

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE T.A. 15/18/87of 19
W.P. No. 4065/84
 Name of the parties Mahadeo Prasad
Applicant.
 Versus.
Union of India and others.Respondents

Part A

Description of documents

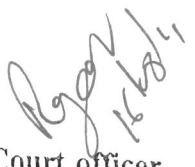
1 - order sheet	A1 to A5
2 - Judgement dt 06-11-91	A6 to A7.
3 - Petition	A8 to A17
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5 - Papers	A24 to A32
6 - Counter	A33 to A49
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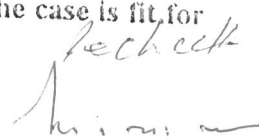
CERTIFICATE

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

Date : 28-07-11

Countersigned


 Section officer/Court officer.


 Signature of the
 Dealing Assistant.

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW .

.....

INDEX SHEET

CAUSE TITLE T.A. 1518 of 1987

Name of the parties M. P. Pathak Applicant.

Versus.

Union of India Respondents.

Part A.B.C.

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CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

MP. Pathak

- vs -

UOD & ors

FORM OF INDEX

O.A./T.A./R.A./C.C.P./ No.

1518

1987 (T)

in WP. 4065/84

PART - I

1.	Index Papers	:-	01 to 02
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3.	Any other orders	:-	NIL
4.	Judgement	:-	10 to 11
5.	S.L.P.	:-	NIL

DY. Registrar

Supervising Officer

Dealing Clerk

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

Dealing Clerk

V.K. Mishra

Group A-15(a)

(A7)

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

WRIT PETITION NO.

4065

OF 1984



50/- 100/-
1.8.84

Mahadeo Prasad Pathak, aged about 27 years,
son of Shri Radhey Shyam, resident of village
Majhangra, Post Office Kursaha, District
Bahraich Petitioner

Versus.

1. Union of India, through Secretary Tele
Communication Government of India at
New Delhi.
2. Prakhandiya Dak Nirikshak (Madhya)
(Inspector Post Offices Central Sub-
Division) Bahraich.
3. Shiv Narain Dubey, Extra Departmental
Runner, P.O. Kursaha, District Bahraich.

.. .. . Opp. Parties

WRIT PETITION UNDER ARTICLE 226 of the
CONSTITUTION OF INDIA.

The petitioner begs to state as follows :-

1. That the petitioner was employed and



4914/146 109134

3

MEMO

~~Unpressed~~

Five Adhesive Rs 100/-
T tal

Collect but final Court-fee report
will be made on receipt of lower
Court fee

~~In the case of~~

Papers filed. Copy of F. O.

Should also be filed.

~~Single Bench~~

Last impugned Annexure 2

= 26.6.84

District: Bahraich

Submtr

1.8.84.

NTA for 17-8-84.

Revised Cpis for CPS 172.

Dr. S. S. S. S.

(D. S. RAOHAWA)

Senior Standing Counsel

Central Govt.

16-8-84.

(P)

Hon K. N. Goyal, J.
Hon B. B. Singh, J.

List in next week
as prayed.

17-8-84 by

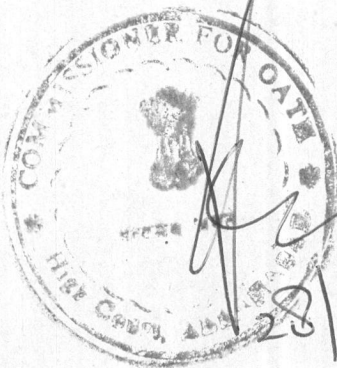
ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
W.P. No. 4065 of 1984

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
17.8.84	Hon' K.N. Goyal J Hon' G.B. Singh J List in the next as prayed Sd. K.N. Goyal Sd. G.B. Singh 17.8.84 24.8.84 for (B) Prayed	
24.8.84	Read with para. Fixed for order Hon. D. or. Jha J. Hon. K.N. G. J. 29.8.84 Hon. D. or. Jha J. Hon. K.S.V. J. do 29/8/84	

2.

working as Extra Departmental Runner^a in^a the department of post offices of opposite party No. 1 under the control^a of opposite party No. 1 at the fixed salary of Rs. 184.00 per month and he rendered his services for the period 1.3.1983 to 8.6.84 with his posting at Branch Post Office Kursaha of District Bahraich.

2. That the petitioner was selected for the above said post by the opposite party No. 2
3. That the facts relevant for the purposes of this case are as under :
4. That the post of Extra Departmental Runner Kursaha was advertised vide Advertisement No. A/Kursaha dated 17.1.1983.
5. That the petitioner had got himself registered in the Employment Exchange of Bahraich for seeking^a services (employment).^a
6. That the petitioner has passed Intermediate Examination from U.P. Board of Education in the year 1974.
7. That in response to the above said advertisement for the post of Extra Departmental Runner, on 18.2.1983 Employment Exchange sent six candidates to the opposite party No. 2 including the petitioner.



28/7/84

4414545-15412H

19/2/90

(5)

Hon. Justice K. Nath, VC.

Hon. K. O Dayal, Am.

Sm. M. Naseemullah Khan, &
Sm. V. K. Chaudhary for OPs 1 & 2
are present.

Admit..

Issue notice to OP No. 3
to file counter within four
weeks to which the
applicant may file rejoinder
within two weeks thereafter.

List for final hearing
on 9/4/90. The OPs 1 & 2
will produce the record
of the applicant as well
as OP No. 3 and also
their appointment letters
on the date fixed.

Am.

VC.

Re

TA 1518/87

(A2)

(6)

Mahadev Pd. Pathak² VS. WOS

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
<p>(1)</p> <p>6/11/89</p>	<p>Hon' Mr. D.K. Agrawal, J.M.</p> <p>Hon' Mr. K. Obayya, A.M.</p> <p>npt</p> <p>This case is admitted. Shri A.A. Zaidi brief holder of Mr. M. Naseerullah counsel for the applicant is present. This writ petition was filed in the 1984 and now received on transfer from Allahabad. Counsel for the applicant stands to make submission on the question of admission. List this case on <u>25-1-90</u> for admission.</p> <p>A.M. J.M.</p>	<p>OR</p> <p>This WP no 4065/84 received on transfer from Lucknow High Court in May '87 along with other WOs.</p> <p>On the date of transfer this case was not admitted.</p> <p>Transfer notices issued by Ald office but neither any reply nor any undelivered cases received back.</p> <p>Submitted for order.</p> <p>3/11/89</p>
<p>(2)</p> <p>25/1/90</p> <p>(3)</p>	<p>(sns)</p> <p>No. 2511/89. Adm. to 19.2.90.</p> <p>4c for the applicant M. Naseerullah is present -</p>	<p>S</p>
<p>19.2.1990</p> <p>See original order on main petition</p>	<p>Hon'ble Justice K. Nath, V.C.</p> <p>Hon'ble Mr. K. Obayya, A.M.</p> <p>Shri M. Naseerullah Khan for applicant and Shri V.K. Choudhary for opposite parties 1 & 2 are present.</p> <p>Admit.</p> <p>Issue notice to opposite party No.3 to file counter within four weeks to which the applicant may file rejoinder within two weeks thereafter. List for final hearing on 9.4.90. The opposite parties 1 & 2 will produce the record of the applicant as well as opposite party No.3 and also their appointment letters on the date fixed.</p> <p>A.M. V.C.</p> <p>rrm/</p>	<p>OR</p> <p>Notice in subject on 2. 2. 1990.</p> <p>nor any reply. and 2. 2. 1990.</p> <p>8 FO</p>

4

15/10/1971 - 7-

9/4/90

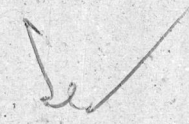
Hon. P. S. Habib, Mahammed, A.M.
Hon. S. P. Sharma, J.M.

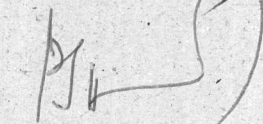
The learned counsel for the applicant wants 3 weeks time to file the rejoinder Affidavit.

Notice be again issued to the private respondent, if not served.

Fixed for orders on 30/4/90

9800
10/4/90


T.M.


A.M.

5

30/4/90

Hon Justice Mr. K. Nath, V.C.
Hon Mr. K. Obayya A.M.


Mr. Notices, they issued a 104.50. No answer repd. comes has been return back S. F. O.


The learned counsel for both the parties are present. Private opps ps, are presumed served; no appearance has been made on behalf of them. The can proceede ex parte against them.

25/4

List it for final hearing on 17/7/90

6


A.M.


V.C.

17-7-90

no sitting Adj. to 6/11 R

(7)
6.11.90

Hon. Mr. M. V. Desai - AM.
Hon. Mr. D. K. Agrawal - JM.

Due to resolution of Bar
Association case is adjourned
to 7.12.90

(8)
7.12.90

No sitting Adj to 10.1.91.

W
B.O.C.

(9)
10.1.91

No sitting Adj to 23.4.91.

(10)
23.4.91

Hon. Mr. D. K. Agrawal - JM.
Hon. Mr. K. V. Bhat - AM.

GR
CA/RA have been
exchanged
S.F.H

On the request of Mr. V. K. Chaudhary
counsel for respondent case is adjourned
to 18.7.91 for hearing.

L
19/4

[Signature]
AM.

[Signature]
JM.

(11)
18.7.91

Hon. Mr. Koushal Kumar - VC
Hon. Mr. D. K. Agrawal - JM.

On the request of counsel for
the both parties case is adjourned
to 11.9.91 for hearing.

[Signature]
JM.

[Signature]
VC

(12)

11.9.91

No sitting adj^d 6.11.91
g

(A3)

6.11.91 -


Hon. Justice V.C. Srivastava & J.C.
Hon. Mr. A. B. Goshwami - AM

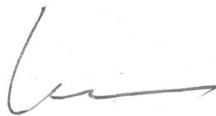
Argument heard, judgement
dictated separately.

Record copy

O.P. M. &
Gov. R. Chaur
20/11/91

Received copy
M. N. S. S. S.
4.12.91


A.M.


V.C.

-10-

(Au) A/6

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

T.A. 1518/87

(Writ Petition No. 4065/84)

Mahadeo Prasad Pathak

Petitioner

versus

Union of India & others

Respondents.

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

Hon. Mr. A.B. Gorthi, Adm. Member.

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

This is a transferred case under section 29 of the Administrative Tribunals Act, 1985 in which the applicant has prayed for issue of a writ of mandamus to respondents 1 and 2 to restore and post the petitioner at his place of posting anywhere else as Extra Departmental Runner (E.D.R. for short) at the facility and benefits which were already available to him till 8.6.1984 and the appointment of opposite party No. 3 be quashed.

From the facts it appears that one Bhagaut Prasad was working as Extra Departmental Runner at Kurshana branch post office. He retired on 31.12.82 and in his place the Overseer, Payapur on ~~xxxxxx~~ responsibility of Shri G.S. Tewari, Branch Post Master, Shoharivan appointed one Rajendra Prasad Tewari on the post of E.D.R. and this arrangement was intimated the supervisory authority. Shri Tewari was allowed to continue till regular appointment was made. Shri Tewari could not perform his duties and left the job

64

and thereafter some advertisement was made and the applicant was engaged by the branch post master, conditionally with effect from 1.3.83. None of the parties have filed the advertisement but respondents have stated that the appointment was conditional in as much as he was allowed to work as E.D.R. Kurshaha on the risk and responsibility of branch post master. The vacancies were advertised by the respondents and list called from the Employment Exchanged and respondent No. 3 was selected and given charge with effect from 7.4.84. Applicant's services were automatically terminated. Applicant contended that he was duly appointed and no such condition was imposed and his appointment cannot come to an end in this manner. Applicant did not agitate the matter and waited and in the year 1984 he approached the High Court. There appears to be no flaw in the appointment of respondent No. 3 but so far as the applicant's version is concerned, it cannot be said that he was ousted so as to allow other person. This application has got no force and it is to be dismissed but taking into consideration the fact that the applicant was duly appointed and continued upto 1 year and 3 months the respondents may consider him for appointment as E.D.R. in the same delivery zone. He may be given priority and preference over others in the matter of appointment, taking into consideration his experience.

Shakeel
A.M.

V.C.
V.C.

Lucknow Dt. 6.11.91.

Shakeel/

Group A-15(a)

AG

6031-^A/₈

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH LUCKNOW

WRIT PETITION NO. 4065 OF 1984

Mahadeo Prasad Pathak

...Petitioner

Versus.

12346

Union of India, through Secretary Tele Communication
Government of India at New Delhi and others....Opp. Parties

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4.	Annexure No. 1	13-14
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7.	Stay Application	19.

Lucknow Dated :

17-8-1984

M. Naseerullah

(M. NASEERULLAH)
ADVOCATE
COUNSEL FOR
PETITIONER

3.

- 8- That all above said six persons were interviewed by the interviewer, the opposite party No. 2 and only the petitioner was selected for the said post by the opposite party No. 2 for the job of Extra Departmental Runner ^a Kursaha, Bahraich. ^a
9. That thereafter the petitioner was directed ^{by opposite party No. 2} to take charge from one Rajendra Prasad Tewari, a temporary Extra Departmental Runner Kursaha and the petitioner took charge from Rajendra Prasad Tewari on 1.3.1983 at branch Post Office Kursaha.
10. That the petitioner was not given any appointment letter or order but he was told by the opposite party No. 2 personally that his appointment letter had been sent to the Branch Post Master Kursaha Bahraich and the opposite party No. 2 had advised the petitioner to report for duty which the petitioner did.
11. That the duty assigned to the petitioner was to carry Dak from Vishwarganj Sub- Post Office to Branch post office Kursaha daily.
12. That thereafter the petitioner worked since 1.3.1983 to 8.6.84 without any break even for a ~~six~~ day in service.
13. That during the period between 1.3.1983 to 8.6.1984 the petitioner did not give any chance to any authority to complain against him.



2015/5/14/5/15/12/14

4.

14.

That after the posting of the petitioner at Kursaha on 1.3.1984 the petitioner was asked to deposit the security money of Rs. 11-00 under the Rules of Post Office and he deposited the same amount.

15.

That after the selection of the petitioner the opposite parties got the enquiries ^{completed} about the petitioner's character, whereabouts etc. made through its departmental officials and through police.

16.

That it is also not out of place to mention here that above said Rajendra Prasad Tewari was working on purely temporary basis after the retirement of one permanent employee ~~Rajendra Prasad~~ Bhagwati Prasad.

17.

That during the period of charge of above said Rajendra Prasad Tewari the post was advertised vide advertisement No. A/Kursaha dated 17.1.1983

18.

That the petitioner was employed on a clear vacancy after the retirement of ~~one~~ ^{Bhagwati Prasad} Extra Departmental Runner, who had retired on completion of retirement age of 62 years.

19.

That on 9.6.84 when the petitioner went to perform his duties to carry the Dak as usual then he was informed by the Sub-Post Master Vishwarganj Post Office that some Shiv Narain Dubey was appointed in place of the petitioner and services of the petitioner were terminated.



28/7/84

42144
5114 41622

(AII)

5.

No letter of termination of his services has been issued to the petitioner.

20. That thereafter the petitioner contacted the opposite party No. 2 personally and wanted to know the cause of termination of his services then the opposite party No. 2 told that by order of higher authorities the opposite party No. 3 has been appointed in place of the petitioner. Then the petitioner demanded the termination of service letter but the opposite party No. 2 refused to issue any such letter of termination of service.

21. That thereafter the petitioner sent a registered postal notice through his counsel Sri M. Naseerullah Advocate of Lucknow to the opposite party No. 2 on 15.6.1984 enquiring the cause of termination of the services of the petitioner and also asked for letter of termination of services. A true copy of the said registered notice is annexed as annexure No. 1 to this writ petition.

22. That in reply to above said notice (Annexure No. 1) the opposite party No. 2 replied vide letter dated 26-6-1984 disclosing therein that the petitioner was posted by the Branch Post Master as on his risk and security money was got deposited as per rule of the post offices and fresh appointment of Sri Shiv Narain Dubey has been made after the advertisement. A true copy of the said reply is annexed as Annexure No. 2 to this writ petition.



42145 5414 4162
42145 12134

6.

23. That the Annexure No. 2 ^{of opposite party No. 3} shows that some regular appointment has been made at the direction of the higher authorities.
24. That it is surprising that the information about the advertisement for the post of Extra Departmental ^{Runner} ~~Sub~~ Kursaha was not sent to the Vishwarganj Sub Post Office or to Kursaha Post Office ^{or to the petitioner even as an information.}
25. That the monthly pay role on which the salary of the petitioner was drawn and paid to the petitioner by the post office would reveal that the petitioner was selected and posted permanently on regular basis at a clear vacancy after the retirement of a permanent person.
26. That if Rajendra Prasad Tewari was ^a ~~was~~ working on the temporary basis then why the post was advertised for appointment of a temporary period and for a temporary employee on which the petitioner was selected by opposite party No. 2 after an interview etc.
27. That even if petitioner's appointment was not a permanent no other person i.e. Opposite party No. 3 could be appointed in his place without an information to the petitioner and without his consent.
28. That petitioner is unable to understand the defference of advertisement made before the



28/7/84

appointment of the petitioner and subsequent ~~and~~ [&] ~~for~~ advertisement, if any, before ~~and~~ [&] ~~for~~ the appointment of opposite party No. 3.

29. That the opposite parties 1 and 2 have no right to play with the life of the petitioner and snatched his livelihood without any reasonable cause and also without his absence even for a day between 1.3.1983 to 8.6.84.

30. That the appointment of opposite party No. 3 is illegal, unjust ^{and} improper ^{when there was no vacancy} and the petitioner was already appointed ~~work~~ and working.

31. That the petitioner had not been paid his salary for the period of 1.6-1984 to 8.6.1984.

32. That ~~the~~ prior to termination of service or removal of petitioner no notice have been given to him.

33. That the allegation of opposite party No. 2 is absolutely false that the petitioner was posted temporarily at the risk and responsibility of the Branch Post Master Kursaha or Vishwarganj, Bahraich.

34. That in the absence of any termination of service order the petitioner must be treated in service.

35. That all principles of natural justice and rules and Article 311 of the constitution have been violated discharging the petitioner from the service.

36. That it is absolutely false that the petitioner



AMU

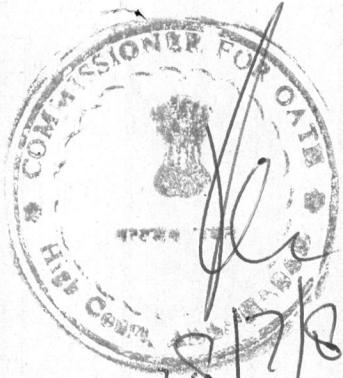
8.

was ever appointed by branch Post Master Kursaha at his own choice and temporary basis .

37. That the termination of service of petitioner has been made maliciously because the opposite party No. 2 wanted to bring the opposite party No. 3 in service any how and he did it in place of petitioner.

38. That in the interest of justice it is necessary that the appointment of opposite party No. 3 Shiv Narain Dubey , be suspended at once with immediate effect treating the petitioner in service even after 8.6.84 till the date he joins or directing the opposite parties to restore the petitioner 's position as Extra Departmental Rullner at Kursaha post office or any other place if needed .

39. That the reply of opposite Party No. 2 (annexure No . 2) sent to the petitioner is based on false and concocted facts and truth can be found after the perusal of the pay role of the petitione from 1.3.1983 to 8.6.1984 as well as the 'file ^{relating to} the petitioner and his appointment which is with the opposite party No. 2.



40. That finding no other alternative and efficacious remedy the ^{present} writ petition is being filed on the following amongst other grounds :

महाराष्ट्र शासन

GROUNDS

- A. Because the petitioner's service could not be terminated without any prior notice to him and in his place opposite party No. 3 could not be appointed without the consent of the petitioner and also beside any advertisement given in this connection to the Kursaha post office or Sub-Post Office Vishwarganj Bahraich.
- B. Because the appointment of the petitioner was permanent on a clear vacancy caused by after the retirement of its previous incumbent.
- C. Because the facts contained in Annexure No. 2 are false and framed in defence by the opposite Party No. 2
- D. Because the opposite parties had no right to ^{or} play with the carrier and future of the petitioner.
- E. Because in the absence of any complaint against the petitioner about his working as Extra Departmental ^{or} Runner Kursha his services can not be terminated, on these facts that he had crossed all the efficiency bars in enquiries and he had also deposited security amount without any fail as per rule admissible in the department of Post Offices of the opposite party No. 1.
- F. Because the petitioner has not been paid

the salary for the his services rendered during the period of 1.6.1984 to 8.6.1984 .

- G. Because [✓] ~~it is~~ in the absence of any letter of termination the petitioner should be treated in service.
- H. Because the petitioner has been discharged violating all the rules and regulations besides natural justice and also violating article 311 of the Constitution of India.
- I. Because the termination of service of petitioner has been done maliciously by opposite party No. 2.
- J. Because the [✓] ~~allegation~~ is absolutely false that the petitioner was appointed by the branch Post Master Kursaha at his own risk on temporary basis.
- K. Because the appointment of opposite party No. 3 is illegal because there is no vacancy at the post in question as the petitioner is already selected permanently for the said post.

WHEREFORE, it is most humbly prayed:-

- (i) That by issuing a writ of mandamus the opposite parties Nos. 1 and 2 be directed to restore and post the petitioner at his place of posting [✓] ~~or~~ anywhere else as [✓] ~~a~~ Extra Departmental Runner at the facility and benefits which were already available to him till 8.6.1984

- (ii) That Annexure No. 2 and the appointment of opposite party No. 3 be quashed restoring the petitioner in place of opposite party No. 3 with arrears of salary and allowances.
- (iii) That any other appropriate order [✓] also be passed in favour of the petitioner in the ends of justice in the circumstances and facts of the case.
- (iv) That the costs of the petition be awarded to the petitioner against the opposite parties 1 and 2.

Lucknow Dated:

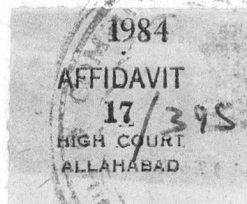
17-8-1984

M. Naseerullah
(M. NASEERULLAH)
ADVOCATE
COUNSEL FOR PETITIONER.

Note: 1. There is no defect in the petition
2. Last impugned annexure is Annexure No. 2.
M. Naseerullah
Adv.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH LUCKNOW



IN RE:

WRIT PETITION NO. 17/3/85

OF 1984

Mahadeo Prasad Pathak

....Petitioner

Versus.

Union of India and others

....Opp. Parties

AFFIDAVIT IN SUPPORT OF WRIT PETITION

I, Mahadeo Prasad Pathak, aged about 27 years, son of Shri Radhey Shyam, resident of village Majhnagra, Post Office Kursaha District Bahraich, do hereby solemnly affirms on oath as under :-

1. That the deponent is the petitioner in the above noted writ petition.

2. That the contents of paragraphs 1, 2, 26, 28, 29, 31-33, 36, 37 & 39 of the writ petition are true to my personal knowledge and those of the paragraphs 27, 30, 34, 35, 38 & 40 are belived by me to be true. No part of it is ~~its~~ false and nothing material has been concealed. So help me God.

Lucknow Dated:

28-7-1984

महदेव प्रसाद पाठक
Deponent.

VERIFICATION

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

Lucknow Dated: 28.7.84.

महदेव प्रसाद पाठक
Deponent.



OATH COMMISSIONER
High Court, Allahabad.
Lucknow Bench

17/3/85

28.7.84

Solemnly affirmed before me on 28.7.84 at 7.30 A.M./P.M. by the deponent Mahadeo Prasad Pathak who is identified by Sri M. Naseerullah Advocate High Court Allahabad, Lucknow Bench Lucknow

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

I identify the deponent who has signed this before me
M. Naseerullah
28.7.84

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

WRITPETITION NO.

OF 1984

Mahadeo Prasad Pathak

...Petitioner

Versus.

Union of India through Secretary Tele Communication
Government of India at New Delhi and others...Opp.Parties

ANNEXURE NO. 1NOTICE REGD. A.D.

From: M.Naseerullah, Adcocate 158/108 Ganga
Prasad Road, Lucknow.

To

Prakhandiya Dak Nirikshak
Bahraich(Madhya) Bahraich.

Dear Sir,

Under instruction from my client Mahadeo Prasad Pathak s/o Shri Radhey Shyam Pathak, r/o Viillage Majhnagra Post Office Kurshaha, District Bahraich, I call upon you through this Registered postal notice as follows:-

1. That after an interview my above said client was selected for the post of Extra Departmental Runner by you on reference from Employment Exchange office Bahraich out of five others. He was posted as Extra Dept. Runner at Branch Post Office Kursaha under Subpost Office Vishwarganj, Bahraich to carry the dak from Vishwarganj Post Office to Kursaha Branch office w.e.f 1.3.83 at the salary of Rs.184.00 per moth and he worked without break even for a day in service or absence and he did not give any chance to the higher authorities of any complaint till 8.6.84.



23/12/84

11/11/84
11/11/84
11/11/84

2. That on 9.6.84 my client went to perform his duty to carry the Dak as usual then he was informed by the Sub Post Master Vishwarganj Post Office, Bahraich that some Sheo Narain Dubey has been appointed in the place of my client and the services of my client have been terminated but upto now my client has not received any letter of termination of his services.

3. That after the appointment of my client departmental and police enquiries were held. Besides enquiries my client has deposited Security Money also as per rules of the department of post offices.

Kindly let my client know in writing why his services have ^{been} terminated without any prior information to him. If the services of my client are terminated then please inform accordingly with the letter of termination of his services to me or my client within 15 (fifteen) days.

Sd.

(M. Naseerullah)

Advocate

Lucknow

Dated 15th June 1984

True copy

Sd.



॥३१३९ ॥३११५ ॥३१११

इन दि आनरेबुल हाई कोर्ट आफ जूडीकेयर एट इलाहाबाद

लखनऊ बैंक लखनऊ

रिट पिटीशन नं०

आफ 1984

महादेव प्रसाद पाठक

पिटीशनर

बनाम

यूनियन आफ इंडिया एवं
अन्य

अपोजिट पार्टीज

सनेकज़र नं०- 2

भारतीय डाक एवं तार विभाग

प्रेषक

मुख्य डाक नि ।

बहराइच मध्य

बहराइच -271801

सेवाएं - श्री महादेव प्रसाद पाठक पुत्र श्री राधेश्याम पाठक ग्राम
मध्यनगरा पोस्ट कुरसहा बहराइच

पत्रांक -ए/कुरसहा/84 बहराइच दिनांक 26-6-84

महोदय,

आपने श्री सम. नसरुल्लाह एडवोकेट लखनऊ के द्वारा इस कार्यालय को पंजीकृत पावती सहित एक नोटिस पंजीकृत पत्र संख्या 862 दिनांक 15-6-84 के द्वारा भेजा जो यहाँ पर 19-6-84 को प्राप्त हुआ । नोटिस के द्वारा मागे गये वांछित सूचना आपको प्रेषित किया जा रहा है जैसा कि नोटिस में यह सूचना आपको या आपके वकील को 15 दिन के अन्दर देना था ।

31-12-82 को द्वितीय वेला में डाक अधिदर्शक पर्यागसुर से कुरसहा के तत्कालीन ओ.वि. हरकारा को उनके आयु पूरा होने सेवा निवृत्त किया और सोहरियावां के शाखा डाक पाल के सम्पूर्ण जिम्मेदारी एवं जोखिम पर श्री राजेन्द्र प्रसाद तिवारी को अपने तरफ से काम चलाऊ ओ.वि. हरकारा के पद पर लगा लिया परन्तु उनके दूर रहने के कारण तथा कार्य ठीक ढंग से न हो पतने के कारण कुरसहा शाखा डाक पाल श्री राज कुमार पाठक ने इनके स्थान पर अपने तरफ से अपने सम्पूर्ण जिम्मेदारी और जोखिम पर नियमित नियुक्ति होने तक श्री महादेव प्रसाद पाठक पुत्र श्री राधेश्याम पाठक को ओ.वि. हरकारा



28/7/84

T.C.

महादेव प्रसाद पाठक

के सम में कार्य चलाने हेतु लगाय~~ह~~ लिया और इस आशय की सूचना दिनांक 1-3-83 को भेजा । इस सूचना के आधार पर श्री महादेव प्रसाद पाठक पुत्र श्री राधेश्याम पाठक को ~~नियुक्ति~~ श्री रामकुमार पाठक शाखा डाक पाल कुरसहा के सम्पूर्ण जिम्मेदारी एवं जोखिम पर उनके तरफ से जब तक नियमित नियुक्ति न हो जाय कार्य कराने के लिए अनुमति शाखा डाक पाल कुरसहा को दे दिया।

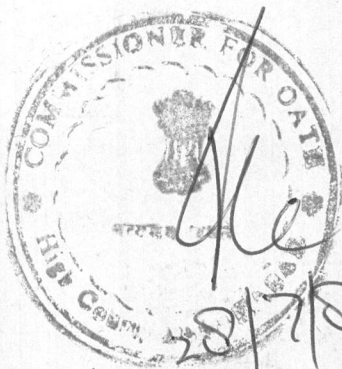
नियमित नियुक्ति हेतु रोजगार कार्यालय से अभ्याथियों की सूची आने पर डाक अधिदर्शक पयागपुर को जांच एवं सत्यापन करने के लिये दिया गया । नियमित नियुक्ति हेतु आवश्यक औपचारिकारं पूरी कराने के बीच से इस की शिकायत हो जाने पर नियुक्ति सम्बंधी सारे कागजात एवं फाइल सी वी ओ केन्द्रीय कार्यालय मांगा लिया गया और वहाँ से इस आशय का निर्देश प्राप्त हुआ कि दुबारा पद के रिक्त का विज्ञापन निकाल कर नियुक्ति की जाय इस प्रकार पद का विज्ञापन दुबारा निकाला गया और 2-6-84 को नियुक्ति हो गयी और नियुक्ति किया गया अभिकर्ता 9.6.84 को कार्यभार ग्रहण किया।

इस प्रकार न तो आप इस कार्यालय के द्वारा लगाये गये न नियुक्ति किये गये न ही आप का चुनाव हुआ और न ही इस कार्यालय ने आपको सिक्योरिटी जमा करने को कहा गया । आप केवल शाखा डाक पाल कुरसहा श्री राजकुमार पाठक के द्वारा लगाये गये कि जब तक किसी की नियुक्ति नियमित न हो जाये तब तक काम या स्वयं करते या किसी से करवाते अतः कार्य आपसे कराया शाखा डाकपाल ने । इस कार्यालय से आपके लिए कोई निर्देश नहीं हुआ था । सिक्योरिटी कार्य करने के लिये होती है चाहे आप जमा करते या शाखा डाकपाल जमा । स्वयं जमा करते या आपसे जमा करवाते ।

जहाँ तक पुलिस जांच एवं अन्य जांच का प्रश्न है वह सूची में दिये गये सभी अभ्याथियों के साथ होता है। जहाँ तक 184/- वेतन का प्रश्न हो वह वेतन नहीं भत्ता था।

अतः न तो आपकी नियुक्ति की गयी थी न लगाया गया था अतः सेवा में निकालने का प्रश्न ही नहीं उठता है।

वस्तुस्थिति यह है कि श्री राजकुमार पाठक शाखा डाकपाल ने अपने तरफ से अपने सम्पूर्ण जिम्मेदारी एवं जोखिम पर आपको रख लिया था और इस बीच आपसे कोई गलती होती तो उसके जिम्मेदार श्री राज कुमार पाठक होते है इसी बात का उल्लेख करके श्री राजकुमार पाठक



को यह सूचना दिनांक 13-3-83 को दी थी कि श्री महादेव प्रसाद पाठक पुत्र श्री राधे श्याम पाठक से श्री राम आधार पाठक के तरफ से उठाई सम्पूर्ण जिम्मेदारी एवं जोखिम पर उस समय तक जब तक किसी की नियमित नियुक्ति न हो जाय 1-3-83 से कार्य करावे । श्री महादेव प्रसाद पाठक 1-3-83 से 8-6-83 तक कार्य किया अतः इतने समय का इनको भत्ता मिला ।

हृदय अस्पष्ट

मुहर- मुखडीय डाक नि ।

बहराइच मध्य

बहराइच-271801



K.M.

OATH COMMISSIONER

High Court, Allahabad.

Lucknow Bench

No. 17/395-

28.7.84

महादेव प्रसाद पाठक

W. P.

18

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अदालत श्रीमान

Hon'ble High Court of Judicature at Allahabad sitting at Lucknow महोदय

वादी (मुद्दै)
प्रतिवादी (मुद्दालेह)

का वकालतनामा



Mahadeo Prasad Pathak वादी (मुद्दै)

बनाम

Union of India & others प्रतिवादी (मुद्दालेह)

W. P.

नं० मुकद्दमा सन् १९८४ पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री M. Naseerullah, advocate High Court, Lucknow एडवोकेट
Talis Ahmed advocate, Lucknow महोदय

Mohd. Jameel, advocate, Lucknow वकील

नाम अदालत	नाम मुकद्दमा	नाम फरीकत
.....

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

हस्ताक्षर महोदय अनाद पारु

साक्षी (गवाह) साक्षी (गवाह)

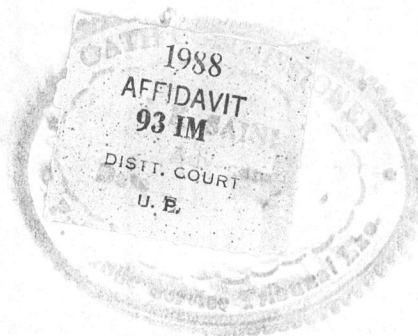
दिनांक 28 July 1984 महीना

Petitioner

Accepted
M. Naseerullah
28-7-84
Accepted
Mohd Jameel
Advocate
Accepted
Talis Ahmed

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW.

T.A.No. /T/1987



Mahadeo Prasad Pathak ... Petitioner

Versus

Union of India & others ... Opposite parties

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE PARTY NO.1 & 2

I, ^{5/19/87} ~~T.D. Ganie~~ ^{R.D. Ganie}, aged about 47 years, son of Shri ~~Superintendent of Bahraich~~ ^{Superintendent of Bahraich}, at present posted as ~~Inspector~~ ^{Inspector} of Post offices, Central ~~Sub~~ Division, Bahraich (opposite party No.2) do hereby solemnly affirm and state on oath as under:-

1. That the deponent is opposite party No.2 in the above noted T.A. and as such he is fully conversant with the facts of the case. He has read the contents of the Appeal and having understood the same is in a position to give ~~para~~wise reply as hereinafter.

2. That at the very out-set the deponent begs leave of this Hon'ble Tribunal to give brief history of the case for just adjudication of the appeal. Shri Bhagaut Prasad ^{was working as} / Extra Departmental Runner (hereinafter referred to as 'EDR' for short, Kurshana Branch post office and on 31.12.82

(2)

on attaining the age of superannuation, i.e. 65 years, was retired from the service. Shri Rajendra Prasad Tewari was engaged by the Line Overseer Payapur on the post for the time being on the risk and responsibility of Shri Girija Saran Tewari Branch Post Master Shoharivan in account with Bishweshwarganj S.O. Bahraich on the same date i.e. 31.12.82. This arrangement made by the Line Overseer Payapur Bahraich was intimated to the Opp.party No.2 who allowed the engagement to work as EDR Kurshaha Bahraich till the regular appointment was made. Shri Rajendra Prasad Tewari could not perform this duty and left this engagement on 1.3.83 and thus in order to carry the mail for the short time till a regular appointment, on the post ~~and~~ Shri Mahadeo Prasad Pathak s/o Shri Radhey Shyam Pathak, the petitioner was conditionally engaged by the Branch Post Master, Kurshaha Bahraich on the same date of 1.3.83. This arrangement was intimated by the Branch Post Master to the opp.party No.2 under his letter dated 1.3.83 and opposite party No.2 has conditionally allowed the arrangement with the order that " Shri Mahadeo Prasad Pathak s/o Shri Radhey Shyam Pathak is allowed to work as ~~EDR~~ Kurshaha on the risk and responsibility of BPM Kurshaha till regular appointment of the post."

Under the provisions of rule regarding appointment of EDAs (Conduct and service) Rules, 1964, the vacancy was advertised by the opposite party No.2 on 17.1.83 and

A27

(3)

on 21.2.83. Meanwhile, on Public complaints the appointment file alongwith all concerning papers were transferred to enquiry officer for enquiry and thus in the absence of papers/appointment file, the appointment case could not be finalised.

On the basis of public complaints, enquired by the enquiry officer and on receiving ~~an~~ instruction from the higher authorities the post was re-advertised on 7.4.84 and after receiving the four applications from the Employment Exchange Shri Sheo Narain Divedi has been appointed as EXR Kurshaha who joined the duty on 9.6.84. Thus the engagement by the Branch Post Master Kurshaha has been automatically ended.

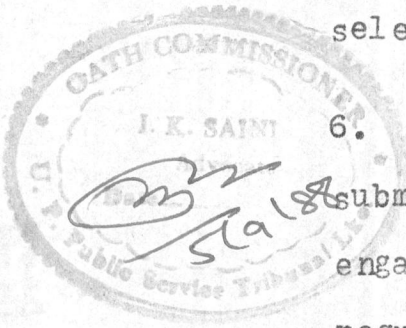
3. That the contents of para 1 are admitted to the extent that Shri Mahadeo Prasad Pathak s/o Shri Radhey Shyam Pathak was temporarily engaged as EDR and he has worked from 1.3.83 to 8.7.84 on the fixed allowance of Rs.184/- per month. Rest of the para is not admitted.

4. That the contents of paras 2 to 7 are not admitted.

5. That the contents of para 8 are not admitted as stated. It is however stated that there is no any provision for interview nor any selection was made nor any person was selected and appointed.

6. That in reply to the contents of para 9 it is submitted that the petitioner had been temporarily engaged on 1.3.83 by Branch Post Master Kurshaha till the regular appointee assumes the duty. Rest of the para is denied as incorrect.

7. That the contents of para 10 of the application are admitted to the extent that the petitioner was not given any appointment letter or order. Rest of the para is not admitted.



[Signature]

A28

(4)

8. That the contents of paragraph 11 are not admitted

9. That the contents of paragraph 12 are admitted only to the extent that Shri Mahadeo Prasad Pathak petitioner has been temporarily engaged and worked on the risk and responsibility of the Branch Post Master Kurshaha, Bahraich as the appointment of the regular incumbent was not finalised.

10. That the deponent has no knowledge to the contents of para 13 hence denied.

11. That in reply to the contents of para 14 the opposite party No.2 has no knowledge about the contention of the petitioner hence denied. The petitioner would have deposited the amount of security on the instructions and directions of the Branch Post Master Kurshaha who had temporarily engaged him.

12. That the contents of paragraph 15 of the application are admitted only to the extent that the verification was got done but the appointment of regular incumbent was not finalised and no one was appointed.

13. That the contents of para 16 of the application are admitted to the extent that Shri Rajendra Prasad Tewari was temporarily engaged by the Line Overseer Payagpur and on leaving the engagement by him, the petitioner has also been temporarily engaged by the Branch Post Master Kurshaha till the regular appointment is made.

14. That the contents of para 17 are admitted.

15. That the contents of para 18 are not admitted as stated. It is however stated that the petitioner was temporarily engaged by the Branch ~~xxxx~~ Post Master, Kurshaha Bahraich while Shri Rajendra Prasad Tewari who was also engaged temporarily prior to engagement of petitioner, quit.



[Handwritten signature]

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(5)

16. That the contents of paragraph 19 of the Appeal are admitted to the extent that Shri Sheo Narain Trivedi was appointed on a clear vacancy. Rest of the para is irrelevant and is not admitted.

17. That the contents of paragraph 20 are not admitted as stated. In reply to this para only this much is stated that as the incumbent ~~was~~ on regular basis was duly appointed, the temporary engagement of the petitioner was discontinued as he was engaged for the period till a regular person was appointed.

18. That the contents of para 21 are admitted.

19. That the contents of para 22 of the application are admitted to the extent that the reply was not containing anything about posting of the petitioner by the Branch Post Master Kurshaha but it mentioned about temporary engagement of the petitioner by Branch Post Master Kurshaha till the regular appointment was made and the person/s so appointed resumes his duty.

20. That the contents of para 23 of the application are admitted to the extent that the direction was received from the higher authorities for re-advertisement of vacancy and not for appointing any particular person.

21. That the contents of para 24 are admitted.

22. That the contents of para 25 of the application are admitted to the extent that the petitioner was paid allowance and not salary on pay-roll in the pattern of other substitutes being paid.

23. That the contents of para 26 are admitted to the extent that on leaving by Shri Rajendra Prasad Tewari, the petitioner was engaged temporarily by Branch Post Master, Kurshaha. If the said Rajendra Prasad Tewari



[Signature]

(6)

would have not ~~left~~ his engagement the petitioner could not have been engaged. There was no selection, interview and appointment

24. That the contents of paragraph 27 are wrong and imaginary. It was not incumbent on the opposite parties to inform the petitioner about appointment of the regular person or to take his consent for the appointment.

25. That in reply to the contents of paragraph 28 it is submitted that the direction from the higher authorities for re-advertisement of the post was received and accordingly the post was advertised for regular appointment on the post, through the employment exchange.

26. That the contents of paragraph 29 of the application are not admitted as stated. The petitioner was neither appointed nor engaged by the opposite party No.2 and the opposite party is not responsible for livelihood of the petitioner. The petitioner has no claim from opposite party No.1 and 2 as he was not appointed at all.

27. That the contents of para 30 are not admitted as stated. In reply to this para it is submitted that the opposite party No.3 was appointed on clear vacancy which was legal and valid.

28. That the contents of para 31 of the application are not within the knowledge of the answering opposite parties hence no comments are offered.

29. That the contents of para 32 are not admitted. As the petitioner was not appointed against regular post, no question of any notice arises.

30. That the contents of paragraphs, 33, 34 and 35 are not admitted. There was not infringement of principles of natural justice nor there is violation of constitution of India, as claimed by the petitioner as the petitioner

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5/6/18

re

(7)

was neither appointed on regular basis nor he was engaged by the opposite party No.2.

31. That the contents of paragraph 36 of the application are not admitted. It is true that the petitioner was engaged temporarily by the Branch Post Master Kurshaha at his own risk and responsibility.

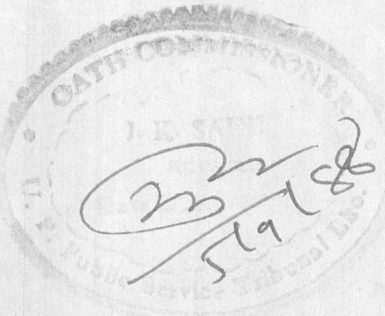
32. That the contents of paragraphs 37 and 38 of the T.A. are not admitted. The petitioner was engaged temporarily till a regular candidate is appointed through normal procedure for the post. On the appointment of the regular person the engagement of the petitioner was discontinued.

33. That the contents of paragraph 39 are not admitted as stated. In reply to this para it is stated that the reply was based on the file/record of the office of the opposite party No.2 and supported by rules of EDAs (Conduct & Service) Rules 1964.

34. That the contents of para 40 are not admitted.

35. That in reply to the contents of ^{ground A under} para 40, it is submitted that the petitioner was neither appointed nor engaged by opposite party No.2, therefore the question of termination notice does not arise. The petitioner was allowed to work temporarily till a regular candidate was appointed on the post, at the risk and responsibility of the Branch Post Master, Kurshaha, who had engaged the petitioner on his own accord. There was also no question of giving copy of advertisement to any one as the notice is sent to Employment Exchange to sponsor candidates as per rules.

None of the grounds contained in 'B' to 'K' (i) (ii) (iii) and (iv) are tenable in law. The petitioner is not entitled to any relief as claimed in the writ petition



[Handwritten signature]

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(8)

which has been transferred to the Hon'ble Tribunal on the promulgation of Central Administrative Tribunal Act/ and the Transfer application (Writ petition) is liable to be dismissed with costs to the opposite parties.

Lucknow,
Dated: 59 May, 1988,

Deponent

C.D. Guleri

VERIFICATION

I, the deponent above named do hereby verify that the contents of paragraphs 1

of this counter affidavit are true to my personal knowledge, those of paragraphs 2 to 34 are believed to be true on the basis of record while those of paragraphs 35 to 40 are also believed by me to be true on the basis of legal advice. No part of this affidavit is false and nothing material has been concealed so help me God.

Deponent

I identify the deponent who has signed before me and who is also personally known to me.

(V.K. Chaudhari)
Advocate

Solemnly affirmed before me on

5/9/88

at 6.30 a.m./p.m by the deponent who is identified by Shri V.K. Chaudhari, Advocate.

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.



Handwritten signature of the deponent.

Handwritten signature of the advocate.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH

LUCKNOW

In Re:

T.A. No. 1518 of 1987

1214 1990
AFFIDAVIT
55 P.R.2
HIGH COURT
ALLAHABAD



Mahadeo Prasad Pathak

..... Petitioner

Versus

Union of India & others

..... Opposite parties.

.....

REJOINDER AFFIDAVIT TO THE COUNTER
AFFIDAVIT FILED ON BEHALF OF OPPOSITE
PARTY NO. 1 & 2.

I, Mahadeo Prasad Pathak, aged about 33 years,
s/o. Sri Radhey Shyam Pathak, R/o. Village Majhangra,
P.O: Kursaha, Distt: Behraich do hereby solemnly
affirm and state on oath as under:-

- 1) That the deponent is the petitioner in this case. He has been read over the Counter Affidavit under reply and explained in Hindi by his Counsel and he has understood the same. The reply as rejoinder affidavit to the said counter affidavit

is filed as under:-

- 2) That the contents of paragraph 1 of the Counter Affidavit under reply ~~are~~^{was} not disputed.
- 3) That the contents of paragraph 2 of the Counter affidavit under reply are denied as alleged. The facts which are contrary to the facts mentioned in the writ petition are denied. It is necessary to mention here that the deponent had been applying to the appointment for the post of Extra Departmental Runner to the Inspector, Post Offices, South Sub Division for the anticipated vacancy and in this connection, the petitioner gave an application to the Inspector of Post Offices, South Sub Division of Behraich on 22.12.82 and that application was forwarded to the Inspector of Post Offices, Central, because Post Office Kursaha was under the opposite party no. 2. A true copy of the said application dated 22.12.82 is annexed herewith as Annexure No. R-1 to the rejoinder affidavit. Thereafter the petitioner deponent gave another application dated 20.12.82 to the Inspection Post Offices South Sub Division of Behraich (Central) i.e. Opposite party No. 2 and that application was returned back to the petitioner with certain endorsement as information to the petitioner by the opposite party no. 2. A true copy of the said application with above said endorsement is annexed herewith as Annexure No. R-2 to this rejoinder affidavit and thereafter the



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petitioner gave an application in response to advertisement dated 17.1.83, whose true copy is annexed herewith as Annexure No. R-3 to this rejoinder affidavit and thereafter the petitioner was asked on 1.3.1983 to join as E.D.R. (Extra Departmental Runner) Kursaha, Behraich and was directed to take charge from one Rajendra Prasad Tiwari and this appointment was made after regular selection was made and in pursuance of that selection and posting, the petitioner took charge on 1.3.1983. A photostate copy of the charge report is annexed herewith as Annexure No. R-4 to this rejoinder affidavit. Thereafter the petitioner received a letter No. A/Kursaha/83-Behraich dated 5.5.1983 in which certain informations were required to be furnished by the petitioner to the opposite party No. 2 and those informations were furnished accordingly ~~separately~~ by the petitioner. A true copy of the said letter dated 5.5.1983 is annexed herewith as Annexure No. R-5 to this rejoinder affidavit. The petitioner was interviewed by the opposite party No. 2, the appointing authority of the petitioner alongwith 5 other persons whose names were sent by the Employment Exchange alongwith the name of the petitioner to the opposite party No. 2 and a selection was made and a panel was prepared and at last the petitioner was posted as Extra Departmental Runner, Kursaha, Behraich on 1.3.1983. To the knowledge of the deponent no complaint was made by anybody about the selection in question. The deponent does not know that the



महोदय उपाध्यक्ष

post in question was readvertised on 7.4.1984. It is a concoction and Fabrication. No such advertisement was sent to the Kursaha post Office otherwise the petitioner would have contested the matter ~~xxx~~ or he would have applied afresh. It is notable that inspite of this fact that the petitioner was working since 1.3.1983 and had completed 1 year even prior to alleged advertisement dated 7.4.1984. No information was given to the petitioner departmentally and he was not called to appear for any selection. It is apparent that the fact of re-advertisement on 7.4.1984 is outcome of the mind of opposite party no. 2.

- 4) That the contents of paragraph 3 of the Counter Affidavit are denied as alleged because the petitioner was not engaged as E.D.R. temporarily. His appointment was on regular basis and on a clear vacancy and he was not posted locally by the Post Master. It is notable that the selection held, in which the petitioner was selected, was proper selection and a panel was prepared and that selection list was not rejected hence even if any selection is made in 1984 that is illegal.



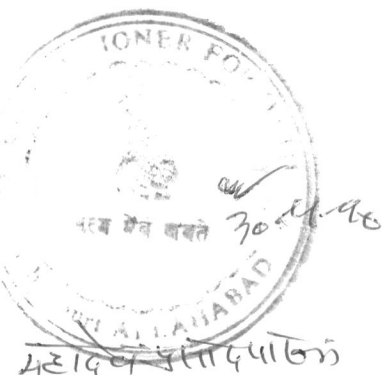
- 5) That the contents of paragraph 4 of the counter affidavit under reply are denied as alleged and in its ~~place~~ reply, the contents of paragraphs 2 to 7 of the claim petition are reiterated.

- 6) That the contents of paragraph 5 of the counter affidavit under reply are denied as alleged. The assertion made in ~~para~~ paragraph 5 of the counter

.. 5 ..

affidavit are contrary to the facts alleged in the counter affidavit itself. The petitioner and 5 other candidates were interviewed, selected and a list of selected candidates was prepared and thereafter the petitioner was posted.

- 7) That contents of paragraph 6 of the counter affidavit under reply are denied as alleged and in its reply contents of the paragraph 9 of the claim petition are reiterated.
- 8) That in reply to paragraph 7 of the counter affidavit, the contents of paragraph 10 of the claim petition are reiterated.
- 9) That the contents of paragraph 8 of the counter affidavit are denied and in its reply contents of paragraph 11 of the petition are reiterated.
- 10) That the contents of paragraph 9 of the counter affidavit are denied as alleged and in its reply contents of paragraph 12 of the petition are reiterated.
- 11) That the contents of paragraph 10 of the counter affidavit are denied as alleged and in its reply contents of paragraph 13 of the petition are reiterated.
- 12) That contents of paragraph 11 of the counter affidavit are denied as alleged and in its reply contents of paragraph 14 of the petition



are reiterated.

- 13) That the contents of paragraph 12 of the counter affidavit under reply are denied as alleged and in its reply contents of paragraph 15 of the petition are reiterated.
- 14) That the contents of paragraph 13 of the counter affidavit under reply are denied and in its reply contents of paragraph 16 of the petition are reiterated. The appointment of the petitioner deponent was on clear vacancy and on a permanent post and he was posted after a selection made by the opposite party No. 2. The petitioner was not given any notice or informed of this fact during the period of his service at Kursaha Post Office that his appointment was adhoc, or temporary and any regular appointment was to be held for the post of Extra Departmental Runner for Kursaha Post Office. Prior to posting of opposite party no. 3 at Kursaha Post Office, Behraich, the services of the petitioner was not terminated and straight way the petitioner has been turned out. It is absolutely wrong that petitioner was appointed by the Branch Post Master temporarily. The appointment of opposite party no. 3 is illegal and he is the man of opposite party no. 2 for whom the services of the petitioner have been terminated without any reason, after fabrication of many documents showing that the post in



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question was advertised even after selection and posting of the petitioner.

- 15) That the contents of paragraph 14 of the counter affidavit under reply needs no reply.
- 16) That the contents of paragraph 15 of the counter affidavit under reply are denied as alleged.
- 17) That the contents of paragraph 16 of the counter affidavit under reply are denied as alleged and in its reply contents of paragraph 19 of the petition are reiterated.
- 18) That the contents of paragraph 17 of the counter affidavit under reply are denied as alleged and in its reply paragraph 20 of the petition are ~~reiterated~~ reaffirmed to be correct.
- 19) That the contents of paragraph 18 of the counter affidavit needs no reply as paragraph 21 of the petition is admitted by the opposite parties 1 and 2.
- 20) That the contents of paragraph 19 of the counter affidavit are denied as alleged and in its reply contents of paragraph 22 of the petition are reiterated.
- 21) That the contents of paragraph 20 of the counter affidavit under reply are denied as alleged and in its reply the contents of paragraph 23 of the petition are reiterated.



नैतिकता व न्यायिकता

- 22) That the contents of paragraph 21 of the counter affidavit need ~~no~~^{is} reply.
- 23) That the contents of paragraph 22 of the counter affidavit under reply are denied as alleged and in its reply contents of paragraph 25 of the petition are reiterated. The deponent was not a substitute and he ^{is} appointed on regular basis though it ~~is clear~~^{is clear} that his services were terminated without any show cause being issued to the deponent.
- 24) That the contents of paragraph 23 of the counter affidavit under reply are denied as alleged and in its reply contents of paragraph 26 of the petition are reiterated.
- 25) That the contents of paragraph 24 of the counter affidavit under reply are denied as alleged . If ~~the~~ post was readvertised and appointment of the petitioner was cancelled due to any reason then it was the duty of the opposite party no. 1 & 2 to inform the deponent about the cancellation of the panel and appointment of the deponent. All the times when the post were advertised for any ~~particular~~ post office in general and for Kursaha post office in ~~particular~~^{particular}, then a copy of the advertisement was sent to the post office concerned for which the post was advertised as it was done in the case of appointment of the petitioner and in persuance of that advertisement, the petitioner ^{had} applied



(211)

for the said services. The panel prepared by opposite party no. 1 & 2 can not be cancelled without any reason and without any information to the deponent and on the facts of this case opposite party No. 1 & 2 were duty bound to inform the petitioner that the post on which he was appointed, has been readvertised and the petitioner could apply for the same post and any decision taken on the back of the petitioner is unwarranted and illegal too.

- 26) That the contents of paragraph 25 of the counter affidavit are denied as alleged. It appears that the direction of higher authorities was followed by the opposite party no. 2 and the post might have been readvertised though it has not seen the light of the day and it also appears that the panel or list through which the petitioner was appointed has not been cancelled. It is notable that the name of the petitioner was once sent by the Employment Exchange for appointment to the post in question and thereafter the petitioner was appointed hence name of the petitioner can not exist in the list of the Employment Exchange which is prepared for the persons who are not employed. The name of the petitioner can not be sent even if the alleged post had been readvertised and for this reason if afresh selection was to be made then the petitioner was entitled to get the information to apply for the said post if he choose to do so.



हस्ताक्षर 30/4/98

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- 27) That the contents of paragraph 26 of the counter affidavit under reply are denied as alleged and in its reply contents of paragraph 29 of the petition are reaffirmed to be correct.
- 28) That the contents of paragraph 27 of the counter affidavit under reply are denied as alleged and in its reply the contents of paragraph 30 of the petition are reiterated.
- 29) That the contents of paragraph 28 of the counter affidavit needs no reply.
- 30) That the contents of paragraph ⁴29 of the counter affidavit under reply are denied as alleged.
- 31) That the contents of paragraph 30 of the counter affidavit under reply are denied as alleged and in its reply contents of paragraphs ⁴33, 34 & 35 are reiterated.
- 32) That the contents of paragraph 31 of the counter affidavit under reply are denied as alleged and in its reply contents of paragraph 36 of the petition are reiterated.
- 33) That the contents of paragraph 32 of the counter affidavit under reply are denied as alleged and in its reply contents of paragraph 33 & 37 of the petition are reiterated. The appointment of the petitioner was a regular one.
- 34) That the contents of paragraph 33 of the counter



महोदय उपाध्यक्ष

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affidavit under reply are denied as alleged because the opposite parties have tried to beat about the bush by not replying in detail. Nevertheless if pay roll of the petitioner with effect from 1.3.1983 to 8.6.1984 is produced before this Hon'ble Tribunal, then it can be ascertained whether the petitioner was adhoc, substitute, temporary or a regular one during the period of his employment under opposite parties 1 & 2.

- 35) That the contents of paragraph 34 of the counter affidavit under reply are denied as alleged.
- 36) That the contents of paragraph 35 of the counter affidavit under reply are denied as alleged. It is reiterated that the petitioner was appointed by opposite party no. 2 but his services have not been terminated. The petitioner was not ^a temporary employee or at the risk of the Branch Post Master Kursaha and he had not engaged the petitioner on ^{his} own risk. It is notable that it is admitted case of the opposite parties 1 & 2 in paragraph 35 of the counter affidavit that the post was not advertised anywhere and a notice had been sent to Employment Exchange to sponsor candidates as per rules. It is notable that the name of the petitioner was also sent by the Employment



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Exchange alongwith other candidates. If local appointment was made by Branch Post Master Kursaha then why name was required from Employment exchange and why departmental and Police enquiry were made before appointment and posting of the petitioner on 1.3.83 and if those names sent by employment exchange were not required by opposite parties 1 & 2 then why the names of the petitioner and other persons were not returned back to the Employment exchange.

37) That all grounds taken in the petition are tenable in law and the petitioner is entitle to all reliefs claimed in the petition and the claim petition deserves to be allowed on the facts of the case.

Lucknow

Dated: April 30th, 1990.

VERIFICATION

हैदरगढ़
DEPONENT

I, Mahadeo Prasad pathak, the deponent, do hereby verify that the contents of paras 1 to 36 are true to my personal knowledge and those of para 37 are also believed to be true by me, no part of it is false and nothing material has been concealed, so help me God.

Signed and verified this on 30th day of April 1990 within the Courts compound.

हैदरगढ़
DEPONENT

Lucknow

Dated: April 30th, 1990

I identify the deponent who has signed before me.

M. Masumuddin
ADVOCATE



1214-55
30-4-90

0730-4-90 at 9.40
7.11.1990

(413) Circum

Before The Central Administrative Tribunal/Bench
इन दि आनरेबल हाई कोर्ट आफ जूडीकियर एट इलाहाबाद

T. A लखनऊ बेंच, लखनऊ
~~रिट पिटीशन नं०~~ 1518 आफ 1987

महादेव प्रसाद पाठक

पिटीशनर

बनाम

यूनियन आफ इंडिया एवं
अन्य

अपोजिट पार्टीज

रजिस्ट्रार नं० - R-1

श्रीमान डाक निरीक्षक महोदय

"दक्षिणी प्रखण्ड"

बहराइच

सेवा में

सविनय निवेदन है कि प्रार्थी महादेव प्रसाद पाठक पुत्र श्री राधे श्याम पाठक मौजा कुर्सा डा० कुर्सा जिला बहराइच का निवासी है। प्रार्थी को ज्ञात हुआ है कि शाखा डाकधर कुर्सा डाक रनर का अवकाश ग्रहण तिथि माह दिसम्बर 82 में पड़ता है। इस प्रकार वह स्थान रिक्त हो जावेगा और उस स्थान की पूर्ति हेतु आवेदन पत्र की मांग की गई है।

प्रार्थी उक्त पद पर नियुक्ति हेतु आवेदन पत्र प्रस्तुत करते हुए अपनी योग्यता संबंधी परिचय का प्रमाणित प्रमाणपत्र की प्रतिलिपियां संलग्न कर रहा है। प्रार्थी हृष्ट पुष्ट युवक है और उक्त कार्य को सुचारु स्म से पूरा कर सकता है। प्रार्थी विश्वास दिलाता है कि सरकारी कार्य पूर्ण सुचारु स्म एवं तत्परता से सदैव करता रहेगा।

प्रार्थी,

दिनांक 22-11-82

महादेव प्रसाद पाठक
पुत्र श्री राधेश्याम पाठक
ग्रा० व पो० कुर्सा
जि० बहराइच

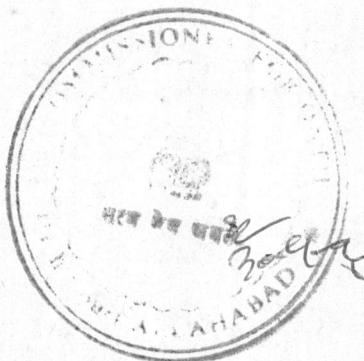
अभी कोई जगह के लिये प्रार्थना पत्र नहीं मांगा गया है। जब मांगा जायेगा तब भेजें।

हो अस्पष्ट

No. 116/82-83 dtd. 24-11-82

Missent for 1 Per. (C) Bahraich

Sd. Illegible
Inspector of Post offices
South Sub Division
Bahraich - 271801



True copy

महादेव प्रसाद पाठक

Before

Amr
The Central Administrative Tribunal *Circuit Bench*
~~इन दि आनरेबल हाई कोर्ट आफ जुडीकेयर एट इलाहाबाद~~
Lucknow

लखनऊ बेंच, लखनऊ

~~रिट पिटीशन नं०~~ ~~आफ 1984~~

महादेव प्रसाद पाठक

1-A No - 15184/1987

पिटीशनर

बनाम

यूनियन आफ इंडिया एवं
अन्य

असोजित पार्टीज़

स्नेकज़र नं०- *R-2*

श्रीमान डाक निरीक्षक महोदय

"दक्षिणी प्रखण्ड"

बहराइच । मध्य।

सेवा में,

सविनय निवेदन है कि प्रार्थी महादेव प्रसाद पाठक पुत्र श्री राधेश्याम पाठक मौजा कुरसहा डा० कुरसहा जि० बहराइच का निवासी है। प्रार्थी को ज्ञात हुआ है कि शाखा डाक घर कुरसहा डाक रनर का अवकाश ग्रहण तिथि माह दिसम्बर 82 में पड़ता है। इस प्रकार वह स्थान रिक्त हो जायेगा, और उस स्थान की पूर्ति हेतु आवेदन पत्र प्रेषित कर रहा हूँ।

प्रार्थी उक्त पद पर नियुक्ति हेतु आवेदन पत्र प्रस्तुत करते हुए अपनी योग्यता सम्बन्धी परिचय का प्रमाणित प्रमाण पत्र की प्रतिलिपियाँ संलग्न कर रहा है। प्रार्थी हृष्ट पुष्ट युवक है और उक्त कार्य को सुचारु स्म से पूरा कर सकता है प्रार्थी विश्वास दिलाता है कि सरकारी कार्य पूर्ण सुचारु स्म एवं तत्परता से सदैव करता रहेगा।

संलग्न सं० पाँच

प्रार्थी

महादेव प्रसाद पाठक पुत्र राधेश्याम
पाठक

ग्रा०व पो० कुरसहा

जि० बहराइच

दिनांक 20-12-82

रिक्त स्थान का ज्ञापन निकलने के बाद

प्रार्थना पत्र दिया जाय और वही मान्य

होगा अन्यथा नहीं। वापस किया जाता है।

ह० अमठनीय

मोहर: 55 उप प्रखंडीय डाक निरीक्षक

बहराइच । मध्य।

बहराइच 27/801



TC
महादेव प्रसाद पाठक

Before The Central Administrative Tribunal Circum.
Bench
Lucknow

~~इन् दि आनरेबुल हाई कोर्ट आफ जूडीकेयर एट इलाहाबाद~~
लखनऊ बेंच, लखनऊ
T.A.
रिट पिटीशन नं० 1518 आफ 1984

महादेव प्रसाद पाठक

पिटीशनर

बनाम

यूनियन आफ इंडिया एवं अन्य

अपोजिट पार्टीज

एनेक्चर नं०-R-3

श्रीमान उप मण्डलीय डाक निरीक्षक महोदय

मध्य मण्डल बहराइच

श्रीमान जी

आपके ज्ञापन सं ए/कुरसहा दिनांक 17-1-83 के अनुसार
मैं उस पद का अभ्यर्थी हूँ उसकी अर्हताएं मैं निम्न स्म से पूरी करता हूँ-

- 1- शैक्षिक योग्यता इण्टर मी डिस्ट
- 2- आयु जन्म तिथि: सत्ताइस अगस्त सन उन्नीस सौ सत्तावन
27-8-1957

- 3- निवास स्थान - मधिनगरा, मौजा पो० कुरसहा
डा० कुरसहा
जि० बहराइच

- 4- जाति - हिन्दू ब्राह्मण

- 5- अन्य - मैं किसी राजनैतिक चुनाव पद पर नहीं हूँ
मेरा पंजीकरण नं०

दिनांक-

रोजगार कार्यालय जि० बहराइच

संलग्न सं०

प्रार्थी नाम

पूरा पता

- 1- जू० हा० प्रमाणित प्रतिलिपि
- 2- इण्टरमी डिस्ट प्रमाण पत्र
- 3- चरित्र तथा निवास स्थान संबंधी प्रमाण पत्र



T.C

महादेव प्रसाद पाठक

Aus

Before The Central Administrative Tribunal Circuit Bench
Lucknow

~~इस पर आनरेबल हाई कोर्ट आफ जस्टिस केट इनाहाबाद~~
~~सिटींग देट, लखनऊ।~~

T.A
रिट निटीशन नं० 1518 आक, 1987

महादेव प्रसाद पाठक

-- पिटिशनर,

बनाम

दुनियन आफ इण्डिया एण्ड अदर

-- अपोजीट पार्टीज

अवेजर नं०-R-4

वार्ज रिपोर्ट

प्रमाणित किया जाता है कि ई० डी० आर० कुरसहा

वार्ज

नाम राजेन्द्र प्रसाद तिवारी

नाम - महादेव प्रसाद पाठक

स्थान कुरसहा

तारीख 1-3-83 ई० पूर्वाह्न

श्रीमान

डाक निरीक्षक

मध्य बहराइच

संख्या

तारीख

के अनुसार

भार मुक्त अधिकारी

भार ग्राही अधिकारी

इ०राजेन्द्र प्रसाद तिवारी

महादेव प्रसाद पाठक

1-3-83

1-3-83 ई०

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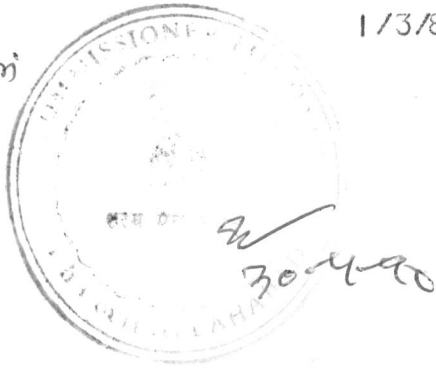
प्रमाणित

ह०अपठनीय

कुरसहा-बहराइच

1/3/83

महादेव प्रसाद पाठक



-सत्यप्रतिनिधि-

Before The Central Administrative Tribunal Circuit Bench

इस दि आनरेबल हाई कोर्ट आफ जूडीकेवर स्ट इलाहाबाद Lucknow

T.A. एन.ए.ए. बैंक, लखनऊ

रिट पिटीशन नं० 1518 आफ 1984

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महादेव प्रसाद पाठक

पिटीशनर

बनाम

यूनियन आफ इंडिया
एवं

अपोजिट पार्टीज

एनेक्जर नं०-R-5

द्वारा -

प्रखंडीय डाक निरीक्षक
बहराइच मध्य
बहराइच-271801

सेवा में - श्री श्याम लाल पुत्र
श्री बनवारी लाल पो०
कुरसहा बहराइच
||| श्री गिरधारी लाल पुत्र
श्री शिव नरेश पाठक गोम
मधिनगरा कुरसहा पो०
कुरसहा बहराइच
||| श्री महादेव प्रसाद पुत्र श्री
राधेश्याम पाठक ग्राम
मधिनगरा कुरसहा पो०
कुरसहा बहराइच

पत्रांक ए/कुरसहा/83 बहराइच दिनांक 5-5-83

महोदय,

कृपया आप अपना आय प्रमाण पत्र तहसीलदार बहराइच के द्वारा प्रमाणित करा के अवश्य भेजें। यदि किसी के आय के अन्य स्रोत न हो तो इस विषय में अपना प्रार्थना ग्राम प्रधान से प्रमाणित कराके इस कार्यालय को 23-5-83 तक अवश्य भेजें। यदि इस तारीख तक आपका आय प्रमाण पत्र अथवा आय विहीन प्रमाण पत्र नहीं आया तो प्रार्थना पत्र निरस्त समझा जायेगा।

आय प्रमाण पत्र में ऐसा प्रमाण पत्र होना चाहिए कि क्या आप के पास इस देय भत्ते के अलावा जीवन निर्वाह का सन्तोषजनक मात्रा में साधन है और आय है।

यह अति आवश्यक है।

भवदीय,

हस्ताक्षर

मुहर: प्रखंडीय डाक निरीक्षक
बहराइच मध्य
बहराइच-271801



महादेव प्रसाद पाठक