

Central Administrative Tribunal
Lucknow Bench

Cause Title D.A. 1254/87 19

Name of Parties S. P. Gupta Applicant

Union of India Respondents

Part A

Sl.No.	Description of Documents	Page
1.	Check List	A - A1 ✓
2.	Order Sheet	A2 - A7 ✓
3.	Final Judgement	A8 - A10 ✓
4.	Petition Copy	A18 - A40 ✓
5.	Annexure	A41 - A72 ✓
6.	Power.	A73
7.	Counter Affidavit	A74 - A92 ✓
8.	Rejoinder Affidavit	A93 - A100 ✓
	Supply C. A	A101 - A105 ✓
	S. A R. A	A106 - A108 ✓

B- File

1 - M.A. 307/82 amendment appli.
M.A. 1515/91 Application / Power / Notice

C

C-File

C109 - C117

breeded out

Relax
4-1-94

B/C destroyed
on 09-5-12.

31/94

Reheer
on 27-3-12
m

So (S)

Reinstatement from back date / Stopage of Rec.
and Refund of amount already recovered

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

A

Registration No. 1254 of 1987

APPLICANT (s) Samay Prasad Gupta

RESPONDENT(s) U.O.I. through Secretary, Ministry of Post

Telegraph, New Delhi & 2 others.

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

(1)

A2

7/1/88

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

on the request
of learned counsel for
the applicant, he is
allowed two weeks time
to seek necessary amendments.

22/1/88

Am. ✓

Am.

25.1.88

25.1.88

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

on the request of applicant's
counsel, the case is adjourned
to 17.2.88

Am. ✓

JM

17/2/88

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

An application for
the amendment of the election
petition has been filed. We
have heard the learned counsel
for the applicant. The amendment
is allowed. It may be incorporated
in the petition within two
weeks.

Am. ✓

JM

24

OFFICE STREET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

.....(77) No.....1257.....of 1987

.....Vs.....

Sl.No. of order	Date of order	ORDERS WITH SIGNATURE	Office Not to action taken on o
	26/2/81	<p>les</p> <p>Resouder may be fild by 7/11/81</p> <p>les</p>	
	2-11-81	<p>2</p> <p>An order regarding the action taken by the Council for the removal of the member of the Subcommittee.</p> <p>Sharma 2-11-81</p>	
	7/11/81	<p>les</p> <p>on the request of the member of the Subcommittee, the order is passed by 13/1/82 in favour of the member of the Subcommittee.</p> <p>les</p>	

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

Hon' Mr. K. Obayya, A.M.

27/11/89

Shri R.S. Ojha counsel for the applicant requests for adjournment. Adjournment allowed. List this case for disposal of amendment application on 5-1-90.

A.M.

J.M.

(sns)

S.1.90

Hon. K.J. Raman, AM

Hon. D.K. Agrawal, JM

Sri R.S. Ojha, learned Counsel for the Applicant and Sri Ashok Mohiley, learned Counsel for the Respondents are present. Misc. Appl. no. 307 of 1989 taken up. We have heard learned Counsel for the parties. Amendment application is allowed.

Let the amendment be incorporated within a week. Supplementary Reply may be filed within 3 weeks and supplementary rejoinder, if any, may be filed within 2 weeks thereafter. List it on 7-3-1990 before the D.R.(J) for fixing a date for oral hearing, as the case may be, according to its R. no.

D.K.
JMK.J.
JM

S.1.90

WJ

10.1.90

Amendment incorporated.

B.S./W
Adv.

Amendment incorporated in my presence.

Q.10
S.D.(J.)

OR.

14.02.90

Supplementary Counter to Amendment Application has been filed R.S. Singh, placed on record.

OR

S/3

No Supplementary RA has been filed.

Alok

OA. 1254/87

(7)

AS

15.4.91

Hon. K. Abayya, A.M.
Hon. S.M. Prasad, J.M.

Sri R.S. Otha for applicant-
is present. Sri A. Mohiley
counsel for respondent has
sought adjournment. Allowed.
List this case for final hearing
3.5.91.

J.M.

A.M.

3-5-91 Hon. A.B. Jagathi A.M.
Hon. S.M. Prasad J.M.

On the adjournment, sought
by Sri A. Mohiley, counsel for
respondents, case is adjourned
to 29-7-91 for hearing.

J.M.

A.M.

29-7-91 No sitting. Adjourned
to 17-9-91 for hearing.

17.9.91

No sitting. Adjourned
to 3.12.91 for hearing.

26.9.91

As the cases of C.M.J. are
taken up. List on 24/10/91 for
orders on Expedite Application.

O/R

Misc. Exp. No. 15/5/91
filed by counsel
for the applicant.

Submitted

23/9/91

Paulay

OA 125

AB

27.1.92

Hon. Mr. D.K. Agrawal, J.M.
Hon. Mr. K. Obayya, A.M.

Sri R.S. Ojha for applicant.
Sri R.S. Ojha desires an
adjournment on the ground
of illness. Allowed.
Adjourned to 12-2-92
for hearing.

[Signature]
A.M.

[Signature]
J.M.

(uv)

12.2.92

Hon. Mr. D.K. Agrawal, J.M.
Hon. Mr. K. Obayya, A.M.

NONE appears. List this
case for hearing on
9-4-92.

[Signature]
A.M.

[Signature]
J.M.

(Sh)

9.4.92 Hon. K. Obayya, A.M.
Hon. S.N. Prasad, J.M.

Advocates on strike after lunch.
Adjourn to 21.7.92 for hearing.

134

DM

A7

21.11.92

Heard Mr Justice B.C. Srinivasan
Heard Mr K. Chagga DM

In Srinivasan P. the learned
Counsel for applicant & m.
Shole Mohley for respondent
in present.

Argument heard. Judgment

reserved.

DM

VC

21-11-92

Heard Mr Justice V.C. Srinivasan, VC
Heard Mr K. Chagga DM

Amendment application is
allowed. The amendment
does not necessitate filing of
any counter affidavit, as
only prayer has been
added by way of amend-
ment. The case can be
disposed of finally.
Argument heard. Judgment
reserved.

VC

DM

VC

DM

12.3.93

Heard Mr Justice B.C. Srinivasan
Heard Mr K. Chagga DM

Justice pronounced judgment
in favor of m.

DM

VC

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

C.A. NO. 1254/87 199 (L)

C.A. NO. 199 (TL)

Date of Deceasion

S P Gupta

Petitioner.

Shri. Suresh Chandra P

Advocate for the
Petitioner(s)

V E R S U S

Union of India

Respondent.

Mr. A. K. Mohanty

Advocate for the
Respondents

C O R A M

Hon'ble Mr.

Justice V. C. Prasad, U

Hon'ble Mr.

K. C. Chatterjee

1. Whether Reporter of local papers may be allowed to see the Judgment. ✓
2. To be referred to the reporter or not ? ✓
3. Whether their Lord Ships wish to see the fair copy of the Judgement ? ✓
4. Whether to be circulated to other benches ? ✓

U
Vice-Chairman / Member

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
LUCKNOW

Original Application No. 1254 of 1987

Samaya Prasad Gupta

Petitioner

versus

Union of India & others

Respondents.

Shri Surendran P.

Counsel for Applicant.

Shri Ashok Mohiley

Counsel for Respondents.

Coram:

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant who was working as Postal Assistant in the Gonda Post office, was placed under suspension on 22.1.72. He was served with memo of charges on 14.3.71 for non accounting of National Savings Certificate and awarded the punishment of Rs 2,000/- and recovery was to be made from his salary in 36 instalments and as he was under suspension only a sum of Rs 280 was recovered from his pay. The matter was reported to the police against the applicant and another person that it was a case of criminal conspiracy and abetment and the applicant and Shri Dubey were tried by Chief Judicial Magistrate, Gonda in which the applicant was punished for imprisonment of two years with fine of Rs 2,000/-. Thereafter the applicant was dismissed from service on 29.12.83. The

appeal filed by the applicant was heard by the Additional Sessions Judge, who exonerated the applicant and he was acquitted. The applicant was reinstated in service vide order dated 18.2.86. He was again placed under suspension on 22.2.86. The appeal against the acquittal filed by the ~~applicant~~^{respondents} was rejected and the applicant was reinstated on 18.2.84 and thereafter he resumed his duties on 22.3.84. Applicant remained under suspension from 22.1.72 to 21.3.84. The period of suspension was to be treated as on duty with full pay and allowances as per applicant. The applicant approached this Tribunal praying for treatment of suspension period on full pay and allowances.

2. Against the order of recovery of Rs 2000/- the applicant filed appeal before the Director of Postal Services and vide order dated 6.9.86, the appeal was dismissed. The applicant has prayed that the respondents be directed to ~~to~~ refund a sum of Rs 280/- with interest which was deducted from his pay during the period from 22.8.71 to 31.12.71. and also to refund Rs 830/- along with interest which has been deducted from the pay of the applicant during the period from 30.8.86 to 30.11.87.


3. Earlier punishment was minor punishment and the applicant was placed under suspension and in view of the fact that the applicant ^{was} subsequently acquitted and reinstated the position will be as if he was never guilty of the charges levelled against him. In view of the fact that the applicant was ^{of all charges} acquitted/and reinstated ~~xxxxxx~~, the suspension

W

order was not justified. In view of the fact that the suspension order was not justified the applicant will be entitled to full pay during the period in which he was placed under suspension and in view of the acquittal he will be entitled to refund of Rs 830/- except for the period which is to be treated on leave for which a decision will be taken by the respondents after giving hearing to him within a period of two months.

4. The respondents are directed to refund Rs 830/- and not to make any further recovery. The application is allowed. No order as to costs.


Adm. Member.


Vice Chairman.

Shakeel/-

Lucknow: Dated: 12/3/1993

Amendment
Application
13-1-88

-7 copy

A18

Page NO 162/2

Amendment Application,

114

Regn NO 1254/1987

Samoy Pd. Gupta

VS

U.O-I

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

Civil Misc. Application for Ammendment NO. of 1988

IN

REGISTRATION NO. 1254 OF 1987

Samay Prasad Gupta Applicant

Versus

Union of India and others Respondents.

Application for ammendment in the Claim
petition on behalf of Samay Prasad Gupta.

The applicant most respectfully submits as under :

1) That in para (xvi) of the original application
filed by the applicant due to mistake wrong plea has
been taken and as such the same may be deleted and
following para may be substituted :-

(xvi) That a perusal of the aforesaid order dated
18.2.84 through which the applicant has been
reinstated in service would show that the period
from the date of dismissal till joining back duty
at Gonda Head Post Office, Gonda has been treated
as continuous suspension which can not be in any

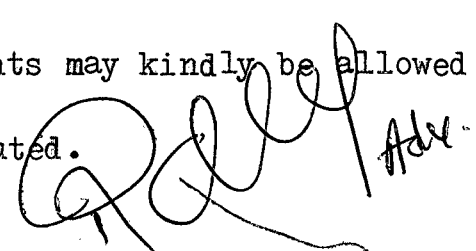
case sustained in eye of law as the same is illegal. In this connection, it is submitted that it is a well settled law that in such cases where a person is acquitted by a competent Court of Law, such person has to be awarded full pay and allowances along with seniority and other consequential benefits. But in the present case the respondent has not made any specific order in this connection and no arrears of pay and allowances have been paid to the applicant and as such the action of the respondent is highly unjustified and arbitrary.

2. That in para 9 under which reliefs have been claimed, Relief No. (a) may be deleted and the following para may be substituted :-

9(a). To issue direction or order directing to the respondent to pay to the applicant full pay and allowances *from the date of suspension i.e. 22.1.72 to 21.3.84.* along with seniority and all other consequential benefits, *regularising services*

P R A Y E R

It is most respectfully prayed that the above mentioned proposed ammendments may kindly be allowed and the same may be substituted.


(RAKESH VARMA)
Advocate

Counsel for the Applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL

BENCH AT ALLAHABAD Reg. no. 1254 of 1907
Central Administrative Tribunal

REGISTRATION NO.

Additional Bench At Allahabad
Date of Filing 23/12/87

OR

Date of Receipt

(Application Under Section 19 of the Administrative Tribunals Act, 1985)
for Registrar.

SAMAY PRASAD GUPTA Applicant

VERSUS

Union of India & Others Respondents

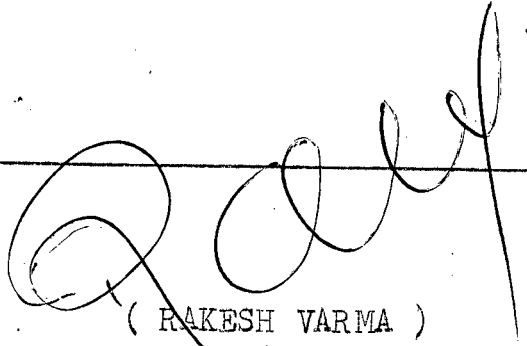
I N D E X

S/No.	Description of papers relied upon	Page
1.	Application	1 - 16
2.	<u>Annexure - I</u> Punishment Order dated 24.8.87 passed by Superintendent of Post Offices, Gonda Division, Gonda.	17 - 24
3.	<u>Annexure - II</u> Copy of Judgment dated 9.2.84 passed by Addl. Session Judge VIth, Gonda acquitting the applicant.	25 - 39
4.	<u>Annexure - III</u> Copy of order dated 2.2.87 passed by Hon'ble High Court, Lucknow Bench dismissing criminal appeal of State	40 - 42
5.	<u>Annexure - IV</u> Copy of order dated 18.2.84 passed by Superintendent of Post Offices, Gonda Division, Gonda, reinstating the applicant in service.	43 - 43
6.	<u>Annexure - V</u> Copy of representation dated 24.2.84 for refund of deduction to Supdt. of Post Offices, Gonda Division, Gonda.	44 - 44
7.	<u>Annexure - VI</u> Copy of appeal dated 3.9.86 to DPS, Lucknow.	45 - 46

Noted for 7/1/88

Q. Ali
20/12/88
H. S. R.

S/No.	Description of papers relied upon	Page
8.	<u>Annexure - VII</u> Copy of appeal dated 18.2.87 to The DPS, Lucknow.	47-47
9.	Demand Draft as detailed in paragraph 12 of this application.	
10.	Vakalatnama	48-48



(RAKESH VARMA)
COUNSEL FOR THE APPLICANT

For use in Tribunal Office

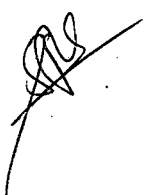
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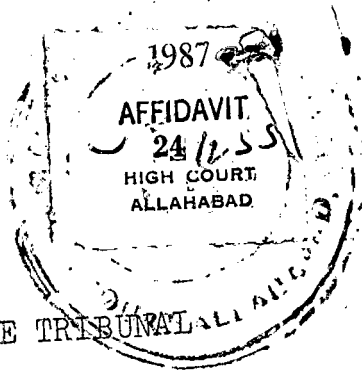
or

Date of Receipt by post

Registration No.

Signature
for Registrar





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD.

REGISTRATION NO. OF 1987

BETWEEN

SHRI SAMAY PRASAD GUPTA Applicant

AND

1. Union of India
2. Director of Postal Services
3. Superintendent of Post Offices

..... Respondents.

DETAILS OF APPLICATION:

1. Particulars of the applicant:

- i. Name of the applicant : Samay Prasad Gupta
- ii. Name of father/
husband : Shri Ram Sunder
- iii. Age of the applicant : 50 years
- iv. Designation of
the application : Postal Assistant,
Head Post Office,
Gonda. (U.P.)
- v. Office address : Head Post Office,
Gonda. (U.P.)
- vi. Address for service : -do-
of notices

2. Particulars of respondents:

Respondent No. 1

- i. Name of respondent : Union of India,
Through Secretary,
Ministry of Post &
Telegraphs,
New Delhi.



8/10

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- ii. Name of the father/ husband : N.A.
- iii. Age of the respondent : N.A.
- iv. Designation and particulars of office (name and station) in which employed : Secretary,
Ministry of Post & Telegraphs,
New Delhi.
- v. Office Address : Ministry of Post & Telegraphs,
New Delhi.
- vi. Address for service of notices : -do-

Respondent No. 2

- i. Name of the respondent : Director of Postal Services, U.P. Circle, Lucknow.
- ii. Name of the father/ husband : N.A.
- iii. Age of the Respondent : N.A.
- iv. Designation and particulars of office (name and station) in which employed. : Director of Postal Services, U.P. Circle, Lucknow.
- v. Office address : Director of Postal Services, U.P. Circle, Lucknow.
- vi. Address for service of notices : -do-

Respondent No. 3

- i. Name of the respondent : Superintendent of Post Offices, Gonda Division, Gonda. (U.P.)
- ii. Name of the father/ husband : N.A.
- iii. Age of the respondent : N.A.
- iv. Designation and particulars of office (name and station) in which employed : Superintendent of Post Offices, Gonda Division, Gonda. (U.P.)
- v. Office address : Superintendent of Post Offices, Gonda Division, Gonda. (U.P.)
- vi. Address for service of notices : -do-



[Handwritten signature]

3. Particulars of the order against which application is made:

The application is against the following order :-

- i. Order No. with reference to Annexure : Order No. F-13/67-68/1 ANNEXURE No. IV
 - ii. Date : 18.2.84
 - iii. Passed by : Superintendent of Post Offices, Gonda Division, Gonda - 271001.
 - iv. Subject in brief : The Superintendent of Post Offices, Gonda Division, Gonda has reinstated the applicant after acquittal of criminal case w.e.f. 22.3.84 and ~~not from the date of suspension i.e. 22.1.72~~ *No order for payment of full pay & arrears has been made.*
4. Jurisdiction of the Tribunal: *made.*

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

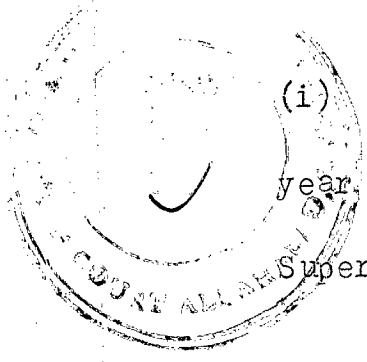
5. Limitation:

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

6. Facts of the case:

The facts of the case are given below :-

- (i) That the applicant had been appointed in the year 1965 as Postal Assistant under the control of Superintendent of Post Offices, Gonda.



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(ii) That an F.I.R. was lodge against the applicant by the Department Under Sec. 409 I.P.C. in Pandey Bazar Police Chowki, Gonda on 11.6.70 in which it was stated that the applicant had misappropriated a sum of Rs.2,000/- (Rupees two ^{thousand} ~~hundred~~ only).

(iii) That in view of above F.I.R. the matter was under investigation before the Hon'ble Chief Judicial Magistrate, Gonda.

(iv) That in the meantime on 24.8.71 the Superintendent of Post Offices, Gonda awarded punishment to the applicant for recovery of Rs.2,000/- (Rupees two thousand only) from the pay of the applicant in 36 equal instalments. A copy of the punishment order dated 24.8.71 is annexed herewith as ANNEXURE - I to this

application.
 (v) *The applicant had preferred his appeal vide application dated 5.9.71 to the P.M.G. Lucknow and Dy Director Postal Services Lucknow against the order of deduction amounting to Rs 2000/- in 36 instalments, without ascertaining distinct act of mis-conduct and without a fresh show cause notice.*
 (v) That the above punishment was absolutely

illegal as the matter was pending before the Criminal Court, Gonda and as such the Superintendent of Post Offices has no jurisdiction to pass this order.



(vi) That the applicant was suspended by an order No. F-18/67-68/2 CH-I dated 22.1.72 Under Rule 10 Sub-Rule 1(b).

Signature

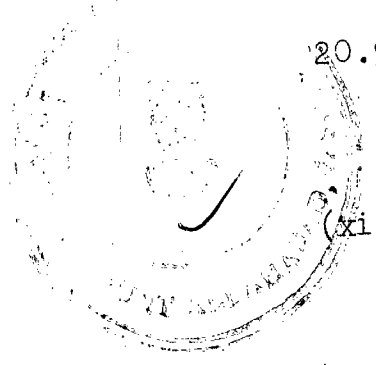
(vii) That in view of suspension order the recovery which was started earlier from the pay of the applicant was stopped as the applicant became out of working.

(viii) That on 20.9.83 criminal trial No. 1123 of 1982 which was filed against the applicant by the Department regarding misappropriation of Rs.2,000/- (Rupees two thousand only) was decided by the Chief Judicial Magistrate, Gonda, in which the applicant was punished for imprisonment of two years with fine of Rs.2,000/- (Rupees two thousand only).

(ix) That immediately after pronouncement of the aforesaid judgment, the applicant was dismissed from the service on 29.12.83 by the Superintendent of Post Offices, Gonda.

(x) That on 24.9.83 the applicant filed a Criminal Appeal No. 155 of 1983 before the Hon'ble Court of Additional Session Judge VIIth, Gonda against the judgment of Chief Judicial Magistrate, Gonda dated 20.9.83 convicting the applicant.

(xi) That the above Criminal Appeal was decided



29

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- 6 -

on 9.2.84 in which the applicant was clearly acquitted from the charges. A copy of the said judgment delivered by the Additional Session Judge VIIth, Gonda is annexed herewith as ANNEXURE - II to this application.

(xii) That finding of the Hon'ble Session Judge was not on a technical ground. The learned judge had

acquitted the applicant on merit.

Ex A. That the Subd-Post office Gonda Division, communicated vide his order of 30.3.88 that the period 24.1.84 to 20.2.84 and from 22.2.84 to 21.3.84 justified suspension for the purpose of pay allowances, without any fresh notice after exoneration by the court and misconstrued the earlier proceedings & so continuance in progress.

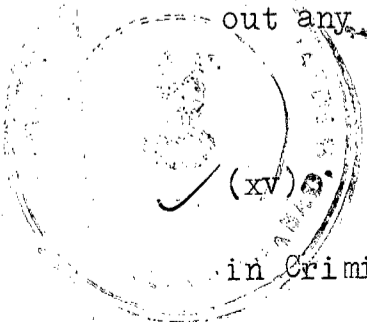
(xiii) That a Criminal Appeal No. 1837 of 1984 was

filed by the State against the judgement of Hon'ble Addl. Session Judge VIIth, Gonda before the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, which was rejected at the admission stage on 2.2.87.

A copy of the said order passed by Hon'ble High Court of Judicature at Allahabad, Lucknow Bench is annexed herewith as ANNEXURE - III to this application.

(xiv) That a perusal of the aforesaid judgment passed by the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench would show that the appeal was rejected on merit as the appellant failed to make out any case.

(xv) That after the pronouncement of the judgment in Criminal No. 155 of 1983 delivered by the Hon'ble



819

Addl. Session Judge VIIth, Gonda, the applicant was reinstated in service as Postal Assistant by an order passed by the Superintendent of Post Offices, Gonda dated 18.2.84. A copy of the said order dated 18.2.84 is annexed herewith as ANNEXURE - IV to this application.

(xvi) That a perusal of the aforesaid order dated 18.2.84 through which the applicant has been reinstated in service would show that the period from the date of dismissal till joining back duty at Gonda Head Post Office, Gonda has been treated as continuous suspension which can not be in any case sustained in eye of law as the same is illegal. In this connection, it is submitted that it is a well settled law that in such cases where a person is acquitted by a competent Court of Law, such person has to be awarded full pay and allowances along with seniority and other consequential benefits. But in the present case the respondent has not made any specific order in this connection and no arrears of pay and allowances have been paid to the applicant and as such the action of the respondent is highly unjustified and arbitrary.

(xvii) That however, the applicant in compliance



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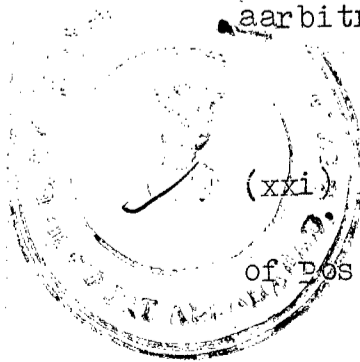
of the order dated 18.2.84 joined his duty on 22.3.84 as Postal Assistant at Head Post Office, Gonda.

(xviii) That on 24.2.84 the applicant preferred a representation to the Superintendent of Post Offices, Gonda, requesting therein to refund a sum of Rs.280/- (Rupees two hundred eighty only) which was deducted from his pay in compliance of the punishment order dated 24.8.71 passed by the Superintendent of Post Offices, Gonda. A copy of the said representation dated 24.2.84 is annexed herewith a ANNEXURE - V to this application.

(xix) That the aforesaid representation went in vain as no reply has ever been received by the applicant.

(xx) That the Superintendent of Post Offices, Gonda again started recovery of Rs.2,000/- (Rupees two thousand only) from the pay of the applicant and accordingly monthly deduction from the pay of the applicant has been started w.e.f. 30.8.86 in spite of acquittal by the Competent Court of Law. This act of the Superintendent of Post Offices, Gonda is wholly unjust, illegal, arbitrary and without jurisdiction.

(xxi) That being aggrieved by this act of Supdt. of Post Offices, Gonda, the applicant filed an appeal



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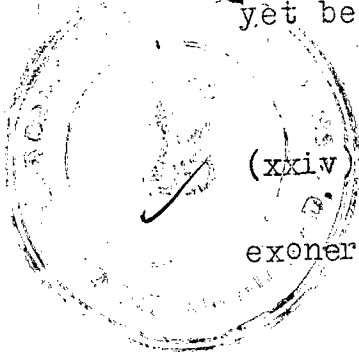
- 9 -

to the Director of Postal Services, U.P. Circle, Lucknow on 8.9.86 which has not yet been disposed off. A copy of the said appeal dated 8.9.86, addressed to the D.P.S., Lucknow Region, Lucknow, which was sent through the Superintendent of Post Offices, Gonda is annexed herewith as ANNEXURE- VI to this application.

(xxii) That after pronouncement of the judgment in Criminal Appeal No. 1837 of 1984 passed by the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench dated 2.2.87 when criminal case against the applicant came to an end and the judgment of the Hon'ble Addl. Session Judge VIIth, Gonda, upheld and consequently the applicant completely exonerated from the charge U/S 409 I.P.C. he preferred an appeal to the Director of Postal Services, Lucknow on 18.2.87, requesting therein to reinstate him from the date of suspension with full pay, allowances and all other consequential benefits. A copy of the said appeal dated 18.2.87 is annexed herewith as ANNEXURE - VII to this application.

(xxiii) That the said appeal dated 18.2.87 has not yet been disposed off.

(xxiv) That the applicant has been completely exonerated by the Competent Court of Law i.e. Addl.



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Session Judge, Gonda.
 6. ~~XXIV A~~ added u

(xxv) That the finding of the Addl. Session Judge,

Gonda is based on merit and not on technical ground.

6. ~~XXV A~~ added — ✓

(xxvi) That a Criminal Appeal which was filed before the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench against the judgment of Addl. Session Judge, Gonda, has been dismissed on 2.2.87 and the State of U.P. has not gone to the Hon'ble Supreme Court of India against the said order.

(xxvii) That the Superintendent of Post Office, Gonda can not sit over the judgment of the Addl. Session Judge, Gonda.

(xxviii) That the applicant having been acquitted by the Competent Court of Law is entitled to be reinstated in service from the date of suspension i.e. 22.1.72 with full pay and allowances and all other consequential benefits.

6. ~~XXIV Para added~~ → ✓

6. ~~XXV Para added~~ → ✓

7.

Details of the remedies exhausted

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

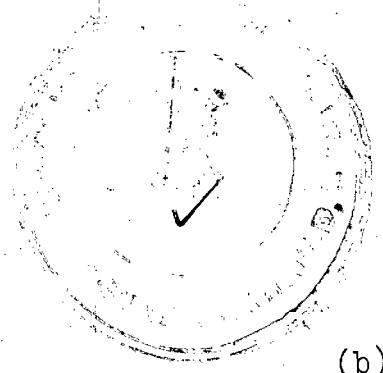




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exonerated by the competent Court of Law
i.e. Addl. Session Judge VIIth, Gonda.

- (2) - because the finding of the Addl. Session Judge VIIth, Gonda is based on merit and not on technical ground.
- (3) - because a criminal appeal which was filed before the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench against the judgment of Addl. Session Judge VIIth, Gonda has been dismissed on 2.2.87 and the State of U.P. has not gone to the Hon'ble Supreme Court of India against the order of Hon'ble High Court.
- (4) - because the Superintendent of Post Offices, Gonda can not sit over the judgment of the Addl. Session Judge VIIth, Gonda.
- (5) - because the applicant having been acquitted by the competent Court of Law is entitled to be reinstated in service from the date of suspension i.e. 22.1.72 with full pay and allowances and all other consequential benefits.

(b) To issue a direction or order, directing to the respondent to refund a sum of Rs.280/- (Rupees two

hundred eighty only) with interest which was deducted from the pay of the applicant during the period 22.8.71 to 31.12.71.

(c) To issue a direction or order, ~~to the~~ directing to the respondent to refund Rs.830/- (Rupees eight hundred thirty only) along with interest which has been deducted from the pay of the applicant during the period from 30.8.86 to 30.11.87.

(1) - because the applicant has been completely exonerated by the competent Court of Law i.e. Addl. Session Judge VIIth, Gonda.

(2) - because the finding of the Addl. Session Judge VIIth, Gonda is based on merit and not on technical ground.

(3) - because a criminal appeal which was filed before the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench against the judgment of Addl. Session Judge VIIth, Gonda has been dismissed on 2.2.87 and the State of U.P. has not gone to the Hon'ble Supreme Court of India against the order of Hon'ble High Court.

(4) - because the Superintendent of Post Offices, Gonda can not sit over the judgment of the Addl. Session Judge VIIth, Gonda.



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(d) To award cost of the petition.

10. Interim order, if any prayed for :

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

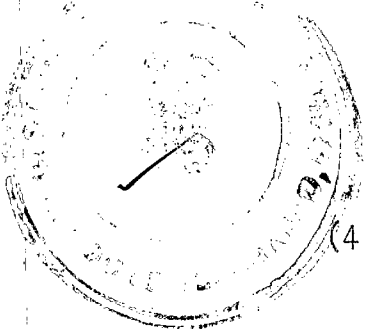
(a) To issue a direction ~~that~~ to Superintendent of Post Offices, Gonda to stop recovery from the pay of the applicant.

(1) - because the applicant has been completely exonerated by the competent Court of Law i.e. Addl. Session Judge VIIth, Gonda.

(2) - because the finding of the Addl. Session Judge VIIth, Gonda is based on merit and not on technical ground.

(3) - because a criminal appeal which was filed before the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench against the judgment of Addl. Session Judge VIIth, Gonda has been dismissed on 2.2.87 and the State of U.P. has not gone to the Hon'ble Supreme Court of India against the order of Hon'ble High Court.

(4) - because the Superintendent of Post Offices, Gonda can not sit over the judgment of the Addl. Session Judge VIIth, Gonda.



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11. In the event of application being sent by Registered Post, it may be stated whether the applicant desires to have oral hearing at the admission stage and if so, he shall attach a self-addressed Post Card/ Inland Letter, at which intimation regarding the date of hearing could be sent to him.

12. Particulars of Bank Draft/Postal Order in respect of the Application Fee :

1. Name of the Bank Head Post Office Alud.
on which drawn

2. Demand Draft No. _____

Or

1. Number of Indian Postal Order(s) Head Post Office Alud.

2. Name of the issuing Post Office - DD 567085

3. Date of Issue of Postal Order(s) 22.12.87

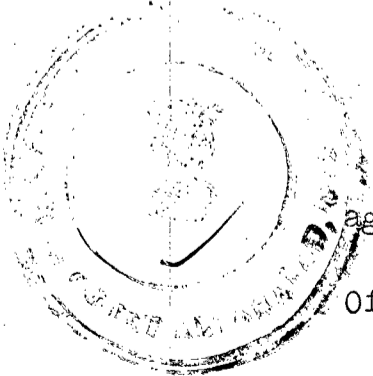
4. Post Office at which payable

13. List of enclosures:

Please see Index on the top of the application.

VERIFICATION

I, Samay Prasad Gupta s/o Shri Ram Sunder
age 50 years working as Postal Assistant in Head Post
Office, Gonda (U.P. do hereby verify that the contents
of paras 1 to 13 are true to my personal knowledge



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- 16 -

and paras to believed to be true on legal
advice and that I have not suppressed any material
fact.

Date: 23/12/87

Place: Alled

Signature of the Applicant.

To:

The Registrar,
Central Administrative Tribunal,
Allahabad.



17

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Annexure-I

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

OFFICE OF THE SUPERINTENDENT OF POST OFFICES GONDA DIVISION

Memo No. F-18/87-68/Ch-III

Dated at Gonda the 24-8-71.

Shri Samai Pd. Gupta ~~was~~ clerk Gonda City PO was informed under this office memo No. even dated 15-3-71 that it was proposed to take action against him as required under Rule 16 of the CCS(CEA) rules 1965 on the basis of the allegation produced below.

2. Shri Samai Pd. Gupta worked as SB clerk Gonda city from 17-11-66 to 25-7-67. Shri Jagdish Chandra Srivastava Advocate RadhaKund, Gonda, presented an application for the purchase of NSC on 19-1-67. The SB clerk Shri Samai Pd. obtained following blank certificates from Shri Ram Achhaibai Dube SPM Gonda City.

10 NS/D 184928 to 184947 - 20

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He prepared the certificates in his hand writing noting the name of the investor, the registered no. and date of issue and impressed them with the date stamp of the Gonda City of 19-1-67. These certificates were also initialled by Shri Samai Pd. Gupta who prepared the issue journal also. The investor stated that he handed over the amount of Rs.2000-00 to Shri Ram Achhaibar Dubey who delivered the certificates to the investor. Shri Samai Pd. Gupta is therefore, alleged to have prepared the above certificates in the name of Shri Jagdish Chandra Srivastava without receiving the amount. He also did not obtain the signature of the SPM in token of having

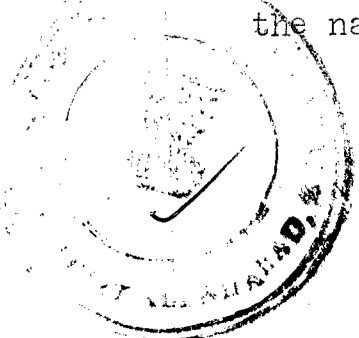
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R. Achha
pm.

- 2 -

shown Rs.2000-00 as advance to him on the above date. Shri Ram Achhaibar Dubey denied to have accepted the money and delivered the certificates to the investor. The Govt. was, therefore, put to a lose of Rs.2000-00 plus interest thereon. It is, therefore, alleged that Shri Samai Pd. Gupta infringed the following rules of D.G. PO Circular No. 44 dated 15-2-66.

- 1- Rule 12(2):- Shri Samai Pd. Gupta prepared the certificates without receiving the amount. He did not deliver the certificates to the purchaser himself after obtaining the investor's receipt on the purchase application.
- 2- Rule 16:- Shri Samai Pd. Gupta did not keep the purchase applications on record.
- 3- Rule 23/1:- Shri Samai Pd. Gupta did not obtain the acknowledgement of the SPM for Rs.2000-00 madeover to him as advance since the amount was required to be treated as advance as we given to the SPM Direct.

3. The case in short is that, Shri Samai Pd. Gupta worked as SB clerk Gonda City from 17-11-66 to 25-7-67. Shri Jagdish Chandra Srivastava Advocate, Radhkund, Gonda presented an application for the purchase of NSCs on 19-1-67. The SB clerk obtained 20 blank certificates from Shri Ram Achhaibar Dubey SPM Gonda City. He prepared the certificates in his hand writing noting the name of the investor, the registered no. and dated



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- 3 -

of issue and impressed them with date stamp of Gonda City P.O. of 19-1-67. These certificates were also initialled by Shri Sami Pd. Gupta who prepared the issue journal also. Shri Samai Pd. Gupta prepared the above certificates in the name of Shri Jagdish Chandra Srivastava without actually receiving the amount. He himself also did not obtain the signature of the spm in token of having shown Rs.2000-00 as advance to him on the above date. Shri Ram Achhaibar Dubey denied to have received the money. The certificates was delivered to the investor and thus the Govt. was put to a loss of Rs.2000-00 plus interest on the certificates.

4. The official was asked to submit his written statement of defence within 15 days of the receipt of aforesaid memo. He submitted his defence on 5-6-71 received in this office on 7-6-71.

5. The first allegation against the official is that he prepared the certificates without receiving the amount. He did not deliver the certificates to the purchaser himself after obtaining the investor's receipt on the purchase application. The official in his defence says that "Shri R.A. Dubey was the SPM and in full power to run the office of Gonda City using his discretion and applying Rule with the common sence". He says that Shri Jagdish Chandra Srivastava purchaser of NSCs for Rs.2000-00 approached the SPM direct, 20 NSCs were handed over by Shri R.A. Dubey to the official and the official signed the stock book in token of having received these certificates. The official says that



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etc
R.A. Dubey

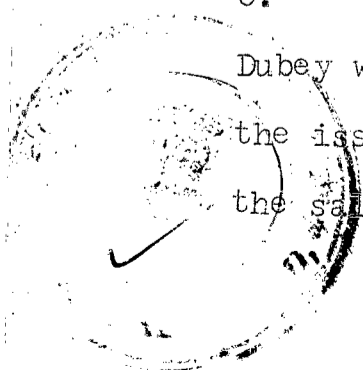
- 4 -

Shri R.A. Dubey asked him to show Rs.2000-00 as made over to SPM in his hand to hand receipt book, which he did. The official also states that this ~~xx~~ practice of transferring the the cash to the SPM is not unique but is in vogue in Sub-Offices. The version of the Official regarding transfer of cash is quoted below :-

"In case of heavy amounts in any transaction cash is always transferred to the treasurer direct and where SPM performs the duties of treasurers cash is transferred to him direct by the member of the public. The only thing required to be done is to show the particulars of cash as transferred to the official concerned in the hand to hand receipt book. So was done by me."

The official further says that it was probably the time of Special Drive and in fact he did not infringe the rule on the subject. The official mentions that there was loss to Govt. in this case. He says that the money was given by Shri Jagdish Chandra Srivastava to Shri R.A. Dubey and if he did not account for it the clerk cannot be blamed for negligence on the SPM's part. The official further says that the purchase application was initialled by him and signed by the SPM with 20 NSCs.

6. The contention of the official that Shri R.A. Dubey was the SPM in full power etc. has no relvancy with the issues involved in this case. It is correct that the sale proceed of the certificate, were given by the



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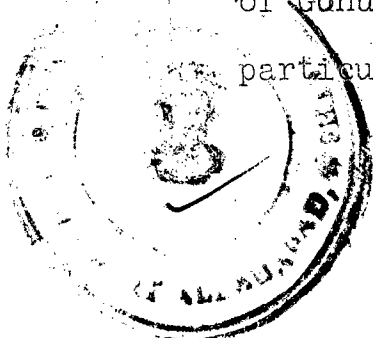
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- 6 -

the official produced any such record ~~xxx~~ to establish his claim that the amount was entered in the hand to hand receipt book and that the SPM referred to acknowledge it. There is nothing on record to show that this extra-ordinary behaviour on the part of the SPM was reported by the clerk to this office. The official also did not explain as to why the issue journal was prepared by him unless the value of the certificates had been properly accounted for. The contention of the official that the certificates were signed by the Shri R.A. Dubey is not correct. Certificates show that they were not signed by the SPM. In fact Shri R.A. Dubey did not come into picture at all but Shri Samai Pd. figures at all the stages in this case as discussed above. The allegation is thus proved.

7. The next allegation is that Shri Samai Pd. Gupta did not keep the purchase application on records infringing rule 16 of the D.G. PO Circular No. 44 dated 15-2-66 the official says that the purchase application was filled and on one occasion the guard file was intentionally stolen by Shri ~~xxx~~ R.A. Dubey in August ~~67~~ 67 while Shri A.P. Misra was working as SB Clerk and the matter was reported by Shri S.O. Tiwari to this office. This office records show that no such report of theft of NSC file was ever received in this office. This is simply a cock and bull story compared by the official. In absence of any evidence in support of this contention I do not find any reason to reply upon it. The records of Gonda City were examined and it is found that this particular application is not on record. The custody of



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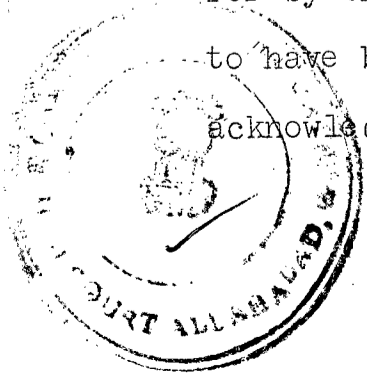
corrected by R. A. Dubey

- 7 -

the guard file was the responsibility of the official. Rule 12(2) of the D.G. special PO Circular No. 44 dated 15-2-66 requires that the purchase application alongwith the certificates should be returned by the SPM to the clerk and it is the clerk who delivers the certificates. In this way the purchase application and the certificates were not returned to the clerk. The Official did not ask the SPM to return the purchase application the certificates and issue journal to him. His failure to keep the purchase application on record is thus proved.

8. The third charge regarding not obtaining the acknowledgement for the transfer of Rs.2000-00 has already been discussed above while discussing charge no. 1. Rule 23(1) of P&T Manual Volume vi requires that the amount transferred to the SPM should be noted in the hand to hand receipt book and the SPM should acknowledge the receipt. In this case neither the amount was noted in the hand to hand receipt book nor it was acknowledged by the SPM.

9. As discussed above all the allegations mentioned above are proved. Now the question is to examine as to what extent these lapses directly resulted in the loss of Rs.2000/- in this case. Had the official prepared the certificate after receiving their value the loss would have not occurred. The money would have been accounted for by the SPM. Similarly had the money been shown to have been transferred to the SPM after taking his acknowledgement in token of having received it, the



SPM
case file
15/2/66

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- 8 -

amount would have been taken into account by Shri R.A. Dubey. Since the clerk failed to obtain the SPM's acknowledgement in his hand to hand receipt book. The SPM got the opportunity to do away with the amount. Thus it is proved that the infringement of rule 12(2) of D.G. PO Circular No. 44 dated 15-2-66 and rule 23(1) of the P & T Man Valume VI directly resulted in the loss of Rs.2000-00.

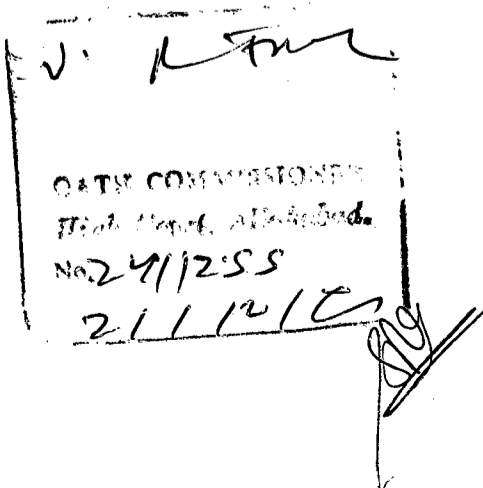
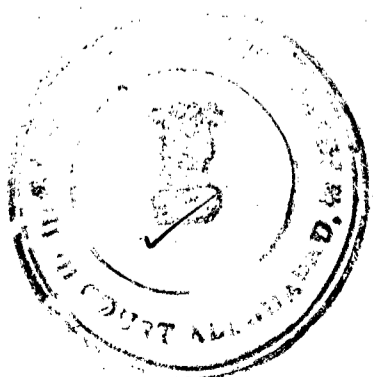
10. As discusse above I find a direct link between negligence of the offical and the loss in this case. I, therefore, order that a sum of Rs.2000.00 should be recovered from the pay of Shri Samai Pd. Gupta in 36 equal instalments.

Sd/-
Supdt. of Post Offices
Gonda Division

Regd./A.D.
Copy to:-

1. Shri Samai Pd. clerk Gonda H.O.
2. Post Master Gonda for n/a.
3. D.A.A. P&T Delhi for n/a.
4. P.F. of the official.
5. C.R. of the official.
6. M/S of the official.
7. P.R. Divisional Office Gonda.
8. V.R. Divisional office Gonda.
9. Post Master General U.P. Circle, Lucknow.
10. Spare.

Sd/-
Supdt. of Post Offices
Gonda Division.



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ANNEXURE - II

प्रतिलिपि निर्णय पत्र दिनांकित 1-2-84

पारित द्वारा श्री मोहम्मद आविद सप्तम अपर सत्र न्यायाधीश,
गोण्डा स्थान गोण्डा जिला गोण्डा

दाण्डक अपील संख्या 155/83 अन्डर सेक्शन 409

आई० पी० सी० थाना कोतवाली नगर गोण्डा

समय प्रसाद गुप्ता पुत्र राम सुन्दर सा० कजोरगंज जनपद गोण्डा

बनाम

राज्य

ह० समय प्रसाद

18

22-2-84

आर० 1837/84



E. T. L. Mumbi
R. L. L.

[Signature]

[Signature]

न्यायालय सप्तम अपर सत्र न्यायाधीश, गोण्डा

उपस्थित :- श्री मोहम्मद आविद, एव0 जे0 एस0

दाण्डक अपील संख्या - 155/83 समय प्रसाद प्रति

राज्य,

दाण्डक अपील संख्या 158/83, राम अछैवर

प्रति राज्य,

निर्णय

=====

दाण्डक अपील संख्या 155/83 समय प्रसाद द्वारा व
दाण्डक अपील संख्या 158/83 राम अछैवर द्वारा, श्री एम0 एस0 समी0
मुख्य न्यायिक मैजिस्ट्रेट गोण्डा के निर्णय व आदेश दिनांक 20-1-83
के विरुद्ध दायर की गई है जिसके द्वारा उन्होंने दण्ड वाद संख्या
1123/82 में अपीलार्थीगण अभियुक्तगण समय प्रसाद व राम अछैवर को
अन्तर्गत धारा 409 भा0 दौ0 सं0 दोष सिद्ध करते हुए दो-दो वर्ष के
कठोर कारावास का दण्ड दिया था और साथ ही साथ प्रत्येक
अपीलार्थी अभियुक्त को दो हजार रुपये का अर्थ दण्ड दिया था जिसके
न अदा करने पर प्रत्येक को 7-7 माह के कठोर कारावास की सजा
दी थी ।

2- अभियोजन पक्ष की कहानी संक्षेप में नोवे दो जा रही है :-

अपीलार्थी अभियुक्त राम अछैवर अभियोजन पक्ष के अनुसार
दिनांक 19-1-67 को सिद्धी पोस्ट आफिस गोण्डा में सब पोस्ट
मास्टर के पद पर कार्यरत था व अपीलार्थी अभियुक्त समय प्रसाद उक्त
पोस्ट आफिस में काउन्टर क्लर्क के पद पर कार्यरत था । उस दिन
जगदोश चन्द्र श्रीवास्तव एडवोकेट अ0 स0 2 ने 10 वर्षीय नेशनल
सेविंग सर्टीफिकेट संख्या 20 प्रत्येक 100 रु0 मूल्य वाले कुल 2000/- रु0



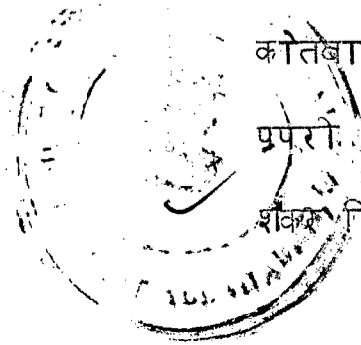
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Q. Aul

- 2 -

मे खरीदे थे । उन्होंने नेशनल सेविंग स्टॉर्फिकेट खरीदने हेतु प्रार्थना पत्र व 2000/- रु० धनराशि अपोलार्थी अभियुक्त राम अछैवर दूबे, सब पोस्ट मास्टर को दिया था जिन्होंने उनसे कहा कि वह लगभग आधा घन्टा के पश्चात् स्टॉर्फिकेट ले जाय । दुवारा जब जगदीश चन्द्र श्रीवास्तव एडवोकेट अ० स० 2 सिटी पोस्ट आफिस गोण्डा गये तो उन्होंने अपोलार्थी अभियुक्त राम अछैवर दूबे ने 2000/- मूल्य के 10 वर्षीय नेशनल सेविंग स्टॉर्फिकेट संख्या 184928 लगायत संख्या 184947 प्रपरो 1 लगायत 20 प्रपरो कुल 20 अदद दिया । इन बीसो स्टॉर्फिकेट को प्रविष्टियाँ अपोलार्थी अभियुक्त समय प्रसाद के हस्त लेख में थी व सिटी पोस्ट आफिस गोण्डा द्वारा जारी करने की तिथि व मुहर थी । मास जून 1970 में किसी दिन आवश्यकता पड़ने पर जगदीश चन्द्र श्रीवास्तव एडवोकेट अ० स० 2, उन बीसो दस वर्षीय नेशनल सेविंग स्टॉर्फिकेट में से दो स्टॉर्फिकेट भुनाने सिटी पोस्ट आफिस गोण्डा गया तो उस समय के कार्यरत सब पोस्ट मास्टर श्री कृष्ण चन्द्र श्रीवास्तव अ० स० 4 ने बताया कि उन स्टॉर्फिकेट के नम्बर रजिस्टर में मिलान करने पर सिटी पोस्ट आफिस गोण्डा द्वारा दिनांक 19-1-67 को जारी किए जाने का पता नहीं चलता । उन स्टॉर्फिकेट के न भुनाने के कारण श्री जगदीश चन्द्र श्रीवास्तव एडवोकेट ने दिनांक 19-1-67 को खरीदे गये सभी दस वर्षीय नेशनल सेविंग स्टॉर्फिकेट का व्योरा दिया व दिनांक 4-6-70 को उन्होंने सुपरिन्टेन्डेन्ट पोस्ट आफिस गोण्डा को शिकायत की जिसकी विभागीय जाँच श्रीराम अ० स० 1, तत्कालिक कम्प्लेन्ट इन्स्पेक्टर गोण्डा डिवाजन ने की जिन्होंने जगदीश चन्द्र श्रीवास्तव एडवोकेट अ० स० 2 का बयान प्रपरो क 2 व अपोलार्थी अभियुक्त समय प्रसाद का बयान प्रपरो क 3 लिया । अन्त में उन्होंने थाना कोतवाली नगर गोण्डा में दिनांक 11-6-70 को इस मामले को रिपोर्ट प्रपरो क-1 की । दिनांक 12-6-70 को कान्स्टेबल मुहरिंद रमा शर्मा मिश्र अ० स० 5, ने रिपोर्ट प्रपरो क-1, के आधार पर प्रथम



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- 3 -

सूचना रिपोर्ट प्रपरो क-5 विधी और उन्होंने दैनिक नन्दनी मे सामया-
पंजीकृत किया जिसकी सत्यप्रतिलिपि प्रपरो क-6 है । इस वाद को
विवेचना उप निरोक्षक अमर जीत सिंह अ० सा० ।, के सुपुर्द की गई
जिनकी प्रारंभिक अन्वेषारण के पश्चात् यह मामला विवेचना हेतु एस०
आई० एस० के सुपुर्द कर दी गई । तत्पश्चात् इस मामले की विवेचना
उपनिरोक्षक अब्दुल समय जिनका अब स्वर्गवास हो गया है ने की ।
उन्होंने साक्षीगण के बयानात लिए । दिनांक 18-1-72 के अपोलार्थी
अभियुक्त समय प्रसाद का गिरफ्तार किया गया और उसके विरुद्ध आरोप
पत्र प्रपरो क-10 दिनांक 20-1-72 के दिया गया । अपोलार्थी
अभियुक्त राम अछैबर फरार हो गया था अतः उसके विरुद्ध धारा
82-83 को कार्यवाही की गई व बाद मे वालान मफसूरी
मे द्वारा आरोप पत्र प्रपरो क-12 किया गया ।

3- अपोलार्थीगण-अभियुक्तगण ने अपराध स्वीकार नहीं किया ।

4- न्यायालय मे अपोलार्थीगण अभियुक्तगण द्वारा दिये गये
बयान अन्तर्गत धारा - 313 द० प्र० सं० व उनकी ओर से भिन्न
भिन्न साक्षीगण के लिये गये सुन्नाव व विभागीय जांच के दौरान
अपोलार्थीगण-अभियुक्तगण द्वारा दिए गये कथनों के अवलोकन से यह
केस=है=कि प्रतीत होता है कि अपोलार्थी-अभियुक्त राम अछैबर का
यह केस है कि नेशनल सेविंग स्टोर्फिकेट का कसम कार्य काउन्टर विर्फक
अपोलार्थी अभियुक्त समय प्रसाद करते थे और यह कि उन्होंने ही
प्रश्नगत स्टोर्फिकेट मे प्रविष्टियाँ की थी और यह कि उसने राम
अछैबर दूबे ने कोई रूपया जगदोश चन्द्र श्रीवास्तव एडवोकेट से नहीं



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- 4 -

पायाथा । उसका यह भी कहना है कि यह कथित दिन सिंटो पोस्ट आफिस गोण्डा में बहैसियत सब पोस्ट मास्टर डिपूटी पर नहीं था । इसके विपरीत अपोलार्थी-अभियुक्त समय प्रसाद का यह केस है कि अपोलार्थी-अभियुक्त राम अछैबर दूबे ने जगदीश चन्द्र श्रीवास्तव एडवोकेट से 2000 रुपया की धनराशि प्राप्त की व उन्होंने उसे समय प्रसाद के नेशनल सेविंग स्टॉफिकेट तैयार करने के लिए दिया जिनकी आवश्यक प्रविष्टियाँ लिखने के पश्चात् उसने समय प्रसाद ने उन्हें राम अछैबर दूबे की जगदीश प्रसाद श्रीवास्तव एडवोकेट की खरीदारों की प्रार्थना पत्र के सहित वापस लौटा दिया था । अपोलार्थी-अभियुक्त समय प्रसाद के अनुसार यह हैन्ड टू हैन्ड बुक अनुप्राप्त करते थे जिसमें उन्होंने 2000 रुपया बतौर, एडवॉन्स टू सब पोस्ट मास्टर दिखाया था । विभागीय जाँच के दौरान यह विदित हुआ कि उक्त हैन्ड टू हैन्ड बुक व जगदीश चन्द्र श्रीवास्तव एडवोकेट के द्वारा दी गई खरीदारों की प्रार्थना पत्र संख्या 80 व ईसू जनरल पोस्ट आफिस से गायब था । प्रश्नगत धनराशि का कोई लेखा जोखा नहीं मिलता और यह कि वह सरकारी कोष में जमा नहीं की गई । जाँच का परिणाम यह निकला कि दोनों अपोलार्थीगण-अभियुक्तगण ने उपरोक्त धनराशि का रावान कर दिया और इस प्रकार दोनों ने केवल सेवा की हैसियत से उक्त धनराशि प्राप्त करके उसे सरकारी कोष में जमा न करके अपराधिक कार्य किया ।

5- अपोलार्थी-अभियुक्त राम अछैबर ने प्रतिरक्षा में कोई साक्ष्य नहीं प्रस्तुत किया है । अपोलार्थी-अभियुक्त समय प्रसाद ने अपने प्रतिरक्षा में स्वपरोक्षण संख्या 61/1972 की सत्य प्रतिलिपि

प्रपरोष-1 दाखिल की है जिसके अनुसार अपोलार्थी-अभियुक्त राम



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अछेबर के धारा 409 व 468 के अधीन दोष सिद्ध किया गया था व साश्रम कारावास व अद्वैदण्ड को सजा दी गई थी । इसके अतिरिक्त सा० बाद सं० 186/75 के निर्णय की प्रतिलिपि प्रपरी छ-2 भी दाखिल की है जिसमें अपीलार्थी अभियुक्त समय प्रसाद का दावा पोस्टल विभाग के विरुद्ध डिग्री हुआ था जिसके अनुसार उससे टेलीग्राम ^{विभाग} द्वारा 1458 स्वघा वसूल करने के आदेश के निरस्त किया गया था । ये दोनों निर्णय इस मामले में नहीं पढ़े जा सकते क्योंकि वह इस मामले के निस्तारण में सुसंगत नहीं हैं ।

6- इस मामले के सिद्ध करने के लिए अभियोगन पक्ष ने श्रीराम अ० सं० 1 कम्प्लेंट इन्स्पेक्टर जिन्होंने विभागीय जाँच की थी व दावे जगदीश चन्द्र श्रीवास्तव अ० सं० 2 जिन्होंने प्रश्नगत स्टॉफ़िफ़ेट छोदे थे व परमेश्वरी दयाल अ० सं० 3 जो वर्ष 1967 में पोस्ट आफिस गोण्डा में सविंग बैंक में सुपरवाइजर था व कृष्ण चन्द्र श्रीवास्तव अ० सं० 4 जो वर्ष 1970 में सिटी पोस्ट आफिस गोण्डा में बहैसियत सब पोस्ट मास्टर गोण्डा कार्यरत था व कान्स्टेबल मुखोर्जर राम शंकर मिश्र अ० सा० 5, जिन्होंने प्रथम सूचना रिपोर्ट व दैनिक नन्दनी लिखी थी व विन्दा इमाद अ० सं० 6 जो मई 1967 लगायत अगस्त 1967 तक सिटी पोस्ट आफिस गोण्डा में लिपिक था व दान बहादुर सिंह अ० सा० 7 जो दिनांक 18-1-67 के हेड पोस्ट आफिस गोण्डा में सब एकाउन्ट क्लर्क के पद पर कार्यरत था व कान्स्टेबल अमीर हसन अ० सा० 8 जिन्होंने अपीलार्थी- अभियुक्त समय प्रसाद की गिरफ्तारी की थी व उपनिरीक्षक अमरजीत सिंह अ० सा० 9 जिन्होंने इस मामले की प्रारंभिक विवेचना की थी और जिन्होंने इस मामले का सत्य विवेचनाकर्ता उप निरीक्षक अब्दुल



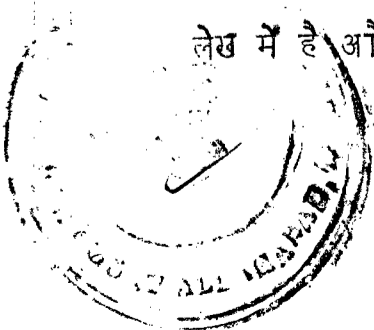
[Signature]

B. C. C. - signed
[Signature]

समय की विवेचना के केश डायरी के अनुसार सिद्ध किया है व
उप निरोक्षक एजाज हुसैन अ० स० ।, जिन्होंने अपोलार्थी-अभियुक्त
राम अछैबर के विरुद्ध की गई धारा 82-83 द० प्र०स० को कार्यवाही
जो सिद्ध किया है को प्रस्तुत किया है । इन लोगों ने अभियोजन
पक्ष के कथन के भिन्न-भिन्न विन्दुओं के समर्थन में बयान दिया है
विद्वान मुख्य न्यायिक मैजिस्ट्रेट गोण्डा ने अभियोजन पक्ष को कथन
को सही मानकर व परोक्षित साक्षीगण के साक्ष्य पर विश्वास करके
प्रश्नगत दण्डापेश पारित किया ।

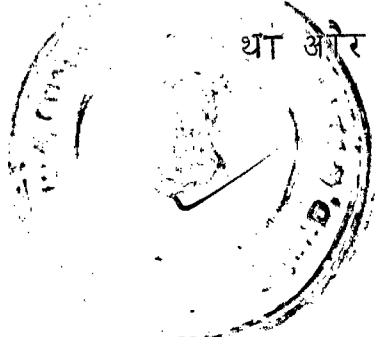
7- मैंने पचावली पर उपलब्ध साक्ष्य का ध्यानपूर्वक अवलोकन किया
और उभय पक्षों के खिलाफ अभिवक्तागण को ध्यान पूर्व सुना और मैं
इस निष्कर्षपर पहुँचा हूँ कि अपोलार्थी अभियुक्त राम अछैबर को अपोल
स्वीकार होने योग्य नहीं है और अपोलार्थी-अभियुक्त समय प्रसाद को
अपोल स्वीकार होने योग्य है ।

8- मेरे सामने अपोलार्थी-अभियुक्त राम अछैबर के विद्वान
अधिवक्ता ने यह वक्तव्य किया, कि पचावली पर इस बात का सन्तोषजनक
साक्ष्य नहीं है कि अपोलार्थी-अभियुक्त राम अछैबर दूबे दिनांक
19-1-67 के स्ट्रीट पोस्ट आफिस गोण्डा में बहसियत सब पोस्ट
मास्टर कार्यरत था, के उसे जगदीश प्रसाद श्रीवास्तव एडवोकेट ने
2000 रुपया की धनराशि 10 वषीय नेशनल सेविंग स्टॉर्फिकेट खरीदने
के लिए दी, कि उसके द्वारा ऐसी परिस्थिति में धनराशि के गबन का
कोई प्रश्न ही नहीं उठता, कि प्रश्नगत 10 वषीय नेशनल सेविंग
स्टॉर्फिकेट प्रदर्श । लगायत 20 अपोलार्थी-अभियुक्त समय प्रसाद के हस्त
लेख में है और जिसका कर्तव्य खरीदार से धनराशि लेकर स्टॉर्फिकेट



Handwritten signatures and initials:
A large signature, possibly 'Raj', followed by 'ex. post' and another signature 'Raj'.

वनाना था अतः धनराशि के गबन का उत्तरदायित्व केवल अपोलार्थी-अभियुक्त समय प्रसाद का है । जहाँ तक इस प्रश्न का सम्बन्ध है कि अपोलार्थी अभियुक्त राम अछैबर दूबे दिनांक 19-1-67 को सिटी पोस्ट आफिस गोण्डा में बहसियत सब पोस्ट मास्टर डिप्यूटी पर था, इस सम्बन्ध में वादी जगदीश चन्द्र श्रीवास्तव का सीधा साक्ष्य है जिसके अनुसार उन्होंने दिनांक 19-1-67 को अपोलार्थी-अभियुक्त राम अछैबर दूबे को 2000 रुपया की धनराशि स्टॉफिकेट खरीदने के लिए दी थी । अपोलार्थी-अभियुक्त राम अछैबर दूबे के विरुद्ध अधिवक्ता का यह कहना है कि वादी जगदीश चन्द्र श्रीवास्तव एडवोकेट ने अपनी शिकायती पत्र प्रपरी क-4, में अपोलार्थी-अभियुक्त राम अछैबर दूबे का नाम नहीं लिखा था और नहीं उन्होंने अपने बयान प्रपरी क-2 में जो विभागीय जाँच के दौरान लिया गया था अपोलार्थी-अभियुक्त राम अछैबर दूबे का नाम लिया है । उनके इस तर्क में कोई सार प्रतीत नहीं होता अपोलार्थी-अभियुक्त राम अछैबर दूबे ने अपने बयान अन्तर्गत धारा 313 द0 प्र0 सं0 में यह कहा है कि वह दिनांक 19-1-67 के डिप्यूटी पर था या छुट्टी पर था बिना रेकार्ड देखे नहीं बता सकता । स्पष्ट है कि उसने एक शंका पैदा करने की चेष्टा की है मगर विस्तृत रूप से उसने इस बात से इन्कार नहीं किया है कि वह दिनांक 19-1-67 को सब पोस्ट मास्टर के पद पर कार्यरत था । उसने अपनी अनुपस्थिति के बारे में कोई साक्ष्य भी नहीं प्रस्तुत किया है उदाहरणतया हाजिरी पंजिका, छुट्टी की प्रार्थना-पत्र । वादी जगदीश चन्द्र श्रीवास्तव एडवोकेट ने अपने बयान में यह बात अवश्य कही है कि वह राम अछैबर को पूरे नाम से नहीं जानता था बल्कि केवल दूबे के नाम से जानता था । इसके साथ ही उन्होंने यह भी कहा है कि वह उसे शकल से भली भाँति पहचानता था और यह कि उन्होंने उसे ही 2000 ₹0 की धनराशि स्टॉफिकेट



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खरोदने के लिए दी थी । ऐसी परिस्थिति में यह बात शंका से परे प्रमाणित हो जाती है कि अपोलार्थी अभियुक्त राम अछैवर दूबे दिनांक 19-1-67 को सिटी पोस्ट आफिस गोण्डा में बहसियत सब पोस्ट मास्टर कार्यरत था । कृष्ण चन्द्र श्रीवास्तव अ० सा० 4, ने अपने वयान में बताया है कि दिनांक 19-1-67 का एकाउन्ट जो सिटी पोस्ट आफिस गोण्डा से सम्बन्धित था अपोलार्थी ~~अब~~ अभियुक्त राम अछैवर दूबे के हस्तलेख में है । उनका यह यापान भी इस बात को सम्पुष्टि करता है कि अपोलार्थी अभियुक्त राम अछैवर दिनांक 19-1-67 को डियूटी पर था । अतः उसकी ओर से यह कहा जाना कि कि वह दिनांक 19-1-67 को डियूटी पर नहीं था, निराधार व झूठ है । वादो जगदीश चन्द्र श्रीवास्तव एडवोकेट अ० सा० 2, ने स्पष्ट रूप से यह वयान दिया है कि उन्होंने ही अपोलार्थी अभियुक्त राम अछैवर को 2000/- रु० की धनराशि स्टॉफ़िकेट खरोदने के लिए दी थी जिसने उनसे यह कहा था कि आधे घण्टे के बाद आकर उसे ले जाये साक्ष्य से इस बात का सँकेत नहीं मिलता कि वह अपोलार्थी अभियुक्त राम अछैवर दूबे से द्वेष रखते थे या अपोलार्थी अभियुक्त समय प्रसाद से साज किये है । उनके लिए इस सम्बन्ध में झूठ बोलने का कोई कारण नहीं है । इस प्रकार यह बात भी पूर्णतया शंका से परे सिद्ध है कि प्रश्नगत धनराशि अपोलार्थी अभियुक्त राम अछैवर को ही दी गई थी । वादो जगदीश चन्द्र श्रीवास्तव अ० सा० 2 का कहना है कि जब जून 1970 में वह दो स्टॉफ़िकेट भुनाने सिटी पोस्ट आफिस गोण्डा गया तो उस समय के कार्यरत सब पोस्ट मास्टर ने उसे भुनाने से इन्कार कर दिया और उसने यह कहा कि 10 वर्षीय नेशनल सेविंग स्टॉफ़िकेट प्रपरी । लगायत 20 जारी होने का कोई सँकेत नहीं है

न किसी धनराशि के जमा होने का लेखा जोखा ही उपलब्ध है ।

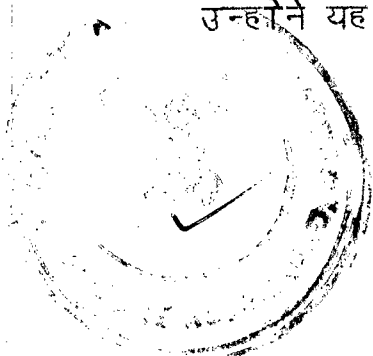


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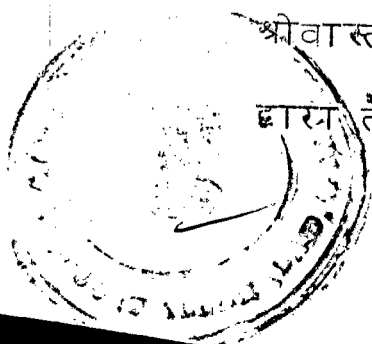
फलस्वरूप जगदीश चन्द्र श्रीवास्तव ने दिनांक 4-6-70 को सुपरिन्टेन्डन्ट पोस्ट आफिस गोण्डा को शिकायती पत्र प्रदर्शक 4, भेजा जिसके फलस्वरूप विभागीय जाँच की गयी। कृष्ण चन्द्र श्रीवास्तव अ० सा० 4 ने जो वर्ष 1970 में सिटी पोस्ट आफिस गोण्डा में बहसियत सब पोस्ट मास्टर तैनात था वादो जगदीश चन्द्र के बयान का पूर्णतया समर्थन किया है। उनके अनुसार प्रश्नगत स्टॉफ़िकेट 1 लगायत 20 के जारी होने का न तो कोई संकेत है और न उसका रूपया जमा होने का कोई लेखा जोखा था। साक्ष्य में आया है कि बाद में जगदीश चन्द्र श्रीवास्तव एडवोकेट को पोस्टल डिपार्टमेंट ने 2000 ₹0 वापस किया है अतः यह बात शंका से परे प्रमाणित है कि दिनांक 19-1-67 को 2000/- ₹0 की धनराशि का कोई लेखा जोखा सिटी पोस्ट आफिस गोण्डा में नहीं किया गया और नहीं स्टॉफ़िकेट प्रपर्स 1 लगायत 20 जारी होने दिखाये गये। इस प्रकार 2000 ₹0 की धनराशि का आपराधिक न्याय भंग किया गया। यह बात कि प्रश्नगत स्टॉफ़िकेट हेड पोस्ट आफिस गोण्डा से सिटी पोस्ट आफिस गोण्डा दिनांक 19-1-67 के पहले भेजे गये प्रमाणित सिद्ध है। परमेश्वरी दयाल अ० सा० 3, जो 1967 में गोण्डा पोस्ट आफिस में सेविंग बैंक में सुपर वाइजर था ने बताया है कि सिटी पोस्ट आफिस गोण्डा के सब पोस्ट मास्टर अपोलार्थी अभियुक्त राम अछैवर दूबे द्वारा मांगे जाने पर दिनांक 18-1-67 को 10 वर्षीय नेशनल सेविंग स्टॉफ़िकेट प्रत्येक 100/- ₹0 मूल्य के कुल 50 अदद, 10 एन एस। डी० 184928 लगायत 184977 इन वाइस नं० 6 के साथ भेजे गये थे और यह कि इसका इन्दराज हेड पोस्ट आफिस गोण्डा के स्टॉक रजिस्टर में किया था। असल स्टॉक रजिस्टर न्यायालय में प्रस्तुत किया गया है। उन्होंने यह भी बताया कि उसकी प्राप्ति की रसोद सिटी पोस्ट





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आफिस गोण्डा से प्राप्त नहीं हुई है थी। इन्हीं स्टॉफिकेट में प्रश्नगत स्टॉफिकेट भी सम्मिलित है इस प्रकार हेड पोस्ट आफिस गोण्डा से सिटी पोस्ट आफिस गोण्डा में प्रश्नगत स्टॉफिकेट भी पहुँचना प्रमाणित है। पोस्ट एन्ड टेलोग्राफ के मैनुअल वायलूम 6, चैप्टर 9 के नियम 530 के अनुसार इन स्टॉफिकेट की अभिरक्षा सब पोस्ट मास्टर की व्यक्तिगत उत्तरदायित्व है। इससे यह निष्कर्ष निकलता है कि कोई भी स्टॉफिकेट बिना सब पोस्ट मास्टर की आज्ञा से या बिना उसके द्वारा दिये, जारी नहीं हो सकते। कृष्णा चन्द्र श्रीवास्तव अ० सा० 4 के अनुसार दिनांक 19-1-67 को जो 2000/- के स्टॉफिकेट बेचे गये थे उनका उल्लेख ए० ओ० समरी में नहीं है जो सिटी पोस्ट आफिस गोण्डा से हेड पोस्ट आफिस गोण्डा भेजी गई थी और न ही धनराशि का ही कोई उल्लेख है। इन रजिस्टर इन रजिस्टर से सम्बन्धित प्रविष्टियों की नकले प्रदर्शक 7 व 8 है। स्पष्ट है कि यह कार्य सब पोस्ट मास्टर अर्थात् अपोलार्थी अभियुक्त राम अछैबर दूबे द्वारा किया जाना था। प्रश्नगत स्टॉफिकेट 1 लगायत 20 के अवलोकन से पता चलता है कि उस पर पोस्ट मास्टर के हस्ताक्षर भी नहीं है जो विभागीय नियमों के अनुसार पोस्ट मास्टर अर्थात् अपोलार्थी-अभियुक्त राम अछैबर दूबे के करने थे। अतः उपरोक्त परिस्थितियों में कि० 10 वषीय नेशनल सर्विंग स्टॉफिकेट 50 अदद जिसमें प्रश्नगत ~~सब~~ स्टॉफिकेट प्रदर्श 1 लगायत 20 भी सम्मिलित था हेड पोस्ट आफिस गोण्डा से दिनांक 18-1-67 को सिटी पोस्ट आफिस गोण्डा भेजे गये जिसकी प्राप्ति की रसीद सब पोस्ट मास्टर को भेजी थी मगर अपोलार्थी-अभियुक्त राम अछैबर ने ऐसी कोई रसीद नहीं भेजी व 2000 रुपये की धनराशि वादो जगदोश चन्द्र श्रीवास्त से स्वयं प्राप्त की और अपोलार्थी-अभियुक्त समय प्रसाद द्वारा तैयार किये गये प्रश्नगत स्टॉफिकेट प्रदर्श - 1 लगायत 20



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तिथि व डाकघाने की मुहर लगाकर स्वयं जारी कर दिये जिसपर उसमें अर्थात् अपोलार्थी-अभियुक्त राम अछेबर दूबे ने अपनी हस्ताक्षर नहीं किये जो कि विभागीय नियम के अनुसार उसे करने थे व उसने 2000 रूपया प्राप्त का या प्रश्नगत स्टॉफ़िकेट जारी करने का सम्बन्धित सम्बन्धित अभिलेखों में कोई लेखा जोखा नहीं रखा जिसे उसे विभागीय नियम के अनुसार कसना चाहिए था जिसके कारण वह स्टॉफ़िकेट बाद में भुनाये न जा सके, यह कहा जा सकता है कि इतना प्रमाणित साक्ष्य है कि निःसन्देह अपोलार्थी-अभियुक्त राम अछेबर दूबे ने 2000 रूपया की धनराशि का गवन किया और वूकि वह उस समय सब पोस्ट मास्टर थे इसलिए उसने लोक सेवक की हैसियत से अपराधिक न्यास भंग किया। उपरोक्त निष्कर्ष के अनुसार उसको अपोलार्थी में कोई वंल नहीं है और वह खिन्डित किये जाने योग्य है।

9- जहाँ तक अपोलार्थी-अभियुक्त समय प्रसाद का मामला है वह सन्देह से परे सिद्ध नहीं है। यह सही है कि उसने प्रश्नगत स्टॉफ़िकेट एक लगातार 20 तैयार किया था मगर वादो ने धनराशि उसको न देकर अपोलार्थी-अभियुक्त राम अछेबर दूबे को दी थी। अतः धनराशि की प्राप्ति का उत्तरदायित्व अपोलार्थी-अभियुक्त समय प्रसाद पर नहीं कहा जा सकता। विभागीय नियम के अनुसार खरोदार की प्रार्थना पत्र काउन्टर क्लर्क अर्थात् अपोलार्थी-अभियुक्त समय प्रसाद को लेना चाहिए और खरोदार द्वारा स्टॉफ़िकेट की खरोदने के लिये दी जाने वाली धनराशि भी उसे प्राप्त करनी चाहिए मगर इस मामले में ऐसा नहीं हुआ। वादो जगदीश चन्द्र श्रीवास्तव एडवोकेट ने उक्त धनराशि व प्रार्थना पत्र अपोलार्थी-अभियुक्त राम



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अछैबर दूबे को दिया था । स्पष्ट है कि प्रश्नगत स्टॉर्नफ़ैक्ट । लगायत 20 अपोलार्थी-अभियुक्त समय प्रसाद ने तैयार किया था इससे यह निष्कर्ष निकलता है कि उसने अपने अप्सर अर्थात् अपोलार्थी-अभियुक्त राम अछैबर दूबे के कहने से जो उस समय सब पोस्ट मास्टर था उसने स्टॉर्नफ़ैक्ट तैयार किये 2 चूँकि स्टॉर्नफ़ैक्ट को अभिरक्षा को व्यक्तिगत जिम्मेदारी अपोलार्थी-अभियुक्त राम अछैबर को थी अतः यह भी निष्कर्ष निकलता जा सकता है कि उसने ही स्टॉर्नफ़ैक्ट भरने को समय प्रसाद को दिया था । चूँकि प्राप्त धनराशि को अन्तर्गत लेखा जोखा तैयार करने की जिम्मेदारी अपोलार्थी-अभियुक्त राम अछैबर दूबे की थी अतः उक्त परिस्थिति में यदि अपोलार्थी अभियुक्त समय प्रसाद ने बिना धनराशि के प्राप्त किये स्टॉर्नफ़ैक्ट तैयार किये जिसे तैयार करने थे । उस राम अछैबर दूबे ने दिया था और जिसने ₹ राम अछैबर दूबे उसकी धनराशि प्राप्त की थी । यह नहीं कहा जा सकता कि गबन की गई धनराशि में उसका भी कोई उत्तरदायित्व है या उसकी कोई बदनियती है । स्टॉर्नफ़ैक्ट तैयार करने की उसकी जिम्मेदारी है ऐसा विभागीय नियम है अतः केवल इसी बात से कि स्टॉर्नफ़ैक्ट तैयार किया उसे अपरधन्य नहीं कहा जा सकता । ब्रह्म राज्य की ओर से विद्वान सासकीय अविश्वसनीयता ने यह बहस की कि उसे हैन्ड टू हैन्ड रसीद बुक में 2000 रुपया धनराशि के तैयार बतौर एडवॉन्स सब पोस्ट मास्टर को दिखाकर स्टॉर्नफ़ैक्ट भरने चाहिए थे । उनका कहना है कि चूँकि हैन्ड टू हैन्ड बुक समय प्रसाद से दाखिल नहीं की है अतः इस गबन के मामले में उसका भी हाथ है । मैं केवल उनके इस तर्क से सहमत नहीं हूँ कि । यदि अपोलार्थी-अभियुक्त समय प्रसाद ने हैन्ड टू हैन्ड बुक में प्रश्नगत, धनराशि बतौर एडवॉन्स सब पोस्ट मास्टर के नाम दिखाई तो भी अपोलार्थी - अभियुक्त राम अछैबर दूबे को यह अन्तिम

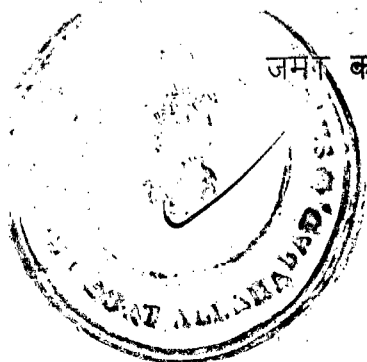
ETC Member
R. C. Chaudhary

20/11/2018

जिम्मेदारों थी कि इस धनराशि का लेखा जोखा व स्टॉर्पिकेट जारी करने का लेखा जोखा हेड पोस्ट आफिस को भेज । यदि अपोलार्थी अभियुक्त समय प्रसाद ने इस बात पर सन्तुष्ट होकर कि प्रश्नगत धनराशि तो राम अछैबर दूबे ने प्राप्त हो कर ली है उसने स्टॉर्पिकेट तैयार कर दिया और हेन्ड टू हेन्ड बुक में उक्त धनराशि बतौर एडवॉन्स सब पोस्ट मास्टर के नाम नहीं दिखाई तो भी इसका कोई विपरीत प्रभाव नहीं पड़ता । इस बात का भी कोई साक्ष्य नहीं है कि दोनों अभियुक्तों ने प्रश्नगत धनराशि के गबन को कोई षड्यन्त्र रचा था । यदि समय प्रसाद को नियत खराब होती हो और उसका गबन का कोई हाथ होता तो वह अपने हस्त लेख में स्टॉर्पिकेट न भरता और न हो विभागीय जाँच के दौरान था इस न्यायालय में वह इस बात को स्वीकार करता कि प्रश्नगत स्टॉर्पिकेट उसके द्वारा भरे गये थे । मेरी राय में अपोलार्थी-अभियुक्त समय प्रसाद के विरुद्ध आपराधिक न्यास भ्रम का कोई साक्ष्य नहीं है और केवल इस बात से कि उसने प्रश्नगत स्टॉर्पिकेट भरे उसको विरुद्ध अपराधी होने का कोई निष्कर्ष नहीं निकलता निकाला जा सकता ऐसा परिस्थिति में उसको अपोल स्वीकार की जाती है ।

आदेश

दंडित अपोल संख्या 155/83 जो अपोलार्थी-अभियुक्त समय प्रसाद ने प्रस्तुत कह है स्वीकार की जाती है और उससे सम्बन्धित आदेश दिनांकित 20-9-83 उद्घटित किया जाता है और उसे धारा 409 भा 0 द 0 स 0 के अधीन दोष मुक्त किया जाता है व दण्डादेश निरस्त किया जाता है । अर्थात् दण्ड की धनराशि यदि उसने जमा की हो तो उसे वापस की जाये । उसके बन्ध पत्र निरस्त किये



C. T. Mishra
Reed

[Signature]

(39)

A63

-14 -

जाते है । दण्डित अपील सख्या 158/83 जिसे राम अछैबर दूबे ने प्रस्तुत किया है छारोज को ज्ञातो है व आदेश दिनांक 20-9-83 वरकरार रखा जाता है व धारा 409 भा0 द0 स0 केअधीन दोष सिद्ध व दो वर्ष के कठोर कारावास व 2000 रुपया का अर्थदण्ड जिसके न अदा करने पर 6 माह के कठोर कारावास की सजा का आदेश बरकरार रखा जाता है । निर्णय को एक एक प्रति सम्बन्धित पत्रावलो मे रखा जाय ।

ह0 मोहम्मद आबिद

॥मोहम्मद आबिद ॥

सप्तम अपर सब न्यायाधीश गोण्डा
दिनांक 9-2-84

टिप्प

निर्णय आज हस्ताक्षरित दिनांकित

छले न्यायालय मे उद्घाषित ।

ह0 मोहम्मद आदि
॥मोहम्मद आबिद ॥
सप्तम अपर सब न्यायाधीश
गोण्डा
दिनांक 8-2-84

प्रतिलिपिकर्ता - ह0 बाबू लाल

तुलनाकर्ता - ह0 ब्रह्म अपठनोय

शब्द लगभग - 3600 ।



e-t.c. Ambar
Ralel

21/12/83
21/12/83

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A64

Annexure - III.

केवल नकल की फीस के लिए

आवश्यक स्टाम्प सहित

प्रार्थन 1 पत्र देने

की तारीख

Date on which application
is made for copy accompa-
nied by the requisite stamp.

नोटिस बोर्ड पर नकल नकल वापिस

तैयार होने की सूचना दिए जाने

की तारीख

Date of posting
notice on notice board.

की तारीख

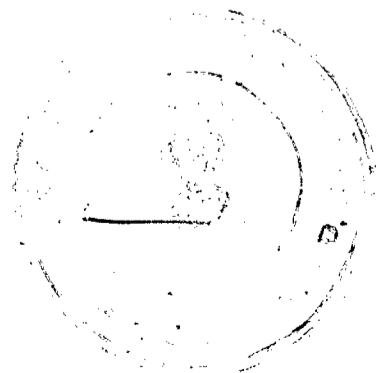
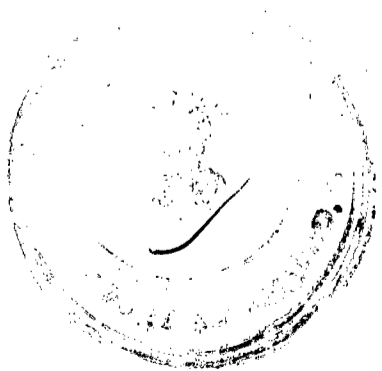
Date of
delivery
of copy.

नकल वापिस देने

वाले अधिकारी

का हस्ताक्षर

Signature of
official
delivering
copy.



[Handwritten signature]

(41)

A 65

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD.

(LUCKNOW BENCH), LUCKNOW.

CRL.MISC. CASE NO. 482 of 1984
State Vs. Sri Samai Prasad Gupta
U/S 5 Limitation Act.

In

Crl.Misc. Case No. 1837 of 1984

The State of U.P. Appellant.

Vs.

Sri Samai Pd. Gupta son of not know presently posted
as postal Asstt. Head Post Office City Gonda, Distt. Gonda.

..... Accused/Respondent.

Appeal under section 378 CR. P.C.

against the judgment and order of acquittal dt.
9.2.84 passed by VIIIth Addl. District Judge, Gonda, in
Crl.Appeal No. 155/83 u/s 409 I.P.C.

Lucknow Dated: 2-2-1987

Hon'ble R.A. Mishra.J.

Heard learned counsel for the parties.

This is an application for condoning the delay
in filing the appeal against the order of acquittal. The
appeal is beyond time by 39 days. Sri D.D. Pandey,
Superintendent of Post Offices, Gonda, has filed affidavit
to explain the cause of delay. He says that certified copy
of the impugned order was received on 24th Feb. 84 and
proposal for filing appeal was forwarded to the Judicial
Secretary/Legal Remembrancer, U.P. Shasan after two months
to writ 27th April 84. On 3rd May 84 a letter was received
from Deputy Seceretary, Judicial Department, for supply
of three certified copies of the judgment. Certified
copies of the judgment available in the Department were

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C.E. - Shree
Qad

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- 2 -

sent to the Government on 28.5.84 and the Government thereafter directed the appeal to be filed on 15th June 84 and the G.O. was received in the deponent's office on 19th of June 84. The deponent was busy in some fraud case and so approached the Government Advocate, Lucknow, in the afternoon of 23rd June 84. The only possible conclusion which can be drawn from the facts stated in the affidavit believed to be true, is that the deponent as well as the concerned Departments were wholly negligent and did not bother to see that the appeal is presented within time. As observed in A.I.R. 1981 S.C. page 733-Ajit Singh's case the applicant was not only to explain the delay after the expiry of the period of limitation but also the delay before the expiry of the period of limitation. The applicant has miserably failed to establish any some good cause for the delay in filing the appeal. The prayer for condoning the delay is consequently rejected.

Moreover the impugned judgment does not make out any case for admission because reason and finding recorded by the court below cannot be characterised as wholly perverse. The application for condoning the delay as well as prayer for leave to appeal both are rejected.

Sd/- R.A. Misra
2.2.1987.

TRUE COPY
Sd/- X X X 9.2.87
Section Officer
Copying Department
High Court, Lucknow Bench,
LUCKNOW.



V. A. K.
24/12857
21/12/87

etc. Attached
R.A.

(43) A67

Annexure-IV

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
OFFICE OF THE SUPDT. OF POST OFFICES GONDA DIVISION
GONDA-271 001

Memo No. F-18/67-68/1 Dated at Gonda the 18-2-84

Whereas Shri Samai Prasad Gupta R.A. Gonda HO (under suspension) was dismissed from service with effect from 29-12-83 on the ground of conduct which led to his conviction on a criminal charge.

And whereas, the said conviction has been set aside by a competent court of law and the said Shri Samai Prasad has been acquitted of the charges.

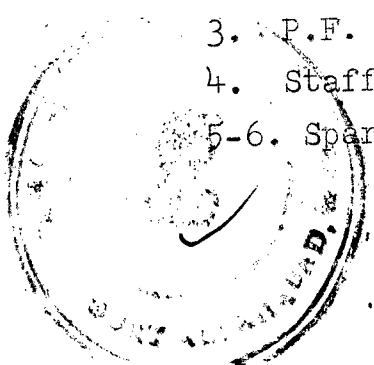
Now, therefore, the undersigned hereby sets aside the order of dismissal from service.

Shri Samai Prasad Gupta is reinstated as Postal Asstt. Gonda HO. The period from the date of his dismissal till joining back duty at Gonda HO, on reinstatement, may be treated provisionally as continued suspension till final decision the entire period of his suspension in the instant case.

Sd/-X X X
(D.D. Pandey)
Supdt. of Post Offices
Gonda Division
Gonda - 271 001

Copy to:-

1. Shri Samai Prasad Gupta, P.A. Gonda, HO. Orders regarding treatment of suspension period will be issued separately.
2. P.M. Gonda for information.
3. P.F. of the officials
4. Staff Asstt. D.O. Gonda
- 5-6. Spare.



Handwritten notes and signatures at the bottom right, including a large signature and dates 24/12/83 and 21/12/83.

(44)

A 89

Annexure-V.

To,

The Supdt. of Post Offices,
Gonda Division, Gonda Awadh.

Sir,

Subject:- Refund of deduction Rs.280/- + interest
from August '71 to December'71 (8/71 to 12/71).

My case under section 409 IPC, in regard of criminal
~~offence~~ offence has been quasted by the Competent Court
of Law of (Upper Session Judge Gonda on 9-2-84 and
thereby I have been declared acquitted of the charges.
Hence I am entitled to receive them. I therefore,
request your honour to kindly refund the same at an
early time. Because I am facing grate difficulty
during suspension at present time.

Yours faithfully,

Sd/- X X X
(Samay Pd. Gupta)
P/A Gonda HO.

24-2-84.



C.T. A. Agent
Q. Q. Q.

V

24/12/85

24/12/85

To,

The D.P.S., Lucknow

Dated 8-9-86.

Through The Supdt. of Post Office,
Gonda Division, Gonda.

Sir,

Appeal against the Memo No. C/R dated 18-7-86 (Samai Pd. Gupta) 3-9-86 received on 6-9-86. As I have been fully departed from all charges due to acquitted with combined case. -

1. That I have been working at Gonda HO since 9-2-84 as acquitted by the Hon'ble Court of District Judge, Gonda.
2. After reinstatement I did not serve a Memo of any charge since then nor I have committed any offence.
3. That deduction Rs.96/- per month from my ^{pay} is being made by the PM Gonda which is illegal.
4. That because I have been fully exonerated with this charged on 9-2-84 and in this connection several notices have been served to DPS Lucknow and Supdt. of Post office, Gonda during 1972.
5. After service of this notice the case was departmentally decided by a major punishment Rs.2000/- and thereafter I have been involved in a criminal case. From the criminal proceeding I have been fully exonerated on 9-2-84 and even then I have been further entangled in to the deduction. Therefore, the two punishments



[Signature]

*C. T. e. Ahmed
[Signature]*

46

A71

- 2 -

cannot be involved.

6. That the order of the SPO Gonda is illegal and tenable in the eye of justice. If you do not pay an attention the case will be converted into contempt of Court.

I therefore, request your honour to kindly set-aside the order of SPOs Gonda at once and order to refund the deduction at

[Signature]

[Signature]
c-1-6



V. n. Fmra
Q. T. CO. CHITTONER
24/12/55
21/12/55

47

A 72

Annexure-VII

To,
The D P S Lucknow Region,
Lucknow

Through the Supdt. of Post Offices, Gonda Division, Gonda.

Sir,

As I have been fully acquitted honorably in the case of Criminal No. 1837/84 pending in the High Court, Lucknow on 2-2-87 by Chief H Justice No. 3 (R.A. Mistra). Now I am entitled to receive full pay and allowances ~~xx~~ from 22-1-72 to 22-3-84. I therefore, request your honour to kindly regularise the period of suspension as cited above at an early date. So that I may not suffer in future, the true copy of Judgement is sent herewith.

Yours faithfully,

18-2-87.

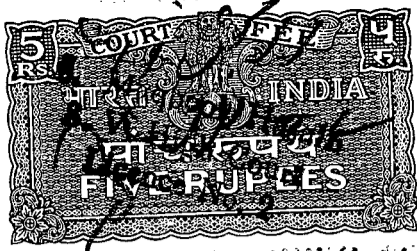
Sd/- X X X
(Samay Prasad Gupta)
P/A Gonda HO.

SP

*c.t.c. Harb's
R. Q. Q.*



V. m. Tm
RECEIVED
District Prison, Allahabad.
No. 24/1255
21/1/87



(48)

A73

In the Central Administrative Tribunal Addl
e A7 Bench at Allahabad

अभिभाषक पत्र (वैकालतनामा)

~~हाईकोर्ट आफ़ अडोकेट, इलाहाबाद~~

Registration No

11987

सन् १९८७

Son Samay Prasad Gupta वादी प्रतिवादी

अपीलान्ट

वनाम

U.O.I & others

वादी प्रतिवादी

मैं/हम कि

Samay Prasad S/o Sh. Ram Sunder

रेस्पान्डेंट

Postal Assistant Head Post Office

Gonda

उपरोक्त प्रकरण में/हम अपनी ओर के पक्ष समर्थन के हेतु

श्री Rakesh Verma एडवोकेट हाईकोर्ट इलाहाबाद

को कानूनी निश्चित शुल्क (मेहनताना) नियत करके अपना अभिभाषक वकील (वकील) नियत करता हूँ/करते हैं। वह स्वीकार करता है/करते हैं कि उक्त सज्जन हमारी ओर से वाद-पत्र (अजीदावा), प्रतिवाद-पत्र (बयान तहरीरी), वाद स्वीकार पत्र, विवाद पत्र पुनर्विलोकन एवं पुनर्निर्णय प्रार्थना पत्र (दरखास्त) शापथिक कथन (हलफनामा) प्रवर्तन पत्र (दरखवास्त इजराय) मूजवात अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना वादि एवं लेखादि की प्रतिलिपियां अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथिक पुष्टीकरण करें और आवश्यक सवाल जवाब करें और लेखादि की प्रतिलिपियां एवं हमारे प्रायधन को अपने हस्ताक्षरी पावती देकर प्राप्त करें हमारी ओर से किसी को यध्य पत्र तथा साक्षी (गवाह) माने और उससे सम्बन्धित प्रार्थना-पत्र प्रस्तुत करें तथा उसका समर्थन करें तथा तसदीक करें, वाद-पत्र उठावे, छोड़े अथवा समझौता करें तथा मुलहनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना पत्र पर दाखिल करके उसका समर्थन करें अर्थात् प्रकरण में सम्बन्ध रखने वाली कुल कार्यवाही डिफ्री भर पाई होने के समय तक स्वतः या संयुक्त करें। आवश्यकता होने पर किसी अन्य वकील महोदय को वकील करें।

उक्त सभी कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भांति हमको/हमको स्वस्था स्वीकार होगी अगर मैं/हम कानूनी/निश्चित शुल्क उक्त सज्जन को न दे दे तो उनका अधिकार होगा कि वह हमारी ओर से मुकदमा की पैरवी न करें। उपरोक्त दशा में सज्जन का कोई उत्तरदायित्व न रहेगा।

अतएव यह अभिभाषक पत्र लिख दिया कि प्रमाण रूप से समय पर काम आये।

वैकालतनामा मंजूर है

तिथि

माह

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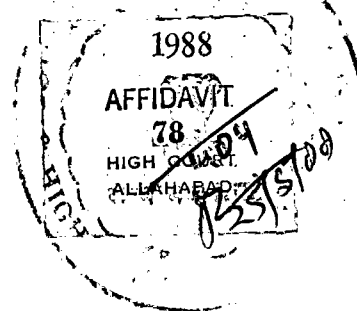
2/12
(RAKESH VERMA)
for the applicant

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In the Central Administrative Tribunal, Addl. Bench,
Allahabad.

....

Counter-Affidavit

In

Registration No. 1254 of 1987.

Samay Prasad Gupta ...

..Petitioner.

Versus.

1. Union of India through the Secretary, Ministry of Posts & Telegraphs, New Delhi.
2. The Director, Postal Services, U.P. Circle, Lucknow.
3. The Superintendent of Post Offices, Gonda Division, Gonda.

... Respondents.

Affidavit of *R. S. Singh*
aged about 46 years, son of
Sri *Raj. Bahadur Singh*
Superintendent of Post
Offices, Gonda Division,
Gonda.

Deponent.

I, the deponent, abovenamed do hereby
solemnly affirmed and state as under:-

1. That the deponent is working as
Superintendent, of Post Offices, Gonda Division,
Gonda and has been authorised to file the present

new copy
Q. All Adv.
24/5/88

only

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affidavit on behalf of the respondents in the aforesaid case. He is, as such, well acquainted with the facts of the case deposed to below.

2. That the deponent has read the contents of the petition and has fully understood the same.

3. That before giving parawise reply to the petition it is necessary to set out brief facts to understand the controversy raised by means of the petition.

4. That Sri Samai Prasad Gupta, the applicant was working as postal Assistant in Gonda City Post Office on 19.1.1967 when one Sri Jagdish Chandra Srivastava, Advocate, resident of Radha Kund, Gonda city purchased National Savings Certificates for Rs. 2000.00 from Gonda city Post Office. He tendered the cash amounting to Rs. 2000.00 to Sri Ram Achaibar Dubey, Sub Post Master Gonda city Post Office. Twenty National Savings Certificates of Rs. 100/- denomination bearing serial Nos. 184928 to 184947 were prepared and issued by the applicant under his own signature in place of the Sub Post Master. Z

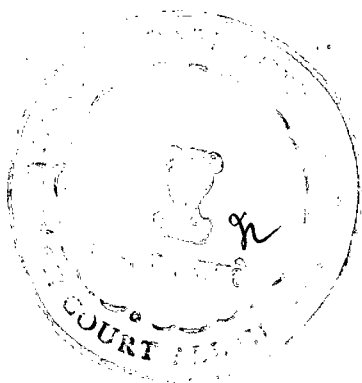
5. That these National Savings Certificate were supplied to Gonda city Post Office by Gonda Head Post Office through invoice but were not entered in the stock register of the said Sub Post Office.

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The National Savings Certificates so prepared

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by the applicant were delivered to Sri Jagdish Chandra Srivastava ,the purchaser by Sri Ram Achhaibar the then Sub Post Master, Gonda city Post Office. Later on when the investor attended the Post Office to encash the maturity value of the National Savings Certificates he was told that the amount of the said National Savings Certificates was not accounted for in Post Office records by the official who issued the National Savings Certificates.

6. That under the Rules the National Savings Certificates are supplied to sub Post Offices by the head Post Office duly entered in the invoices. On receipt, the Sub Post Master (SPM) has to enter them in the stock book. On presentation of the application for purchase of the National Savings Certificates, the counter clerk has to check the application and should either realise money himself or get it handed over to the Sub Post Master showing this amount as advance paid to the latter. The blank National Savings Certificates are then issued to the counter clerk by the Sub Post Master and the clerk must sign against the entry in the stock register. He should then prepare the National Savings Certificates ~~issued~~ and ~~purchase~~ present the National Savings Certificates alongwith the journals of the National Savings Certificates issued and purchase application



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to the Sub Post Master who should after comparing the relevant entries must sign the National Savings Certificates and return them to the clerk who should then deliver the National Savings Certificates to the investor. The journals of National Savings Certificates issued should be totalled at the close of the day and the whole amount should be incorporated in the S.O. Account which is also signed by the clerk in case of double handed office or by the senior most clerk/ Treasurer of larger sub Offices.

7. That in the instant case Gonda city Post Office is a double handed office where on 19.1.1967 Sri Ram Achhaibar Dubey was working as Sub Post Master and Sri Samai Prasad Gupta, the applicant was working as clerk. Sri Gupta, the applicant, prepared the National Savings Certificates and signed them in place of the Sub Post Master while he was not the Sub Post Master of the office.

8. That he did so with full knowledge of Sri Ram Achhaibar Dubey who took these National Savings Certificates from Sri Gupta and delivered them to the investor. Further Sri Gupta did not obtain the National Savings Certificates through stock register. This was deliberate as issue through stock register would not let the

~~any~~ misappropriation possible. The preparation to



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commit this fraud started on date of receipt of National Savings Certificates which were not entered in the stock register and were kept out of the Post Office stock. Thus the applicant Sri Gupta concealed the facts of these National Savings Certificates being unentered in the stock register, helped Sri Ram Achhaibar Dubey to commit the criminal breach of trust by diverting the cash to him and issuing National Savings Certificates himself.

9. That the whole affair shows complete collaboration of both of them who are accomplished having common object and common purpose in this case. Therefore, the applicant Sri Gupta was placed under suspension vide Superintendent of Post Office Gonda Memo no. F-18/67-78/2/Ch-I dated 22.1.1972.

10. That in this very case before his suspension, the applicant was served with a memo of charges under Rule-16 of CCS(CCA) Rules-1965 vide the Superintendent of Post Offices Gonda Memo No. F-18/67-68/Ch-III dated 15.3.1971 regarding non-accounting for the account of National Savings Certificates and was awarded with a punishment of recovery of Rs. 2000/- vide the Superintendent of Post Offices Gonda Memo. No. F-18/67-68/Ch-III dated 24.8.1971. The recovery was to be made from the pay of the



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applicant in 36 instalments.

11. That since the applicant was placed under suspension with effect from 22.1.1972 and as a rule no recovery can be made from the subsistence allowances being paid to an official during his suspension, therefore, only Rs.280/- (Rs.two hundred & eighty) was recovered from the pay of the applicant by the time he was placed under suspension.

12. That the case was also reported to the police of Thana Kotwali Nagar Gonda under case Crime no.506 dated 13.6.1970 under Section-409,I.P.C.although it was a case of criminal conspiracy and abetment as both of them,i.e. Sri Dubey and Sri Gupta were joint offenders in accordance with a prearranged plan in pursuance of which this criminal act was done.

13. That the case was tried in the Court of Chief Judicial Magistrate, Gonda as criminal trial no.1123 of 1982, Under Section-409 I.P.C.. The trial court convicted the applicant with two years R.I. and to pay a fine of Rs.2000/- or to undergo six months Rigorous Imprisonment in default on 20.9.83. Therefore Sri Gupta was dismissed from service vide the Superintendent of Post Offices Memo No. F-18/67-6
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14. That the applicant preferred an appeal no.155 of 1983 against the aforesaid order of the court in the court of Additional Sessions Judge VII Gonda which was decided in his favour and he was exonerated of all the punishments awarded by the Chief Judicial Magistrate Gonda on 9.2.84.

15. That the plea for acquittal of the applicant taken by Additional Sessions Judge VII Gonda was that the cash was not entrusted to the applicant. The charges of joint offence criminal conspiracy or abetment were not taken into account. Therefore, the applicant was reinstated in service vide the Superintendent of Post Offices Gonda Memo. No.F-18/67-68/1 dated 18.2.1984.

16. That however, he was again placed under suspension vide the Superintendent of Post Offices Gonda Memo.No.F -18/67-68/1 dated 21.2.84 as the State was to file an appeal in the High Court against the order dated 9.2.1984 passed by the learned Additional Sessions Judge(VII)Gonda. However, the appeal was not admitted and was rejected by the High Court, Allahabad Bench, Lucknow as it was time barred and as such the official was again reinstated in service vide Superintendent of Post Offices Gonda Memo.No.F-18/67-68/1 dated 14.3.1984

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and he resumed the duties as Postal Assistant in Gonda Head Post Office on 22.3.1984.

17. That thus the applicant Sri Samia Prasad Gupta remained under suspension with effect from 24.7.1972 to 20.2.1984 and 22.2.1984 to 21.3.84 though the official has been acquitted by the court in criminal case yet he is responsible for infringement of departmental rules for which he was punished with recovery of Rs. 2000/- and, as such, the period of suspension has been ordered to be treated as the period spent under suspension for all purposes and the pay and allowances of the applicant have been restricted to subsistence allowance drawn during the period of suspension.

18. That orders for recovery of Rs. 2000/- inflicted upon the applicant vide the Superintendent of Post Offices Gonda Memo No. F-18/67-68/1 ch-III dated 24.8.71 have been reinforced. The instant application filed in the Hon'ble Central Administrative Tribunal Allahabad Bench, Allahabad is regarding treatment of the period of suspension as duty and payment of full pay and allowances. The orders dated 13.12.1985 are not applicable in this case, because case of the applicant was decided on 24.8.71 and a recovery of Rs. 2000/- ~~only~~ from his pay was ordered.

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19. That the contents of paras nos.1 to 5 of the petition are all matters of record and, as such, requires no reply by means of this affidavit.

20. That the contents of para no.6(i) of the petition are admitted.

21. That in reply to the contents of para no.6(ii) of the petition it is stated that it is true that a case of misappropriation of Rs.2000/- being the amount of National Saving Certificate issue detected against the petitioner and the matter was reported to the police. The case of misappropriation was fully established against the applicant in the departmental enquiry proceedings.

22. That the contents of para no.6(iii) of the petition are substantially correct. It is submitted that the police had submitted a charge-sheet against the applicant to the Court which was tried in the Court of Chief Judicial Magistrate, Gonda.

23. That the contents of paras nos.6(iv)&(v) of the petition are not admitted as stated therein. It is submitted that as per orders of the Director General Posts, New Delhi Departmental proceedings and court proceedings are separate with each other

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and the official responsible for infringement of any departmental Rule, may be proceeded against departmentally even if a criminal case in the same matter is pending against them. Since the applicant while working as postal Assistant in the Gonda City Post Office had not accounted for Rs.2000/- in the Govt. account he was punished with recovery of Rs.2000/- by the department.

24. That in reply to the contents of para no.6(vi) of the petition it is submitted that the applicant was arrested by the police in connection with the criminal case as mentioned in para-2 above and therefore, he was placed under suspension vide order no.F-18/67-68/2 Ch-I dated 22.1.1972.

25. That in reply to the contents of para no.6(vii) of the petition it is submitted that the averments made in the petition are substantially correct. It is submitted that as per Departmental Rules no recovery can be made from an official who is continuing under suspension.

26. That in reply to the contents of para no.6(viii) of the petition it is submitted that the criminal case no.1123/1982 was decided by the Chief Judicial Magistrate Gonda on

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20.9.83 and the applicant was convicted with two years R.I. and a fine of Rs.2000/-and six months further R.I.in default to payfine.

27. That in reply to the contents of para no.6(ix)of the petition it is submitted that since the applicant was convicted by the Court and ,as such, under Rule-90 action was initiated and the applicant was dismissed from the service with effect from 29.12.1983.

28. That the contents of para no.6(x) of the petition are matters of record and,as such, requires no reply by means of this affidavit.

29. That the contents of para no.6(xi) of the petition are not admitted as stated therein. It is submitted that the appeal was decided on 9.2.84 and the applicant was acquitted by the Hon'ble Court on the plea that the cash of Rs.2000/- for issue of National Savings Certificates was entrusted to Sri Ram Achhaibar Dubey and not to the applicant. In the Departmental enquiries it has been fully established that the National SavingsCertificates were issued by the applicant under his own writing and own signature. The Hon'ble Additional Sessions Judge VII Gonda has not considered the charges of criminal conspiracy and abetment.



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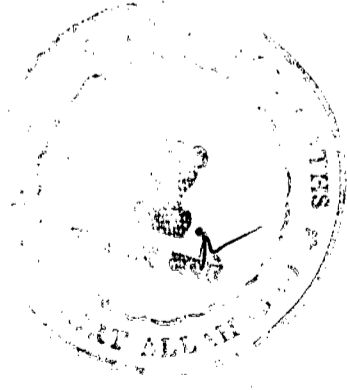
30. That ~~thereby~~ contents of para no. 6(xii) of the petition are not admitted as stated therein. It is stated that the findings of the court cannot be challenged. However, it may be said that the applicant is responsible for preparing the National Saving Certificates under his own signature and writing in the capacity of counter clerk and as such it was his duty to see as to whether the amount of Rs.2000/-for which the Nation Savings Certificates were issued by him, was duly accounted for in the Govt.accounts. This point was not considered by the court while deciding the appeal.

31. That in reply to the contents of paras nos.13 and 14 of the petition it is stated that the appeal filed by the State against the judgment of learned VII Addl.Sessions Judge,Gonda was barred by limitation and,therefore,it was rejected by the Hon'ble High Court,Ducknow Bench.

32. That the contents of para no.15 of the petition are substantially correct.

33. That the contents of para no.6(xvi) of the petition are not admitted. It is stated that the applicant though has been acquitted in appeal by the court yet he is responsible for breach of

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Departmental Rules by not accounting for the cash Rs. 2000/- in Govt. account. His suspension period from 24.7.72 to 20.2.84 and from 22.2.84 to 21.3.84 has been ~~xxx xxxx~~ ordered to be treated as a period spent under suspension and his pay and allowances has been ordered to be restricted to the subsistence allowances drawn during the period of suspension due to reasons as noted above. The Addl. Sessions Judge so far as the applicant ~~34~~ is concerned has held that his case is not free from doubt. Therefore, action has rightly been taken against him.

34. That the contents of para no. ~~x7~~ 6(xvii) of the petition are admitted. The applicant joined his duty on 21.2.1984 at Gonda Head ~~Quarters~~ Office.

35. That in reply to the contents of 6(xviii) (xix) paras nos. ~~12~~ and ~~12~~ of the petition it is stated that no representation dated 24.2.1984 is available in the record in the Office of Supdt. Post Offices Gonda Division relating to the case of applicant and, as such, no reply is being given to the same.

36. That the contents of para no. 6(xx) of the petition are not admitted. It is stated that



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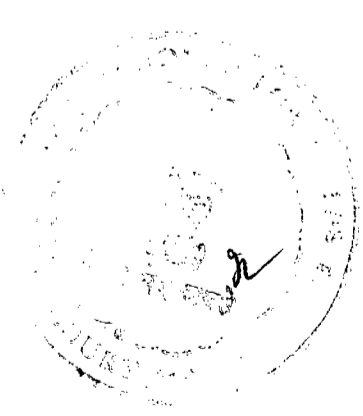
the applicant was punished with the recovery of Rs. 2000/- by the Department for infringement of Departmental Rules. Criminal case has no concern with this punishment. Moreover, the appellate Court has nowhere indicated in its decision that the punishment imposed on the applicant by the department is unjustified and as such the recovery of Rs. 2000/- has been reimposed. As already stated above, the applicant has been given benefit of doubt and there is no clear acquittal as remarked by the learned Addl. Sessions Judge, Gonda in the judgment.

37. That in reply to the contents of para no. 6(xxi) of the petition it is submitted that no appeal was submitted by the applicant for consideration by the Director Postal Services, Lucknow.

38. That the contents of para no. 6(xxii) of the petition are not admitted. No application was submitted by the applicant. His contention is quite incorrect.

39. That the contents of para no. 6(xxiii) of the petition are not admitted. When there is no appeal from the side of the applicant there is

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no question for its disposal by the authorities.

40. That in reply to the contents of para no.6(xxiv) of the petition it is stated that the applicant has been given benefit of doubt and then acquitted in the criminal case.

41. That the contents of para no.6(xxv) of the petition are not admitted. It is submitted that the findings of the court can not be challenged. However, it may be said that the applicant is responsible for preparing the National Savings Certificates under his own signature and writing in the capacity of counter clerk and, as such, it was his duty to see as to whether the amount of Rs. 2000/- for which the National Savings Certificates were issued by him, was duly accounted for in the Govt. accounts. This point was not considered by the court while deciding the appeal. It is stated that a perusal of the judgment would go to show that ~~42.~~ the applicant has been given benefit of doubt and is not a clear acquittal.

42. That in reply to the contents of para no.6(xxvi) of the petition it is submitted that no doubt an appeal was filed against the judgment of learned VII Addl. Sessions Judge, Gonda by the Department but the said appeal was held to be barred by limitation and was rejected in limine on 2.2.1987.

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43. That the contents of paras nos. 6(xxvii) & (xxviii) of the petition are not admitted. It is stated that the judgment of the learned Addl. Sessions Judge, Gonda has not been overlooked by the Department. The judgment has been seen and examined thoroughly and the close perusal of the judgment reveals that the judgment is not clear acquittal of the applicant and the learned Addl. Sessions Judge, Gonda has given him benefit of doubt. Therefore, the action taken by the department was justified in the facts and circumstances of the case.

44. That the contents paras nos. 7 and 8 of the petition are matters of record and, as such, ^{of} requires no reply by means of this affidavit.

45. That in reply to the contents of para no. 9(1) of the petition under the heading relief sought it is submitted that the petitioner is not entitled to the reliefs prayed for.

46. That the contents of para no. 9(a)(i) (ii), (iii), (iv) and (v) of the petition are misconceived and not admitted. As already explained above in the preceding paragraphs of this affidavit

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the applicant has been given benefit of doubt by the learned Addl. VII Sessions Judge, Gonda and is not thus a clear acquittal. Therefore, the Department was fully justified in taking action against the applicant for violation of the departmental Rules and is not bound by the findings of the Addl. Sessions Judge. The petitioner is not entitled to the reliefs claimed for.

47. That in reply to the contents of para no.9(b) and (c) of the petition it is submitted that the submissions made therein are incorrect. As already stated above the findings of the learned Addl. Sessions Judge are based on technical grounds. The petitioner has been given benefit of doubt and is not thus a clear acquittal. As such, the petitioner cannot be proceeded with departmentally for violation of the Departmental Rules is incorrect.

48. That the contents of para no.10 and its sub-paras of the petition are not admitted. As already stated above the appeal in the High Court was rejected on technical grounds of limitation. The High Court did not enter into the merits of the case. Therefore the Addl. Sessions Judge, Gonda ~~one~~ has only given benefit of doubt to the applicant.



.18.

The applicant has been rightly proceeded with for violation of the departmental rules and there is no illegality ~~in~~ or infirmity in the same.

49. That the contents of paras nos. 12 and 13 of the petition are matter of record and as such requires no reply by means of this affidavit. It is stated that the petition under Section-19 of the Administrative Tribunal Act is misconceived and is liable to be rejected.

I, the deponent, abovenamed do hereby verify and declare that the contents of paras nos. 1 and 2

of this affidavit are true to my personal knowledge; those of paras nos. 3 to 49

of this affidavit are based on information received from perusal of the papers on record; those of paras nos.

of this affidavit are based on legal advice which all the deponent believes to be true; that no part of this affidavit is false and that nothing material has been concealed in

me ~~it.~~

So help me God.

Amr
(A. S. Singh)
Deponent



.19.

I, ~~xxxx~~ ^{rk} R.C. Yadav, clerk to Sri Ashok Mohiley, Advocate, High Court, Allahabad do hereby declare that the person making this affidavit and alleging himself to be ~~Sri~~ ^{rk} R-S-Singh ² is the same person who is personally known to me.

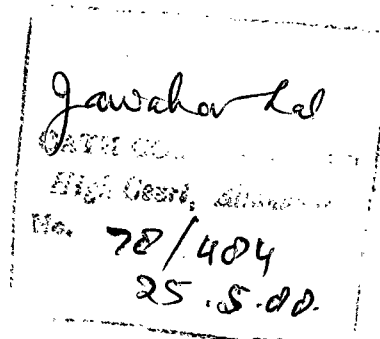
R.C. Yadav
Clerk. 25-5-88

Solemnly affirmed before me on this 25 ^{rk} day of May, 1988 at 8:30 a.m. ^{rk} by the deponent who is identified by the aforesaid clerk.

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

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Oath Commissioner



A93

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL
BENCH, ALLAHABAD.

Rejoinder Affidavit

In

Registration No. 1254 of 1987

Samay Prasad Gupta Petitioner

Versus

Union of India & others Respondents

Affidavit of Samay Prasad Gupta aged
about 50 years s/o Ram Sunder, working
as Postal Assistant in Head Post Office,
Gonda Division, Gonda.

(Deponent).

I, the deponent abovenamed do hereby solemnly

affirm and state on oath as under :-

1. That the deponent is sole petitioner in this case

and as such he is fully acquainted with the facts and circumstances of the case.

- 2 -

3. That the contents of para of the counter affidavit need no comments.

4. That the contents of paragraph 4 of the counter affidavit need no comments.

5. That in reply of contents of para 5 of the counter affidavit, it is submitted that the deponent had nothing to do with the entry of the amount of National Saving Certificates as it was the duty of the Sub-Post Master to see the account.

6. That the contents of para 6 of the counter affidavit are not admitted as it stands. The Journals of National Saving Certificates should have been checked by the Treasurer or by the Sub-Post Master. The duty of a clerk who deals with the matters of National Saving Certificates is limited only upto issuance.

7. That the contents of para 7 of the counter affidavit are not correct and as such are denied.

8. That in reply to contents of para 8 of the counter affidavit, it is submitted that the deponent was not in any manner involved in conspiracy with Shri Ram Achhaibar Dubey. The Upper Session Judge VII, Gonda in his judgment

- 3 -

dated 9.2.84 has said that the deponent was not responsible for the amount and has also said that he was not involved in a fraud which has been committed by Shri Ram Achhaibar Dubey.

9. That the contents of para 9 of the counter affidavit are admitted only to the extent that the deponent was ~~placed~~ placed under suspension vide order dated 22.1.72 passed by the Supdt. of Post Offices, Gonda and rest of the allegations are not correct.

10. That the contents of paragraphs 10, 11, 12, 13, and 14 of the counter affidavit need no comments.

11. That in reply to contents of para 15 of the counter affidavit, it is submitted that when the learned Upper Session Judge VII, Gonda has held that the cash was not entrusted to the deponent and as such the question of charges of joint offence criminal conspiracy or abetment did not arise against the deponent. However, it is admitted that the deponent was reinstated in service vide an order dated 18.2.84.

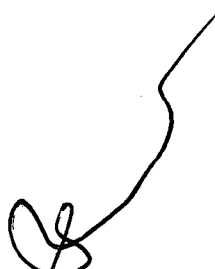
12. That the contents of para 16 of the counter affidavit need no comments.

13. That in reply to para 17 of the counter affidavit,

- 4 -

it is submitted that the deponent has already been punished for responsibility of infringement of Departmental Rules with the punishment of recovery of Rs.2,000/- i.e. the exact amount of National Saving Certificates. The deponent was suspended on account of pending criminal case Under Sec. 409 I.P.C. in which he has been acquitted by the competent Court of Law and the deponent has been reinstated in service with effect from 22.3.84 and as such the suspension order was not at all justified. The Supdt. of Post Offices, Gonda has treated the whole suspension period as the period spent under suspension for all purposes and the pay and allowances of the deponent then restricted to ~~such~~ subsistence allowance drawn during the period of suspension which is against the principle of natural justice and against the existing laws as opportunity for making a representation against this action has not been afforded to the deponent. The relevant rule in this connection shall be put up before this Hon'ble Tribunal at the time of argument.

14. That in reply to contents of para 18 of the counter affidavit, it is submitted that reliefs No. (b) and (c) which are with regard to recovery of Rs.2,000/- have already been deleted on the prayer of deponent's counsel on 26.4.88 when the ~~wa~~ case was taken up by this Hon'ble Tribunal for admission.



- 5 -

15. That the contents of paragraphs 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 ^{/of the counter affidavit} need no comments.

16. That in reply to para 29 of the counter affidavit it is submitted that the deponent has already been punished for the infringement of Departmental rules. It is submitted that the learned Upper Session Judge VII Gonda has very clearly said in his judgment that the cash was not entrusted to the deponent and as such involvement of the deponent in criminal conspiracy or abetment does not arise.

17. That the contents of para 30 of the counter affidavit need no comments in view of preceding paragraphs.

18. That the contents of paragraphs 31, 32, 33 and 34 of the counter affidavit need no comments in view of preceding paragraphs.

19. That the contents of paragraph 35 of the counter affidavit are not admitted for want of knowledge.

20. That in reply to para 36 of the counter affidavit it is submitted that the deponent has been punished with the recovery of Rs.2,000/- by the Department for infringe-

- 6 -

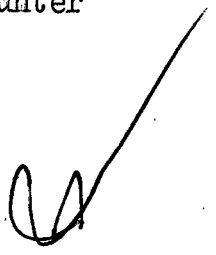
ment of Departmental rules and when criminal case has no concern with this punishment in which he has been acquitted, the question of forfeiting full pay and allowances during ~~the~~ which the deponent was kept under suspension due to pendency of criminal case against him, does not arise and in case the Department has considered that the suspension was fully justified ~~then~~ then any order with regard to full pay and allowances of the suspension period restricting to the subsistence allowance only should have been passed only after giving opportunity to make a representation.

21. That in reply to contents of para 37 of the counter affidavit, the contents of para 6(xxi) of the application are reiterated.

22. That the contents of para 38 of the counter affidavit need no comments. However, it is submitted that the application was submitted to the Department.

23. That the contents of para 39 of the counter affidavit need no comments in view of preceding paragraphs.

24. That the contents of para 40 of the counter affidavit need no comments.



- 7 -

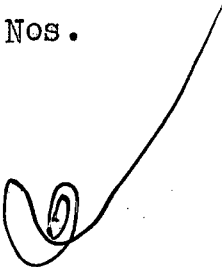
25. That the contents of paragraphs 41, 42, 43 and 44 need no comments in view of preceding paragraphs.

26. That ~~the~~ in reply to para 45 of the counter affidavit it is submitted that the deponent is entitled to get relief as the period under which he was kept under suspension has been treated as the period spent under suspension and full pay and allowances have been restricted to subsistence allowance only without applying principle of natural justice as well as the relevant rules.

27. That the contents of paragraph 46 of the counter affidavit need no comments as relief with regard to recovery has already been deleted.

28. That the contents of paras 47, 48 and 49 of the counter affidavit need no comments.

I, the deponent, abovenamed do hereby verify and declare that the contents of paras Nos. of this affidavit are true to my personal knowledge; those of paras Nos. of this affidavit are based on information received from perusal of the papers on record; those of paras Nos.



of this affidavit are based on legal advice which all the deponent believes to be true; that no part of this affidavit is false and that nothing material has been concealed in it. So help me God.

Saangy Joshi
Deponent.

I, Clerk to Shri Rakesh Varma, Advocate declare that the person making this affidavit and alleging himself to be the deponent is known to me from perusal of the papers.

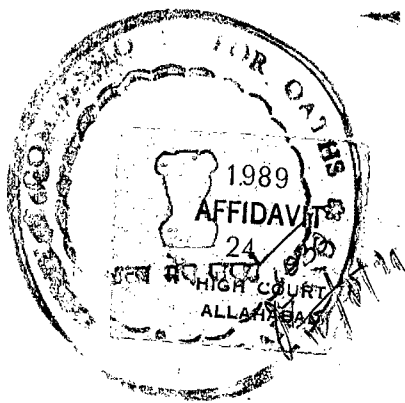
Identifier.

Solemnly affirmed before me on this _____ day of September, 1988 at _____ A.M./P.M. by the deponent, who is identified by aforesaid.

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

OATH COMMISSIONER.

(Signature)



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD

Supplementary Counter Affidavit

To

Amendment Application Filed by the Petition

In

Registration No. 1254 of 1987

Samaj
~~Swami~~ Prasad Gupta ----- Petitioner

versus

1. Union of India, through Secretary, Ministry of Post and Telegraphs, New Delhi.
2. Director Postal Services, Uttar Pradesh Circle, Lucknow.
3. Superintendent of Post Offices, Gonda Division, Gonda.

----- Respondents

AFFIDAVIT of Shri R.S.Singh, aged about 46 years, son of Shri Raj Bahadur Singh, Supdt. of Post Offices, Gonda Division, Gonda.

R.S. Singh
Deponent

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

*Se (5)
Keep on file
Put up on date
fixed 7-2-90
Ref*



*Recd
4/9/89*

R.S. Singh

121

1. That the deponent is working as Supdt. Post Offices, Gonda Division, Gonda and as such is fully conversant with full facts of the case deposed to below and has been authorised to file this affidavit on behalf of the respondents by the Department.

2. That the deponent has read the contents of ~~the~~ ~~Amendment~~ ~~Application~~ the Amendment Application and filing this Supplementary Counter Affidavit to the Amendment Application moved by the petitioner in the aforesaid case.

3. That the contents of paragraph no. 6(4) (A) of the complaint are not admitted. It is submitted that the petitioner had not preferred any appeal against the punishment mentioned in the paragraph either to the Post Master General or Director Postal Services, Uttar Pradesh Circle, Lucknow.

4. That the contents of paragraph no. 6(12) (A) of the complaint are not admitted. It is submitted that under the rules the disciplinary authority is competent to decide the suspension period after finalisation of disciplinary/criminal proceedings. There was no necessity to give show cause notice to the petitioner as no show cause notice is prescribed under the rules.



R. S. Singh

/3/

5. That the contents of paragraph no. 6(24) of the complaint are not admitted. It is submitted the applicant was exonerated by the Additional Sessions Judge, Gonda from the criminal charges. He was not exonerated from the infringement of departmental rules. The wording of the Additional Sessions Judge, Gonda is as under :

" Meri rai mein appealartheni abhiyukt samay prasad ke virudh aapradhik nyay bhang ka koi sakchya nahin hein aur kewal es baat se ki usne prasangat certificate bhare uske virudh aapradhi hone ka koi nishkarsh nahin nikala ja sakta esi paristithi mein uski appeal swaikaar ki jaati hein."

It is submitted that though the amount of certificate prepared was not received by the petitioner, yet it was his departmental duty to see that the amount released in lieu of



/4/

6. That the contents of paragraph no. 6(25) of the complaint are not admitted. It is stated that the petitioner was responsible for infringement of departmental rules as mentioned above in discharge of his duties, therefore, he was punished departmentally and punishment of recovery of amount of loss occasioned to the department amount to Rs. 2000/- was levied on him.

I, the deponent abovenamed, do hereby verify and state that the contents of paragraph nos. ^{1st} 1 and ^{2nd} 2 of this affidavit are true to my personal knowledge and those of the contents of paragraph nos. ^{3rd} 3 to ^{4th} 6 of the same are based on perusal of records and those of the contents of paragraph nos. ^{5th} 7 of the same are based on legal advice which all I believe to be true. That nothing material has been concealed. So help me GOD.

R.S. Singh
(DEPONENT)

I, R.C. Yadav, clerk to Shri Ashok Mohiley, Advocate, Counsel for the Union of India, do hereby declare that the person making this affidavit and alleging himself to be shri R.S. Singh is the same person and is known to me personally.

R.C. Yadav
(CLERK) 18-8-89

R.S. Singh



A 15

/5/

Solemnly affirmed before me on this the 18th day of August 1989 at about 8³⁰ AM/PM by the deponent who has been identified by the aforesaid clerk.

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

R. S. Singh

Jawahar Lal
OATH COMMISSIONER
OATH COMMISSIONER
High Court, Allahabad.
No. 24/1030
18-8-89



31/7
Before the Central Administrative Tribunal
Allahabad. *Suppl. CA*

A106

Supplementary Rejoinder in - O.A. 1254 /87

Samaya Prasad Gupte - - - - - Petitioner.

Vs.

Union of India & others - - - - - Respondents.

Filed today
31/7/90
The Supplementary Counter application in O.A.No.1254/87 was received on 4.9.89 and in this supplementary Rejoinder the parawise comments are submitted as under :-

- 1- That in reply to para 1 of the counter application filed by the Supdt. Post Offices Gonda it is submitted that it needs no comments.
- 2- That in reply to para 2 of the counter application , as referred to above , it needs no reply.
- 3- That in reply to para 3 of the counter application, it is submitted that the appeal against the order of recovery of Rs. 2000/- being made enforceable , after the acquittal by the court , was submitted to the Post Master General Lucknow , endorsing copies to the Director Postal Services Lucknow under registered cover on 6.9.71 and a true copy of the same has been filed as annexure II of this proposed amendment .
- 4- That in reply to para 4 of the counter application , it is submitted that the department has omitted to correspond to the rules F.R.54 , F.R. 54 (4) & (5) and F.R. 54 A(3) in the case of the petitioner and there is no scope to resort to the proceedings of Recovery etc. and also for non-payment of salary , for the period under suspension after acquittal by the court .

SO(3)
Keep on record
if in time.

A DR(3)

Amendment
allowed to be
incorporated within
7. 3.90 before the

Sanyal

DR

5- That in reply to para 5 of the counter application, it is submitted that the criminal charges, as alleged by the department, had been reported against the applicant by the Complaint Inspector of the Postal Department alleging that the infringement of the Departmental Rules have resulted into criminal misappropriation of the alleged sum by the applicant, which could not be proved before the Addl. District & Sessions Judge Gonda. There is comprehensive comment and analysis in the judgment of the Addl. Sessions Judge which nowhere indicates that the applicant was responsible for infringement of any of the departmental Rules.

It is erroneous to hold that the petitioner had had a departmental obligation to see that the amount realised in lieu of the certificates under reference had been taken into Govt. account by the Sub-Post Master Gonda who functioned at the Sub-Post Master Cum Treasurer at the Post Office.

It was not the duty of the petitioner to sign the daily accounts and S.O. A/C each day. Factually speaking there were 3 persons working in the Post Office at Gonda :-

- (1) Ram Achaibar Dubey - Sub-Post Master Cum Treasurer
- (2) Ambika Prasad Misra - Senior Clerk cum Accountant
- (3) Samaya Prasad Gupta - Saving Bank Clerk (who had actually transferred the subject amount of Rs.2000/- in cash to the Sub-Post Master, Sri Ram Achaibar Dubey aforesaid and who had been legally held responsible for the mis-appropriation of the said amount vide penalty passed by the Addl. Sessions

Same as above

[Signature]

Judge Gonda with 2 years imprisonment and a fine amounting to Rs. 2000/- , in default 6 months R.T. Therefore respondents are required to be put to the strict proof for holding that the petitioner was held responsible for violation of any of the departmental rules as alleged in the instant counter application.

- 6- That in reply to para 6 of the counter application , it is submitted that in the event of acquittal by the Addl. Sessions Judge Gonda, in criminal case, arising out of the alleged violation or inflictingment of rules, the petitioner was put back to duty but no orders in regard to payment of salary etc . for the intervening period were passed as required under rule , moreover ^{no so cause} notice for resorting to the order of recovery was issued against the petitioner, as required under rules .

The counter application is based on mis-apprehension and in violation of natural justice . Hence the amendment sought for by the applicant, is maintainable in the eye of law & facts, in order to secure the ensuing benefit for the petitioner and without any detriment to the facts of the case as contained in the writ petition, before this Honourable Tribunal.

IN VERIFICATION I Samaya Prasad Gupta Postal Assistant, the applicant in this case do hereby solemnly affirm that the contents of para 1 to 6 of this Supplementary rejoinder are true and nothing has been concealed.

Samaya Prasad Gupta

Through :-

R. S. Ojha
R. S. Ojha
Advocate.

5.1.1990

Samaya Prasad Gupta

BEFORE THE GENERAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD.

Misc Application 307/89
Regn. No. O.A. 1254 of 1987.

Samai Prasad. Applicant.

The Union of India and others. Respondents.

AMENDMENT APPLICATION

The aforesaid petitioner, hereby proposes to amend the plaint in the original application No. 1254 of 1987 and intends to move this honourable Tribunal on 10-3-1989 at 10 hrs. or thereafter, to include the following vital facts which have been, inadvertently, omitted in the original application and without which the applicant is likely to suffer a great loss and detriment to his claims, contained in the petition. ^{entirely changing the nature of the suit and the relief claimed &}

The applicant solemnly prays that the proposed amendment is not likely to alter the main issue involved in this case in respect of claims and reliefs sought for. Hence the Hon'ble Tribunal may be pleased to allow the following amendments in the paras of the claim petition as given below:-

(1) That para 6(4 A) after para 6(4) of the plaint be added:-

6(4 A)" The applicant has preferred his ^{in DMG/U} vide application dated 6.9.1971, to the D1

Postal Services, Lucknow against the order

deduction amounting to Rs. 2000/- ^{without ascertaining distinct cause notice as shown}

(2) That para 6(12-A) after ^{added:-}

6(1)

Received copy
R.C. Ashok Mohilay
29/5/89

Division communicated vide his order dated 30.3.1988
(Memo No. F/18/67-68/1 dated 30.3.1988 that the period
24.1.1972 to 20-2-1984 and from 22-2-1984 to 21-3-1984

justified suspension for the purpose of pay and allowances
without any fresh notice after exoneration by the court and
miscellaneous proceedings vide Annexure-2 &
proceedings as continuous in process".

3. That a fresh para 6(24) after para 6(23) be added:-

"That the Director Post Offices, Lucknow, in reply to the
applicant's appeal dated 6.9.1986, against the recovery
of his proceedings vide order dated 24.8.1971, has
exceeded his jurisdiction, in sitting upon the judgment
of the Additional Sessions Judge, Gonda dated 9.2.1984
(exonerating the applicant from the charges) and re-
enforcing his own orders for recovery vide Memo No. RDL/

APP/-150/88/89/13 dated 31.7.1988.

4. 6-28A That the District authority as well as the appellate
authority have denied natural justice and personal
hearing while dealing with the case of the applicant
at all the stages "

VERIFICATION:-

I, Samai Prasad, the applicant
in O.A.No. 1254/1987, do hereby
solemnly affirm that the contents
of paras 1 to 3 of this amendment. Through
application are true and
correct to the best of my
knowledge and nothing material
has been suppressed.

SAMAI PRASAD

Applicant.

SHRI R.S. OJHA, Advocate.

(Samai Prasad)
29/5/88

CA 1254/87
15/5/88
10/3/89
29/5/88
Samai Prasad

Ca. No. 2

A
III

CIII

O. () to be put up before
V.C. for orders
on 26-9-91

17/9/91

17/9/91

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD .

Misc Exp no 1515791

O.A. NO. 1254 / 87

Samaya Prasad Gupta Petitioner

Versus

Union of India and others Respondents

..... Date of Hearing 3.12.91

NOTICE OF MOTION

Please take notice that I propose to move this Hon'ble Tribunal on 26.9.91 with the notice of motion for expediting the extant case to be listed for early hearing . The contents of the notice of motion are enclosed in the application Annexed _____ .

This case has been sent to Court No II for hearing on 10-10-91 noted for 17/9 26/9/91

Samaya Prasad Gupta
(S.P. GUPTA)
PETITIONER

THROUGH : SRI R.S. OJHA
ADVOCATE

ANNEXURE: EXPEDITE APPLICATION.

17.9.91

Received Copy noted for 23/9/91
R.C. Yadav Clerk to
Sri Ashok Mohiley
Advocate
17-9-91

A/12
A/12

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

Next date of hearing fixed 03.12.91

Samaya Prasad

Applicant

Versus

Union of India

Respondent.

MISC. EXPEDITE APPLICATION NO

OF 1991

IN

O.A. NO. 1254 of 1987

The humble petitioner most respectfully submits, before this Honourable Court, with a prayer that the petitioner has considerably suffered the loss and the impact is most detrimental towards the gains, which he is to suffer on the eve of his retirement from service in Jan 92. Therefore, prayer for expediting the application seeking a ^{post} ~~pre~~ and a final order will grant a ~~pre~~ and ^{substantial} Justice to the petitioner, therefore, the expedite application on the following grounds.

A/12

- 2 -

GROUNDS

1. Because the claim of the petitioners dates back to the period ranging between 22.1.72 to 22.3.84 when the applicant has suffered the severe tortures of dismissal prosecution, Acquittal and reinstatement ^{etc} /but the respondent have refused to consider the payment of salary promotion and the other benefits and the petitioner had to present this petition before this Hon'ble Tribunal.
2. Because the petitioner's case before this Hon'ble Court was filed on 22 December 1986 and the Counter and the Rejoinder etc. have been already exchanged but against all hopes the case has not been so far finalized.
3. Because the petitioner's case is ripe for hearing but every time on same or the other reasons it is being adjourned and final hearing ^{is} ~~being~~ delayed.
4. Because ^{the} ~~the~~ extant case had been fixed for final hearing on 17.9.91 but again adjourned for there being no Court. Hence the petitioner respectfully prays ^{is} ~~that~~ this case may please

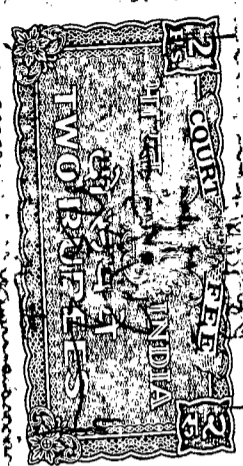
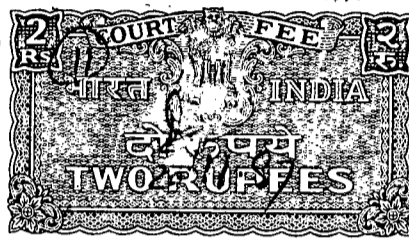
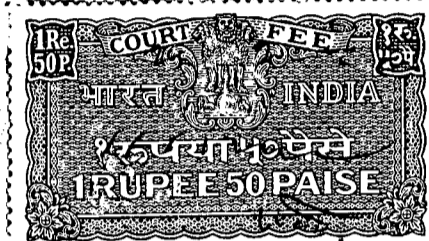
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15

वकालतनामा



8-A-1254/1987

अदालत

The Central Adm Tribunal
Allahabad.

Suman Prasad Gupta

वनाम

Uman Pandia & others

मुद्दे

मनकि

दावा तहरीर

मुदाअलेह

चूं किं मिनशुकिर ने वास्ते खवाल जबाव मंजूर
वकील हाईकोर्ट को इकरार अदाय पेहनताना व तसफिया खुदहा वकील को अपना मुकरर
किया है। लिहाजा इकरार करते हैं। कि वकील साहब मौसूफ जो कुछ पैरवी कोशिश सवाल
का जबाब तहरीर य दस्तावेजात दाखिल करे सालिश व मुकरर करें व फैसला सालसी में
इजरात दाखिल करें य वापिस लेवें या इकरारनामा सालिश दाखिल करे व मुकदमा मजकूर
वाला में सुलहनामा रें खाह सुलह करे व सुदर डिगरी व खर्चा उभरात कुभी नीलाशी व
दांगर रकम आफतान हमारी वसूली करें। या कांटबास दाखिल करें व खाह सवाल रसाद
वसूलवावी दाखिल करें। व तदंक व दरखास्त नकल हासिल करें व दरखवास्त खाहना
मिसिल देवें या मिसल का मुआइना करें या कांटे हरम्वस्त मतगलिका मुकदमा गुजरने था
ववक्त जरूरी व कोई दूसर वकील मुकरर करें या शिक लेवें या इसका कपया वसूल करें।
अर्जीदावा व बयान तहरीर व अपील दाखिल करें व सब दास्ता वकील मौसूफ का मिसल खास
अपने को मंजूर है। लिहाजा यह चन्द कलम बतौर वकालतनामा लिख दिया कि सनद रहे
और वक्त पर काम आवे।

R. S. Othra Adv.

अलमरकूम

Suman Prasad Gupta

माह

R. S. Othra
Advocate

वकालतनामा मंजूर है।

10/3/88

अलब्द

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Misc Application 307 of 89
(Registration No. 1254 of 1987)

Samir Ad Gufta Applicant

Versus

Umar Gindra Respondent

Make notice that the court will be moved by the undersigned on 4-9-89 at 10.30 o'clock in the forenoon or as soon thereafter and the parties as their counsels can be heard.

The object of the motion is carefully indicated by the counsel R S Ghe.

A copy of the application is enclosed herewith.

Take further notice that while this Court has been pleased to pass the following order.

Dated this the 30.5. of 1989

R S Ghe
Signature of the Counsel

SO(J)

List this appln. before court for orders on 4-9-89 as prayed and as already date fixed.

30.5.89
SO(J)