

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

CAUSE TITLE *TA NO 1500/87
LCP NO 4478/84*

NAME OF THE PARTIES..... *Govt of India vs*

.....Applicant

Versus

District Judge Sulaimanpur ..Respondent

Part A,B & C

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13		

CERTIFICATE

This file is open without docket
Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Check on

Dated, 27.7.12

Counter Signed.....

Jag
Section Officer / In charge

m
Signature of the
Dealing Assistant

ANNEXURE - A

CAT

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

INDEX SHEET

CAUSE TITLE 1500/87 (7)

NAME OF THE PARTIES

Union of India Applicant

Versus

D. S. Sultana & others Respondent

Part A, B & C

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CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

FORM OF INDEX

O.A.T.A./R.A./C.C.P.I. No. 1500
v.O.I. & On - v. C.P. 4478/84
P A R T I Rishabhpr.

1. Index Papers :- 1 to 3.
2. Order Sheet :- 4 to 10.
3. Any other orders :- D.P. 32.05/84 (Delay condoned on 1-5-85)
(Page - II)
4. Judgement :- Judgment dt. 02-3-90 C.A.T. Lucknow (12)
5. S.L.P. :- _____

D.Y. Registrat

Superintending Officer

Dealing Clerk
20/12/98

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

Dealing Clerk
20/12/98

V.K. Mishra

GENERAL INDEX

Chapter XLI, Rules 2, 9 and 15

SIDE
NAL

(3)

(70)

Nature and number of case

W.L. 4478-84

Name of parties

Union of India

D. J. Salles Jr.

Date of institution

6-9-84.

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.	1st with Annex and affidavit		30		106-00			
2.	Power		1-	-	5-00			
3.	Supp. to affidavit		5-	-	2.00			
4.	Power		1-		5-00			
5.	Encl 3285 (w) 287 with C.A.		8-	-	7-00			
6.	Rej of affidavit		6-	-	2.00			
7.	Admitted		3-	-	-			

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

(4)

A/4

Impressed

From Adhesive as well

Total

Correct but final Court fee will

will be made on receipt of letter

Court record

In time up to

Papers filed. Copy of J. S.

Should also be filed

Shashi - Bhopal

Legal Dept - Order No 1-29-10-23

Sultanpur

Prayed 90 days by 213 days
on 6-9-84.

Prayals

6-9-84

2
cts

(55)

Han B. Kumar. I.

After two weeks.

Banali

6-9-84.

Two weeks time
as prayed for is
granted to the
counsel for the
petitioner for
filing supplementary
Affidavit along with
the copy of the
plaint. His immediate

(S)

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 4478 of 1984

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
6-9-84	<p><u>Dr. B. Keenar</u>, time as per sayed -- not immediately after two weeks</p>	Dr. B. Keenar 6-9-84
27-9-84	(20/9/84)	T
27-9-84	Wazir 10.08. 10.09.84	T
18-10-84	Dr. Keenar	S 10/10
16-10-84	Dr. Keenar भारतीय न्यायमीति द्वी कमेले शुक्र नात्य पात्री के अधिवक्ता द्वी विनाय द्वारा	

(P) R.W. 7/2
ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
W.P. No. 6470 of 1984

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
21/11/84	Writ Petition Issue notice to opposite party no. 3 to show cause as to why the writ petition be not admitted. List this petition after service is effected upon the opposite party no. 3. Steps within one week.	
		in
	21-11-1984	
		Step taken by 21/11/84
	21-3-85	27/11/84
	Fixed for attendance and filing of return in writ Petition No. 3.	
	Notice issued to Dr. No. 3 by R.P.	
		Attender 28/11/85

(7) A/M X

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. _____ of 198

vs. _____

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
21-5-85	Writ for one the 10th June	18-5-85

(18) Ad
 Annexure - A
 CAT - 02
 CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
 CIRCUIT BENCH, LUCKNOW

Order
INDEX - SHEET

(19) Ad
 TA 1500/89

CAUSE TITLE

OF 198

Name of the Parties UDS & Ors

Versus

D T Sultanpur & Ors

Part A, B and C

S. No.	DESCRIPTION OF DOCUMENTS	PAGE
3/11/89	Mon Mr. D. K. Agarwal, J.M. Shri Dinesh Shukla counsel for the applicant is present. Counter on behalf of respondent No. 3 has been filed. Respondents Nos 1 and 2 are former respondents. Counsel for the applicant desires time to file rejoinder allowed. Let rejoinder be filed within one month hereof. List this case on 4-1-90 for hearing/order as the case may be.	1 This is W.P. no. 4478/84 received in Transfer from Lucknow High Court in May 88 alongwith other W.P.s. On the date of transfer the the case was not admitted, however, CA in behalf of respondent 3 and RA to the CA had been filed Transfer notices served by the A.D. office but neither any reply nor any undivided order received back. Submitted for order R 2/11/89
4/11/90.	(S.H.S.)	5B No R.A. filed. Bench copy is not complete. Submitted for order R 2/13/90.

Mon Justice K. Rath, V.C.
Mon. K. Obaidya, A.M.

Rejoinder has not been
filed despite opportunities
list for final hearing
on 2/3/90.

No R.A. filed

& for hearing
1/3

Am

V.C.

51

⑩

8/9

Hon. R. Col. Gopal S.

Put up with record.

14. 3/15

Hon. K. M. Math. B.

Delay Condoned.

Keep on record.

1-5-85

M

2/3/90

(2)

R/o

Hon. Justice K. Nath, V.C.
Hon. K. J. Raman, A.M.

Case Called. No one
is present for the applicant.
This writ petition is against
the order dated 29/10/83 of
District Judge rejecting
the application of the
petitioner for condonation
of delay in filing the
appeal against the ex parte
judgements dated 21/9/81.

The application
is dismissed for the default
of the applicant.

K.N.C. g
A.M. V.C.

Sd.

Group A - 14. (C)

7313
X

15

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

Writ Petition No. 4470 of 1984.

1346°

Union of India and another. .. Petitioners.

Versus

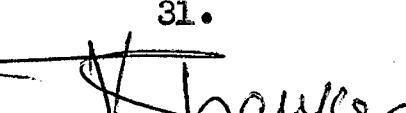
District Judge, Sultanpur and
others.

.. Opp. Parties.

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3.	Annexure No. 2 - Certified copy of judgment and decree dated 21-9-83 passed by opp. party No. 2	15 to 20
4.	Annexure no. 3 - Photostat copy of application u/s 5 Limitation Act dated 4-7-83.	21 to 24
5.	Annexure No. 4 - Original affidavit dated 29-10-83	25 to 28.
6.	Affidavit	29 - 30
7.	Power.	31.

Lucknow, dated :
6-9-1984.


(Vinay Shankar)
Advocate,
Counsel for the petitioners.

4. That after knowing this fact, the opposite party no. 3 was informed by the office of the petitioner no. 2 that he could not be engaged in ~~service~~ service on the basis of his earlier empanelment as he belonged to Lucknow Division and not to Allahabad Division and consequently his name was deleted from the list of empanelled candidates.

5. That being aggrieved by the aforesaid order, opposite party no. 2 filed a suit for declaration in the court of Munsif South, Sultanpur which was numbered as R.S. No. 343 of 1980.

6. That the said suit was decreed ex-parte on 21-9-1981 by the Munsif South. The opposite party no. 3 claimed relief in the shape of declaration but the learned court has passed directive decree against the petitioners which is beyond its jurisdiction. A certified copy of the judgment dated 21-9-1981 is filed as Annexure no. 2 to this writ petition.

7. That on behalf of the petitioners Sri Abhai Raj Misra, Advocate, was entrusted to contest the said suit who instructed the pairokar of the petitioners that he would call him if and when required and the petitioners were always under the impression that their counsel will contest the case on their behalf.

8. That on 28-9-1981 opposite party no. 2 gave an application in the office of petitioner No. 2

Parbat Singh

28-9-81



AB

and only then the petitioners came to know that the suit has been decided ex-parte against them by the Munsif South, Sultanpur on 21-9-1981.

against

9. That the aforesaid ex-parte judgment and decree dated 21-9-1981, the petitioners filed an appeal under Order 9 Rule 13 C.P.C. for setting aside the ex-parte judgment and decree which was rejected by the Munsif South, Sultanpur on 11-1-82 against which the petitioners filed Misc. Civil appeal no. 19 of 1982 in the court of the District Judge, Sultanpur which was subsequently transferred to the court of IIInd Additional District Judge, Sultanpur, who rejected the appeal vide his order dated 27-5-1982.

10. That against the order dated 27-5-1982, passed by the IIInd Additional District Judge, Sultanpur, writ petition no. 4705 of 1982 was filed in this Hon'ble High Court which was summarily rejected on 3-5-1983.

11. That the petitioners came to know about the rejection of the aforesaid writ petition on 2-7-1983 and 3-7-1983 being Sunday, the appeal along with application for condonation of delay against the ex-parte judgment and decree dated 21-9-1981 passed by the Munsif South, Sultanpur in R.S. No. 343 of 1980 was filed in the court of the District Judge, Sultanpur on 4-7-1983. A copy of the application dated 4-7-1983 under section 5

Brahmin Singh

24

of the Indian Limitation Act is filed herewith as Annexure no. 3 to this writ petition.

12. That it is ~~not~~ relevant to mention here that in the application for condonation of delay filed by the petitioners along with the appeal on 4-7-1983, the delay in filing the appeal was fully explained and it was also stated in the application that the petitioners were pursuing the remedy for setting aside the ex-parte judgment and decree under the provisions of order 9 Rule 13 C.P.C. till the decision of the writ petition no. 4705 of 1982 by the Hon'ble High Court, Lucknow Bench, Lucknow which was finally decided on 3-5-1983.

13. That after exhausting the remedy of Order 9 Rule 13 C.P.C., the petitioners without any further delay filed Regular Civil Appeal in the court of District Judge, Sultanpur on 4-7-1983 against the ex-parte judgment and decree dated 21-9-1981 passed by the Munsif South, Sultanpur.

14. That the application for condonation of delay was due to oversight not supported by an affidavit and the case was fixed on 29-10-1983 and on that very date the petitioners requested the court to take the affidavit in support of application on record but instead of passing order to take the affidavit on record, the learned court rejected the application filed by the petitioners for condonation of delay vide its order dated 29-10-1983.

Rahul Singh



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R
S

The original affidavit dated 29-10-1983 filed by the pairkar of petitioners no. 2 is filed herewith as Annexure no. 4 to this writ petition.

15. That the learned District Judge, Sultanpur has failed to consider the relevant facts and circumstances stated in the application for condonation of delay and rejected the same without giving any cogent reasons for rejection.

16. That the petitioners being aggrieved by the aforesaid rejection order dated 29-10-1983, entrusted their case to their local counsel at Sultanpur, Sir Daya Shankar Srivastava, Advocate, in the month of November, 1983 with the request to file a writ petition in this Hon'ble/Court, ^{in High} Lucknow Bench, Lucknow against the aforesaid order dated 29-10-1983 passed by the opposite party no. 1 and the petitioners were assured by the aforesaid counsel that he will file the writ petition very shortly.

17. That the petitioners waited for a month and thereafter when nothing was heard about the case from the aforesaid counsel, then the officials of opposite party no. 2 tried to contact the counsel at Sultanpur and were informed by his family members that the counsel was seriously ill and under doctor's advice he was got admitted in Medical College at Allahabad.

Rahul Singh

18. That officials of petitioners no. 2 then tried to contact the counsel at Medical College, Allahabad but there they came to know that due to the critical condition of the patient, he was transferred to Medical College, Lucknow.

19. That the officials of petitioner no. 2 then tried to contact the counsel in Medical College at Lucknow several times but taking into consideration the serious condition of the patient, they were not allowed to see and talk to the patient i.e., their counsel, and they were asked to wait till his condition improved. But unfortunately, the counsel expired in Medical College, Lucknow on 18-8-1984.

20. That thereafter officials of petitioner no. 2 on coming to know about the death of their counsel contacted his family members at Sultanpur and after great difficulty they could obtain the relevant file from his house on 31-8-1984.

21. That immediately thereafter the petitioners engaged another counsel to conduct the case on 2-9-1984 at Lucknow and handed over the papers to him.

22. That the counsel got the instant writ petition prepared and is filing the same before this Hon'ble Court.

Ramdev Singh



23. That being aggrieved by the order dated
on 29-10-1983 passed by the District Judge, Sultanpur,
the petitioners are filing the present writ petition
on the following among other grounds :

GROUND:

- A) Because the lower appellate court has erred in law in not considering the delay in filing the appeal against the ex-parte judgment and decree of trial court.
- B) Because the learned appellate court has erred in not considering the facts and circumstances for delay mentioned in the application and rejected the same without applying its mind.
- C) Because the learned appellate court acted against the principle of natural justice in not accepting the affidavit which the petitioners wanted to file on 29-10-1983 and rejected the application for condonation of delay on the ground that the same was not supported by an affidavit.
- D) Because the learned appellate court has not considered the material fact that the decree was passed by the trial court against the ~~petitioners~~ ex-parte and the time from the date of decree to the date of filing the appeal was expended by the petitioners in pursuing the remedy on ~~the~~ Order 9 Rule 13 C.P.C. upto the High Court stage and after exhausting the same, they preferred the present appeal in question along with an application for

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A/16

condonation of delay explaining therein the cause of delay and thus it committed illegality in rejecting the application of the petitioners.

E) Because the learned trial court has acted in a very arbitrary manner in deciding the suit ex-parte without giving proper opportunity to the petitioners and thus the ex-parte judgment and decree passed by the trial court is vitiated and it cannot be sustained in the eye of law.

F) Because mere empanelment of the name of opposite party no. 3 in the provisional list of the casual labour on the basis of interview and medical examination does not, in any way, give him the right to work and on subsequent discovery it was found that he did not belong to the category required by the notification will further disentitle him to work and the lower trial court erred in law in not considering these relevant facts which were clear from the plaint of the opposite party no. 3 itself.

G) Because if the order passed by the opposite party no. 1 and judgment and decree passed by the Munsif South, Sultanpur are not quashed then the petitioners would suffer severe financial loss and will be subjected to injustice.

PRAYER.

Wherefore the humble petitioners most respectfully prayed that in the interest of justice this Hon'ble

(V.G.)

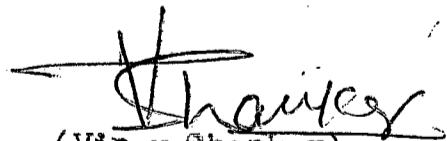
10

may kindly be pleased to grant the following reliefs :-

- i) to issue a writ, order or direction in the nature of certiorari quashing the order passed by opposite party no. 1 (the District Judge, Sultanpur) dated 29-10-1983 contained in Annexure no. 1 to the writ petition and the ex-parte judgment and decree dated 21-9-1981 passed by Munsif South, Sultanpur in R.S. No. 343 of 1980 in re : Mohammad Haseen Vs. Union of India and others contained in Annexure no. 2 to the writ petition,
- ii) to issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case,
- iii) to award cost of the petition to the petitioners.

Lucknow, dated :

6-9-1984.


(Vinay Shankar) Adv.
Advocate,
Counsel for the petitioners.

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

Writ Petition No. of 1984.

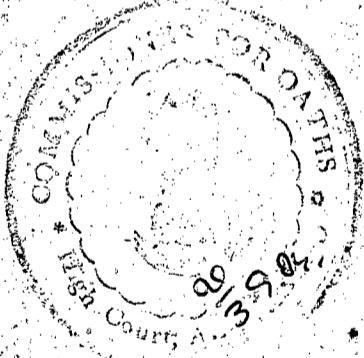
The Union of India and another. .. Petitioners.

Versus

District Judge, Sultanpur and
others.

.. Opp. Parties.

Annexure No. 1.



Balram Singh

words about 600

-12-

A/21

In the Court of the Distt. Judge, Sultanpur
Copy of order dated 29.10.03 (B/S)

Passed by Sri M.M.H. Siddiqui, Distt. Judge
Misc. Case No. 933/03

Union of India & other _____ Applicants.
vs.
Mahal. Harsin _____ opp. party.

Copy Attached with file

101

31/10/03

Sri M.S. Nigam

Adv.



100-100
69

In the Court of the District Judge, Sultanpur.

Present: Sri M. M. H. Siddiqi, Distt. Judge.

P/22
Misc. Case No. 233 of 1983

Union of India & another..... Applicants.

Vs.

Mohd. Hasin..... Opp-Party.

Copy of Order.

This is an application for condonation of delay.

The suit was decided on 21.9.81 and the appeal has been filed on 4.7.83 i.e. after about less than two years from the date of the decision of the trial court. The ground of delay has been explained in the application as under :

It is said that the railway counsel Sri Abheraj Misra was old and on account of his continuous illness he had also tendered his resignation. It is said that even after his resignation the Union of India was considering that he was doing the Pairvi of the case and waited for a call from him, and therefore, remained ignorant of the proceedings. It is said that appellant no. 2 had no knowledge about the resignation. It is further said that after the resignation of the former counsel Sri Misra was accepted sometime was taken for appointment of a new counsel and the appellant no. 2 came to know of the proceedings when on 28.9.81 the respondent made an application and then appellant no. 2 came to know about the case. Officials were deputed to know the facts of the case and proceedings, but Sri Misra was not available and he had gone out in connection with his treatment, and therefore, the appellant no. 2 could not know about his resignation, nor anything about the proceedings taken in the case earlier. It is said that applicants came to know in December, 1981 that Sri Misra was no longer railway

-15-

A
23
(B)

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

Writ Petition No. of 1984.

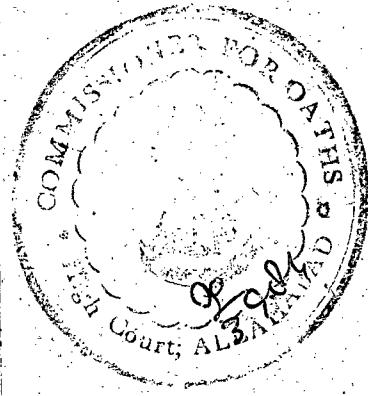
The Union of India and another. Petitioners.

Versus

District Judge, Sultanpur and
others.

Opp. Parties.

Appeal No. 2



Bahadur Singh

प्राप्ति संस्कार

- 16.

400

ज्ञानम् शुक्लम् विजयम् शुक्लम्

A
26

वारा क्रमांक 21/3/81

निम्न वारा की वारेवा वारा दि. दि. राज्य

साधन वारा वारा 343/80

1921/80
69

साधन वारा वारा — शुक्लम् वारा क्रमांक 21/3/80

वारा क्रमांक 21/3/81

(69)

ज्ञानम् शुक्लम् विजयम् शुक्लम्

उपर्युक्त वारा वारा वारा दि. दि. राज्य

साधन वारा वारा 343/80

साधन वारा वारा 22 वारा विजयम् वारा विजयम् विजयम्

वारा वारा वारा वारा वारा — विजयम्

वारा

ज्ञानम् वारा विजयम् वारा विजयम् विजयम् विजयम्

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राज्य

प्रदूत वारा वारा वारा वारा

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वारा वारा 26/3/80 की वारा वारा वारा वारा वारा वारा वारा वारा वारा

नियम की विवादी जाति का जोखिया दिया गया
 जो कि उस जाति की विविध की तरह विवाद
 पूर्ण रूप से विवाद के जाति की विविध की तरह
 विवाद हो जाति की विविध की जोखिया जाति
 जो विविध उपकरण में विविध स्तरों पर हो
 पूर्ण रूप रूप विवाद विवाद विवाद

विवाद विवाद का विवाद है

उत्तर

(H.G)

विवाद विवाद विवाद विवाद
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 विवाद विवाद विवाद विवाद
 विवाद विवाद विवाद विवाद

SD

कृष्ण शर्मा
 श्रीमद्भूमि

कृष्ण
 दिन 21/8/87

SD

कृष्ण शर्मा
 श्रीमद्भूमि

कृष्ण
 दिन 21/5/87

TRUE COPY

Alfaaz

H.S.A.U. 1971

Distt. & St. No. 37/10/1987
 R.P.T.C. H.K.

लाडी का लाड लाहौर अधिकारी का आवाहन है कि यह सभी समाज

मिली की गाड़ी जालौर और यही गाड़ी के लिए विशेष लाड लाहौर के

लाडी का समाज लाले गए वर उनकी पुष्टि की

लाहौर लाडी के लिए लाहौर B-47 लाहौर वाली लाडी लाहौर के

लाडी का समाज लाहौर की लाडी के लिए लाहौर के

लाडी लाडी की लाडी का लाडी की लाडी

लाडी लाडी लाडी लाडी लाडी लाडी लाडी

लाडी

6 एवं 1981 के लिए

लाडी

SD

लाडी लाडी
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Distt. & Sessions Judge's Court

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ग्रन्ती - डॉ. डॉ. J. K. Singh

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

Case No. of 1934.

the Union of India and another. Petitioners.

versus

The District Judge, Sultanpur and

others.

Oppositions.

ADJOURNED.



Brahman Singh

S/20

=यायालय वोपाव फॉर्म =यायाली न्हींय फॉर्म लालूर।

Limitation applies

1982 S.C.

यायालय एवं यायाली

वपीलालूर

प्राप्ति

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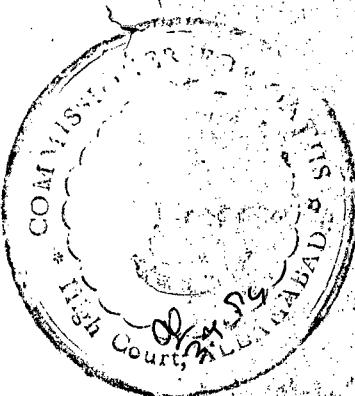
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67

क्षेत्र वाटे-८ गाया-१२ दिया गया। जी दिनांक १३-१-२ की दिन से
हो गया आके फिर प्राप्ति १२ गुणप्रकाश की दिनांक १३-१-२ की
दिया गया जो प्री-दिनांक १३-१-२ की दिन से हो गयी। तत्पश्चात् प्राप्ति
ने प्राप्ति उच्च व्यापारिक उत्तम विकास का प्रसुत भी की गई तो तरी
का दिन से हो गई। उत्तम व्यापका की लाई ही की वाटे-१२ गुणप्रकाश की
दिनांक १३-१-२ की हुई तद प्राप्ति १२ गुणप्रकाश की विवरण द्वारा विवरका द्वारा
दिनांक १३-१-२ की प्राप्ति द्वारा द्वारा दिया गया प्राप्ति-१२ गुणप्रकाश
प्राप्ति दिनांक १३-१-२ की प्राप्ति द्वारा दिया गया प्राप्ति-१२ गुणप्रकाश की
वाटे-१२ गुणप्रकाश की विवरण द्वारा दिया गया प्राप्ति-१२ गुणप्रकाश की

१४८ T-८ पठान भारतवासी भी व प्राचीनिता न जानकार भरती नहीं।
वे भी जाती हुई ह जो उन्हें वित भारती है हुई ह जीवानित माफी।

FIGURE 8-9-36

25
34
22
In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Civil Petition No. 02 of 1984.

the Union of India, Govt of India, Petitioner,
vs.

V.G.R.

District Judge, Sultanpur and
others. vs.

Opposite party.

Answer No. 4.



Bahadur Singh



न्यायालय श्री धून जिला न्यायाधीश महादेव जिला सुलतानपुर।

यूनियन बोर्ड इण्डियाबादि

बपीलान्द्र

वनाम

महाम्बद रूप रैन

रैसपान्डेन्ट

उठ ० बपीलां० ~~संख्या २३३/८३~~
~~जेन्ट्रल २५१९१-८३~~

वयान हत्ती

प्र. किशनकुमारी वास्तवसुत श्री आर. एस. वर्मा बायुलामा रवाणी लिपिक
मण्डल रैत्वीप्रबन्धक कायालिय उ०८० इलाहाबाद व हल्मुजिहरूः -

वारा-१

यहकि रैसपान्डेन्ट ने बपीलान्द्र के उपर न्यायालय मुनिसप-

महादेव ददिग्नि के रूप इस्तक्करार का दावा दायर कियाथा जो किनक

२१६-१ का एकमदीय ही कर किया गया।

वारा-२

यहकि प्रथीगण कीबार से रैत्वी अधिवक्ता श्रीबमयर तजिम्बनियुक्त किया था। वे ही मुकदम्कीपर बैठते थे कापों वृद्ध होने केराण वे व्याध कापों दिनों से अवस्थ चल रहे थे। लातोर वीभागी केराण उन्होंने अपने पद से त्यापत्र पीढ़े दिया था। प्रथीगण यहो समझते रहे कि मुकदम्की पर वे उनके अधिवक्ता कर रहे हैं उनके कथन नुसार कि जब्ता व्यक्तकरणी

- २ -

प्रथीगण को बुला दूँ। इसी विश्वासमें प्रथीगण ने मुकदमा की कायीवाही से वित्कुल बनमिज्ज रहे।

धरा T-३

यहकि जिला सुलानपुर उत्तर रैत्वे लखनऊ से सम्बद्ध है तथा जिला इलाहाबाद उत्तर रैत्वे इलाहाबाद से सम्बन्ध है। इसलिये अपीलान्टने-२ को यह जानकारी करीहो सको कि श्रीमिश्र मूकदमा रैत्वेबधिवक्ता ने अभे पद से त्यागपत्र दिया है।

धरा T-४

यहकि रैत्वे अधिवक्ता श्रीमिश्रका त्यागपत्र स्वीकृत हो जाने के बाद नये अधिवक्ता की नियुक्ति थी थीडू त्रिमय लागया तथा दिन १८-१९ दिसंपत्त्वे अपीलान्टनम्बर-२ के कामील्यमें एक प्रथीत्यागपत्र दिया जिससे पता चलाकि मुकदमा शायद एकमात्र निर्दिष्ट हो गया है।

धरा T-५

यहकि अपीलान्ट उक्त जानकारी करने के लिये अपनैकमीचारिया को निर्देशित किया कि वे रैत्वे अधिवक्ता श्रीमिश्र से मिल कर मुकदमे से सम्बन्धित सरोकायीवहीं बवगत कर अलैकिन श्रीमिश्र अपने छलाज के सिलसिले भैवहर बले गये थे जिससे न तो यहीपता चलकर कि उन्होंने अभे पद से त्यागपत्रदे दिया है बारे न ही मुकदमेंकी कायीवाहीका पता चल सका।

धरा T-६

यहकि प्रस्तुत सन् १९६० से प्रथी को पता चलाकि श्रीमिश्रजी अब रैत्वे अधिवक्ता नहीं हो रहे उनके स्थान पर श्रीमीहन सिंह किम रैत्वे एडवोकेटनियुक्ति किया थह। दैसी जानकारी होने पर मुकदमेंकी परकी तथा कायीवही सेववगत करने के लियेकहा।

धरा T-७

यहकि प्रथीगण T के नये अधिवक्ता ने दिन १-१०-२ को पत्रावली का निरीक्षण करने के लिये प्रथीत्यागपत्र दिया जिससे मुकदमेंकी वास्तविकता

-3-

का पता चला कि मुक्तमा दिनांक २१-६-१ को ही एकमदीय ढिगी ही गया है। ऐसी जानकारी होने पर प्राथीगण अगले दिन पुस्तुत प्राथीत-पत्र देना चाहते थे। लेकिन न्यायालय में दो दिन का अवकाश होने के कारण अविलम्ब प्राथीत-पत्र अन्ततः बहर-६ कायदा-३ दिया गया जो दिनांक २२-६-२ को निरस्त हो गया। उसके फिरद्व प्राथीगण ने मुत्तमर काल अपील दिनांक २-७-२ को दायर किया जोभी दिनांक २७-५-२ को निरस्त हो गयी। तत्पश्चात प्राथीगण ने माननीय उच्च न्यायालय लखनऊ वै-च थे याचिका पुस्तुत की जो सरसरी तौर पर निरस्त हो गई। उक्त याचिका के लाई ज होने की जानकारी प्राथीगण का दिनांक ६-५-३ को हुई तब प्राथीगण ने अविलम्ब अपने अधिवक्ता द्वारा दिनांक २७-५-३ को मूल्यादेश एवं ढिगी की नकल का प्राथीत-पत्र दिलवाया। नकल दिनांक २-७-३ को प्राप्त हुई तथा ३-७-३ को रेखिवार थात: अर्द्धदिन की ४-७-३ को अविलम्ब अपील दायर की जाई ही।

यह किलपील दायर करने में प्राथीगण ने जानवूपन कर दी नहीं की ही जो गलती हुई है वह उपराक्त कारण तो से हुई है और काविलम्बापनी है।

Rakesh Chandra

Rakesh Chandra

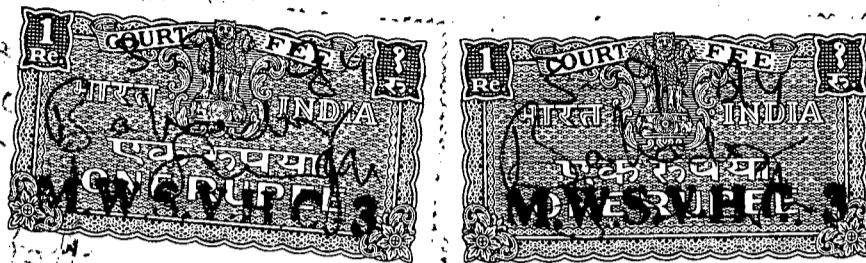
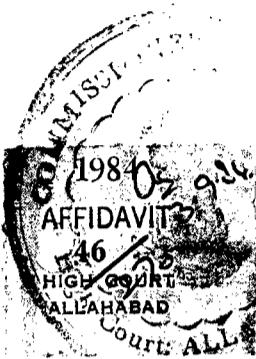
मेरकेशन्द्री वास्तव मुजहिर व हलमा तस्दीक करत हूँ कि वयानहत्मी की धारा-१८८८ भैजाती है तथा सही है। इसमैनकुछ है जो नकुश छिप रहा गया है। इश्वर भैरो मदद कर। तस्दीक स्थान कहरी सुल्तानपुर। तारीख तस्दीक-२६-७-३ है।

1. Rakesh Chandra & Iskandar
2. Sohi Rakesh Chandra
3. Iskandar
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10. Iskandar

29/11/1983

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

Writ Petition No. of 1984.



The Union of India and
another.

.. Petitioners.

Versus

The District Judge, Sultanpur
and another.

.. Opposite parties.

AFFIDAVIT.

I, Bahadur Singh, aged about 56 years, son
of Sri Narain Singh, Senior Law Assistant,
Divisional Railway Manager's Office, Northern
Railway, Allahabad, do hereby solemnly affirm and
state as under :-

1. That the deponent is the pairokar of
petitioner no. 2 in the above noted case and is
also doing pairvi on behalf of ~~my~~ petitioner
no. 1 also and as such he is fully conversant with
the facts of the case.

2. That the contents of paras 1 to 23 _____
of the accompanying writ petition are true to
my own knowledge and the contents of paras _____
are believed by me to be true.

Bahadur Singh

3. That Annexure no. 3 has been compared with its original and it is certified that it is a true copy of its original, Annexures no. 1 and 2 are certified copies ~~of Annexure~~ and Annexure no. 4 is being filed in original.

Lucknow, dated :
of 3 -9-1984.

Bahadur Singh
Deponent.

Verification.

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

Lucknow, dated :
of 3 -9-1984.

Bahadur Singh
Deponent.

I identify the deponent who has signed before me.

—
Pradeep Kumar Singh
Advocate.

of Solemnly affirmed before me on 3.9.84 on
at 9.40 a.m/p.m. by Sri Bahadur Singh, the
deponent, who is identified by Sri ~~Pradeep Kumar Singh~~
Advocate, High Court, Lucknow.

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

Pradeep Kumar Singh

OATH COMMISSIONER
HIGH COURT OF UTTAR PRADESH
LUCKNOW BRANCH
No. 46/270 Dt. 3.9.84

In the Hon'ble High Court of Judicature at
Allahabad, Lucknow Bench, Lucknow
Writ Petition No - 4478 of 1984

456
18/9/84

(A/M)

Union of India

Petitioner

VS.

District Judge, Syltampur & Others... Ops.

Sir,

In the above noted writ petition the Hon'ble Court was pleased to direct the petitioner to file copy of plaint within 15 days. Viz. its order dated 6.9.1984, The same is being filed herewith which is in time and same may be taken on record.

Pranav
(Vinay Shanker)
Advocate

Lucknow dated
18.9.84

In the Hon'ble High Court, Allahabad, Lucknow Bench, Lucknow

W.P. No. of 1984

Union of India Petitioner
District Judge, Sultanpur & others Opp. Parties.

Supplementary Affidavit

I, S.K. Shukla, aged about 63 years, S/o Late Shri Ram Narain Shukla, R/o 86/235, RamGopal Vidyant Road, P.S.-Kaisherbagh, Distt. Lucknow, do hereby solemnly of firm and State as undr -

That the deponent is Parokar of the petitioner and is fully conversent with the facts of the case.

2. That in the above notid W.P. this Hon'ble Court was pleased to direct the petitioner to file the copy of the plaint of the opp. party No.3 vide its order dated 6/9/1984 and two weeks time was granted to the petitioner for the same.

3. That the deponent is filing the copy of the plaint alongwith the supplementary affidavit as Anexure No. S-1.,

Lucknow : Dated 15.9.84

S. Shukla
Déponent

VERIFICATION

I, the above named deponent, do hereby verify that the contents of para 1 to 3 of this affidavit are true to my own knowledge and no part of it is false.

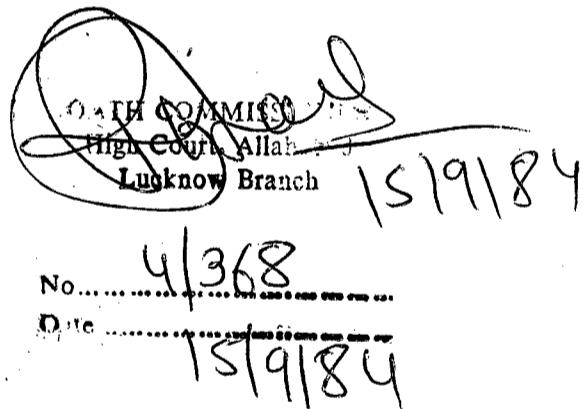
Lucknow : Dated 15.9.84

S. Shukla
I identify the deponent who has
signed before me.

Ramdas
15.9.84

Solemnly affirmed before me on 15.9.84 at 2.30 P.M. by Sri S.K. Shukla,
the deponent, who is identified by
Sri Vinay Shanker, Adv. High court
Lucknow.

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



न्यायालय श्रीमान् मुसिफ महोदय दक्षिणी, ज़िला सुल्तानपुर ।

४०

५५

मोहम्मद हसीन आयु लगभग 28 वर्ष पुत्र मोहम्मद मतीन सिद्दकी मकान नं ० ८ अवेस्ट रेलवे कालोनी सुल्तानपुर वादी

बनाम

- 1- यूनियन आफ इण्डियन रेलवे, इलाहाबाद से संबंधित नई दिल्ली छारा जनरल मैनेजर, उ०रे० नई दिल्ली ।
- 2- रेलवे मण्डल अधीक्षक, उत्तर रेलवे, इलाहाबाद ।

प्रतिवादीगण

दावा हस्तकरार हक

वादी सविनय निम्नलिखित निवेदन करता है :-

धारा-१ यह कि वादी ने विज्ञापन संख्या २५५-॥ एस० डब्लू ।

सी एण्ड डब्लू । ७९ के अन्तर्गत सफाई वाला पद पर नियुक्त के लिए प्रार्थना-पत्र प्रस्तुत किया जिस पर प्रार्थी साक्षात्कार के लिये प्रतिवादी सं०-२ छारा बुलाया गया ।

धारा-२ यह कि दिनांक १५/३/८० ईसवी को वादी सचिव बोर्ड छारा वादी का साक्षात्कार हुआ । फलतः वह साक्षात्कार में उत्तीर्ण हुआ तथा उसका नाम उत्तीर्ण अभ्यर्थी की सूची में ४६ नं० पर चढ़ा तत्पश्चात वादी को प्रतिवादी संख्या ३ छारा डाक्टरी परीक्षा हेतु मेडिकल आफीसर उत्तर रेलवे, इलाहाबाद के समक्ष उपस्थित होने का आदेश हुआ जिस पर वादी दिनांक २४/४/८० ई० को मेडिकल परीक्षण हेतु ऊपर कथित अधिकारी के समक्ष उपस्थित हुआ ।

धारा-३ यह कि दिनांक २६/४/८० ई० को वादी को रेलवे के

डाक्टर महोदय द्वारा फिटनेस सार्टीफिकेट प्राप्त हुआ । कृ०प०४०२



जिसे वादी ने उसी दिन प्रतिवादी संख्या 2 के कार्यालय में जमा कर दिया ।

धारा-4 यह कि उपरोक्त कथित परिस्थित में वादी सफाई वाला पद पर नियुक्त किये जाने का अधिकारी हो गया है ।

धारा-5 यह कि वादी ने जब यह देखा कि सफाई वाला पद पर चुने हुये अभ्यर्थियों की सूची पर उसके नीचे वाले अभ्यर्थी की नियुक्ति हो चुकी है और वादी को नियुक्त नहीं किया गया है तो वादी ने इस विषय में प्रतिवादी संख्या-2 से अनेक पत्र छारा सम्पर्क स्थापित करते हुये इस बात का मांग की कि वादी कि नियुक्त ऊपर कथित पद पर की जाय जिस पर प्रतिवादी संख्या 20-2 ने अपने पत्र संख्या ५५५ दिनांक 5/9/80 ई0 छारा वादी को सूचित किया कि वादी ऊपर कथित पद पर इस कारण नहीं लगाया जा सकता कि वादी दूसरे मण्डल का कैज़्युल लेबर रहा है ।

धारा-6 यह कि उपरोक्त कथित आधार पर वादी को नियुक्त नहीं रोकी जा सकती थी और वादी सफाई वाला पद पर नियुक्त किये जाने का अधिकारी हो गया है जबकि उस ने साक्षात्का एवं भेड़िकल फिटनेस प्राप्त कर लिया है और उसका नाम पैनल चढ़ा चुका है । प्रतिवादी संख्या 2 छारा वादी को नियुक्त न किया जाना अवैध है । अतः प्रतिवादी गण के विरुद्ध दावा करना आवश्यक हुआ ।

धारा-7 यह कि धारा 6 कथित परिस्थित में वादी ने जनरल मैनेजर उत्तर रेलवे बड़ी दिल्ली, सचिव उत्तर रेलवे नई दिल्ली एवं मण्डलीय अधीक्षक उत्तर रेलवे, इलाहाबाद को नोटिस अन्तर्गत धारा 80 जाती दी ० दिनांक 31/7/80 ई0 को दिया और अब यह दावा कानूनी मियाद नोटिस देते हुए के उपरान्त प्रस्तुत किया जा रहा है ।

धारा-8 यह कि वाद का कारण दिनांक 26/4/80 ई0 इस न्यायालय

के अधिकार लेव्र में पदा हुआ जबकि वादी सफाई वाता पद पर नियुक्ति किये जाने का अधिकार हो गया और जबकि वादी को नियुक्त से वंचित किया गया ।

धारा-9 यह कि न्यायालय के मूल्य-सीमा अधिक एवं वाद शुल्क हेतु वाद

मूल्य मुवलिंग 300-00 कायम किया जाता है जिस पर वाद शुल्क मुवलिंग 330 रुपया कर दिया जाता है।

याचना

=====

१५ यह घोषित किया जावे कि वादी सफाई वाला पर पर नियुक्ति किये जाने का अधिकारी है ।

१६ वादी को उसके क्रमांक पर प्राप्त अधिकार के आधार पर नियुक्त किये जाने वाले तिथि से अब तक का वेतन-भत्ता एवं अन्य सुविधाये उसे प्राप्त हो सकती थी प्रतिवादीगण से दिलाई जावे ।

१७ वाद व्यय वादीको प्रतिवाद गण से दिलाया जावे ।

१८ अन्य कोई सहायता जो वादी को प्राप्त हो सकती है दिलाई जावे ।

प्रार्थी

मैं मोहम्मद हुसेन वादी प्रमाणित

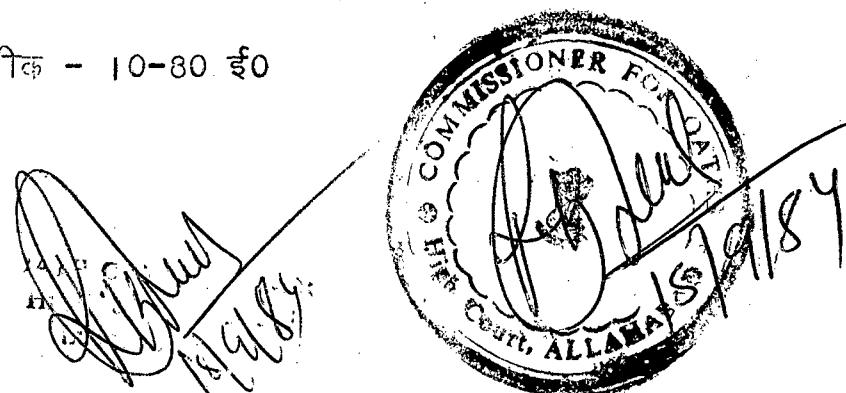
१८ मोहम्मद हुसेन-वादी

करता हूँ कि वाद-पत्र की धारा । से 6

मेरी जानकारी में सत्य है एवं दादरसी सही

व दुरुस्त है । मकाम तसदीक कवेरी दीवानी,

सुल्तानपुर, तारीख तसदीक - 10-80 ई0



No....
Date

15/1/84

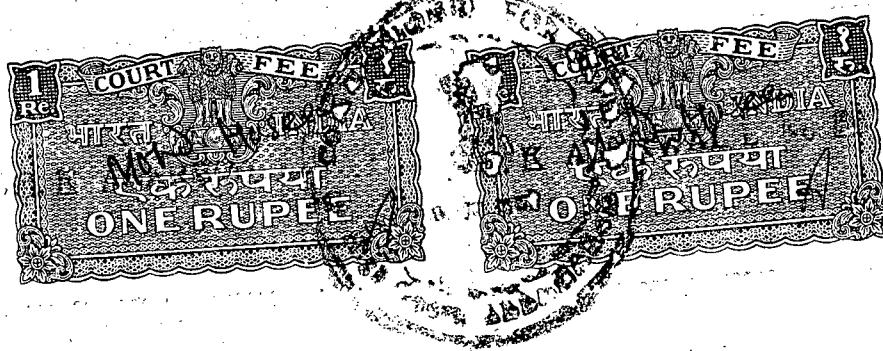
1985

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



Inre

Writ Petition No. 4478 of 1984



The Union of India & another Petitioners

Versus

The District Judge Sultanpur & another

..... Opposite parties.

Counter Affidavit

on Behalf of the opposite party no. 3.

I, Mohd. Haseen, aged about 27 years, son of
Mohd. Mateen Siddiqui, resident of house no. 8-A West
Railway Colony Sultanpur, do hereby solemnly affirm
and state on oath as under :-

1. That the deponent is the opposite party no. 3
in the above noted case (writ Petition) and as such
he is well conversant with the facts deposed in this
affidavit.
2. Para 1 of the writ petition, no comment is
required for this paragraphs.

The contents of

3. Para 2 and 3 of the writ petition are absolutely
false. The truth of the matter is that notice No. E.M. II/
XX



File No. 12/1985

S W/ C & W -79 was issued by the petitioners inviting application for the permanent appointment of Safai-wala from casual labourers. This notice was general. It did not confine ~~for~~ labourers working in Allahabad Division only. The deponent applied for the post clearly stating that he had worked as casual labourer in Sultanpur. Sultanpur falls in Lucknow Division. The application after scrutiny was approved and letter fixing date for deponent's interview before the Board (Selection Board) was intimated to the deponent. The Board was constituted by D. R. M. Allahabad on 15.3.1980. The deponent appeared before the Board ~~app~~ The application of the deponent was before the Board and the Board was pleased to ~~ask~~ question the deponent ~~as~~ to the nature of the work he had done ^{I.O.W} at ~~H.M.~~ and P. W. I. office at Sultanpur. Thereupon the Board obtained from the deponent the undertaking in writing from the deponent that he was prepared to work as Safai wala. Every thing was an clean ~~Board~~ and no question of concealment did or could arise. In the light of the above, the selection Board, selected the deponent and at the list his name appeared at serial no. 46, which was followed by the Medical examination ~~where too~~ ~~the~~ the deponent was declared fit. The relevant office was accordingly informed and the deponent also submitted the fitness certificate on 26.4.1980. ~~Performer of the application is fixed herewith as annexure~~ The notice of 79 referred to above is in the possession of the petitioners which they have concealed and they have not brought it on record. It is significant to state that the candidates selected on the basis of



Ho E27/1

(3)

11/11/85

the aforesaid notice have been appointed. Candidates below serial no. 46 have also been appointed.

4. The contents of para 4 have not been correctly stated. The truth of the matter is that :-

(i) That the deponent's selection was in accordance with the notice issued in 1979 said above which ~~did not~~ was a general notice and did not confine ~~to~~ not say that only labourers working in Allahabad Division could apply.

(ii) The selection of the deponent was made in the light of the aforesaid notice with open eyes as has been set out above.

(iii) That the deponent made repeated applications and then ultimately he served petitioner with a legal notice to file the necessary suit.

(iv) The story to the effect that the application from labourers working in Allahabad Division only has been ~~not~~ was spun subsequently.

5. This is admitted that the deponent filed Reg. suit No. 343 of 1980 after registered legal notice to the petitioner.

6. In reply to para 6 of the affidavit it is submitted that the deponent has been advised to state that the learned Munsif ~~Maxim~~ South Sultanpur



15/5/85

(4)

had the Jurisdiction to grant the reliefs prayed by the deponent and had the Jurisdiction to grant the relief which he has granted.

7. That to the extent that Shri Abhai Raj Misra Advocate was engaged by the petitioners who filed his power is admitted and that he on 4.1.1982 and 11.1.1982 applied for time to file the written statement is also admitted. The rest of the contents are absolutely false. They are denied. It is submitted that the deponent has ~~fixed~~ failed to understand as to why Shri Abhai Raj Misra Advocate would adopt an unusual ⁸³ ~~course~~ and un-common ~~manner~~ namely that instead of asking the Pairokar to come on the specified date and time to get the written statement prepared he would ~~receive~~ relieve the pairokar by taking responsibility upon himself, knowing full well that he was to file ~~83~~ the w.s. on the date fixed by the Court. ~~83~~

8. That it is admitted that on 28.9.1981 the deponent accompanied by a copy of judgement dated 21.9.1981 gave an application to the opposite parties, but it is false to state that the petitioner got the knowledge of the case through the said application. Earlier they had put in their presence and had taken time to file the written statement on 4.3.1981 ~~or~~ 12.5.1981. No explanation for the period 12.5.82 to 28.9.1981 has been given.

9. That it is admitted that the petitioner made an

(5)

application under order 9 rule 13 C. P. C. before the learned Munsif South Sultanpur contained of ~~and~~ and fabricated ~~and~~ false facts in consequence whereof the said application was dismissed on 11.1.1982. Appeal being Misc. Civil appeal no. 19 of 1982 was also dismissed on 27.8.1982 by the learned Second Additional District Judge Sultanpur.

10. Needs no comments.

11. It is false to state that the petitioners came to know about the rejection of the writ petition on 2.7.1983. At any rate, the source of the information relating thereto has not been ~~placed~~ disclosed ~~and~~ before the Hon'ble Court and the vague expression ~~only~~ seeks to run in the desert without any destination. It is admitted that a time barred appeal was filed in the court of the Learned District Judge Sultanpur on 4.7.83. The petitioner has not filed the alleged affidavit ~~of the date~~ ~~said~~ to be in support of the application under section 5 of the Indian Limitation Act.

12. That the contents of para 12 of the writ petition are false. They are denied. Application under section 5 Indian Limitation Act was not even supported by the affidavit. Contents of para 2 and 3 of the aforesaid application had been introduced without any material to support the same. Besides that they only disclosed the negligence in contradiction with due diligence. The deponent by his application dated 28.9.1981 accompanied by copy of the judgement had informed of the

(6)

decree and judgement on 21.9.81 by the learned Munsif South Sultanpur a fact admitted by the petitioners. The contents of paras 4 and 5 as such are only figments of lies. The contents of para 6 and 7 of the aforesaid application also become redundant. There is nothing on record to explain as to why the petitioner waited till 4.7.82 to file the application under order 9 rule 13 C. P. C. A period of 4 months 6 days delay has not been explained. The petitioners in the execution case from 11.1.1982 to 4.7.1983 had been taking adjournment on one pretext or the other. In that view also the want of knowledge becomes only statement of false facts.

13. The contents of para 13 are absolutely false.

14. The contents of para 14 are false. Being conscious of the fact that the order appealed against was dated 21.9.1981 and that the appeal was being filed on 4.7.1983 it is absolutely false to state that the supporting affidavit was not filed by oversight. It is also false to state that any affidavit was offered to be ~~extremely~~ brought on record and the learned District Judge refused to bring the same on record. Besides that the alleged affidavit contradicts the statement of the petitioners as stated in para 14 that the affidavit was not filed by oversight. Any affidavit dated 4.7.1983 has not been produced.

15. The contents of paragraphs are denied.

(7)

16. The contents of paragraphs 16 are absolutely false they are denied. Shri Daya Shanker Srivastava Advocate was not a practicing lawyer in Lucknow. There is no material on record to show that he was engaged at any stage of the case or for the purposes of the present writ petition. It is also a matter of common knowledge that the writ petitions are accompanied by the affidavit. In that view no writ petition could be filed without the personal attendance of the petitioner or Pairokar. The contents are only figments of lies and have been concocted for the purposes of this case.

17. The contents of paras 18 and 19 of the writ petition ~~are~~ ¹⁷ are absolutely false they are denied. It is submitted that nothing has been stated as to why no effort was made to contact the clerk of Shri Daya Shanker Srivastava Advocate or any of his relations.

18. That the contents of para 20 are absolutely false. They are denied. It is also submitted that the period from November 1983 to 2.9.1984 has not been explained.

19. It is material to state that in execution case no. 5 of 1982 from 11.1.1982 to 4.7.1983 the petitioners had been taking adjournments on one pretext or the other and when the process was issued then ^{only} ~~the~~ appeal was ~~xxxxx~~ filed which has given rise to the present

(8)

writ petition. The causes for delay have been
fabricated.

मोहम्मद हसीब

Lucknow.

dated 12 3.85.

Deponent.

Verification :-

I, the above named deponent do hereby
verify that the contents of paras 1 to 19
of this affidavit are true to my
personal knowledge and those of paras * to *
are believed by me to be true

No part of it is false and nothing material
has been concealed. So help me God.

Signed and verified this 12th day of
March 1985 in High Court Compound at Lucknow.

मोहम्मद हसीब
Deponent.

I, identify the deponent
who has signed before me.

Deponent
Advocate
(K. H. Rizvi)
12/3/85

Solemnly affirmed before me on 12.3.85
at 4.00 p. m. by Shri Muhammad Hasib
the deponent who has been identified by
Shri K. H. Rizvi Advocate

the Advocate High Court of Allahabad (Lucknow
Bench) Lucknow.

S. C. Jain
ATM COMMISSIONER
High Court, Allahabad
Lucknow Bench

I have satisfied by myself by examining the
contents of this affidavit which are read out and
explained by me.

57/123
12.3.85

In the Hon'ble High Court of Judicature @
Allahabad, Lucknow Bench,
Lucknow,
W.P. No 4478 of 1984 69

195.
14/5/85.

Union of India & others 51

vs. Petitioners
District Judge Sultanpur & others

Sir,

In the above noted writ petition,
the petitioners was granted two
weeks time to file their rejoinder
affidavit as per order dt 11/5/85
passed by Hon'ble Justice K. Nath,
and the same Justice K. Nath,
today within time is being filed
may be taken on record.

21.5.85

Lucknow

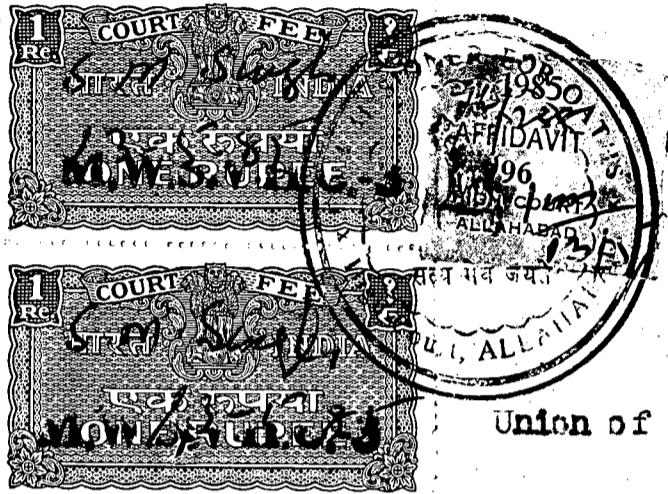
DT 14/5/85

Khawaja

for the petitioners

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

Writ Petition No. 4473 of 1984.



Union of India and others.

.. Petitioners.

Versus

District Judge, Sultanpur
and others.

.. Opp. Parties.

Rejoinder Affidavit to the
counter affidavit filed by Opposite party No. 3.

I, Sudha Murti Singh, aged about 33 years, son of Sri J.P. Singh, Senior Law Assistant, Divisional Railway Manager's Office, Allahabad, do hereby solemnly affirm and state as under :-

1. That the deponent is the pairkar of the petitioner no. 2 and also doing pairvi for petitioner no. 1 and is fully conversant with the facts of the case.
2. That the contents of para 1 and 2 of the counter affidavit are not admitted and those of paras 2 and 3 of the writ petition are re-affirmed.
3. That the contents of para 4 of the counter affidavit are not admitted. The true facts are that the notice for selection was issued only for



S. M. Singh

those who were working in Allahabad Division and as the opposite party belonged to Lucknow Division, his selection was cancelled after this fact came to knowledge. ✓

4. That the contents of para 5 and 6 of the counter affidavit are not admitted and those of paras 5 and 6 of the writ petition are re-affirmed. It is further submitted that the learned trial court has committed jurisdictional error in granting directive decree against the petitioners.

5. That the contents of para 7 of the counter affidavit are not admitted as it relates to Sri Abhai Raj Misra Advocate, as to why he relieved the pairkar of the petitioners.

6. That the contents of para 8 of the counter affidavit are admitted to this extent only that the opposite party has given an application on 21-9-1981 to the petitioner, rest of the contents are denied. The petitioner came to know about the ex-parte decree only on 21-9-81 when the judgment of the learned trial court was submitted to them.

7. That the contents of paras 9 and 10 of the counter affidavit need no comments.

8. That the contents of para 11 of the counter affidavit ~~and~~ need no comments and contents of para 11 of the writ petition are re-affirmed.

9. That the contents of ~~para~~ 12 and 13

S. M. Singh

of the counter affidavit are denied. The petitioners came to know about the dismissal of their writ petition only on 2-7-83 when a copy of the judgment was supplied to them by their counsel and without any further delay they filed appeal before the District Judge, Sultanpur on 9-7-1983 against the ex-parte judgment and decree of the trial court.

10. That the contents of paras 14 and 15 of the counter affidavit are denied and the contents of paras 14 & 15 of the writ petition are re-affirmed. The learned District Judge, Sultanpur has erred in rejecting the application for condonation of delay and also in not accepting the affidavit in support of the application U/S 5 of the Indian Limitation Act.

11. That the contents of paras 16 and 17 of the counter affidavit are denied and the contents of paras 16, 17, 18 and 19 of the writ petition are reaffirmed. It is further submitted that ~~their~~ efforts were made to contact the family members of Sri Daya Shankar Srivastava, Advocate at Sultanpur, and they have informed the petitioner that he was admitted in Medical College, Lucknow where he expired on 18-8-84.



12. That the contents of paras 20 and 21 of the counter affidavit are denied and the contents of paras 20 to 22 of the writ petition are reaffirmed. It is further submitted that the delay in filing the present writ petition was beyond the control of the petitioners and they were prevented by sufficient cause in filing the present writ petition within

S. N. Singh

time. The delay has been properly explained by the petitioners and the writ petition is liable to be allowed with cost and the impugned order passed by the District Judge, Sultanpur dated 29-10-1983 and ex-parte judgment and decree of the trial court dated 21-9-81 are liable to be quashed.



Lucknow, dated :

13-5-1985.

S. M. Singh
Deponent.

Verification.

I, the above named deponent, do hereby verify that the contents of paras 1 to 12 of this affidavit are true to my own knowledge and the contents of paras _____ are believed by me to be true on the basis of legal advice, that no part of it is false and nothing material has been concealed, so help me God.

Lucknow, dated :

13-5-1985.

S. M. Singh

Deponent.

I identify the deponent who has signed before me.

Viney Shaukar
Advocate.

Solemnly affirmed before me on 13-5-1985 at 1-30 a.m./p.m. by Sri Sudha Murti Singh, the deponent, who is identified by Sri Viney Shaukar Advocate, High Court, Lucknow.

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

K. N. Sivarama
Kashi Nath Silastava
Advocate Oath Commissioner

High Court, Allahabad

Lucknow Bench, Lucknow

No. 96/288.....

13-5-85

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

Off. Copy

T.A. NO. 1500 of 1987 (T)

(W.P. NO. 4478 of 1984)

Union of India & Another Applicant.

Versus

District Judge, Sultampur Respondents.

2.3.1990

Hon'ble Justice K. Nath, V.C.

Hon'ble Mr. K.J. Raman, A.M.

Case called.

No one is present for the applicant.

This writ petition is against the order dated 29.10.83

of District Judge rejecting the application of the petitioner

for condonation of delay in filing the appeal against the

ex parte judgements dated 21.9.81.

The application is dismissed for the default of the applicant.

Sd/-

Sd/-

A.M.

V.C.

/// True Copy ///

rrm/

Deputy Registrar

Central Administrative Tribunal

Lucknow Bench,

Lucknow

checked
d8/3