

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE T.A. No. 1194/87 - of 19
12-2-590/83

Name of the parties U. R. Singh

.....Applicant.

Versus.

Commission of District and Respondents

Part A

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4	Petition with annexure	A9 to A19
5	Balance	A50
6	Copy of High Court order sheet	A51
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CERTIFICATE

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

Date :

Countersigned

Reche
Reche

22-8-11
Signature of the
Dealing Assistant

2

CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow
Opp. Residency, Gandhi Bhawan, Lucknow

INDEX SHEETCAUSE TITLE TA. 1194/87 of 19

NAME OF THE PARTIES _____

Shri U. D. Singh Applicant

Versus

Union of India & RespondentPart A, B & C

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CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow
Opp. Residency, Gandhi Bhawan, Lucknow

APPLICATION No. _____ of 19

TRANSFER APPLICATION No. _____ of 19

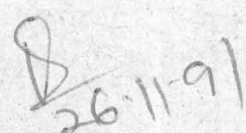
OLD WRIT PETITION No.: _____ of

CERTIFICATE

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

Dated :

COUNTER SIGNED :


Signature of the
dealing Assistant

Section Officer/Court Officer

42

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

~~O.A./T.A./R.A./C.C.P./~~ No. 1194-1987
under Raj Singh Vs. U.V.I.

PART - I

- | | | | |
|----|------------------|----|-----------------------|
| 1. | Index Papers | :- | 1-2 |
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| 3. | Any other orders | :- | Nil |
| 4. | Judgement | :- | 7 (D.F.D.) on 10-5-91 |
| 5. | S.L.P. | :- | Nil |

[Signature]
DY. Registrar

[Signature]
Supervising Officer
(Kulbir Singh)

[Signature]
Dealing Clerk
(A.K. Rai)

Note :- If any original document is on record - Details.

Nil

[Signature]
Dealing Clerk
(A.K. Rai)

GENERAL INDEX

CIVIL
SIDE
CRIMINAL

Chapter XLI, Rules 2, 9 and 15

Nature and number of case

W.P. 5901 - 83

Name of parties

Uddai Raj Supt. vs.

Date of institution

8-11-83.

Date of decision

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
	1	W.P. with Dm. and app. etc.	43	-	102.00			
	2	Power	1	-	5.00			
	3	ack sheet	1	-	-			

I have this _____ day of _____ 197 , examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court Fee Stamps of the aggregate value of Rs. _____, that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Date _____

Munsarim
Clerk

In the Honble High Court of Judicature at
 Allahabad (Lucknow Bench)
 Lucknow
 Writ Petition No 590 of 1983
 8927
 Group A-13(a)
 Uddai Raj Singh - - - - - Petitioner
 vs.
 The Union of India & Ors - - - - - Opposite Party

Index

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Lucknow
 7-11-83

R. N. Swastika Advocate
 Counsel for Petitioner

17980

(14)

the Hon'ble High Court of Judicature at Allahabad,

(Lucknow Bench) :: Lucknow.

Writ Petition No. 590 of 1983

gh, aged about 40 years, Ex-Branch
P.O. Gaura, Distt. Barabanki.

--- Petitioner.

Versus

1. The Union of India, Through its Secretary,
POSTS & Telegraphs Department, New Delhi.
2. The Post-Master General, U.P. Circle, Lucknow.
3. The Director of Post-Offices, U.P., Lucknow--
Circle, Lucknow.

--- Opposite Parties.

Writ Petition Under Article 226 of the Constitution
of India,

To

The Hon'ble the Chief Justice and his Hon'ble
Companion Judges of Judicature at Allahabad,
Sitting at Lucknow Bench, Lucknow.

The humble petition of the above named Petitioner
most respectfully sheweth as under :-

1. That the humble petitioner was appointed as the Post-
Master, some time, in the year 1968 and was posted at
Post Office Gaura, District Barabanki.
2. That the humble petitioner worked about ten years,

contd 2/-

7/6

(34)

Mem. Sec Mathur. J

List in ordinary course
as prayed for by the learned
counsel.

* 24183
✓

Recd. Cops for ps 1 to 3.
Port one Extra copy for
yet to be supplied.

DS Randhawa

(D S RANDHAWA)
Advocate
Senior Standing Counsel
Central Govt.

27-10-83

(1) (3) 8/4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 1194 of 1987 (1)

APPELLANT
APPLICANT

VERSUS

DEFENDANT
RESPONDENT

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
7/12/89	Hon. Justice K. Nath, VC. Hon. K. J. Raman, AM. Sri R. N. Srivastava for the applicant, is present. Km. Rekha Pandey holding brief for Sri D. S. Ramthani is also present. The learned counsel for the applicant requests for an adjournment in order to enable him to contact his client. Comts has not been filed in the case. Opposite parties may file comts within four weeks to which the applicant may file rejoinder within two weeks thereafter. The case may be listed for orders on 18/1/90. AM. VC.	OK Case has been read on 20.12.89 for CAT, AM. Case is not admitted. CA/RA not filed. Date was fixed for CAT, AM. It is not allowed to be submitted for order. 17/1/90
10/11/89	Hon. J. P. Sharma, J.M. Sri R. N. Srivastava for the applicant is present. Km. Rekha Pandey holding brief for Sri D. S. Ramthani is also present. Respondents requests for two weeks time. The reply, allowed. Rejoinder may be filed within two weeks thereafter. Put up on 12.3.90 J.M.	OK No reply filed submitted for order. No reply filed for order. 9/3/90

(3)

(4)

1194/07/71

12/3/90

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

No one is present for the applicant. A request has been made on behalf of Shri D.S. Randhawa, counsel for the respondent, for adjournment. List it for orders on 19/5/90.

Q

(4)

21-5-90

A.M.

Del

J.M.

Hon. Mr. B.C. Mathur, V.C.
Hon. Mr. D.K. Agrawal, J.M.

OR

No Reply filed

Shri R. N. Srivastava for applicant.
None on behalf of respondents.

S.F.A.

15/5

The respondents were asked to file their reply within 4 weeks by order dated 17-12-89 but they have not cared to file the reply so far. The case is adjourned to 26-7-90 for final hearing and orders. The respondents are given one more chance to file their reply with a copy to the applicant who may file rejoinder within 2 weeks. If no reply is filed within one month, the respondents will forfeit their right to file their reply and the case may be decided ex parte on basis of available pleadings and arguments, if any.

Q

OR

No reply filed
S.F.A. / ex parte

24/7/90

Del
J.M.

S.C. Mehta
21.5.90

Mc

(5)

1141/87
(2)

(5)

26.7.90 Hon'ble Mr. Justice K. Math V.C.
Hon'ble Mr. K. Chayya A.M.

On the request of the counsel for the applicant the case is adjourned. Listed for final hearing on 12th Sep. 1990.

(A.M.)

(V.C.)

(6)

12.9.90

Hon'ble Mr. Justice K. Math V.C.
Hon'ble Mr. M.M. Singh A.M.

OR
No CA filed
S.F.H / ex parte
as per court's order
dt. 21-5-90
L
10/9/90

On the request of learned counsel for the applicant. case is adjourned to 15.11.90 for hearing

A.M.

V.C.

OR
No CA filed
S.F.H / ex parte
as per court's order
dt. 21-5-90
L
13/11/90

(7)

15.11.90

Hon. Mr. Justice K. Math V.C.
Hon. Mr. M.Y. Prasadkar A.M.

On the request of counsel for applicant case is adjourned to 17.11.91.

A.M.

V.C.

6/5

(8)

15.11.91

No sitting adjourn to 22.11

(9)

27.2.91.

No sitting order to 8.5.91. @

(6)

8.5.91.

Hon. Mr. Justice V.C. Srivastava - VC

Hon. Mr. A.B. Goshwami

Am.

Put up on 10.5.91 for
hearing.



Am.


VC Bu post to the
applicant

Kuldeep Bhatia
Junior of Sd/- D.S. Randhawa
Adv.
146/91

(97)

1/1/03

4880.

Impressed
Adhesive 25 100/2
Total

Correct but final Court fee report
will be made on receipt of lower
Court record.

In time up to

Papers filed. Copy of F-2

Should also be filed

~~1/1/03 - Bench~~ Singh

Last Top Order Am 6:30-7-03

Dist. Lucknow

Subscribed
7-11-03
2
7/11/03

10/5/91

Hon. Mr. Justice V.C. Srivastava, Jc.
Hon. Mr. D.S. Ghosh, Am.

Sin. D.S. Pandhawe for the
respondents is present.

The learned Counsel
for the applicant is not
present. It is ^{presumed} ~~assumed~~ that
the applicant is not
interested to prosecute his
case. The application is
dismissed for default
of the applicant.

Am.

vc.



and when the statement of the said witness Jagannath Singh was to be recorded, ~~that~~ the petitioner moved an application to the Enquiry Officer for supply of the required copies of the statement of the said Witness Jagannath Singh and it was then ~~and~~ and after much persist insist, that the copy of the statement was supplied to the petitioner. Thus the petitioner was deliberately deprived of a fair and adequate opportunity of cross-examining the said witness Jagannath Singh. The petitioner could not cross-examine the said witness properly on relevant points due to ~~haste~~ and hurry in preparing the cross-examination.

5. That the petitioner submitted his reply within time, stating therein the facts and circumstances showing the bonafides of the petitioner, in the alleged transaction and pleading that he never intended to mis-appropriate the money. The petitioner further stated that the statement of the said Sri Jagannath Singh does not make out any prima facie case against the petitioner.

6. That the petitioner further states that the said witness Jagannath Singh did not at all make any

(9)

1/11/03

4000.

impressed

Adhesive 20/100/2

Total

Correct but final Court fee report
will be made on receipt of lower
Court record.

In time up to

Papers filed. Copy of P. 2

Should also be filed

Writs - Bench - Singh

Last Top Order No 6230-7-03

Asst. Lucknow

Subscribed
7-11-03

2/11/03

16/5/03

Hon. Mr. Justice V.C. Sinrastava, Jc.
Hon. Mr. D.B. Gosthi, Am.

Sin D.S. Randhawa for the
respondents is present.

The learned Counsel
for the applicant is not
present. It is ~~assumed~~ ^{presumed} that
the applicant is not
interested to prosecute his
case. The application is
dismissed for default
of the applicant.

Am.

vc.



The work of the humble petitioner has been found satisfactory. No adverse entry in his service roll, no complaint ever filed against the petitioner and ~~the~~^{no} explanation ever called for from the humble petitioner in respect of any charge or allegation. As such, the petitioner has sufficient reasons to believe that his service role is quite good.

3. That the petitioner while posted as the Post-Master at P.O. Gaura at district Barabanki, was served with an order for suspension on 21.2.1980 for the charge that the petitioner did not account for a sum of Rs 85/- only in the Saving Bank Account No. 271273 on 15.12.1978, standing in the name of one Jagannath Singh, an Account Holder of P.O. Gaura, Distt. Barabanki.

4. That the petitioner was called upon to submit his reply, but he was asked to do so without producing his with a copy of documents relating to the allegation or the charges against him particularly the Statement of the said Jagannath Singh, who is the main witness in the case. It was actually, however, at a belated stage, when the departmental Enquiry was set out and the proceedings thereof had started

and when the statement of the said witness Jagannath Singh was to be recorded, ~~that~~ the petitioner moved an application to the Enquiry Officer for supply of the required copies of the statement of the said Witness Jagannath Singh and it was then ^{and} and after much persist insist, that the copy of the statement was supplied to the petitioner. Thus the petitioner was deliberately deprived of a fair and adequate opportunity of cross-examining the said witness Jagannath Singh. The petitioner could not cross-examine the said witness properly on relevant points due to ^{haste} ~~make~~ and hurry in preparing the cross-examination.

5. That the petitioner submitted his reply within time, stating therein the facts and circumstances showing the bonafides of the petitioner, in the alleged transaction and pleading that he never intended to mis-appropriate the money. The petitioner further stated that the statement of the said Sri Jagannath Singh does not make out any prima facie case against the petitioner.

6. That the petitioner further states that the said witness Jagannath Singh did not at all make any

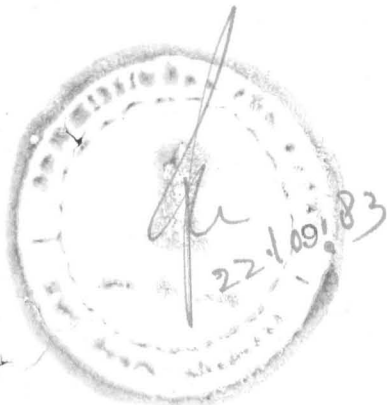
complaint nor had he any kind of grievance against the petitioner as the matter was agitated against the petitioner, all of a sudden, at the sue motto of one Sri Wakar Ahmad, Inspector of the Post-Offices Barabanki. The said witness Jagannath Singh actually did not want to make any statement against the petitioner, but he made the statement against the petitioner under duress and threats imparted to him by the said Sri Wakar Ahmad, Inspector of Post-Offices, Barabanki and other members of the staff that if, he would not make the statement, he would be put behind the bar. Thus, the statement of the said witness Jagannath Singh should not be relied upon. A true copy of the Affidavit of the said witness Jagannath Singh dated 22.1.83 filed before the opp. party No.3 is filed herewith as Annexure No.5....

7. That it was during the departmental proceedings and after the statement of said Jagannath Singh, whose copy of the statement of the said witness was supplied to the petitioner, it was necessary for the opp. parties nos. 2 and 3 ^{2/6/2} who have first provided the petitioner with the copy of the necessary

Contd 5/-

statement of the said witness before directing him to submit his reply or to hold a enquiry against him, so that the petitioner could have proper and adequate opportunity of defending his case. Non-providing of the same amounts to usurpation of the fundamental rights of the petitioner.

8. That the enquiry Officer, hwoever, submitted his report to the Superintendent Post Offices, District Barabanki. The Superintendent Post Offices, District Barabanki, hwoever, dismissed the petition. A true copy of the orders of the Superintendent, Post-Offices, Barabanki, is annexed as Annexure No.1 to this writ petition.



That being dis-satisfied with the orders of the Superintendent, Post Offices, vide Annexure No.1, the petitioner preferred a short time barred appeal to the Opp. party no. 3, namely - the Director of Post Offices, Lucknow Circle, Lucknow, along with a separate application supported with an Affidavit for condonation of delay in not preferring the appeal within the prescribed limitation. The main grounds taking in the Appeal of the said petitioner are that there is no irregularity or any misconduct

30/11/83

or any malafides on the part of the petitioner, but simply, it is a clerical mistake for which the punishment of dismissal cannot be warranted. In fact the said witness... Sri Jagannath Singh had gone to cash a Note of Rupees one hundred out of which a sum of Rs 85/- was to be deposited in the account of the said Sri Jagannath Singh. A true copy of the appeal dated 19.7.82 is annexed as Annexure No.2 to this writ petition.

10. That the opposite party No.3 i.e. the Director of Post-Offices, Lucknow Circle, Lucknow, dismissed the appeal of the petitioner on limitation, being the time barred by only 54-days, for which separate application accompanied with an Affidavit was filed along with the appeal, seeking condonation of delay on his personal illness preventing him from preferring the same within the prescribed limitation, as such it ^{is} sufficient case for condoning the delay in the interest of justice and the appeal could have been decided on merits after hearing the petitioner.

11. That it appears from careful perusal of the order passed by the said opposite party no. 3 dismissing

the appeal of the petitioner that either the opp. party no.3 overlooked or neglected to peruse or to take it into consideration, the said separate application of the petitioner for condonation of delay or some interested persons in office might have removed or omitted to present or put it up along with the appeal of the petitioner before the opp. party no. 3, while the opp. party no. 3 was passing the orders on the appeal. But there is no doubt that some foul play has been done with the petitioner with some ulterior motive to injure the petitioner permanently and to engage somebody in his place.

12. That the petitioner was advised to prefer an another petition before the opp. party no.3 for the purpose to point out the discrepancy of the office in not submitting the petitioner's application for condonation of delay along with the appeal before the appeal of the petitioner was disposed of by the opp. party no.3, to remove the misunderstanding and to bring to the knowledge of the opp. party no.3 about the true facts of the case. The petition of the said petitioner was filed along with the true copy of the application for

condonation of delay along with an affidavit thereof.

13. That aggrieved with, the petitioner also made a representation to the opp. party no.2, challenging the propriety, correctness and the legality of the orders passed by the opp. party no.3. The petitioner did not get any satisfactory reply from the opposite party no.2.

14. That when the petitioner did not get any reply from the opp. party no.3, he preferred a writ-petition (W.P. No. ⁶³⁵² of 1982) in this Hon'ble Court, challenging the orders of the opp. party no.3 to be wrong, illegal and is the failure of ^{exercise} ~~grace~~ of the inherent jurisdiction vested in the opp. party no.3 and he could not have dismissed the appeal of the petitioner on limitation for in view of the application for condonation of delay already pending before him. The writ petition No. ⁶³⁵² of 1982 was filed on ^{4.5} ~~22.12~~. 1982.

15. That the above writ petition no. ⁶³⁵² of 1982 was finally allowed on ²⁴ ~~22~~. 5. 1983 in favour of the petitioner, holding that the opp. party no. 3

failed to exercise inherent jurisdiction in not condoning the normal delay in the Appeal of the petitioner, thus directing to the opp. party no.3 to decide the Appeal of the petitioner on merits. A true copy of the judgment and orders dated 14.5.83, passed by the Hon'ble Bench consisting of Hon'ble Mr. Justice U.C. Srivastava and Hon'ble Mr. Justice K.N. Goel, is filed herewith as marked Annexure No. ³..... to this writ petition.

16. That on ^{22.5.83} 22.5.1983, the petitioner sent an application for amendment in the Memorandum of his Appeal dated ^{19.7.83} 19.7.83 through a Regd. post A/D, under a postal receipt no. ¹³⁶⁹ 1369 dated 27.5.83 on which, the petitioner sought certain amendments in the interest of justice. A true copy of the said amendment application dated ^{28.5.83} 28.5.83 is filed herewith as Annexure No. ⁴..... to this writ petition.

17. That the said witness Jagannath Singh also moved his ~~personal~~ personal affidavit dated 27.5.83 through the Regd. post A/D (vide High Court Post Office receipt no. ¹³⁶⁹ 1369 dt. ^{27.5.83} 27.5.83, in which he has clearly stated that he did not make any complaint against the petitioner nor was he

inclined to make any statement against the petitioner on the Enquiry proceedings but he was given dire threats and as such was forced to make an adverse statement against the petitioner, otherwise he would be put behind the bars. The said witness further averred that he had no grievances against the petitioner because he suffered no loss or injury. A true copy of the affidavit of Jagannath Singh-- witness dated 27.5.83 is filed herewith as marked Annexure No. 5..... to this writ petition.

18. That the opp. party no. 3 received the amendment application dated 28.5.83. The opp. party no. 3 further received the affidavit of the said witness Jagannath Singh vide A/D dated 27.5.83 on-----.

19. That the opp. party no. 3 even without affording to the petitioner of an opportunity of hearing and even without intimating the petitioner regarding the date of hearing, dismissed the Appeal of the petitioner, inspite of an specific ^{prayer} transfer as already made in his representation dated 19-10-1982 vide Annexure No. The orders of the opposite party no. 3 dated 30.7.83 is filed herewith as Annexure No. 6.... to this writ petition. The orders dt 30.7.83 were issued by the petitioner on 6-8-1983

20. That a perusal of the orders of the opposite party no.3 dated 30.7.83 already shows that the opposite party no.3 did not care to summon the relevant record from his subordinate office at Barabanki, for the purpose of examining the evidence on the record and to satisfy himself as regards the truth in the matter. Thus the opp. party no.3 has not complied with the proper procedure of summoning the relevant record and persuing the same before disposing off the appeal of the petitioner, thereby causing material injustice to the petitioner.



21. That the opp. party no.3 has not mentioned about the summoning or perusal of the relevant record. The opp. party no.3 has not even ~~discussed~~ discussed about any evidence or statement not has he recorded any finding in his said orders dated 30.7.83.

22. That the orders dated 30.7.83 further transpires that the opp. party no.3 ignored or neglected to take into consideration the amendment application of the petitioner, particularly the affidavit of the said witness Jagannath Singh dated 27.5.83. The opp. party no.3 has not recorded any finding

गुणगुण सिंह

or makes any observation in respect of the affidavit submitted by Jagannath Singh vide Annexure No. 5.1 to this affidavit.

23. That it further appears from the said judgment & orders that the opp. party no. 3 ignored to take into consideration that the question of punishment must be inconsistent with the nature of gravity of the charges against the petitioner. The punishment of dismissal from the service for a simple and negligent irregularity of not scoring out the entry of Rs 85/- from the Pass-book of the aforesaid account holder and the other charge of withdrawal of Rs 25/- are obviously no such serious charges in which the dismissal could be the proper and adequate punishment in the interest of justice. A lenient view or a light punishment could have been awarded to the petitioner by passing an adverse entry in his service roll or withholding the increment or some other light punishment could have been awarded to the petitioner. The opposite party no. 3, however, forgot that he was not only an administrative Officer of the department concerned but also to do justice to the petitioner,

Condt 13/-



3442/51 (A.E)

as an Appellate Authority while deciding the Appeal of the petitioner.

24. That the Impugned judgment & orders dated 30.7.83 vide Annexure no. ²²6² are not the orders in the eyes of law. They are vague, non-speaking and most script Orders. These orders have been passed without perusal of the relevant record which was not even summoned for the purpose to decide the appeal of the petitioner on merits. Thus, the evidence on the record has been ignored. No observations have been made on the evidence. No findings have been recorded about the statement of Jagannath Singh (witness) and the statement of said Sri Wakar Ahmad, Inspector concerned. No proper and adequate opportunity has been afforded to the petitioner to cross-examine the said witness Jagannath Singh due to non-supply of the required copies of the documents earlier. No opportunity has been afforded to the petitioner of hearing of his appeal, for which a specific prayer was already made to the opp. party no. 3. No intimation even was sent to the petitioner about the date of hearing of his appeal. The Impugned judgment and orders are further quite silent or blank and ^{do not} not even contain any reference about the affidavit of the said Jagannath dated



344/151 RE

27.5.83. Thus the orders of the opp. party no.3 dated 30.7.83 are arbitrary, erroneous in law, mala fide and bears a colour or spirit of bias, effecting the principles of natural justice. It was easy for the opp. party no. 3 to turn down the rights and ruin the career of the petitioner by dismissing his appeal in such hurried, ~~unmethodical~~ unmethodical and in such illegal manners, but he could not justify his such orders. Thus justice has not been meted out to the petitioner. The appeal of the petitioner could have been properly concluded and it could have been allowed, if decided on the basis of the evidence on record and other circumstances, with clean mind and fair heart, within the principles of natural justice.

25. That being dis-satisfied with the orders of the opp. party no.3, the petitioner has preferred a representation to the opp. party no.1, but the opp. party no.1 has not sent any reply to the petitioner. A true copy of representation is filed herewith as Annexure No. to this writ petition.

26. That being aggrieved with, the petitioner having no other alternative left open to him but to

prefer this petition in this Hon'ble Court on other amongst the following grounds:-

:- G R O U N D S :-

- 
- 1) Because the opp. party no. 3 has acted with substantial illegality and with material irregularity in deciding the appeal without persuing the evidence on the record which was not even summoned before disposing off the appeal of the petitioner ;
 - 2) Because the opp. party no.3 further acted with substantial illegality and against the principles of natural justice and not providing to the petitioner of an opportunity of being heard before deciding the appeal particularly when such a prayer was already made ^a for his representation to the opp no 3. dated 17.10.82
 - 3) Because the opp. party no. 3 erred in not exercising the jurisdiction vested in him and in not following the prescribed procedure in deciding the appeal of the petitioner ;
 - 4) Because the opp. party no. 3 erred in under-estimating his position that he was not only an Administrative Officer of the department but he

was also sitting as an Appellate Authority to decide the appeal of the petitioner judicially and to decide the same on merits on the basis of the evidence on record after the perusal of the record ;

- 5) Because, the opp. party no.3 erred in law in not discussing about the evidence and in not giving any finding on the evidence on record ;
- 6) Because the Impugned orders dated 30.7.83 vide Annexure No. 6..... suffers from error of law, coloured with bias and in violation of the principles of natural justice ;
- 7) Because the said Impugned orders dated 30.7.83 are vague, non-speaking, most scriptive and illegal orders, passed in ^{most} arbitrary manners, as such not judicial orders effecting the principles of the natural justice ;
- 8) Because the statement of the said Jagannath Singh (witness) made before the Inquiry Officer read with the subsequent affidavit of the said witness dated 27.5.83 do not make a charge against the petitioner, as such dismissal order is illegal ;
- 24/5/81 A/E

- 90) Because the opp. party no.3 could not have legally disposed off the appeal without summoning the relevant record, without persuing the same and without hearing the petitioner ;
- 10) Because the punishment of dismissal is too hard and excessive taking into consideration the nature and gravity of the irregularity or charge committed and a lenient view or light punishment could have have been awarded to the petitioner.

P R A Y E R

Wherefore, it is most respectfully prayed :

- a) that a writ in the nature of certiorari be issued quashing the Impugned orders dated 30.7.83 vide Annexure No.6... ;
- b) that any other appropriate writ or writs as may be deemed just and proper may further be issued in the circumstances of the case in favour of petitioner &
- c) any other substitute order or orders or direction/or directions as be deemed just & proper be further passed in the circumstances of the case; and
- d) Cost of writ petition be awarded.

Lucknow, dated

-8-1983

R. N. Sinha
Advocate
Counsel for Petitioner.

18

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

Udairaj Singh.

Petitioner.

Vs.

The Union of India & others.

Opp. Parties.

Affidavit

I, Udai Raj Singh, aged about 40 years, Ex-Branch Post Master, P.O. Gaura, Dist. Barabanki, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner in the above writ petition, as such, he is fully conversant with the facts of the case deposed to hereunder.
2. That the contents of paras 1 to 25 of writ petition are true to my knowledge.
3. That Annexures nos. 1 to 7 are the true copies of the orders which the deponent has compared with their respective originals and they are correct. And annexure no. 6 is the Impugned order passed by Director of Post Offices Lucknow dt. 23.7.83 as received by the deponent.

Lucknow dated
22-10-1983

Udairaj Singh
Deponent.

Verification

I, the above-named deponent do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my own knowledge. Nothing material has been concealed and no part of it is false. So may God help me.

22-10-1983

Udairaj Singh
Deponent.

I identify the deponent who has signed before me.

R.N. Swamitola
Advocate 22-10-83

Seal (PTO)

Salandy Affidavit before me on 22.10.83
At 4-20 PM by the deponent Mr Uday Raj Singh
and identified by Mr R.N. Shrivastava an Advocate
High Court No.

I have subscribed my Self by reading
the deponent that he subscribes all the
contents of this Affidavit which has been
read out and explained by me.



22.10.83

R. M. Bhattach

STATE COMMISSIONER
Dist Court, (Lucknow Bench)
LUCKNOW

20/10/21
22-10-83

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इन दि आनरेबल हाई कोर्ट आफ जूडीकेचर एट इलाहाबाद
लखानऊ बेंच लखानऊ ।

रिट पिटिशन नं० आफ 1983

उदय राज सिंह ----- पिटिशनर
बनाम

दि सूनियन आफ गोरा अर्से ----- अपोजीट पार्टीज

अनेक्जरन० - 1
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कापी आफ दि आर आफ 31.3.82

आफ पोस्ट आफिस बाराबंकी इन केस एफ० एक्स०/मिस 111/80-81
इन आफ उदय राज, एक्स० ब्रान्च पो० - पोस्ट-गोरा, बाराबंकी।

भारतीय डाक - तार विभाग
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कार्यालय अधीक्षक डाकघर बाराबंकी एफ० एक्स०/मिस - 111/प्रकांड,
बाराबंकी - 225001
=====

ज्ञापन सं० - एफ० एक्स०/मिस 111/80-81, स्थान-बाराबंकी दि 31-3-82

श्री उदय राज सिंह शाखा डाकघर गोरा पुरा आफ
डपोटी बाराबंकी को इस कार्यालय के समसंबंधक ज्ञापन दि 21-2-80 के
द्वारा सूचित किया गया था कि उनके विरुद्ध अतिरिक्त विभागीय
अभिकर्ता (आचरण एवं सेवा नियमावली 1964 के नियम 8 के अधीन
कार्यवाही एवं जांच किये जाने की स्थापना है। इस ज्ञापन के साथ
उनके विरुद्ध लगाये गये आरोपों के समर्थन में अवचार एवं कदाचार के
लाक्षणों का विवरण उपाबंध-1 तथा उपाबंध-2 के अ में तथा
दस्तावेजों एवं साक्ष्यों की सूची उपाबंध-3 व उपांध, 4 के अ में
संलग्न की गयी थी और उन्हें अवसर दिया गया था कि ज्ञापन की
प्राप्ति के 10 दिन के भीतर अपनी प्रतिर 11 का लिखित कथान इस
कार्यालय को भेजे उनके विरुद्ध लगाये गये अवचार एवं कदाचार के
आरोपों का निम्न प्रकार से उद्धात है :-



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आरोपों की धाराएं :-

"श्री उदय राज सिंह शाखा डाक्याल गोरा ने दि० 15-12-78 को गोरा शाखा डाक्यार बचत बैंक खाता सं० 271273 में ₹ 85/- जमा किया परन्तु उसे हिसाब में नहीं लिया तथा 85/- अपने पास रखा जो शाखा डाक्यार नियमावली के नियम(3) तथा अ० वि० अभिकर्ता नियम 1964 के नियम 17 के विरुद्ध है।"

आरोपों का विवरण :-

"श्री उदय राज सिंह जब दि० 15-12-78 को शाखा डाक्याल के पद पर कार्यरत तो शाखा डाक्यार बचत खाता सं० 271273 के जमा कर्ता श्री जगन्नाथ सिंह अपने बचत खाते में 85/- जमा करने के लिए दिये। उक्त श्री उदय राज सिंह ने उक्त धनराशि उनकी पास बुक में जमा करके तारीख मुहर लगा कर लौटा दिया परन्तु इस धनराशि को उक्त श्री उदय राज सिंह ने न तो शाखा डाक्यार लेखा में ही और न ही दैनिक शाखा डाक्यार लेखा में ही लिया फलस्वरूप उक्त धनराशि सरकारी खजाने में नहीं आयी।

फिर दि० 9-1-79 को उक्त श्री उदय राज सिंह ने उसी पास बुक में 165/- की निकासी का इंदराज किया परन्तु इस हिसाब में केवल 80/- ही लिया।

इस प्रकार से इन्होंने दि० 15-12-78 को जो 85/- का गबन किया था उसे 9-1-79 को ज्यादा निकालकर पास बुक का बकाया ठीक कर लिया। अतः उन्होंने ₹ 85/- दि० 15-12-78 से 9-1-79 तक अपने पास रखा कर सरकारी धन का दुरुपयोग किया।

अतः उक्त श्री उदय राज सिंह को शाखा डाक्याल गोरा के पर पर कार्य करते हुए शाखा डाक्यार के नियमावली के नियम (3) (3) का उल्लंघन किया तथा सरकार के प्रति पूर्ण निष्ठावान नहीं रहे जो अ० वि० अभिकर्ता नियम 1964 के नियम 17 के विरुद्ध है।

(3)

उपरोक्त ज्ञान श्री उदय राज सिंह अभियुक्त कर्मचारी को दि० 23.2.80 को वितरित किया गया था अभियुक्त कर्मचारी ने अपना प्रतिक्षा बयान दि० 28.2.80 को भोजा इस कार्यालय में दि० 29.2.80 को प्राप्त हुआ था जिसमें उन्होंने अपने ऊपर लगाये गये आरोप मानने से इनकार किया था। अतः केस की जाँच करने हेतु अधोहस्ताक्षरी ने श्री एम० पी० तिवारी तत्कालीन सहायक अधीक्षक डाक्टर बाराबंकी (अब वर्तमान सहायक अधीक्षक डाक्टर छारिरी) को और श्री पी० एन० पाण्डेय उप प्रबन्धीय निरीक्षक (दक्षिणी) को समसंख्यक ज्ञान दि० 25.3.80 के द्वारा क्रमशः जाँच अधिकारी और प्रस्तुती - करण अधिकारी नियुक्ति किया। अभियुक्त कर्मचारी ने श्री एम० जे० सिद्धीकी सहायक अधीक्षक (पश्चिम उप प्रबन्ध लखनऊ) को अपना बचाव सहायक नियुक्ति किया बाद में श्री पी० एन० पाण्डेय का स्थानान्तरण हो जाने के कारण उनके स्थान पर श्री एस० बी० सिंह स्थानापन्न उप प्रबन्धीय निरीक्षक (दक्षिणी) बाराबंकी को प्रस्तुतीकरण अधिकारी नामांकित किया गया जाँच अधिकारी ने विभिन्न तिथियों में अपनी जाँच सम्पन्न की। जाँच के मध्य अभियोजन पक्ष ने 3 साक्षी और 12 अभिलेख प्रदर्शक। से प्रदर्श। 1 - 12 तक प्रस्तुत किये। बचाव पक्ष ने न कोई बचाव साक्षी और न कोई बचाव अभिलेख प्रस्तुत किया जाँच अधिकारी ने अपने पत्र सं० बी- ए० एस० पी०/ इनकवारी/80.81 दि० 29-8-81 द्वा। अपनी जाँच आख्या प्रेषित की जो इस कार्यालय में 4-9-81 को प्राप्त हुई।

अधोहस्ताक्षरी ने आरोप पत्र, जाँच रिपोर्ट, साक्षियों के बयान, प्रस्तुतीकरण अधिकारी तथा बचाव सहायक द्वारा प्रस्तुत तर्क, एवं संबंधित अभिलेख जो जाँच के दौरान प्रदर्श। सं० 1 से 12 तक के क्रम में प्रस्तुत किये गये थे का गहन अध्ययन किया और इस निष्कर्ष पर पहुँचा कि जाँच अधिकारी की विवेचना सही है जिसमें भी निम्न आधारों पर उसकी प्रेषित आख्या से पूर्ण तथा सहमत है।

आरोप सं० 1 :-

यह बात तो जाँच के दौरान प्रमाणित ही है और इसमें बचाव पक्ष भी सहमत है कि दि० 15.12.78 को श्री जगन्नाथ सिंह

जमाकर्ता ने अपने गौरा बचत खाता सं० 271273 में रुपया जमा करने के लिए रुपया और पास बुक अभियुक्त कर्मचारी श्री उदय राज सिंह शाखा डाकघर गौरा को दिये थे। अब देखना यह है कि दिये गये रुपये केवल 85/- रुपये थे या सौ रुपये के एक या दो नोट थे इसमें से पहली बात ही ठीक प्रतीत होती है क्योंकि पास बुक में शब्दों व अंकों दोनों में अभियुक्त कर्मचारी द्वारा ही प्रविष्ट की गयी थी और उसके सामने उसने अपने हस्ताक्षर किये तथा शाखा डाकघर की तारीखा की मोहर लगायी है। यदि उसे खूले 85/- रुपये नहीं मिलते और सौ रुपये के नोट ही मिलते तो वह पास बुक में नियमानुसार प्रविष्टियां तब तक नहीं करता जब तक कि या तो अपने पास की नकदी बकाया में से 15 रुपया वापस नहीं करता या उसकी बकाया नकदी में दूटे रुपये नहीं थे तो तुड़वाकर 85/- रुपया मांगा नहीं लेता। जमाकर्ता एवं बचाव पक्षा की यह बात बिल्कुल अस्वाभाविक मालूम पड़ती है। कि अभियुक्त कर्मचारी ने नोट एवं पास बुक दोनों ही जमाकर्ता को लौटा दिया और उक्त 85/- रुपया न तो जमाकर्ता ने तुड़ा कर दिया और न अभियुक्त कर्मचारी ने उनसे कभी मांगा जबकि वे पास ही पास निवास करते हैं यहां तक कि दि० 26-12-78 को 70/- और 27-10-78 को 10/- रुपये जमा करते समय भी नहीं मांगा जबकि पास बुक (प्रदर्शक-1) और शाखा डाकघर बचत बैंक जनरल (प्रदर्शक-11) की बकाया प्रत्येक बार 85/- रुपये से भिन्न थी अर्थात् पासबुक में अंकित बकाया 26-12-78 और 27-12-78 को 70/- रुपये (हमें भी 10 पैसे) प्रत्येक बार 15-12-78 से ही लिखाना छोड़ दिया था जबकि बचत बैंक जनरल (प्रदर्शक-11क) से ₹ 70/व ₹ 10/- जमा करने के बाद यह बकाया क्रमशः ₹ 75/- 10 और ₹ 85.10 अंकित की थी दूसरी बात कि जमाकर्ता ने एक सौ का नोट दिया था बिल्कुल नहीं बदली क्योंकि जमाकर्ता कभी सौ रुपये का एक नोट और कभी सौ रुपये के 2 नोट अभियुक्त कर्मचारी को देना बताता है जो कि केवल भ्रमित करने वाली तथा पड़ीसी होने के नाते अभियुक्त कर्मचारी के कहने पर ही उसकी बचाने के उद्देश्य से मनगढ़त कहानी मात्र है। यदि मान लिया जाय कि सौ रुपया का एक नोट दिया था तो उसने अपनी 14-12-78 से चली आ रही नकदी जो कि 15-12-78 को भी बदस्तर उपलब्ध थी में से 15/- रुपये जमाकर्ता को वापस



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क्यों नहीं दिये और यदि बचाव पक्षा के अनुसार उक्त नकदी में बी-बीस रुपये के ही नोट थे तो बीस का एक नोट वापस करके 80/- रुपया ही उक्त बचत खाते में जमा करने की स्लाह जमाकर्ता को देकर जमा कर देता। अभियुक्त कर्मचारी का अपने स्पष्टीकरण में यह कहना बिल्कुल ही अस्त्य है कि पासबुक और सौ रुपये का नोट वापस करने तथा जमाकर्ता के चले जाने के बाद ही डाक पहुंच गयी और डाकघर में डाक टिकटों आदि लेखों लेने वाले की भीड़ लग गयी अतः मैं श्री जगन्नाथ सिंह से रुपया लेना भूल गया क्योंकि दि० 13-12-78 से 18-12-78 तक डाक टिकटों की बकाया रु० 60, 65 ही बनी रही और कोई बिक्री हुई ही नहीं इस प्रकार सिद्ध हो जाता है कि अभियुक्त कर्मचारी श्री उदयराम सिंह को दि० 15-12-78 को बचत खाता सं० 271273 में जमा करने के लिए जमाकर्ता ने दिये थे जिसके आधार पर ही उसने पास बुक में 85/- रुपये जमा करने की प्रविष्टि की अपने हस्ताक्षर किये और शाखा डाकघर की तारीखा की मोहर लगायी और मोहर निशान तारीखा का अंक 15 सुखी से स्वयं लिखा परन्तु इस रकम को अन्य संबंधित अभिलेखों जैसे शाखा डाकघर बचत बैंक जनरल (प्रदर्शक-11) और शाखा डाकघर दैनिक लेखा दि० 15-12-78 (प्रदर्शक-5) में नहीं चढ़ाया और उसे सरकारी हिसाब से लिया ही नहीं और इस प्रकार उक्त 85/- की रकम का गबन कर लिये अतएव यह आरोप अभियुक्त कर्मचारी के विरुद्ध स्वतः सिद्ध हो जाता है।

आरोप सं० 2 :-
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इस आरोप के विषय में श्री जगन्नाथ सिंह जमाकर्ता (अभियोजन साक्षी) ने कहा है कि दि० 9-1-79 को उसने अपने खाते में से 80/- रुपये निकाले थे और रुपया निकालने के फार्म (प्रदर्शक-3) के दोनों ओर मात्र अपने हस्ताक्षर किये थे शेष प्रविष्टियों किसे भारी वे नहीं जानते। पास बुक 80/- रुपये निकाले जाने की प्रविष्टि के बजाय 165/- रुपये की प्रविष्टि के विषय में उन्होंने बताया कि उन्हें अभियुक्त कर्मचारी श्री उदय राज सिंह ने बताया था तुम्हारी किताब से डाकघर का बैलेन्स गलत चल रहा है। इसलिए पास बुक में निकाली गयी रकम 165/- रुपये करके उसे ठीक कर दिया गया है। जिरह के दौरान उनसे प्रश्न किया गया कि पासबुक के अनुसार उन्होंने 165/-

(6)

रुपये निकाले जबकि उन्हें मिले केवल 80/- रुपये अर्थात् 85/- रुपये कम मिले तो उन्होंने अपनी तसल्ली किस प्रकार की के जवाब में उन्होंने कहा कि श्री उदय राज सिंह ने उन्हें बताया था कि मेरी पास बुक 85/- रुपये की जमा की गड़बड़ी हो गयी थी उसके ठीक करने का यही नियम है कि पास बुक में उतनी ही रकम बढ़ा कर निकाली दिखायी जाये जितनी गलती से जमा होना बताया गया है मैंने उदयरज सिंह का यह कथान सही माना क्योंकि उनके बताने पर मुझे स्मरण हो ~~आया~~ आया कि इससे पहले एक बार 85/- रुपया जमा कराया था जो मैंने उन्हें नहीं दिया था क्योंकि नौ नम्बरी या रुपया निकालने के प्रार्थना पत्र प्रदर्शक- 3 दि० 9.1.79 को देखाने से पता चलता है कि इसके दोनों ओर के जमाकर्ता के हस्तक्षारों को छोड़कर शेष सभी प्रविष्टियां यहां तक कि 80/- रुपये की वापसी भी अंको व शब्दों दोनों ही अभियुक्त कर्मचारी के हाथ का ही मिलती है और स्वयं ही अपने मन से प्रार्थना पत्र साइड पर श्री राम चन्द्र ई० डी० एम० पी० गौरा से गवाही नोट करा ली थी । अतएव सिद्ध होता है कि अभियुक्त कर्मचारी ने पास बुक में 165/- रुपये की प्रविष्टि करके जमाकर्ता तथा विभाग दोनों को शामिल किया और यह सब उसने अपने दि० 15.12.78 को किये गये कुकृत्य (गबन) छिपाने के लिए ही किया । बचसव पक्षा का यह तर्क कि ऐसा उसने श्री वकार अहमद तत्कालीन उप डाकपाल त० फतेहपुर की सलाह पर किया था बिल्कुल असत्य है जिसे जांच के दौरान श्री वकार अहमद अभियोजन साक्षी ने स्वयं भी अमान्य कर दिया है अतः यह आरोप भी अभियुक्त कर्मचारी के विरुद्ध पूर्णतया सिद्ध हो जाता है ।

उपरोक्त विवेचना के अनुसार में इस निष्कर्ष पर पहुंचता हूँ कि अभियुक्त कर्मचारी श्री उदयरज सिंह ने पास बुक की प्रविष्टियों में हेरा फेरी करके 85/- का अस्थायी गबन किया जो कि एक गंभीर मामला है और ऐसे व्यक्ति जो आगे भविष्य में भी ऐसा कर सकता है को शाखा डाकपाल गौरा के पद पर बनाये रखना विभाग एवं जनहित नितान्त विपरीत होगा ।

अस्तु मैं ईश्वरी प्रसाद सगर अधीक्षक डकठार बाराबंकी आदेश पारित करता हूँ कि श्री उदयरज सिंह (पुटआफ ड्योटी) अभियुक्त कर्मचारी को शाखा डाकपाल गौरा (अंतर्गत लेखा कार्यालय



उदयरज सिंह
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तो फतेहपुर बाराबंकी) के पद से तुरन्त पदच्युत (हटा) दिया जाये और
उक्त पद पर नियमानुसार किसी सुयोग्य व्यक्ति की नियुक्ति की जाये।

ईश्वरी प्रसाद

(आई० पी० सगर)

सुपरिटेन्डेंट आफ पोस्ट आफिस

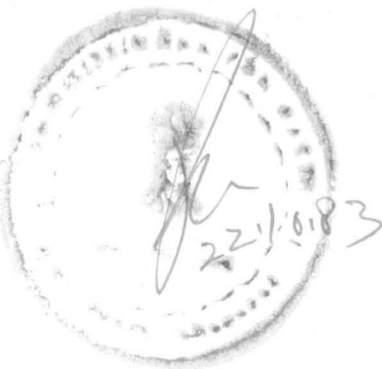
बाराबंकी डिवीजन, बाराबंकी।

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

W.P. No..... of 1983

In re :

Udai Raj Singh... Petitioner Vs. Union of India & oths.

Annexure No. 2

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

W.P. No.. of 1982

Udai Raj Singh. -- Petitioner.

Vs.

The Union of India & others. -- Opp. Parties.

Copy of the appeal of Udai Raj Singh dt 19.7.82
addressed to Director of Postal Services, Lucknow
Region, Lucknow.

To

The Director of Postal Services,
Lucknow Region, Lucknow.

Appeal against the order & judgment of Supdt. of Posts
Offices, Bara Banki Div. Barabanki, 285001 dt 31.9.82.
vide letter No. FX/Misc.-III/80-81 Barabanki, dt 31.8.82
and enquiry report vide letter No. NX/Misc.VII/808/BBk
dated 8.4.82.

Sir,

The appellant begs to submit as below for the
favour of kind and sympathetic consideration :-

1. That the appellant was put off from the duty on
21.2.80 and was charge-sheeted for having not accounted
for Rs 85/- in Saving Bank Account No. 271273 on 15.12.75.
2. That because Khatedar Jagannath Singh had not actually
given Rs 85/- in cash hence did not account for which

contd 2/-



Truely
344/157 (A)

has been admitted by the depositor himself during enquiry.

3. That because the Khatedar Jagannath Singh, had deposited only Rs 85/- and had 100/- currency notes and the Sub-Post Master Gaura had no change to return hence asked Sri Jagannath Singh to bring Rs 85/- in cash who took away his pass book as well.
4. That the Khatedar Sri Jagannath Singh did not turn up and the entries made by the Sub-Post Master, Gaura on the pass book remained intact.
5. That when again Khatedar Sri Jagannath Singh turned up to the Post Office with his Pass Book, the Sub-Post Master, "the appellant" tried to account for the pass book on 9.1.79 by making withdrawal of Rs 165/-.
6. That the appellant tried to regularise the account which by chance fell against the rules and regulations and was charged.
7. That the enquiry officer's conduct is beyond doubts to be unjust on the face of the records and did not consider the statement of the Khatedar and changed its version too.
8. That so far as the enquiry report of the enquiry officer is concerned, it is most unfortunate that has not been considered too in favour of the appellant. Sri Wakar Ahmad Khan, the then U.P. Dak Pal deceived the appellant and refused to advise and on the other hand



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gave a wrong colour and reported the matter to higher authorities for action in connivance with the present U.P. Dak Pal who took over the charge after dismissal of the appellant.

9. That the appellant looked into the discussions of the Enquiry report and derived that the report is based on surmises and conjectures and the statement of the Khatedar Sri Jagannath Singh is wrongly discussed hence on 3.6.82 the appellant through the registered post sent a letter making demand of the statement of the Khatedar Sri Jagannath Singh which has been replied on 4.6.82 that there is no provision to supply any material other than the material supplied by the Enquiry Officer. No doubt that 20 pages enquiry report has been received but it does not contain the statement of Jagannath Singh which is the basis of the charges levelled upon the appellant.
10. That there is nothing against the appellant in the enquiry report to cause dismissal nor there is any irregularity excepting that it is a clerical mistake.
11. That there is no evidence against the appellant to cause dismissal from the services and only wrong interpretation of the facts could make the appellant out of service in connivance with the present Sub-Post Master, who was Post-Man during the appellant's service.
12. That there was no ground for dismissal of the appellant and wrong interpretation of the Khatedar's statement has been done which caused dismissal. The



Truly
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character of enquiry officer and the Superintendent,
Post Offices, Barabanki, Division is beyond doubts
doubtful.

Wherefore, it is most respectfully prayed
to set aside the order and judgment of the Enquiry Officer,
and Superintendent of Post Offices, Barabanki, Division,
and order to post the appellant as Sub-Post Master Gaura
treating the said mistake to be clerical one and oblige.

Dated: 19.7.82.

Appellant.

(Udai Raj Singh)

Ex-Branch Post- Master,
Gaura, District Barabanki.

Copy forwarded to the:

Superintendent, Post Offices,
Barabanki Division, Barabanki.
for favour of information and
necessary action please.



(True Copy)

महाराज सिंह

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

Writ Petition No. 6352 of 1982.

Udai Raj Singh. -- Petitioner.

Vs.

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

Petition Under Article 226 of the Constitution of India.

Lucknow dt. 4.5.1983

Hon.- U.C. Srivastava, J.

Hon.- K.N. Goyal, J.

Admit.

As only a short point is involved we proceed to decide the petition finally.

The petitioner was removed by the competent authority. Against that order he filed a departmental appeal. The appeal was no doubt time barred but he also made an application for condonation of delay. The appellate Authority has dismissed the appeal as time barred without considering petitioner's application for condonation of delay.

We have heard learned Counsel for the parties.

The appellate authority had inherent jurisdiction to condone the delay. If sufficient cause was shown to it for delay in filing the appeal. The appellate authority has however, not addressed itself to this aspect at all. As such the impugned order Annex. 4 cannot be sustained. It is desirable that departmental remedy should not be refused merely on technical grounds. Accordingly the writ petition is allowed and the order Annex. 4 is hereby quashed. The appellate Authority shall now decide the appeal of the petitioner in accordance with law.

Sd/- U.C. Srivastava

Sd/- K.N. Goyal

4.5.83

(True Copy)

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

W.P. No.-----of 1983

Udai Raj Singh.....Vs... Union of India.

Annexure No. 4

To

The Director-Postal Services,
Lucknow Region, Lucknow.

Re : Supplementary facts, reasons and grounds for
Corporation in the Memo. of Appeal of dt. 19.7.82;
(Appeal of Udai Raj Singh Post Master General,
District Barabanki).

In the aforesaid appeal, certain
important facts, reasons and the grounds appear
to have been left inadvertently and the same being
necessary in the interest of justice, should be
corporated. They are as under :-

- " 13. That necessary copies of the statement of
witnesses particularly of Jagan Nath were
supplied to him at a belated stage after the
appellant persistent ^{request} days.
14. That the said witness Jagan Nath himself was
not aggrieved with the conduct of the appellant

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and therefore, he did not make any complaint against him. The said witness Jagan Nath was conscious that the mistake was of the clerical nature and the bonafide. But the certain members of the staff who were actually prejudiced with the appellant, have done the mischief just to harass and cause injury to him. In fact, the said witness was not aggrieved with the appellant, as such, he was not inclined to make the statement against the appellant, but he was forced and informed by the members of the staff to make the statement against him.

15. That no proper and adequate opportunity of hearing was afforded to the appellant, as such, the dismissal is against the fact and law.

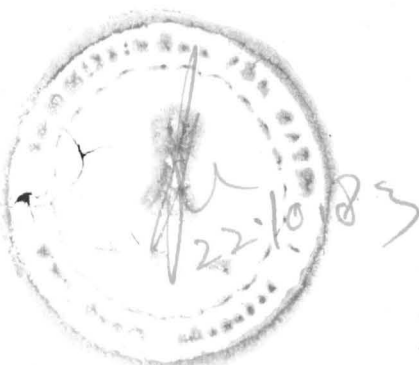
16. That the service roll of appellant is excellent and there is no adverse entry in the service roll.

17. That the punishment of dismissal is too excessive and against the nature of the irregularity alleged to have been committed. The punishment, if at all,

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was to be awarded taking into the consideration of the facts and the circumstances of the case.

18. That the dismissal order is wrong, illegal and against the principles of natural justice.
19. That the appellant already deposited the shortage amount of Rs 85/- thus, neither the deponent suffered any loss nor the Government.
20. That, thus, the following are the grounds :-
- a) Because non-supply of the statements of the witnesses particularly the statement of Jagan Nath Singh have caused natural justice to the appellant ;
 - b) Because the said Jagan Nath Singh has not made any complaint against the appellant and the proceedings started are mala fide and illegal ;
 - c) Because the subsequent statement of the said Jagan Nath Singh, filed herewith, shows that he was not aggrieved with the appellant and that



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he did not want to make any statement against him, but he was implied and forced by the members of staff to make the statement against the appellant.

- d) Because the dismissal authority had no jurisdiction to dismiss appellant without observing necessary formalities as required under the law and without taking into consideration all the facts and the evidence on record.
- e) Because the dismissal cannot be legally based on presumption ;
- f) Because the punishment awarded is too severe taking into consideration in nature of irregularity alleged to have committed ;
- g) Because the dismissal is against the law and against the principles of natural justice.

Wherefore, it is respectfully prayed that the above facts, reasons and circumstances along with the grounds as stated may be incorporated with the Memo. of the Appeal dated 19.7.82 in the interest of justice.

Lucknow, dated
18.5.83

Appellant.

(True Copy)



349/15/78

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In the High Court of Judicature at Allahabad, Lko Bench
Lucknow.

W.P. No....of 1983
Udai Raj Singh
~~Jagan Nath Singh~~ Vs. Union of India.

Annexure No. 5

Before the Director of Postal Services (Lucknow Region),
Lucknow.

In the Matter of Udai Raj Singh,
Branch-Post Master-General, Barabanki.

Affidavit

I, Jagan Nath Singh, aged about 70 years, son
of Maheshwar Bux Singh, resident of Village Gaura Karnob,
district Barabanki, do hereby solemnly affirm and state
as under :-

- 
1. That the deponent is still an Account-holder in the
Sub-Post Office, Gaura, Distt. Barabanki. The deponent
was the witness in the case.
 2. That the deponent got back the money in full
satisfaction of his pass-book, as such, the
deponent actually had no grievance against the
appellant.
 3. That the deponent has not suffered any loss, nor
the Govt. has suffered any loss.
 4. That the deponent did not want to make any such
statement before the Enquiry Officer as he had
- 309 P. J. / H

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no grievance against the appellant, but he was forced by the certain members of the Postal staff particularly by Sri Wakar Ahmed to make the statement against the appellant and in this connection he was given threats that if he would not make such statement against the appellant, they would send him to Jail. So under the treats and duress, the deponent was forced to make such a statement before the Enquiry Officer.

5. That the deponent did not make any complaint nor he was inclined to make any statement against him. The deponent further states that Sri Wakar Ahmed and certain other members of the staff forced the deponent under threats to make such a statement against him, as such, the statement made before Enquiry Officer is not correct and should not be considered or read.



Lucknow, dated
15-1983

Deponent.

Verification

I, the above-named deponent, do hereby verify that the contents of paras 1 to 5 of this affidavit are true to my personal knowledge.

364/17/86
Signed and verified this day of May 1983,
at Lucknow.

Deponent.

I identify the deponent who has signed before me.

Adv.

(True Copy)

In the High Court of Judicature at Allahabad,
(Lucknow Bench), Lucknow.

W.P. No.-----of 1983

Udai Raj Singh. -- Petitioner.
Vs.
Union of India and others.. -- Opp. Parties.

.....
Annexure 6
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Indian Posts and Telegraphs Department
Office of the Director Postal Services,
Lucknow Region, Lucknow- 226001.

No. RDL/EDA/A-3/82/2 Dated at lw. the 30.7.83

This is a appeal dated 19.7.82 from Sri Udai
Raj Singh, Ex-EDBM Gaura against the order of dismissal
from the service issued vide SPOs Barabanki Memo. --
No.Ex/Misc/VIII/90-81 dated 31.3.1982, 7.4.82.

The appellant's appeal was earlier rejected
because of being time barred but in view of direction
from Hon'ble High Court dated 4.5.83, the appeal is
being considered.

The appellant was issued a charge sheet on
21.2.80 under Rule 8 of EDAs conduct & services rule
1964. He was alleged to have contravened rule 131(3)



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of B.O. rules and also rule 17 of EDAs Conduct Rules 1964 because while working as EDBAM Gaura on 15.12.78 he did not account for Rs 85/- in the P.O. records and entered only in the Pass-Book No.271273, the above amount was tendered by the Account-holder for proper deposit in his account No.271273. The Enquiry Officer, who was appointed to enquire into the charges has concluded that charge of note No.271273 stands proved. The appellant pointed out that the depositor has not given him Rs 85/- for depositing the same in his account vide para 2 of his appeal wherein para 3 he admitted that the Khatedar Jagannath Singh had deposited only Rs 85/- and had 100/- currency notes and the Branch Post Master Gaura had no change to return, hence he asked Sri Jagannath Singh to bring Rs 85/- in cash who took away his pass-book as well.

I failed to understand why the appellant while returning the pass-book to the depositor failed to score out the entry of Rs 85/- on 15.12.78 in case, the depositor had not tendered Rs 85/- . Actually the amount was given by the depositor, but the appellant failed to take into the post office account and fraud to adjust the same when the depositor turned up on 9.1.79 for withdrawal. He

3.

had also tried to blame the Sub-Postmaster Sri Vakar Ahmad Khan for this act for which there is no evidence, thus the act of making entry of deposits of amount Rs 85/- in the Pass-book no. 271273 on 15.12.78 and not accounting of the same amount into the Post Office records on the same day denotes the irregular working of the appellant and appeals of his bad intention of pocketing the money.

In view of above discussion I conclude that the appellant did not deposit Rs 85/- in Post Office records on 15.12.78 which was tendered by the Account holder of no. 271273. The appeal is therefore rejected.



(S.P. Ojha)
Director, Postal Services,
Lucknow Region, Lucknow.
Pin- 226001.

उद्योग/18

(True Copy)

In the Honble High Court of Judicature at Allahabad
(Lucknow Bench) Lucknow.

Uddai Raj Singh is — Petitioner who 7/1983
The Union of India & Ors — opposite Parties X/Wo 40

Regd. A.D.

Amendment

To,

The President of India
New Delhi

Representation of Uddai Raj Singh, Sub-Post-master
P.O. Gaura, Distt. Bahraich against the dismissalal
order dated 28.7.1983 passed by the Director of
Post Offices, Lucknow Circle, Lucknow dismissing
the appeal of the petitioner :-

The humble petitioner begs to state as under :-

1. That the humble petitioner was a sub-postmaster
P.O. Gaura, Distt. Bahraich where he successfully
served for a number of years with good service
roll, but he was been removed from the service
since 31.3.1982 on false charges of misappropria-
tion of Rs. 85/- of one Sri Jagannath Singh
an account holder of the branch post office by
not scoring out the said amount but ~~releasing~~ ^{returning}
the entry of the said amount in pass book of
the said Jagannath Singh who gave a note of
Rs. 100/- to the petitioner to deposit Rs. 85/-
and return ^{the} on balance amount ~~Shri~~ to him and
said Jagannath Singh took this note back with
a ~~promise~~ ^{promise} that he would come back with cash
after cashing the said ^{one Hundred rupees note} 100/- Jagannath
Singh did not ^{turn up} to him.

2. That the petitioner ~~arballly~~ ^{arballly} did not misappropriate
te or ever intended to misappropriate if but he
was rather given a wrong comprise and the
account holder that he would come back with the
to deposit Rs. 85/- after cashing from the
Hun Hundred rupees note. Jagannath Singh account

Contd.....2



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41/8/83

holder ~~did~~ not any complaint and he did not want to make any statement against the petitioner because the when the jagannath Singh was himself of the view that the petitioner was not at any fault . The matter was agitated and one Sri wakar Ahmad at his sere method who wanted to remove the petitioner from the post master.

3. That the enquiry held was not in accordance with prescribed rules. No corredt procedure was followed The copy of the statement of Jugannath Singh was not even even supproted to the petitioner within time in order to enable himself to prepare for cross edamination with the said witness and Sri Wakar Ahmad during the departmental enquiry. The copy of the siad witness, was, however, given to the petitioner, at the protest of the petitioner and after several applications.of the petitioners.at the nick of time when he was just ~~xx~~ required to cross examine the said witness. The purpose of not suuply of such important document and suuply of the same at the nick of time meant that the petitioner may not be in a position to defend his case properly by cross examining the witness on proper manner. These are

These are salient ratatus on the part of the department .

4. That the petitioner was however dismissed by the suptd. of Post Office , Barabanki on basis of the report of the en-quiry officer on 31.3.82 those charges were not prima facie made out aganst the petitioner and particularly when the said witness did not ~~want~~ to make any statement against the petitioner. but rather he was pforced to make the statement against the petitioner under theft.

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344/157/83

The said witness did not make nay complaint aganist the petitioner and he himself admitted in writing that the petitioner is not at a fault and he has no grivience aganst the petitioner.

5. That the appeal was preferred beyond a short time alongwith an application and condolation of delay supported with an affidavit before the Dirctor of Post Officer, Lucknow. The said application for condolation of delay was delibarately removed from the record, hence the appeal was rejected as time barred.

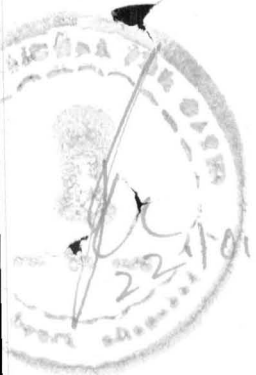
It was however pointed out to the Director of post Offices , Lucknow in writing that he had also filed an application U/S 5 of Indian Limitation Act supported with an affidavit and the delay could have been condoned and the case could have been decided on merits. The Director of post offices , Lucknow failed to exercise his inharassed jurisdiction in not controlling the delay which was quite prominent.

6 That a representation was filed to the P.M.G. Lko. No reply was sent to the petitioner about his representation The petitioner preferred writ petiton No. 1983 to the Hon'ble High Court, Lucknow bench Lucknow. The writ Petiton was however finally allowed by the High Court , Lucknow and the director was directed to decide the case on merits after condoling the delay of the appeal of the petitioner.

The hon'ble High court Lucknow held that the Director of the Post Offices U.P. Lucknow failed to exercise his inherent jurisdiction by not condoling the delay in the circumstances when the application u/s 5 of I. L. Act was already moved alongwith the appeal.

7. That the Director of Post Offices, U P. Lucknow

Contd.....4



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dismissed the appeal of the petitioner without givingx even calling for the relevant record of the case and without persuing the entire evidence of the record but he acted in most arbitrary manners and against the principla of natural justice in not even hearing the petitioner who wanted to be heard in the case. by the Director of Post Offices, Region Lucknow. The Director appears to be adamant in dismissing the appeal of the petitioner. He has not even considered the evidence on record. He has not even discussed even evidence. His findings therefore holding the petitioner to be guilty guilty is absolutely wrong and illegal. Actually the orders of the Director Post Offices Lucknow is no order in eyes of law. Gross in Justice has been caused to the petitioner who has been much harassed. No opportunity of personal hearing was given to the petitioner The departmental enquiry conducted against him was against the prescribed rules as such his appeal could not have been dismissed. The appeal of the petitioner has been dismissed in such arbitrary and harried manners even without summoning the relevant records or persuing the evidence on records. The evidence of records shows that the dismissal is unwarranted and gross in justice to been passed/him.

It is therefore respectfully prayed that the orders dated 30.7.83 passed by the Director of Post Offices, Region Lucknow may be set aside and the petitioner representation may be allowed with the direction of the ⁱⁿrestatement of the petitioner.

Lucknow

Copy forwarded to -
The Post Master General
dks, for information and
necessary action in
the matter

Ed. Naddai Rg Singh

Ex. Post Master

PO. Gawa, Barabanki

GRATE COMMISSIONER
HIGH COURT, (Lucknow Bench)
LUCKNOW

20/10/83

22/10/83

Ed. Naddai Rg Singh
Ex. Post Master, PO. Gawa,
Distt Barabanki



894 215/76

दिनांक _____ महीना _____ वर्ष _____

साक्षी (गवाह) _____

साक्षी (गवाह) _____

हस्ताक्षर _____

गवाह _____

हस्ताक्षर _____

वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

जाता है उसकी लिखतदारी मेरे वकील पर नहीं होगी इसलिए यह
रहूंगा अगर मुकदमा अदालत पर एक तरफ मेरे खिलाफ फैसला हो
करता हूं कि मैं हार पेशी पर स्वयं या किसी अपने पुरोकार को भेजना
सब कानूनी है उसकी सवैया पुरोकार है और होगी मैं यह भी पुरोकार
रखी है मैंने व. व. नुबुल कर-वकील महोदय द्वारा की गई वह
दाखिल कि. या अपने या हमारे हस्ताक्षर पुरव (दस्तावेजी)
उठावे या कोई दस्तावेज बना कर या हमारी लिखत (फरीकसानी) का
से हमारी या अपने हस्ताक्षर से दाखिल करे और लखत करे या मुकदमा
करे या मुकदमा व इकबाल दावा तथा अपनी निगरानी हमारी और
करे या लौटावे या हमारे हस्ताक्षर जारी करावे और स्वयं वसूल
दारा जो कुछ पुरव व जवाब देती व प्रत्येक करे या कोई कागज दाखिल
देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील
को अपना वकील नियुक्त करके प्रतिभा (इकरार) करता हूं और लिखे

नाम अदालत
मुकदमा नं०
नाम फीकेस वनाम

पुस्तक संख्या

पृष्ठ संख्या

वकील

हस्ताक्षर

नं० मुकदमा

वर्ष

पेशी की तारीख

पृष्ठ संख्या

प्रतिवादी (रसुददार)

वादी (अपीलांत)

हस्ताक्षर

हस्ताक्षर



प्रतिवादी (रसुददार)

[वादी] अपीलान्त

व अदालत श्रीमान

महोदय

In the High Court of the District Judge

हस्ताक्षर

वकालतनामा

वर्ष १८९३

पृष्ठ संख्या

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पृष्ठ संख्या

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 590 of 1983

25.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
	Hon S.C. Mathur	
8/11/83	List	
	in ordinary course as	
	prayed for by the learned	
	Counsel.	
	Sd/- S.C. Mathur	
	8/11/83	
	PO	
	Singh	

Central Administrative Tribunal

Circuit Bench, Lucknow.

D.A.NO. 1194/87(T)

(W.P.NO.5901/83)

U.R.Singh

.....

Applicant

Versus

Union of India & Others

.....

Respondents

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

Hon'ble Mr. A.B. Gorthi, A.M.

Dated: 10.5.1991.

Sri D.S. Randhawa for the respondents is present.

The learned counsel for the applicant is not present.

It is presumed that the applicant is not interested to prosecute his case. The application is dismissed for default of the applicant.

Sd/-

Sd/-

A.M.

V.C.

// True copy //

R.S.M.

AS
Section Officer
Central Administrative Tribunal
Circuit Bench
Lucknow

Central Administrative Tribunal

Circuit Bench, Lucknow.

D.A.NO. 1194/87(T)

(W.P.NO.5901/83)

8/5

U.R.Singh

.....

Applicant

Versus

Union of India & Others

.....

Respondents

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

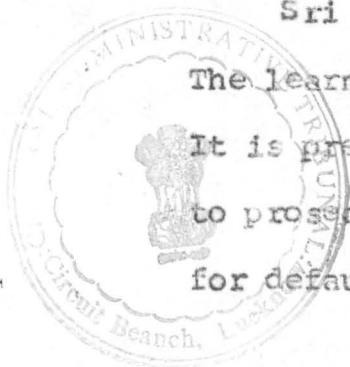
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Sd/-

Sd/-

A.M.

V.C.

// True copy //

Checked by
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R.S.M.

AROR

Section Officer
Central Administrative Tribunal
Circuit Bench
LUCKNOW

P/gy

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

Writ Petition No.-----of 1983

D

Udai Raj Singh, aged about 40 years, Ex-Branch
Post Master P.O. Gaura, Distt. Barabanki.

---Petitioner.

Versus

1. The Union of India, through its Secretary
Posts & Telegraphs Department, New Delhi.
2. The Post Master General, U.P. Circle, Lucknow.
3. The Director of Post-Offices U.P. Lucknow
Circle, Lucknow.

---Opp. Parti

Writ Petition Under Article 226 of the Constitution
of India.

To

The Hon. the Chief Justice and his Hon'ble
Companion Judges of Judicature at Allahabad,
Sitting at Lucknow Bench, Lucknow.

The humble petition of the above-named petitioner
most respectfully sheweth as under :-

1. That the humble petitioner was appointed as the P
Master, some time, in the year 1968 and was poste
Post Office Gaura, distt. Barabanki.
2. That the humble petitioner worked about ten year

contd 2/-

The work of the humble petitioner has been found
 satisfactory. No adverse entry in his service roll,
 and no complaint ever filed against the petitioner and
 the explanation ever called for from the humble
 petitioner in respect of any charge or allegation.

As such, the petitioner has been recommended for
 promotion to the post of Assistant Postmaster.
 Postmaster, District Office, District, Durgam.

Verdus

3. That the petitioner while posted as the Postmaster
 at the District Office, District, Durgam, was served with
 a charge on 21.2.1980 for the charge
 of misappropriation of funds to the tune of Rs. 100/-.

to Rs. 100/- only in the District Bank Account No. 271273

on 15.12.1978, in the name of one Jay

Shankar, District Office, District, Durgam.

Durgam.

To

The Hon. the Chief Justice and his son
 and the Hon. the District Judge, District, Durgam.
 Durgam.

Agals and of District Office, District, Durgam.
 Durgam.

1. That the humble petitioner was appointed
 as a District Office, District, Durgam.
 Durgam.

2. That the humble petitioner worked about
 10 years in the District Office, District, Durgam.
 Durgam.

to be taken when the statement of the said witness Jagannath Singh was to be recorded, that the petitioner moved an application to the Inquiry Officer for supply of the required copies of the statement of the said witness Jagannath Singh and it was then ascertained after much persist insist that the copy of the statement was supplied to the petitioner. Thus the petitioner was deliberately deprived of a fair and adequate opportunity of cross-examining the said witness Jagannath Singh. The petitioner could not cross-examine the said witness properly on relevant points due to waste and hurry in preparing the cross-examination.

5. That the petitioner submitted his reply within time, stating therein the facts and circumstances showing the bonafides of the petitioner, in the alleged transaction and pleading that he never intended to misappropriate the money. The petitioner further stated that the statement of the said Sri Jagannath Singh does not make out any prima facie case against the petitioner.

6. That the petitioner further states that the said witness Jagannath Singh did not at all make any

complaint nor had he any kind of grievance against the petitioner as the matter was agitated against the petitioner, all of a sudden, at the instigation of one Sri Wakar Ahmad, Inspector of the Post Offices Barabanki. The said witness Jagannath Singh actually did not want to make any statement against the petitioner, but he made the statement against the petitioner under duress and threats imparted to him by the said Sri Wakar Ahmad, Inspector of Post Offices, Barabanki and other members of the staff that if he would not make the statement, he would be put behind the bar. Thus, the statement of the said witness Jagannath Singh should not be relied upon. A true copy of the Affidavit of the said witness Jagannath Singh dated.....filed before the opp. party No. 3 is filed herewith as Annexure No.....

7. That it was during the departmental proceedings and after the statement of said Jagannath Singh, whose copy of the statement of the said witness was supplied to the petitioner, it was necessary for the opp. parties Nos. 2 and 3 who have first provided the petitioner with the copy of the necessary

statement of the said witness before directing him

to submit his reply or to hold a enquiry against

him, so that the petitioner could have proper and

adequate opportunity of defending his case. Non-

providing of the same amounts to usurpation of the

fundamental rights of the petitioner.

3. That the enquiry Officer, however, submitted his report to the Superintendent Post Offices, District Barabanki. The Superintendent Post Offices, District Barabanki, however, dismissed the petition. A true copy of the orders of the Superintendent, Post Offices, Barabanki, is annexed as Annexure No. 1 to this writ petition.

That being dissatisfied with the orders of the

Superintendent, Post Offices, vide Annexure No. 1,

the petitioner preferred a short time barred appeal

to the App. Party No. 13, namely - the Director of

Post Offices, Lucknow Circle, Lucknow, along with

a separate application supported with an affidavit

for condonation of delay in not preferring the

appeal within the prescribed limitation. The main

grounds taking in the appeal of the said petitioner

are that there is no irregularity or any misconduct

or any malafides on the part of the petitioner, but

simply, it is a clerical mistake for which the

punishment of dismissal cannot be warranted. In

fact the said witness - Sri Jagannath Singh had

gone to cash a Note of Appees one hundred out of

which a sum of Rs. 85/- was to be deposited in

account of the said Sri Jagannath Singh. A true

copy of the appeal dated 13.7.82 is annexed as

Annexure No.2 to this writ petition.

10. That the opposite party No.3 i.e. the Director of

Post-Offices, Lucknow Circle, Lucknow, dismissed the

appeal of the petitioner on limitation, being the

time barred by only 54 days, for which separate

application accompanied with an Affidavit was filed

along with the appeal, seeking condonation of delay

on his personal illness preventing him from prefer-

ring the same within the prescribed limitation, as

such it is sufficient case for condoning the delay

in the interest of justice and the appeal could

have been decided on merits after hearing the

petitioner.

11. That it appears from careful perusal of the order

passed by the said opposite party no. 3 dismissing

the appeal of the petitioner that either the opp. party no.3 overlooked or neglected to peruse or to take it into consideration, the said separate application of the petitioner for condonation of delay or some interested persons in office might have removed or omitted to present or put it up along with the appeal of the petitioner before the opp. party no. 3, while the opp. party no. 3 was passing the orders on the appeal. But there is no doubt that some foul play has been done with the petitioner with some ulterior motive to injure the petitioner permanently and to engage somebody in his place.....

12. That the petitioner was advised to prefer another petition before the opp. party no.3 for the purpose to point out the discrepancy of the office in not submitting the petitioner's application for condonation of delay along with the appeal before the appeal of the petitioner was disposed of by the opp. party no.3, to remove the misunderstanding and to bring to the knowledge of the opp. party no.3 about the true facts of the case. The petition of the said petitioner was filed along with the true copy of the application for

condonation of delay along with an affidavit
thereof.

That aggrieved with, the petitioner also made a
representation to the opp. party no.2, challenging
the propriety, correctness and the legality of the
orders passed by the opp. party no.3. The petitioner
did not get any satisfactory reply from the opposite
party no.2.

That when the petitioner did not get any reply from
the opp. party no.3, he preferred a writ petition
(W.P. No.....of 1983) in this Hon'ble Court,
challenging the orders of the opp. party no.3 to be
wrong, illegal and is the failure of grace of the
inherent jurisdiction vested in the opp. party no.3
and he could not have dismissed the appeal of the
petitioner on limitation for in view of the applica-
tion for condonation of delay already pending before
him. The writ petition No.....of 1982 was filed
on 21.12.1982.

15. That the above writ petition no.....of 1982 was
finally allowed on 14.5.1983 in favour of the
petitioner, holding that the opp. party no. 3

failed to exercise inherent jurisdiction in not condoning the normal delay in the Appeal of the petitioner, thus directing to the opp. party no.3

to decide the Appeal of the petitioner on merits.

A true copy of the judgment and orders dated

14.5.83, passed by the Hon'ble Bench consisting

of Hon'ble Mr Justice U.C. Srivastava and Hon'ble

Mr Justice K.N. Goel, is filed herewith as marked

Annexure No... to this writ petition.

16. That on 27.5.83, the petitioner sent an applica-

tion for amendment in the Memorandum of his appeal

dated 27.5.83 through a Regd. post A/D. under a

postal receipt no.....dated 27.5.83 on which,

the petitioner sought certain amendments in the

interest of justice. A true copy of the said Amend-

ment application dated 27.5.83 is filed herewith

as Annexure No.... to this writ petition.

17. That the said witness Jagannath Singh also moved

his perusal personal affidavit dated 27.5.1983

through the Regd. post A/D (vide High Court Post-

office receipt no..... dt. 27.5.83 in which he

has clearly stated that he did not make any

complaint against the petitioner nor was he

contd 10/-

Contd. 11

20. That a perusal of the orders of the opposite party no.3 dated 17.7.83 already shows that the opposite party no.3 did not care to summon the relevant record from his subordinate office at Sarabanki, for the purpose of examining the evidence on the record and to satisfy himself as regards the truth in the matter. Thus the opp. party no.3 has not complied with the proper procedure of summoning the relevant record and pursuing the same before disposing off the appeal of the petitioner, thereby causing material injustice to the petitioner.

21. That the opp. party no.3 has not mentioned about the summoning or perusal of the relevant record. The opp. party no.3 has not even minutely discussed about any evidence or statement not has he recorded any finding in his said orders dated 30.7.83.

22. That the orders dated 30.7.83 further transpires that the opp. party no.3 ignored or neglected to take into consideration the amendment application of the petitioner, particularly the affidavit of the said witness Jagannath Singh dated 27.5.83. The opp. party no.3 has not recorded any finding

or makes any observation in respect of the affidavit submitted by Jagannath Singh vide Annexure No..... to this affidavit.

23. That it further appears from the said judgment orders that the opp. party no.3 ignored to take into consideration that the question of punishment must be inconsistent with the nature of gravity of the charges against the petitioner. The punishment of dismissal from the service for a simple and negligent irregularity of not scoring out the entry of Rs 85/- from the Pass. book of the aforesaid

account holder and the other charge of withdrawal of Rs..... are obviously no such serious charges in which the dismissal could be the proper and adequate punishment in the interest of justice.

A lenient view or a light punishment could have been awarded to the petitioner by passing an adverse entry in his service roll or withholding the increment or some other light punishment could have been awarded to the petitioner. The opposite

party no.3, however, forgot that he was not only an administrative Officer of the department concerned but also to do justice to the petitioner,

D/30

...as well as to the Appellate Authority while deciding the
...of the petitioner.

24.

That the Impugned judgment & orders dated 30.7.83

vide Annexure No.... are not the orders in the

eyes of law. They are vague, non-speaking and

most script Orders. These orders have been passed

without perusal of the relevant record which was

not even summoned for the purpose to decide the

appeal of the petitioner on merits. Thus, the

evidence on the record has been ignored. No obser-

vations have been made on the evidence. No findings

have been recorded about the statement of Jagannath

Singh (witness) and the statement of said Sri Saker

San 3, Inspector concerned. No proper and adequate

opportunity has been afforded to the petitioner to

cross-examine the said witness Jagannath Singh due to

non-supply of the required copies of the documents

earlier. No opportunity has been afforded to the

petitioner of hearing of his appeal, for which a

specific prayer was already made to the opp. party

no. 3. No intimation even was sent to the petitioner

about the date of hearing of his appeal. The

Impugned judgment and orders are further quite

silent or blank and not even contain any reference

about the affidavit of the said Jagannath dated

27.5.83. That the orders of the opp. party no.3

dated 30.7.83 are arbitrary, erroneous in law,

malafide and bears a colour or spirit of bias,

affecting the principles of natural justice. It

was easy for the opp. party no. 3 to turn down

the rights and ruin the career of the petitioner

by dismissing his appeal in such hurried, unmethodical

and in such illegal manners, but he

could not justify his such orders. Thus justice

has not been meted out to the petitioner. The

appeal of the petitioner could have been properly

concluded and it could have been allowed, if

decided on the basis of the evidence on record

and other circumstances, with a clear mind and

heart, within the principles of natural justice.

28. That being dissatisfied with the orders of the

opp. party no.3, the petitioner has preferred a

representation to the opp. party no.1, but the

opp. party no.1 has not sent any reply to the

petitioner. A true copy of representation is

filed herewith as Annexure No..... to this

writ petition.

29. That being aggrieved with, the petitioner having

no other alternative left open to him but to

prefer this petition in this Hon'ble Court on other amongst the following grounds:-

:- GROUNDS :-
=====

- 1) Because the opp. party no. 3 has acted with substantial illegality and with material irregularity in deciding the appeal without perusing the evidence on the record which was not even summoned before disposing off the appeal of the petitioner ;
- 2) Because the opp. party no.3 further acted with substantial illegality and against the principles of natural justice and not providing to the petitioner of an opportunity of being heard before deciding the appeal partial, when such a prayer was already made ;
- 3) Because the opp. party no. 3 erred in not exercising the jurisdiction vested in him and in not following the prescribed procedure in deciding the appeal of the petitioner ;
- 4) Because the opp. party no. 3 erred in underestimating his position that he was not only an Administrative Officer of the department but he

1. The first of these is the fact that the
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(Lucknow Bench), Lucknow.

Udairaj Singh.

Petitioner.

Vs.

The Union of India & others.

Opp. Parties.

Affidavit

I, Udairaj Singh, aged about 40 years, Ex-Bench Post Master, P.O. Gaura, Dist. Barabanki, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner in the above writ petition, as such, he is fully conversant with the facts of the case deposed to hereunder.

2. That the contents of paras 1 to 25 of writ petition are true to my knowledge.

3. That Annexures nos. 1 to 5 are the true copies of the orders which the deponent has compared with their respective originals and they are correct. And Annexure no. 6 is the impugned order passed by Director of Post Offices Lucknow dt. 23.7.83 as received by the deponent.

Lucknow dated

-8-1983

Deponent.

Verification

I, the above-named deponent do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my own knowledge. Nothing material has been concealed and no part of it is false. So may God help me.

-8-1983

Deponent.

I identify the deponent who has signed before me.

Advocate

Seal (PTO)

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

W.P. No..... of 1983

In re : Joseph

Udai Raj Singh... Petitioner Vs. Union of India & oth.

Annexure No. 2

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

W.P. No.. of 1982

Udai Raj Singh. Petitioner.
Vs.

The Union of India & others. Opp. Parties.

Copy of the appeal of Udai Raj Singh dt 19.7.82
addressed to Director of Postal Services, Lucknow
Region, Lucknow.

The Director of Postal Services,
Lucknow Region, Lucknow.

Appeal against the order & judgment of Supdt. of Posts
Offices, Barabanki Div. Barabanki, 285001 dt 31.9.82
vide letter No. PX/Misc.-III/80-81 Barabanki, dt 31.8.82
and enquiry report vide letter No. MX/Misc.VII/808/BBk
dated 8.4.82.

Sir,

The appellant begs to submit as below for the
favour of kind and sympathetic consideration :-

1. That the appellant was put off from the duty on
21.2.80 and was charge sheeted for having not accounted
for Rs 85/- in Saving Bank Account No. 271273 on 15.12.7
2. That because Khatedar Jagannath Singh had not actually
given Rs 85/- in cash hence did not account for which

17/6

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

W.P. No. of 1983

Udai Raj Singh, ... Petitioner Vs. Union of India & othrs.

Annexure No. 2

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

W.P. No. ... of 1982

Udai Raj Singh, ... Petitioner.

Vs.

The Union of India & others, ... Opp. Parties.

Copy of the appeal of Udai Raj Singh dt 19.7.82
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Region, Lucknow.

The Director of Postal Services,
Lucknow Region, Lucknow.

Appeal against the order & judgment of Supdt. of Posts
Offices, Barabanki Div. Barabanki, 285001 dt 31.9.82
vide letter No. PA/Misc. III/80-81 Barabanki, dt 31.8.82
and enquiry report vide letter No. NA/Misc. VII/808/BBk
dated 8.4.82.

Sir,

The appellant begs to submit as below for the
favour of kind and sympathetic consideration :-

1. That the appellant was put off from the duty on
21.2.80 and was charge sheeted for having not accounted
for a Rs/- in Saving Bank Account No. 271273 on 15.12.75.
2. That because Khatedar Jagannath Singh had not actually
given Rs/- in cash hence did not account for which

has been admitted by the depositor himself during

enquiry.

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3. That because the Khatedar, Jagannath Singh, had deposited only 85/- and had 100/- currency notes

and the Sub-Post Master Gaura had no change to return

hence asked Sri Jagannath Singh to bring 85/- in

cash who took away his pass book as well.

That the Khatedar Sri Jagannath Singh did not turn

up and the entries made by the Sub-Post Master Gaura

on the pass book remained intact.

5. That when again Khatedar Sri Jagannath Singh turned up to the Post Office with his Pass Book, the Sub-

Post Master, the appellant, tried to account for the

pass book on 9.1.79 by making withdrawal of 165/-.

6. That the appellant tried to regularise the account

which by chance fell against the rules and regulations

and was charged.

7. That the enquiry officer's conduct is beyond doubts to

be unjust on the face of the records and did not consider

the statement of the Khatedar and changed its version

8. That so far as the enquiry report of the enquiry

officer is concerned, it is most unfortunate that has

not been considered too in favour of the appellant.

Sri Waker Ahmed Khan, the then U.P. Dak Patl deceived the

appellant and refused to advise and on the other hand

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gave a wrong colour and reported the matter to higher authorities for action in connivance with the present U.P. Dak Pal who took over the charge after dismissal of the appellant.

9. That the appellant looked into the discussions of the Enquiry report and derived that the report is based on surmises and conjectures and the statement of the Khatedar Sri Jagannath Singh is wrongly discussed hence on 3.6.82 the appellant through the registered post sent a letter making demand of the statement of the Khatedar Sri Jagannath Singh which has been replied on 4.6.82 that there is no provision to supply any material other than the material supplied by the Enquiry Officer. No doubt that 20 pages enquiry report has been received but it does not contain the statement of Jagannath Singh which is the basis of the charges levelled upon the appellant.

10. That there is nothing against the appellant in the enquiry report to cause dismissal nor there is any irregularity excepting that it is a clerical mistake.
11. That there is no evidence against the appellant to cause dismissal from the services and only wrong interpretation of the facts could make the appellant out of service in connivance with the present Sub.Post Master, who was Postman during the appellant's service.
12. That there was no ground for dismissal of the appellant and wrong interpretation of the Khatedar's statement has been done which caused dismissal. The

character of an inquiry officer and the Superintendent,
Post Offices, Barabanki, Division is beyond doubts
doubtful.

Wherefore, it is most respectfully prayed
to set aside the order and judgment of the Inquiry Officer,
and Superintendent of Post Offices, Barabanki, Division,
and order to post the Appellant as Sub-Post Master
treating the said mistake to be clerical one and oblige

Dated: 19.7.82. Appellant.

(Udai Raj Singh)

Ex-Branch Post-master,
Gaura, District Barabanki.

Copy forwarded to the:

Superintendent, Post Offices,
Barabanki Division, Barabanki.

for favour of information and
necessary action please.

(True Copy)

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Annexure No. 3

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

Writ Petition No. 6362 of 1982.

Udai Raj Singh.

-- Petitioner.

Vs.

The Union of India and others.

-- Opp. Parties.

Petition Under Article 226 of the Constitution of India.

Lucknow dt. 4.5.1983

Hon.- U.C. Srivastava, J.

Hon.- K.N. Goyal, J.

Admit.

As only a short point is involved we proceed to decide the petition finally.

The petitioner was removed by the competent authority. Against that order he filed a departmental appeal. The appeal was no doubt time barred but he also made an application for condonation of delay. The appellate Authority has dismissed the appeal as time barred without considering petitioner's application for condonation of delay.

We have heard learned Counsel for the parties.

The appellate authority had inherent jurisdiction to condone the delay. If sufficient cause was shown to it for delay in filing the appeal. The appellate authority has however, not addressed itself to this aspect at all. As such the impugned order Annex.4 cannot be sustained. It is desirable that departmental remedy should not be refused merely on technical grounds. Accordingly the writ petition is allowed and the order Annex.4 is hereby quashed. The appellate Authority shall now decide the appeal of the petitioner in accordance with law.

Sd/- U.C. Srivastava

Sd/- K.N. Goyal

4.5.83

(True Copy)

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

W.P. No.-----of 1983

Jagan Nath Singh Vs... Union of India.

Annexure No. 4

The Director Postal Services,
Lucknow Region, Lucknow.

Re : Supplementary facts, reasons and grounds for
Corporation in the Memo. of Appeal of dt. 19.7.82;
(Appeal of Jagan Nath Singh Post Master General,
District Barabanki).

In the aforesaid appeal, certain

important facts, reasons and the grounds appear
to have been left inadvertently and the same being
necessary in the interest of justice, should be
corporated. They are as under :-

" 13. That necessary copies of the statement of
witnesses particularly of Jagan Nath were
supplied to him at a belated stage after the
appellant persistent days.

14. That the said witness Jagan Nath himself was
not aggrieved with the conduct of the appellant

Contd....2/-

2.

and therefore, he did not make any complaint

against him; the said witness Jagan Nath was

conscious that the mistake was of the clerical

signature and the bonafide. But the certain members

of the staff who were actually prejudiced with

the appellant, have done the mischief just to

harass and cause injury to him. In fact, the

said witness was not aggrieved with the appellant,

as such, he was not inclined to make the statement

against the appellant, but he was forced and

informed by the members of the staff to make the

statement against him.

15. That no proper and adequate opportunity of hearing

was afforded to the appellant, as such, the dismissal

is against the fact and law.

16. That the service roll of appellant is excellent

and there is no adverse entry in the service roll.

17. That the punishment of dismissal is too excessive

and against the nature of the irregularity alleged

to have been committed. The punishment, if at all,

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18. That the dismissal order is wrong, illegal and against the principles of natural justice.

19. That the appellant already deposited the shortage amount of Rs. 85/- thus, neither the deponent suffered any loss nor the Government.

20. That, thus, the following are the grounds :-

a) Because non-supply of the statements of the witnesses particularly the statement of Jagan Nath Singh have caused natural justice to the

b) Because the said Jagan Nath Singh has not made any complaint against the appellant and the proceedings started are mala fide and illegal ;

c) Because the subsequent statement of the said Jagan Nath Singh, filed herewith, shows that he was not aggrieved with the appellant and that

he did not want to make any statement against him, but he was implied and forced by the members of staff to make the statement against the appellant.

d) Because the dismissal authority had no jurisdiction to dismiss appellant without observing necessary formalities as required under the law and without taking into consideration all the facts and the evidence on record.

e) Because the dismissal cannot be legally based on presumption;

f) Because the punishment awarded is too severe taking into consideration in view of irregularity alleged to have committed;

g) Because the dismissal is against the law and against the principles of natural justice.

Wherefore, it is respectfully prayed that the above facts, reasons and circumstances along with the grounds as stated may be incorporated with the memo. of the appeal dated 19.7.82 in the interest of justice.

Lucknow, dated

18.5.83

Appellant.

(True Copy)

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In the High Court of Judicature at Allahabad, like Bench
Lucknow.

W.P. No....of 1983

Udai Raj Singh
Jagan Nath Singh Vs. Union of India.

Annexure No. 5

Before the Director of Postal Services (Lucknow Region),
Lucknow.

In the Matter of Udai Raj Singh,
Branch Post Master General, Barabanki.

Affidavit

I, Jagan Nath Singh, aged about 70 years, son
of Maheshwar Bux Singh, resident of Village Gaura Karnob,
District Barabanki, do hereby solemnly affirm and state
as under :-

1. That the deponent is still an Account-holder in the
Sub-Post Office, Gaura, Distt. Barabanki. The deponent
was the witness in the case.

2. That the deponent got back the money in full
satisfaction of his pass-book, as such, the
deponent actually had no grievance against the
appellant.

3. That the deponent has not suffered any loss, nor
the Govt. has suffered any loss.

4. That the deponent did not want to make any such
statement before the Enquiry Officer as he had

and to,....

no grievance against the appellant, but he was

forced by the certain members of the Postal staff

particularly by Sri Waker Ahmed to make the

statement against the appellant and in this connec-

tion he was given threats that if he would not

make such statement against the appellant, they

would send him to Jail, so under the threats

duress, the deponent was forced to make such a

statement before the Inquiry Officer,

5. That the deponent did not make any complaint nor he

was inclined to make any statement against him, the

deponent further states that Sri Waker Ahmed and

certain other members of the staff forced the deponent

under threats to make such statement against him,

as such, the statement made before Inquiry

is not correct and should not be considered or read,

Lucknow, dated 25.05.1983

5.1983

Deponent,

Verification

I, the above named deponent, do hereby verify that

contents of para's 1 to 5 of this Affidavit are true to my

personal knowledge,

signed and verified this day of May 1983,

at Lucknow,

Deponent,

I identify the deponent who has signed before me,

Adv.

(True Copy)

3.

had also tried to blame the Sub-Postmaster Sri Vakar Ahmed Khan for this act for which there is no evidence, thus the act of making entry of deposits of amount ₹ 85/- in the Pass-book no. 271273 on 15.12.78 and not accounting of the same amount into the Post Office records on the same day denotes the irregular working of the appellant and appeals of his bad intention of pocketing the money.

In view of above discussion I conclude that the appellant did not deposit ₹ 85/- in Post Office records on 15.12.78 which was tendered by the Account-holder of no. 271273. The appeal is therefore rejected.

(S.P. Ojha)

Director, Postal Services,
Lucknow Region, Lucknow.

Pin- 226001.

(True Copy)