alleged delinquency as shown in the aforesaid impugned termination order. The issue of subsequent aforesaid letter dated 18.7.67 at the very first time clearly infers that the aforesaid judgment (i.e. impugned termination order) dated 18.2.64 was issued having no evidence, or cause. Under the circumstances stated herein and/or as it may be arising out of the circumstances and as per settled law and cardinal principal of law that the aforesaid impugned termination order dated 18.2.64 was passed without jurisdiction which is much less than that there was no evidence or record to connect the deponent with the alleged delinquency which is again much less than that the original impugned termination order is not a speaking order.

For the reasons stated above the production of the alleged letter dated 18.7.67 is most essential to prove that Respondent No.2 itself admitted that the aforesaid original impugned

Signature
P. K. Singh
6/8/1964



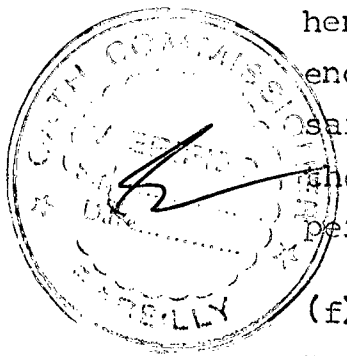
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termination order dated 18.2.64 was bad on no evidence hence the aforesaid termination order was passed without jurisdiction, and/or exercise of ~~discretion~~

jurisdiction

(13)

Similarly as per settled law and cardinal principal of law the order dated 14.3.72 (Paper No. B/78) passed on appeal affirming the original impugned termination order dated 18.2.64 was bad because as stated above the original impugned - termination order was bad in law. Hence the production of aforesaid letters dated 18.7.64 (Paper No. B/40) and dated 14.3.72 (Paper No. B/78) are too pertinent documents for the purpose of just disposal of the Issues involved and for pronouncement of a just and effective judgment in the instant case hence the production of required documents as per enclosed list including the copies of the above said (paper No. B/40 and B/78) are essential to prove the original as existed on file and summoned as per enclosed list of documents; and,



(f) That the court below has drawn the presumption prejudicially at the detriment of the deponent (appellant plaintiff) hence to go back the said prejudicial and departmental presumption for the cause of justice in the instant case the summoning of the documents, as per annexed list to this affidavit being treated as part of this affidavit, are most essential; and,

(g) that to establish that the respondents' letter dated 29 May, 1968 (Paper No. 45 B) is not and can not be the decision of the departmental appeal, and,

(h) (i) to establish that whatever the phraseology is used in the pleadings of the appellant deponent and on face of record in the instant case it is clear that the first decision of the departmental appeal of the deponent is only vide letter dated 14th March, 1972 (Paper No. 78/B) as such it is clear that the suit filed within the limitation prescribed i.e. much prior before exhausting the prescribed period of limitation, and under all the circumstances stated herein and as it may be arising out of the circumstances of the case the suit is filed within the limitation prescribed i.e. much prior before exhausting the prescribed period of limitation, and,

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in the suit was filed

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assumption that the aforesaid appointment letter is not proved. Thus it is clear that in the instant case the orders of the court below itself speaking in different ways contrary to one another, hence it is further crystal clear more than - 115 hypothetical level that the findings and decision of the court below remained without applying its judicial mind which is much less than that the court below did not apply its mind on the record of the present case, hence all the documents as per enclosed list herewith are most essential to prove the same again more than hypothetical level.

6. That under the circumstances stated above and on face of record the order of the court below dated 21.2.80 to the extent in denying the relevancy of all the requisite documents is also erroneous, void and not maintainable under any law of the land hence for the cause of justice the prayer for summoning the documents as per accompanied application with list of documents is liable to be accepted in toto, and for the cause of justice respondents defendants may be directed to produce all the requisite documents in the present case before this Hon'ble court.

John R. Buzal
DEPONENT
6/9/84

Verified that the contents of the above paras 1 to 6 are true to my knowledge. Nothing is false except true nor anything material has been concealed so help me God.

Verified this day of 6-9-84 at Bareilly.

R. Buzal
Deponent.

राजकीय शपथकार (फौज. दि. व माल) बरेली
ने ता. 6/9/84 को राजकीय शपथ ग्रहण की जिसको शपथकार का नाम है *John R. Buzal* / हस्ताक्षर बनाये।
राजकीय शपथकार (फौज. दि. व माल) बरेली

John R. Buzal
6/9/84

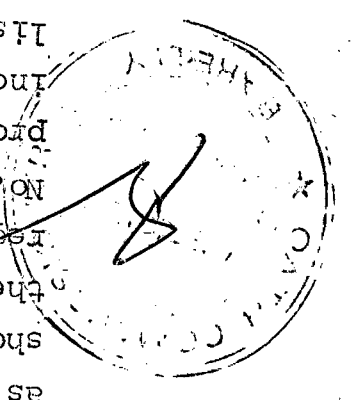
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5. That in the instant case it is astonishing and important to note that vide order dated 21.2.80 of the court below in the presence of the parties the court below and the respondents itself accepted the appointment letter (Paper No. 20B) as proved document but in the final judgment the court below in deciding the issues Nos. 1 and 15 contrary to the aforesaid findings dated 21.2.80 having no cause and without applying its mind on the record and proceeded on erroneous


As such the production of the aforesaid documents for the cause of justice in the instant case is much essential and pertinent, and the direction by this Hon'ble court is a most essential to the respondents to discover and produce the documents as mentioned in the aforesaid list accompanied herewith, and treated part to this affidavit, in the interest of justice, just disposal of the issues involved and for pronouncement of a just and effective judgment in the instant case; and,

(h) (ii) That as stated herein the suit was filed much prior exhausting the prescribed period of limitation which is much less than that the claim in the present case are of property i.e. for earned salary, etc.) which cannot be taken away by limitation which (earned wages) can easily be proved by perusing the required attendance Register for the year 1964 hence its production for the cause of justice in the instant case is most essential and as per existing law the said attendance register and the requisite documents are and must be in the possession of the respondent defendants which they have put back to avoid justice in the present case. 4. that to establish that all the requisite documents as mentioned in the list accompanied with this affidavit showing their relevancy with the present case alongwith the application dated 6.9.84 including attendance register as shown in the aforesaid list at serial No. 36 are in possession and power of the respondents to be produced in the instant case before this Hon'ble court including all the requisite documents as per enclosed list.



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assumption that the aforesaid appointment letter is not proved. Thus it is clear that in the instant case the orders of the court below itself speaking in different ways contrary to one another hence it is further crystal clear more than -  hypothetical level that the findings and decision of the court below remained without applying its judicial mind which is much less than that the court below did not apply its mind on the record of the present case, hence all the documents as per enclosed list herewith are most essential to prove the same again more than hypothetical level.

6. That under the circumstances stated above and on face of record the order of the court below dated 21.2.80 to the extent in denying the relevancy of all the requisite documents is also erroneous, void and not maintainable under any law of the land hence for the cause of justice the prayer for summoning the documents as per accompanied application with list of documents is liable to be accepted in toto, and for the cause of justice respondents defendents may be directed to produce all the requisite documents in the present case before this Hon'ble court.

Shri R. Buzul
DEPONENT
6/9/84

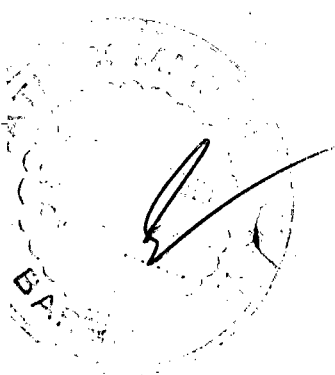
Verified that the contents of the above paras 1 to 6 are true to my knowledge. Nothing is false except true nor anything material has been concealed so help me God.

Verified this day of 6-9-84 at Bareilly.

R. Buzul
Deponent.

माज मेरे समक्ष श्री *Amend...* ने ता. 6-9-84 को *...* प्रहण को जिसको *...* हस्ताक्षर बनाये। *...*
राजकीय *...* बरली

Shri R. Buzul
Amend...
6/9/84



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BEFORE THE DISTRICT JUDGE, BAREILLY.

Civil Appeal No. 73 of 1984

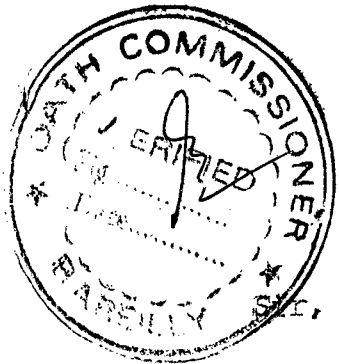
Rameshwar Dayal Appellant Plaintiff.

Vs.

Union of India & others Respondent Defendants

Application under Order 41 Rule 33 read with Section 107(2), Section 35B, Order XI R.21(1), Order 43 Rule 1(f) and R.1A(1), ~~Section 151~~ Sec 114(g) of Cr.P.C. - R.132 & 151 governing advt. 19 R.3(1) advt. Sec 151 B.C.P.C.

Reg: To struck out the defence of the Respondents-defendants as they failed to discover and produce the documents deliverately to cause injustice in the above noted case at the detriment of the Appellant plaintiff - Refer Order of the court below dated 21.2.80 read with Order 21.4.80, and they also failed to produce weeding letter - Refer order of the court below dt. 23.7.80 on their (respondents defendants' application), besides above they also failed to pay cost refer order of the court below dt. 21.4.80 etc.



Without prejudice my interest and rights vested on face of record and under law for his beneficial cause in the instant case it is submitted as under:-

1. That in the above noted case the court below who pronounced the judgment and a decree is drawn up: it is submitted that for the under mentioned reasons such order and judgment should not have been pronounced except to struck out the defence of the respondents defendants to be placed them in the position as if they had not defended and the orders should have been passed accordingly as already prayed vide appellant plfff. applications dated 21.5.80, 15.7.80, 26.7.80, 4.9.80 and 23.4.81 existing in the instant case file.

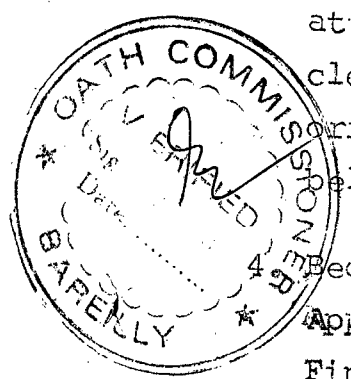
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G R O U N D S

2. Because the defendents did not discover and produce the documents as ordered on 21.2.80 by the court below.
3. Because to sustain the truth whether the requisite document has been weeded out or not the court below ordered vide its order dated 23.7.80 (Paper No. 122c) to produce the original letter of the department of weeding out of the requisite Attendance - Register of 1964 which under Rules it is kept permanently which is much less than that it must be available with them upto the decision of the instant case but they failed even to produce the same. Hence it is crystal clear that the required essential document (Attendance Register) is still in their custody, whereas the defendents purposely deliverately and to prejudice the case of the appellant plttf. did not produce the required attendance register having put it back which is clear especifically they failed to produce the original weeding letter as ordered by the court below vide its above referred order dt. 23.7.80.
4. Because by perusing the Rules contained in Appendix 13 under Rule 284 of the 'General - Financial Rules, 1963' the Attendance Register as required by the court below vide its order dated 21.2.80 is mandatory on the part of the defendents not to destruct the said Register till the final disposal of the present case.
5. Because vide Note No. 5 beneath the Instructions of Appendix 13 under Rule 284 at page 251 of the 'General Finance Rules 1963' it is clearly laid down that "Full details shall be maintained - permanently, in each office of all records destroyed from time to time. And vide Note No. 3 & 4 of the said Financial Rules 1963 at page 251 it is clear that the Head of the Department may order in writing the destruction of the record and a list of such record shall be forwarded to the ^{and/or the Accounts Officers} Audit Officers/specifically the requisite Attendance Register is subject for Audit purpose, since the



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10. Because as discussed herein above the defendents deliverately, purposely and malafidely did not produce the required Attendance register 1964 hence any question to produce secondary evidence in this regard does not arise which is much less than that as provided U/s 65 (C) of the Evidence Act that secondary evidence like in the present case can not be produced where the original documents has been even destroyed or lost arising from the default or neglect of party like in the present case by defendents as alleged by them, though in fact all the requisite documents including attendance Register of 1964 are still in their possession which is much less than that the like in the present case the hearsay evidence should not and can not be accepted as per cardinal and settled law of the country, hence as stated herein above the evidence of their witness DW 1 Ram Autar is clearly contrary to law and facts and can not be accepted specifically the same is hearsay as alleged by the said witness himself.

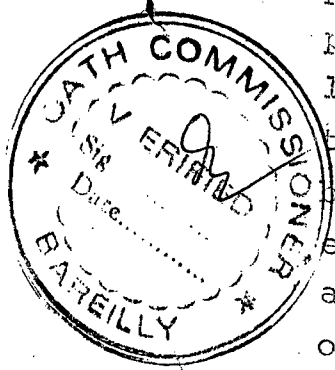


11. Because as discussed herein above and non-production of wedding letter the defendents did not get any right to produce the oral evidence hence the evidence of their witness DW 1 can not be made as part of the instant case, which is much less than that the evidence of their witness DW.1 Ram Autar in the court below is only a "heresay" hence as per settled law as well as per section 60 of Evidence Act such hear say oral evidence cannot be accepted. As such the court below contrary to the law and facts of the present case allowed the evidence of the defendents witness DW1 Ram-Autar. Whereas the appellant plttf vide his self explanatory application dated 28.4.81 moved in the court below requesting therein not to

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same is of Financial character as laid down at Srl. No.9 of the List of Papers containing 'Financial character' at page 249 read² with note at page 257 of Appendix 13 of the above referred 'General Financial Rules 1963. (18)

6. Because as discussed above in para 5⁹ and as it may be it is clear that weeding letter as well as permission of Auditors and/or permission of the Officer who ordered to weed out the said Attendance Register was never placed on record in the present case hence it is clear that the said Attendance register of the appellant plttf. for the year 1964 is and must be in the custody of the defendencts as yet, and any contention contrary to it is liable to be rejected.
7. Because the defendents could not produce the weeding-letter which is a record as per rules and as pointed out above in para 5 is to be maintained permanently in their office hence no other evidence like oral evidence of Ram Autar D.W.1 is permissible to utter that the requisit Attendance Register has been weeded out which is much less than than his evidence of hear say only, having no sanctity in law and much less than that as per section 59 ~~contents~~ of the Evidence Act the contents of documents like in the present case as done by their witness DW 1 Ram Autar can not be proved by oral evidence.
8. Because as discussed above in para 5 the defendents are duty bound to maintain full details permanently of all records if destroyed at any time, and any contention etc. contrary to it of the court below and/or as alleged by their witness DW.1 Ram Autar is not acceptable and liable to be rejected. The contention of the defendents' said witness DW.1 Ram Autar to the effect that under rules they are not required to maintain the details of the destroyed documents like the requisite attendance register is not only contrary to the existing rules but clearly evident to the malafidies of the defendents and obviously shows that they are bent upon to prejudice the case of the appellant plftt. and they (defdts.) did not want justice in the instant case at the detriment of the appellant plaintiff, which is again much less than that no original rules were ever brought

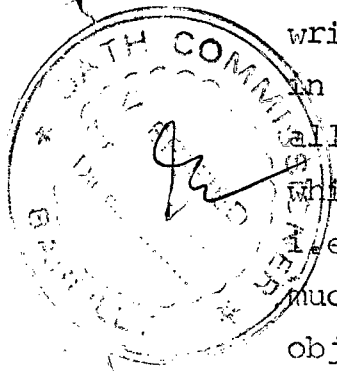


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as such in this regard the court below has made a manifest error in relying upon the version of their witness DW 1 Ram Autar in the absence of any original rules in connection with the weeding of record as alleged by the said witness.

9. Because as stated herein above it is obvious that due to the malafides and prejudiceness of the defendants respondents including non-production of the weeding letter clearly establish that the requisite Attendance Register of 1964 is still in the custody of the defendants which is much less than while the defendants in their application dated 21.4.80 (Paper No. 119 Gha) moved in the court below themselves admitted the existence of the said Attendance Register 1964 which again much less than that the defendants respondents in their written objection dated 17.1.80 (paper No.117C) in the court below falsely maliciously and prejudiceously alleged that they did not receive the list of documents which in fact they received the said list long before i.e. on 13.7.74 and subsequently on 12.7.76 which is much less than that the defendants in the aforesaid objection also clearly and impliedly admitted the existence of the said requisite attendance register as in their said objection (paper No.117C) it is stated that the attendance register, is not needed at the stage. In other words it is clear that the said register would be produced by them when needed which is much less than that the aforesaid objections were filed by them on 17.1.80 where as the court below fixed the date for its disposal on 21.2.80 and after such a long gap when the court below on 21.2.80 taken up their aforesaid objection to in the presence of both the parties where the defendants again admitted the existence of attendance register otherwise the court below no cause or occasion in directing the defendants respondents, after hearing the parties, on 21.2.80, to produce the requisite Attendance Register.



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(12) Because the cardinal principal of law is that oral evidence can not be accepted to prove the statutory provisions unless the original is produced before the court, ~~and~~

(13) That on the principal cited above in the last preceding para 12 the oral evidence of the defendants witness D.W.1 of Ram Autar adduced in the court below, to the effect that in the Department of the defendants respondents there is no provision to keep the details of the record, like the requisite attendance register, destroy from time to time, can not be accepted which is much less than that as pointed out in the preceding para 5 that under Rules and law full details are required to be maintained permanently of all records including the records like the requisite attendance register 1964, and much less than that as discussed herein above in the relevant paras the requisite attendance register is still in the custody of the defendants respondents.



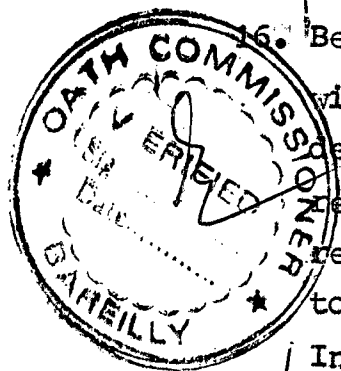
(14) Because statutory rules or law can not be accepted unless it is produced before the court in original. According the defendants letter No. 373/ARTY dt. 27 May 80 (Paper No. 125/B) as produced in the court below on 6.8.80 in the absence of original Regulation before the court can not be accepted nor the oral evidence in regard the procedure of weeding out the record, can be believed. Hence the aforesaid paper No. (125/B) and oral evidence of their witness DW.1 Ram Autar as stated herein above can not be made as part of the record of the instant case which is much less than that under Rules and law as pointed out above in para 5, that full details of the record including the record like requisite attendance register 1964 are to be kept permanently. Since no original weeding letter showing therein that the requisite - attendance register has been weeded out hence again it is clear that the requisite attendance of 1964 is still, and must be, as per rules, in the possession of the defendants which is much less

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than that the defendants vide their application dated 21.4.80 (Paper No.119Gha in the court below have themselves admitted the existence of the said attendance register, as such the non-production of the said requisite attendance register on the plea that the same has been weeded out being afterthought cannot be relied upon or accepted which is much less than that a party like the defendants in this regard can not be allowed approbate and reprobate.

15. Because for destruction of record like requisite attendance register, the defendants relied upon on the Army Regulation 1962 but the same can not be accepted since the said Regulation was never produced before the court which is much less than that the said Regulation of 1962 even if any can not be over-ride the 'General Financial Rules, 1963' as detailed above in para 5.

16. Because as stated above that the version of defendants witness DW.1 Ram Autar to the effect that in the department of the defendants, the record like the requisite attendance register under rules can not be retained in departmental enquiries which again goes to met to false and contrary to the existing Rules. In this regard the prevailing Rule as contained in Rule 30 of 'Civilian in Defence Services (Classifications, Control and Appeal) Rules 1952 is clearly laid down there that all records like present case all records including the requisite attendance register must be kept and available for the inspection of departmental authorities, whereas the departmental appellate authority passed order in the departmental appeal of the appellant plttf. on 14.3.73 and thereafter immediately filed the present suit in 1973 hence it is again proved that under Rules and law all the relevant records including the requisite attendance register must be existed and kept available atleast till the disposal of the present case .



17 Because the defendant respondents as well as their witness DWI Ram Antar have no where stated that in which 'year' 'month' or 'date' the requisite 'Attendance Register' 1964 was weeded out hence merely contending that the non-classified Record is due to be weeded out within certain specified period is of no value in law since such aforesaid statement is itself in vague which cannot be sustained in law which is much less than that it cannot be put even in hearsay witness and much less than that even the hearsay evidence cannot be made part of the case file and much less than that even the defendant respondents neither produced any witness who has actually witnessed or seen the Attendance Register in question nor they disclosed throughout in the case to sustain their allegation about factum of existence of the said Attendance Register that how and under what circumstances the person who has actually examined or weeded out the aforesaid Attendance Register or the person who has actually informed ^{it} to their hear-say witness Ram Antar D.W.I. to be in power of the defendant respondents out of reach of, or not subject to the process of the court.

18. Besides above it is also submitted that non-payment of costs imposed on the defendant respondents vide court below order 8-13-5-80 to the plaintiff appellant in spite of his repeated reminders is alone itself liable their defence to be struck out.

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19. Now it is abundantly clear more than hypothetical level that including all and/or exclusively on any one ^{of the} grounds 211 stated herein this application is sufficient to enable this Hon'ble Court to strike out the defence of defendant respondents.

It is further submitted that in the court below on behalf of the defendant respondents the 'return' was filed by some Brig Comdr 6 Mtn Arty Bde not-dealing with the case in any way or manner and the said 'return' was neither accordingly nor precisely verified and therefore it should not be read in evidence consequently once again their defence is liable to be struck out. Necessary

✓ affidavits in support of this application is also accompanied to this application.

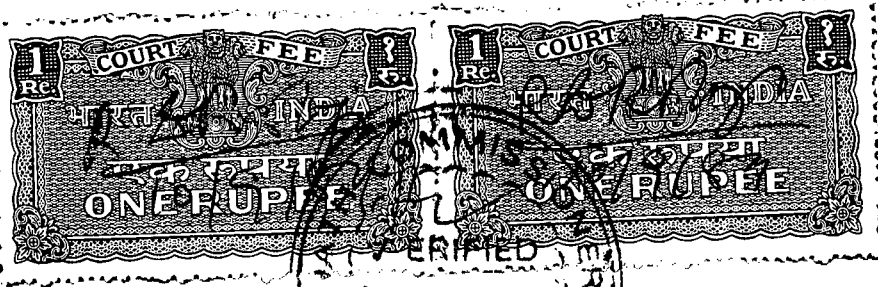
✓ PRAYER



It is, therefore, for justice, equity and law prayed that the defendant respondents defence be struck out and they may be placed in the position as if they had not defended and the orders should have been passed accordingly.

R. B. Rastogi
Appellant-Plaintiff

Dated 10-9-1984



2(b)

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Before the Court of District Judge Bareilly
Appeal No. 737/84

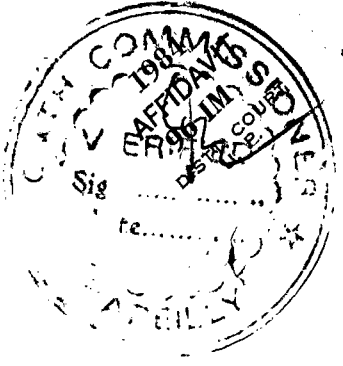
Rameshwar Dayal vs Union of India & others
F.F. 26.9.84

AFFIDAVIT

I, Rameshwar Dayal s/o Shri P.L. Rastogi
R/o 38 Yali Patwa, Bareilly aged 45 years
do hereby take oath and solemnly affirm as
under:-

1. That the deponent is the appellant -
plaintiff in the above named case and is
well acquainted with the facts and circumstances
of the case.

2. That having treated the accompanied
application dated 6.9.84 as part of this affidavit
it is stated that the contents of Para 1 to
19 of the aforesaid application are true to
my knowledge based on record while the
contents of Para 20 are legal which is a -
just and bonafide prayer which I believe
to be true on legal advice.
~~affidavit in support of his application is also accompanied~~



14/9/84

R. Dayal
Deponent

I, the aforesaid deponent do
hereby verify that the contents of Para 1 and 2
are true as stated above. Nothing material
is concealed. So help me GOD.
Verified this 10th day of September,
1884 at Bareilly.

R. Dayal
Deponent

IndyabBefore the District Judge, Bareilly 5655
C. Appeal no. 73/84

Rameshwar Dayal Rastogi vs Union of India & others

F.F. 26-9-84

Application under Rule 15(2), 16 and 14 of
Order VI read with order 19 rule 3(i),
order 10 Rule 3, sub-sections (2) and (d) of
Section 107, order 43 Rule 1A(1), order 41
Rule 33 and Section 151 CPC.

Sir,

In the above noted case it is respectfully
submitted as under: -

1. That in the court below on behalf
of the defendants respondents the 'Return' was
filed by some Brig Comdr ^{the} 6th Arty Bde,
not dealing with the case in any way or
manner and the said 'Return' was neither
accordingly nor precisely verified and
therefore it should not be read
in evidence. Necessary affidavits in support of the
application is also accompanied herewith.

PRAYER

2. It is therefore, prayed that the
defendants-respondents defence may not be
read in evidence and it should be
struck out and they may be placed in the
position as if they had not defended and the
orders should have been passed accordingly.

R.D. Rastogi
Appellant-Plaintiff

Dated: 10-9-1984



575

Before the District Judge, Bareilly
Civil Appeal No 73/84
Rameshwar Dayal VS Union of India & others.

(27)

AFFIDAVIT

I, Rameshwar Dayal s/o Shri P.L. Rastogi aged about 45 years R/o 38 gali Patwa, Bareilly take oath and solemnly affirm as under:
1. That the deponent is the appellant-plaintiff in the above named case and is well acquainted with the facts and circumstances of the case.

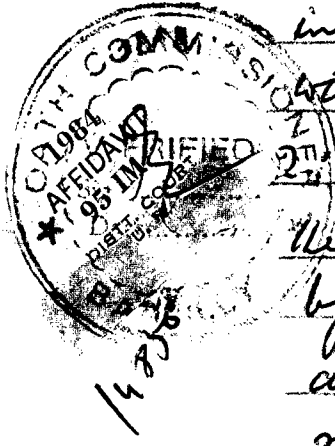
That in the court below on behalf of the defendants respondents the 'Return' was filed by some Brig. Comdr 6 Mtn Arty. Bde not dealing with the case in any way or manner and the said 'Return' was neither accordingly nor precisely verified and therefore it should not be read in evidence.

3. That having treated the accompanied application dated 10.9.84 as part of this affidavit it is stated that the contents of Para 1 of the aforesaid application are true to my knowledge based on record while the contents of Para 2 are legal which is a just and bonafide prayer which I believe to be true on legal advice.

R. Dayal
Deponent

I, the aforesaid deponent verify that the contents of Para 1 and 2 are true based on record while the contents of Para 3 are true as stated above. Nothing material is concealed. So help me GOD.
verified this 10th day of Sept. 1984 at Bareilly.

R. Dayal
Deponent
10/9/84



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(12)

BEFORE THE COURT OF DISTRICT JUDGE, BAREILLY.

Appeal No. _____ of 1983
O.S. No. 167/74

Rameshwar Dayal Appellant-plaintiff

Vs.

- 1. Union of India through the Secretary, Government of India, Ministry of Defence, New Delhi.
- 2. Maj. O.C. HQ 6 Mtn Arty Bde, C/o 56 APO
- 3. Lt. Col. AA & QMG HQ 6 Mtn Div. C/o 56 APO

Sub section (d) and (2) sec. 107, CPC

Application w/o u/r 27(1) (b) read with sec 21 of Evidence Act, order u/r. 33, order u/r 19(1), sec 151 CPC

That in the above named case without allowing injury to the rights of the appellant-plaintiff vested under law having not prejudiced the benefits conferred to him in the documents, pleadings, evidences, etc. existed on record in the instant case and also not to prejudice of the facts mentioned below, it is important to submit as under:-

2. That one of the grounds of the appellant throughout in the instant case in the court below as well as in the memorandum of appeal is that after expiry of the initially prescribed probation period it was never extended beyond 8th Feb. 1964, and after that with effect from 9th Feb. 1964 he became confirmed substantive Government servant, but the findings and decision of the court below to the contrary is erroneous and deserves to be set aside.

3. That being a precautionary measure to prove more than hypothetical level the existence of the fact that the probation period of the appellant-plaintiff was never extended beyond 8th Feb. 1964 and with effect from 9.2.64 as per terms and conditions of the appointment letter dated 18.1.64 (Paper No.20B) he became confirmed permanent Government servant hence on the following grounds besides as stated above, to be arising out of the circumstance of the case, it is requested that the affidavit accompanying the application may kindly be accepted and the evidence having formed part of the instant case may be accepted as prayed in the prayer as made in this application. Accepted:-

also accompanied to the instant case, read in the instant case, and

585

G R O U N D S

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4. Because the evidence which sought to adduce as per preceding para 2 is admissible before this Hon'ble court, as it goes to the roots of the instant case; and,
5. Because the prayer as made herein and to produce the accompanied affidavit is only to fill-up the gap of an inherent lacuna/defect in the evidence which has been produced originally in the instant case by the plaintiff which is much less than that even new evidences can be produced in the case as it goes in the roots of the matter; and,
6. Because this Hon'ble court will not be able to pronounce a just and effective judgment on the material before it without taking into consideration the additional evidence sought to be added; and,
7. Because by moving this application it can not be said that the respondents have been taken by surprise. They already known that the point would be agitated in the court. In the circumstances of the instant case no prejudice will be caused to the respondents if the point is permitted to be raised in this - Hon'ble court; and,
8. Because the appellant-plaintiff is not a party in executing any such contract or deed wherein it is asserted that the respondents' authority to extend the initial probation period as such even on this ground he is entitled to adduce his additional - evidence as prayed in this application specifically to enlighten more than hypothetical level his already existing evidence in that aspect which is much less than that in those cases where one of the party - making the admission is at liberty to prove before this Hon'ble court that such admissions were mistake or were untrue, particularly when he has denied the extension of probation period besides giving explanation in his cross-examination dated 15.1.81 to - construe that the probation period of the plaintiff beyond 8th Feb. 1964 was never extended; and,



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9. Because in the instant case the pleadings, evidences, replica, documents, etc. adduced by the plaintiff for his benefits conferred by these documents, evidence, record, etc. if read on settled law as a whole did not contain any admission on behalf of the plaintiff that there was any extension of the probation period beyond 8th Feb. 1964 during the entire relevant period Besides above the non-observance of this settled principal of law is clearly evident too that no proper weight to the aforesaid pleadings, etc. adduced on behalf of the plaintiff was attached by the court below in the instant case, which caused prejudiced the interest of the appellant in the present case; and,

10. Because in the instant case the plaintiff was put in his cross-examination dated 15.1.81 in such a form to which the answers consistent with the fact that had no extension of the probation period which is much less than that there pertains misunderstanding in recording and describing the phraseology used in the aforesaid cross-examination to comprehend the real intention of the plaintiff as pertains in his pleadings, evidences, replica, etc. before entered the witness box to the effect that there was no extension of his probation period beyond 8th Feb. 1964 which is much less than that the record of the instant case does not show that he was referred to plaintiff, replica, etc. and a pointed question in regard to which was stated in the plaintiff, replica, etc. had been put to him when he made particular statement about his explanation to construe that his probation period was not extended. If he had been referred to the plaintiff, replica, etc. he could himself on reading given the proper answer, or his counsel would have re-examined him in that regard; and,

11. Because evasive denial ^{though not} even if any do not come within the purview of clear cut admission hence as per settled law they can not be used against a person making them and which is much less than that as per settled law the formula of evasive denial is not applicable in the oral statements or in cross-examinations.

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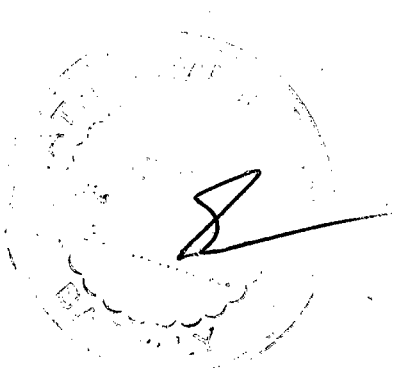
(131)

P R A Y E R

12. For the reasons stated above in the preceding paragraphs, and as it may be arising out of the circumstances of the instant case, it is very much essential for disposal of the Issues, involved, and for the cause of justice, equity and pronouncement of a just and effective judgment, prayed that the affidavit accompanied to this application may kindly be allowed to be produced as an additional evidence and formed part of the record and read in the evidence in the instant case.

R. Bajal
Appellant

Dated: 6.9.84.

A circular stamp is located at the bottom left of the page. It contains a signature that appears to be 'R. Bajal' written in ink. The stamp is somewhat faded and partially obscured by the signature.



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132

BEFORE THE COURT OF DISTRICT JUDGE BAREILLY.

Appeal No. _____ of 1983

Rameshwar Dayal Vs. Union of India & others.

AFFIDAVIT



I, Rameshwar Dayal S/o Shri P.L. Rastogi aged about 45 years R/o 38 Gali Patwa, Bareilly do hereby take oath and solemnly state as under:-

1. That the deponent is an appellant-plaintiff in the above named case and is well acquainted with the facts and circumstances of the case.
2. That in the instant case the deponent was appointed by the respondent defendant No.2 vide his letter No.372/4/ARTY Headquarters 6 Mtn Artillery Brigade C/o 56 APO dated 18th Jan'64 against a substantive and cadre post of a Civilian clerk with effect from 9th Jan. 1964 (F.N.) on the ground that the appointment of the deponent on the aforesaid post was on probation for one month upto 8th Feb. 1964, and after that prescribed probation period it was subject to - confirmation regarding his suitability, and his aforesaid initial probation period during the entire relevant period beyond 8th Feb. 1964 was never extended in either manner or way even for a moment which is much less than that of 10 days as alleged by the respondents defendants, nor there was any such power vested with them to extend the aforesaid initial probation period, consequently with effect from 9th Feb. 1964 the deponent as per terms and conditions of the said appointment letter dated 18.1.64 acquired the status of permanent confirmed Government servant.
3. That having treated the accompanied application dated 6.9.84 as part of this affidavit it is stated that the contents of para 1 to 11 of the aforesaid application are true to my knowledge based on record while the contents of para 12 are legal which is a just and bonafide prayer which I believe to be true on legal advice.

R. Dayal
Deponent

I, the aforesaid deponent do hereby verify that the contents of para 1 and 2 are true to my knowledge based on record while the contents of para 3 are true as stated above. Nothing material is concealed. So help me GOD. Verified this 6 day of Sept 1983 at Bareilly

R. Dayal
Deponent.

1/14/83

Independent

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Before the District Judge, Bareilly. (23)

Appeal NO. 73/84

R.D. Rastogi VS Union of India & others

P/F-26/9/84

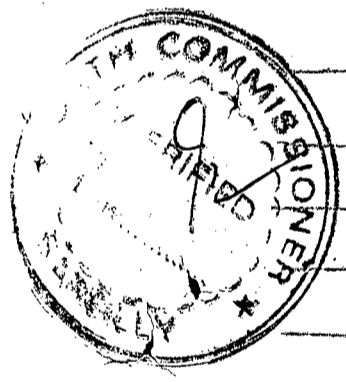
Application u/s 151 CPC

Subj. - grant of Interim relief / Substantance Allowance

Sir,

In the above noted case it is respectfully submitted as under: -

1 That the appellant filed his departmental appeal which was finally ^{and} disposed off by the Under Secretary, Ministry of defence, New Delhi vide its order dt- 14th March, 1972 and after serving due notice u/s 80 CPC on the respondents the suit was filed in the year 1973, and on face of record it is clear that the appellant had a good prima facie case for reinstatement which is much less than that in the circumstances of the case, it is clearly liable to be decreed with costs, and your appellant had been suffering for the last 20 years without a job. Consequently pending the final disposal/judgment it may very kindly be directed to the respondents that substantance allowance / interim relief be paid to the appellant on the basis of his last drawn pay from the date of termination. Specifically because there are so many important and relevant matters and issues which goes into the core of the instant case like



(Signature)

discovery and Production of documents, by the Respondents, etc which needed decision by this Hon'ble court to have the material before it to pronounce a just and effective judgment which is much less than that the parties specifically respondents have discretion to move higher courts to have final disposal of the instant case which took 9 to 10 years more, which is much less than as stated above that as per cardinal and settled principle of law, the interim relief without any other consideration, it can safely be granted to an employee/servant who had a good prima-facie case for reinstatement which is much less than that in the circumstances & facts of the instant case it is obvious to be decreed with costs. Necessary affidavit in regard is also accompanied to this application.

PRAYER

2. It is, therefore prayed that the final disposal/judgment ^{in the above case} kindly be directed to the respondent interim relief/subsistence allowance paid to the appellant on the date of his last drawn pay from the date of termination.

R. D. Ra
MPP

11-10/9/87





6/5/84

In the court of His High Judge, Bareilly

Civil Appeal No. 73/84
Rameshwar Dayal VS Union of India & others
F.F. 26-9-84

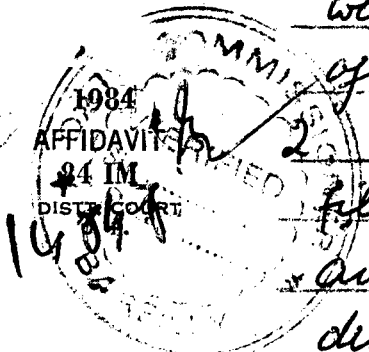
AFFIDAVIT

I, Rameshwar Dayal s/o Shri P. L. Rasgotra R/o 38-yali Patwa, Bareilly, (U.P.) aged about 45 years do hereby take oath and solemnly affirm as under: -

1. That the deponent is the appellant-Plaintiff in the above named case and is well acquainted with the facts and circumstances of the case.

2. That in the instant case the deponent filed his departmental appeal to the appellate authorities which was firstly and finally disposed off on its merit and having aggrieved by the said decision of the departmental appeal as made by the under secretary, Ministry of Defence, New Delhi vide its order dated 14.3.72 (Paper no. B/78 existed in the file of the court below in the case between the above named parties), the deponent after serving due notice under section 80 C.P.C on the respondent-defendants the suit was filed in the year 1973 well within the prescribed period of limitation.

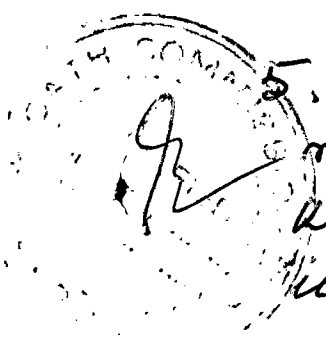
3. That on facts and circumstances of the case it is abundantly clear more than hypothetical level that the deponent is liable to be reinstated and the instant case is liable to be decreed with cost in favour of the deponent against the defendant respondents entitling the deponent to have all the reliefs and all service benefits etc as claimed by him including costs in the



sd/ R. Rasgotra
10/9/84
R. Rasgotra

instant case, while which is much less than that to grant the interim relief as prayed for pending the final disposal/judgment of the above noted appeal and proceedings fixed for 26th Sept. 1984.

4. That the judgment, decree and order of the learned lower court is against law, equity and facts on records. In the circumstances of the case the suit was liable to be decreed with costs and the decision of the court below to the contrary is erroneous and deserves to be set aside.



5. That the impugned termination notice is despotic, illegal and contrary to the Rules of the department and amounts to illegal exercise of jurisdiction of the defendants-respondents.

6. That the case of the deponent-appellant has been prejudged and so, he is not getting the opportunity envisaged either in Rules or by the principle of any law of the land and equity. Bias of the defendant-respondents is apparent on the face of the record. Therefore the impugned notice of termination of the services of the deponent-appellant plaintiff is vitiated.

7. That as per condition of Rule 17 of the Civilian in Defence Services (Classification, Control & Appeal) Rules, 1952 an opportunity to show cause is to precede the issuance of termination notice and not to follow it. This has obviously not been done in the present case and, therefore the condition precedent for the termination of service, envisaged by ~~the~~

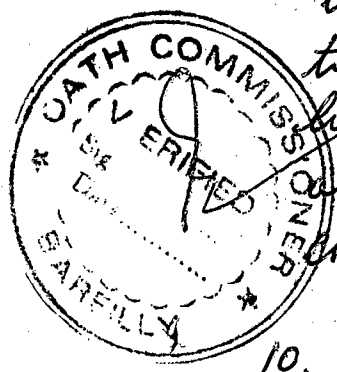
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6/9/84
R. R. R. 8/84

Rule 17 of the Rules has not been fulfilled and this invalidates the impugned order of termination.

(27)

8. That issue of show cause notice before issuing any termination order is not the matter of formality in view of the mandatory provisions of Rule 17 of the Civilian in Defence Service (Classification, Control & Appeal) Rules, 1952 hence otherwise findings of the learned lower court on this point are wholly unjustified.

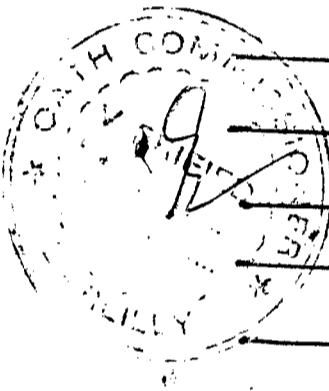
9. That taking into account the grounds 1 to 36 as laid down in the Memorandum of appeal ^{13.6.10.81} between the above named parties it is abundantly crystal clear beyond hypothetical level that the above named case is liable to be decreed with costs and the above appeal is liable to be allowed with costs throughout.



10. That the deponent-appellant had been suffering for the last about 20 years without a job consequently pending the final disposal/judgment it is rightly and justifiably - requested for issue of direction to the respondents that interim relief/subsistence allowance be paid to the deponent appellant plaintiff on the basis of his last drawn pay from the date of termination to save the deponent from further starvation including his family members, specifically because there are so many important and relevant matters and issues which goes into the core of the instant case like discovery and

Id. Q. n. 1 production of documents & the respondents -
in the light of the application moved by the
R. B. S. G. J. 10/1/84
entd - 4

deponent before this Hon'ble court dated 6-9-84
 alongwith its affidavit of the same date
 alongwith its annexure, etc which needed
 decision by this Hon'ble court to have the
 material before it to pronounce a just
 and effective judgment - which is much
 less than that the parties specifically respondents
 have discretion to move higher courts to
 have final disposal of the instant case
 which took 9 to 10 years more, which is much
 less than as stated above that as per
 cardinal and settled principle of law,
 the interim relief without any other
 condition, it can safely be granted to
 to an employee/servant who had a
 good prima facie case for reinstatement
 which is much less than that in the
 circumstances and facts of the instant case
 it is obvious to be decreed with costs -



11. That having treated the accompanied
 application no- 10-9-84 as part of this
 Affidavit it is stated that the contents
 of Para 1 of the aforesaid application are
 true to my knowledge on record while the
 contents of Para 2 are legal which is a
 just and bonafide prayer which I believe
 to be true on legal advice.

Sd/- R. Dayal
 Deponent

I, the aforesaid deponent do hereby verify that the
 contents of Para 1 to 10 are true to my knowledge based
 on record while the contents of Para 11 are true as stated
 above. Nothing material is concealed. So help me God.
 Verified this 10th day of Sept- 1984 at Bareilly.

Sd/- R. Dayal
 Deponent
 10/9/84

625T

In the Court of District Judge, Bareilly
Civil Appeal No. 73/84.

Rameshwar Dayal VS Union of India & others

AFFIDAVIT

I, Rameshwar Dayal s/o Shri P.L. Rastogi, aged about 45 years R/o 38 Yahi Patwa, Bareilly take oath and solemnly affirm as under:-

1. That the deponent is the appellant in the above named case and is well acquainted with the facts and circumstances of the case.
2. That the deponent moved a memorandum of appeal dated 6.10.1981 before this Hon'ble court between the above named parties in the above named case and the same having treated part of this affidavit it is stated that the contents of Para 1 to 36 of the aforesaid memorandum of appeal are true to my knowledge based on record while the contents made under 'Prayer' are legal which is a just and bonafide Prayer which I believe to be true on legal advice.

I, R. Dayal
Deponent.

I, the aforesaid deponent do hereby verify that the contents of Para 1 and 2 are true as stated above. Nothing material is concealed. So help me GOD.

Verified this 10th day of September, 1984 at Bareilly.

Sd/- R. Dayal
Deponent.

[Signature]
10/9/84



प्राज में मेरा श्री...
ने ता. 10/9/84 पर शपथ ग्रहण की
जिसको शपथकर्ता ने पठ. सुनकर नि.अ. / हस्ताक्षर
बनाये। जिसका पहचान श्री... के...

राज. न. शपथ अधिकारी पंजाब, दि. 10/9/84
बरेली

[Signature]
10/9/84

Indigent

(7)

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In the Court of District Judge, Bareilly
Appeal No. 73/84.

Rameshwar Bajal vs Union of India & others
F.F. 26-9-84

Sir,

In the above noted case it is respectfully
submits: -

1. That to meet the end of justice,
equity and law the appellant accompanied
the under noted self-explanatory
applications duly supported with necessary
affidavits praying therein to get these
finalized pending disposal of the instant
appeal and the proceedings fixed for 26-9-84: -

Particulars of the applications: -

(i) Discovery and Production application dated
6-9-84 along with list of documents taken
for direction to the defendant ~~plaintiff~~
respondents to get the requisite documents
produced in the case before His Hon'ble
court.

(ii) Application dated 10-9-84 to struck
out the defence of the defendant -
respondents for deliberately non-
production of the documents and for
other defaults.

(11/11)

Contd. - 2.

(iii) Application to the effect that in the Court below on behalf of the defendant-respondents, the return was filed by some ^(11/10) Brig comdr 64th Arty Bde not ~~actually~~ dealing with the case and the said return was not accordingly verified, hence it should not be read in evidence.

(iv) Application dated 6.9.84 to prove, and to adduce additional evidence that the initial probation period of the appellant beyond 8th Feb 1964 was never extended consequently he became a permanent servant with effect from 9th Feb 1964.

(v) Application dated 10.9.84 for grant of interim relief.

✓ All these applications inclusive of and ~~exclusive~~ will not prejudice my rights vested under law. 2

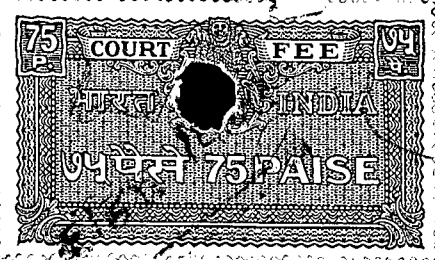
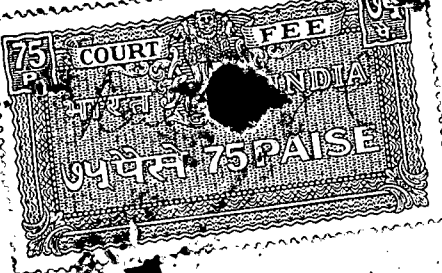
That the prayer as made in the aforesaid applications as shown above in sub-Paras of Para 1 are most relevant and pertinent which goes into the root of the instant case between the parties, accordingly their disposal, pending the final disposal/judgment of the instant appeal and the proceedings fixed for 26-9-84, are most essential, for the cause of justice and to have the material on record to enable this Hon'ble court to pronounce a just and effective judgment in the above noted case.

PRAYER

It is therefore prayed that the accompanied applications as shown above in Sub-Paras (i) to (v) of Para may very kindly be decided as provided in law - pending the final disposal/hearing of the instant appeal between the parties and the proceedings fixed for 26th September 1984 to have the material on record before His Hon'ble court to pronounce a just and effective judgment in the instant case.

Dt: 10-9-1984

R. A. Rastogi
Appellant



2 CF *Panipat*
31250
26/10/85

वकालतनामा

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न्यायालय

Addl. Distt. Judge
Bareilly

C. Appeal
नम्बर मुकदमा 73

सन 1984

Rameshwar Dayal

बनाम

Union of India & others

Rameshwar Dayal

हस्ताक्षर

Rameshwar Dayal

हस्ताक्षर

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26/10/85

न्यायालय
नम्बर मुकदमा
बनाम
Addl. Distt. Judge
Bareilly
R. Dayal vs. Union of India

उक्त प्रकार में मैंने अपनी इच्छा व स्वीकृति से श्री *M. K. L. & J. K. L. Q. of Lucknow* को अपने पक्ष समर्थन हेतु अपनी ओर से पैरवी करने के व प्रश्न उत्तर करने के लिये नियमित निश्चित मेहनतनामा पर वकील नियुक्त किया है। उक्त महोदय के सम्पूर्ण अधिकार व अंगीकार करता हूँ। उक्त महोदय को हमारी ओर से कागजात या अन्य लिखित प्रमाणों को दाखिल करने व तलब कराने व अपील करने व वापिस लेने व पंच निश्चित करने व सन्धि पत्र लिखने व कोर्ट फास वापिस कराने व रुपया बसूल कराने व रसीद लिखने व तकल करने व मुआयना मिसल व तसदीक अभियोग पत्र आदि प्रतिवादो पत्र व इजराय डिग्री बनवाने व रिफण्डवाउचर अपने नाम से आधिकार भी हमारी ओर से प्राप्त है।

अतः यह वकालतनामा लिख दिया कि प्रमाण रहे।

वकालत स्वीकार है।

R. Dayal
हस्ताक्षर
27/11/85

हस्ताक्षर

Pamper

Before the Addl. Distt. Judge, IX Bareilly
Civil Appeal No. 73/84

Rameshwar Buzal vs. Union of India & others

65D F/F. 3.12.85

Sir,

It is respectfully submitted that since my wife is suffering from high fever and there is no body except the applicant to look after her hence it is not not-possible to attend the proceeding before 7.12.85 which is much less than that the respondents did not file their counter-affidavit against appellants' applications dt. 10-9-84 according my personal presence is not essential, till its production.

It is, therefore, prayed that the above noted case may kindly be fixed for 7.12.85 instead 3.12.85.

Dated: 26-11-85

Rameshwar Buzal
Appellant

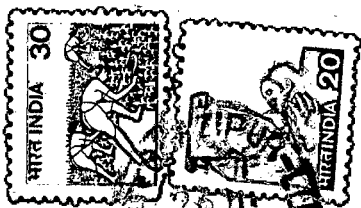
Handwritten notes and signatures at the bottom of the page, including the name "Rameshwar Buzal" and a date "27/11/85".

under certificate of Postage

To The Additional Distt. Judge

Judges court,

BAREILLY (U.P.)



Mr. A. B. Parry
C-603 Indira Nagar
Adjudicator (U.P.)
C.A. Appeal No. 73/84
26.11.85

Pauper

Before the Addl. Distt. Judge, TX, Bareilly.

Civil Appeal No. 73/84.

Rameshwar Bopal vs. Union of India and others

F/F. 3.12.85

Sir,

It is respectfully submitted that since my wife is suffering from high fever and there is no body except the applicant to look after hence it is not possible to attend the proceedings before 7.12.85 which is much less than that the respondents did not file their counter-affidavit against appellants appellants applications dt. 10-9-84 according my personal presence is not essential till its production.

It is, therefore, prayed that the above noted case may kindly be fixed for 7.12.85 instead 3-12-85.

Dated: 26.11.85

Rameshwar Bopal
Appellant.

Stamp exempted under order XXXII RSC 1962

(Part 1)

In the court of Addl. Dist. Judge
Bareilly

C. Appeal no. 73/84 (40.588)

667 (144)

Rameshwar Dayal vs. Union of India & others

P/F. 27/1/86

Sir,

It is in the above named case respectfully submitted that since the applicant-appellant has to perform certain essential religious duties hence it will not be possible to attend the proceeding in this case before 15/1/86.

It is therefore prayed that the date fixed for 27.1.86 may kindly be adjourned and fixed for 15/1/86 specially there is no body else to look after the interest of the applicant.

For
Applicant. On
behalf of
Rameshwar Dayal
13/1/86

13-1-86

Rameshwar Dayal
Applicant.
Appellant

Received and admitted 10/3/86
Payment made by 20/1/86
A. K. Singh