

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW .

INDEX SHEET

CAUSE TITLE T.A. 1233/07 of 199
w.p. 6765/03

Name of the parties _____

Rakesh Prakash Kaushal Applicant.

Versus.

G.O. Indie

Respondents.

Part A.B.C.

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Cmly. Govt.

25/3/92

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

Rakesh Prakash Kaushal vs uo 2/26

FORM OF INDEX

~~O.A./T.A./R.A./C.C.P./~~ No. 1233/87

(wp. 6765/83)

PART - I

1.	Index Papers	:-	1	—	—
2.	Order Sheet	:-	19	—	22 to 20/
3.	Any other orders	:-	nil		
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5.	S.L.P.	:-	nil	—	

Dr. Registrar

Supervising Officer

Dealing Clerk

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

Nil

1. Petition A.C. With Power 23 to 40 Dealing Clerk
2. A.C. Pukher & A41 to A79.

B/c. wheeled out.

B/c. destroyed as a.s. 12.

for

5050

V.K. Mishra

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
w-p. No. 6765 of 198 83

25.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
2012-83	<p>Hon K-N-G, > Hon S.S.A. > list along with w-p no. 4719 of 83 in the second week of January 84 each other. Sd. K-N-G- Sd. S.S.A. 2012-83 CM Am No 14312 (W) 83</p>	
2012-83	<p>Hon K-N-G, > Hon S.S.A. > Put up with & w-p Sd. K-N-G, Sd. S.S.A- 2012-83 10.1.84 Rixed written order C 4-14-312 (W) 83 for Hon K N S S Hon A N S Put up tomorrow Doc Rixed</p>	<p>for Ber Died 2</p>

12.1.84

P.O.

26.3.84

put up with
Rixed

for

2

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
26-3-84	Fixed with C.A. 14312 CW 83 for Hon. Jha J Hon. S.S.A.S	
	19-4-84 for Bench Hon. Jha J Hon. K.N.M.S Put up on 23/4/84	
23-4-84	Hon. Jha S Hon. K.N.M.S	
25-4-84	Hon. Jha J Hon. K.N.M.S Hon. K.N.M.S List in the next week. MHS/ 26-4-84	
	3-5-84 fixed for Bench by court	
3-5-84	Fixed with C.A. 14312 CW 83 for Hon. D.N. Jha J Hon. S.S.A.S J ent 7592 with non-REDIT	
30-7-84	ent 7592 with non-REDIT Don't write the record S.M. REDIT	

14312 CW 83 fixed with C.A. 7592 with for Bench

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
29/8/84	<p>HONKAR 17</p> <p>HOLSSA</p>	
	<p>Learned counsel for the petitioner wanted time to file supplementary affidavit indicating as to when the application of Sri K. P. Tripathi and Sri S. K. Saxena were forwarded by the department and at that time how many vacancies were there in the cadre of Inspectors lying unfilled in the department. In case the counter affidavit is filed by tomorrow serving a copy of this counter affidavit outside the court on the learned counsel for the opposite parties Sri D. S. Randhawa may file rejoinder affidavit by 31st August 1984.</p>	
	<p>Put up on 31st August 1984 for final hearing.</p>	
<p>29.8.84</p> <p>1984</p>	<p><i>[Signature]</i></p>	

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ad. No. 6765 of 1983.

25.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
6/8/84	Fixed with C.M.D.N. 14 3/2/83, 7592/84 HORDMA, MCHMM For orders see our order of date on the ordersheet of W.P. no. 4719 of 1983. MHS/ 6/8/84	
29/8/84	16-8-84 fixed by HORDMA MO SRA? list in the next week as prayed by the learned counsel for the petitioner. J. S. S. S.	

29-8-84 fixed by

(6)
ORDER SHEET
 IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
 No. 6765 of 1983
 25.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
31-8-84	<p>Mem. LRM M J</p> <p>Mem. S S H J</p> <p>The first application for interim relief was moved on 19th December 1983 but no order could be passed on that date. The petition was moved for application for interim relief a second time on 30th July 1984 indicating therein that interim in I.T.I. is scheduled for 10th August 1984 and, therefore the petitioners be permitted to participate in the said interim subject to the decision of the court. It appears that no order was passed on that application. The case was itself directed to be listed for final hearing. We had heard the arguments in part on 29th August 1984 and the case was directed to be listed for further arguments.</p>	

Date

Note of progress of proceedings and routine orders

Date of
which
case is
adjourned

1

2

3

today. Learned Counsel for
 the petitioner in A. Manna
 is pointed out that the
 interview for the post in question
 is going to take place on
 1st September 1944. He had
 also placed before us
 the telegram which was issued
 to the petitioner intimating him
 that the interview is going to take
 place on 1st September 1944.
 Learned Counsel for the petitioner
 therefore, pressed for passing
 an order on his inter relief
 application permitting the petitioner
 to appear in the said interview
 subject to the decision of the
 writ petition. Learned Counsel
 for the opposite parties in the above
 stated that this fact was
 not brought on record by the
 learned Counsel for the petitioner
 that the interview is to take
 place on 1st September 1944.
 In these circumstances he urged
 that there are no good grounds
 for granting inter relief to the
 petitioner. We are not

(8)

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 6765 of 1983

25.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p>expressed by this argument in similar writ petition which was listed for hearing a week along with this writ petition, namely, writ no. 4715 of 1983 Ran Moha Krishna and others vs Union of India and others an order granting interim relief was passed in these words:—</p> <p>“Let it after two weeks be enable the learned Counsel for the Union of India to obtain instructions.</p> <p>In the meantime opposite parties are directed to forward the application of the petitioner without delay for attending interview which is going to be held on September 17, 1983 If the petitioner appears for interview his result will not be declared. He will not be allowed to join till further orders of the Court.</p> <p style="text-align: right;">14.9.83!!</p>	

In the present case the petitioner

Date

Note of progress of proceedings and routine orders

Date of
which
case is
adjourned

1

2

3

has received the new call
for I.T.I. The interview schedule
was on 1st September 1984. In these
circumstances if appears just and
proper ^{and so we accordingly allow} that the petitioner be
permitted to appear in the interview.
The result will however not be
declared and he will not be
allowed to join in case he is
selected till further orders of this
Court.

The petitioner has filed
a supplementary affidavit
today bringing on record
certain facts. A copy
of this supplementary affidavit
was served on the learned
Counsel for the opposite
parties only yesterday. Learned
Counsel therefore prays for
and is allowed time
till 13th September 1984 to file counter.
list this petition along with
petition no. 4719 of 1983 for
final hearing on that date.
Learned Counsel may file
replying affidavit on that date.

A certified copy of this
order may be issued to the

ORDER SHEET

IN THE HIGH COURT JUDICATURE AT ALLAHABAD

418 No. 6765 of 1983

25.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
	deemed correct for the petitioner today a payment of necessary charges so as to enable him to produce a copy of this order before the authorities to pay interest. 31-8-84 cl List in the next weeks for hearing. 13-9-84 cl 19-9-84 fixed for hearing. Hon. H. H. Seth, J. Hon. S. S. A., J. 24-9-84	
15-10-84	15-10-84 from HOUUGN HOSERT.	

19/10/84
30/10/84

(10)

12

(11)

Date

Note of progress of proceedings and routine orders

Date to
which
case is
adjourned

1

2

3

7/11/84
18/11/84

Fixed

Houses
to serve

9/12/84

Fixed

Houses
to serve

18/12/84

10.12.84 fixed for hearing

Hr. V C S J

Hr. S C H J

Dr. J. A. Mannan

Dr. H. N. Telahri

Hr. S C S J

Hr. S C S J

P. H. for possession

Dr.

Dr. S. P. J.

9.12.84

Hon. S. C. Mathur J.

Hon. S. C. Mathur J.

Dr. Abdul Mannan

learned counsel for
the petitioners says
that the case may be
taken up on some other
date as he has got trouble
in his throat.

List in the month of
January, 1985. The case need not

(12) 12/6

ORDER SHEET
 IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
 No. _____ of 198
 25

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
	be treated as tied up to this Bench.	
	Mr H. N. Tilak has filed memorandum of appearance on behalf of the opposite parties, when the case is next listed the name of Mr Tilak shall also be published in the cause-list as counsel for the opposite parties.	
	L. K.	
	19.12.1984	
	16-1-85 from Bk	By coun in Jan 85
15785	15.7.85 fixed for hearing by Hon B. Kumar J Hon G. B. S. Ch S	Bench
10785	No sitting. Adjourned	
	B. K. S.	

19.7.85

15

42

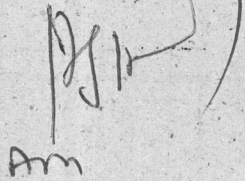
1233/07/16

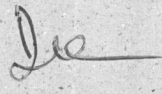
GO

1104/11/3

6.4.1990 Hon. D.K. Agrawal, Jm
Hon. P.S. Habeeb Mohammad, Am

Sri Abdul Mannan, learned Counsel for
the Applicant is present. Sri D.S. Randhawa,
learned Counsel for the Respondents has
sought for an adjournment. List it on
26.4.1990 for ~~admission~~ hearing


Am


Jm

16.4.90
Am


26-4-90 Hon. Mr. D.K. Agrawal, Jm
Hon. Mr. K. Chagga, Am

Mr. AK Chaturvedi for Petitioner.
Mr. D.S. Randhawa for Respondents.
Heard learned counsel for
the parties. In this writ Petition
as well as another connected
TA No. 1184/87 judgment
reserved.

Judgment at 24/4/90
received
for S.D. 21/9/90


Am


Jm


Jm

A25
(16)

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

6765

WRIT PETITION NUMBER OF 1983.



Rakesh Prakash Kaushal, aged about 32 years, Son of Shri
(late) P. D. Sharma, Resident of 509/111 Old Hyderabad,
LUCKNOW. Petitioner.

Versus.

1. Union of India; through Secretary, Home (Personnel),
Central Secretariat. NEW-DELHI;
2. The Director, Central Bureau of Investigation,
NEW-DELHI;
3. The Deputy Director (Administration) Central Bureau of
Investigation, NEW-DELHI. ... Opposite Parties.

WRIT PETITION UNDER ARTICLE 226 OF
THE CONSTITUTION OF INDIA.

The above named Petitioner most respectfully
submits as under :-

1. That the Petitioner was originally selected for
appointment on the post of Sub-Inspector of Police in
the Central Bureau of Investigation, Government of India
then sent for the requisite training which he joined on
14.01.1974 and after the successful completion of the
said training the Petitioner joined the post at Lucknow
in July, 1975.

Rakesh Kaushal

[Handwritten mark]

MEMO.

Impressed

Adhesive

Total

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

In time up to

Papers filed. Copy of P. C.

Should also be filed.

My/ie - H. H. H.

Dep. Secy - Code - Am 22 9-11-83

Dist. Leekham

[Signature]
19-12-83

Notice for 20-12-83 19/12

Received Cops from 1 to 3

[Signature]

(D S RAMDHANSA)

Senior Standing Counsel

Central Govt.

19-12-83

Hon. K. A. G. S.
Hon. S. S. A. D.

list along with
with petition nos 713 of 03
in the second week of
January '04. In the mean time
opposite parties may file Court
Counter and rejoinder filed in
any case will be noted in
each other.

[Signature]
20-12-03

A455/1

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

C.M. Application No. 2157 of 1984

Union of India & others

...Applicants

In re

Writ petition No. 6765 of 1983

Rakesh Kumar Kaushal

Petitioner

Vs

Union of India & others

..Opp. Parties

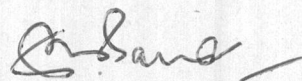
Application for condonation of delay in filing
Counter Affidavit.

The applicants above named respectfully submit as
under:-

1. That on 21.12.1983, the Applicants were directed to file counter Affidavit before the several weeks of Jan. 1984 but the same could not be filed within time due to inevitable circumstances.
2. That the delay is not deliberate and it is liable to be condoned.

Wherefore it is respectfully prayed that the delay in filing the accompanying counter Affidavit may kindly be condoned and the same be taken on the record of the case.

Lucknow
Dated. 20.2.84


(D.S. RANDHAWA)
ADVOCATE
(SENIOR STANDING COUNSEL)
CENTRAL GOVT.
COUNSEL FOR THE APPLICANTS

A65 18
2

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

Lucknow Bench, Lucknow.

C.M. Appn. No. 7592(W) of 1984

in re:

Writ Petition No. 6765 of 1983



Rakesh Prakash Kaushal Petitioner

Versus

Union of India and others Opp-Parties

Application for further interim relief

The petitioner-applicant submits as under :

1. That through the above-mentioned writ petition the petitioner has challenged the validity of the orders of the opposite parties by which the application of the petitioner for employment outside has been with-held. The interview in the I.T.I. is scheduled for 10th August, 1984.

Therefore, it is prayed that for the reasons already disclosed in the accompanying affidavit the opposite parties be directed to permit the petitioner to participate in the said interview subject to the decision of the writ petition.

Dated: Lucknow:

July 30, 1984

A. Chandra
Counsel for the petitioner.

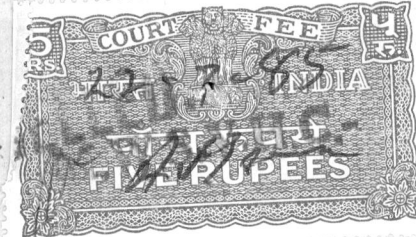
IN THE HON'BLE HIGH COURT OF JUDICATURE, AT ALLAHABAD:

LUCKNOW BENCH, LUCKNOW.

Civil Misc. Application No. 8421(W) of 1985:

IN RE :

WRIT PETITION NUMBER 6765 OF 1983.



Rakesh Prakash Kaushal. Petitioner / Applicant.

Versus.

Union of India and Others. Opposite Parties.

An Application For the Interim Relief.

The above named Petitioner - Applicant most respectfully submits as under :-

1. That under the Interim Orders passed by this Hon'ble High Court, the applicant appeared in the selection for the post of Assistant Manager (Vigilance), Indian Telephone Industries, Rae-Bareilly, but the result has not been declared.

THEREFORE, it is most humbly prayed that for the reasons already disclosed in the accompanying affidavit, the Indian Telephone Industries, Rae-Bareilly may kindly be permitted to declare the result of the selection conducted by it on 1st September, 1984, pending the disposal of the Writ Petition, in the interest of justice

DATED: LUCKNOW:
JULY 23, 1985.

A. Pramanam
Counsel for the Petitioner/
Applicant.

IN THE HONBLE HIGH COURT OF JUDICATURE, AT ALLAHABAD:

LUCKNOW BENCH, LUCKNOW.

Civil Misc. Application No.

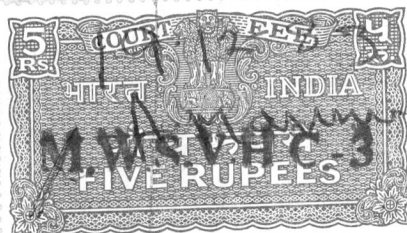
(W) of 1983:

IN RE :

WRIT PETITION

NUMBER

OF 1983.



Rakesh Prakash Kaushal.

....

Petitioner/ Applicant.

Versus.

The Union of India and Others.

Opposite Parties.

AN APPLICATION FOR THE INTERIM RELIEF.

The above named Petitioner - Applicant most respectfully submits as under :-

1. That through the above mentioned Writ Petition, the applicant has challenged the validity of the orders with-holding the applications of the applicant, vide Annexure number 1 and 2, if the applications are not forwarded the applicant will suffer irreparable loss.

THEREFORE, it is most humbly prayed that for the reasons already disclosed in the Writ Petition and the affidavit, the Opposite Parties be directed to forward the applications of the applicant to the Indian Telephone Industries, Rae-Bareilly and Nainital and to the Oil & Natural Gas Commission, Dehradun, pending the disposal of the writ petition and may be allowed participate in the interview and selection, in the interest of justice.

DATED: LUCKNOW:
DECEMBER 19, 1983.

A. Prasad
Counsel for the Petitioner/
Applicant.

(21)
A/B

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

O.A. NO. 193
T.A. NO. 1. 1233/87 and 1184/87

DATE OF DECISION

1. Rakesh Prakash Kaushal

2. Ram Mohan Krishna and another

PETITIONERS

S. A. Manhan

U. A. R. Chakraborty

Advocate for the
Petitioner(s)

VERSUS

Union of India and others

RESPONDENTS

S. D. S. Ramlhans

Advocate for the
Respondent(s)

CORAM :

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

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

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

Dinesh/

Prakash
24/7/80

(22)
ALB

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH,
CIRCUIT BENCH, LUCKNOW

....

Registration 1233 of 1987 (T)

(W.P. No. 6765 of 1983)

Rakesh Prakash Kaushal ... Petitioner

vs

Union of India and others ... Respondents

AND

Registration T.A. No. 1184/ 1987

(W.P. No. 4719 of 1983)

Ram Mohan Krishna and ... Petitioners

Syed Tahir Ali vs

Union of India and others ... Respondents

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

Hon' Mr K. Obayya, A.M.

(By Hon' Mr K. Obayya, A.M.)

Writ petitions No. 6765 of 1983 and 4719 of 1983 were filed in the High Court of Judicature at Allahabad, Lucknow Bench, for quashing the orders dated 19-10-83 and 27-10-83; and 24-5-83 and 27-6-83 respectively, whereby the applications of the petitioners for the posts of Assistant Manager (Vigilance) Indian Telephone Unit, Rae Bareilly/ Naini and to the post of Administrative Officer(Vigilance) Oil and Natural Gas Commission, Dehra Dun, and to the post of Senior Vigilance Security Officer in Cement Corporation of India were with-held and not forwarded to the concerned authorities for necessary action.

2. These petitions have been received in this Tribunal on transfer under section 29 of the Administrative Tribunals' Act, 1985 and registered as T.A. No.1233/87 and 1184/87.

3. As the facts in these petitions are similar and

R

the issue involved is the same, we propose to dispose of these petitions by a common order.

4. The petitioner in T.A. No. 1233 of 1987 was appointed as Sub Inspector of Police in Central Bureau of Investigation (in short CBI) in 1974. He was promoted to the post of Inspector, 1979. Between the years 1981 and in 1983, he applied to the posts of Vigilance Officer, Assistant Manager, in the Indian Telephone Industries, Naini, Vigilance Officer in the National Thermal Power Commission, Vigilance and Security Officer in Cement Corporation of India and Administrative Officer (Vigilance) Oil and Natural Gas Commission, Dehra Dun. These applications were submitted through proper channel, but they were not forwarded to the concerned authorities for consideration. He was informed by the impugned orders (Annexure-A-1 and A-2 to this petition), that these applications are with-held in public interest, In view of the large number of vacancies in the cadre of Inspectors in C.B.I.

5. The petitioners in T.A. No. 1184 of 1987 Ram Mohan Krishna and Syed Tahir Ali joined C.B.I. in 1975 and 1973 respectively in the post of Sub Inspector and were promoted as Sub Inspectors in the years 1981 and 1978. Both these petitioners applied to the Cement Corporation of India for the post of Vigilance and Security Officer. Their applications were submitted through proper channel. Their applications were not forwarded to the concerned authorities and the petitioners were informed by the impugned orders dated 24-5-83 and 27-6-1983 (Annexures-1 and 2 to the petition); that their applications have been with-held in public interest.

P

6. The case of the petitioners is that one of the conditions indicated in their appointment order when they joined service in CBI as Sub Inspector was they should serve a minimum period of 3 years from the date of completion of training. All of them have completed more than 3 years of service and they are thus free from the bond to serve the Department for a minimum period. Their service has been good all along. There are no departmental charges nor any prosecution launched against them. The organisations i.e. Cement Corporation of India, Indian Telephone Industries, National Thermal Power Commission etc. are all owned and controlled by the Government of India and the posts for which they had applied carry higher pay scale. Their cases do not come within the mischief of the guidelines issued by the Government of India in their letter No.41016/9/78-Estt(C) dated 10-8-78.

7. The ^{Contention} case of the petitioners is that the action of the authorities in with-holding their applications is arbitrary, malafide and illegal.

8. The respondents have filed counters in which they have stated that the petitioners after selection as Sub Inspector were given intensive training for 3 years in investigation and other aspects of work. After promotion to the post of Inspector they take up investigation work independently and that to built up this capability ^{it} takes about 5 to 6 years. It is also contended by them that C.B.I. would not like to spare the services of the experienced officers and it would only become a training institution, if trained officers are permitted to leave the Department. The Department has still 52 vacancies of Inspectors

to be filled up out of a total cadre of 395 officers. It is further contended that the application was withheld in public interest. C.B.I. is short of officers and Inspectors constitute nucleus of the Organisation. 60% of the posts in C.B.I. are filled up by deputation and as such they cannot afford to lend the services of their own officers, who are specially trained and experienced without impairing its own working. It is denied that there is infringement of Fundamental Rights in this. The applications of the petitioners were considered on merits and orders were passed in each case. The applications were withheld in public interest in accordance with the instructions of Govt. of India. It is also denied that the orders are arbitrary or malafide.

9. In their rejoinder, the petitioners have stated that even as Sub Inspectors they were taking up investigation ^{of} cases independently and that the vacancies of Inspectors are not being filled up deliberately. There is no special training for ^{them} him and the vacancies can be filled up by taking civilian police officers from the State Government. It is also mentioned ^{that} in the past ~~that~~ some applications were forwarded from Lucknow Branch. They have also mentioned that the Intelligence Bureau (I.B.) also has forwarded applications, though the work there also is specialised and sophisticated. Respondents admitted that they have forwarded some applications in the past considering individual cases on merits and that the cadre strength of I.B. is 11000 ^{even if} and some officers are permitted to seek out side jobs, it may not have any adverse effect in their work.

While in their case they have only cadre strength of only 3000 of which 395 are Inspectors and still they have 52 vacancies to be filled up.

10. We have heard the counsel for the parties and perused the record. Both the sides relied on the government circulars on the subject. The guidelines for forwarding of applications of government servants in response to advertisements of UPSC/other government organisations are laid down in circular No.41066/9/78-Estt (C) & Ministry of Home Affairs, Department of Personnel & Administrative Reforms dated 10-8-78. According to these guidelines the administrative authorities have to examine the cases of the govt. servants seeking employment elsewhere carefully balancing the interest of the State against the necessity of causing hardship to the individual. The discretion to forward or to withhold the applications is left to the competent authority in public interest also. The applications of govt. servants against whom there are departmental proceedings, court proceedings, and those who have acquired special qualifications and expertise etc. are not to be forwarded.

11. The learned counsel relied on the decision of Karnataka High Court in W.P. No.8332 of 1983 in T.B. vs. Director Central Bureau of Investigation and ors.

In that case the High Court ordered that the applications of the petitioner who ^{was} working as Sub Inspector in C.B.I. to be forwarded to Fertilizers and Chemicals Travincore on the ground that this was an Undertaking of Govt. of India and that the ^{distinction} discretion between a Govt. Department and Govt. Undertaking is not justified for this purpose. The ^{discretion} distinction vested with the

:: 6 ::

competent authority to forward or not to forward the applications of Govt. servants to other departments/undertakings was up held.

12. So far as the guidelines on the subject are concerned there is no dispute. The guidelines do provide that applications should be forwarded without impairing the work of the Organisation. The contention of the petitioner-s that the work in C.B.I. is not of any special nature appears to be an under statement. These days the investigation work has become very complicated what with advance ^{technology} technicality, ~~specific~~ scientific aids, and electronic gadgets being employed in investigation work. The Inspectors in C.B.I. are also trained in forensic science, matters of investigation, legal procedures, criminal and civil law etc. and the work in C.B.I. undoubtedly is specialised work. The learned counsel for the respondents relied on the case of T.P. Mahajan vs. Union of India, 1973(1) SLR p. 436, in this decision of the Delhi High Court The constitutional rights available to the government servants applying for the posts in ^{other} ~~another~~ departments, was discussed. It was held that govt. servants constitute a class by themselves and that govt. can impose certain restrictions on the right of govt. servants to apply for jobs in other departments. It was also held that the govt. servants do not have any "legal right" for forwarding their applications to other departments and that the decision not to forward the applications is administrative and not quasi judicial, as such, no reason be furnished for withholding the applications. The Court also observed,

" The public interest vis-a-vis a government servant would normally be the interest of the government. It would be the government therefore, who would be the best Judge of such public interest. "

It is well settled that the legal position of the govt. servant is one of status than of a contract. The hall mark of status is attachment to a legal relationship of rights and duties imposed by public law and not by mere agreement of the parties. There is no vested contractual right for a government servant. The dictates of public interest would undoubtedly outweigh other considerations. Taking the facts and circumstances of the case, we are of the view that the action of the respondents in withholding the applications was prompted by considerations of the needs of the department and the vacancies at the level of the Inspectors. We see no reason to interfere with the orders of the respondents in withholding the applications of the petitioners. There is no merit in the petitioners. Accordingly we dismiss the petitions with no order as to costs.


MEMBER (A)


MEMBER (J)

(sns)

July 24, 1990.

GENERAL INDEX

CIVIL

SIDE

CRIMINAL

Chapter XLI, Rules 2, 9 and 15

A23

Nature and number of case W.P. No. 6765-83

Name of parties Rakesh Prakash Karshol. Vs. Union of India

Date of institution 20.12.83

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	Ind with affidavit and Annex.	15	-	102.00			
	2	Power	1	-	5.00			
	3	Cmd. 14312 (w) 683 p 84	1	-	5.00			
	4	Supplementary Rejoinder	3	-	2.00			
	5	Cmd. 2157 (w) 884 int. R.D.	8	-	7.00			
	6	Rejoinder affidavit	4	-	2.00			
	7	Cmd. 7592 (w) 884	3	-	7.00			
	8	Supplementary affidavit	3	-	2.00			
	9	Supplementary affidavit						
	9	Appl. for discharge	1	-	5.00			
	10	Cmd. 8421 (w) 685	3	-	7.00			

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

2. That the Petitioner was also confirmed on the said post of the Sub-Inspector, however, he was promoted to the post of the Inspector with effect from 19.12.1979 and since then he is holding the said post of the Inspector and is presently posted at Lucknow with the the sub-Office of the Bureau. The post of the Inspector carries the scale of Rs. 550-900 at the moment.

3. That the original order of appointment of the Petitioner also contain the conditions of appointment and one of the conditions of the appointment was as under :-

" He will have to serve for a minimum period of three years from the date of the completion of the training as Sub-Inspector, unless his services are dispensed with in the exigencies of the service or otherwise."

In this view of the condition the Petitioner has already completed the bounded period of service much earlier.

4. That the Petitioner is also not working in any special project for which the retention of the Petitioner may be necessary in any manner.

5. That in the year 1981 the Petitioner applied for the post of Vigilance Officer Grade III in the Indian Telephone Industries, Naini (Allahabad) in pursuance of their advertisement. Of course he applied through the department and his application was with-held and the said decision was communicated to the Petitioner through an order dated 18.09.1981.

6. That in December, 1982; the Petitioner applied for the post of the Vigilance Officer through the depart



Rakesh Kaul

department to the National Thermal Power Commission; which is a body of the Government of India. The said application was also with-held by the department and the said with-holding of the application was communicated to the Petitioner through a letter dated 27.01.1983.

7. That in none of the two orders mentioned above any specific reason for with-holding the application is mentioned except the recital of the Public Interest in too general terms.

8. That thereafter the Petitioner also applied for the post of Vigilance and Security Officer in pursuance of the advertisement in the Cement Corporation of India, NEW-DELHI, this Corporation is also wholly owned and controlled by the Government of India, but the application of the Petitioner was again with-held with the same recital of the Public Interest and the same was communicated to the Petitioner through an order dated 09.06.1983.

9. That the Petitioner again applied for the post of Assistant Manager (Vigilance) in the Indian Telephone Industries; which is wholly owned and controlled by the Government of India but again the application of the Petitioner was with-held with the same ritual of the recitation of Public Interest and the said with-holding

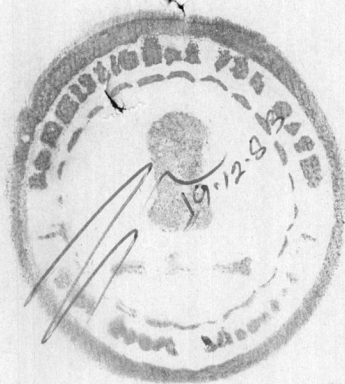


department to the National Thermal Power Commission; which is a body of the Government of India. The said application was also with-held by the department and the said with-holding of the application was communicated to the Petitioner through a letter dated 27.01.1983.

7. That in none of the two orders mentioned above any specific reason for with-holding the application is mentioned except the recital of the Public Interest in too general terms.

8. That thereafter the Petitioner also applied for the post of Vigilance and Security Officer in pursuance of the advertisement in the Cement Corporation of India, NEW-DELHI, this Corporation is also wholly owned and controlled by the Government of India, but the application of the Petitioner was again with-held with the same recital of the Public Interest and the same was communicated to the Petitioner through an order dated 09.06.1983.

9. That the Petitioner again applied for the post of Assistant Manager (Vigilance) in the Indian Telephone Industries; which is wholly owned and controlled by the Government of India but again the application of the Petitioner was with-held with the same ritual of the recitation of Public Interest and the said with-holding of the application was communicated to the Petitioner through a communication dated 27.10.1983. A copy of the same is annexed as Annexure Number 1 to this Writ Petition.



Rakesh Prakash Kaul

10. That the Petitioner also applied for the post of the Administrative Officer (Vigilance), Oil & Natural Gas Commission, Dehradun, but his application was again withheld in the same pretext of public interest and the decision was communicated to the Petitioner through a letter dated 9th November, 1983. A copy of the same is annexed as Annexure Number 2 to this Writ Petition.

11. That the interview and the selection in the Indian Telephone Industries, Rae-Bareilly and Naini and in the Oil & Natural Gas Commission, Dehradun has yet not taken place and if the applications are forwarded the Petitioner will be considered.

12. That the both the posts for which the Petitioner has applied and mentioned above carry the higher scale of pay than the present scale of pay admissible to the Petitioner.

13. That in the matter of forwarding of the applications of the Government Servants, in response to the advertisement of the other employments, the Government of India, through the Ministry of Homes (Personnel) has issued instructions through a Office Memorandum dated 10th August, 1978. A copy of these instructions is annexed as Annexure Number 3 to this Writ Petition.

14. That in the said instructions four conditions are in an illustrative manner have been laid down for withholding the applications, the Petitioner do not fall within the mischief of any of these conditions. The Petitioner is not engaged in any important time bound project and the departure will not in any way dislocate

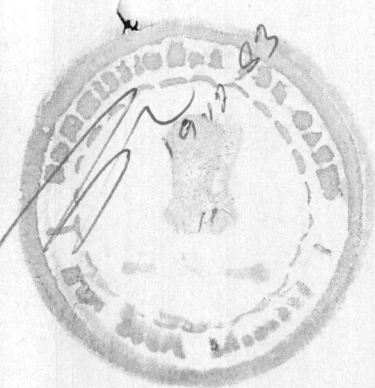


Rakesh Rakesh Kaul

that project. The bonded period of the Petitioner is over since long, he is not under suspension nor any departmental proceedings or prosecution in the Court is pending against the Petitioner.

15. That in view of the conditions laid down in the Annexure Number 3, the applications of the Petitioner cannot be with-held, the with-holding of the application of the Petitioner is wholly arbitrary and mala fide on the part of the Opposite Parties.

16. That the question of the forwarding the applications of the members of the staff of the C.B.I., came up for the consideration before the Hon ble Karnataka High Court, in the Writ Petition number 3332 of 1983, in which the Petitioners being the employees of the Central Bureau of Investigation (hereinafter referred as C.B.I.) have applied for the post in the Fertilizers and Chemicals Travancore Limited. Before the Karnataka High Court another instruction issued by the C.B.I. dated 19th March, 1983, was cited the same has been reproduced in the Judgement, itself, this pertains to the forwarding of the application of C.B.I. staff for the employment elsewhere, in this circular a distinction has been drawn in case the applications are to be forwarded to the Union Public Service Commission, State Public Service Commission, or Staff Service Commission or elsewhere, in that case the application was refused mainly on the ground that the applicant was seeking the employment with Fertilizers and Chemicals Limited, Travancore, the pleas were rejected by the Hon ble High Court of Karnataka, on the ground that the Fertilizers and Chemicals Travancore Limited is a Government of



Rakesh Prakash Kaul

and Chemicals Travancore Limited is a Government of India Undertaking, it is wholly owned and controlled by the Government of India, itself, as such it is an instrumentality of the State and no such distinction can be drawn. Thus the writ petition was allowed.

17. That the two bodies namely the Indian Telephone Industries and the Oil & Natural Gas Commission are wholly Government controlled and thus either or the agencies or the instrumentalities of the Government. In this view of the matter the Petitioner's applications were ought to have been forwarded by the department.

18. That in the facts and the circumstances of the case, the Petitioner has no any other equally effective remedy, but to evoke the jurisdiction of this Hon'ble High Court, among others on the following -

GROUND S :-

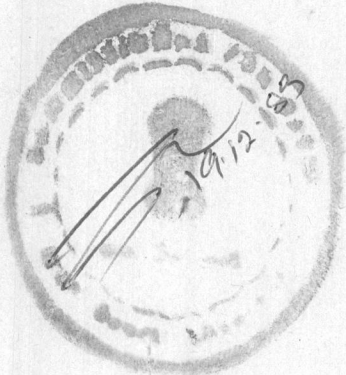
(A) Because, the orders as communicated and are contained in Annexure Number 1 and 2 are wholly arbitrary and malafide orders.

(B) Because, the with-holding of the applications of the Petitioner violates the Fundamental Rights of the Petitioner, as guaranteed under the provisions of Article 14 and 16 of the Constitution of India as well as Article 19 (i)(G).

(C) Because, the with-holding of the applications of the Petitioner is also against the two instructions referred above.

(D) Because, the distinction between the State

Rakesh Prakash Kaul



and the Indian Telephone Industries, and the Oil & Natural Gas Commission is wholly illusory and has no rational basis.

(E) Because, if the applications of the Petitioner are not forwarded and not allowed to participate in the interview and selection he will suffer irreparable loss.

17-A. ~~WHEREFORE~~ That the similar writ petition, marked as Writ Petition Number 4719 of 1983 has been entertained and the interim orders have been passed.

THEREFORE, it is most humbly prayed that this Hon'ble High Court may be pleased to issue :-

(i) A Writ, Order or Directions in the nature of Certiorari, quashing the orders contained in Annexure number 1 and 2, after summoning their originals from the Opposite Parties.

(ii) A Writ, Order or Command in the nature of Mandamus, commanding the Opposite Parties to forward the applications of the Petitioner to Indian Telephone Industries, Rae-Bareilly/Naini and to the Oil & Natural Gas Commission, Dehradun, within time and allow him to participate in the interviews and the selections.

(iii) Any other Writ, Order or Directions deemed proper.

(iv) Waive off the notice to the Opposite Parties/ Standing Counsel as the matter is MOST URGENT.

(v) Allow the Writ Petition with costs.

DATED: LUCKNOW:
DECEMBER 19, 1983.

Counsel for the Petitioner.

There is no defect
in this W.P.

Suresh Prakash Kaul

A. Prasad

A32

- : 8 : -

IN THE HONBLE HIGH COURT OF JUDICATURE, AT ALLAHABAD
LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NUMBER OF 1983.



1983
AFFIDAVIT
59/10/2
HIGH COURT
ALLAHABAD

Rakesh Prakash Kaushal.

Petitioner.

Versus.

Union of India and Others.

Opposite Parties.

A F F I D A V I T.

I, Rakesh Prakash Kaushal, aged about 32 years,
Son of Shri (Late) D. P. Sharma, Resident of 509/111 -
Old Hyderabad, LUCKNOW, states on oath as under :-

1. That the deponent is the Petitioner in the above
mentioned Writ Petition, as such he is fully conversant
with the facts and the circumstances stated in the said
Writ Petition.

2. That the contents of paragraph number 1 to 17
of the Writ Petition are true to my own knowledge.

3. That the deponent, himself, has compared the
Annexure Number 1 to 3 either with the copies maintain-
ed by him or served upon him or as could be fetched by
him and they are their true copies.

DATED: LUCKNOW:
DECEMBER 19 1983.

Rakesh Prakash Kaushal
(Rakesh Prakash Kaushal)
Deponent.



VERIFICATION.

I, the above named deponent, do hereby verify that the contents of paragraph number 1,2 and 3 of this affidavit are true to my own knowledge. Nothing in it is wrong and nothing material has been concealed, so help me GOD.

Rakesh Prakash Kaushal

DATED: LUCKNOW:
DECEMBER 19 1983.

(Rakesh Prakash Kaushal)
Deponent.

I know the deponent, identify him, who has signed before me.

DATED: LUCKNOW:
DECEMBER 19 1983. Clerk to Shri Abdul Mannan, Advocate;
Counsel for the Petitioner.

D. N. Tewari

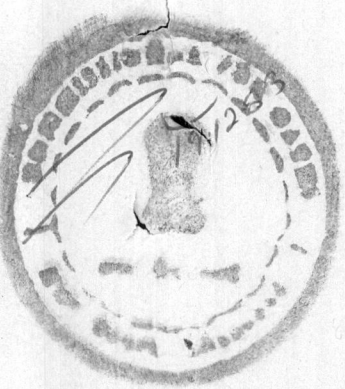
Solemnly affirmed before me on this the 19th day of December, 1983, at 12.15 am/p.m., by Shri Rakesh Prakash Kaushal, the deponent, who has been identified by the Clerk to Shri Abdul Mannan Advocate Allahabad High Court Lucknow Bench Lucknow.

I have satisfied, myself, by examining the deponent that he fully understands the contents of this affidavit which has been read out and explained by me.

[Signature]

NOTARY COMMISSIONER
Allahabad Bench
LUCKNOW
39/10/83

19/12/83



- : 10 : -

IN THE HONBLE HIGH COURT OF JUDICATURE, AT ALLAHABAD
LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NUMBER OF 1983.

Rakesh Prakash Kaushal. Petitioner.

Versus.

The Union of India and another. ... Opposite Parties

ANNEXURE NUMBER - 1.

No. A-20014/217/77-AD.I.

Kotah House Hutments, NEW-DELHI.

DATED 19.OCT. 1983.

To

The Superintendent of Police,
Central Bureau of Investigation,
LUCKNOW.

SUBJECT - Forwarding of application of Shri R.P.
Kaushal, Inspector.

Sir,

I have the honour to refer to your letter No. 6230/46/E/83-84/LKO, dated 4.10.1983 and to say that the application of Sri R.P. Kaushal, Inspector, for the posts of Assistant Manager (Vig) in the I.T.I. Unit of Rae-Bareilly and Naini have been with-held in public interest in view of large number of vacancies in the cadre of Inspectors in C.B.I.

The Inspector may please be informed accordingly.

Yours faithfully,
Sd/- R.S. Nagpal.
Administrative Officer (E),
C.B.I.

Rakesh Prakash Kaushal



A35

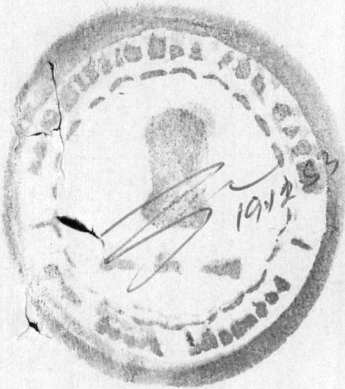
- : 11 : -

Endorsement No. 1935/46/E/83-84/LKO. DATED 27/10/1983.

Copy to Sri R. P. Kaushal, Inspector, C. B. I.,
Lucknow for information.

Sd/- Illegible.
26.10.83
for SUPERINTENDENT OF POLICE,
CBI/SPE, LUCKNOW.

Rakesh Rakesh Kaushal



A36

- : 12 : -

IN THE HONBLE HIGH COURT OF JUDICATURE, AT ALLAHABAD
LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NUMBER OF 1983.

Rakesh Prakash Kaushal. Petitioner.

Versus.

The Union of India and Others. ... Opposite Parties.

ANNEXURE NUMBER 2.

/ Copy of letter No. A-20014/256/77-AD-I, dated 27.10.1983, from Administrative Officer (E), C.B.I., New Delhi, addressed to the Superintendent, C.B.I., Lucknow.
.....

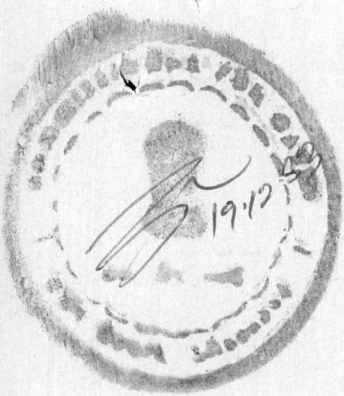
SUBJECT - Forwarding of Application.

I have the honour to state that the applications of Sarvashri V.P. Arya and R.P. Kaushal, Inspectors sent vide your letter No. 6279/46/E/83-84/LKO, dated 6.10.1983 for the post of Administrative Officer (Vig.), Oil & Natural Gas Commission, Dehradun have been with-held in public interest in view of large number of vacancies in the cadre of Inspectors in C.B.I.

Similarly the application of Sri Ram Chandra, Inspector sent vide your letter No. 6348/46/E/83-84/LKO, dated 7.10.1983, for the post of Deputy Manager (Vig.), In I.T.I. has also been with-held in the public interest

Sarvashri Arya, Kaushal and Ram Chandra may please be informed accordingly.

Rakesh Prakash Kaushal



A37

13

Postal Order No. D-301473819 for Rs. 2/- received from Shri Arya and Postal Orders No. P6-651820 for Rs. 7/- and A-27 091830 for Rs. 0.50 P received from Shri R.P. Kaushal, Inspector are returned herewith which may please be handed over to them under acknowledgement.

Endorsement No. 1993/46/E/83-84/LKO. DATED 9/11/83.

Copy forwarded for information to:-

1. Shri V.P. Arya, Inspector, alongwith Postal Order No. D/304473819.
- 2- Shri R.P. Kaushal, Inspector alongwith Postal Order No. P/6-651820 and A/27-091830.
3. Shri Ram Chandra, Inspector.

Sd/- Illegible.
7.11.83.

for SUPERINTENDENT OF POLICE, CBI,
SPE, LUCKNOW.

Lakesh Prakash Kaushal



A38

- : 14 : -

IN THE HONBLE HIGH COURT OF JUDICATURE, AT ALLAHABAD:
LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NUMBER OF 1983.

Rakesh Prakash Kaushal. Petitioner.

Versus.

The Union of India and Others. ... Opposite Parties.

ANNEXURE NUMBER 3.

O.M. NO. 41066/9/78-Estt.(C)
DEPUTY SECRETARY, MINISTRY OF HOME AFFAIRS,
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS.

NEW-DELHI. DATED 10-8-1978.

SUBJECT - Forwarding of applications of Government Ser-
----- vants in response to advertisements by U.P.S.C.
etc.

The undersigned is directed to refer to the DP
& AR O.M. No. 8/22/71-Estt (C) dated the October 16, 71,
which inter-alia, provides that a Government servant could
be given four opportunities in a year to apply in respon-
se to UPSC advertisements etc. but it would be open to t
the competent authority concerned to with-hold forwarding
of such application of Government servants where it is
considered to be justified in the Public Interest. A
point has been raised that the scope of the Public Inter-
est particularly with reference to the forwarding of
application of Government Servants should be specified
so that employees are not put to unnecessary disadvantage



Rakesh Prakash Kaushal

2. The question of formulating specific guide-lines for the administrative authorities for with-holding of application of Government Servants for competitive / departmental examinations conducted by the UPSC etc. has been examined carefully, while it is not feasible to define 'Public Interest' the authorities should interpret the term strictly and subject to the condition that the forwarding of applications should be taken at appropriate -ly high level. In taking the decision to with-hold the application, the authority has to balance the interests of the State against the necessity of causing hardship to the individual. This discretion should be applied with utmost objectivity and not mechanically while it is not feasible to lay down specific exhaustive guidelines for with-holding of applications in Public Interest, some of them can be listed illustratively as follows:

- (i) The officer concerned is engaged on important time-bound project and the work would be seriously dislocated if he is relieved.
- (ii) The Government Dervant has acquired some specification at Government expense and he has signed a bond for serving the Government for a specific period.
- (iii) Government Servant is under suspension or is facing departmental proceedings / court prosecution.
- (iv) Government Servant is applying for a post which is equifalent in status and rank.

Ministry of Finance etc. are requested to bring these instructions to the notice of all the authorities under them.

SD/- DEPUTY SECRETARY.
MINISTRY OF HOME AFFAIRS, DEPARTMENT,
OF PERSONNEL AND ADMINISITRATIVE AFFAIRS.

59/1073
19.12.83



Laxesh Prakash Kaudhal

ब अदालत श्रीमान

महोदय

[वादी] अपीलान्त

श्री

का

वकालतनामा

प्रतिवादी [रेस्पान्डेन्ट]



दी (अपीलान्त)

Rakesh Prakash Koushal

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

Union of India 1988

नं मुकदमा

सन्

पेशी की ता०

१९ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

A. Mannan

वकील

महोदय

एडवोकेट

नाम
मुकदमा नं० नाम
फरीकन

को अपनी वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Accepted
A. Mannan

Rakesh Prakash Koushal

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

18

महीना

12

सन् १९८८ ई०

Group A 13 (R).

A27 10292

IN THE HONBLE HIGH COURT OF JUDICATURE, AT ALLAHABAD:

LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NUMBER

6765
OF 1983.

Rakesh Prakash Kaushal.

....

Petitioner.

Versus.

The Union of India and Others.

...

Opposite Parties.

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3. Annexure No. 1 (Copy of order dated
28.10.1983).

10 to 11

4. Annexure No. 2 (Copy of order dated
09.11.1983).

12 to 13

5. Annexure No. 3 (Copy of Office Memorandum
dated 10.08.1978).

14 to 15

20314
DATED: LUCKNOW;

H. Chandra

Comp A 13 (R)

A27 10292

IN THE HONBLE HIGH COURT OF JUDICATURE, AT ALLAHABAD.
LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NUMBER

6765
OF 1983.

Rakesh Prakash Kaushal.

....

Petitioner.

Versus.

The Union of India and Others.

...

Opposite Parties.

I N D E X.

Particulars.

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5. Annexure No. 3 (Copy of Office Memorandum dated 10.08.1978). 14 to 15

DATED: LUCKNOW:
DECEMBER 19, 1983.

A. Chandra
Counsel for the Petitioner.

A42 → 4

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

Writ Petition No. 6765 of 1983



1984
AFFIDAVIT
14
HIGH COURT
ALLAHABAD



Rakesh Prakash Kaushal Petitioner

Versus

Union of India & Others Opp-Parties

Supplementary Rejoinder in reply to
the affidavit on behalf of the
opposite parties received on 23.4.84

I, Rakesh Prakash Kaushal, (aged about
32 years, son of Late P.D.Sharma, resident of
509/111 Old Hyderabad, Lucknow do hereby state
on oath as under :-

1. That the contents of paras 1,2 and 3 of
the said affidavit need no reply.
2. That the contents of para 4 of the
said affidavit are denied and the contents of para 3
of the rejoinder-affidavit are reiterated as correct.
It is incorrect that the investigation is not
entrusted to the Sub-Inspectors independently.
Apart from the cases under the Prevention of
Corruption Act other cases are also registered
in the CBI. However, the deponent himself while
working as Sub-Inspector during the first five
years investigated independently more than 15 cases



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[Handwritten signature]

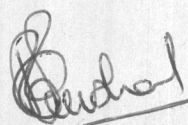
A43

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and submitted the final report or charge-sheets in these cases himself and this position belies the statement given by the opposite parties. It may also be pointed out that the vacancies are not filled deliberately on the post of Inspector though quite^a/number of eligible Sub-Inspectors are available in the CBI itself and as the practice had been those can also be taken on deputation from the Civil Police. It may be reiterated again that the bonded period of the deponent's service has ended long ago. The deponent has never investigated cases of the Public Undertakings in which he had applied. The specialised training does not have importance for obvious reasons that large number of officers of Civil Police have been taken on deputation in the CBI and quite large number among them have been absorbed in the CBI without any specialised training. Railway Sectional Officers without any such training have also been taken on deputation in the CBI and have also been absorbed as Inspector of Police without any specialised training. The deponent was never attached for training with any Dy. Superintendent of Police for 21 months as asserted in the affidavit under reply. In the last it may be pointed out that upto now the bonded period has not been increased to justify the so-called exigencies claimed by the opposite parties.

5. That the contents of paras 5 and 6 of the said affidavit are denied the contents of paras 4 to 9 of the rejoinder affidavit are reiterated as correct.

Dated: Lucknow:

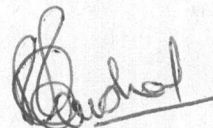

Deponent.

April 24th, 1984



Verification

I, the above-named deponent, do hereby verify that the contents of paras 1 to 5 of this affidavit are true to my own knowledge. Nothing is wrong in it and nothing material has been concealed, so help me GOD.

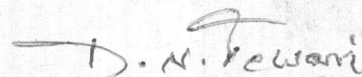


Deponent.

Dated: Lucknow:

April 24, 1984

I know the above-named deponent, and identify him and he has signed before me.




Clerk to Sri A. Mannan, Advocate.

Dated: Lucknow:

April 24, 1984

Solemnly affirmed before me on this 24th day of April, 1984 at 9.00 a.m./p.m. by the above-named deponent who has been identified by the Clerk to Shrin A. Mannan, Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

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


(A. A. SIDDIQUI)
OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench

No... 357/14...

Date... 24/4/84

A46
✓

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

Writ Petition No. 6765 of 1983

Rakesh Kumar KaushalPetitioner

Union of India and two others.....Opposite Parties

COUNTER AFFIDAVIT ON BEHALF OF PARTIES 1,2,3

I, R.S. Nagpal, aged about 54 years, s/o
late Sh. Bihari Lal, residing at G-2417, Netaji
Nagar, New Delhi, do hereby solemnly affirm and
state as under:-

1. That the deponent is an Under Secretary on the
cadre of Ministry of Home Affairs, Department of Personnel
and Administrative Reforms and currently posted as
Administrative Officer in CBI and has been duly authorised
to file the counter-affidavit on behalf of Opposite Parties
1, 2 & 3.

2. That the deponent has read and understood the
contents of the writ petition and he is well acquainted
with the facts deposed herein after:-

3. That the contents of para 1 are admitted.

4. That the contents of para 2 are admitted.

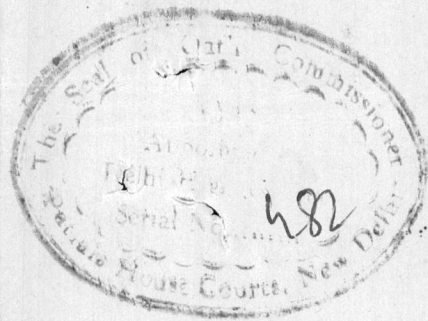
5. That the contents of para 3 are not denied.

6. That the contents of para 4 are not admitted.

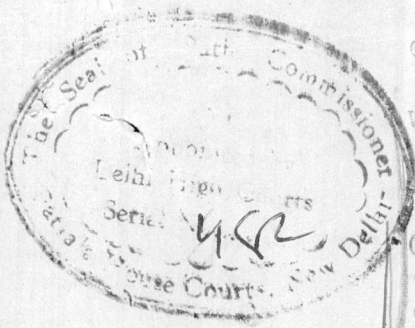
The petitioner as Investigating officer is required to
do important duties of investigation of cases registered
in Lucknow branch and entrusted to him from time to time
in accordance with the needs of the organisation.

7. That in reply to paras 5 to 12 of the Writ
Petition, the deponent submits that in CBI the petitioner
and others were recruited as Sub-Inspectors and

Done



given intensive training for a period of 3 years. Even after that intensive training, they were not entrusted with independent investigation but they assist the Investigating Officers. It is only after their appointment as Inspectors that they are acting as Investigating Officers and are entrusted with independent cases under the overall supervision and control of the Supdt. of Police, (CBI) Lucknow Branch. It takes a minimum of 5-6 years for the organisation to train an officer for being capable of taking up investigation independently. Of late, large number of Public Sector Undertakings are inserting advertisement for experienced officers in Vigilance Sectors. If we are to forward Applications of our experienced investigating Officers as a matter of course, CBI would turn out to be only a training institution, with trained officers draining out of the organisation. Further, the Central Bureau of Investigation would not be capable of discharging the statutory duties cast on the organisation in exigencies. It may be mentioned that at the moment we have 52 vacancies in total cadre strength of 395 Inspectors. Therefore, it is not possible for the CBI to spare experienced Inspectors for outside employment, what to say of the petitioner, for appointment outside. His applications had been withheld in public interest. I may also say that this organisation itself depends upon deputationists from State Police and in the cadre of Inspectors, the Recruitment Rules provide for taking officers on deputation to the extent of 60% from State Police.



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Thus the departmental officers in the grade of Inspectors only form nucleus and the organisation cannot afford to lend the services of its officers without impairing its own working. Therefore, it is considered in public interest not to forward applications for outside employment of officers who have been trained at our great cost and labour.

8. That in reply to paras 13 & 14 of the writ petition, the deponent respectfully submits that by withholding applications in public interest, having due regard to exigencies of public service, no fundamental right of the petitioner has been infringed. The criteria laid down in Govt. order dated 10th Aug. '78 is illustrative and not exhaustive. It is left to the Head of the Organisation to add any other valid consideration in which Application of an officer for outside employment could be withheld in public interest. The competent authority, after taking into account the situation and the criteria rightly decided to withhold the Applications of the Petitioner in public interest.

9. That in reply to Para 15 of the petition, the averments made in preceeding paragraphs are reiterated.

10. That in reply to Paras 16 and 17 of the writ petition, it is submitted that the Hon'ble High Court of Karnataka accepted the right of respondents to withhold Application in public interest if vacancies in the cadre so necessitate and it is considered essential not to forward applications for outside employment. Acting on the said judgement and with the approval of the competent authority, orders have been issued that uniform



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treatment will be extended to all applications submitted by members of the staff in response to advertisements issued by the UPSC, State Public Service Commission, SSC, Public Sector Undertakings etc. A true copy of the circular dated 17.7.83 is filed herewith as Annexure No. C-1 to this Counter Affidavit. It is reiterated that in view of the imperative needs of the organisation, it is not possible to spare the services of the petitioner for any outside appointment. In view of a number of vacancies in the grade of Inspectors, 52 at the moment, it is not considered in public interest and in the interest of the organisation to forward application of the petitioner or to allow him to go for employment outside the CBI. He is confirmed Inspector of this organisation which has imparted him training for being useful to the organisation. As a permanent member of the organisation, the petitioner has reasonable prospect of advancement in CBI where his seniority and merit will always be considered. The workload of the organisation is increasing day by day with important investigations being entrusted. Further, it is wrong to say that according to instructions for the CBI staff, the application of the petitioner could not be withheld.

11. That the contentions raised in Para 18 of the Writ Petition are denied. It is emphatically stated that the petitioner is not entitled to any relief as prayed for in the writ petition. No fundamental right of the petitioner is infringed as alleged. There is no violation of Articles 14, 16 or 19(1) (g). All persons similarly placed are treated alike. Applications have been withheld for valid reasons and in



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public interest. The application of the employee for outside posts can be withheld in public interest. It does not prevent the employee from resigning in accordance with the relevant rules and then carrying on occupation, trade or business as permitted by law.

12. That the deponent has been advised to state that the grounds as taken by the petitioner in para 18 are not tenable in law for the reasons already stated here-in-before, the petitioner is not entitled to any of the relief claimed and the writ petition being without merit, is liable to be dismissed with cost.

Boone
DEPONENT

NEW DELHI

DATED 18.1.84

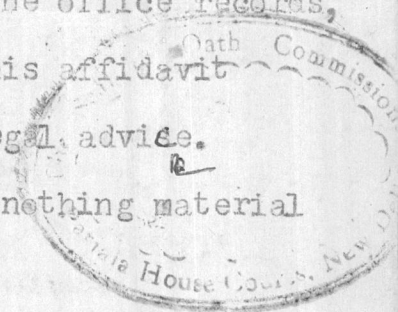
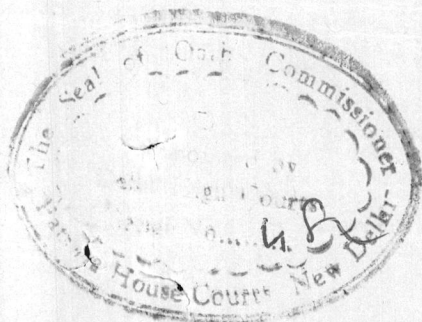
VERIFICATION

I, the above named deponent, do hereby verify that the contents of Paras 1 & 2 of this affidavit are true to my own knowledge, the contents of Paras 3 to 10 are true to my knowledge derived from the office records, and the contents of Paras 11 & 12 of this affidavit excepting paras 3 to 10 are based on legal advice. No part of this affidavit is false and nothing material has been concealed. So help me God.

Boone
DEPONENT

NEW DELHI

DATED 18.1.84



RECEIVED
S/o Mr. R. S. Nappan
R. C. - 24/1/84
S. R. Rao
18/1/84
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I declare that the contents of this affidavit are true to my knowledge and belief.
18/1/84

AG/ 7

In the Hon'ble High Court of Judicature at Allahabad

LUCKNOW BENCH

LUCKNOW

WRIT PETITION NO. 4719 of 1983

Ram Mohan Krishna and anotherPetitioners

Union of India and others.....Opposite Parties

Annexure No. C-1

No. A.16021/34/83-Ad.V
Government of India, M.H.A.
Department of Personnel & A.R.
Central Bureau of Investigation,
Kotah House Hutments, New Delhi.

Dated: 17-9-83

CIRCULAR

Subject: Forwarding of application to the Union Public Service Commission/State Public Service Commission/Staff Selection Commission and Public Sector Undertakings including Nationalised Banks.

In supersession of all previous instructions issued on the above subject, specially the previous policy guidelines as indicated in Head Office Letter No. A.35013/30/80/AD.V dated 19.3.1982, the following fresh guidelines are formulated with immediate effect.

Henceforth all applications of CBI officers in response to advertisements issued by the Union Public Service Commission/State Public Service Commission/Staff Selection Commission and Public Sector Undertakings including Nationalised Banks or otherwise will be treated at par. Such applications will be considered on merits in each individual case and can be withheld in the public interest, having regard to overall needs of the organisation and other relevant factors.

Contd....2/-

[Signature]

It is again reiterated that no CBI Officer should apply directly in response to open advertisement issued by the Public Sector Undertakings including Nationalised Banks.

The Branch Supdts. of Police should send such applications to Head Office for deciding each individual case.

Receipt of this circular should be acknowledged immediately.

Sd/- 17.9.83

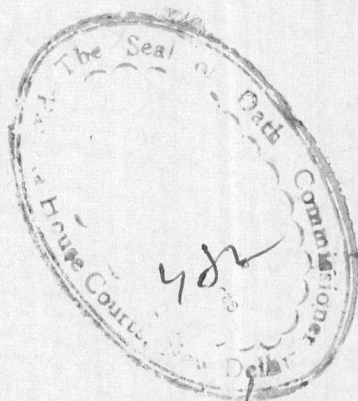
(B.M. SAIHGAL)
JOINT DIRECTOR (ADMN.)/C.B.I.

Copy forwarded to:-

1. PS to DCBI.
2. All Joint Directors/CBI.
3. All D.Is.G/D.Ds. CBI.
4. Director, CFSL, CBI, New Delhi.
5. Director, CFPB, CBI, Calcutta.
6. All Supdts. of Police, CBI/Branches/Units.
7. All Sections/Zones, CBI/H.O./New Delhi.
8. Co-Ordination Division, CBI, New Delhi.

Sd/- 17.9.83

(B.M. SAIHGAL)
JOINT DIRECTOR (ADMN.)/C.B.I.



Phone

A53 Bench Copy

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

C.M. Application No. _____ of 1984

Union of India & others

...Applicants

In re

Writ petition No. 6765 of 1983

Rakesh Kumar Kaushal

Petitioner

Vs

Union of India & others

..Opp. Parties

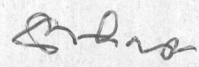
Application for condonation of delay in filing
Counter Affidavit.
=====

The applicants above named respectfully submit as
under:-

1. That on 21.12.1983, the Applicants were directed to file counter Affidavit before the several weeks of Jan. 1984 but the same could not be filed within time due to inevitable circumstances.
2. That the delay is not deliberate and it is liable to be condoned.

Wherefore it is respectfully prayed that the delay in filing the accompanying counter Affidavit may kindly be condoned and the same be taken on the record of the case.

Lucknow
Dated. 17.2.84


(D.S. RANDHAWA)
ADVOCATE
(SENIOR STANDING COUNSEL)
CENTRAL GOVT.
COUNSEL FOR THE APPLICANTS

AS7 Bench Copy

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

Writ Petition No. 6765 of 1983

Rakesh Kumar KaushalPetitioner

Union of India and two others.....Opposite Parties

COUNTER AFFIDAVIT ON BEHALF OF PARTIES 1,2,3

I, R.S. Nagpal, aged about 54 years, s/o
late Sh. Bihari Lal, residing at G-2417, Netaji
Nagar, New Delhi, do hereby solemnly affirm and
state as under:-

1. That the deponent is an Under Secretary on the
cadre of Ministry of Home Affairs, Department of
Personnel and Administrative Reforms and currently
posted as Administrative Officer in CBI and has been
duly authorised to file the counter-affidavit on behalf
of Opposite Parties 1, 2 & 3.

2. That the deponent has read and understood the
contents of the writ petition and he is well acquainted
with the facts deposed herein after:-

3. That the contents of para 1 are admitted.
4. That the contents of para 2 are admitted.
5. That the contents of para 3 are not denied.
6. That the contents of para 4 are not admitted.

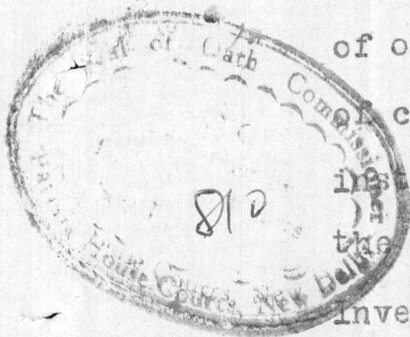
The petitioner as Investigating Officer is required to
do important duties of investigation of cases registered
in Lucknow branch and entrusted to him from time to time
in accordance with the needs of the organisation.

7. That in reply to paras 5 to 12 of the Writ
Petition, the deponent submits that in CBI the petitioner
and others were recruited as Sub-Inspectors and





given intensive training for a period of 3 years. Even after that intensive training, they were not entrusted with independent investigation but they assist the Investigating Officers. It is only after their appointment as Inspectors that they are acting as Investigating Officers and are entrusted with independent cases under the overall supervision and control of the Supdt. of Police, (CBI) Lucknow Branch. It takes a minimum of 5-6 years for the organisation to train an officer for being capable of taking up investigation independently. Of late, large number of Public Sector Undertakings are inserting advertisement for experienced officers in Vigilance Sectors. If we are to forward Applications of our experienced Investigating Officers as a matter of course, CBI would turn out to be only a training institution, with trained officers draining out of the organisation. Further, the Central Bureau of Investigation would not be capable of discharging the statutory duties cast on the organisation in exigencies. It may be mentioned that at the moment we have 52 vacancies in total cadre strength of 395 Inspectors. Therefore, it is not possible for the CBI to spare experienced Inspectors for outside employment, what to say of the petitioner, for appointment outside. His applications had been withheld in public interest. I may also say that this organisation itself depends upon deputationists from State Police and in the cadre of Inspectors, the Recruitment Rules provide for taking officers on deputation to the extent of 60% from State Police.



[Signature]

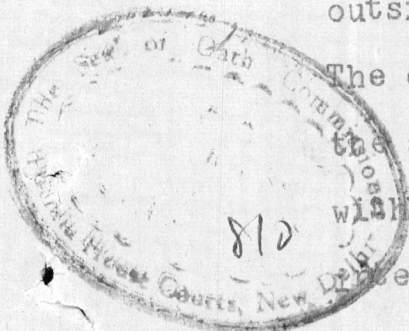
Thus the departmental officers in the grade of Inspectors only ^{form} ~~from~~ nuclei and the organisation cannot afford to lend the services of its officers without impairing its own working. Therefore, it is considered in public interest not to forward applications for outside employment of officers who have been trained at our great cost and labour.

8. That in reply to paras 13 & 14 of the writ petition, the deponent respectfully submits that by withholding applications in public interest, having due regard to exigencies of public service, no fundamental right of the petitioner has been infringed. The criteria laid down in Govt. order dated 10th Aug.'78 is illustrative and not exhaustive. It is left to the Head of the Organisation to add any other valid consideration to which Application of an officer for outside employment could be withheld in public interest.

The competent authority, after taking into account the situation and the criteria rightly decided to withhold the Applications of the Petitioner in public interest.

9. That in reply to Para 15 of the petition, the averments made in preceeding paragraphs are reiterated.

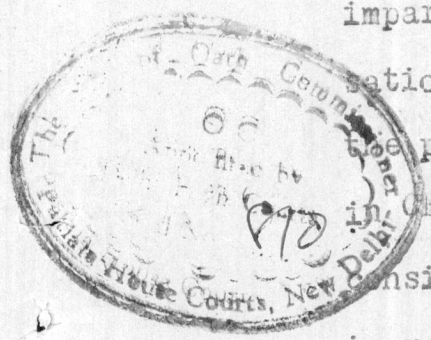
10. That in reply to Paras 16 and 17 of the writ petition, it is submitted that the Hon'ble High Court of Karnataka accepted the right of respondents to withhold Application in public interest if vacancies in the cadre so necessitate and it is considered essential not to forward applications for outside employment. Acting on the said judgement and with the approval of the competent authority, orders have been issued that uniform



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treatment will be extended to all applications submitted by members of the staff in response to advertisements issued by the UPSC, State Public Service Commission, SSC, Public Sector Undertakings etc. A true copy of the circular dated 17.7.83 is filed herewith an Annexure No. C-1 to this Counter Affidavit. It is reiterated that in view of the imperative needs of the organisation, it is not possible to spare the services of the petitioner for any outside appointment. In view of a number of vacancies in the grade of Inspectors, 52 at the moment, it is not considered in public interest and in the interest of the organisation to forward application of the petitioner or to allow him to go for employment outside the CBI. He is confirmed Inspector of this organisation which has imparted him training for being useful to the organisation. As a permanent member of the organisation, the petitioner has reasonable prospect of advancement in CBI where his seniority and merit will always be considered. The workload of the organisation is increasing day by day with important investigations being entrusted. Further, it is wrong to say that according to instructions for the CBI staff, the application of the petitioner could not be withheld.

11. That the contentions raised in Para 18 of the Writ Petition are denied. It is emphatically stated that the petitioner is not entitled to any relief as prayed for in the writ petition. No fundamental right of the petitioner is infringed as alleged. There is no violation of Articles 14, 16 or 19(1) (g). All persons similarly placed are treated alike. Applications have been withheld for valid reasons and in


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Public interest. The application of the employee for outside posts can be withheld in public interest. It does not prevent the employee from resigning in accordance with the relevant rules and then carrying on occupation, trade or business as permitted by law.

12. That the deponent has been advised to state that the grounds as taken by the petitioner in para 18 are not tenable in law for the reasons already stated herein-before, the petitioner is not entitled to any of the relief claimed and the writ petition being without merit, is liable to be dismissed with cost.

Boone
DEPONENT

NEW DELHI

DATED



VERIFICATION

I, the above named deponent, do hereby verify that the contents of Paras 1 & 2 of this affidavit are true to my own knowledge, the contents of Paras 3 to 10 are true to my knowledge derived from the office records, and the contents of Paras 11 & 12 of this affidavit excepting paras 3 to 10 are based on legal advice. No part of this affidavit is false and nothing material has been concealed. So help me God.

Identify the deponent who has signed in my presence
Shubendra Singh

NEW DELHI

DATED

Boone
DEPONENT
3/11/71
3/11/71

Shubendra Singh

ASf

In the Hon'ble High Court of Judicature at Allahabad

LUCKNOW BENCH

LUCKNOW

WRIT PETITION NO. 4719 of 1983

Ram Mohan Krishna and another Petitioners.

Union of India and others.....Opposite Parties

Annexure No. C-1

No. A.16021/34/83-Ad.V
Government of India, M.H.A.
Department of Personnel & A.R.
Central Bureau of Investigation,
Kotah House Hutments, New Delhi.

Dated: 17-9-83

CIRCULAR

Subject: Forwarding of application to the Union Public Service Commission/State Public Service Commission/Staff Selection Commission and Public Sector Undertakings including Nationalised Banks.

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Henceforth all applications of CBI officers in response to advertisements issued by the Union Public Service Commission/State Public Service Commission/Staff Selection Commission and Public Sector Undertakings including Nationalised Banks or otherwise will be treated at par. Such applications will be considered on merits in each individual case and can be withheld in the public interest, having regard to overall needs of the organisation and other relevant factors.

Contd....2/-

Done



It is again reiterated that no CBI Officer should apply directly in response to open advertisement issued by the Public Sector Undertakings including Nationalised Banks.

The Branch Supdts. of Police should send such applications to Head Office for deciding each individual case.

Receipt of this circular should be acknowledged immediately.

Sd/- 17.9.83

(B.M. SAINGAL)
JOINT DIRECTOR (ADMN.)/C.B.I.

Copy forwarded to:-

1. PS to DCBI.
2. All Joint Directors/CBI.
3. All D.Is.G/D.Ds. CBI.
4. Director, CFSL, CBI, New Delhi.
5. Director, CFPB, CBI, Calcutta.
6. All Supdts. of Police, CBI/Branches/Units.
7. All Sections/Zones, CBI/H.O./New Delhi.
8. Co-Ordination Division, CBI, New Delhi.

Sd/- 17.9.83

(B.M. SAINGAL)
JOINT DIRECTOR (ADMN.)/C.B.I.

B.M. Saingal



A61 6/4

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

WRIT PETITION NUMBER 6765 OF 1983.



Rakesh Prakash Kaushal. Petitioner.

Versus.

Union of India and two others. ... Opposite Parties.

Rejoinder Affidavit to the Counter Affidavit
furnished on behalf of the Opposite Party No.
1, 2 and 3, sworn by Shri R.S. Nagpa, an Under
Secretary, Ministry of Home Affairs, an Adminis-
trative Officer in C.B.I., received on 08.02.1984.

I, Rakesh Prakash Kaushal, aged about 32 years,
Son of late P. D. Sharma, Resident of 509/111, Old Hydra-
bad, Lucknow, states on oath as under :-

1. That the deponent is the Petitioner in the above mentioned Writ Petition, he has read the counter affidavit furnished on behalf of the Opposite Party number 1, 2 and 3, understood the contents thereof and is fully conversant with the facts and the circumstances stated hereinafter.
2. That the contents of paragraph number 1, 2, 3, and 4 of the counter affidavit need no reply.
3. That in reply to the contents of paragraph number 5 and 6 of the Counter Affidavit, the contents of paragraph number 3 and 4 of the Writ Petition are reiterated as



Rakesh Kaushal

correct. It may be pointed out that the routine cases are entrusted to the deponent for the investigation, there is nothing extra ordinary or special in respect of those cases.

4. That the contents of paragraph number 7 of the Counter Affidavit are denied and the contents of paragraph number 5, 6, 7, 8, 9, 10, 11 and 12 of the Writ Petition are reiterated as correct. It may be further pointed out that the investigations are entrusted to the Sub-Inspectors, it is incorrect that the independent investigations are not entrusted to the Sub-Inspectors. The deponent, himself, had conducted and completed large number of investigations independently when he was the only sub-inspector, prior to his promotion as an Inspector. There is no difficulty in forwarding the applications of the deponent, the applications had been forwarded in the past, such as Shri S. K. Saxena, sub-inspector, and Shri K.P. Tripathi, Inspector, those were forwarded from the Lucknow Branch. In other places it has also been done. Several applications have been forwarded from the Intelligence Bureau, which is also the part of the Ministry of Home Affairs, Government of India, the work in the Intelligence Bureau is of more specialised and more sophisticated, their training is also more specialised as they also deal the political affairs, in which policy of the State and the Soverign Acts of the State are involved whereas no such work is involved in the C.B.I. In the Intelligence Bureau they have adopted a procedure of forwarding atleast four applications of an employee to four different employers within a year, and those are



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forwarded to the Public Sector Undertakings too. It is also incorrect that the trained men are not available, about ~~100~~ ^{experienced} ~~100~~ Sub-Inspectors are available in the Bureau fully eligible and awaiting promotions to the posts of the Inspectors and if the vacancies are there those can be filled conveniently, no direct recruitment takes place for the post of the Inspector, but people are often brought on deputation from the other law enforcing agencies. In this way there will be no difficulty in the functioning of the C.B.I., if the application of the deponent is forwarded to a Public Sector Undertaking. In with-holding the application of the deponent, no public interest is involved in any manner and the decision is wholly arbitrary and discriminatory, the deponent cannot be precluded forever from the better employment.

5. That the contents of paragraph number 8 and 9 of the Counter Affidavit are denied and the contents of paragraph number 13, 14 and 15 of the Writ Petition are reiterated as correct. The Government Order dated 10th August, 1978 is binding. The deponent is advised to state that the State can be compelled to abide by the policy professed and declared by it, the deponent has right to seek better employment under the provisions of Article 16 of the Constitution of India. After the Bonded period the applications cannot be with-held.

6. That the contents of paragraph number 10 of the Counter Affidavit are denied, the uniform policy in the matter of forwarding the application for the outside employment has not been adopted, rather an arbitrary and discriminatory policy is constructed.



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discreminatory policy is perpetuated.

7. That the contents of paragraph number 11 and 12 of the Counter Affidavit are denied. No further reply is needed as the averments are argumentative.

DATED: LUCKNOW:
FEBRUARY 19, 1984.

Rakesh
(Rakesh Prakash Kaushal)
Deponent.

VERIFICATION.

I, the above named deponent do hereby verify that the contents of paragraph number 1 to 7 of this Rejoinder Affidavit are true to my own knowledge, while those of paragraph number are believed by me to be true, or on the basis of the legal advice. Nothing in it is wrong and nothing material has been concealed, so help me GOD.

DATED: LUCKNOW:
FEBRUARY 19, 1984.

Rakesh
(Rakesh Prakash Kaushal)
Deponent.

I know the deponent, identify him, who has signed before me.

D. N. T. Mannan
DATED: LUCKNOW: Clerk to Shri Abdul Mannan, Advocate,
FEBRUARY 19, 1984. Counsel for the Petitioner.

Solemnly affirmed before me on this the 19th day of February, 1984, at about 8.00 a.m./p.m., by Shri Rakesh Prakash Kaushal, the deponent, who has been identified by the Clerk to Shri Abdul Mannan, Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

I have satisfied, myself, by examining the deponent that he fully understands the contents of this Rejoinder Affidavit, which has been read out and explained by me.

A. A. Siddiqui
(A. A. SIDDIQUI)
OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench

No..... 275/53
Date..... 19/2/84

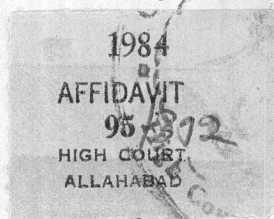
A66

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

C.M.Appn. No. of 1984

in re:

Petition No. 6765 of 1983



Rakesh Prakash Kaushal Petitioner

Versus

Union of India & Others Opp-Parties

Affidavit in support of application
for further interim relief.

...

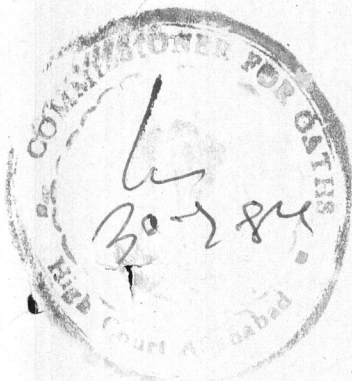
I, Rakesh Prakash Kaushal, aged about
32 years, son of Shri P.D.Sharma, resident of
509/111 Old Hyderabad, Lucknow, do hereby state
on oath as under :-

1. That the petitioner had information
that the deponent(petitioner) has also been called
for interview for the post of Asstt. Manager
(Vigilance) in the Indian Telephone Industry,
Raibareli scheduled for 10th August, 1984 but
the opposite parties are not forwarding his
application formally against which this writ
petition is directed. If the deponent is not
permitted to attend the interview he will suffer
irreparable loss.

Dated: Lucknow:

July 30, 1984

Deponent.



Verification

I, the above-named deponent, do hereby verify that the contents of paras 1 of this affidavit are true to my ~~own~~ knowledge. Nothing is wrong in it and nothing material has been concealed, so help me GOD.

Dated: Lucknow:

July 30, 1984

Abdul
Deponent.

I know the above-named deponent, identify him and he has signed before me.

Dated: Lucknow:

July 30, 1984

D. N. Tewari
Clerk to Shri A. Mannan, Advocate.



Solemnly affirmed before me on this 30th day of July, 1984 at 9:15 a.m./p.m. by the above-named deponent who has been identified by the Clerk to Shri Abdul Mannan, Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

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

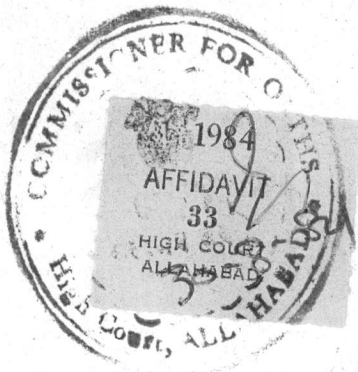
Alm
OATH COMMISSIONER
High Court, Lucknow Bench
LUCKNOW
No. 95/392
Date 30/7/84

A69

Place on record
31-8-84

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

WRIT PETITION NUMBER 6765 OG 1983.



Rakesh Prakash Kaushal Petitioner.
Versus.

Union of India and Others. ... Opposite Parties.

SUPPLEMENTARY AFFIDAVIT.

I, Rakesh Prakash Kaushal, aged about 33 years
Son of Shri (Late) P. D. Sharma, Resident of 509/111,
Old Hyderabad, LUCKNOW, states on oath as under :-

1. That the deponent is the Petitioner in the above mentioned Writ Petition, as such he is fully conversant with the facts and the circumstances stated in the said Writ Petition, as well as stated hereinafter.
2. That the two persons named in paragraph number 4 of the Rejoinder Affidavit, were in the Lucknow Branch of the C.B.I., namely Shri S. K. Saksena, was sub-inspector, his application was forwarded for the outside employment on 2nd September, 1982, subsequently he was relieved also that is May/June, 1984 at the time of his relieve from C.B.I., he was Inspector. The application of Shri K. P. Tripathi, was Inspector was forwarded on 27th April, 1982, from the Lucknow Branch of C.B.I., he is going to be relieved from C.B.I.



Rakesh Prakash Kaushal

AGP

8/2

3. That the deponent's earlier applications, specially his application for the post of the Vigilance Officer in the 'NATIONAL THERMAL POWER CORPORATION', New Delhi, dated 9th December, 1982, was with-held through an order dated 14th January, 1983. The National Thermal Power Corporation is also a Government of India Undertaking, and is also wholly owned and controlled by the Government of India. A copy of the order dated 14th January, 1983, is annexed as Annexure Number 4 to this Writ Petition.

DATED: LUCKNOW:
AUGUST 30, 1984.

Rakesh Prakash Kaushal
(Rakesh Prakash Kaushal)
Deponent.

VERIFICATION.

I, the the above named deponent do hereby verify that the contents of paragraph number 1, 2 and 3 of this affidavit are true to my own knowledge. Nothing in it is wrong and nothing material has been concealed, so help me GOD.

DATED: LUCKNOW:
AUGUST 30, 1984.

Rakesh Prakash Kaushal
(Rakesh Prakash Kaushal)
Deponent.

I know the deponent, identify him, who has signed before me.

DATED: LUCKNOW:
AUGUST 30, 1984.

D. N. Tewari
Clerk to Shri Abdul Mannan, Advocate,
Counsel for the Petitioner.

Solemnly affirmed before me on this the 30th day of August, 1984, at 8-3 a.m./p.m., by Shri Rakesh Prakash Kaushal, the deponent, who has been identified by the Clerk to Shri Abdul Mannan, Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

I have satisfied, myself, by examining the deponent that he fully understands the contents of this affidavit, which has been read out and explained by me.



Shakila Banoo

DEPONENT
Allahabad

No 33/924
Date 30-8-84

A7° 8/3

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

WRIT PETITION NUMBER 6765 OF 1983.

Rakesh Prakash Kaushal. Petitioner.

Versus.

The Union of India and Others. Opposite Parties.

ANNEXURE NUMBER - 4.

Copy of Head Office Letter No. A-20014/217/77-Ad
I, dated 14th January, 1983, addressed to Superintendent
of Police, Central Bureau of Investigation, Lucknow.

SUBJECT:- FORWARDING OF APPLICATION OF SRI R.P. KAUSHAL
INSPECTOR FOR THE POST OF VIGILANCE OFFICER-
IN NTPC., NEW DELHI.

I have the honour to refer to your letter No. 9511
46/E/92/LKO, dated 9th December, 1982, and to say that in
view of large number of vacancies in the rank of Inspect-
-tor in the Central Bureau of Investigation, the applica-
-tion of Sri Kaushal, Inspector is with-held in Public
Interest. He may be informed accordingly.

Endt. 107/46/E/82/LKO. DATED: 27.1.1983.

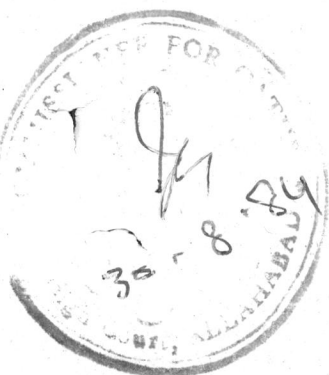
Copy to Shri R.P. Kaushal, Inspector, C.B.I.,
Lucknow for information.

Sd/- illegible.

25/1/83.
for Superintendent of Police, C.B.I.,
LUCKNOW.

Lucknow

Rakesh Prakash Kaushal



A71 9

In The Hon'ble High Court of Judicature at Allahabad

Lucknow Bench

Lucknow.

Writ Petition No. 6765 of 1983

Rakesh Prakash Kaushal Petitioner

Versus

Union of India & others Opposite Parties

Supplementary Counter Affidavit in reply to
Supplementary Affidavit filed on behalf of
Petitioner on 31-8-1984.

A F F I D A V I T

I, K. Chakravarthi S/o Sh. V. Krishnasami,
aged about 40 years resident of 175 Sector-III,
R.K. Puram, New Delhi do hereby solemnly affirm and
state as under:-

1. That the deponent is the Dy. Director(Adm.)
in the Central Bureau of Investigation, New Delhi
and he is duly authorised to swear this Affidavit
on behalf of Opposite Parties Nos. 1 to 3.
2. That the deponent has read and understood the
contents of the Petitioner's Supplementary Affidavit
filed on 31-8-84 and he is well acquainted with
the facts of the case deposed hereinafter.
3. That in reply to the contents of Para 2 of
the Supplementary Affidavit it is stated that
Sri S.K. Saxena while employed as Sub-Inspector
CBI at Lucknow applied on 6.2.82 for appearing in
the Civil Services Examination, 1982, advertised by



[Handwritten signature]

[Handwritten mark]

A72

- 2 -



the UPSC. He was permitted to appear in the said Examination in accordance with the then existing policy when applications of Staff in response to advertisements of Union Public Service Commission/ State Public Service Commissions/Staff Selection Commission were being forwarded irrespective of the number of vacancies in the grade but applications to Public Undertakings, Corporations & Banks etc. were not forwarded if the vacancy in the grade exceeded 10% (12½% if applicant belongs to SC/ST). He qualified in the said Examination and was selected by the Govt. of India for appointment to Grade-II of the Delhi & Andaman Nicobar Islands Civil Services for which he received orders in May '84 by which date he was working as Inspector of Police in CBI at Jabalpur. Accordingly he was relieved from CBI on 13.6.84 AN. Similarly Shri K.P. Tripathi Inspector applied on 14-4-82 for appearing in the State Provincial Civil Services (Judiciary) Examination 1982 advertised by U.P. Public Service Commission. In accordance with the then existing policy as indicated above, he was permitted to do so. Having been qualified in the said Exam. he got orders appointing him as Munsif in the State in May'84 and applied for relief. Accordingly he was relieved on 1.9.84. As already stated in Para 11 of the Counter Affidavit in reply to the Writ Petition the above policy was revised in Sept.'83.

4. That in reply to the contents of Para 3 of the Supplementary Affidavit it is stated that his

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[Handwritten mark]

A73

- 3 -

application to National Thermal Power Corporation submitted during December, 1982 for the post of Vigilance Officer was withheld in accordance with the then existing policy not to forward applications for Public Undertakings, Corporations & Banks etc. if the vacancy in the grade exceeded 10% (12½% for SC/ST) as stated in Para 3 above. Vacancies in the grade of Inspectors exceeded 10% at the relevant time.



[Signature]
DEPONENT 11/9/84

VERIFICATION

I, the above named deponent do hereby verify that the Statements of Paras 1 and 2 of this Affidavit are true to my own knowledge and the contents of Paras 3 and 4 of this Affidavit are true to my knowledge derived from official records. No part of this Affidavit is false and nothing material has been concealed. So help me God.

PLACE New Delhi

DATE 11-9-84

[Signature]
DEPONENT 11/9/84

Identify card no A-90092
Identify the deponent who is personally known to me and who has signed in my presence.

CERTIFIED that the deponent
K. Chakravarthy
S/o Sh. V. K. N. Srinivasan of N. D.
identified by Sh. *S. J.*
has solemnly affirmed before me a
N. Delhi on 11.9.84 S. No. *116*
that the contents of this affidavit were
read over & explained to him
and correct to his knowledge.

[Signature]
Oath Commissioner
High Court of Delhi

C. L. MEHRA

A74
9

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

C.M. Appn. No.

of 1984

in re:

Writ Petition No. 6765 of 1983

To
The Hon'ble Senior Judge
Lucknow Bench Lucknow



1 cp. Rs. 5/-

Rakesh Prakash Kaushal Petitioner

Versus

Union of India & others Opp-Parties

Application for listing

The petitioner-applicant submits as under :

1. That the above-mentioned writ petition was heard at some length by the Bench consisting of Mr. Justice K.N. Misra and Mr. Justice S. Saghir Ahmad, that Bench is sitting on 25th September, 1984.

Therefore, it is prayed that the above-mentioned writ petition and connection writ petition no. 4719 of 1983 may kindly be listed on 25th before that Bench.

Dated: Lucknow:

Counsel for the petitioner.

September 24, 1984

Submitted
Report with
facts known

Forward for 21.9.84
Perk. Clerk

Hon'ble Senior Judge
For orders
25/9/84

APR
The case is Per. Heard
by Mr. Justice K.N. Misra
& Mr. Justice S. S.A.T.
Learned counsel works
in the case may be
disposed today. It appears
that the case may be
disposed before the Bench
for orders.

A75

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH

LUCKNOW

Writ Petition No.6765 of 1983

Rakesh Prakash Kaushal Petitioner

Versus

Union of India and others Opposite Parties

SUPPLEMENTARY COUNTER AFFIDAVIT IN REPLY TO THE
REJOINDER DATED 19.2.1984.

1. I, K. Chakravarthi, aged 40 years 3/o
Shri V. Krishnasami, resident of 175, Sector III,
R.K. Puram, New Delhi do hereby solemnly affirm and
state as under:-
2. That the deponent is the Dy. Director (Administration),
in the Central Bureau of Investigation, New Delhi and
is duly authorised to swear this affidavit.
3. In the year 1982, Central Bureau of Investigation
has been following a policy to forward all applications
of the staff in response to advertisement issued by the
Union Public Service Commission, State Public Service
Commissions or Staff Selection Commission, irrespective
of the number of vacancies in the grade. However,
applications in response to advertisements issued by Public
Sector Undertakings, Corporations or Banks, were not
forwarded if vacancies in the grade, exceeded 10% (12½%
if applicant belongs to Scheduled Caste/Scheduled Tribe).
4. Shri K.P. Tripathi, Inspector had applied to appear
in the Provincial Civil Services (Judicial) Examination,
1982 conducted by the State Public Service Commission.
Notwithstanding that vacancies in the grade of Inspector
in May, 1982 were 56, his application was forwarded, in
line with the policy described in paragraph 3.
5. Similarly Shri S.K. Saxena, Sub-Inspector, Lucknow
was permitted to compete at the Civil Services Examination,
1982 held by the Union Public Service Commission in
accordance with the policy as in force regardless of the
fact that vacancies in the grade of Sub-Inspector at the



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Contd. 2

A76



*Identity card No. A-90092
The deponent who is personally
known to me and who has signed in my
presence*

relevant time viz. February, 1982, were 52. However, application of Shri S.K. Saxena to the Banking Service Recruitment Board in March, 1982 was withheld in Public interest. Again his application for the post of Administrative Officer in ONGC was also withheld in May, 1982. His representation against the with-holding of the application was also rejected.

6. As already brought out in para 11 of the counter affidavit in reply to the writ petition, the policy of forwarding application in response to open advertisements by the Union Public Service Commission, State Public Service Commission etc. was reviewed and revised orders issued on 17th September, 1983, Annexure C I) to the counter affidavit.

7. I also affirm that vacancies in the grade of Inspector as on date are 52 and there is not a single Sub-Inspector eligible for promotion, none having completed minimum of 5 years service as Sub-Inspector, which is essential condition prescribed in the Recruitment Rules.

DEPONENT *[Signature]* 11/9/84

VERIFICATION

I, K. Chakravarthi, the above named deponent hereby verify on 11th September, 1984 at New Delhi that the contents of paras 1 & 2 of this affidavit are true to my own knowledge and those of paras 3 to 7 are true to my knowledge as derived from official records. No part of this affidavit is false and nothing material has been concealed. So help me God.

DEPONENT *[Signature]*

New Delhi
Dated: 11-9-84

CERTIFIED that the deponent
K. Chakravarthi
Sd/- *K. Krishnaswami* N.O.
Identified by Sb. *Sd/-*
has solemnly affirmed before me at
N. Delhi on 11.9.84 S No. 2(1)
that the contents of this affidavit which
have been read over & explained to him are
true and correct to his knowledge.

[Signature] 11.9.84
Oath Commissioner
High Court of Delhi
C. L. MEHRA

A78 10/12

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



W R I T P E T I T I O N N U M B E R 6765 OF 1983.



Rakesh Prakash Kaushal.

Petitioner.

Versus.

Union of India and Others. ...

Opposite Parties.

An Affidavit In Support of Application for Interim Relief.

I, Rakesh Prakash Kaushal, aged about 35 years, Son of late Shri P.D. Sharma, Resident of 509/111, Old Hyderabad, Lucknow, states on oath as under :-

1. That the deponent is the Petitioner in the above mentioned Writ Petition, as such he is fully conversant with the facts and the circumstances of the case, as well as stated hereinafter.

2. That the above mentioned Writ Petition is directed against the orders of the Opposite Parties, through which the Opposite Parties refused to forward the applications of the deponent for other employment.

3. That under the Interim Orders of this Hon'ble High Court dated 31st August, 1984, the deponent was permitted to participate in the selection for the post of Assistant Manager (Vigilance), Indian Telephone Industries, Rae-Bareilly, with the condition that result will not be declared and the deponent will not be allowed to join



Rakesh Prakash Kaushal

A79

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- : 2 : -

4. That the deponent participated in the said Selection on 1st September, 1984, but the result has not been declared, if the result is declared, the controversy may be over.

DATED: LUCKNOW:
JULY 21-, 1985.

Rakesh Prakash Kaushal
(Rakesh Prakash Kaushal)
Deponent.

VERIFICATION.

I, the above named deponent do hereby verify that the contents of paragraph number 1, 2, 3 and 4 of this affidavit are true to my own knowledge. Nothing in it is wrong and nothing material has been concealed, so help me GOD.

DATED: LUCKNOW:
JULY 21-, 1985.

Rakesh Prakash Kaushal
(Rakesh Prakash Kaushal)
Deponent.

I know the deponent, identify him, who has signed before me.

DATED: LUCKNOW:
JULY 21-, 1985.

D. N. Tewari
Clerk to Shri Abdul Mannan, Advocate,
Counsel for the Petitioner.

Solemnly affirmed before me on this the 21st day of July, 1985, at 3:30 a.m./p.m., by Shri Rakesh Prakash Kaushal, the deponent, who has been identified by the Clerk to Shri Abdul Mannan, Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

I have satisfied, myself, by examining the deponent, that he fully understands the contents of this affidavit, which has been read out and explained by me.



Kneeth
JATH COMMISSIONER
High Court, Allahabad,
Lucknow Bench

48206/1985
21-7-1985