

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

CAUSE TITLE T.A. 1135 OF 1987

NAME OF THE PARTIES K.K. Mishra

Applicant

Versus

Union of India

Respondent

Part A, B & C

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CERTIFICATE

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

Dated 20/11/11

File B/C destroyed on 09-5-12

Counter Signed.....

Section Officer / In charge

Signature of the
Dealing Assistant

Order Sheet

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH ALLAHABAD

No. 1135-87 (T) of 198

122/1

VS

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
	<p><u>Open report</u></p> <p>An application has been filed in this Tribunal for transferring the case No. 1135 of 87 T to the Circuit Bench, Lucknow. It is moved, 23rd May, 1988 may kindly be fixed for hearing at Circuit Bench Lucknow. In this regard the notices may be sent to the parties counsel.</p> <p><u>JSN</u> List this case before Circuit Bench Lko on 23rd May 1988 before DRS.</p> <p><u>DR T</u></p> <p>to the amendment - Application filed by on behalf of applicant. List this application in court for orders on 10th July 1988.</p> <p><u>Registrar</u></p> <p>Application for the amendment has been moved by the petitioner, Shri V.K. Chaudhary, Advocate for the respondent is present. 25/8/88 is fixed for hearing on amendment application.</p>	

19-07-88

Judgment Issued
30/11/88

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUDHIANA

O.A./T.A. No. 1135 1980 (T)

K. K. Mura

Applicant(s)

Versus

U. O. I. Gov.

Respondent(s)

Sr.No.	Date	Orders
	24.10.00	<u>Hon. D. S. Mura, A.M.</u> Both the parties is present, the case is adjourned to 24.11.00 for hearing. Insh 24.10.
	24.11.00	<u>Hon. D. S. Mura, A.M.</u> <u>Hon. T. S. Sharma, Jm.</u> Sir. R. B. Khare for applicant Sir. V. K. Bhawan for respondents. Arguments heard. Judgement reserved. Jm. Am.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Circuit *** Bench at Lucknow

O.A.No.
T.A.No.

1135

1937.

DATE OF DECISION _____

K. K. Misra

Petitioner

R. B. Khare

Advocate for the Petitioner(s)

Versus

Union of Indis & Others

Respondent

V. R. D. Sharma

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. D. S. Misra, Jm.

The Hon'ble Mr. G. S. Sharma, Jm.

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

Dinesh/

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(A) 1

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
Circuit Bench at Lucknow.

Registration T.A.No.1135 of 1987

K.K. Misra Petitioner
Versus

Union of India & Others Respondents.

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

Hon.G.S.Sharma, J.M.

(By Hon.D.S.Misra, A.M.)

This is an original Writ Petition No.137 of 1987 which was pending in the Lucknow Bench of the High Court of Judicature at Allahabad and has come on transfer under Section 29 of the Administrative Tribunals Act XIII of 1985. The petitioner has prayed for quashing the order of dismissal passed by the Deputy Post Master (Gazetted), Kanpur (Opposite Party No.4).

2. The admitted facts of the case are that the petitioner while working as Sub Post Master, Kanpur Post office was involved in a fraudulent withdrawal from Kanpur Court's Post Office Saving Bank Account No.1952249. After preliminary inquiry by the Assistant Postmaster General (Investigation), the matter was referred to the Central Bureau of Investigation and a case under Section 120-B/420 I.P.C. was registered. Later on the petitioner was suspended

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- 2 -

with effect from 8.8.73; ^{be} ~~that~~ the petitioner was tried for a criminal charge by the Additional Chief Judicial Magistrate, Anti Corruption, Lucknow and in that case he was found guilty and convicted to three months R.I. and sentenced to pay a fine of Rs.5000/- and in default to undergo ten months R.I.; that the petitioner filed an appeal against his conviction in the Court of Sessions Judge, Lucknow which was rejected by the Additional Sessions Judge, Lucknow vide his judgement dated 2.8.1977. The petitioner filed a revision before the Hon'ble High Court. In the meantime the petitioner was dismissed from service vide order dated 24.12.77; that the Hon'ble High Court vide its judgement dated 31.8.78 allowed the revision petition No. 259 of 1977 by setting aside the judgement and order dated 2.8.77 passed by the Additional Sessions Judge, Lucknow and the case was remanded to the Trial Court for deciding the matter afresh on the points formulated in the judgement of the Hon'ble High Court. On 24.2.1979 the petitioner was reinstated in service and was ordered to remain in suspension. The fresh trial in the Court of Additional Chief Judicial Magistrate concluded on 20.1.1981 and the petitioner was again convicted. The petitioner filed an appeal against his conviction and the appeal was decided on 18.11.82. On 20.11.82 an order was passed by respondent No.4 dismissing ^{the applicant} ~~him~~ from service w.e.f. 18.11.82.

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- 3 -

On 20.11.82 the petitioner filed a revision before the Hon'ble High Court. The petitioner made various representations to the respondents for revoking his dismissal order but no orders were passed on the aforesaid representation of the petitioner. The applicant filed the writ petition praying for quashing of the order of dismissal passed by the respondents and the same has come on transfer after establishment of the Tribunal.

3. The petitioner filed an application for amendment of the claim petition and the same was allowed. In the amended petition it has been stated that the criminal revision against his conviction has been decided by the Hon'ble High Court on 14.10.87 and the petitioner has been acquitted of the charge. After the judgement of the Hon'ble High Court the petitioner made several applications to the respondents to revoke his dismissal order but no action was taken by the respondents. The petitioner has sought a direction to the respondents to reinstate him in service and to pay him the salary with all increments and benefit from the date of his suspension to the date of his retirement on 31.5.1984.

4. In the supplementary reply filed on behalf of the respondents it is stated that the S.P., S.B.I. has informed that they have decided not to file any appeal against the judgement of the Hon'ble High Court

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- 4 -

and the Department may take departmental action as considered fit. It is added that departmental action is under initiation and the matter will be finalised after completion of the departmental inquiry.

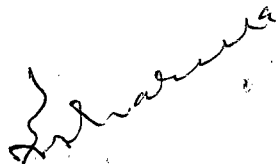
5. We have carefully examined the contentions raised before us by the learned counsel for the parties in the light of the material on record. The facts of this case are not in dispute and it is also not in dispute that the petitioner has been acquitted of the criminal charge in revision by the High Court. The settled law is that if a Government servant is removed from service or otherwise punished only on the basis of his conviction in a criminal case, the disciplinary authority is bound to review his case on his acquittal in his case by the competent court. As contended on behalf of the respondents even the case of the petitioner was reviewed by them after his acquittal by the High Court and they decided to initiate the disciplinary proceedings against him for the alleged misconduct leading to his conviction. As the necessary material is not before us we will not like to comment whether after the acquittal of the petitioner the respondents can initiate the disciplinary proceedings against him or not, ^{however, if} we will ^{this} certainly like to suggest that ^{this} such matter has already been delayed and in the meantime the petitioner has already retired from service, it will be expedient and in the interest of justice that the disciplinary

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- 5 -

proceedings initiated against the petitioner ^{are} ~~be~~ finalized as early as possible and in any case within a period of one year. The final orders in the case of the petitioner regarding his dismissal can only be made when the disciplinary proceedings are finalised in accordance with the provisions of C.C.S.(CC&A) Rules, 1965 and no relief can be granted to the petitioner in this case. The petition is disposed of accordingly without any order as to cost.



J. M.



A. M.

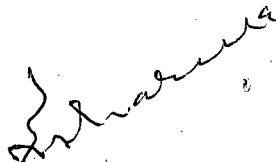
Dated the 30th Nov., 1988.

RKM

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- 5 -

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J. M.



A.M.

Dated the 30th Nov., 1988.

RKM

CIVIL

SIDE

GENERAL INDEX

(Chapter XXI, Rules 2, 9 and 15)

Nature and number of case

W.P. No. 1371 - 83

Name of Parties

Kusana Kant Mishra vs. Union of India

Date of Institution

10-3-83

Date of decision

File no.	Serial no. of paper	Description of paper	Number of sheets	Court Fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
	1	W.P. with Annex and affidavits	19	-	102 00			
	2	Index	1	-	5 00			
	3	CMA 2982 (W) 83 for 83	1	-	5 00			
	4	memo	1	-	-			
	5	order sheet	1	-	-			
	6	Bank Copy	1	-	-			

I have this day of 198 , examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear court-fee stamps of the aggregate value of Rs. , that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Munsarim

Clerk

Date

Group A 15 (a)

2132



In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow

Writ petition no.

1371

.....1983.

Krishna Kant Misra.

.....Petitioner

Versus

Union of India and others.

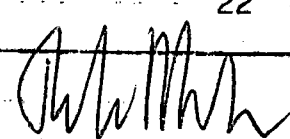
....Opp. Parties.

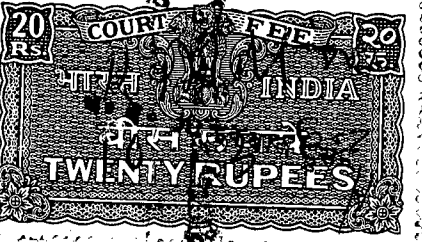
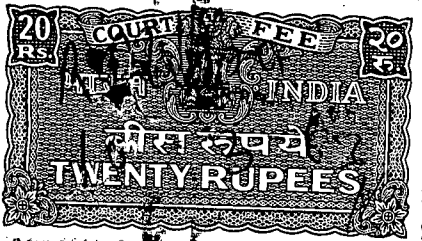
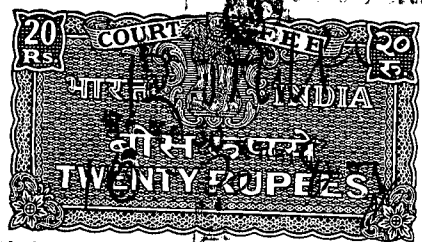
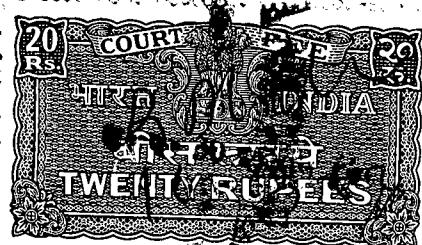
I N D E X

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Lucknow:

Dated: 10-3-1983.


Counsel for the petitioner



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH, LUCKNOW

Writ Petition No.

1371

of 1983.

Sri Krishna Kant Misra, aged about 57 years,
S/O late Sri R.D. Misra, R/O 22/74, Filkhana,
Kanpur.

....Petitioner

Versus

1. Union of India through the Secretary,
Communications.
2. The Post Master General, Uttar Pradesh.
3. The Post Master, Kanpur.
4. The Deputy Post Master (Gazetted), Kanpur.

....Opp. Parties.

Petition under Article 226 of the Constitution
of India.

SE.F. = 100/-
Ran
10.3.83



Annexure no. 1

The petitioner above named begs to state as
under:-

1. That this writ petition is directed against
the order memo no. F-66/Misc./74/CH-III dated 20.11.82
passed by the opposite party no. 4 dismissing the
petitioner from the post of Postal Assistant. A true
copy of the aforesaid order is Annexure no. 1 to this
writ petition.
2. That the facts giving rise to this
petition are indicated below.
3. That the petitioner was appointed as
Postal Assistant on 8.7.50 in the scale of Rs. 60-140,
which subsequently was converted into the scale of Rs.
110-240 as a result of the recommendations of the

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Pay Commission. At the time when the petitioner was dismissed from service he was getting Rs.205/- as ^{1/2} basic pay plus the usual allowances payable to a Central Government employees, Kanpur.

4. That the petitioner's service career has been from the very inception unblemished and he was never involved or faced any disciplinary proceeding.

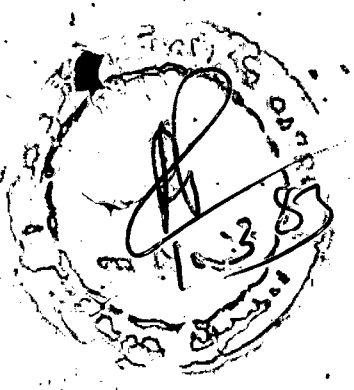
5. That the petitioner earned all his increments

6. That the petitioner was involved in a criminal case no.361/76 u/s 120B/420 IPC.

7. That the petitioner had undergone the trial before the Addl. Chief Judicial Magistrate, Anti-corruption, Lucknow and in that case he was found guilty and convicted to three months' R.I. and sentenced to pay a fine of Rs.2000/- and 3000/- on different counts and in default to undergo four months and six months R.I.

8. That it may be stated that the petitioner was suspended at the time when the case was initiated against him vide memo no.B/K.K.Misra dated 8.8.1973. He remained on suspension during the trial period and was paid the subsistence allowance in accordance with the prevalent departmental rules.

9. That the petitioner after the judgment pronounced against him by the aforesaid court of the Addl. Chief Judicial Magistrate filed an appeal



Subscribed

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against his conviction in the court of the Sessions Judge Lucknow which was finally decided by Sri P.N. Roy, Addl. Sessions Judge, Lucknow vide his judgment, dated 2.8.1977.

10. That it may be noted that the petitioner, against the judgment and order passed by Sri P.N. Roy Addl. Sessions Judge, Lucknow dismissing the appeal, preferred a revision petition in the Hon'ble High Court.

11. That the petitioner, however, during the intervening period before the filing of the revision before the Hon'ble High Court and after the dismissal of the criminal appeal remained on suspension and was not dismissed from service. But the petitioner was dismissed from service vide order dated 24.12.1977 passed by the opposite party no.3

12. That on 9.8.1977, the petitioner, after his revision petition was admitted by the Hon'ble High Court, was granted bail and the judgment and order dismissing his appeal was stayed. The realisation of fine was also stayed. The petitioner, however, departmentally was treated to be dismissed from service and not allowed to remain on suspension.

13. That the petitioner made a representation to the opposite party no.2 requesting him to reinstate the petitioner and treat him on suspension on the basis of the interim order granted in his favour by the Hon'ble High Court in the criminal revision



author

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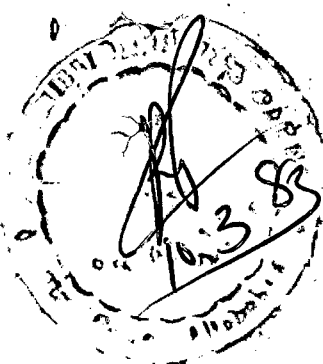
petition no. 259/77 which was admitted and on the basis of which the petitioner was released on bail and his sentence was suspended.

14. That the Hon'ble High Court vide its judgment dated 31.8.78 allowed the revision petition no.259 of 1977 by setting aside the judgment and order dated 2.8.1977 passed by the Addl. Sessions Judge Sri P.N.Roy upholding the sentence and conviction of the petitioner passed by Sri Y.S.Raizada, Addl. Chief Judicial Magistrate vide its order 21.3.77 and the case was remanded to the trial court for deciding the matter afresh on the points formulated in the judgment of the Hon'ble High Court.

15. That the opposite party no.2 was informed about the aforesaid judgment of the Hon'ble High Court by the petitioner and on 24.2.79 the petitioner was reinstated in his service and was ordered to remain on suspension.

16. That the petitioner was paid all the arrears of suspension allowance from the period 24.12.77 to 28.2.79 after his request made vide letter dated 18.10.78 was accepted by the opposite party no.2.

17. That after the above case was remanded to the court of the Addl. Chief Judicial Magistrate, the trial ~~xxxx~~ of the petitioner again started from 4.1.79. The trial concluded on 20.1.81 and the petitioner was again convicted by Sri R.K.Saxena Addl. Chief Judicial Magistrate, Anti-corruption,



10/3/83

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Lucknow vide order dated 20.1.1981. Again the petitioner filed an appeal against his conviction in the court of the Sessions Judge, Lucknow which was finally disposed of by Sri B.P. Srivastava vide his judgment dated 18.11.1982.

18. That on 20.11.82 the petitioner was again dismissed from service w.e.f. 18.11.82 vide memo no. F-66/Misc./74/CH III by the opposite party no.4.

19. That it is significant to mention that on 20.11.82 the petitioner again filed a revision before the Hon'ble High Court against the judgment and order dated 18.11.82 which was admitted and the petitioner was released on bail and his conviction and sentence of fine was also stayed by the Hon'ble High Court.

20. That the petitioner thereafter on 6.12.82 again submitted a representation to the opposite party no.3 requesting him for passing an order revoking the dismissal order dated 20.11.82 dismissing the services of the petitioner. A true copy of the aforesaid representation preferred before the opposite party no.3 is Annexure no.2 to this petition. The petitioner thereafter sent three reminders to the opposite party no.3, two by name, but there was no response from him and no orders were passed on the aforesaid representation of the petitioner.

21. That the petitioner thereafter submitted an appeal before the opposite party no.2 on 10.2.83.

22. That the opposite party no.2 in spite of



Annexure no.2

attached

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a lapse of more than three weeks has not passed any orders on the representation of the petitioner dated 10.2.83. A true copy^{of} the said representation is Annexure no.3 to this writ petition.

Annexure no.3

23. That the order of dismissal dated 20.11.82 passed against the petitioner with retrospective effect from 18.11.82 is liable to be set aside under the departmental rules after the petitioner was released on bail and the judgment passed by the Addl. Sessions Judge Sri B.P.Srivastava was stayed by the Hon'ble High Court in criminal revision no.639 of 1982.

24. That the earlier dismissal order dated 24.12.77 passed in the earlier circumstances was set aside and the petitioner was allowed to remain on suspension when in criminal revision petition no.259 of 1977 the order of conviction was stayed and the sentence of fine was stayed by the Hon'ble High Court.

25. That there is no legal and valid reason for not setting aside the order of dismissal dated 20.11.82 in face of the order passed in criminal revision no.639 of 1982 which was communicated to the opposite party nos.2 and 3 by the petitioner.

26. That the action of the opposite party nos.2 and 3 in not passing any order on the representation of the petitioner against his dismissal from service is absolutely arbitrary, highhanded and



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unreasonable and it is causing irreparable loss to a poorly paid employee.

27. That the departmental rules provide that if the conviction in a criminal case is set aside then the dismissal on account of such conviction will also be set aside and there is every hope that this time also the petitioner will have success in his aforesaid criminal revision petition from the High Court.

28. That the petitioner submits that so long the conviction of the petitioner remains stayed by the Hon'ble High Court, there cannot be any ground for dismissal of the petitioner.

** vide order of The Court dt. 25/8/88 amended paragraphs 28A to 28K duly typed are annexed.*
29. That the action of the opposite party nos. 2 and 3 in not reinstating the petitioner to his post is manifestly illegal, unjust and improper on the following amongst other grounds:-

G R O U N D S

(A) Because the petitioner's conviction has been stayed by the Hon'ble High Court.

(B) Because the petitioner is not liable to be dismissed because the departmental rules provide that in case of suspension of conviction passed against a Govt. employee, he is entitled to be reinstated.

(C) Because the petitioner was once reinstat-



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10/3/88

ed after the Hon'ble High Court set aside the conviction of the petitioner.

(D) Because the opposite party nos.2 and 3 have failed to pass any suitable orders as prayed in the representation of the petitioner.

(E) Because there is no other ground for dismissal of the petitioner.

(F) Because no departmental enquiry was held against the petitioner and he was not found guilty in any departmental proceeding.

(G) Because the dismissal of the petitioner is absolutely unjust and improper.

(H) Because there being no other remedy available to the petitioner.

X amendment incorporated vide order of the Court
dt. 25/8/88
A. B. S. P R A Y E R
Advocate
19/9/88

WHEREFORE it is most respectfully prayed that this Hon'ble court may be pleased to issue:-

(i) a writ, order or direction in the nature of certiorari, quashing the order of dismissal passed by the opposite party no.4 as contained in Annexure no.1 to this writ petition;

(ii) a writ, order or direction in the nature of mandamus directing the

the opposite parties not to treat the
petitioner as dismissed from service and
to allow him to remain on suspension
during the pendency of the criminal
revision no. 639 of 1982. *RRR*
X deleted vide Court's order dated 25/8/88
and substituted by a paragraph (ii)
(iii) any other writ, order or direction *RRR*
as deemed just and proper in the *Adv*
circumstances of the case and award *19/9/88*
the cost to the petitioner.

Lucknow: Dated

18-3-83.

[Signature]
Counsel for the petitioner

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In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow

Writ Petition no.1983

Krishna Kant MisraPetitioner

Versus

Union of India and others.Opp.Parties.

Annexure no.1

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

Office of the Postmaster(Group 'A'Sr.)Kanpur-208001.

Memo No.F-66/Misc./74/Ch-III

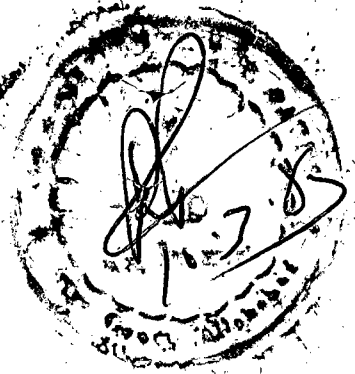
Dated at KP-208001 the, 20.11.82

Whereas Shri K.K.Misra, Postal Asstt. Kanpur HPO was convicted on 20.1.81 in case No.361/76 u/s 120B/420IPC by the Court of Shri R.K.Saxena Addl.Chief Judicial Magistrate and Special Magistrate Ist Class for CBI cases at Lucknow, an appeal against which preferred in the court of Ist Addl.Distt.Sessions Judge Lucknow under No.CIV.22/81 K.K.Misra Vs.State has since been rejected on 18.11.82.

And whereas it is considered that the conduct of the said Shri K.K.Misra Postal Asstt. Kanpur HO which had lead to his conviction is such as to render his further retention in the Public Service undesirable;

Now, therefore, the undersigned hereby dismisses the said Shri K.K.Misra Postal Asstt. Kanpur HO from service with effect from 18.11.1982.

Sd. (Nar Singh)
Dy. Postmaster (Gazetted)
Kanpur--208001.



authd
18/11

Station Kanpur.

Dated: 20-11-1982.

Copy to:-

- 1) Shri K.K.Misra Postal Asstt.Kanpur HO at
22/74 Feelkhana Kanpur-208001.
- 2) 3) The APM Accounts Kanpur HO(One copy for
audit office)
- 4) The P.F.of the official.
- 5) The C.R. of the official.
- 6) The PMG UP Circle Lucknow-226001 w.r. to
his C.O.No.Vig/M-B-51/80/2

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In the Hon'ble High Court of Judicature At Allahabad
Lucknow Bench, Lucknow

Writ Petition No.1983.
Krishna Kant MisraPetitioner

Versus

Union of India and others. ...Opp. Parties.

Annexure no. 2

The Postmaster,
Kanpur 208001.

Sir,

With reference to your memo No.:-F 66/Misc/74/
Ch III dated the 20th Novr.82, received by me on 3rd
December, 1982, I beg to submit the below noted facts
for your kind perusal:-

That my revision application in connection
with rejection of my appeal No.:- C IV.22/81 6h
18th November, 1982, by the Ist. Additional Distt Session
Judge, Lucknow, has been admitted by the Hon'ble
Justice Shri S.Z.Hasan of the High Court of Judicature
at Allahabad (Lucknow Bench), Lucknow, on 20th November,
1982.

That conviction on 20.1.'81 in case No.:-
361/76 U/S 120 B/420 I.P.C. by the court of Shri R.K.
Saxena, Addl. Chief Judicial Magistrate and special
Magistrate 1st Class for C.B.I. cases at Lucknow,
has been stayed by the Hon'ble High Court of Judicature
at Allahabad (Lucknow Bench), Lucknow, on 20.11.



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-1982, and as such my case stated above has again been admitted for consideration and is still pending decision in the High Court.

That the allegation on my conduct rendering retention in the Public Service undesirable is not justified in the light of grant of stay and admission of my revision by the Hon'ble High Court on 20.11.1982.

That your order cited above was issued on 20.11.1982, whereas my revision was admitted and stay granted on the same date viz. 20.11.1982, by the Hon'ble High Court of Judicature at Allahabad (Lucknow Bench), Lucknow.

I, therefore, request you very kindly to reconsider my case and revoke my dismissal order stated above.

Hoping to be favoured with an early reply.

Yours' faithfully,

(K.K.Misra)
Postal Asstt.,
KANPUR H.P.O.,
R/O 22/74, Filkhana,
Kanpur 208001.

Kanpur 208001.

Dated the 6th December, 1982.

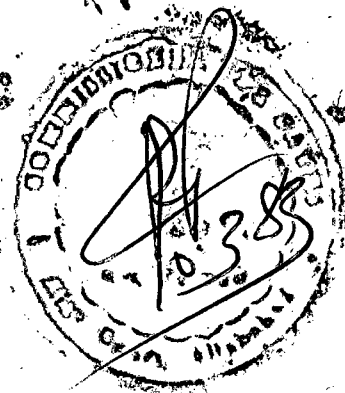


through

Copy to the following for their kind notices:-

1. The Director of Postal Services,
Kanpur Region, Kanpur 208001.
2. The Postmaster General, U.P. Circle.,
Lucknow.

(K.K.Misra)
Postal Asstt.,
Kanpur-H.F.O.



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In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow

Writ Petition No.1983.

Krishna Kant MisraPetitioner

Versus

Union of India and others.Opp.Parties.

Annexure no.3

To,

The Postmaster General,
Uttar Pradesh Circle,
Lucknow.

Sir,

Most humbly and respectfully I beg to submit
as follows:-

1. That I was appointed as clerk, Kanpur Head Post Office, Kanpur, on 8th July, 1950.
2. That I continued to serve the Postal Department with an unblemished record of 30 years.
3. That I was transferred and posted as Sub-Postmaster, Kanpur Courts Post Office and took charge on the 2nd August, 1978.
4. That I continued to work as Sub-Postmaster, Kanpur Courts Post Office in the year 1972-73.
5. That I was placed under suspension on 8th August, 1973, under Postmaster, Kanpur, Memo. No. B/K.K. Misra, dated 8.8.1973, on the allegation of wrong

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~~Taxkhexxxxx~~ payment from my office of Savings Bank Account No.1952249 of Shri Phool Singh.

6. That I was tried in the court of Shri R.K.Saxena ,Additional Chief Judicial Magistrate and Special Magistrate 1st Class for C.B.I.cases at Lucknow,u/s 420 read with section 120-B of the Indian Penal Code and was convicted.

7. That my appeal was dismissed by the 1st Addl.District and Sessions Judge,Lucknow,on 18th November,1982.

8. That I preferred a revision in the Hon'ble High Court of Judicature at Allahabad,Lucknow Bench, Lucknow,on 20th.November,1982.

9. That the revision petition against the judgment and order dated 18th November,1982,passed by the 1st Addl.District and Sessions Judge,Lucknow, upholding the judgment and order passed by Shri R.K. Saxena ,Addl.Chief Judicial Magistrate and Special Magistrate,1st.Class for C.B.I. cases at Lucknow, was admitted and conviction and the sentence of the petitioner was stayed and he was released on bail.

10. That it is worth-mentioning that during the pendency of my appeal in the court of the 1st Addl.District and Sessions Judge,Lucknow,I continued on suspension and there was no order of dismissal passed against me.

Handwritten signature/initials



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11. That my services have been dispensed with on 20th November, 1982, vide Postmaster, Kanpur, Memo. No. F-66/Misc./74/CH-III dated the 20th November, 1982, on account of my conviction. This order was received by me on 3rd December, 1982, and a representation citing the facts was made to the Postmaster, Kanpur, on 6th. December, 1982. He was reminded on 15th December, 1982, and was also reminded by name on 24th December, 1982, but a reply to which is still awaited.

12. That from the above facts it is evident that the dismissal of the undersigned in the circumstances is not warranted under the Rules applicable in the application/petition for the employees of the Post & Telegraph Department.

13. That it may be pointed out that earlier also in the similar circumstances, the applicant's dismissal was stayed /revoked and he was placed under suspension.

14. That I filed a revision no. 639 of 1982 against the order dated 20.11.82 which was admitted and I was released and the realisation of fine was stayed. The effect of the said order is that this said order has been suspended and as such I cannot be terminated from service.

15. That my case thus is still pending for decision at the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow, and thus the



advised

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allegations on my conduct causing dismissal from ex service of the Department is wholly unjustified and against all canons of justice.

16. That the order of the Postmaster, Kanpur, dated 20th. November, 1982, as stated above becomes subjudice in the light of the admission and stay granted by the Hon'ble Mr. Justice S. Zaheer Hasan of the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow, under Crl. Revision No. 639 of 1982, dated 20th November, 1982.

It is, therefore, requested to very kindly annul the decision of my dismissal and order for my re-instatement in service and payment of my arrears may also be ordered.

It is further prayed that during the pendency of this representation/appeal your honour may be pleased to pass an order staying the operation of the order of dismissal treating under suspension till my revision petition in the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow is finally disposed off.

Yours faithfully,

Sd. (K.K. Misra)

r/o 22/74, Filkhana,
Kanpur-208001.

Kanpur-208001.
Dated. 10.2.1983.

Handwritten signature/initials

Handwritten signature: R. K. Pandey
OATH COMMISSIONER
High Court, (Lucknow Bench)
LUCKNOW
56/22-7-80
10-3-83

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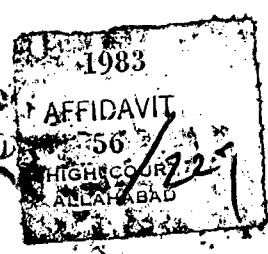
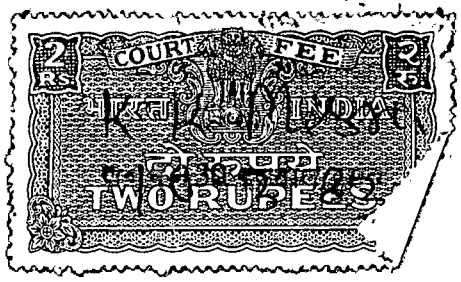
In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow.

Writ petition no.1983.

Krishna Kant MisraPetitioner

Versus

Union of India and others.Opp. Parties.

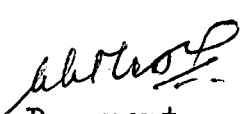


AFFIDAVIT

I, Krishna Kant Misra aged about 57 years, son of Sri R.D. Misra, resident of 22/74, Filkhana, Kanpur do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner in the above noted writ petition and as such he is fully acquainted with the facts of the case.

2. That the contents of paragraph nos. ^{22 to 26} ~~22 to 26~~ of the writ petition are true to my personal knowledge and the contents of paragraph nos. ^{27 to 28} ~~27 to 28~~ and grounds paragraphs are believed to be true.


Deponent

Lucknow:

Dated: 10-3-1983.



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Verification

I, the deponent named above do hereby verify that the contents of paras. 1. 1. 2. of this affidavit are true to my personal knowledge. Nothing material has been concealed and no part of it is false. So help me God.

Dated:

[Signature]
Deponent

I, R. Mitra, Advocate, identify the deponent who has signed before me.

[Signature]
Advocate

Solemnly affirmed before me on

10.3.83 at 10.30 a.m/p.m.

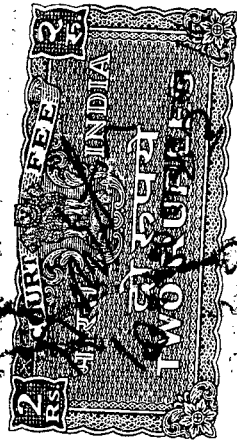
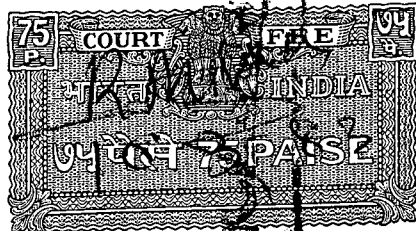
Krishna Kant Misra
by the deponent who has been identified by Sri... R. Mitra

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

Rexha Pandey

56/227

10.3.83



वकालतनामा

38/1 3.50 P.
10.3.83

On The Hon'ble High Court of Judicature at Allahabad
न्यायालय का नाम नं० मु० ७७२/८३ सन १९८३

नाम फरी हैन Lucknow Bench Lucknow

Knishma Kant Misra

Petition

Union of India and others
उक्त मुकदमे में पैरी करने के लिए मैं/हम R.B. Misra

आत्मज जाति निवासी

श्रीयुतः

को अपना वकील नियुक्त करता हूँ/करते हैं। आपको अधिकार है कि आप इस मुकदमे में हमारी ओर से पैरी व सवाल जवाब बहस करें व दस्तावेज व अन्य कागज उपस्थित करें व वापस लेवें। पंच नियुक्त करें व पंचनामा व पंच निर्णय के विरोध में कारण उपस्थित करें। सुलहनामा व स्वीकृत पत्र उपस्थित कर दावा स्वीकार करें या उठा लेवें। डिग्री हो जाने पर उसे कार्य रूप में परिणित करावें, डिग्री का रुपया तत्सम्बन्धी व्यय या अन्य कोई धन जो हमें प्राप्त होने को ही प्राप्त करें, कोर्ट फीस स्टाम्स व अन्य खर्चे दाखिल करें व वापसी लेवें व रसीद देवें व नकल लेवें। मिसिल निरीक्षण करें व मुकदमा स्थगित करावें व अर्जीदावा व लिखित बयान उपस्थित करें व अपील या अन्य कोई प्रार्थनापत्र उपस्थित करें या शपथ पत्र उपस्थित करें या हमारी ओर से मौखिक बयान दें। मुकदमे में गवाह तब करवावें व अपनी ओर से अन्य कोई वकील नियुक्त करके मुकदमे की सब कायवाही करावें या अन्य उक्त मुकदमा सम्बन्धी जो आवश्यक कार्य हो करें।

न्यायालय वाद सं० सन १९८३
बनाम

मैं/हम उक्त वकील साहब को उनकी फीस निश्चित करने के बाब उपरोक्त अधिकार देते हुए अपना वकील नियुक्त करता हूँ/करते हैं, और इकरार करता हूँ कि जो कुछ कार्य वकील साहब इस मुकदमे के सम्बन्ध में करेंगे वह हमारा किया हुआ समझा जायगा, और हमें स्वीकार होगा।

हस्ताक्षर प्रार्थी

गवाह साक्षी

वकील

तारीख

date 10-3-83

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इन दि जानरेबुन हाई कोर्ट आफ जुीजेवर ऐट इनाहावाद,
सकलु केच, सकलु ।

रिट पिटीशन नम्बर ---

आफ 1983

रामसेक शर्मा ---

--- पिटीशनर

बनान

स्टेट आफ द यू एड एंड सर्टी ---

--- रजिस्ट्रार पाटील ।

अपीयर नम्बर -

आदेश

=====

श्री राम सेक शर्मा, सहायक कृषि निरीक्षक, बेल्वा
जनपद बस्ती के निम्न निम्नलिखित आरोपों के सम्बन्ध में
सी०सी०पी० नियम के अन्तर्गत विभागीय कार्य नहीं प्रस्तावित है,
कसददारा उन्हें सरकारी कृषि से निम्नलिखित किया जाता है :-

1- दिनांक 29-10-75 एवं 10/11-11-75 की रात्रि को
बेल्वा डोज भूतार में उत्तरों की धोरी को मटना
दर्रादिर मुनियोजित मद्यन्त्र से अंकन रु 6420/- के
राजकीय सभार का दुर्बिनियोग रना ।

2- शासकिक सध्यों को छुपाना एवं राजकीय सभार की
मुखा में छोर उदासीनता जाना ।

3- राजकीय नियमों एवं आनन्दों का संज्ञा करके राजसन
की बाकि क्षति पहुंचाना ।

4- अन्य सध्यों की जॉस के समय प्रकाश में आने ।

2- भिलखन की बरधि में श्री राम सेक शर्मा की दिसतीय
नियम संग्रह-2 भाग-2 से 4 के मूल नियम 53 के प्राविधानों के अनुसार
जीवन निरहि भर्ते को धाराणि अद्वितन पर देय बकाता सेलन कर

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Writ Petition No.

Krishna Kant Misra

Versus

Union of India and others.

...1982

.....Petitioner

...Opp. Parties.

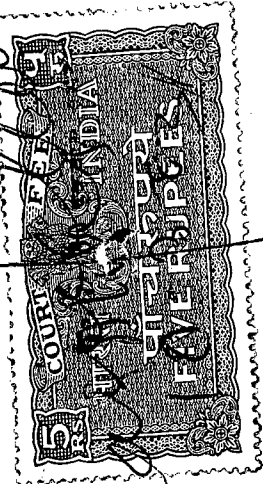
Application for interim relief

For the facts and grounds stated in the accompanying writ petition supported by affidavit, it is most respectfully prayed that this Hon'ble Court may be pleased to pass an interim order staying the operation of the order dated 20.11.82 dismissing the petitioner's services and it is further prayed that this Hon'ble court may be also pleased to direct the opposite parties to reinstate the petitioner to his post, pending disposal of this writ petition in the interest of justice.

Counsel for the petitioner

Lucknow: Dated

..-3-1983.



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In the Hon'ble High Court of Judicature at Allahabad
(Lucknow Bench) Lucknow.

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Writ Petition No. 1371 of 1983

Krishna Kant Misra

Petitioner

Versus

Union of India & others

Respondents.

REGISTRAR,

I am appearing as the Central Government
Standing Counsel, on behalf of ~~Petitioner~~/Respondent/
Opposite Parties.

Dhaon

U.K. DHAON
Advocate
Additional Standing Counsel
Central Government
Allahabad High Court
(Lucknow Bench)
Lucknow.

Dated : 25/3/83

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P.

No.

1371

of 1983

5

Sri Krishna Kant Mishra

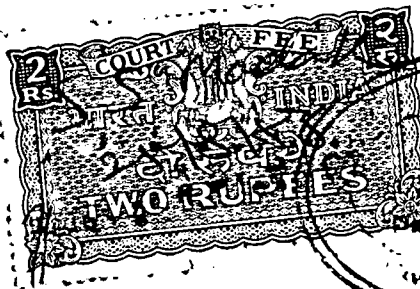
vs.

Union of Indwaran

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
10-3-83	Hon. K.N. Goyal J. Hon. R.C.D. Sharma J. List it on 14-3-83 Op. K.N. G. Sd. R.C.D. Sharma 10-3-83	
14-3-83	Put up on 17-3-83 Sd. K.N. Goyal Sd. R.C.D. Sharma 14-3-83	
17-3-83	Put up tomorrow Sd. K.N. Goyal Sd. R.C.D. Sharma 17-3-83	
18-3-83	Hon. K.N. G. J. Hon. R.C.D. Sharma J. List in ten next week as prayed for on behalf of Sri Robin Mishra Sd. K.N. Goyal Sd. R.C.D. Sharma 18-3-83	
11	C.O. No. 2402 of 83 for interim Relief. List along with the writ petition Sd. K.N. Goyal Sd. R.C.D. Sharma 18-3-83	

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filed today
And
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IN THE GENERAL ADMINISTRATIVE TRIBUNAL,
BENCH LUCKNOW.

COUNTER-AFFIDAVIT ON BEHALF OF RESPONDENTS.

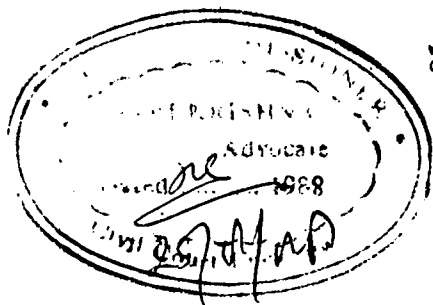
In re

T.A. NO. 1135 OF 1987 (T)

KRISHNA KANT MISRA. ... PETITIONER.

V E R S U S

UNION OF INDIA AND OTHERS. ... RESPONDENTS.



I, S.S. Modak, aged about 56 years, son of Late Prayash Ch. Modak, Chief Post Master, Manpur General Post Office, do hereby solemnly affirm and state on oath as under :

1. That the deponent is Chief Post-Master, General Post Office, Manpur and is competent to swear counter-affidavit on behalf of Union of India and other respondents. The contents of the writ petition have been read over and explained to the deponent who has understood the same and its parawise reply is as follows.
2. That the contents of paras 1 to 3 of the writ petition need no comments.
3. That with respect to the contents of paras 4 and 5 of the writ petition it is submitted that the petitioner while working as Sub Post-Master, Manpur Court Post Office was involved in a fraudulent withdrawal from Manpur Court's Post Office Saving Bank Account No. 1002040. The

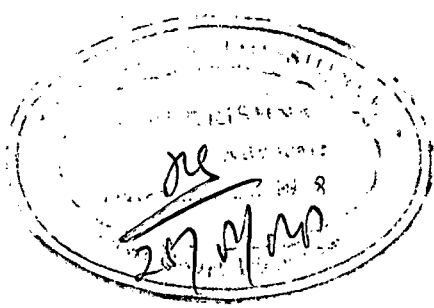
S.S. Modak

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case was enquired into by Shri J.D. Misra, Assistant Post Master General (Investigation) and was referred to the C.B.I. (Central Bureau of Investigation) and a case under Section 120-B/420 I.P.C. was registered and later on the petitioner was suspended by the Deputy Post Master (Gazetted), Kanpur with effect from August 8, 1973.

4. That the contents of para 6 of the writ petition need no comments.
5. That the contents of para 7 of the writ petition need no comments.
6. That the contents of para 8 of the writ petition need no comments.
7. That the contents of para 9 of the writ petition are not disputed.
8. That the contents of para 10 of the writ petition are not disputed.
9. That with respect to the contents of para 11 of the writ petition it is submitted that the petitioner was dismissed with effect from December 24, 1977.
10. That the contents of para 12 of the writ petition need no comments.
11. That the contents of para 13 of the writ petition as stated are denied.



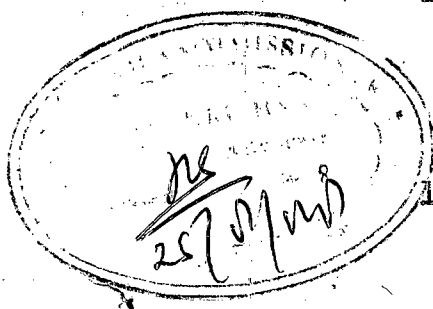
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12. That the contents of para 14 of the writ petition need no comments.
13. That with respect to the contents of para 15 of the writ petition it is submitted that by an order dated February 24, 1979 the petitioner was treated as suspended from the date he was dismissed from service.
14. That the contents of para 16 of the writ petition need no comments.
15. That the contents of para 17 of the writ petition need no comments.
16. That the contents of para 18 of the writ petition are not disputed.
17. That the contents of ~~para~~ para 19 of the writ petition need no comments.
18. That with respect to the contents of para 20 of the writ petition it is submitted that as ~~xx~~ the matter was sub-judice before the Hon'ble High Court there was no occasion to consider the representations of the petitioner.
19. That the contents of paras 21 and 22 of the writ petition need no comments.
20. That the contents of para 23 of the writ petition as stated are denied.
21. That the contents of para 24 of the writ



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petition as stated are denied.

22. That with respect to the contents of para 25 of the writ petition it is submitted that the dismissal order dated November 20, 1982 was not recalled by the Department as the revision was pending in the Hon'ble High Court and the conviction order dated November 18, 1982 was not set aside by the Hon'ble High Court till then.
23. That the contents of para 26 of the writ petition as stated are denied.
24. That the contents of para 27 of the writ petition need no comments.
25. That the contents of para 28 of the writ petition as stated are denied. It is further submitted that mere staying the order of conviction unless it is not set aside does not entitle the petitioner to say that the dismissal order be set aside as the dismissal order was passed on the basis of the conviction order dated November 18, 1982.
26. That the contents of para 29 of the writ petition as stated are denied.

Nanpur dated
August 25, 1988.

[Signature]
Deponent.

VERIFICATION

I, the above-named deponent do hereby verify that the contents of paras 1 to 24 and 26 of this



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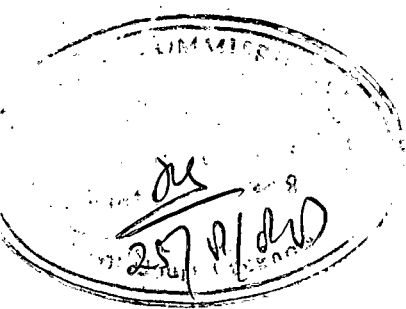
counter-affidavit are true to my own knowledge based on perusal of relevant records and documents and the contents of para 25 of this counter-affidavit are believed by me to be true on the legal advice tendered and no part of it is false and nothing material has been concealed, so help me God.

Signed and verified this ^{twenty fifth} day of ⁿ August, 1988 in the Court Compound at ~~Benaru~~ Lucknow.

Shamada
Deponent. 25.8.88

I identify the deponent who has signed in my presence.

Mohamlat
Clerk to Shri. K. Dhaon
Adv.



C - No 27 IM.

at 10:45 AM on 25.8.88 in office to dep
who is identified by Shri. S. S. Modak
Clerk to Shri. Mohamlat
I have verified the contents of the affidavit by examining the deponent and the contents of the affidavit and explained by me to the deponent.

Adv

Hem Krishna

25/8/88

Hem Krishna
LL.B Advocate
Oath Commissioner of Affidavits
Civil Court, Lucknow

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

COUNTER-AFFIDAVIT ON BEHALF OF THE
RESPONDENTS TO THE APPLICATION FOR
AMENDMENT OF THE CLAIM PETITION.

In re

T.A. NO. 1135 OF 1987 (T)

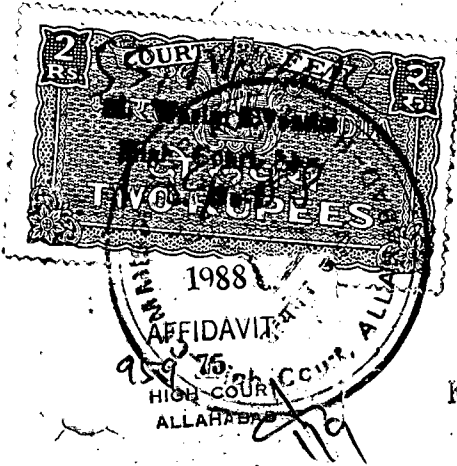
KRISHNA KANT MISRA. PETITIONER.

V E R S U S

UNION OF INDIA AND OTHERS. RESPONDENTS.

I, S.S. Modak, aged about 56 years, son of Late
Shri Pravesh Chandra Modak, Chief Post Master, General
Post Office, Kanpur, do hereby solemnly affirm and
state on oath as under :

1. That the deponent is Chief Post Master, General
Post Office, Kanpur and is competent to swear
the affidavit on behalf of the Union of India
and other respondents. The contents of the
amendment application have been read over and
explained to the deponent who has understood
the same and his reply is as under.
2. That against the dismissal order dated November
22, 1982 the petitioner filed a Writ Petition No.
1371 of 1983 in this Hon'ble Court which was
pending and which was subsequently in view of
Section 29 of the Administrative Tribunal Act,
1985 transferred to this Hon'ble Tribunal.
3. That the petitioner was retired from service on
May 31, 1984 and he was acquitted by the Hon'ble
High Court by its order dated October 14, 1987



S.S. Modak

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and thereafter the petitioner made representations to the authorities including the deponent but as the matter was sub-judice and is sub-judice before this Hon'ble Tribunal it was not proper to pass any orders on the representations.

4. That the Superintendent of Police, Central Bureau of Investigation (SPE) Lucknow informed the deponent by its letter dated 5th April, 1988 that the accused has been acquitted of the charges levelled against him and it has been decided not to file any appeal against the judgment of the Hon'ble High Court and the Department may take necessary action at his end.
5. That accordingly departmental action is under initiation and matter will be finalised after completion of departmental enquiry.

Lucknow dated
September 1, 1988.

Shrivastava
Deponent.

V E R I F I C A T I O N

I, the above-named deponent do hereby verify that the contents of paras 1 to 5 of this counter-affidavit are true to my own knowledge based on perusal of relevant records and documents and no part of it is false and nothing material has been concealed, so help me God.

signed and verified this 1st day of September, 1988 in the Court Compound at Lucknow.

Shrivastava
Deponent.

I identify the deponent who has signed in my presence and personally known to me.

M
(Mohan Lal)

Clerk to Shri U.K. Dhaon,
Advocate.



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,
LUCKNOW.
Gandhi Bhawan, Lucknow.

T.A. No. 1135 of 1987 (T).

C.M. Application No. 11/000(L) (Amendment)

Krishna Kant Misra

... Applicant

Versus

Union of India and others

... Respondents

APPLICATION FOR AMENDMENT OF THE CLAIM PETITION.

The applicant, named above, begs to submit as

under :-

1. That the above-mentioned Claim Petition is pending in this Hon'ble Tribunal, through which the applicant has challenged the dismissal order dated 20.11.1982 effective from 11.12.1982 passed by the Respondent No. 4.
2. That the applicant was involved in a case under Section 120B/420 I.P.C. and consequently on the basis of involvement of the applicant in the said case he was dismissed from service.
3. That on 14.10.1987 the applicant has been acquitted in the case under Sections 120B/420 I.P.C. by the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow.
4. That in consequence of the acquittal of the applicant in the criminal case, the said Claim

List-Two application
Before
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DR 23/5/88

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Petition requires the following amendments.

5. That after paragraph 28 of the original Claim Petition, the following paragraphs may be allowed to be added :-

"28-A. That the applicant was dismissed from service with effect from 18.11.1982 on the grounds that he was convicted in Case No. 361/76 under Sections 120B/420 I.P.C. by Sri R.K. Saxena, Additional Chief Judicial Magistrate, and Special Magistrate for C.B.I. cases at Lucknow, and his appeal against the said conviction was rejected by the First Additional Sessions Judge, Lucknow.

"28-B. That the applicant has filed Criminal Revision No. 639/1982 in the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow, which was finally heard on 14.10.1987 and the applicant was acquitted of the charge by the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow. The certified copy of the judgment of the Hon'ble High Court is Annexure 4.

"28-C. That the applicant, after his acquittal from the Hon'ble High Court of Judicature at Allahabad, submitted representations to Respondent No. 3 to revoke his dismissal along with a photo copy of the certified copy of the order of the Hon'ble High Court on 6.2.1988, which is Annexure 5. Thereafter the applicant sent reminders dated 29.2.1988 and 11.4.1988, being filed as Annexures 6 and 7 and also personally met him on 15.2.1988, 19.2.1988, 24.2.1988, 7.3.1988, 14.3.1988, 21.3.1988,

28.3.1988 and 4.4.1988, but so far no reply has been received.

"28-D. That the applicant thereafter made representation to the Director, Postal Services, on 8.2.1988, whereafter the applicant sent reminder dated 29.2.1988, but so far no reply has been received.

"28-E. That the applicant thereafter made representation to the Additional Post Master General on 8.2.1988 and was reminded vide letter dated 29.2.1988, being filed as Annexures 8 and 9, but he has also kept mum.

"28-F. That on 19.4.1988 the applicant submitted an appeal to the Respondent No. 2, but he too has preferred to keep silence in the matter in spite of a lapse of more than four weeks. The copy of the Appeal dated 19.4.1988 is being filed herewith as Annexure 10.

"28-G. That the order of dismissal dated 20.11.1988 passed against the applicant with retrospective effect from 18.11.1982 is liable to be set aside under the Departmental Rules laid down in POSTS & TELEGRAPHS MANUAL, VOLUME III, on pages 50-51, paragraph 117, which reads as under :-

"117. If on appeal, the conviction is set aside and the Government servant is acquitted, the punishment orders based on the conviction which no longer stands become liable to be set aside. A copy of the judgment of the higher Court should be immediately obtained and examined with a view to deciding whether :-

(i) the acquittal should be challenged in a still higher court; or

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and circumstances of the case are such as to call for a departmental enquiry against the Government servant on the basis of the allegations on which he was previously convicted.

If it is decided to take the matter still to a higher Court, action to institute proper proceeding should be taken with the least possible delay and the punishment order should not be set aside during the pendency of such proceedings. If on the other hand, it is decided that a departmental enquiry should be held, a formal order should be made :-

- (a) setting aside the punishment order; and
- (b) ordering such departmental enquiry.

Such an order should also state that under rule 10(4) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the Government servant is deemed to be under suspension with effect from the date of dismissal, removal or compulsory retirement.

In a case where neither of the courses mentioned above is followed, a formal order should be made setting aside the previous order of dismissal or removal or compulsory retirement. The period between the date of dismissal and the date on which he resumed duty should be dealt with under F.R. 54. But in doing so, he should be deemed to be entitled to full pay and allowances from the date of acquittal, and the period counted as duty for all purposes and from the date of dismissal to the date of acquittal, he should not be allowed pay and allowances less than what would have been admissible to him had he been under suspension."

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- "28-I. That there is no legal and valid reason for not setting aside the order of dismissal dated 20.11.1982 ^{after passing} ~~in face~~ of the order ~~passed~~ in the Criminal Revision No. 639 of 1982, which was communicated to the opposite parties No. 2, 3 and 4 by the applicant.
- "28-J. That the action of the opposite parties No. 2, 3 and 4 in not passing any order on the representations of the applicant against his dismissal from service is absolutely arbitrary, highhanded and unreasonable and it is causing irreparable loss to a poorly paid employee.
- "28-K. That ~~on~~ 31.5.1984 was the date of retirement of the applicant. The opposite parties should have paid the entire salary with increments and all consequential benefits to the applicant after receiving the representations of the applicant."
6. That after Ground No. (H) of the Claim Petition, the following grounds be added as under :-
- "(I) Because the petitioner applicant's conviction has been set aside by the Hon'ble High Court and he has been acquitted from both the charges.
- "(J) Because the petitioner applicant is not liable to be dismissed because the departmental rules provide that in case of acquittal of a Government employee by the competent court of law, he is entitled to be reinstated with all consequential benefits. In the present case the applicant has crossed the age of superannuation, as such the opposite parties should have paid the entire salary with all the increments and benefits to the applicant after receiving the representations."

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7. That in the column of prayer in the Claim Petition, the existing prayer No. (ii) be deleted and in its place the following prayer No. (ii) be substituted, and another prayer No. (iv) be added after the existing prayer No. (iii) :-

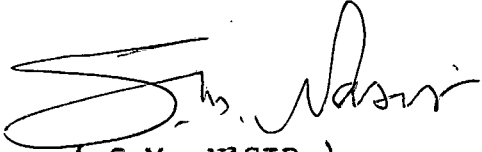
"(ii) a writ, order or direction in the nature of mandamus be issued directing the opposite parties to pay the entire salary with all increments and benefits to the petitioner applicant upto 31.5.1984, i.e. the date of his retirement, and allow all the increments and promotions which should have been allowed to him if he would have continued in service, with all consequential benefits and payment of gratuity, bonus, provident fund, encashment of unavailed leave and leave travel concessions etc. etc.

deleted with
the permission of
the court.
S.M. Nasir
25/5/88

~~to allow interest on delayed payment of D.C.R.G. at the rate of 12 per cent, as per Rule 68, D.C.I.D.(I) with effect from 1.1.1973, the date of fixation of pay of the petitioner as per recommendations of the Third Pay Commission."~~

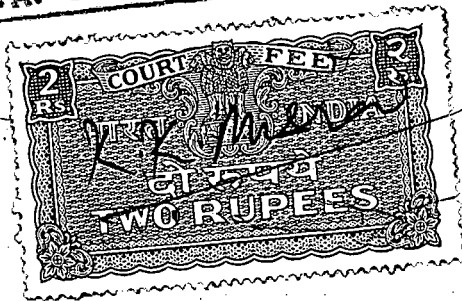
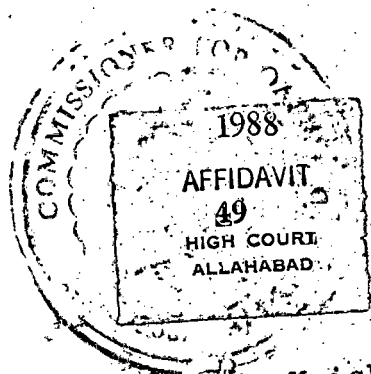
Wherefore, it is humbly prayed that in the interest of justice the amendments mentioned in paragraphs 5, 6 and 7 of this application may be allowed to be made in the original claim petition.

Dated: Lucknow,
May 23, 1988.


(S.M. NASIR)
Advocate,
Counsel for the Petitioner.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,
Gandhi Bhawan, LUCKNOW.

T.A. No. 1135 of 1987 (T).



Krishna Kant Misra

Versus

Union of India and others

... Applicant

... Respondents


A F F I D A V I T .

I, Krishna Kant Misra, aged about 62 years, son of late Sri R.D. Misra, resident of 22/74, Filkhana, Kanpur, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner applicant in the above noted Chim petition and as such he is fully acquainted with the facts of the case.
2. That the contents of paragraphs No. 1 to 7 and the proposed amendments as contained in paragraphs 28-A to 28-K, those of Grounds (I) and (J) proposed to be incorporated, and those of the prayer clauses (ii) and (iv) in the accompanying Amendment Application are true to my own knowledge and the legal advice received.
3. That Annexures 4 to 10 of the accompanying Amendment Application are true copies of their respective originals which the deponent has compared.

Dated: Lucknow,

May 23, 1988.


Deponent.



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VERIFICATION.

I, K.K. Misra, the abovenamed deponent, do hereby
verify that the contents of paragraphs 1 to 3 of this
Affidavit are true to my own knowledge.

Signed and verified this 23rd day of May, 1988, at
Lucknow.

K.K. Misra
Deponent.

I identify the deponent,
who has signed in my presence.

S. M. Nasir
Advocate.
23.5.1988.



K.K. Misra
JATH
High Court, Allahabad
Lucknow
09/1220
23-5-88

A/c
Annexure 4
8/8

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITING AT LUCKNOW

Criminal Revision No.639 of 1982

DISTRICT: LUCKNOW

Krishna Kant Misra,

.....Applicant
(in Jail)

Versus

State

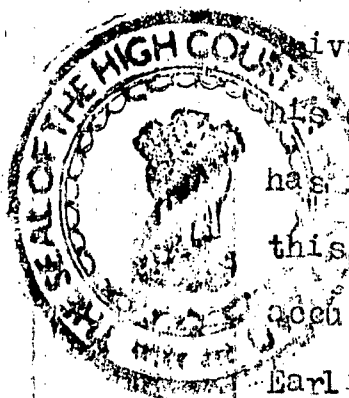
.....Opp. Party

Conviction under sections 420/120 B I.P.C.

Lucknow: Dated: 14.10.1987

Hon'ble R.A.Misra, J.

Sri R.K.Saxena, Additional Chief Judicial Magistrate and Special Magistrate, I Class and special Magistrate for C.B.I's. cases Lucknow vide his order dated 20.1.81 convicted the accused Krishna Kant Misra under Section 120-B and under Section 420 I.P.C. and sentenced him to undergo R.I. for a period of six months under each count and to pay a fine of Rs.2000/- under Section 120B and Rs.3,000/- under Section 420/- I.P.C. with the direction that sentences shall run concurrently. Sri Brijeshwari Prasad Dwivedi, Special Judge, E.C.Act, Lucknow vide his order dated 18.11.82 dismissed his appeal. He has felt aggrieved and come up in revision before this Court. This is not the first time when the accused has to approach this Court in revision. Earlier also he was convicted on these very charges by the trial court. His appeal was dismissed but his revision No. 259 of 1977 was allowed by this Court on 31st XXXXX,



August, 1978 whereby conviction and sentences passed against the accused Krishna Kant Misra was set aside and the case was remanded for retrial in the light of the observations and directions given by this Court.

The relevant facts have been given in the judgments of the courts below have also been mentioned in the judgment of this court referred above. I may repeat some relevant facts for better appreciation of the points involved in this revision. The revisionist was sub-post Master in sub post, Kanpur Courts in 1972-73. On 13th October, 1972, an application purporting to be signed by Phool Singh, the holder of post Office Savings Bank Account No. 120344, was forwarded by K.K. Misra to the Head post Office, Kanpur. By this application the account-holder desired transfer of his saving bank account from Sub-Post Office, Kalyanpur in the same district to sub-post Office, Kanpur Courts, of which revisionist was incharge. This application was on printed form (Ext.Ka.6) and it mentioned, inter-alia, that the pass-book of the account was submitted alongwith it. On this application revisionist verified the correctness of the balance of the amount standing at the depositor's account, namely, Rs. 12,341.13 P. The forwarding letter, with which this application was sent to the head Post Office, Kanpur, is Ext.Ka.5. This was prepared by the Savings Bank Center Clerk, Chhotey Lal, P.W.3. This forwarding letter does not make any mention of any pass-book being sent alongwith the application for transfer of account. It did make a mention of the application for transfer of account of Phool Singh. This Ext. Ka.5 is not, infact, in the



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form of a letter, but in the form of a list of documents being forwarded to the Head post office by the Sub-post Office. While it makes a mention, inter alia, of the transfer application, it does not say as to whether the pass-book was also being sent or was being retained or had not been received at all from the depositor-applicant. This Ext.Ka.5 makes a mention of four other pass-books which were being sent therewith for posting of entries relating to interest. This application was processed in the Head Post Office very quickly. On the very next day, i.e., on 14th October, orders were passed for transfer of the account. The balance amount of the account was found to be correct and a sum of Rs. 266.45 P. was added as interest. This was intimated to the sub-post office where it was received on 16th October, 1972, along with a new pass-book for a new account number. On 16th October itself, Misra sent a requisition for a sum of Rs. 5,000/- as this amount in cash was required in connection with a withdrawal application received from Phool Singh. The cash amount of Rs. 5000/- was received by the said post Office on 18th October, 1972. On the same day, a sum of Rs. 11,000/- was shown as paid to the depositor who also made a deposit of a sum of Rs. 6000/- in three-year Time Deposit Account in the same post office. Thus, the actual cash paid out was Rs. 5000/- only as was received from the Head post Office, while the remainder, namely, Rs. 6000/-



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was adjusted by this fresh investment made by the depositor. Thereafter on 6th February, 1973, 28th March, 1973, and 24th April, 1973 further sums of Rs.1000/-, 240/- and 350/- were also withdrawn by the depositor and the account was closed with the last withdrawal. On 8th June, 1973, it transpired that Phool Singh, the depositor of the said account, had actually died several years earlier. This was revealed when his widow, Smt. Shiv Devi, submitted her claim for settlement to kalyanpur sub-post Office alongwith the original pass-book of the account, Ext.1, and also enclosed a succession certificate which she had in the meantime obtained from the Court. On receipt of this application from the depositor's widow, the matter was departmentally looked into and ultimately, on 13th August, 1973, the Assistant postmaster General, U.P., lodged a First Information Report Ext. Ka. 28 with the Superintendent of police, Special police Establishment, C.B.I, Lucknow. This report does not clearly charge any particular official with fraud, but indirectly names Krishna Kant Misra and two of his subordinates, namely, Chhotay Lal, counter clerk (Savings Bank), and S.N.Nigam (Time Deposit Clerk) as 'accused' persons. After investigation, Inspector of the S.P.E., C.B.I., Amir Hasan, P.W.10 submitted Charge-sheet on 30th August, 1974. This charge-sheet was against Krishna Kant Misra alone and the name of Chhotay Lal and S.N.Nigam were shown



in a separate column as persons who were mentioned in the F.I.R. as accused but were not to be tried.

I have heard learned counsel for both the parties and have gone through the records with care.

Learned counsel for the state has frankly conceded that in the instant case the prosecution has not been able to produce any direct evidence to prove the charges against the accused. It relies upon circumstantial evidence and a number of witnesses have been produced to prove the incriminating circumstances against the accused Krishna Kant Misra.

In a case, dependant wholly on circumstantial evidence, the court before recording a conviction on the basis thereof must be firmly satisfy: (a) that the circumstances from which the inference of guilt is to be drawn, have been fully established by unimpeachable evidence beyond a shadow of doubt; (b) that the circumstances are of a detrimental tendency unerringly pointing towards the guilt of the accused; and (c) that the circumstances taken collectively or incapable of explanation on any reasonable hypothesis save that of the guilt sought to be proved against him.

The following facts are proved from the evidence on the record and go unchallenged:-

* (1) Sri Phool Singh opened a saving Bank Account No. 120344 at Kalyanpur sub-post office.

He expired on 23.5.1966.

ii) Smt. Shiv Devi widow of Sri Phool Singh had her separate account at the same post office at Kalyanpur and on 2.6.67 she asked Sri Nawab Singh to deposit Rs. 8000/- in her account but by mistake gave him the pass book of her deceased husband. The amount was, therefore, deposited



her deceased husband. The amount was, therefore, deposited in the A/C of the deceased phool Singh on 2.6.67. The error was detected on the next day and on 3.6.67 an application was moved by Sri Nawab Singh that the amount of Rs.8000/- has wrongly been deposited in the account of Sri Phool Singh who is actually dead. A prayer was made that the amount be transferred to the account of Smt. Shiv Devi. This application was signed by Smt. Shiv Devi. This application was sent to the Head Post Office and was processed there. Smt. Shiv Devi was informed that it was not possible to do anything in the matter.

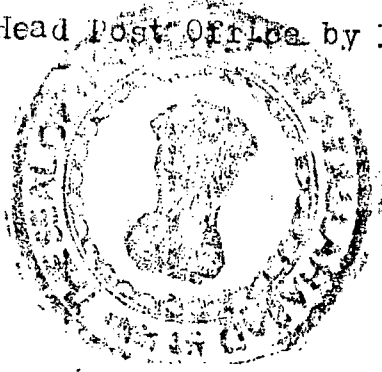
iv) No note was made in the ledger of phool singh's account to indicate that phool singh is dead even though the aforesaid application of Smt. Shiv Devi clearly informed about phool singh's death.

v) Sri Krishna Kant Misra the accused was sub-Post Master Kanpur Court Sub-post Office in the year 1972-73.

vi) An application was moved on 13.10.72 at Kanpur Court sub-post Office (Ext. No. 6) purporting to be of phool phool singh and bearing his two specimen signatures with the prayer that his account No. 120344 be transferred from kalyanpur to kanpur Court post Office. The application mentioned that the pass Book is being enclosed alongwith the application.

vii) The aforesaid application was dealt with by Sub-post Master Krishna Kant Misra. He verified the balance on the basis of the pass Book and made an endorsement on that very application.

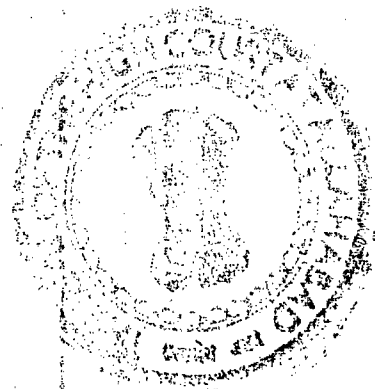
viii) The application alongwith other papers was sent to the Head Post Office by P.W. 3 Sri Chhotey Lal



This application for transfer was processed in the Head Post Office on receipt very quickly on the very next day i.e. 14.10.72 and orders were passed for transfer of account inspite of the fact that the pass book did not accompany the transfer application and the specimen signatures in the transfer application did not tally with the original specimen signatures of the account holder Sri Phool Singh and a new No. 1952249 was allotted.

ix) On 1th October accused Krishna Kant Misra sent a requisition for a sum of Rs.5000/- as this amount in cash was required in connection with a withdrawal application received from Sri Phool Singh. The cash amount of Rs.5000/- was received by the said post office on 18.10.72 on the same day, a sum of Rs.11000/- was shown as paid to the depositor who also made a deposit of a sum of Rs.6000/- in Three years Time Deposit Account in the same post office. Thus, the actual cash paid out was Rs.5000/- only. Thereafter on 6th February, 28th March, 1973, and 24th April, 1973 further sums of Rs.1000/-, 240/- and 350/- were also withdrawn by the depositor and the account was closed with the last withdrawal.

To say in the beginning what one can not helping saying in the end the aforesaid fact proved on the record individually or commutively do not prove the fact that the accused Krishna Kant Misra was in conspiracy with the person who moved the transfer application



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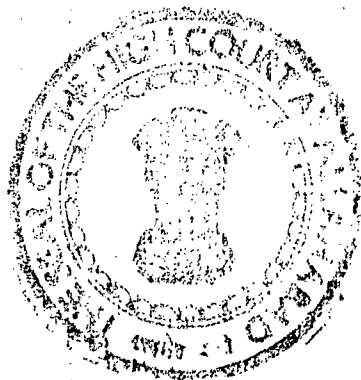
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and withdraw the amounts from the post Office; because these facts are not of determinative tendency and do not unerringly point towards the guilt of the accused. It is no doubt proved beyond doubt from the circumstances narrated above that phool Singh died on 23rd of May, 1966 and the application for transfer of account moved in the year 1972, had not been moved by Sri Phool Singh but by some imposture who had succeeded in deceiving the Sub-post Office in getting the account transferred and amounts withdrawn. There is a controversy whether the pass book was actually sent by the accused to the Head Post Office alongwith the transfer application. Gnanotay Lal, Ledger Clerk at Kanpur Court Sub-~~Post~~ Post Office swears that he did not send it alongwith the transfer application to the Head Post Office. Both the courts below have believed him and I see no reason to disagree with their assessment. Moreover, when witnesses at the Head Post Office have denied to have received the Pass Book of Sri Phool Singh at the Head Post Office alongwith the transfer application.

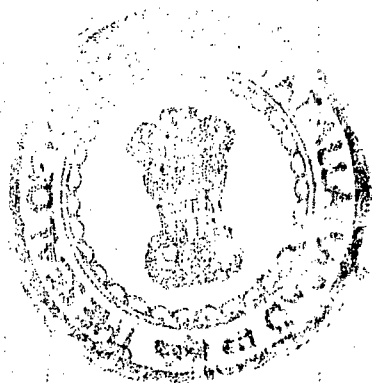
The evidence on the record shows and both the courts below have rightly held that the pass-
~~book must have been sent to the Head Post Office alongwith transfer application according to rules.~~ ✓
book must have been sent to the Head Post Office alongwith transfer application according to rules. The fault lies with the officials of the Kanpur Courts Sub-Post office in not sending the same to the Head Post Office. One of them is accused and other is Sri Ohhotey Lal who has actually sent the papers to the Head Post Office. There is nothing on the



record to suggest that the accused stopped Chhotey Lal from sending the pass book alongwith transfer application to the Head post Office. But the mistake which has either been committed by the accused or by Sri Chhotey Lal, is immaterial for our purposes because nothing hinges on it and the error should have been detected by the Head Post Office. In such cases, it is the duty of the superiors to find out that error which was apparent on the face of the record, and call for the pass book with a warning or adverse remarks to the official concerned to be careful in future. Surprisingly, the efficient Head Office did not care to see the error which was apprent on the face of the record, because the transfer application did not accompany the pass book and the transfer application was allowed, account was transferred without caring at the Head Post Office to call for the pass book and peruse it. On top of it, it is alleged by the prosecution that the smart officials at the Head post Office detected the fact that the specimen signatures of the account holder given in the transfer application did not tally with the original specimen signatures on the record but even then they were pleased to transfer the account as prayed by the applicant. A man of ordinary prudence, even without a rule on the subject, could have atonce suspected the foul play and believed that the transfer application was not genuine as specimen signatures in the transfer application did



not tally with the original on the record. Rule 442(i) of postal Manual clearly says that the signatures on the ~~the~~ transfer applications shall be compared with the specimen signatures on the record and if the signatures do not tally action should be taken as detailed in Rule 442(i). So even in the Rules there is a clear prohibition of transferring an account where specimen signatures do not tally. In the instant case, the Head Office has ignored all these Rules and transferred the account. There is a controversy regarding a note in the transfer order. The note is in short-form (SS differ) which means specimen signatures differ. The prosecution case is that this note was in the transfer order but the defence version is that the note was erased before it was received in the Sub-post-office at Kanpur. I have gone through the original Ext. No. 6-B. The cutting is there and it is very difficult to read it. But even if the note was there, it does not help the prosecution and is not a circumstance to show that the accused was in conspiracy with the imposture. According to Rules, the original specimen signatures are retained at the Head post Office when an account is transferred to a sub-post Office. The specimen signatures on the transfer application are cut and sent to the Sub-post Office and it is with those specimen signatures that work in the Sub-post-Office is carried in future. So if the specimen



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signatures which were retained at the Head Post Office did not tally with the specimen signatures on the transfer application, the accused was helpless and could do nothing in the matter. He has no option but to proceed on the assumption that the specimen signatures on the transfer application and forwarded back to him by the Head Post Office, are genuine. In future he had to compare the signatures of the account holder with these specimen signatures and that is what the accused had actually done when the withdrawal applications were received by him. He made the payment obviously on the basis of the specimen signatures which were available in his sub-post office.

It has been pointed out by learned counsel for the state that out of four withdrawal the accused has himself paid three amounts to the imposture. fourth one has been paid by the Counter Clerk because it was for Rs.240/- and the counter clerk could make payment upto Rs.250/- The accused was well within his jurisdiction in making the payments and this is not at all a circumstance to incriminate him.

It has been argued by learned counsel for the prosecution that Chhotey Lal had deposed that he refused to make the payment because the signatures did not tally. Ext. Ka. 9 is withdrawal application for Rs.11000/- dated 18.10.72. Sri Chhotey Lal, the ledger clerk says that he did raise an objection



that the amount is heavy and signatures do not tally, but the accused said that the amount has to be paid and made his signatures below the signatures of Phool Singh saying that he knows him. He then says that even then he said that there should be a witness whereupon the accused made an order in writing "Please pay" and put his seal on it. Ext. Ka.9 does not bear any such seal. There is no written objection of Sri Chhotey Lal on Ext. Ka.9 on withdrawal application to say that signatures of the person moving the application for withdrawal do not tally with the signatures on record. In his cross-examination he has admitted that ordinarily when any withdrawal application is made at the Counter before him and he finds that the signatures do not tally, then he makes an endorsement on it. No reason is given for not having made any such endorsement on Ext. Ka.9. The solitary deposition of Chhotey Lal does not inspire confidence in the least, because he may be an interested person.

In the result, the courts below have taken wholly perverse view in arriving at the conclusion that the circumstances appearing on the record make out a case of conspiracy against the revisionist and there has been flagrant mis-carriage of justice in not appreciating the evidence according to law. The conclusions are wholly unfounded and perverse and have got to be disturbed in revision because they are not according to law. The revision is consequently allowed. The conviction and sentences passed against the accused Krishna Kant Misra are set-aside. He is acquitted of both the charges. He is on bail his bail bonds are discharged. If the fine is paid, it shall be refunded forthwith.

Typed by
V.K.H.

Sd/- R.A.Misra

14.10.87

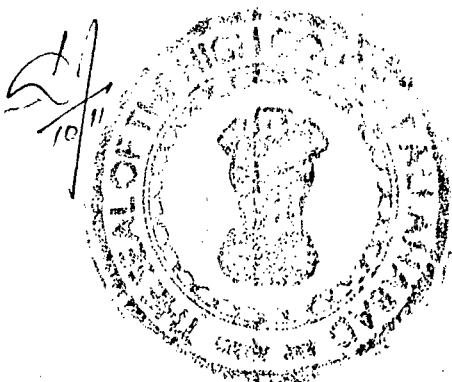
TRUE COPY

R.R. Upadhyay
14/10/87

Secy. to Court

Copying Dept.

High Court, Lucknow Bench,
LUCKNOW



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Annexure 5

The Postmaster,
Head Post Office,
Kanpur -U.P.

Ref: My representation dated 6th Dec '1982.

Sir,

Your kind attention is invited to my above representation in response to your memo no., P 66/ Mis./74/CH III dated 20th. Nov, 1982 received by me on 5/12/82 (A photocopy of the same is enclosed for your ready reference) A reply to which is still awaited.

I am pleased to inform you that my criminal revision No.659/82 has been allowed by the Hon'ble High Court of Judicature at Allahabad sitting at Lucknow on 14/10/87. (A true photocopy is enclosed herewith) and the conviction and sentences passed against me has been set aside and I have been acquitted of both the charges by the Hon'ble High Court.

It is therefore requested to kindly revoke my dismissal order and allow ^{payments of} my all dues with all pensionary benefits till date and oblige.

Thanking you.

Yours faithfully,

(K.B. Agrawal)
Ex. Sub-Postmaster,
Kanpur Courts

R/O, 22/74, Pheel Khana,
Kanpur.

Enclo: as above.

Copy to: Director of Postal services,
Kanpur Region, Kanpur.

for P.I.

6-2-88

प्राप्त हुआ
डा. अ. वि. पो. म. वि. वि.
का. वि. वि. वि. वि. वि.
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Annexure 6

Reminder 1

The Post Master,
Head Post Office,
KANPUR- U.P.

Sir,

Ref: My representation dated 6th. Feby. 1988.

Your kind attention is invited to my above representation submitted to you on 6th. February 1988. along with copy of the Judgement of the Hon'ble High Court of Jurisdiction at Allahabad sitting at Lucknow dated 14th. October 1987, and my personal meetings with you on 15/2/1988 and 23/2/1988. A reply to which is still awaited.

You are therefore requested to kindly to take my dismissal orders issued vide your Memo No. P 66/113/74/CH III dated 20/11/1982 and allow payments of my all dues with all pensionary benefits. I shall be obliged and oblige.

Thanking you.

Yours faithfully,

(T.L. Misra)

Ex. Sub Master Postmaster
Larger Courts,
R/O. 22/74,heelkunda,
KANPUR.

Kanpur
24th. February 1988.

Copy to
The Director of Postal Services,
Kanpur Region, Kanpur.

पुनर्निर्देशित पत्र को
29/2/88
मार्गदर्शक प्रमाणित

29.2.88

29-2-88

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A/S

Sri S.S. Modak
The Chief Post Master
Kanpur Head Post Office
Kanpur-208001

Dear Sir,

REMINDER NO. II

20.3.88, 12.7.88

Please refer to my representation dated 03.12.82, 06.2.88, 29.2.88 and your verbal assurance in personnel meetings on 15.2.88, 19.2.88, 24.2.88, 7.3.88, 14.3.88, 21.3.88, 28.3.88 and 4.4.88 that action will be taken after perusal of my personnel file as well as of service book. It is regretted to point out that till date I have not received any reply from your end, although a considerable time period has elapsed in this connection it may please be mentioned that it will be embarrassing both for you and I if a further reference is made to Hon'ble High Court in not honouring its verdict in my case as there are number of judgements in this matter pronounced by the Hon'ble Supreme Court of India. I am enclosing a photo copy of the instructions issued by Hon'ble Supreme Court of India, published in prominent Hindi Daily 'JANSATTA' dated 20th March 88 published from New Delhi for your perusal and doing the needful in the matter at the earliest.

It may also please be mentioned that I am a old man of 62 years having weak physique and suffering from high blood pressure and heart-decease. I have already suffered from two severe heart attacks in the past. Due to continuous litigation for about 14-15 year I am financially dried. My family consists of my wife 3 dependent sons and one unmarried daughter. It is very difficult for me to meet out my day to day expenses. If nothing is done at the earliest no body can predict what will happen? If something happens otherwise the entire responsibility be upon you and your department only? You can very well imagine my financial and physical difficulties.

It is therefore, requested to please look into my matter personally and revoke my dismissal order and allow payment of my all dues with all increments and promotions which should have been achieved by me during my normal course of service with all pensionary benefits till date and oblige since the matter has already been delayed much.

Waiting for a favourable reply soon.

Yours faithfully

copy copy
15/4/88
Kanpur

Dated 11.4.88

Encl. as above.

Copy to.

1. The Director of Postal Services
Kanpur Region
Kanpur

2. The AGO/G Kanpur (Addl.)
Region Kanpur.

(K.K. Misra)
Ex. Sub. Post Master
Kanpur Courts Post Office
R/O 22/74, Pheel Khana
Kanpur-208001

Extract of Judgement Published
in Hindi Daily 'JANSATTA' DT. 20-3-88
Published from New Delhi City Edition.

अदालत की मानो वरना सजा भोगो, सुप्रीम कोर्ट की चेतावनी

नई दिल्ली, १९ मार्च (भाषा)। सुप्रीम कोर्ट ने सरकार के अधिकारियों में अदालत की हिदायतों को नजर अंदाज करने के बढ़ते खेपे पर चेतावनी जताई है।

न्यायमूर्ति रमनाथ मिश्र और न्यायमूर्ति एसएम दत्त ने अदालत की अवमानना के एक मामले में फैसला सुनाते हुए कहा, "निचली अदालतों समेत सभी अदालतें सरकार के जग हैं। और कानून के मुताबिक न्याय दिलाने के लिए संविधान के अनुसार इन्हें चलाया गया है।" इस मामले में रक्षा सचिव एसके मटनागर और विदेश सचिव कैप्टेन मेनन ने अदालत से माफी मांग ली।

सुप्रीम कोर्ट ने हिदायत दी थी कि न्याय के पोखरा में पेशान भुगतान दाखल में सोपान दुबे को बहाल किया जाए और उन्हें रहने के लिए सरकारी मकान भी दिया जाए। अदालत के इस आदेश का अभी तक पालन नहीं किया गया था।

भारत सरकार के अधीन पोखरा के पेशान भुगतान कार्यालय से ज्यादातर उन नौकरियों को नया दी जाती है जो भारतीय

सेना से लिया गए हैं।

न्यायमूर्ति श्री मिश्र और न्यायमूर्ति श्री दत्त ने कहा कि अदालतें बनाने के पीछे के उद्देश्य हासिल करने के लिए और व्यवस्था के कारणों से काम करने के लिए जरूरी है कि सभी कानून के अनुसार बनी संस्थाओं में अपनी आस्था की गारंटी करें। वे उन सभी हिदायतों का पालन करें जो उन्हें दी गई हैं। अगर वे इसका पालन नहीं करते तो उन्हें न्यायपालिका की सजा को भोगना पड़ेगा। सुप्रीम कोर्ट के अनुसार अदालतों में बैठने वाले न्यायाधीश न तो अपने आप को उच्च समझते और न ही वे व्यवस्था के अन्य भागों को अपने से नीचा ही समझते हैं।

याचिका पेशान भुगतान कार्यालय में काम कर रहे ४० लोगों ने दायर की थी। उन्होंने आप्रह किया था कि भारत सरकार को उनकी सेवाएं स्थायी करने का आदेश दिया जाए। उन्हें वही भते और दूसरी सुविधाएं दी जाएं दूसरे केंद्रों के कर्मचारियों को मिलती हैं।

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Annexure 8

The Additional Postmaster General,
Uttar Pradesh Circle,
Kanpur Region,
KANPUR U.P.

Sir,

I most humbly and respectfully I beg to submit as follows:-

1. That I was appointed as clerk, Kanpur Head Post Office, Kanpur, on 8th July, 1950.
2. That I continued to serve the Postal Department with an un-blemished record of 20 years.
3. That I was transferred and posted as Sub-Postmaster Kanpur Courts Post Office and took charge on the 2nd. August, 1972.
4. That I continued to work as Sub-Postmaster, Kanpur Courts Post Office in the year 1972-1973.
5. That I was placed under suspension on 8th August, 1973, under Postmaster, Kanpur, Memo. No: P/Y.K. 2184, dated 2-8-1973, on the allegation of wrong payment from my office of Savings Bank Account No: 1952349 of Shri Phool Singh.
6. That I was tried in the court of Shri R.P. Saxena, Additional Chief Judicial Magistrate and Special Magistrate 1st. Class for C.B.I. cases at Lucknow U/S 420 read with Section 120-B of the Indian Penal Code and was convicted.
7. That my appeal was dismissed by the 1st. Addl. District and Sessions Judge, Lucknow, on 18th November, 1982.

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8. That I preferred a revision in the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow, on 20th November, 1982.
9. That the revision petition against the judgment and order dated 18th November, 1982, passed by the 1st Additional District and Sessions Judge, Lucknow upholding the judgment and order passed by Shri R.K. Saxena, Additional Chief Judicial Magistrate and Special Magistrate 1st Class for C.B.I. cases at Lucknow, was admitted and conviction and the sentences of the petitioner was stayed and he was released on bail.
10. That it is worth-mentioning that during the pendency of my appeal in the court of the 1st. Addl. District and Sessions Judge, Lucknow, I continued on suspension and there was no order of dismissal passed against me.
11. That my services have been dispensed-with on 20th. November, 1982, vide Postmaster, Kanpur, Memo. No: F-66/Disc./74/CH-III dated the 20th. November, 1982 on account of conviction. This order was received by me on 3rd. December, 1982, and a representation citing the facts was made to the Postmaster, Kanpur, on 6th. December, 1982. He was reminded on 15th December, 1982, and was also reminded by name on 24th. December, 1982, but a reply to which is still awaited.
24. That from the above facts it is evident that the dismissal of the undersigned in the circumstances is not warranted under the Rules applicable in the

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Application/petition for the employees of the Post & Telegraph Department.

13. That it may be pointed out that earlier also in the similar circumstances, the applicants dismissal was revoked and he was placed under suspension.

14. That I am pleased to inform you that my criminal Revision No: 639/82 has been allowed by the Hon'ble High Court of Judicature at Allahabad sitting at Lucknow on 1st October, 1987. (A Photo Copy is enclosed here-with) and the conviction and sentences passed against me has been set-aside and I have been acquitted of both the charges by the Hon'ble High Court.

It is, therefore requested to very kindly annul the decision of my dismissal and allow my all dues with all pensionary benefits till date and oblige.

Thanking you,

Yours' faithfully,

Signature
6/2/88

(P. S. Jais)
EX-Sub Postmaster,
JANAKI COURTS,
10/27/74, Pithampur,
K. A. P. U. R. 200001.

पिठौरा नगर को
कोपी
10/27/74

Letter dated
the 6th February, '88

cc: as above.

Copy forwarded to:

The Postmaster General, Uttar Pradesh
Circle, Lucknow.

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Annexure 3

K A N P U R U. P. A.

The Additional Postmaster General,
Uttar Pradesh Circle,
Kanpur Region,
K A N P U R U. P. A.

Ref:- My representation dated 6th
February, 1988.

Sir,
Kindly refer to my representation dated
6th February, 1988, submitted in your office
on 6th February, 1988, along with a copy of the
Adg Judgement of the Hon'ble High Court of
Judicature at Allahabad sitting at Lucknow
dated the 14th October, 1987.

My original representation was submitted
to the Chief Postmaster, Kanpur, on 6th February
1988, and I also approached in person to him
on 13th February, 1988, and 20th February,
1988, but neither from your office or not
from the Postmaster, Kanpur, has even acknowl-
edged my above representation.

You are, therefore, requested kindly to
look into the case and issue instructions to
the Chief Postmaster, Kanpur, for revoking my
dismissal orders issued by the Postmaster,
Kanpur under his Memo.No:-P-66/Misc/74/CH-III
dated the 20th November, 1982, and allow my
all dues to be paid with all Pensionary benefit
till date and oblige.

With due regards,

Yours faithfully,

Kanpur 208001.
Dated 29th February, 1988

(K.K.Misra)
Ex-Sub Postmaster,
Kanpur Courts P.O.
H/O 22/74, Filkhanda,
K A N P U R

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The Post Master General,
Uttar Pradesh Circle,
Lucknow.

Sir,

Most humbly and respectfully I beg to submit as under:-

1. That I was appointed as clerk, Kanpur Head Post Office, Kanpur on 8th July, 1950.
2. That I continued to serve the Postal Department with an unblemished record of 34 years.
3. That I was transferred and posted as Sub-Postmaster, Kanpur courts Post Office and took charge on the 2nd August, 1972.
4. That I continued to work as Sub-Post Master, Kanpur courts Post office in the year 1972-73.
5. That I was placed under suspension on 8th August, 1973, under Postmaster, Kanpur, Memo No.: B/K.K. Misra, dated 8-8-1973, on the allegation of wrong payment from my office of Savings Bank account No.: 1952249 of Shri Phool Singh.
6. That I was tried in the court of Shri R.K. Saxena, Additional Chief Judicial Magistrate and special Magistrate 1st class for C.B.I. cases at Lucknow U/s 420 read with Section 120-B of the Indian Penal Code and was convicted.
7. That my appeal was dismissed by the 1st. Addl. District and Sessions Judge, Lucknow, on 18th November, 1982.
8. That I preferred a revision in the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow, on 20th November, 1982.
9. That the revision petition against the judgement and order dated 18th November, 1982, passed by the 1st Additional District and Sessions Judge, Lucknow upholding the judgement and order passed by Shri R.K. Saxena, Additional Chief Judicial Magistrate and Special Magistrate 1st class for C.B.I. cases at Lucknow, was admitted and conviction and the sentences of the petitioner was stayed and I was released on bail.
10. That my services have been dispensed-with on 20th November, 1982, vide Postmaster, Kanpur, Memo. No.: F-66/Misc./74/CH-III dated the 20th November, 1982 on account of conviction. This order was received by me on 3rd December, 1982 and a representation citing the facts was made to the Postmaster, Kanpur on 6th December, 1982. He was reminded on 15th December, 1982, and was also reminded by name on 24th December, 1982, 20.9.1983 and 12.12.83 but a reply to which is still awaited.
11. That I am pleased to inform you that my criminal Revision No.: 639/82 has been allowed by the Hon'ble High court of judicature at Allahabad sitting at Lucknow on 14th October, 1987. (A photocopy is enclosed herewith) and the conviction and sentences passed against me has been set-aside and I have been acquitted of both the charges by the Hon'ble High court.

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12. That after receiving a certified true copy of judgement and order passed by Hon'ble High court of judicature at Allahabad sitting at Lucknow, I made a representation alongwith photocopy of order of High court to the Chief Post Master, Kanpur Head Post office on 6.2.88 and reminders were also made on 29.2.88 and 11.4.88 (photocopies of the same are enclosed herewith for ready reference beside this I personally met the Post Master on 15.2.88, 19.2.88, 24.2.88, 7.3.88, 14.3.88, 21.3.88, 28.3.88, 4.4.88 but no reply has been received till date.
13. That I approached to the Director Postal Services, Kanpur Region Kanpur in this matter but he has also not replied till date (Photocopies of the representation made are enclosed herewith) for your perusal.
14. That I also approached to the Additional Post Master General, Kanpur Region Kanpur but it is very much regretted to point out that he too has not taken any step nor any reply is received till date (Photocopies of the representation made to him are also enclosed herewith for your ready reference).
15. That I have left no alternative but to approach you in the matter and request you that from the above facts it is evident that the dismissal of the undersigned in the circumstances is not warranted under the Rules applicable in the applicant petition for the employees of the Post & Telegraph Department.
16. That I am a old man of 62 years having weak physique and suffering from high blood pressure and heart disease I have already suffered two severe heart attacks in the past.
17. That due to continuous litigation for about 14-15 years I am financially dried. It is very difficult for me to support family which consists of my wife, three unemployed sons and one unmarried daughter and also to meet my day to day expenses.

P R A Y E R

That it is, therefore prayed to you to very kindly 'ANNUL' the decision of my dismissal order and refix my pay as per recommendation of all pay commissions and allow payment of my all dues with all increments and ^{consequential} ~~provisions~~ ^{benefits} which should have been achieved by me during my normal course of service with all ~~personal~~ ^{consequential} benefits till date and oblige since the matter has already been delayed much.

Yours faithfully,

K. K. MISRA
(K. K. MISRA)
Ex. Sub. Post Master
Kanpur court Post office
22/74, Pheel-Khana, Kanpur.

KANPUR:
DATED: 18.4.1988

ENCL: AS ABOVE.

Recd.
22/4/88
Encl. As above.

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"28-A. That the applicant was dismissed from service with effect from 18.11.1982 on the grounds that he was convicted in Case No. 361/76 under Sections 120B/420 I.P.C. by Sri R.K. Saxena, Additional Chief Judicial Magistrate, and special Magistrate for C.B.I. cases at Lucknow, and his appeal against the said conviction was rejected by the First Additional Sessions Judge, Lucknow.

"28-B. That the applicant has filed Criminal Revision No. 639/1982 in the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow, which was finally heard on 14.10.1987 and the applicant was acquitted of the charge by the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow. The certified copy of the judgment of the Hon'ble High Court is Annexure 4.

"28-C. That the applicant, after his acquittal from the Hon'ble High Court of Judicature at Allahabad, submitted representations to Respondent No. 3 to revoke his dismissal along with a photo copy of the certified copy of the order of the Hon'ble High Court on 6.2.1988, which is Annexure 5. Thereafter the applicant sent reminders dated 29.2.1988 and 11.4.1988, being filed as Annexures 6 and 7 and also personally met him on 15.2.1988, 19.2.1988, 24.2.1988, 7.3.1988, 14.3.1988, 21.3.1988, 28.3.1988 and 4.4.1988, but so far no reply has been received.

"28-D. That the applicant thereafter made representation to the Director, Postal Services, on 8.2.1988,

R. S. S. S. S.
Advocate

Contd..

whereafter the applicant sent reminder dated 29.2.88, but so far no reply has been received.

"28-E. That the applicant thereafter made representation to the Additional Post Master General on 8.2.1988 and was reminded vide letter dated 29.2.1988, being filed as Annexures 8 and 9, but he has=also kept mum.

"28-F. That on 19.4.1988 the applicant submitted an appeal to the Respondent No. 2, but he too has preferred to keep silence in the matter in spite of a lapse of more than four weeks. The copy of the Appeal dated 19.4.1988 is being filed herewith as Annexure 10.

"28-G. That the order of dismissal dated 20.11.1988 passed against the applicant with retrospective effect from 18.11.1982 is liable to be set aside under the Departmental Rules laid down in POSTS & TELEGRAPHS MANUAL, VOLUME III, on pages 50-51, paragraph 117, which reads as under :-

"117. If on appeal, the conviction is set aside and the Government servant is acquitted, the punishment orders based on the conviction which no longer stands become liable to be set aside. A copy of the judgment of the higher Court should be immediately obtained and examined with a view to deciding whether:-

the acquittal should be challenged in
or

whereafter the applicant sent reminder dated 29.2.88, but so far no reply has been received.

"28-E. That the applicant thereafter made representation to the Additional Post Master General on 8.2.1988 and was reminded vide letter dated 29.2.1988, being filed as Annexures 8 and 9, but he has=also kept mum.

"28-F. That on 19.4.1988 the applicant submitted an appeal to the Respondent No. 2, but he too has preferred to keep silence in the matter in spite of a lapse of more than four weeks. The copy of the Appeal dated 19.4.1988 is being filed herewith as Annexure 10.

"28-G. That the order of dismissal dated 20.11.1988 passed against the applicant with retrospective effect from 18.11.1982 is liable to be set aside under the Departmental Rules laid down in POSTS & TELEGRAPHS MANUAL, VOLUME III, on pages 50-51, paragraph 117, which reads as under :-

"117. If on appeal, the conviction is set aside and the Government servant is acquitted, the punishment orders based on the conviction which no longer stands become liable to be set aside. A copy of the judgment of the higher Court should be immediately obtained and examined with a view to deciding whether:-

(i) the acquittal should be challenged in a still higher court; or

(ii) despite the acquittal, the facts and circumstances of the case are such as to call for a departmental enquiry against the Government servant on the basis of the allegations on which he was pre-

R. S. Sharma
Advocate

Contd..3/-

viously convicted.

If it is decided to take the matter still to a higher Court, action to institute proper proceedings should be taken with the least possible delay and the punishment order should not be set aside during the pendency of such proceedings. If on the other hand, it is decided that a departmental enquiry should be held, a formal order should be made :-

- (a) setting aside the punishment order; and
- (b) ordering such departmental enquiry.

Such an order should also state that under rule 10(4) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the Government servant is deemed to be under suspension with effect from the date of dismissal, removal or compulsory retirement.

In a case where neither of the courses mentioned above is followed, a formal order should be made setting aside the previous order of dismissal or removal or compulsory retirement. The period between the date of dismissal and the date on which he resumed duty should be dealt with under F.R. 54. But in doing so, he should be deemed to be entitled to full pay and allowances from the date of acquittal, and the period counted as duty for all purposes and from the date of dismissal to the date of acquittal, he should not be allowed pay and allowances less than what would have

been admissible to him had he been under suspension."

R. B. S. S. S.
Advocate

Contd..4/-

"28-H.

That no Special Leave Petition against the orders of the Hon'ble High Court has been filed before the Hon'ble Supreme Court of India so far, and the limitation for filing the same has also lapsed.

"28-I.

That there is no legal and valid reason for not setting aside the order of dismissal dated 20.11.1982 after passing of the order in the Criminal Revision No. 639 of 1982, which was communicated to the opposite parties No. 2, 3 and 4 by the applicant.

"28-J.

That the action of the opposite parties No. 2, 3 and 4 in not passing any order on the representations of the applicant against his dismissal from service is absolutely arbitrary, high handed and unreasonable and it is causing irreparable loss to a poorly paid employee.

"28-K.

That 31.5.1984 was the date of retirement of the applicant. The opposite parties should have paid the entire salary with increments and all consequential benefits to the applicant after receiving the representations of the applicant."

R. Bhare
Advocate
19/4/88

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ब अदालत श्रीमान् Central Administrative Tribunal, Circuit Bench Lucknow महोदय

[बादी] अपीलाग

प्रतिवादी [रेषाडेण्ट]

वकालतनामा

K.K. MISRA
Vs.



(अपीलाग)

Union of Indians

बनाम

प्रतिवादी (रेखाडेण्ट)

नं० मुकद्दमा 1135 सन् 1987 पेशी की ता० 23-5-1988ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

R.B. Khare, Ayalhya House Valmiki Marg Lucknow

S.M. Narain Advocate

वकील

महोदय

53 Jagat Narain Road Lucknow

एडवोकेट

नाम अदाकर्ता	नाम अदाकर्ता
मुकद्दमा नं०	मुकद्दमा नं०
नाम एडवोकेट	नाम एडवोकेट

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

हस्ताक्षर K.K. Misra
(K.K. Misra)

साक्षी (गवाह) _____ साक्षी (गवाह) _____

दिनांक _____ महीना _____ सन् 1988 ई०

स्वीकृत

Accepted
Advocate
23/5/88

The Registrar,
Central Administrative Tribunal,
Additional Bench,
Lucknow

Sir,

Respectfully I beg to state that a writ Petition was filed in the Lucknow ~~High~~ Bench of High Court Bearing No: - 1371/83 against Union of India. The above writ Petition has subsequently been transferred by Hon'ble High Court vide letter No- 7473 dated 25-5-87 at serial No 130, to Hon'ble Central Administrative Tribunal at Allahabad.

Since an additional Bench has been formed at Lucknow, please transfer the same at Lucknow Bench and oblige.

Thanking you,

Yours faithfully,

Dated 29th April, '88

tele. post
(K.K. Misra)
Ex- Sub Postmaster
Kanpur Courts,
R/o 22/74, Filkhana
Kanpur up.

NO. 1000
18-2375
460

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Allahabad Bench
23-A Thornhill Road, Allahabad-211001

7c
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No. CAT/Alld/Jud/30/99 Dated the 12-5

T.A.No. 135 To 188 198 (T)

Applicant's
Versus

- Respondent's
- ① K.K. Mishra Ex Sub Registrar, Kamapur Court
R/O 22/74 Fulkhana Kamapur.
 - ② Sri U.K. Sharma, Advocate H.O. Advocate
High Court Lucknow.

Whereas the marginally noted cases has been
Transferred by under the provision of the
Administrative Tribunal Act (No.13. of 1985) and registered
in this Tribunal as above.

Writ Petition No. 37-1-7
 of 198 . of the
court of
arising out of order dated
 passed by
in
on your behalf the matter will be heard and decided in your
absence.

The Tribunal has fixed date of
23-5 1988. The hearing of
the matter.

If no appearance is ~~under~~
made on your behalf by your some
one duly authorised to Act and pled
on your behalf the matter will be heard and decided in your
absence.

Given under my hand seal of the Tribunal this
 day of 198 .

DEPUTY REGISTRAR (J)

dk