

① A/3

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE T.A. 1520 of 1987 (T)
wp. 4280-84

Name of the parties _____

S. N. Upadhyaya

Applicant.

Versus.

Union of India

Respondents.

Part A.B.C.

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[Signature]

5/00 (T.L.)

A2

15

(3)

ORDER SHEET

OFFICE REPORT

An application has been filed in this Tribunal for transferring the case No. 1520/07 (T) of — to the Circuit Bench, Lucknow.

If approved, 25th April 1968 may kindly be fixed for hearing at Circuit Bench Lucknow. In this regard the notices may be sent to the parties, counsel.

23/5
X

Done Put up on 25th April 68 at Lucknow Circuit Bench Lucknow.

25.4.68 D.R.5.

Sri V. K. Chaudhary Counsel for Union of India files his Memorandum of appearance and on the request of Counsel for respondent he is allowed to file reply by 23-5-68. None is present for applicant in front of applicant's Counsel.

Done D.R. (5)

23.5.68

Notice issued for applicant's Counsel

Done
23.5.68

Sri V. K. Chaudhary present for Union of India, none present for the Applicant. List His case for reply on 19.5.68. In front of applicant's Counsel.

Done
D.R. 5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. T.A. No. 1520/87 (T) of 1987

APPELLANT
APPLICANT

P.N. Upadhyay

VERSUS

DEFENDANT
RESPONDENT

Union of India & ors

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
---------------------------------	--	--

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

None is present for either of the parties. It is seen that no rejoinder has yet been filed. The rejoinder may be filed within 2 weeks. The case be listed for hearing on 25-7-89.

[Signature]
A.M.

(sns)

No selling adj. to 10.10.89.

OK
- As direct
Court's order
no rejoinder
filed.
Submitted for

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

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

None appears for the applicant. Shri V.K. Chaudhary, counsel for the respondents is present and conveyed to us on behalf of the counsel for the applicant *req next* for adjournment. Although this is not a ripe matter. We allow to adjourn this matter. *ed* this time. Adjourn to 14-11-89 for hearing.

[Signature]
A.M.

[Signature]
J.M.

16/5/89

18/7

18/7

18/10/89

(15)

(8)

4/8

17.9.90

No sitting Adj to 1-11-90

J

1.11.90

Due to holiday Adj to

01.01.91

J

11.91

No sitting Adj to 18.3.91

J

18.3.91

No sitting Adj to 22.4.91

J

2.4.91

Hon. Mr. D. K. Agrawal. J.M.
Hon. Mr. K. Chagga. A.M.

OR
CA/PA have been exchanged
S.F. H

19/4/91

On the request of Counsel for applicant case is adjourned to 26.7.91 for hearing

J
A.M.

J
J.M.

26.7.91

No sitting adj to 23.9.91

J

23.9.91

No sitting adj to 15.10.91

J

15.10.91

No sitting adj to 10.12.91

J

f.o.d.
20/XII/91

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(15) (19) A/9

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW.

....

T.A. 1520 of 1987

(W.P. No. 4280 of 1984)

Sri Parasnath Petitioner.

Versus

Union of India and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member(A)

(By Hon. Mr. Justice U.C. Srivastava.VC)

The applicant who was appointed on the post of clerk was dismissed from service after departmental enquiry vide order dated 26.3.1982. The applicant has raised various grievances not only against the enquiry officer or disciplinary authority but also against the enquiry proceedings itself. Against the dismissal order, the applicant had filed a departmental appeal., as the departmental appeal has not been disposed of, it appears that the applicant has filed a writ petition before the High Court which was dismissed on the ground that he had already availed an alternative remedy. Even thereafter, the appeal remained pending and not disposed of. With the result, the applicant has filed another writ petition and in the writ petition, a direction was given by the court to the appellate authority to dispose of the said appeal. Although, it was thereafter, vide order dated 30.4.1984, the appellate authority, which has been impleaded by the applicant as respondent no.2 to this application, dismissed the appeal. Although, number of grounds have been taken in this case which are not necessary to go into the ^{said} question as the appellate authority has considered. The applicant was compelled to

Contd ... 2p/-

file writ petition twice, but even though, the appellate authority did not give any personal hearing to the applicant. It was obligatory on the appellate authority to give personal hearing to the applicant who ^{would then} have got ^{an} an opportunity to assail the enquiry proceedings or prejudiced caused to him and it would also given ^{an} occasion to the appellate authority to apply its mind to the pleas raised by the applicant in writing. Now, as the appellate authority did not ~~give~~ ^{give} any personal hearing to the applicant, the order passed by the appellate authority is violative of the principles of natural justice and it is not necessary to make the reference to any law in this behalf.

2. Accordingly, this application deserves to be allowed and the order of the appellate authority dated 30.4.1984 is quashed. The appellate authority is directed to hear and decide the case after giving personal hearing to the applicant taking into consideration the plea raised by the applicant and to pass a speaking order. As the matter is old, let the appeal be disposed of within a period of 3 months from the date of communication of this order, and if all the papers are not available, it may be open to the applicant to file the memo of appeal and the written arguments in elaboration of the appeal. The application is disposed of with the above terms. Parties to bear their own costs.


Member (A)


Vice-Chairman

Dated: 10.12.1991

(n.u.)

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE T.A. 1520/87 W.P. No 4220/84 OF

NAME OF THE PARTIES Sri Paras Nath Upadhyay

Applicant

Versus

DOF 80/8

Respondent

Part A, B & C

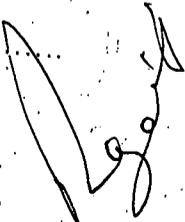
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CERTIFICATE

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

Dated 23-3-12

Counter Signed



Section Officer / In charge

Signature of the Dealing Assistant

Group A. B(9) (A)

6910

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

Writ Petition No. 4280 of 1984

Filed on

Sri Paras Nath Upadhiya

Petitioner

Versus

The Union of India and
others

Opp. Parties

I N D E X

12950

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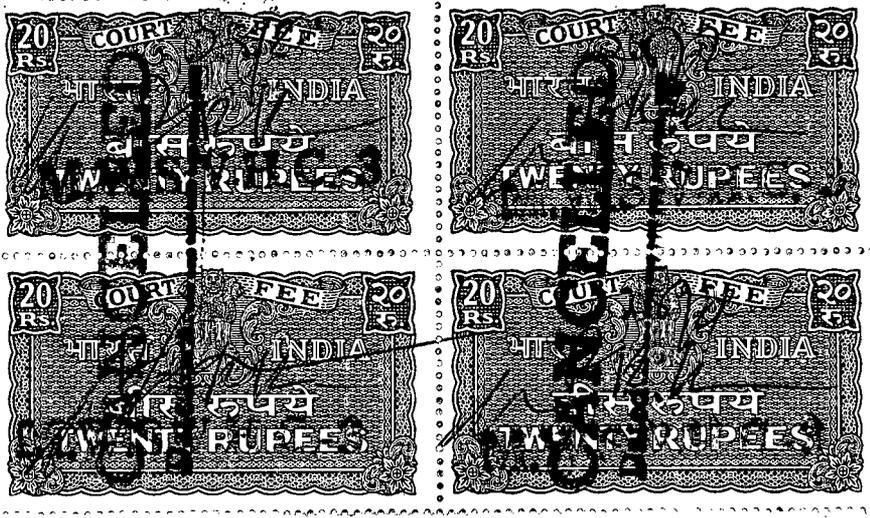
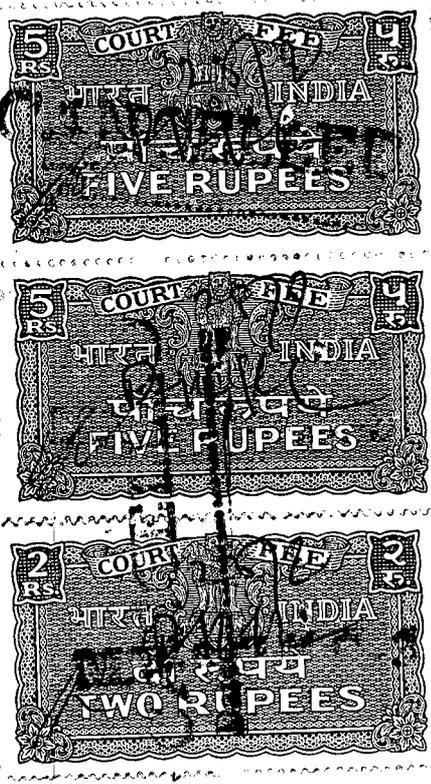
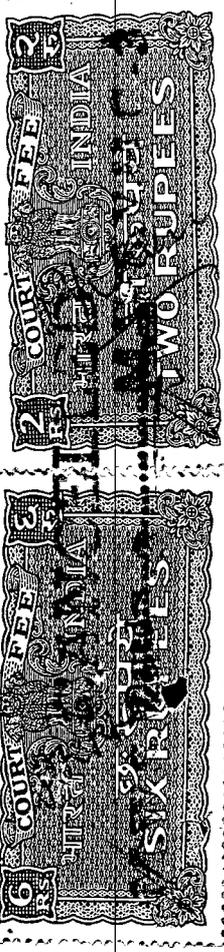
Dated: Lucknow the
 25th day of Augt, 1984


 (P.K. Khare)
 Advocate
 Counsel for the petitioner

(111) (6)

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

Writ Petition No. 4280 of 1984



In the matter of : ... Constitution of India

In the matter of : ... Article 226 of the
Constitution of India

992 Rs 100/-
2/25/8

And

In the matter of :
Sri Parasnath Upadhiya, aged about
42 years, son of Sri Ram Din
Upadhiya, resident of Serwara
Road, Civil Lines, Sultanpur.

....Petitioner

Versus

1. The Union of India through
the Secretary, Post of Telegraph
Department, Central Secretariat,
New Delhi.
2. The Director, Postal Department,
Allahabad Division, Allahabad.



Parasnath

.2.

(112)

14

3. The Superintendent of Post Offices, Sultanpur Division, Sultanpur.
4. Sri Khursheed Ahmad, Superintendent of Postal Department, presently posted at Kanpur.

....Opp.Parties

To

The Hon'ble Chief Justice
and His Companion Judges of
the above court.

Sir,

The petitioner most respectfully states as
under:

1. That the petitioner was appointed on the post of clerk in 1964 under the opposite party No.1.
2. That the petitioner worked in different districts with full devotion and performed his duties with the entire satisfaction of his superiors and his record of service remained un-blemished.
3. That in consideration to the fact that the petitioner was a T.B. patient and that his wife was a teacher and posted at Dwarikaganj, District Sultanpur, he was posted in Dwarikaganj in the year 1969. The petitioner was transferred maliciously by the opposite party No.4 to the Head Post Office at the district Sultanpur. The fact



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that the petitioner's wife continued to serve at Dwarikaganj and that the petitioner was serving from tuber closis ~~were~~ ignored.

4. That during his posting at Dwarikaganj the petitioner officiated as Sub Post Master in the aforesaid post office.

5. That the petitioner was an active worker of the staff union and in his capacity as a leader he raised grievances before the opposite party No.4 who was then posted as Superintendent of Post Offices. The grievances included vindictiveness against a community at large. There was a large feeling amongst the members of the staff that the opposite party No.4 was spreading communalism. The charter of demand was submitted to the National Leader vide memo dated 12th of March 1980 ~~and~~ which ^{was} followed ^{by} a reminder dated 5th of June, 1980. Ultimately, the copy of the charter of demand claiming the enquiry was also handedover to Sri P.R.Sharma, the Director, Postal Services, Allahabad on 22.9.80. In the charter of demands a number of charges were levelled against Sri Khursheed Ahmad, the then Superintendent of Post Offices. The true copy of the memo of charter is being annexed as ANNEXURE-1 to this writ petition. This demand was raised by a number of employees who had signed the memo,

6. That it seems that the opposite party No.4 got enraged from the petitioner and with a view to take revenge and to teach the lesson to the fellow workers



Lawyer

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he hatched a plan to punish the petitioner. In his attempt the opposite party No.4 suspended the petitioner by his order dated 22nd of September, 1980, the copy of which is being annexed as ANNEXURE-II to this writ petition. It will appear from the perusal of the aforesaid order that at the time when the petitioner was suspended he was already on medical leave.

7. That the petitioner by letter dated 9th of Feb. 1981 was chargesheeted in respect of the two charges mentined below:

- "1. That Sri Paras Nath Upadh²ya while functioning as S.P.M. Dwarikaganj on 10.1.79 and from 16.1.80 to 18.1.80 did not account for the deposit made in 5 Yrs T.D. ~~Account~~ Account 165154 B violating the provisions of Rule 424(B)(b) of PNT manual volume VI Part II and rule 673 of PNT manual volume VI Part-III and also rule 4 of F.H.B. volume-I.
- 2. That during² the aforesaid ~~per~~ period while functioning in the aforesaid office the said Sri Paras Nath Upadh²ya failed to maintain absolute integrity and devotion to duty and acted in a way which is un-becoming of a Government servant as laid down in rule 3 (1)(ii) and (iii) of CCS(Conduct) rule 1964".



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In support of the aforesaid charges it was alleged that Sri Ram Prasad Misra, son of Rajpat Misra, resident of village and post Dwarikaganj, a depositor of 5 yearly T.D.Account No.615154B produced his T.D.

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pass book No. 165154b in which entries of deposits of withdrawal of [✓] interest were made by the petitioner but these transactions were not incorporated in the books of account of Dwarikaganj sub post office and were also not accounted for in the sub office account. It will appear from the chargesheet that the aforesaid depositor claimed to have deposited a sum of Rs. 5,000/- on 10th of Jan. 1979 and a sum of Rs. 600/- accrued on account of interest was deposited on 16th of Jan. 1980 and withdrawn on 18th of Jan. 1980. It was further alleged that on 16th of September, 1980 (the date on which the petitioner was on medical leave) the petitioner made a written statement that the aforesaid entries of deposit and withdrawal were made by him in the pass book and that he did not make the said entries in his T.D. journal and sub office account as ~~xxx~~ prescribed and the amount was not accounted for in the Government account as provided by the rules. The copy of the memo of chargesheet issued by the Superintendent of Post Offices, Sultanpur is being annexed as ANNEXURE-III to this writ petition.

8. That on the receipt of the aforesaid chargesheet the petitioner ²denied the charges levelled against him; consequently one Sri K.K.Srivastava, the then Inspector, Post Offices, East, Sultanpur, was appointed as Enquiry Officer to enquire the charges levelled against the petitioner.

9. That the petitioner ~~xxxxxx~~ ²xxx through his registered letter dated 2nd of September, 1981

~~xxxxxxxxxx~~ ~~xxx~~ ²



Lawyer's signature

ALB

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requested the production of 31 documents enlisted in the aforesaid letter for the purposes of meeting the charges levelled against him. These documents were ~~xxxxxx~~ needed to show that the petitioner was innocent and had no involvement whatsoever in respect of the alleged entries existing in the pass book of the aforesaid depositor. The petitioner had already refuted the allegation that he voluntarily made his statement dated 16th of September, 1980. As a matter of fact, the petitioner was seriously ailing and was on medical leave for a long time. His emoluments for the past two months were withheld and not paid. Equally with the object of causing harassment to the petitioner his leave was not sanctioned. The opp. party No.4 called the opposite party in his office on the aforesaid date and coerced him to admit the said entries on the assurance that his salary would be forthwith released and he would be sanctioned leave as well. The petitioner was passing through a very difficult financial stage and even was unable to maintain his family or to provide medicine to himself. In view of his serious illness, not only the petitioner was apprehending his life's end but was also very much upset about his family. It has already been stated above that the opposite party No.4 was ^vvandictive ^vagainst the petitioner and thus taking the advantage of the petitioner's position the alleged ^vnote was obtained by adopting pressure tacticts. Immediately on the receipt of the said statement the petitioner was paid his salary ^vfor the last two months and his ^vleave ~~xx~~ was sanctioned the same day. This un-usual practice, coupled with the taking of the



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statement signifies that in consideration to the acknowledgement of fictitious entries the opposite party No.4 released the payment and also sanctioned the leave. The petitioner however, when received the chargesheet clearly setout his explanation and submitted that the alleged admission is not the outcome of the voluntary statement made by him rather under the circumstances faced by him he was ~~coerced~~ co-erced to make the alleged false statement. The documents were sought to be examined by the petitioner to support his version that he was innocent.

10. That the petitioner through is defence nominee filed a detailed statement refuting the allegations made in the memo of chargesheet. The copy of the statement made by the petitioner is being annexed as ANNEXURE-IV to this writ petition.

11. That in order to appreciate the matter in controversy it is fruitful to reproduce the procedure for making the deposit or to withdraw the same.

Procedure

In respect of an account(which is subject matter of dispute) the depositor , alongwith the money has to ~~fill up~~ fill up two forms namely 'Pay in Slip(SB 100) and SB index card(SB-3). The pay in slip represents the amount paid by way of deposit. The index card contains the signature, amount and other particulars of the depositors. On the deposit having been accepted the depositor gets a provisional receipt commonly known as



Amal

Att

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P.R.Receipt. This receipt signifies the acceptance of the deposit and is taken ^{back} up by the postal authorities on the issue of the pass book.

At the relevant time the Sub Post Masters (single hand) were not entitled to issue any pass book rather the pass book used to be prepared by the Head Office. In ordinary course once a deposit was accepted its corresponding entry should be made in the account book of sub office account. This sub office account used to be forwarded to the Head Post Office for the preparation of the pass book and also for making the relevant entry in the ledger being maintained at the Head Post Office .



In the above context, for examining whether the deposit was actually made or not and whether the entries are fictitious or valid one, all the documents pertaining to the procedure and connected thereto have to be examined. It is in this context that the petitioner had demanded the aforesaid documents for inspection. The copy of the aforesaid letter whereby the documents were requested to be produced is being annexed as ANNEXURE-V to this writ petition.

12. That the authorities did not permit the inspection of all the aforesaid documents and provided the inspection of the following two documents namely:

Signature

- 1) Sub office daily account dated 6.1.80 and 18.1.80.
- ii) Original ledger card of 5 years time deposit account No.165154B.

The rest of the documents were not shown on the premise that either the same were not relevant to the case or not available. The fact has already been admitted by the opposite parties in their counter affidavit to the writ petition filed earlier by the petitioner in writ petition No.2883 of 1982.

13. That during the course of the proceedings the Enquiry Officer Sri K.K.Srivastava was changed and in his place Sri R.S.Singh was appointed as an Enquiry Officer by the letter dated 26th of December, 1981. The copy of the aforesaid letter is being annexed as ANNEXURE-VI to this writ petition.

14. That on the receipt of the information that the Enquiry Officer has been changed, the petitioner represented and requested that Sri R.S.Singh be not appointed as an Enquiry Officer as he had already raised various grievances against the opposite party No.4, who was immediate superior of Sri R.S.Singh. It was also submitted that Sri R.S.Singh has ~~not~~ good personal terms with the opposite party No.4. The petitioner also pointed out that even the relations between him and Sri R.S.Singh were not good and the interest of justice required that the said enquiry officer be changed. The aforesaid letter was sent on 2nd Jan. 1982. The copy of the



Lawrence

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said letter is being annexed as ANNEXURE-VII to this writ petition.

15. That despite making of this representation and request ~~xxx~~ for the change of the enquiry officer, the opposite party No.3 did not consider the representation and did not pass any appropriate orders thereon. In consequence Sri R.S.Singh continued to hold the Enquiry proceedings though there are provisions to the effect that such an officer should not hold an enquiry when the bias is claimed against his immediate superior.

16. That the department in support of the charges examined the ^{~3~}witnesses namely:

- i) Sri Ram Prasad Misra, the depositor of the alleged amount;
- ii) Sri Nand Lal Pandey, Inspector, Post Offices who worked as Investigatin[~] officer and
- iii) Sri S.S.Singh, Ledger clerk.



The copy of the statement made by Sri Ram Prasad Misra, is being annexed as ANNEXURE-VIII to this writ petition. A perusal of this would indicate that the aforesaid witness stated that he had deposited Rs. 5,000/- and Rs. 1000/-. He had further stated that at the time when Rs. 5,000/- was deposited he had obtained a receipt which he returned to Sub Post Master at the time when the pass book was delivered to him. It is however, apparent that he does not claim to have delivered the receipt to the petitioner.

Amal

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The receipt too was not produced during the course of the examination. Similarly, Sri Nand Lal Pandey the person authorised to investigate the charges also did not produce or prove the said receipt. The copy of the memo of statement made by Nand Lal Pandey is being annexed as ANNEXURE-IX to this writ petition. Apart from the aforesaid two witnesses one Sri S.S.Singh was also examined. The aforesaid witness deposed that he had seen the index card and the copy of P.R.Receipt. The witness however, did not prove the alleged P.R. receipt nor the P.R.receipt was brought on record. The copy thereof too was not brought during the course of the proceedings. He stated that the first entry was made by him and the remaining two entries were not made by him. The copy of the said statement is being annexed as ANNEXURE-X to this writ petition.



17. That the petitioner stressed that the entries were fictitious and appeared to have been made at the Head office level in connivance with the opposite party No.4 and in order to warrant this conclusion he submitted that the production of some material was necessary to establish that the deposit was communicated through account book to the Head Office but ~~since~~ no material having been placed it cannot be ensured that ~~any~~ ^{any} ~~of~~ ^{was} deposit/made by the depositor in sub post office. It equally did not establish that any amount was accepted by the petitioner as sub Post Master. The only thing that was sought to be relied by the other side was the alleged statement dated 16th of September 1980. The petitioner submits that this statement has to

Carroll

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2/24

get support from the official documents. The non production of the P.R.Receipt establishes the falacity of the charges. The other documents pertaining to the deposit mainly SB-III ought to have also been produced to stablish the charges. The Enquiry Officer however, submitted his report dated 18th of March, 1982 and up held that both the charges have been proved against the petitioner. The true copy of the enquiry report is being annexed as ANNEXURE-XI to this writ petition. A perusal of the aforesaid report would show that the Enquiry Officer basically relied upon the alleged statement dated 16th of September, 1980 and on the streggth of the said statement concluded that the charges ~~were~~ stood proved. The enquiry officer, however, did not consider the explanation offered by the petitioner in regard to the alleged statement dated 16th of September 1980. It is worth noticing that though the depositor had claimed that he had paid Rs. 5,000/- for the purchasing of N.S.Cs. yet he was given a receipt of deposit and he did not make any complaint to the authorities. The consideration that weighed the enquiry officer was that since the alleged statement was made infrent of the gazetted officer, (though such officer was not examined), it corroborates the charges. The enquiry officer even gone to the extent of believing the statement that the depositor did not fill in any form. It is strange that at one point this version is accepted that the amount was accepted against a proper receipt and on the other end the receipt itself is neither produced nor examined.



Commt

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It appears that some how the enquiry officer had to produce a finding against the petitioner and ultimately he did so. On the basis of the aforesaid enquiry proceedings the opposite party No.4 by its order dated 26th March, 1982 dismissed the petitioner from services with immediate effect. The punishing authority, though noticed the submission that even the entries did not have proper seal yet dis-regarded the arguments on the ground that the same has been explained by Sri S.S.Singh. In regard to the despatch of the pass book from Sultanpur Head Post Office to sub post office ^{the question} was found to be not pertinent in view of the depositions of the head office's ledger clerk. The punishing authority had further gone to the extent of observing that the petitioner had some private transaction with the depositor. This has neither found ~~ground~~ from the Enquiry officer's report nor from any material which might have been placed during the Enquiry proceedings. However, it has been taken up as sufficient proof of the petitioner's accepting the deposit of Rs. 5,000/-. The fact that the deposit of Rs. 1,000/- was not attested by any stamp of the Head Office could not weigh any consideration in the opinion of the Enquiry officer as well as the punishing authority. The aforesaid entry was very much relevant in order to appreciate the genuineness of the pass book. The petitioner has never stated, anywhere, that he had any private negotiation or transaction with the depositor. However, as against the record the punishing authority has gone to this extent to the dis-advantage of the petitioner. In regard to the charge No.2 the punishing authority has



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stated that in view of the fact that the petitioner had a private transaction with the depositor he did not act with absolute integrity and devotion. This is an absolute perverse statement not bearing out from any material placed on record. The order dated 26th March 1982 is being annexed as ANNEXURE-XII to this writ petition.

18. That aggrieved against the order of the dismissal passed by the opposite party No.3 the petitioner preferred an appeal to the opposite party No.2. The true copy of the memo of appeal is being annexed as ANNEXURE-XIII to this writ petition. The appeal remained pending and the appellate authority didnot consider the appeal. The petitioner thus filed a writ petition ~~xxx~~ No. 2888 of 1982 before this Hon'ble High Court ~~@ Hyderabad~~, but the same was dismissed on the ground that the petitioner had already availed the departmental remedy and the appeal was pending. In the aforesaid writ petition a counter affidavit was filed and the fact was admitted that the documents summoned by the petitioner were not shown to him.

19. That despite the disposal of the aforesaid writ petition the appellant did not dispose off the appeal and thus the petitioner had to ultimately prefer another writ petition No.243 of 1984 in this Hon'ble court. The Hon'ble court by an interim mandamus directed the disposal of the appeal. The time allowed by this Hon'ble court elapsed but the appeal was not disposed off and ultimately by an



Sanath

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order dated 30th of April, 1984 the opposite party No.2 rejected the appeal and maintained the order passed by the punishing authority. The true copy of the the aforesaid order is being annexed as ANNEXURE XIV to this writ petition. A perusal of the aforesaid order would show that the appellate authority did not consider the matter afresh nor did he address himself to the arguments raised by the petitioner and the matter was disposed off in a very slip shod manner. The petitioner submits that the conclusion of the Enquiry Officer, decision of the punishing authority and the appellate authority is bad in law, based on unfounded allegations and thus suffers from manifest error of law. The petitioner also submits that similarly, in passing the order impugned in this writ petition the authorities did not abide by the principle of natural justice.

20. That the petitioner feeling aggrieved against the order of dismissal and the rejection of the appeal and having no alternative efficacious remedy available to him prefers this writ petition on the following amongst other

GROUND S

- i) Because the order of dismissal has been arbitrarily in violation of principle of natural justice in as much as the



Carrot

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the relevant documents have not been furnished to the petitioner who has been prevented from having a reasonable defence.

- ii) Because on the basis of the material available on record the authorities could not legitimately hold the petitioner guilty for the charges levelled against him; consequently the two orders are illegal, arbitrary and without jurisdiction.
- iii) Because the orders of the authorities suffers from manifest illegalities in as much as the same has been passed on the basis of assumption and surmises and the charges could not be established against the petitioner.
- iv) Because the plea of the petitioner for the change of the enquiry officer should have been duly considered and failure to consider the same has vitiated the entire enquiry proceedings.
- v) Because in any view of the matter there was no material to hold the petitioner guilty for the charges levelled against him and the enquiry report has been submitted without any material or evidence.
- vi) Because the appellate authority ought to have applied its mind independently and failure to consider the appeal in the right perspective has made an order which is illegal and without jurisdiction.
- vii) Because the order of the authority offends the rule of natural justice and seeks to punish the petitioner without any ground.

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21. Wherefore, it is most respectfully prayed that the Hon'ble court may be pleased :

- a) to issue a writ in the nature of certiorari quashing the order of the appellate authority dt 30.4.84 contained in Annexure-XIV and the order of dismissal of the petitioner dt. contained in Annexure- to the writ petition.
- b) Costs of the writ petition may also be awarded to the petitioner and against the defendant.
- c) Such other writ, order or directions may also be issued as this Hon'ble court may deem fit and proper in the circumstances of the case.



(P. A. Khare)
Advocate

Dated: Lucknow the Counsel for the petitioner

25th day of Aug. 1984

In the Honble High Court of Judicature at Allahabad
Lucknow Bench Lucknow

W. P. No

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Annexure No 1

W.P. No.

REQUEST TO—

Honourable Sir,

With due regard we want to bring certain problems to your kind notice that we advised our problem to our beloved leader "Shri Sanjay Gandhi" vide Sultanpur R. L. 4663 Date 12-3-80 and the copies of which were endorsed to the D. P. S. Allahabad vide Sultanpur R. L. 4664 Dt. 12-3-80 Reminders were also issued to Shri Ved Kumar D. P. S. Allah. in camp at Sultanpur on 5-6-80. A copy was also handed over to Shri T. R. Sharma D. P. S. Allahabad in camp at Sultanpur on 22-9-80 but due to sudden sad death of our heartiest leader "Shri Sanjay ji" none of the administrative officers cared on our troubles.

Our problems against Shri Khurshed Ahamed the SPO's Sultanpur are as under:—

1. Unauthorized occupation of the rooms of D. O. building as residence without rent for about six months since its functioning.
2. Shri Ram Sukh class 'D' group of PTB, Dn. was engaged as orderly peon which resulted the reversion of one junior candidate of Sul, Dn.
3. Junior most officials were ordered to officiate a J. I. and A. S. Po's Sul Dn. ignoring the justified claims of junior most officials
4. Misplacing and burning of records during shifting of H. P. O. engaging illiterate labours and now punishing the staff for the pendency of work Caused either on non-availability of records or due to shortage of staff or due to abnormal workload.
He also got burnt the records of account branch resulting great inconvenience in settlement of arrear claims.
5. No Chaukidar was sanctioned for rented HPO since it was shifted later on the post was sanctioned & arrears drawn to save himself from any loss during the period.
6. To conceal the soldout stock items the stock book of HPO was taken away & got destroyed at SPO's end
7. Chauki far & waterman have been engaged in D. O. neglecting departmental rules.
8. Abolition of tiffin room, recreation club & cyclestand at H. P. O.
9. About 20 quintal of wastepaper of HPO was soldout but no amount was credited, by S, Po's Sultanpur.
10. Staff was compelled to work on O. T. A. during working hours against the rules.
11. Delaying tactics in passing the personal claims of the staff. (as O.T.A.)
12. More than the cost of a duplicator has been charged as F. A. & D. A. by his yes-man
13. Anti Union activities:— (a) Not a single item settled. (b) Transfer of active amenity post members. (c) Agenda received on 19-5-80 was refused its receipt vide no. 4/BDKS/80 dt 26-5-80.
14. Harassing attitude on refusing mutual transfers. (Case of Ram Krishna Postman & G. L. Jaiswal P/A.)
(a) Irregular shifting of shyam nagar P. O. to Kanjaretolia on higher rent,
(b) Non shifting of Khairabad & Loco colony Po's at justified places.
15. No proper publicity of departmental examination. (as of SB Incentive Bonus Exam.)
16. No proper enquiry in loss Cases; Favouring persons of his choice & punishing his enemies.
17. (a) Continuous shortage in treasury, mail, Regn import resulted loss of incomes & cash.
(b) No safety measure taken till withdrawal clerk put into loss.
18. Staff called in his daughter's marriage at Aligarh even on Govt. Cost. (as show Pd. APM)
19. Particular offices being visited frequently as Amethi, Jagdishpur Kolripur, Muzaffarkhan Kurebhar neglecting other SO's.
20. No proper action for minimum accommodation in Postoffices.
21. Creating Castism & nepotism:— (a) Sanction of higher rent of Khairabad & Jagdishpur.
(B) Appointment of BPM Hayat nagar. (c) Twice transfer of Shri Birkatullah on Govt. Cost.
(d) Transfer of Md. Nurul Haque without completing tenure on Govt. Cost.
22. Passing tenders on higher rates against the rules.
23. Irregular appointment of BPM Agai while he was in Govt active services.
24. Delaying tactics for construction of P & T colony.

May the staff of Sultanpur be favoured with justice against the attitude of authorities who did not think it proper even to institute an enquiry against the said S.P.O's Sultanpur.

Your faithfully—

Postal staff of Sultanpur



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

Paras Nath Upadhyaya

...Petitioner

Vs.

Union of India and others.

...respondents.

~~ANNEXURE NO. 1~~

ANNEXURE NO. 2.

Signature of Paras Nath Upadhyaya

INDIAN POST AND TELEGRAPH DEPARTMENT
OFFICE OF THE SUPERINTENDENT U.P. POST OFFICES
SULTANPUR DIVISION
SULTANPUR- 228001

Memo No. P/26C-81 Dated at Sultanpur The 12.9.80

Where as disciplinary proceeding against Shri Paras Nath Upadhyaya R.C. Sultanpur Division is contemplated .

Now therefore the under signed in exercise of powers conferred by sub rule (1) of Rules 10 of CAS(C-A) Rule 1965 hereby place said Shri Paras Nath Upadhyaya under suspension with effect from 29.8.80 the date of the expiry of leave



Paras Nath Upadhyaya

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

Perasⁿⁱ Math Upadhyaya

...Petitioner

Vs.

Union of India and others.

...Respondants.

ANNEXURE NO. 3

ANNEXURE -1

Statement of articles of charges framed against Shri
Peras Math Upadhyaya postal A STT. (U/S) Sultanpur H.O.

ANNEXURE NO.-I



That Shri Peras Math Upadhyaya while functioning
as S.P. M. Dwarkaganj on 10.1.79 and from=16.1.80 to
18.1.80 did not account for the deposit made in
5 yrs. T.O. Account 165154 violating the provision
of rule 424 (B) of P&T Man, Vol. VI Part II and
rule 424 of P&T Man, Vol. VI part III and also rule 4
of the Vol. I.

ANNEXURE - III

Peras Math

That during the aforesaid period and while
functioning in the aforesaid office the said Shri Peras
Math Upadhyaya failed to maintained the absolute integrity

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and devotion to duty and acted in a way which is unbecoming of a Govt. servant as laid down in rule 3 (i) (ii) and (iii) of C.C.S. (Conduct) rule 1964.

.....

Annexure -2

Statement imputation of misconduct or mis-behaviour in support of the articles of charges framed against Shri Paras Nath Upadhya Postal Asstt. (U/S) Sultannpur

.....
Shri Ram Prasad Misra s/o Raj Rati Misra

r/o village and post- Dwarikaganj, the depositor of 5 yr. T.D. Account No. 165154 B produced his 5 T.D. pass book no. 165154 B, in which the following entries of subsequent deposits and w/d of interest were made by Shri Paras Nath Upadhaya but these transactions were not incorporated in books of Dwarikaganj Sub Post office and also not accounted for in the S.O. a/c.

Date	Deposit	Withdrawl
10.1.79	5000/-	---
10.1.80	600/-	---
18.1.80	---	600/-

Shri Paras Nath Upadhaya in his written statement dated 16.9.80 stated that the deposits and withdrawal entries were made by him in the pass book but he did not make entries in his his T.O. journal and S.O. a/c as prescribed and did not account for these amount



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in Govt. account, as provided in rule 424 B(b) of P&T Man Vol. VI part III, rule 673 of P&T Man, Vol. VI part I rule 673 of P&T Man, Vol. VI Part III and rule 4 of the FMS Vol. I, which prescribes that money received for deposit in the custody of Govt. should be credited to the treasury without undue delay.

Shri Paras Nath Upadhye while functioning as S.H.M. Dwarikaganj on 10.1.79 and from 16.1.80 to 18.1.80 by not accounting for the amount of deposit in the books and accounts of Dwarikaganj T.O. failed to maintain absolute integrity, full devotion to duty and acted in a way which is unbecoming of a Govt. servant as laid down in rule 3 (i), (ii) and (iii) of C.C. S. (Conduct) rule 1964.

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ANNEXURE - 3

List of documents by which the articles of charges framed against Shri Paras Nath Upadhye are proposed to be sustained.

1. T.D. Journal/long book of Dwarikaganj S.O. dated 10.1.79 16.1.80 and 18.1.80
2. S.O. a/c of Dwarikaganj S.O. dt. 10.1.79 16.1.80 and 18.1.80
3. 5 yrs. ID pass book no. 165154B of D.ganj
4. Written statement of P.N. Upadhye dt. 16.9.80
5. Written statement of Ram Prasad Misra dt. 28.7.80.



Paras Nath

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6. Inquiry report submitted by IPOS (North)
dated 8.6.80.

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ANNEXURE -4

List of witnesses by whose the articles of charges framed against Shri Paras Nath Upadhaya are proposed to be sustains.

1. Shri Ram Prasad Mirshar s/o Raj Pati Misra
r/o village and post . Dwarikaganj (Sultanpur)
2. Shri Nand Lal Pandey IPOS (north) Sultanpur

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Paras Nath

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

Paras Nath Upadhyaya

...Petitioner.

Vs.

Union of India and others.

...Respondents.

ANNEXURE NO. 4.

Annexure C- 10

Refer statement of Shri P.N. Upadhyaya submitted with
written SPO's sul NB F-2/80-81 dt. 9.1.81.

.....

Shri R.C. Singh,

E.O. ,

ASPO's sul

228001



The SPO's Sultanpur vide his summons No. F-2/80-81 dated 9.2.81 has been alleged that Shri P.N. Upadhyaya functioning as SPM Dwarkaganj on 10.1.79, 16.1.80 and 18.1.80 did not account for the deposits made in 5 year ID a/c 165154 B violating the provisions of rule 424 B (1) of P&T Man. Vol. VI part II and rule 673 P&T Man. Vol. VI part - III and also rule 4 of FHB Vol. I.

Paras Nath

In framing the above charge the said SPO's sul has believed the following accounts to be enough

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and true.

- EX-K-1= STD P.B. 165154 B of Lwerikaganj
- EX-K-2= Written statement of Shri Ram Pd. Misra dt. 28.7.80.
- EX-K-3= Enquiry report Submitted by IPO's (N) Sul dt. 8.8.80.
- EX-K-4= Long Book
- EX-K-5= long book 1.8.79 to 27.6.80
- EX-K-6= so account 1.4.78 to 28.6.79
- EX-K-7= so account 29.6.79 to 29.6.80.
- EX-K-8. Written statement of Shri P.M. Upadhyaya dt. 16.9.80 recorded by ISPO'S sul.
- EX-K-9A so daily a/c dt. 16.1.80
- EX-K-9B So daily a/c dt. 18.1.80.
- EX-K-10- STE Ledger card a/c 165154



Now the most and foremost document regarding framing the charges against the Shri P.M. Upadhyaya is the STD P B 165154 B (EX-K-1) which is in the name of Shri Ram Prasad Misra Genl Manager Review, Lwerikaganj Sultanpur.K

The following points are to be remarkable regarding the genuineness and veracity of the said pass book.

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P. Misra Upadhyaya

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1. STD PB. 165154 B (EX-K-1) has not been issued from the stock register of pass book at Sult-npur HO as the same was not produced to the accused.

2. There is no documentary regarding despatch of the said pass book (STD PB 165154 B) from Sult-npur HO to Dwarikaganj. ST.

3. There is no proof as per Dwarikaganj SO records that the PB/165154 B (EX-K) T having balance of Rs. 1000/- on 25.1.79 has been delivered under rules from the sub post office to the said depositor.

a) Except the above pass book EX-K-1 has no date stamp of Sult-npur H.P.O. either on the covering /recovery page of the PB) or before the entry of the first deposit of Rs. 1000/- on 25.1.79.

b) The depositor claims Rs. 5000/- to be the first deposit in the said PB whereas he was given the PB of Rs. 1000/- only.

c) The date stamps affixed were quite illegible and seem to be impressed in one stroke in one, time, in one place and date.

d) The dates written are also illegible and doubtful.



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f) Ink used regarding deposit entries is separate where as the balance is written in red ink and the balance has also been rounded off.

Pass book EX-K-1 having all the above short comings was not felt doubtful by the depositor, that is why no complaint was lodged by him to any postal authority since its receipt though he himself has admitted the fact that he is well acquainted with the postal rules & regulations regarding opening of a/c's deposits and withdrawals.

Thus the above EX-K-1 PB which has not been delivered by the department under the prescribed rules is quite unvalid and illegal.

As per Dwarkagan records 81(SB 26) FRI Rs. 1000/- has been deposited on ~~25.1.79~~ 25.1.79.

The concerning PB has been told to be prepared by Sultanpur IPO on 3.3.79 after about three months of the original deposit amount. There are two more deposits in EX-K-1 that is of Rs. 5000/- and 600/- respectively and one withdrawal of Rs. 600/- as per amount written in the figure. The dates written in against above deposits and withdrawals are not legible. The depositor himself has refused to be able to read out the dates of deposits and withdrawals written in the said illegal PB subsequently. The enquiry officer IPO (M) has imagined dates of deposit of Rs. 600/- as on 25.1.80 in the VI para of his report submitted on 8.8.80. In the same para. The IPO's (M) again imagines that the dates written



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against deposits in EX-K-1 may be imagined to be true and can be read as 16.4.79 or 17.4.79. He again in para VII reveals that the entry of last deposited withdrawal made during AFM ship of Shri S.D. Misra is, either 18.1.80 or 16.1.80 that's why the LOT's of the said dates were referred by him to get the imagined dates deposit to be true. In the VII para of his report dated 8.8.80 the IPO's (N) has clearly mentioned that the date written may be read as 16.4.79 10.1.79 or 10.4.79. He himself revealed in the ~~xxxx~~ same para "There entries are ~~xxxx~~ attentioned by the date stamp of Dwarikaganj XX-1.80"

In para IX. IP)'s(N) again said that the entry of Rs. 5000/- deposit made in the PB after 16.1.80 and again clause that the entry of Rs. 5000/- made over the impression of date stamp of 16.1.80.

The suspected official Shri P.N. Upadhaya imagines the written date in EX-K-1 date as 16.1.79 and deposit of Rs. 600/- as of 16.1.80 and withdrawal of Rs. 600/- as of 16.1.80.

The accused Shri P.N. Upadhaya imagines the written date in EX-K-1, the deposit of Rs. 5000/- as 16.1.79 and deposit of Rs. 600/- as of 10-1-80 and again withdrawal of Rs. 600/- as of dated 16.1.80 through his part written statement submitted on 16.2.80 before SPO's Sultanpur which is Ex-K-80.

The dates of deposit and withdrawal appears



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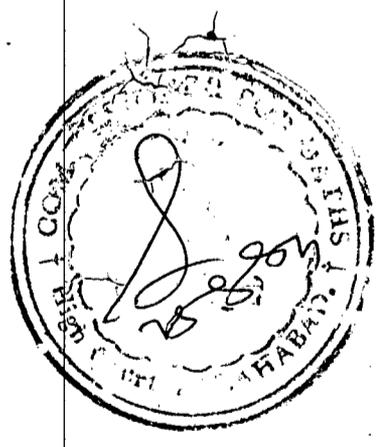
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to be written by another persons, the writings written in words appears to be written by another person in EX-K1 ~~scrips~~ there is no clause initial or signature against the entries of ~~various~~ imagined dates of deposits and withdrawal. The amount of deposits and balance has been written in different inks.

The date stamps affixed in the said PB Ex-K-1 appears ~~to be~~ to be affixed in one stroke in one time and place and in one day and date. The dates affixed are totally illegible and doubtful. The dates affixed appears to be impressed blindly and are on improper places. The date stamp seems to be affixed later on the writings of the illegible words received in EX-K-1.

Having the above short coming in EX-K-1 the depositor did not doubt in its validity, though he accepts to know the rules of postal deposits and withdrawal very well. Thus he did not have lodged any complaint to any postal authority upto this date. He simply says that he only answered the questions of IPO's or SPO's during enquiry. He himself has no complaint to be lodged against his deposits or withdrawals in EX-K-1.

The second main document to prove charges against Shri P.N. Updhyay is the written statement of Shri Ram KKK Pd. Misra, the so called depositor of STD PB 165154 B. In his written statement EX-K-2, the depositor has neither said that he is depositor



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of STD a/c 165154 B nor has referred the said account No. in his whole statement . He has repeatedly accepted in EX-K-2 that he has not rendered any date of deposits and withdrawal. He can also not be able to read out written in Ex-K-1, . He simply says giving of Rs. 5000/- and subsequently 1000/- subsequently , Whereby when why and to whom the said amounts were given has not been clarified by him. He also did not say to fill up any postal required forms when ever giving of taking the amount. At one place in EX-K-2 he says that in "Dwrikaganj PB he had purchased National Bonds certificate. Going through the depositor's writing it is not clear whether it was the National Development Bond or National Savings Certificates there is no proof of purchasing such certificate either with the depositor or with the disciplinary authority . Though the depositor has strongly accepted and revealed that on each one every post office deposits he received the proper receipts or pass books as mentioned by him in answer against question No/13 in presence of Mo on 16.1.82. Thus the written statement of Shri Ram Pd. Misra (EX-K-2) itself proves to be false on the strength of IPO's(M) report submitted on 8.8.80 that the depositor did not purchase the certificate but he only gave Rs. 5000/- to purchase N.S.C. Again on 16.1.82 before F.O. the depositor said Rs. 5000/- STD PB 165154 B



Ram Pd. Misra

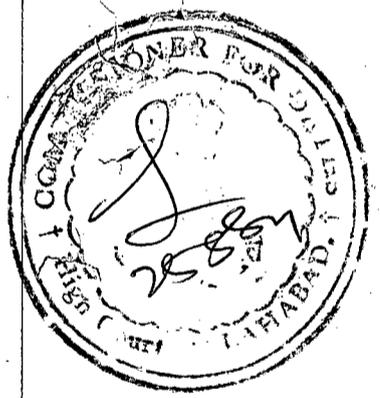
" The account No. which was

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even to be allotted by sul No. and the P.B. was also to be prepared by sul HQ. as it was say be the depositor that he gave Rs. 5000/- to get deposited in STD PB 165154 B which was validity to be issued by the H20. later on . It shows that he had some pass book 165154 B before all these transactions took place in the P.B. subsequently the depositor is giving 1000/- (as in EX-K-2) from his SB A/C 1776166 but the date of which has not been remembered by the depositor which he also said on 16.1.82 before FO . Where as per STD PB produced by him the first deposit is of Rs. 1000/- on 25.1.79. A person who is well acquainted with the PB transactions and knows Hindi and English, both the languages and depositing Rs. 5000/- for NSC is given receipt of Rs. 1000/- for STD PB has no objection and complaint against its.



. Again it has given STD PB 165154 B as he says of Rs. 1000/- as first deposit instead of MDB/NSC of Rs. 5000/- after about three months, has entire of the deposit in EX-K-1 or has ever claimed regarding his so called MDB or NSC of Rs. 5000/-

Seeing EX-K-2 before FO on 16.1.82 the depositor admits that he had given his written statement ~~xxxx~~ on 28.7.80 whereas just after a few minutes answers against question No. 9 that the said statement

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was given on 2.7.80. IPO's (N) has examined the evidence as totally false in his reply against the question No. 3 on 19.1.82 before SO. The PO's(N) has proved the falsity of depositor's statement EX-K-2 against the reply of question No. 7 on 19.1.82 in which he has said that NSC

Thus giving 5000/- on an indefinite uncertain /unredemmed date by the depositor without fulfilling the proper postal forms to purchase NSC is quite false and the amount if so given can be imagined to be the part of the Govt. cash on an particular. Imagined date.

The depositor has said in EX-K-2 that he gave Rs. 1000/- by withdrawing the amount from SB A/C 1776166, has also no base to stand, because there is no such document to prove any such withdrawal.

The depositor has not stated about any withdrawal in his EX-K-2 from STD PB 165154 B. but before on 16.1.82 he accepts that he has not filled up any withdrawal form on 16.1.80 (which SPO's has read 18.1.80 vide his F2/80-21 dt. 9.2.81). But again he said that he has no remembrance of filling up any forms of depositors of Rs. 600/- wherever on the same date and place he answers against question no. 19 that though he did not filled up the forms in his hands yet he admits all the forms to be signed by him, Again before IPO'S

(N) in EX-K-3, the depositor accepts "that he deposited interest on 12.1.80 from Shri P.M. Upadhyaya which was deposited in his P.B. " the controversial statements filed by the depositor has no base to stand on



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can not be relied upon true.

Before the FO in 16.1.82 the depositor also confirms his false statements saying that Shri P.N. Mishra was the SDM Dwarikaganj when he recorded his statement before the IPO'S (M) sul the EX-K-2 . There the position is not so . Shri P.N. Upadhyaya was not S.P.M. there on that date and regarding the same there is no proof . The IPO'S (M) sul has also clarified the above point through his enquiry report submitted on 8.8.80 that Shri P.N. Upadhyaya is not on duty hence his statement could not be recorded."

Thus on the basis of the above points, it is clear that Shri Ram Prasad Mishra has said no date of any postal transaction , has not filled up any required postal forms at the time of giving or taking the amount and has no complaint on receipts on pass books issued by the department, though the amount differs about 4000/- loss which he poses to be given . It also clarifies that if the Ex-K-1 would have been the valid and legal PB issued by the department under which he would definitely have complained about it to the postal authorities.

Thus to search out the postal records regarding deposits and withdrawal on imagined dates, as written in an ill illegal and invalid STD pass Book Ex-k-1 (i.e. Ex-K-4, 5, Ex-6, Ex-k 7, Ex-k-9A and in Ex-K-9B) is quite baseless. The IPO'S (M) himself also has revealed the fact in his enquiry report submitted on 8.8.80 (EX-K-3) that "It shows that there is some Private transaction between the depositor, and Shri P.N. Upadhyaya " (para No. 3).

EX-n-8 is the statement of Shri P.N. Upadhyaya taken on 16.9.80 Shri P.N. Upadhyaya gave two statements on two separate



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presence of papers before SPO'S Sult nar on 16.9.80 But only one statement recorded by him is filed/attached in the 50 file marked IX-K-8 . Here it is also not out of the question to mention that the circumstances under which the statement of Shri P.N. Upadhyaya was got recorded is really a very shocking, painful and quite beyond the natural justice Shri P.N. Upadhyaya who is a T.B. Patient since last about three years, who had been transferred from his willing place where his wife was employed as a school teacher and was also placed under suspension, whose wife was also suffering from a serious long illness. whose children were lacking of their parent's supervision, who was also suffering financially as the SPO'S also did not favour him to sanction his medical leave and also did not allow the disburse his salary tortured with the above sufferings and living in above disturbed circumstances Shri P.N. Upadhyaya was given temptation that his leave order will be sanctioned and his salary be drawn and paid if he records his statement" He was persuaded to attend SPO's Sult nar Chamber on 16.9.80. Though he was suffering from fever 103, yet he was got recorded his statement before SPO's which may be said half conscious and half unconscious minded. But the recording of his statement on 16.9.80 favoured his to get his medical leave sanctioned on 16.9.80 and also favoured him to get his held up salary/allowances to be drawn and paid on 16.9.80 Shri P.N. Upadhyaya in his statement in IX-K-8 has said that though the entries seem of his own hand but the circumstances under which the entries have been recorded is beyond his knowledge . But at the same place he clarifies it strongly that the depositor has not given him any amount regarding the entries



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made in the EX-K-1 . He also clarified that after seeing the said P.B. from SPO's Sultanpur ~~xxxx~~ he reach at the conclusion that the date stamps which appear to be affixed later on after recording the writings have not been impressed by him.

Now as Shri .N. Upadhaya recollects his remember and has reliance that the writings made in the P.B. EX-K- after the first deposit have not been recorded by him . It seems that there is a person or a gang which is trying to copy the writings of Shri P.N. Upadhaya on which illegal invalid pass books.

Shri S.S. Singh who was the T.L. ledger asstt. and who has accepted to get the STO 165154 B prepared by himself before the EO on 19.1.82 confirmed that the remaining two entries in EX-K-1 are not made by him . Here his statement saying "last two entries in the P.B. after first" is ~~xxx~~ titally false and baseless . There are three entries in the P.B. (EX-K-1) after the first entry of 25-1-79.

Shri SS. Singh has also stated before the EO on 19.1. that Shri P.N. Upadhaya has worked for some time in T.D. branch is also quite false and baseless . Shri P.N. Upadhaya has never worked in T.D. branch of HPO for proving which the office records can be enough.

Though under the rules the ledger assistant should impress the pass Books prepared by him with the date stamp himself yet Shri S.S. Singh has not done so , and he objects against question No. 7 before the F.O. on 19.1.82 that he used to get & impressed such pass books prepared by him. He also



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stamp on the P.B. entry in the related stock register and the related ID slip/document list to be despatched the ledger asstt. is confident that he always sent the repaired pass books through ID slips to be despatched and all the pass books were checked that these were faultless. Now if the EX-K-1 has no date stamp of 24.6.79 and if there is no despatch ID slip it is quite clear that the P.B. obtained and possession by the depositor (by any means) is illegal, invalid, The depositor, if shows more than one STB PB165154 A having the first genuine deposit can not be said that the pass books are genuine because they have the first entry genuine though they may have doubleful entries and without date stamp

On the above points it can again be said that STB PB 165154 B (EX-K-1) which has been produced by the depositor is a British passport is not legal one which would have been delis properly under Government's rules.

The returned SPO's are dated the date of deposit in the said illegal SPO's is of 10.1.79 on which date he is supposed to be deposit of Rs. 5000/- which he thinks that the amount written on the fake EX-K-1 P.B. is also in the post records and the amount should also be credited to the Govt.

In regard to the above charge it is hereby clarified that regarding the date, i.e. 10.1.79 the depositor himself is in a position to read it even seeing the EX-K-1. He also has not told the date of deposit in his statement the IO's (NP) through his report S.C.80 reveals that the date written before five thousand deposit may be read out as 24.6.



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or 16.4.79 or 17.4.79 or XX (a king cross).

So, the date written in the said illegal EX-K-1 before the entry of Rs. 500/- can not be ascertained or confirmed only 10.1.79 . and to imagine a deposit Rs. 5000/- on 10.1.79 through an illegal EX-K-1 P.B in the posted records is quite baseless.

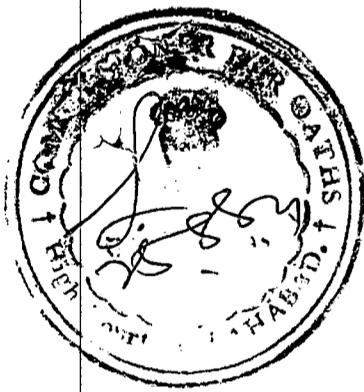
On 15.1.80 the learned SPO's has tried to imagine a deposit of Rs. 600/- in postal records Dwarika g.nj R.O.

The position of this deposit is also the same as stated in above para. The depositor denies to intimate any date of deposit or withdrawal . He is not filling up any required postal forms, though he accepts that he is well acquainted with the rulings of deposits and withdrawals of the deposits etc. On 16.1.82 the depositor answers against question No. 21 before the C.O. that "He can not be able to read the Ex-K-1 dates."

The IPO's (I) clarifies in his enquiry report submitted on 8.3.80 that the dates written after the first deposit can not be read out correctly these are illegible and doubtful."

Shri P.M. Dabhoiye seen EX-K-2 before SPO's on 16.9.70, has imagines the date of Rs. 600/- deposit of 10.1.80 (through EX-K-3) the entry in the ledger card says date of 25.1.80.

Therefore, it is difficult to say that the dates of deposit of Rs. 600/- on 16.1.70 in the said illegal P.B. and on the basis of the double entries in the said illegal P.B. (EX-K-1) searching the postal records for a deposit of Rs. 600/- particularly on 16.1.80 is baseless.



Sanjay

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Regarding third charge of withdrawal of Rs. 600/- on 18.1.80 the position is the same as stated above two deposits. The depositor in EX-K-2 has not said ~~XXXXXXXXXXXXXXXXXXXX~~ regarding any withdrawal relating to EX-K-2 & P.B. Neither he stated about filling up of any required postal forms relating to EX-K-1, nor has said about withdrawal from EX-K-2.

In his statement on 16.1.82 before P.O. the depositor says "600/-"

(The SPOI's imagines the date of withdrawal as on 18.1.80 vide his F2/80-81dt. 9.2.81) In EX-K-2 the depositor has not been able to mention any particular date of withdrawal. The date of withdrawal written in EX-K-1 is read as on 18.1.80 by the SPO's but where as the same is read out as on 16.1.80 by the depositor as stated by him above in this para.

Though the depositor has answered against question No. 21 on 16.1.82 before the ~~XXXX~~ EO that "he is unable to readout the dates written in EX-K-1" And again answers against question No. 34 on the same date and place that "he has not withdrawn any amount from his ST P.B. 165154 B.

The IPO's (N) in his answer to question No. 19 before the ~~XXXX~~ EO on 19.1.82 says "that the affixed date stamps in the said EX-K-1 and the dates written in the same are quite illegible and doubtful. Only imagined dates may come out seeing ex-K-1 written dates".

On the basis of illegitimately possessed P.B. (EX-K-1) to search out the post office records on a imagined and doubtful written date, 18.1.80 and to trace Rs. 600/- on the said imagined



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note to be withdrawn from Govt. Treasury cash is also baseless.

In the first it is clear that no amount was given to Shri P.N. ~~Shri~~ Upadhaya by Shri Ram Prasad Misra except Rs. 1000/- on 25.1.79, which has been accounted for. Thus the charges framed against Shri P.N. Upadhaya on the basis of a illegally obtained forged P.B. in which the dates are quite illegible and doubtful and to imagine deposits and withdrawal on the particular dates for the particular amount are baseless. So the said Shri P.N. Upadhaya has not violated the provisions of rule 424 B (b) of P & T Gen Vol. VI part II and rule 673 of P & T Gen. Vol. VI part III and also of FHB Vol I rule 4.

Therefore, it is requested kindly to stop the charges proceeding against Shri P.N. Upadhaya which have not been moved.



Written by defence Homing

Signature

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

Paras Nath Upadhyaya

...Petitioner.

Vs.

Union of India and others.

...Respondants.

ANNEXURE NO. ~~2x3x~~ 5

Annexure No. C- 3

From the R.S. Pandey "Rep. Council"
(In the depl. case against
Sri P.N. Upadhyaya Suspension)
P/A Sultanpur, SP.M. Civil
Line, Sultanpur, 228001



To,
Shri K.K. Srivastava, IPO (E) Sultanpur,
The FO in the case against Shri
P.N. Upadhyaya vide ~~xxxxx~~ SPOs Sultanpur
No. F 2/80-81/Ch I dt. 3.3.81

Subject:- List of documents required to be consulted
copies/seen in defending the accused Shri
P.N. Upadhyaya which are related with the
charges framed:-

Jan 84

Sri,

Kindly supply the following documents to defend

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13. Stock register of TD pass book maintained at H.O. since Jan. 79 to Feb. 80.
14. Stock register of IB/TD pass books maintained at Dwarikaganj since it was required to be maintained to Feb. 80.
15. Intimate the date of written statement submitted by Sri P.N. Upadhaya.
16. The place where the written statement was taken by Shri P.N. Upadhaya in this case.
17. The date of sanction of leave to Shri P.N. Upadhaya to draw his suspension allowance.
18. The date of drawl and payment of suspension allowance to Shri P.N. Upadhaya at first.
19. The date of furnishing the P.A. 165154 B to SPOs by the depositor at file.
20. The date of ^{first visit of} ~~exit~~ SPOs suit to Dwarikaganj hence he took charge as SPOs follow.
21. The first official or non official visit of SPOs suit to Aligarh after 16.9.80.
22. The date of last agreement made on 570 Dwarikaganj by SBCO Sultanpur.
23. Place of functioning of SB/TD branch of HO since Jan. 79 to ~~20~~ Feb. 80.
24. Names of P/A's worked at HPO in ~~office~~ STJ ~~XXXXXX~~ Branch on 10.1.79 to 12.1.79. and 16.1.80 to 20.1.80.
25. The date of removing the deott seals of Dwarikaganj .
26. The document list or the date on which the



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DupS. Dwarikaganj 165154 B was sent at first by sul H. O.

- 27. The date of posting of deposits in the STD ledgers if any in ~~EXX~~ STD a/c 165154 B at Sul H.O. clearance of STD Dwarikaganj dated 25.1.79 at H.O.)
- 28. Copy of the complaint lodged against Shri P.N. Upadhaya if any to ISPOs Sultanpur excluding the one.
- 29. Copy of complaint if any lodged by SPOs sul to police authorities.
- 30. The date of the visit made by IPO's /SBI during to Jan. 79 to 31 Jan 80.
- 31. The date of intimation /receipt of Copy of FF of Dwarikaganj S.O. regarding loss of STD past books of Dwarikaganj and first visit of SPO'S but to Dwarikaganj after the knowledge of the loss of the said PBKS if any.

- 22. 1. In the list, I may again request to supply the above documents, copied records and the in accordance with the natural justice and due reasonable opportunity in favours of the accused to defend himself.



Ranath

Yours faithfully,

dttd. 2.9.81. R.S. Pandey.

AS7

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

Percas Nath Upadheyay

Petitioner.

Vs.

Union of India and others.

Respondents.

ANNEXURE NO. VI

To,
The ^ouptd. of P.O.S
Sultanpur 228001

Ref: Yr. No. F-2/80-81 Dt. 26.12.81

Sir,

With reference to yours letter quoted as above it is hereby prayed that the enquiring officer Shri R.S. Singh ASPOS (HQ) Sultanpur is in your direct subordination who can not be appointed an A.D. in the case marked as above, as per rules. The personal terms between the S.E.S. and the said P.O. Shri R.S. Singh has not been good since he was C.I. Prtagarh. Here at Sultanpur the fraud branch is also in his direct subordination so in the interest of justice



Lawyer

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and fair enquiry it is necessary that the said F.O. may kindly be charged. I shall be highly obliged for this act of natural justice.

Thanking you.

Yours faithfully,

Redhey Shyam

2.1.82

D.N. in the case.

SP.M. Civil lines. Sultanpur.

Par-s nath Upadhya



Par-s nath

(ASG) 49
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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH: LUCKNOW.

Paras Nath Upadhaya

Petitioner

Vs.

The Union of India and
others.

Respondents.

ANNEXURE NO.7

INDIAN POSTS AND TELEGRAPHS DEPARTMENT OFFICES,
OF THE SUPTT. OF POST OFFICES SULTANPUR: DIVISION
222001

Memo No. F-2/80-81/CH-XV, dated Sultanpur the, 26.1

.....

Where as ~~the~~ an enquiry under Rule 14 of CCS(CCA) Rules 1985 was held against Sri Paras Nath Upadhaya Postal Assistant (under suspension) Sultanpur HO in which Shri K.K. Srivastava, IPOS west Sultanpur appointed as FO to enquire into the charges vide its office letter of even No. dated 23.8.81 was Shri Srivastava is on leave and is not likely to return

And where as the under signed considers that an enquiry officer should be appointed to enquire into the charge framed against ^{him} ~~the said Shri Paras Nath~~



Paras Nath

2.

Shri R.S. Singh , ASPOS. (Hq) . is appointed as Enquiry Officer to enquire into the charge framed against the said Shri Paras Nath Upadhaya.

Shri D.D. Dubey as already appointed Presenting Officer in to the case vide this office letter N_o. of even no dated 23.3.81 by the undersigned in exercise of power conferred by ~~rule~~ (5) (C) of the said rules will continue to present the case in support of the charges.

SUPDT. OF POST OFFICE
SULTANPUR DN. 228001.

Copy to:-

1. Shri Paras Nath Upadhaya P/A(U/S) Sultanpur for information.
2. Shri K.K. Srivastava IPOS West Sul. for information. He will please hand over all the documents supplied to him to Shri R.S. Singh, ASPOS. (Hq) . into the c
3. Shri R.C. Singh ASPOIS. (HQ) . Sul. he will please collect all the relative documents from Shri K.K. Srivastava IPOS East Sul. and will finalise the enquiry with in one month.
4. Shri D.D. Dubey ASPOS. (South) Sul. for information-

.....

माननीय उच्च न्यायालय न्याय पालिका लखनऊ
रिट याचिका

पारसनाथ उपाध्याय

----- वादी

विस्मृता

सुपरेन्टेन्डेंट पोस्ट आफिस सुलतानपुर -----विपक्षी जन

W/S. of Sri Ram Prasad Misra s/o Sri Raj Pati

Misra V po. Dwarika Ganj Age 3 Years prof-Sencee.

मेरा नाम राम प्रसाद मिश्र है। यह पास बुक बुक लेखा नम्बर 165/54 थी मैं दे रहा हूँ कि जो ई-एक्स -1 मैंने 5000/- पांच हजार रुपया द्वारिकागंज के उप पासवान को दिया था। तारीख नहीं पाई है। रुपया उसी पास बुक में जमा करने के लिये दिया था 15000/- मैंने पहिले जमा करने के लिये दिया था उसके बाद 1000/- दिया था। जब पास बुक ई0 एक्स -क-1 दिया तो रसीद वापस उप डाकपाल में से लिया। रुपया नकद दिया 15000/- नकद दिया और 1000/- का निकाली फार्म एकाउन्ट नं0 1776166 से भर कर दिया था। दोनो एक ही दिन दिया था 1600/-सूद जो कि 16/1/80 को निकाली। दिखायी गयी है। उसका मैंने कोई फार्म नहीं भरा था 1600/- जमा का फार्म भरा था नहीं हमें याद नहीं डाक अधीक्षक सुलतानपुर से हमें जांच के लिये स्वयं बुलवाया और देश कर चलाया कि मेरा रुपया नहीं जमा है तब ही बालुम हुआ मैंने 3000/6 एन.एस.सी. खरीदने के लिये दिया था परन्तु एन0एस0सी0 नहीं मिली और



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हो गया है। मैं अपना बयान दिनांक 28/7/80 देखा
रहा हूँ जो कि ई एक्स -2 है। यह बयान मैंने ही निरीक्षण
महोदय को दिया था उस समय द्वारिका गंज को उप
डाक पाल के श्री पारस नाथ उपाध्याय थे।

कास उकजामिनेशन वाई डिपेंस नाभिनी

॥१॥ आपने अपनी पासबुक खाता संख्या 165154 की
किस तारीख को डाक अधीक्षक सुलतानपुर को दिखाया
मैंने 30/6/80 को दिखाया था।

॥२॥ आपने अपनी पास बुक डाक निरीक्षक उ
उत्तरी को कब दिखाया।

कभी नहीं दिखाया था।

॥३॥ डाक अधीक्षक महोदय को पास बुक दिखाने
के लिये आपको कोई नोटिस मिली थी या अपने मन से
दिखाये गये थे।

द्वारिका गंज उप डाकघर पा कोई
बुलाकर देखा था।

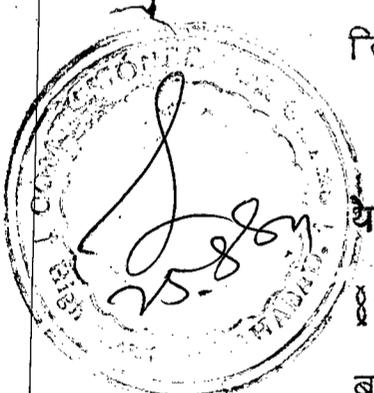
॥४॥ क्या आपसे डाक अधीक्षक महोदय ने कोई
लिखित बयान लिया था।

उस दिन नहीं लिये थे दूसरे दिन आकर लिये

थे।

॥५॥ आपने डाक अधीक्षक को अपना मौखिक
बयान किस स्थान पर किस तारीख को दिया था।

उप डाकघर द्वारिका गंज में तारीख नहीं याद है।



Signature

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॥6॥ आपने डाक अधीक्षक को अपना लिखित बयान किस स्थान पर किस तारीख को दिया था ।

मौखिक बयान के दूसरे दिन द्वारिका गंज में ।

॥7॥ आपने अपना बयान डाक अधीक्षक को अपने मन से लिखकर के दिया था या उनके कहने के अनुसार ।

जो जो प्रश्न उन्होंने किये थे उसका उत्तर मैंने दिया था ।

॥8॥ क्या आपने डाक अधीक्षक के प्रश्न के साथ साथ उत्तर को लिखा था ।

जो पूछते थे उसका उत्तर लिखता था ।

॥9॥ आपने डाक अधीक्षक महोदय को अपना बयान किस तारीख को दिया था ।

मैंने बयान 29/7/80 को दिया था ।

॥10॥ आपने अपना बयान स्वयं लिखा था या जैसा डाक निरीक्षक ने कहा वैसा लिखा ।

डाक निरीक्षक ने जो प्रश्न पूछा उसका उत्तर मैंने लिखा था ।

॥11॥ क्या आपके और श्री पारसनाथ उपाध्याय के साथ कोई दुश्मनी थी ।

नहीं बल्कि कोई दोस्ती थी और न दुश्मनी ।

॥12॥ क्या आप और श्री पारसनाथ के बीच व्यक्तिगत धन का लेन देन होता था ।



Signature

कोई व्यक्तिगत लेन देन नहीं था ।

§13§ क्या जब जब आपने उच्च न्यायालय को पैसा दिया आपको उचित रसीद, पासबुक या सरकारी कागज मिला था ।

पास बुक मिली थी । पहले रसीद मिली थी बाद में पास बुक ।

§14§ क्या पासबुक पहिलीबार मिलने की तारीख आपको याद है ।

नहीं याद है ।

§15§ जब आप आपने रुपया जमा किया था निकाला तारीख याद है ।

नहीं याद है ।

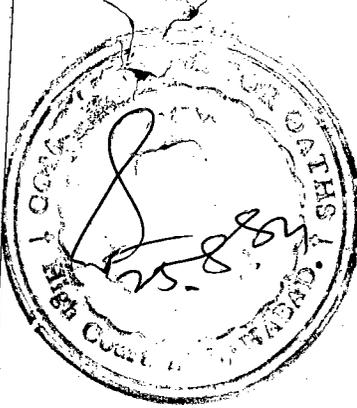
§16§ आपके पास * 5 क्रियस टी०डी० की कितनी किताबे हैं । केवल यही एक ।

§17§ मौजूदा पासबुक आरम्भ में मिलने के बाद में आपको ही पास नहीं ।

हां

§18§ क्या आप 165154 की पासबुक में जमा व निकासी की जांच कर लिया करते थे ।

जमा करने के बाद सभी रुपया नहीं निकाला ।



25.8.84

§19§ क्या आप किसी भी किताब के खोलते समय का फार्म अथवा बाद में जम्मा से निकाली कार्य अपने हाथ से भरकर दिया करते थे ।

मैंने अपने हाथ से कभी नहीं भरा । केवल हस्ताक्षर करता था ।

§20§ आपने अपने 29/7/80 के बयान में कहा है कि मैंने एन०एस०सी० खरीदा था वह कब खरीदा था । तारीख बाद है ।

तारीख नहीं याद है ।

§21§ क्या अपने 19/1/79 व 16/1/80 की जमा नहीं पर हस्ताक्षर किया था ।

तारीख नहीं याद है । खास अंक देखने पर ता० नहीं पढ़ पा रहे हैं ।

§22§ आपने उपरोक्त पासबुक द्वारिका गंज से प्रथम बार लिखी जाय ।

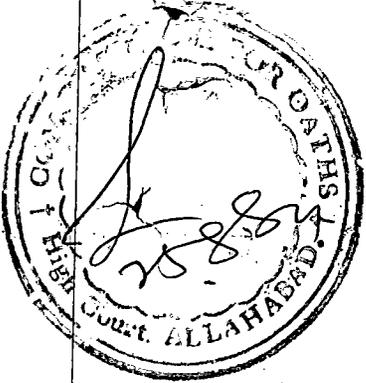
तारीख याद नहीं है ।

§23§ क्या पासबुक देखकर आपको पहिलीबार किसी बात का सिद्ध हुआ ।

कोई सिद्ध नहीं हुआ ।

§24§ क्या आप जानते हैं कि डाकघर से मिलने वाली पासबुक पर मोहर लगी होनी चाहिये ।

जी हां ।



Lawyer

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§ 25 § आपकी पासबुक में प्रथम जमा व पास बुक के पहिले पन्ने पर तारीख की मोहर न होने पर आपको सदिह क्यों नहीं हुआ " ।

द्वितीय पन्ने पर मोहर देखकर हम सन्तुष्ट हो गये ।

§ 26 § पासबुक में प्रधान डाकघर की मोहर पड़ने लगी थी आपने कोई शिकायत लिखकर दिया ।

§ 27 § बाद में लगी मोहरे नहीं साफ नहीं है इसके लिये आपने कोई आपत्ति की ।

नहीं ।

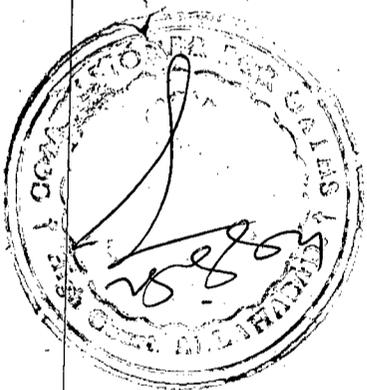
§ 28 § क्या आपने एन०एस०सी डिस्वार्ज कराकर पासबुक बनवायी थी ।

नहीं ।

§ 29 § आपने डाक निरीक्षक महोदय से अपने बयान डेट 29/7/80 में कहा है सं० 5000/- रमया इन०एस०सी० खरीदने के लिये था । तारीख याद नहीं है क्या सत्य है " ।

हां

§ 30 § आपने डाक निरीक्षक को को 28/7/80 व 29/7/80को बयानों में एक ही बात कही है ।



James

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॥31॥ क्या आपके 5000/- की एन0एस0सी0 खरीदने का फार्म भी भरकर दिया था ।

याद नहीं है ।

॥2॥ आपको समय की रसीद भी मिली थी उस पर क्या लिखा था

उस पर नेशनल साईन साटिपिकेट - जब किताब ई एक्स -क-1 दिया तो रसीद वापस ले लिखा ।

॥33॥ क्या आपने निकासी फार्म 1776166 पर जो 1000/- का भरा था उसमें यह लिखा था कि यह समय 165154 भी में जमा किया था या समय प्राप्त करके हस्ताक्षर किया ।

याद नहीं है ।

॥34॥ आपने पास बुक 165154 में से कोई निकासी किये हैं या नहीं ।

कोई समय नहीं निकाला ।



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16/1/82

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16/1/82

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W/s of Sri P.N. Upadhyaya date 16-9-80. EX-K-8

5. Recorded by S Pes Sultanpur.

6. S.O. Daily a/c dated 16-1-80 EX-9 A

and 18-1-80 ----- EX-9 B.

7. 5 Ys. TD of a/c no. 165154 B Ex K-10

§1§ आप जमाकर्ता श्री राम प्रसाद मिश्र पो०

द्वारिका से कब और कहाँ पहिली बार मिले।

द्वारिका गंज उप डाकधार में दिनांक 28-7-80 थे ।

बयान के दिना।

§2§ उस समय डाक पाल द्वारिकागंज कौन था।

मुझे याद नहीं है।

§3§ श्री राम प्रसाद मिश्र का यह कहना है गलत है कि

उन्होंने ने अपना बयान 29-8-80 को दिया क्यों कि उन्होंने ने

29-7-80 लिखाकर 28-7-80 बनाया ।

§4§ श्री राम प्रसाद ने पहले अपने मन लिखा और बाद में

जो प्रश्न किया उसका उत्तर दिया यह सत्य है।

§6§ एन०एस०सी०छारीदने की रसीद जमाकर्ता ने नहीं

दिखाया इसलिये इस बात की कोई जांच नहीं की गई।

§7§ मात्र एन०एस०सी० छारीदने की बात यहाँ नहीं आयी

गयी क्योंकि उन के पास कोई सबूत नहीं था।



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§8§ एन०एस०सी० छारीदने व भुनवाने की बात हमारे जांच दायरे के बाहर था।

§9§ जमाकर्ता के कहने का अभिप्राय यह था कि

एसने 5000/- जमा प्रमाण - पत्र छारीदने के लिये दिखा था

बचत पत्र के टी०डी० की किताब बनाकर दी गयी थी

§10§ जमाकर्ता की इस बात का जो अर्थ लगाते हैं उससे मेरा कोई सम्बन्ध नहीं है।

§11§ तथ्य नम्बर व जमा व निकासी के सम्बन्ध में

झूठा नहीं साबित हुआ।

§12§ हमें श्री पारस नाथ उपाध्याय व श्री राम प्रसाद

मिश्र के भी व व्यक्तिगत लेने देन ढाडपत्र के सम में मालूम पड़ता

है।

§13§ निष्कर्ष निकालना निष्पत्तिक अधिकारी का

कार्य है। जांच के दौरान जो तथ्य प्रत्यक्ष व परीक्षा द्वारा सम

में मिले उन सबको सम्मिलित करके अपनी आख्या दे दी।

§14§ हाँ 18-1-80 को उसी पास बुक से सूद निकाला

व उसी पास बुक में जमा किया।

§15§ यह बताना मेरा कार्य नहीं है।

§16§ आप का प्रश्न अर्थात्हीन है।

§17§ नहीं ।



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§18§ एस बी -100 की आवश्यकता नहीं मालूम पड़ी क्योंकि सुलतानपुर डिपार्टमेंट का मामला नहीं था।

§19§ क्योंकि तारीख मोहर जो पास बुक में लगी व लिखी थी अस्पष्ट व सीदिगडा है। अनुमान न हो जो तिथियाँ पड़ी गयीं उन तारीखों की लाट सम्बन्धित लेजर लिपिकों को दिखाने के बयान लिखा गया है कि उससे सम्बन्धित खाता उल्लिखित है या नहीं।

§20§ प्रधान डाकदार का स्टॉक रजिस्टर देखने में प्रश्न ही नहीं उठता क्यों कि इस पासबुक के बनाने की बात प्रधान डाकदार के सिक्की लेजर लिपिक द्वारा स्वीकार नहीं की गयी है।

§21§ 1000/- जफ़े कि हिसाब पड़ा है इस लिये लेजर लिपिक का कहना सत्य है।

§22§ इस प्रश्न के बाबत हमें कुछ नहीं कहना है।

§23§ इस प्रश्न के उत्तर में नहीं देसकता हूँ।

§24§ द्वारिका गंज को प्रेषित करने के संबंध में हमें

प्रधान डाकदार में कोई ऐसा अभिलेख नहीं मिला।

§25§ हाँ अन्य साक्ष्य कि जमाकर्ता ने स्वयं



Signature

कहा कि पास बुक मुझे पारसनाथ उपाध्याय द्वारा प्राप्त हुई। अतः पास बुक प्रधान डाकदार से अवश्य प्रेषित हुयी।

§26§ जमाकर्ता ने हमें यही बताया था कि पासबुक की उपाध्याय से हमें मिली।

§27§ पासबुक जाँच हेतु हमें डाक अधीक्षक कार्यालय से मिली।

§28§ अवैध नहीं हैं क्यों कि पहला जमा सत्य है।

§29§ छाँटा बनाकर सत्य नहीं माना जा सकता। यदि ऐसा कोई देखा जाता तो जाँच करके फल वैसा होता ऐसा लिखा दिया जाता।

§30§ इन सब प्रश्नों का उत्तर मुझसे संबंध नहीं रखता अन्यथा मेरी आख्या में आया होता।



ह0 राधेश्याम

दिनांक 19-1-82

ह0 अपठनीष

19-1-82

ह0 नन्द लाल पान्डेय

19-1-82

19-1-82

Annexure X

माननीय उच्च न्यायालय न्याय पत्रिका लखनऊ

रिट याचिका

पारस नाथ उपाध्याय

----- वादी

विरुद्ध

डाक अधीक्षक, सुलतानपुर आदि

----- विपक्षी जन

W/S of Sr. S.S. Singh Sta.

स्टाफ एसिसमेंट डी०ओ०

सुलतानपुर दि मेन टी०डी०एल/सी० सुलतानपुर हेड आफिस
सीइन्सी 16 में स० 996/ सी 79 से 8 अक्टूबर 79 लकटीडी

जेजर लिपिक के पद पर कार्य किया। 15 कार्गिय टी०डी०
की पास बुक लेखा नम्बर 165154 को मैं ने 9-3-1979 को
तैयार किया था। मैं ने 1000/- जमा की फाइल एल०आईटी०
दिनांक 25-1-79 देखा था। उसमें 1000/- जमा था और
एस०ओ० में भी था। इसका इडिक्स कार्ड व
प्रारम्भिक रसीद की प्रति भी देखकर देखा था। पास बुक
ई एक्स - 1 है।

मैं ने ई एक्स-क-10 देखा रहा है इसमें जमाकर्ता

का नाम व पता, लेखा नम्बर, 5 टी०डी० द्वारिका गंज

व प्रथम लमा का इन्दराज मेरे द्वारा किया गया है।

बाद के दोनों इन्दराज मेरे हाथ के नहीं हैं। पास बुक

न लेकर कार्ड में शेष दोनों इन्दराज जो स० 1000/- के



Paras Nath

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बाद के एक ही आदमी के मालूम पड़ते हैं। श्री पारस नाथ
उपाध्याय इन तिथियों में द्वारिका गंज में कर्य कर रहे हो।
श्री उपाध्याय कुछ दिन टी०डी०ब्रांच में कार्य किए थे। कार्य
विधि में नहीं बता कता हूँ।

ह० राम शिरामणि

10-1-82

क्रास इन्जामिशन वाई डिफेस नामिनी।

॥1॥ मैं ने लेजर में पोस्टिंग ॥ एसटी ॥ 9-3-79 को
किया था।

॥2॥ सहायक डाकपाल डी०पी०शुक्ला थी।

॥3॥ डाफ्ट

॥4॥ 25-1-79 की लाट के अनुसार नई पासबुकें बनानी
थी कितनी बनायी थी हमें याद नहई है।

॥5॥ यहाँ केवल एक ही साक्ष्य उपलब्ध है। जो कि पास
बुक में मेरे हाथ की छिपी तारीख के 9-3-79 है।

॥6॥ मैं नहीं लिखाता था क्योंकि एका०लेजर व
पासबुक साथ - साथ बनाता है था।

॥7॥ प्रभाजन मोहर लगवाने का है। सश्री स्वरुय भी छाप
देते थे।

॥8॥ पासबुकों को देखाकर बता सकता हूँ।



Signature

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- १९८६ उसी दिन भोज देते हैं।
- ११०१ हाँ
- ११११ हाँ यह
- ११२१ आपके सम्झ में मैं ने ऐसा नहीं किया।
- ११३१ तारीख की मोहर व तारीख स्पष्ट नहीं है।
- ११४१ डाफ्ट
- ११५१ लेजर कार्ड प्रविष्ट के बारे में पहिले ही बता चुके हैं।
- ११६१ लेजर आलमारी नहीं बन्द होती थी।
- ११७१ डाफ्ट
- ११८१ अन्य दो इन्द्राज मेरे हाथ के नहीं हैं।

ह० अपठनीय

19-1-82

ह० राधेश्याम

19-1-82

ह० शिव सहाय सिंह

19-1-82

ह० शिव सहाय सिंह

19-1-82

सत्य प्रतिलिपि



Rasam

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

P.H. Upadhyaya

...Petitioner.

Vs.

Union of India and others.

...Respondents.

MEMORANDUM NO. 11.

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

FROM: R.S. Singh

Asstt. Suptd. cl. POs

H.Q. Sultanpur

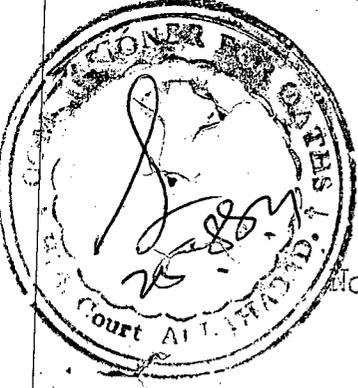
The Suptd. of Post Offices

Sultanpur.

Dated Sultanpur 18.3.82

In reply
please quote

No. P.F.4-/81-82



SUBJECT

Inquiry under rule 14 against Sri Paras Nath

Upadhyaya the then SP.M. Dwarikganj now P.A. Sultanpur

H.Q. under suspension.

Ref:- Do case No. F-2/80-81

Paras Nath

Sri Paras Nath Upadhyaya was proceeded
against under rule 14 on the following accounts.

1. Which functioning as SP.M. Dwarikganj on 10.179

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and from 16.1.80 did not account for the deposits made in 5 yr. T.D. a/c no. 165154 B.

2. During the aforesaid period and while functioning in the aforesaid office, the said Sri Upadhaya failed to maintain absolute integrity and devotion to duty.

To prove the charges the following documents were relied upon:-

1. T.D. Journally long book dated 10.1.79, 16.1.80 to ~~18.1.80~~ 18.1.80.
2. SO a/c of Dwerikaganj so. dated 10.1.79 to 16.1.80 to 18.1.80
3. 5 yrs. P.B. a/c no. 165154 B of Alseny
4. Written statements of Sri Paras Nath Upadhaya dated 16.9.80
5. W/S of Sri Ram Prasad Misra dated 28.7.80.
6. Inquiry report of IPOs North dated 8.8.80

The following witnesses were relied upon

1. Hnd Lal Pandey IPOs North Sultanpur
2. " Ram Prasad Misra s/o Raj Pati Misra VPO. Dwerikaganj.

On witnesses Sri S.S. Singh was added later on from the state side.

S/S Ram Ahirwani Singh, DP Shukla, and SO Misra were produced from defence side.



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Sri K.K. Srivastava IFOs was appointed enquiry officer and Sri D.D. Pandey as presenting officer to present the case on behalf of the Dept. Later on enquiry officer was changed and undersigned was appointed enquiry officer since 8.1.82 Sri Pandey Shyam Pandey defence asset. demanded the documents IFOs vide his letter dated 29.9.81 and relevant documents were shown to him on 8.1.82.

Sw-1 Sri Ram Prasad Jaiswal, the depositor of the a/c was examined who stated that he had paid Rs. 5000/- to SPM Mr. Kishanji actual date is not remembered by him. Hereafter gave Rs. 1000/- He was given a receipt at the time of deposit of Rs. 5000/- and that was taken by the S.P.M. at the time of delivery of P.B. (EX-K-1), Rs. 5000/- was paid by him in cash of Rs. 1000/- in the shape of withdrawal form from SB a/c 1771136, Rs. 600/- as well which has been shown as withdrawal form to him on 16.1.80, For this he did not filed in any withdrawal form. At that time Sri Pandey Shyam Pandey was S.P.M. Mr. Kishanji.

Sw. 2 Sri H. Pandey IFOs North Sultanpur was examined who stated that he had carried out enquiry of the case in accordance with SPO's order no. F-2/80-81 which is EX-K-3 He also took up documents from Ex-K-4 to Ex-K-10 during the course of enquiry.

Sw. -3 Sri S.S. Singh was examined



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who stated that he counted as T.D. ledger Asstt. from Jan 79 to Oct. 79. By seeing Pass book of a/c no. 165154 B he stated that ch was 25.1.79 Rs. 1000/- was deposited therein. EX-K~~2~~ 10 being ledger card of the a/c was also shown to him, He admitted entries upto Rs. 1000/- only. and thereafter stated that entries in the ledger card and pass book are in one hand writing. Sri Paras Nath Upadhyaya also worked in T.D. branch but his period of working was not told.

So Paras Nath Upadhyaya ~~Submitt~~ submitted his defence SH dated 26.1.82 in which he has tired his list to prove that 5 yrs T.D. P.O. 165154 B is fake one and he places no reliance on depositor on the FLR that depositor tendered money for purchase of N.S.C.S and in rule of it he got T.D. pass book admission SH of Sri Paras Nath Upadhyaya is stated to the record in ellison and on some temptations as concluded that except Rs. 1000/- no amount was paid by the depositor.

Three defence witnesses were produced viz So L.P. Shukla, S.D. Misra and Ram Sharan Singh. All that 3 witnesses stated nothing towards defence but deposited their way of working.

Sri Paras Nath Upadhyaya was examined who stated that on the pass book EX-K-1 there is no handwriting of him. He did not remember whether he was S.P.N. on 10.4.80, 18.1.80 or 16.4.80. Sri Ram Prasad has given him only Rs. 1000/- on initial date of deposit and thereafter he deamed receipt of Rs. 5000/- from the depositor.



Lawyer

AD O
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I have gone through the written brief of Po. and agree with etc. . I have also gone through the written brief of Sri Radhey Shyam Pandey defence and find that he pleased as under:

That depositors actually tendered Rs. ~~5000~~-5000/- for N.S.C. and ~~mf~~ before he accepts it to given for deposit in his pass book 165154 B.

Sri Ram Prasad depositor in his w/p says that he had actually given Rs. 5000/- for purchase of NSCS but inadvertently he could not get NSCS and SPM. told him that this seem was deposited in the pass book.

As admitted by Sri P.N. Upadhaya in his w/p EX-K- 8, after 1st entry, the rest 3 entries in his hand writing in the pass 165154 B (EX-K-1). His original statement during the cause of preliminary inquiry was recorded in the presence of a Gazetted officer. There is nothing to disbelieve it, As stated in the defence that merely templatation of issue of lean orders compelled Sri Upadhaya to writ such a statement can not be taken as correct. Thus ~~there~~ there is nothing to disbelieve that entries of Rs. 5000/- , 600/- as deposit and withdrawl of Rs. 600/- find that intentionally date of transaction was written by him in a disfigured manner .

Sri Paras Nath Upadhaya in his defence Stt has tried ~~isto~~ to prove the EX-K- 1 as fake but says nithing as to how it came in the hands of depositor when depositor admits its receipt from him, This pass bdoek was issued from Sultanpur H.O. leader Asstt. SW 3 confirms it merely omission



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of date stamp can not disprove genuine of it
Thus the pass book is genuine one.

Now I come to the deposit entry of
Rs.6000/- on 10.1.79 Sri Paras Nath Upadhaya
is his w/s dated 16.9.80 (EX-K-8) had admitted
it title in his own handwriting & He changed
his this Stt before the undersigned and deemed
it prior to his date of examination before undersigned
he had never represented against the fact
that his w/s then (EX-K-8) foribly, Moreover
he produced nothing as proof in his denial
on the temptation of issue of leave order he
did so can also not be taken as correct.
A keen observation of entries of deposit of
Rs. 5000/- ,6000/- and withdrawl of Rs.600/-
I find that these are in one and the same
hand writing , as they tally with the hand
writing of Sri Paras Nath Upadhaya . Thus
his w/s before the u/s can not be relied upon.

To contradict the charge No. 1 defence
asstt in his brief says that depositor gave
3 defferent Stt. on the 3 occassions.
On examination of all the 3 Stts of depositor Sri
Ram Prasad 2 find that he actually intended to
purchase NSCS for ~~the~~Rs. 5000/- but he got no
NSC and the, seem was entered later on in his
Pass book. In this way total deposit became
Rs. ~~5000/-~~6000/- . After one year depositor
attended for its int, as he again wished
to deposit this sum. Withdrawl of list was
shown and thereafter its deposit entry was
shown.



Paras Nath

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Depositor Sri ~~Ram~~ Ram Prasad clearly stated that he had not filled in any form. His this version is quite natural and speaks truth as to state actually happened on that date. I find nothing in it to disbelieve. The version of depositor that he did not recorded actual date of deposit is also natural one.

I this way I came to the conclusion that Rs. 5000/- was given to Sri P.N. Upadhaya which made entry of it in the pass book. What a depositor can check in a pass book is available in it. This sum was not accounted for by Sri Upadhaya in the P.O. records. Later after completion of one year which depositor attended Po. Rs. 600/- was shown withdrawl and again shown deposited. Thus he correctly saw entries and went away. When he saw things only then verified. In this way charge no. 1 is proved in

Regarding and article of charge Sri Paras Nath Upadhaya says nothing in his written stt. of defence and also in his written brief. As the charge no 1 proved This charge is proved automatically.

The whole case as chitanded without one reknowned

h/so:-

1. Proceedings file 1-52
2. Proceedings sheets 1-3
3. w/s of suit 1 to sub. 3
4. defence stt of Sri P.N. Upadhaya
5. w/s of defence in terms 1-3
6. w/s of Sri Paras Nath Upadhaya
7. Written ~~brief~~ brief of PO
8. Written brief of defence nominee
9. EX highlights. 1, to 10



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

P.N. Upadhaya

...Petitioner

Vs.

Union of India and others

...Respondants.

ANNEXURE NO. 12.

INDIAN POST AND TELEGRAPHS DEPARTMENT
OFFICE OF THE SUPDT. OF POST OFFICES,
SULTANPUR DIVISION 228001.

Memo No. F-2/80-81/Ch-KV, dated at Sultanpur the, 22nd.

26.3.82.

Shri Ram Misra S/o Shri Raj ^Pati Misra r/o

illage and post office Dwarikaganj, the
depositor of 5 yr. TD Account No. 165154 B produced
the pass book in which the following entries of
subsequent deposits and W/D of interest were made.

Shri Paras ^Nath Upadhaya was the then SPM. These
transactions were not incorporated in books of
Dwarikaganj SO and also not accounted for in S.O.
Account.



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<u>Date</u>	<u>Deposit</u>	<u>Withdrawl</u>
10.7.79	5000/-	---
16.1.80	600/-	---
B.1.80	---	600/-

Shri Paras Nath Upadhaya in his written statement dt. 16.9.80 stated that the deposits and withdrawl entries wer made by him in the pass book but the amounts were not accounted for in books and accounts of Dwarikaganj. S.O.

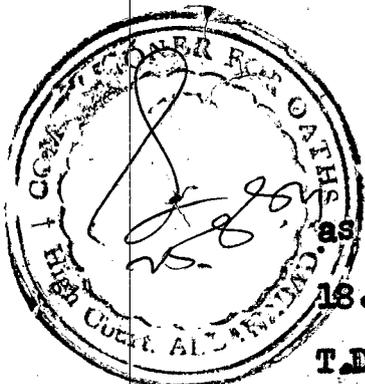
Shri Paras Nath Upadhaya R.C. & the then S.P.M. Dwarikaganj now under suspesstion was informed under this office Memo No. F-2/80-81 dt. 8.2.81, that it was proposed to hold an enquiry against him under Rule -14 of the CCS (CCA) rules 195 on the following statements of articles of charges.

ARTICLE OF CHARGES NO. 1

That Shri Paras Nath Upadhaya while functioning as S.P.M. Dwarikagnj on 10.1.79 and from 16.1.80 to 18.1.80 did not account for the deposits and made in 5 yrs. T.D. Account No. 165154 B, voilating the provision of rule -424 (B) (b) of P & T man. Vol. VI part II and rule 373 of P & T Man. Vol. VI part -III and also rule 4 of FHB Vd1. 1.

ARTICLE OF CHARGES NO. 2

That during the aforesaid period and while functioning in the aforesaid office the said Shri Paras Nath Upadhaya failed to maintain absolute integrity



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and devotion to duty and acted in a way which is unbecoming of a Govt. servant as laid down in rule-3 (i) (ii) and (iii) of C.C.S. (Control) rule-1984.

Statement of the imputations of misconduct or misbehaviour in support of articles of charges list of documents by which the articles of charges framed against Shri P.N. Upadhyaya proposed to be sustained and a list of witnesses by whom articles of charges were proposed to be sustained were also enclosed with the above said memo.

The aforesaid memo was delivered to Shri Paras Nath Upadhaya here after called SPS on 10.2.81 His written statement of defence dt. 20.2.81 denying the charges was received in this office on 16.2.81. Shri K.K. Srivastava IPOS. East Sultanpur and Shri D.D. Dubey ASPOS. South Sultanpur was appointed as Enquiry officer and presenting officer respectively vide this office Memo of even no. dt. 23.3.81. He enquired into upto the stage of denial of charges and examination of documents by SPS and then after he remained on leave on Medical grounds continuously. Keeping in view the undue delay in finalisation of enquiry, Shri R.S. Singh ASPOS. Hq. was appointed as Enquiry Officer vide this office memo of even no. dt. 26.2.81 Shri R.S. Singh enquiry Officer submitted his report on 19.3.82.

I have carefully examined, the articles of charges, the relevant documents, the evidence adduced during the course of enquiry, the report and line of defence of the S.P.S. The first charge against



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SPS is that while functioning as S.P.M. Dwarikaganj on 10.1.79 and from 16.1.80 to 18.1.80 he did not account for the amount of deposit of Rs. 5000/- dt. 10.1.79 , Rs, 600/- dt. 16.1.80 made in the pass book in books and account of Dwarikaganj S.O. and alleged to have acted in contravention of rule 424 B (b) of P & T Man, V 1. VI part -II which prescribes the deposit entries will be entered in long book and in list of transactions for the day. He also acted in contravention to rule 673 of P & T ~~Vol. VI part-III and rule 4 of the F.H.B. Vol. 1~~ Man. Vol. VI part-III and rule 4 of the F.H.B. Vol. 1 which prescribes the money received for deposit in the custody of Govt. Servant be credited to the Treasury without delay. Depositor in his statement dt. 16.1.82 has categorically confirmed tendering of Rs. 5000/- Rs, 1000/- and Rs. 600/- respectively to SPS. He did not remember the date of tendering of amounts. He has stated that Rs. 5000/- were given for purchase of certificates but he did not receive the certificates and was later on told by the SPS that the amount of Rs. 5000/- was deposited in his pass book EX-K-1 in his defence statement the SPS has laid main stress about the genuineness of the pass book EX-K-1 In his words of SPS to prove the genuineness of a pass book, entry of issue of pass book in the stock register, and documentary proof of its despatch from M.O. to its S.O. and date stamp impression on the inner cover of the pass book are essential in gradients. The pass book of Dwarikaganj 5 yrs. T.D. Account No. 165154 B exhibit K-1 wa issued by Sultanpur HO on 9.3.70 against the deposit of Rs. 1000/- in Dwarikaganj S.O. against PR-0/78722 dt. 25.1.79 Shri Shiva Sahai Singh, the then ladger clerk (SW-3) confirmed in his statement dt. 19.1.82 that the pass book



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EX-K-1 was prepared by him on 9.3.79. Omission of date stamp impression of Sultanpur MO in the inner cover of the pass book has been will explained by SW-3 Shri S.S. Singh the then ladger clerk ~~may~~ saying that it happens in some rare cases. Allitment of No. 165154 B is challenged by SPS and defence nominee and in support of his plea for the pass book veing not a legal document ~~it~~ has no weightage as there are some other cases in which A & B No. have been allotted in Dwarikaganj. IN T.D. long book account No. 165154 B is noted against entry of first deposit on 25.2.79 in the name of Shri Ram Prasad. Other points regarding made of despatch etc. raised by the defence nominee and SRS are not pertinent in view of the depositor of M.O. ladger clerk. Thus it is clear that pass book No. 165154 B, EX-K-1 issued on 9.3.79 in lieu of deposit of Rs. 1000/- on 25.2.79 at Dwarikaganj S.O. is genuine one.

Now I came to the deposit entry of Rs. 6000/- on 16.1.79 the SPS in his statment dt. 16.89.80 exhibits K 8 has admitted the entry to have been made by him in the pass book EX-K-1 His version before Enquiry Officer that it was written on persuasion has no bearing as he has not sent any denail statment or any representation later on. He laid the stress on the date of deptsat noted in the pass book to e not legible and not being 10.1.79. In suppor to this SPS has cited different dates of deposits quited ~~af~~ by the Enquiry Officer Shri M.L. Pandey IPS. North., Sultanpur in his preliminary enquiry and version of depositor that he did not remember the actual date of deposit. The SPS and defence nominee has also laid staess on the stament of the depositor that Rs.



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1000/- were tendered for purchase of certificates prior to tendering of Rs. 5000/- which was not challenged by the depositor when he did not get the certificates in lieu of the amount and was subsequently deposited in the pass book EX-K-1 SPS denied tendering for any amount to him by depositor on the ground stated by him as above. SPS in his written statement of defence dt. 16.1.82 and written brief dt. 14.3.82 stated about some private transaction between him and the depositor, the interest of which depositor might have come to demand from SPS on 16.1.80. This version of SPS is sufficient evidence against him for receipt of money from depositor although date of receipt of Rs. 5000/- may not be the same as entered in the pass book EX-K-1 against the entry of deposit of Rs. 5000/- which is not attested by date stamp impression of Dwarikaganj SO

Now comes the deposit entry of Rs. 500/- dt. 16.1.80. This entry is attested by date stamp Shri S.S. Singh SW-3 in his statement dt. 29.1.82 stated that subsequent deposit of two entries in EX-K-1 are in the same hand writing. The SPS has argued that the depositor managed to obtain the pass book after 1st deposit of Rs. 1000/- from M.O. and got manipulated the entries but did not give any proof in support of his version, subsequently in contradiction of his own version SPS says that there were private transactions between him and the depositor. In support of this, he has quoted the finding of enquiry Officer Shri M.L. Pandey, Shri P.N. Upadhaya was holding the charge of SPS Dwarikaganj S.O. during the period to which subsequent entries relate and he was custodian of the date stamp etc. and is fully responsible for the entries made in the pass book and impression of the date stamp of Dwarikaganj, in the pass book EX-K-1 and the



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depositor might have attended him on 16.1.80 to realise interest on private money as already stated in the brief submitted by SPS. This goes to confirm that the depositor contacted SPS on 16.1.80.

The records, the ~~depositor's~~ depositions, the exhibits the evidence aduced during the course of enquiry and enquiry report fully establishes the violation of the rules by the SPS, that he made entries in the pass book Ex-K-1 and did not account for the transactions entries of Rs. 5000/- and Rs. 600/- in books and accounts of Dwari-kaganj SO and the charge No. 1 is fully proved.

The charge No. 2 is regarding maintenance of absolute integrity and devotion to duty and acting in a manner which is unbecoming of Govt. Servant, The admittance of the official in his written statment regarding a private transactions between the depositor and the SPS which he transferred a liability to the department by entry in the pass book Ex... as dicussed above and not incorpotating the transaction in the book and account of Dwarikaganj as aduced during the enquires is sufficient evidence to prove the SPS to have failed to maintain absolute integrity and devotion to duty. Thus the records, the depositions, the exhibits and the evidence aduced during the course of enquiry and enquiry report of Enquiry Officer fully established charge No. 2 against the SPS.

It is evident that Shri paras Nath Upadhaya R.C. Sultanpur HO under suspension is not a person to be retained in services.



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ORDER

I, Khurshed Ahmad, Suptt. of post Offices,
Sultanpur hereby dismiss Shri Paras Nath Upadhaya
from service with immediate effect.

Suptt. of Post Offices,
Sultanpur, DN 228001

Copy to:-

1. Shri Paras Nath Upadhaya w/s at Sultanpur No. with a copy of Enquiry report and finding on its.
2. The P.M. Sultanpur for information
3. G.R. of the official.
4. Service book of the official.
5. ~~Willing~~ Vigilance statement.
6. The P.M.C. Circle, Lucknow, (Investigation sec.)
7. The Director of Postal Services, Allahabad.
- 8-9 Spare.



Signature

इन दी औनरेबिल हाई कोर्ट आफ जूडीकेचर एट इलाहाबाद,
लखनऊ बेंच, लखनऊ

A/R

पारस नाथ उपाध्या

..... पिडीशानर

बनाम

यूनियन स्टेट आफ इंडिया

सेवा में,

एनम्बर नं० XIII

श्रीमान् निदेशक महोदय,
डाक विभाग, इलाहाबाद मन्डल
इलाहाबाद।

द्वारा- डाक अधीक्षक, प्रखण्ड सुलतानपुर,

संदर्भ:- दिनांक 26-3-1982 को अधीक्षक डाक विभाग प्रखण्ड सुलतानपुर द्वारा अपीलाधी को सेवा से हटाये जाने के आदेश के विरुद्ध सी०एस० सी०सी०ए रुल्स के 23 अन्तर्गत अपील।
मान्यवर,

अपीलाधी को दिनांक 26-3-82 के आदेश द्वारा सेवा से हटाकर दण्डित किया गया है। जिसके विरुद्ध अपीलाधी निम्न लिखित आधार पर यह अपील प्रस्तुत कर रहा है।

1- यह कि छाशुर्दि अहमद जो अपीलाधी से डाक कर्मचारी संघ के कार्यकारिणी के सदस्य होने के कारण रुक रहे थे और यह सदैवश्री छाशुर्दि अहमद द्वारा जानि फाति व अराष्ट्रीय और पक्षापात पूर्ण कार्यवाही के विरुद्ध अपरी आवाज उठाता रहा है और इस सम्बन्ध में शिकायत के पर्चे प्रकाशित किये गये थे।

2- यह कि श्री छाशुर्दि अहमद ने अपीलाधी को बिमारी की अवस्था में जब कि गत दो माह से उसके अक्काश की स्वीकृत नहीं हुयी थी, और न उसे वेतन दिया गया था ऐसी परिस्थितियों का का लाभ उठाकर अपीलाध पर प्रभाव डालकर दिनांक दिनांक 16-9-80 को अपने कार्यालय में एक बयान लिखा लिया था जिसे गलत रूप से स्वीकारोक्ति माना गया है वास्तव में इसलिए डाक अधीक्षक महोदय ने अपीलाधी दो मास की छुट्टी की स्वीकृती दी थी तथा उसी दिन अपीलाधी को पिछले दोमास का वेतन भी दिलवाया था और ऐसी दशा में प्रभाव डालकर अपीलाधी का बयान लिखा गया था जो सब प्रकार से गलत सिद्ध हो चुका है।

3- यह कि अभियोगी श्री राम प्रसाद मिश्र द्वारा अपीलाधी के विरुद्ध की शिकायत किसी रूप से विभागीय उच्चाधिकारी को नहीं की गई। डाक अधीक्षक महोदय ने श्री राम प्रसाद मिश्र के घर जाकर जिसके घर पर अपीलाधी के स्थान पर आये हुये, श्री राम शारोमणि सिंह द्वारिका गंज में रहते थे उनसे अपीलाधी के विरुद्ध शिकायत लिखायी।

4- यह कि निधम के विरुद्ध न तो अपीलाधी को भेजे गये कागजातों को ही उपलब्ध कराया गया और न ही अधिकारी नियमानुसार नियुक्त किये गये



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वास्तव में दोनों ही जाँच अधिकारी डाक अधीक्षक महोदय के अधीन थे और उनके सकल पर ही कार्य करते थे इस कारण जो जाँच की गयी व न तो नियमानुसार थी और न ही निष्पक्ष रूप से की गयी थी।

5- यह कि परिस्थितियों को देखाते हुये यह सिद्ध नहीं हुआ कि श्री राम प्रसाद मिश्र ने अपीलाधी के पास 5000/- नेशनल बान्ड सर्टीफिकेट लेने के लिए जमा किये। श्री राम प्रसाद मिश्र के कथानानुसार रुपये जमा करने के समय उन्हें रसीद भी दी गयी। यदि उस पास बुक में सत्यता होती तो अपीलाधी द्वारा दी गयी रसीद भी फुस्तुत करते।

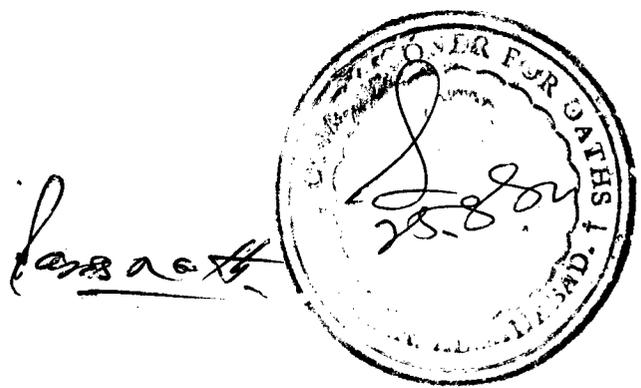
6- यह कि श्री शिव सहाय सिंह ने अपने बयान में स्वीकार किया कि पास बुक संख्या 165154 बी प्रभाम इन्द्राज 1000/- उनके हाथ का लिखा हुआ है अपीलाधी द्वारा 5000/- रकम प्राप्त करना अथवा उसके इन्द्राज करने का बात को सिद्ध नहीं किया गया। यह भी उल्लेखनीय है कि द्वारिका गंज प्रास्टाफिस के पास बुकें गायब हो गयी थीं जिनका गलत एवं अनाधिकृत प्रयोग किया गया है। श्री शिव सहाय सिंह द्वारा बनाई गयी पास बुक किस प्रकार श्री राम प्रसाद मिश्र के पास पहुँच गई इसे सिद्ध नहीं किया गया है।

7- यह कि जाँच की आख्या में आरोप के सम्बन्ध में जो विवेचन दिया गया है वह त्रुटिपूर्ण है वास्तव अपीलाधी के विरुद्ध आरोप सिद्ध नहीं हुए हैं।

8- यह कि अपीलाधी को दण्डित करने के पूर्व अवसर नहीं दिया गया। यदि अपीलाधी को अवसर दिया जाता तो अपीलाधी यह सिद्ध करता कि जाँच अधिकारी द्वारा दी गई आख्या दोषा पूर्ण है उसके आधार पर अपीलाधी के विरुद्ध आरोप सिद्ध नहीं आये जाते। यदि किसी भी दशा में अपीलाधी की ओर से कोई त्रुटि की गई तो यह सेवा से हटाये जाने के दण्ड के योग्य नहीं है।

9- यह कि सब प्रकार से अपीलाधी के विरुद्ध सेवा से हटाये जाने की कार्यवाही नियम विरुद्ध, दोषापूर्ण और अधिकांशता रहित है।

अतः अपीलाधी प्रार्थना करता है कि यह अपील स्वीकार की जावे तथा अपीलाधी के विरुद्ध पाठित सेवा से हटाये जाने एवं निलम्बन को समाप्त करने



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आदेश को समाप्त करके अपीलार्थी को अपनी सेवा में पूर्ण लाभ के साथ
स्थापित रखा जाये।

प्राथी

ह० ॥ पारस नाथ उपाध्याय ॥
भू० पू० डाक सहायक,

20-4-82

सिरवारा रोड,

सुलतानपुर ।

दिनांक 20-4-82



Lawyer

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19/84

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

Writ petition No. /84.

Paras Nath Upadhyaya

...Petitioner

Vs.

Union of India & others

...Respondents.

ANNEXURE NO. XIV

Indian posts & Telegraphs Department
Office of the Director Postal Services, UP Eastern Region,
Allahabad 211001

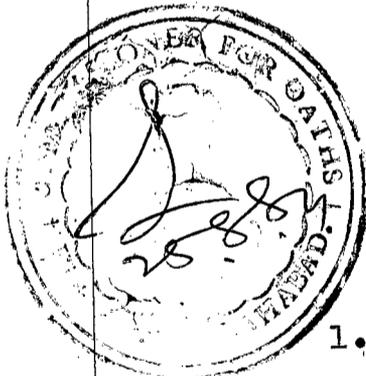
No. Vig 4/10-2/82

Dated at AD the 30.4.84

Read the following:-

1. SPOs Sultanpur memo No. F-2/80-81/Ch.VI dt. 26.3.82
2. Shri P.N. Upadhyaya PA Sultanpur Divn. representation dt. 20.4.82 resubmitted on 30.6.82.

This is an appeal made by Shri P.N. Upadhyaya ex-PA Sultanpur Dn. against the punishment of dismissal from service imposed by SPOs Sultanpur. The official was chargesheeted under rule 14 of CCS (CCA) Rules, 1965 alleging that while functioning as SPM Dwarikaganj on - 10.1.79 and from 16.1.80 to 18.1.80 he did not account for the deposit made in 5 years ID A/c No. 165154 B - as required under deptl. rules thereby failing to main-



Paras Nath

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tain absolute integrity and devotion to duty and acting in a way of unbecoming of a Govt. servant as required under CCS(Conduct) Rules, 1964.

I have gone through the case thoroughly and I have also seen the various connected records. Contrary to the official's claim that ~~the~~ he did ~~not~~ submit an appeal on 20.4.82, no such appeal was actually received by this office. Normally, therefore, the appeal which is now reported to have been resubmitted on 30.6.82 would be time-barred. However, giving the full benefit of doubt to the appellant, his appeal is taken up for consideration.

The appellant has taken a number of pleas in his appeal. Firstly he says that he had been the office bearer of a staff Union and because he had been exposing the undesirable activities of the disciplinary authorities, the letter was annoyed with him. The appellant has however, not substantiated his statement. The plea is therefore, rejected.

Secondly, the appellant has taken the plea that his confession dt. 16.9.80 was obtained by the disciplinary authority after exercising undue influence over him and that on the very same day he had been granted 2 month's leave. Though it is a fact that the official was granted leave on that day as stated by him, it is seen that there is no such restriction that leave could not have been granted on that day in the due course. Moreover, the official has himself stated in his statement that he was making the same voluntarily. It is also observed that at no other stage did the official co-



Sanjay

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APP 87

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where been able to prove that the pass book held by the depositor Shri Ram Prasad was not routed through proper channel. In no case the delivery of the passbook is linked with the non-accounting of the sums tendered for deposits as alleged. The appellant's statement that the discussion of evidence in the enquiry report is defective and that the allegation against him are not proved has not been substantiated by him. This plea also is, therefore, rejected.

The appellant has further complained of adequate opportunity having not given to him. This plea is also without any substance as he has not given any evidence in support of his plea.

In the end the appellant has argued that if he has committed an error, the same is not grave enough to warrant a punishment resulting in loss of his job. This brings us to the question of deciding about the quantum of punishment. On careful consideration I find that it is a case where the loss caused to the Govt. through the dishonest intentions and actions of the official has been proved conclusively. The appellant joined service in the year 1964 and has already been punished in the years 1968, 1974 ~~in~~ 1981 and 1981 besides the punishment in 1968 and 1974 appealed against. The punishment awarded to him also related to commission of serious irregularities in SB tr-



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transactions by him. Therefore, he is not a fit person to be retained in service.

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It is, therefore, evident that the punishment of dismissal from service has been rightly imposed by the disciplinary authority.

In view of the foregoing, the appeal of Shri P.N. Upadhyaya ex-PA Sultanpur Division is hereby rejected.

(S.K. Shrama)
Director Postal Services,
Allahabad.



Secret

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

Writ Petition No. of 1984



Sri Parasnath Upadhiya

Petitioner

Versus

The Union of India and
others

Respondents

AFFIDAVIT



I, Parasnath Upadhiya, aged about 42 years, son of Sri Ram Din Upadhiya, resident of Serwan Road, Civil Lines, Sultanpur do hereby on solemn affirmation state as under:

1. That the deponent is the petitioner in the above noted writ petition and assuch is fully conversant with the facts deposed hereunder:

Parasnath

2. That the contents of paras 1/6/18 of the writ petition are true to the best of my

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.2.

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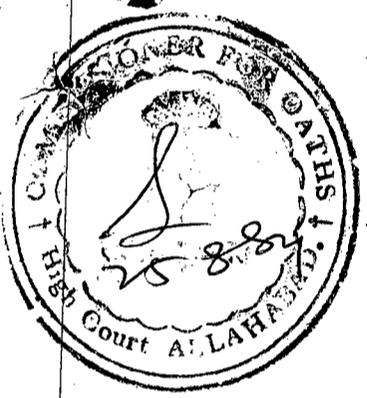
personal knowledge and those of paras ~19470~
of the same petition are believed by me to
be true.

3. That the Annexures I to 14 are the true/photostat
copies of the originals which I also believe
to be true.

[Signature]

Deponent

Dated: Lucknow the
25 day of Aug, 1984



VERIFICATION

I, the above named deponent do hereby
verify that the contents of paras 1 to ²3 of the
above affidavit are true to the best of my
personal knowledge. That no part of this
affidavit is false and nothing material has been
concealed; so help me God.

Signed dated and verified this the ²25 day
of Aug, 1984 at Lucknow.

[Signature]

Deponent

I identify the deponent
who has signed before me.

[Signature]
Advocate

(A/01)

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Solemnly affirmed before me on 25-8-84
 At 8:30 A.M./~~P.M.~~ by Sri Paras Nath Upadhyay
 the deponent who is identified by
 Sri A. Singh Ch. An. P. K. Chauri
 Advocate of High Court of Judicature at
 Allahabad, Lucknow Bench, Lucknow.

I have satisfied myself by examining
 the deponent who understands the contents
 of this affidavit and which have been
 readover and explained by me.



ht
OATH COMMISSIONER
 High Court, Allahabad,
 Lucknow, Bench
 No. 3637929/84
 Date 25-8-84

Paras Nath

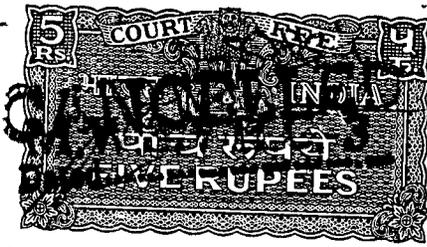
अदालत श्रीमान

In the Hon'ble High Court
Judicial College St. Alhabad महोदय

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[वादी] अपीलान्त

प्रतिभादी [रेस्पाडेन्ट]



कालतनामा

वादी (अपीलान्त)

Paras Nath Upadhyaya
Union of India

बनाम

प्रतिवादी (रेस्पाडेन्ट)

नं० मुकदमा

सन्

पेशी की ता०

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ऊपर लिखे मुकदमा में अपनी ओर से श्री

S. P. K. Khore

वकील

महोदय

एडवोकेट

नाम अदालत
मुकदमा नं०
नाम फरीकित
बनाम

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

हस्ताक्षर

Paras Nath Upadhyaya

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

25 महीना

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

P.A. No. (520 of 89 (T)

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(W.F. No. 4280 of 1984)

1988
AFFIDAVIT
94 IM
DIST. COURT
U.P.

Paras Nath Upadhya

.... Petitioner Applicant

Versus

Union of India and others

... Respondents

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE PARTIES
NOS. 1, 2, 3 & 4.

I, Hari Mangal Singh, aged about 56 years
son of Chhatrapal Singh at present posted as
Superintendent of Post Offices, Sultampur do
hereby solemnly affirm and state on oath as under:-

1. That the Deponent is the Superintendent of
Post Offices, Sultanpur opposite Party No.3 in the
above named writ petition and is competent to file
this counter affidavit on behalf of all ~~xxxxxx~~
~~xxxxxx~~ Respondents 1 to 4.

2. That the deponent has read the writ petition
and has understood the contents thereof and he
is well conversant with the facts of the case deposed
to hereinunder in reply thereof:-

3. That the contents of para 1 of the writ
petition are admitted.

4. That the contents of para-2 of the writ

22/9
Paras Nath Upadhya

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petition are admitted to the extent of services in different districts only. Rest of the para as stated is not admitted in view of what has been stated hereinafter.

5. That the contents of para-3 of the writ petition to the effect that the petitioner was maliciously transferred from Dwarikaganj Post Office by Respondent No.4 are denied. It is also not admitted to be correct that in the year 1979 the applicant was posted at Dwarikaganj Sub Post Office on account of the fact that the applicant was a T.B. Patient or that his wife was a teacher at Dwarikaganj. The correct position is that the petitioner was Reserve Clerk with Headquarters at Sultanpur and on account of there being a vacancy in Dwarikaganj Post Office in leave arrangement, the applicant was posted at Dwarikaganj and when the proper arrangement had been made for Dwarikaganj Post Office the applicant was called back at Headquarters at Sultanpur, anything to the contrary is denied.

6. That the contents of para 4 of writ petition are not denied.

7. That the contents of para 5 of the writ petition are denied and in reply it is stated that it is wrong to say that Respondent No.4 was spreading communalism and that as regards representation mentioned in para-4, if any works has got no relevance in the present case. It is also wrong to say or presume

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on account of any malice of illwill and any allegation to this effect is denied.

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8. That the contents of para 6 of the writ petition are admitted only to the extent that by order dated Sept. 22, 1980 the applicant was suspended in view of the fact that the disciplinary proceeding against the applicant were contemplated and as such exercising the powers under R le 10(1) of the CCS(CCA) Rules 1965 the Supdt of Post Offices, Sultanpur passed the order of suspension. That as regards regards the allegations to the effect that the Respondent No.4 on account of any ill-will or on account of any intention to take any revenge had a plan to punish the applicant and so did suspend the applicant are all in-correct and are denied vehemently.

9. That the contents of para 7 of the writ petition need no comment and in reply it is submitted that the contents of charge sheet can be verified from the document itself.

10. That the contents of para 8 of the writ petition are not denied. It may also be stated that here that after some stage of enquiry Shri KK Srivastava had fallen ill and remained on Medical Leave for good long time and as such keeping in view the undue delay in the finalisation of the enquiry another Enquiry Officer was appointed namely Shri RS Singh the then Asstt. Supdt of Post Offices, Sultanpur.

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11. That the contents of para-9 of writ petition in reply it is submitted that the petitioner by application dated 2nd Sept 1981 demanded production of 31 documents for inspection during the course of proceedings are not denied. The competent authority by order dated 6.1.62 allowed the production of following documents:

(a) S.O. Daily account of Dwarikaganj dated 16.1.80 and 18.1.80.

(b) Original Ledger card of 5 years time deposit account No.165154 -B.

Rest of the allegations of para-9 to the effect that the petitioner was coerced to make an statement and upon coercion be made a statement are all farce and false and are vehemently denied. It is further stated that the petitioner applied leave on 21.8.80 where upon the Postmaster, Sultanpur was asked by SPOs, Sultanpur vide letter No .B.67 dated 3.9.80 to intimate the leave admissible to the applicant who was continuing on leave since Jan. 1980. In the meantime, the applicant submitted a revised leave application on 16.9.1980. Accordingly the leave order was issued on the same date.

Thus the allegations of harassment is false. The leave salary of the petitioner was drawn on 16.9.80 by the disbursing officer on receipt of the leave order. It may be further stated that his leave case was handled with utmost promptness and not with delay ,

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12. That the contents of para 10 of the writ petition need no comments.

13. That the allegations of para-11 as stated are not denied. The procedure for making deposit and withdrawals is as under:-

Rule 525.14 of P&T Manual Volume VI Part-II

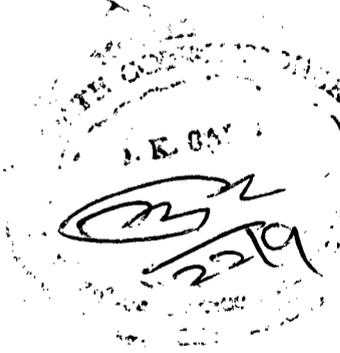
The rules contained in the Section I of this Chapter will be followed, mutatis mutandis, in respect of the procedure relating to opening to opening of an account, subsequent deposit, transfer of accounts, and repayment of deposits by the Head Offices, Sub Offices and Branch offices, Separate blocks of numbers will be assigned to each category of Time Deposit Accounts for each Head and Sub Office.

Opening of Accounts - Procedure in SOs Not Authorised to issue Pass Books:

...

Rule 420.A(i) of P&T Manual Volume VI Part-II

In sub-offices not authorised to issue Pass Books on presentation of the application form it should be scrutinised in accordance with the Rule 518 - An additional specimen signature of the depositor should be obtained on a separate specimen signature slip. The amount for deposit either by cash or cheque should be accepted alongwith a pay-in-slip and a preliminary receipt in form SB-26 for the amount of the first deposit prepared in duplicate with an indelible pencil by carbonic process by the counter clerk and



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initialled by him. If the depositor has furnished the particulars of the nomination in the application (SB-3) a remark 'Nomination made' should also be noted on the top of the preliminary receipt. Both the copies should be impressed with the office date stamp. The application form and S.B. card and the preliminary receipt book should be placed before the sub-postmaster, who after satisfying himself that the entries are made correctly in the documents should make the entry of the deposit in the long book and also place his dated signature on both copies of the preliminary receipt and the application(SB-3) and the specimen signatures card (SB-106) . The pencil copy of the preliminary receipt should be given to the depositor after entering the date on which the pass book is expected to arrive from the head office in the space provided for the purpose on the reverse of the preliminary receipt drawing the depositors attention to the 'notice' printed thereon. The duplicate copy should be retained as the office copy which should not be detached from the receipt book(SB-26) . The number of the preliminary receipt should be noted in the remarks column of the list of transaction as 'PR No....' in case the amount of first deposit is the same in more than one account the names of the depositors should be noted in the remarks column of the list of transactions. The specimen signature slip date-

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stamped and countersigned by the Sub-postmaster should be pasted at both ends in the specimen signature book of the appropriate place in the order of the serial number of preliminary receipts issued on the day.

WITHDRAWALS AT SUB OFFICES:

Rule 425(5) of P&T Manual Volume VI Part-II

Every departmental sub office is authorised to permit withdrawals without previous reference to the head office in the case of all accounts, provided that funds are available in the sub office. Extra Departmental sub offices doing SB work can permit withdrawals not exceeding Rs.250/500 (where raised by the Director of Postal Services subject to the condition that not more than one withdrawal is allowed on any day from any account.

In LSG and HSC SO's the counter clerk himself can pay withdrawals up to Rs.300/- without routing the transaction through the sub postmaster. He should make entry of the withdrawal in the pass book and initial the entry. He should himself sign the warrant of payment and make a note of the transaction in the long book, which will be maintained by the counter clerk in such offices. He will return pass book to the Depositor or his agent with the amount of withdrawal, obtaining his signature on the warrant of payment. Whenever the counter clerk finds time, he should make necessary entries in the ledger and put v

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the ledger and the warrant of payment to the sub-postmaster who will check the documents in accordance with sub rule (3) (a) (ii) above. After check he will retain the warrant of payment in his custody and return the ledger to the counter clerk, The vouchers will be returned to the counter clerk after the close of the counter hours for preparing the list of transactions.

14. That the contents of para 12 of the writ petition are not correct as stated. The correct position is that as ordered by competent authority (as enquiry officer) the under-mentioned documents were produced namely :-

Sub office daily account dated 16.1.80 and 18.1.80 and the original ledger card of 5 years Time deposit account No.165154-B. The other documents were not ordered to be produced and in all probability as the deponent believes, on account of the fact that said documents were not relevant, and as production of other documents were not required those were not produced. It may also be mentioned here that the said documents did not form part of enquiry proceedings nor the finding regarding guilt was based on those documents. As such their non-production is immaterial and the deponent has been advised to state and believing the advice to be correct the deponent so states.

15. That the allegations of para 13 are not denied. The circumstances in which the Enquiry officer was changed has already been detected in the earlier part of this affidavit. So there



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there is no need to repeat same.

16. That in reply of para-14 and 15 of the writ petition it is stated that as Shri K.K. Srivastava was on leave and delay was caused, the Enquiry officer was changed and Shri R.S. Singh was appointed as enquiry officer. It may further be mentioned that the Respondent did not receive the copy of representation. Rest of the allegations of Para-14 are denied. It is not denied as mentioned in para-15 that Shri R.S. Singh had to hold the enquiry.

17. That the allegations of para 16 are admitted to the extent that Shri Ram Prasad Mishra, Shri Nand Lal Pandey and Shri SS Singh were examined during the course of enquiry in support of the charge. Rest of allegations of para 16 are not admitted. The statements made by three witnesses were considered while recording the findings in respect of the charges by Enquiry officer. The copies of the statements will be produced ~~and~~ as and when needed.

18. That the allegations of Para-17 of writ petition are argumentative and their correctness is denied. The deponent has further been advised to state that allegations made in para 17 relates to questions of appreciation and findings of charges which was in the scope of the authority of the Enquiry officer and the disciplinary authority. The deponent has further been advised to state that as due and proper procedure had been followed during the course of

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AND
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enquiry of the proceedings it is not open to the applicant to challenge the correctness or otherwise of those findings on the basis of appreciation of evidence.

It is ~~admitted~~ admitted that on the basis of findings of enquiry officer the appointing authority after considering the matter on record passed the order dated 26.3.82 whereby the applicant was dismissed from service.

19. That allegations of para 18 of the writ petition are admitted to the extent that on April 20, 1982, the applicant filed the appeal and the Director Postal Services, Allahabad considered the matter in detail and he held as well and opined as under :

" On careful consideration I find that it is a case where the loss caused to the Govt. through the dishonest intentions and actions of the official has been proved conclusively. The appellant joined service in the year 1964 and has ~~to~~ already been punished in the year 1968, 1974, 1977 and 1981 besides the punishment appealed against. The punishment awarded to him in 1968 and 1974 also relates to commission of ~~serious~~ irregularities in S.B. transactions by him. Therefore, he is not a fit person to be retained in service".

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It may be mentioned that the petitioners 1982 writ petition was filed premature within very short time of filing of appeal and as such was rightly dismissed."

20. That the allegations of para 19 of the writ petition are admitted to the extent that petitioner's appeal was dismissed by order dated 30 April 1984. It may be mentioned here that after a careful consideration of the record and the pleas raised by the applicant in his appeal the orders were passed by the ~~xxx~~ appellate authority. It is further stated that no natural principle of justice was violated by the authorities concerned. And that the order of punishment does not suffer from any illegality.

21. That the deponent has been advised to state that the grounds of writ petition are not sustainable as the authorities have followed the correct procedure of law in making the enquiry and in recording the findings of charges as well as while passing the order of punishment or appellate order. As such the applicant is not entitled to get relief claimed and the writ petition being without any merit is liable to be dismissed with costs.

ए. रमजान अरे

ए. रमजान अरे
Deponent.

Lucknow

Dated: 22 Sept 88.

Verification

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I, the above named deponent do hereby verify that the contents of para 1 and 2 of this affidavit are true to my own knowledge, the contents of para 3 to 20 are true to my knowledge on the basis of information gathered from records and the contents of paras 21 to of the affidavit are believed ~~to~~ 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.

[Signature]
Deponent.

Lucknow,

Dated: 22 Sept 88

I do identify the deponent who has signed before me.

[Signature]
(V.K. CHAUDHARI)
Advocate.

Solemnly affirmed before me on 22/8/88 at 8:00 am/pm by the deponent who is identified by Shri VK Chaudhari, Advocate, High Court.

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

[Signature]
22/9/88
Oath Commissioner.

[Circular Stamp]
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CAT, Circuit Bench

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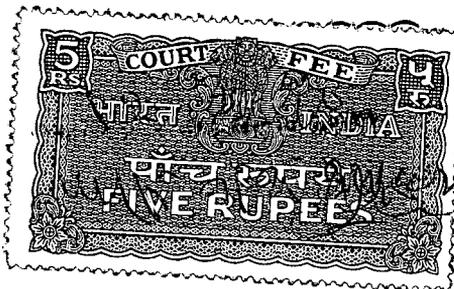
[वादी] अपीलान्त

Ramesh Mahil Upadhyay

श्री

वकालतनामा

प्रतिवादी [रेस्पान्डेंट]



वादी (अपीलान्त)

बनाम

प्रतिवादी (रेस्पान्डेंट)

मुकदमा नं० 1520 सन 87(T) पेशी की ता० 14.3. 1890 ई०
UP 4280(84) B. Solomon Adv
ऊपर लिखे मुकदमा में अपनी ओर से श्री

M. Duley, Advocate

वकील

महोदय

एडवोकेट

नाम अदालत
मुकदमा नं० नाम
करकेन बनाम

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

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पारसनाथ उपाध्याय

साक्षी (गवाह)

साक्षी (गवाह)

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Accepted
B. Solomon Adv
M. Duley Adv

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(ANS)

In the Central Administrative Tribunal,
Circuit Bench, Lucknow.
C.M. An. No. 364/90 (L),
TA No 1520/87T

Ramas Nath Upadhyaya - - - - - Applicant

Versus.

UOI and others - - - - - Respondents

FF. 3.7.1990

The humble applicant states as under:-

(1) That the applicant could not file the rejoinder affidavit in the above noted case due to personal reasons of his counsel.

(2) That the delay in filing the rejoinder affidavit is liable to be condoned in the interest of justice.

It is, therefore, most respectfully prayed that the delay in filing the rejoinder affidavit be condoned and the same be taken on record.

Lucknow
Dated 25.5.90

M. Dubeey
Adv
Counsel For Applicant

(A/P)

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authority to submit reply on behalf of other respondents.

3. That paras 2 and 3 of the counter affidavit need no reply.

4. That the contents of para 4 of the counter affidavit are denied as stated and those of para 2 of the petition/application are re-asserted.

5. That the contents of para 5 of the counter affidavit are denied as stated and those of para 3 of the petition/application are re-asserted. It may be stated that the facts of the deponent's suffering from Tuberculosis and his wife being a teacher at Dwarikaganj have not been denied by the respondents.

6. That the contents of para 6 of the counter affidavit need no reply.

7. That the contents of para 7 of the counter affidavit are denied as stated and the contents of para 5 of the petition/application are re-asserted.

8. That the contents of para 8 of the counter affidavit are denied as stated and the contents of para 6 of the petition/application are re-iterated. It is further stated that the opposite party no. 4 out of vengeance against the deponent did not follow the instructions issued by the Government and the D.G. P&T in the matter of placing the Government employees under suspension and he acted maliciously, prejudicially and illegally. Para 1(c) of the D.G. P&T letter No. 201/43/76-Disc II dated 15th July 1976, as incorporated under Government of India Instruction No. 2 contained under Rule 10 of the CCS(CCA) Rules 1965 compiled by Sri P.Muthuswamy lays down:

Paras null & void.

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"While placing an official under suspension the competent authority should consider whether the purpose cannot be served by transferring the official from his post to a post where he may not repeat the mischief or influence the investigations, if any, in progress. If the authority finds that the purpose cannot be served by transferring the official from his post to another post then he should record reasons therefor before placing the official under suspension".

The aforesaid provisions were not maliciously considered by the opposite party/respondent no. 4 in the deponent's case and no reason was recorded in terms of the said instructions before placing the deponent under suspension. It may be stated that at the time of suspension the deponent was working in H.P.O., Sultanpur and there was absolutely no reason or justification for his suspension. The action of the respondent No. 4 was prejudicial, arbitrary, motivated and illegal and null and void.

9. That in reply to the contents of para 9 of the counter affidavit it is stated that although the deponent was ordered to be placed under suspension by letter dated 22.9.1980, a charge sheet was issued to him by letter dated 9.2.1981 after 4½ months against the instructions of the Government which lay down that "even though suspension may not be considered as a punishment, it does constitute a very great hardship for a government servant. In fairness to him, it is essential to ensure that this period is reduced to the barest minimum".

Pass with Upadhyaya

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(Para 2 of G.I. M.H.A. O.M. No. 221/18/65 AVD dated 7.9.1965) and that every effort should be made to file the charge sheet in court or serve the charge sheet on the Government servant, as the case may be, within 3 months of the date of suspension (G.I. C.S. (Department of Personnel) O.M. No. 39/39/70 Ests(A) dated the 4th February 1971). But these instructions were blatantly ignored and violated by the opposite party No. 4, which rendered his action biased and vitiated.

10. That the contents of para 9 of the counter affidavit are evasive as they neither plainly admit the contents of para 7 of the petition/allegation nor deny them. The contents of para 7 of the application are reiterated:

11. That in reply to the contents of para 10 of the counter affidavit, it is further stated that the Inquiry Officers were not appointed in fairness and in accordance with the departmental instructions. On the functional re-organisation of the P&T Circles into separate Postal and Telecommunication circles it had been decided by the D.G. P&T vide his letter No. 6-8/74-Disc I dated 21.9.1974 that the Inquiry Officer may be from respective wings of the Postal and Telecommunication units to which the delinquent official belongs but from a different division preferably from the same station or nearby. These instructions were violated by the disciplinary authority and purposely to cause prejudice to the deponent, appointed persons of his own division to function as Inquiry Officer to work under his influence and guidance and to submit report, accordingly. The appointment of Inquiry Officer was unjust, unfair and not in terms of requirement as laid down by the D.G. P&T and in view of this matter the entire proceeding

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was vitiated.

12. That in reply to the contents of para 11 of the counter affidavit it is stated that the respondents have admitted that the deponent by his application dated 2.9.1981 demanded production of 31 documents, but they have not stated how this application was disposed of and why all the documents referred to therein were not made available to the deponent. The contention that the documents mentioned at (a) and (b) were allowed by the competent authority by order dated 6.1.62 is apparently vague, wrong, evasive, irrelevant and cryptic as it does not say who was the competent authority and how he passed order on 6.1.62 in respect of an application dated 2.9.1981 and why the production of only two documents was allowed and what orders, if any, were passed in respect of remaining 29 documents. The deponent was highly prejudiced in the defence of his case. The rest of the contents of para under reply ~~xxx~~ is denied and those of para 9 of the petition/application are re-asserted. It may be pointed out that all pending claims of the deponent were settled by the opposite party no. 4 on getting the pressurised statement dated 16.9.80 from the deponent by taking advantage of his narrow and deplorable condition and acute financial stringencies due to long illness. The statement dated 16.9.80 was not given by the deponent of his free accord. It was given under duress, co-ercion influence and pressing circumstances and the same is emphatically denied. The rest of the contents of para under reply ~~4~~ is denied and the contents of para 9 of the petition are reiterated.

(4/21) A/22

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13. That the contents of para 12 of the counter affidavit need no reply.
14. That in reply to the contents of para 13, it is stated that the respondents have admitted the procedure of making the deposit or withdraw the same as stated by the deponent and the cited rules are not allegations but narration of procedure. The rules quoted by the respondents are contained in P&T Manual Volume VI Part II for guidance and smooth functioning of the Post Offices.
15. That in reply to the contents of para 14 it is stated that the assertion made by the deponent in concluding part of para 11 of the petition, showing the purpose and justification of the documents demanded by the deponent, has not been denied and in view of that it does not lie for the respondents to say that the other documents were not ordered to be produced and in all probability the said documents were not relevant. This is simply a supposition based on surmises and hence vague and indefinite and cannot hold good. The Inquiry Officer was under an obligation to pass cogent reasons if he considered that the demanded documents were not relevant and he could not act on his own surmises. There are detailed instructions on supply of copies of documents and affording access to official records to the delinquent official by the G.I. M.H.A. as contained in O.M. No. F-30/5/61 A.V.D. dated 25.8.1961, para 2 of which lays down "The right of access to official records is not unlimited and it is open to the Government to deny such access if in its opinion such records are not relevant to the case or not desirable in the public

Paras Wali Upadhyaya

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interest to allow such access. The power to refuse access to official records should, however, be very sparingly exercised. The question of relevancy should be looked at from the point of view of the defence and if there is any possible line of defence to which the document may, in some way be relevant, though the relevancy is not clear to the disciplinary authority at the time that the request is made, the request for access should not be rejected. The power to deny access on the ground of public interest should be exercised only when there are reasonable and sufficient grounds to believe that public interest will clearly suffer. The cases of the latter type are likely to be very few and normally occasion for refusal to access on the ground that it is not in public interest should not arise if the document is intended to be used in proof of the charge and if it is proposed to produce such a document before the Inquiry Officer, if an enquiry comes to be held. It has to be remembered that serious difficulties arise when the courts do not accept as correct the refusal by the disciplinary authority, of access to documents. In any case, where it is decided to refuse access, reasons for refusal should be cogent and substantial and should invariably be recorded in writing". In para 5 of the aforesaid order it has been laid down that if the officer requests for any official records, other than those included in the list, the request should ordinarily be acceded to in the light of what has been stated in paragraph 2 above. But those instructions were grossly violated by the opposite parties and the Inquiry Officer acting on their behalf and the deponent was greatly prejudiced in absence of several relevant

Paras Mukherjee Badhyaya

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documents which were not made available to him on his demands and no cogent and substantial reasons were passed in writing for refusing access to those documents. The plea of non-availability of documents was also a lame excuse. The rest of the contents of para under reply is denied and the contents of para 12 of the petition are re-asserted.

16. That in reply to para 15 of the counter affidavit, it is stated that Shri R.S. Singh was under the direct supervision and control of the opposite party no. 4 who was highly biased and prejudiced against the deponent for his union activities and for exposing his wrongful deeds before the higher authorities and the said Inquiry Officer could not dare go against the wishes and dictates of the opposite party no.4. Shri R.S. Singh had also strained relation with the deponent and his appointment as Inquiry Officer by the disciplinary authority viz., opposite party no. 3/4 was motivated and against the instructions of the D.G. P&T as stated earlier in para 11 that the Inquiry Officer should belong to a different division at the same station or at nearby station. Besides, Shri R.S. Singh appointed to act as Inquiry Officer belonged to the same Divisional Office of the opposite party No. 3/4 and as Incharge Fraud Branch was entrusted with the disposal of the fraud cases and in ~~that~~ ^{that} capacity had pre-notion of the case against the deponent and he could not be expected to be fair and free from bias in the matter and take an independent and impartial view and do justice. The contents of para 13 of the petition are re-asserted.

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17. That the contents of para 16 are denied as stated. It is stated that on receipt of S.P.Os Sultanpur letter dated 26.12.81 (Annexure VI) to the petition, the deponent came to know that Shri R.S. Singh had been appointed as Inquiry Officer instead of Shri K.K. Srivastava and as the deponent had no hope of getting an impartial and fair treatment from Shri R.S. Singh due to his being under direct subordination of opposite party No. 4, there being no good terms between him and the deponent and he being in charge of fraud cases of the division and in that capacity having a pre-notion of the case and a biased view against the applicant and accordingly the deponent moved an application dated 2.1.82 to the opposite party no. 3 and gave it personally to him in his office under receipt, but the opposite party did not pass any order and strangely its receipt is now denied maliciously. The copy bearing receipt of the office shall be produced in original at the time of hearing. A photo copy of the same is Annexure R-1. It has been decided by the G.S. (Department of Personnel) O.M. No. 39/40/70 Ests(A) dated 9.11.1972 that whenever an application is moved by a Government servant, against whom disciplinary proceedings are initiated under CCS(CCA) Rules, against the Inquiry Officer on ground of bias, the proceedings should be stayed and the application referred alongwith the relevant material to the appropriate reviewing authority for considering the application and passing appropriate orders thereon. The reviewing authority would normally be the appellate authority as held by the D.G. ~~P&T~~ P&T vide his letter No. 7/28/72 Disc-1 dated 19.3.73. These instructions were not complied with by the opposite party no. 3/4 on the deponent's application dated 2.1.82 and the ~~appxi~~ deponent

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Paras Nathi Upadhyaya

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was consequently prejudiced. The rest of the contents of ~~xxx~~ para under reply is denied and the contents of paras 14 and 15 are re-asserted.

18. That the contents of para 17 of the counter affidavit are denied as stated. The respondents have not disputed the statements of prosecution witnesses, true copies of which have been annexed as Annexures Nos. VIII, IX and X to the petition. These witnesses have not stated that the entries as existing in the T.D. pass book were made by the deponent. The initials of the deponent are also not there in the pass book. The allegations made against the deponent have not been substantiated. The entries made in the pass book are fake and forged and they cannot be attributed to be the act of the deponent. The stamp of the Post Office appears to have been impressed mysteriously by some interested person. It is emphatically denied that Shri Ram Prasad Misra gave to the deponent a sum of Rs.5,000/- and he issued a receipt to him. No such receipt either in original or its office copy was produced before the ~~xxx~~ inquiry. There were also variations in the statements of the witnesses and the Supdt. of Post Offices, opposite party no. 3/4, who was biased and prejudiced against the deponent had initiated enquiry of his own accord without any complaint and he did not appear before the inquiry as a witness. The whole affair appears to be fishy and a manipulation of the opposite party no.3/4 to wreck his vengeance against the deponent. The rest of the contents of para under reply is denied and those of para 16 of the petition are reiterated. The Inquiry Officer, and respondents

Parasmita Badhyaya

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mainly relied on the purported statements dated 16.9.80 taken by the respondent no. 4 under duress, authority, influence and allurements. The deponent had initially given a separate letter on 16.9.80 which was probably not kept on record by the respondent no. 4 with ill motive. A true copy of this letter is Annexure R-2. The deponent immediately after giving his letter dated 16.9.80 (Annexure R-2) was taken under duress and temptations and induced to give his statement dated 16.9.80. The deponent, the same day on 16.9.80, sent representation addressed to the Director, Postal Services, Allahabad Region, Allahabad with the request for immediate enquiry and getting the seal, stamp, stock register, Pass Book Stock Register etc. of Dwarikaganj P.O. sealed to save the livelihood of the deponent. A copy of this representation was also given in the office of Supdt. of Police, Sultanpur, the same day under receipt and a copy of the said representation was sent under Certificate of Posting to D.P.S., Allahabad, Police Adhikshak, Sultanpur and Dak Adhikshak, Sultanpur the same day. A true copy of this representation dated 16.9.80 is Annexure R-3 and a true copy of the Certificate of Posting is Annexure R-4. The deponent was wrongly and maliciously dismissed from service without being given a copy of the enquiry report and an opportunity of making representation against it. Denial of this opportunity is against natural justice and vitiates the punishment order as held in Ramesh Chand Ghavari versus Union of India & Others 1 (1989) ATLT (CAT) 684, C.A.T. Jabalpur Bench. The rest of the contents of para under reply is denied as stated and those of para 17 of the petition are reiterated.

Paraswati & Padhyaya

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19. That the contents of para 18 of the counter affidavit are denied as stated. No doubt, the matter is argumentative but the correctness of the averments made in para 17 of the petition cannot be questioned or disputed. The documents requisitioned by the deponent were not produced and the deponent was not questioned on the circumstances, if any, appearing against him in the evidence to clarify the position as required under Rule 14(18) of the CCS(CCA) Rules 1965 and he was prejudiced in the enquiry. The violation of Rule 14(18) as aforesaid and denial of reasonable opportunity to clear himself, the deponent was deprived of natural justice which vitiated the enquiry.

20. That in reply to the contents of para 19 of the counter affidavit, it is stated that the appellate authority kept the appeal dated 20.4.82 preferred by the deponent for a long time and it was only on 30.4.84^{i.e.} after two years that he decided the appeal and that too after the deponent had filed two writ petitions in the High Court, Lucknow and the Hon'ble High Court had given direction on 13.1.84 to dispose of the appeal within 2 months. A true copy of the High Court order dated 13.1.84 is Annexure R-5. The appellate authority did not consider the appeal in terms of Rule 27(2) and based his findings on the extraneous matters that the deponent had already been punished in the years 1968, 1974, 1977 and 1981 which were not included in the charge sheet and were not the subject matter of disciplinary proceedings and for which no opportunity of defence was afforded to the deponent. The decision of the appellate authority was

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infected with malice and prejudice, prompted by extraneous considerations and wholly unwarranted and illegal and cannot be sustained. The rest of the contents of para under reply is denied and those of para 18 of the petition are re-asserted.

21. That the contents of para 20 of the counter affidavit are denied as stated. It is stated that the appeal of the applicant was not considered by the appellate authority objectively as required under Rule 27(2) of the CCS(CCA) Rules 1965. The appellate authority ignored to take into consideration that reasonable opportunity was not afforded to the deponent and natural justice was denied to him inasmuch as the Inquiry Officer was not appointed in accordance with D.G's instructions, documents demanded by him were not made available to him, compliance to Rule 14(18) of Rules 1965 was not made, copy of Inquiry report was not furnished to him to enable him to make representation against it before passing dismissal order, the findings of the Inquiry Officer and the punishment awarded by the disciplinary authority were infected by the purported statement of the deponent dated 16.9.80 which was obtained under compulsion, duress and temptation and which as already stated was questioned and repudiated by the deponent's letter dated 16.9.80, the same day, sent to various authorities (Annexure R-3) and the decision of the appellate authority was swayed by extraneous matters of his having been punished in the past which were neither the subject matter of enquiry nor any opportunity in respect thereof was given to the deponent.

Paras Nathi Ubachhyaya

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The appellate order was, thus, malicious, prejudicial and wrong, not in accordance with rules and natural justice. The rest of the contents of para under reply is denied and the contents of para 19 of the petition are reiterated.

22. That in reply to the contents of para 21 of the counter affidavit, it is denied that the grounds of writ petition are not maintainable as the authorities have followed the correct procedure of law in making the enquiry and in recording the findings of charges as well as while passing the order of punishment or appellate order. It is stated that the entire proceedings from placing the deponent under suspension, issue of charge sheet, appointment of Inquiry Officer, enquiry and passing of orders have been malicious, prejudicial, against rules and in contravention of the D.G. P&T as well as Govt. orders. In view of the facts and circumstances stated in the petition and in this rejoinder affidavit the grounds taken by the deponent are cogent and sustainable, the deponent is entitled to the reliefs prayed for by him and the petition/application is liable to be allowed with cost and special cost against the respondent.

Lucknow :

Dated : 24.5.1990

Paras Nath Badhyaya

DEPONENT

VERIFICATION

I, the deponent, above named, do hereby verify that the contents of paras 1 to 21 of this Rejoinder affidavit are true to my knowledge and the contents of para 22 are believed by me to be true. Nothing material has been suppressed or concealed and no part of it is false. So help me God.

Signed and verified this 24th day of May 1990 at Lucknow.

Paras Nath Badhyaya

DEPONENT

I identify the deponent who has signed before me.

M. Dubey
(M. DUBEY), Advocate.

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The Supdt. of Co's
Sullanpur 220001.

Ref - yr. No. P-2/00-21 Dt. 26-12-81

xxx

Sir,

With ref. to your letter quoted
as above it is hereby prayed that
the enquiry officer Shri R.S. Singh A.S. (Hq.)
(Hq.) Sullanpur is in your direct
subordination who can not be
appointed an E.O. in the case marked
as above, as per rules. The personal
terms between the S/S and the said
E.O. Shri R.S. Singh has not been
good since he was C.O. Batapatti
at Sullanpur the fraud branch
also in his direct subordination
So in the interest of justice and
fair enquiry it is necessary that
the said E.O. may kindly be
changed. I shall be highly obliged
for this act of natural justice.

Thanking you,

Yours faithfully,
Rim Singh

2-1-82

D.O. in the case.

Noted for Guidelines

True Myr

Sullanpur

M. Dubey

Paras Nath 4/8/82
2/1/82

Paras Nath's badhyaya

AUBI

A/182

श्री मे
श्री माता डाक अधीनस्थ मंडल
सुनारपुर

महोदय /

आपके पत्रांक F/2/00-81 comp'at

11/9/80 के संदर्भ में

मैं बहुत दिनों से चिंतन में व्यतीत कर रहा हूँ
हो चुका हूँ मैं योकी का मरिज हूँ। मुझे लुकाई
व आपका डी मा बेलन अभी काजवाक नही दिगाई
जिसेक कारका मेहे इलाज मेरी कबरेक से ला जा
जाई है। मरी इलाज आते पूरा रूप से काम
की कर रही है।

आतः कलकत्ता जावना है कि ऐसी कामने
मेरा खर्चवाक दिखाने की कृप करे। कनजोरी के
कारका मुझे - काई में ऐतमने हो के निर
वाहक व निरवा जाके पर मेरी प्रार्थना है

Paras Nath Upadhyay

Re

S. Lal

Paras Nath Upadhyay

16/9/80

Attested
me by
Dulley
Vad

ANS2
A/133

स्वा मे,

श्रीमान श्रीमान
डाक सेवा,
हलाहवाप रीजन जहाजवादा

द्वारा डाक अधीक्षक महोदय मुस्तापुर ।

महान्याय,

मे पारसनाथ उपाध्याय पोस्टल असिस्टेंट मुस्तापुर
बाप की सेवा मे माफी है कि श्रीमान डाक अधीक्षक महोदय मुस्तापुर
आजकल मेरे खिलाफ गोपनीय चलयन्त्र कर के मुस्तापुर पहचाने कर चेष्टा
कर रहे है। जब मे सपोस्टमास्टर के पद पर कार्यरत था तो डाक अधीक्षक
महोदय कतप्य आरोपी की लखरआपसीमनमाँटाव एवं विभागीय कार्यवाही
सब की बात को लेकर मेरी रोजी रौटी के पीछे पड गये तथा चलयन्त्र
रचने लगे । मे टी०बी० का मरीज है तथा मेरा हलाज चल रहा है जिस
से मे शारीरिक एवं मानसिक रूप से अत्यन्त परेशान रहता हूँ । मुझे
तीन माह से वेतन नही दिया गया है ऐसी हालत मे मे साचार एवं
निक सहाय हागया है। आज दिनांक 16/9/80 को अपने कार्यालय मे
आकर अनेकानेक प्रलोभन देकर मेरे ब्यान लिये ।

श्रीमान डाक अधीक्षक महोदय हलाहवाप उपाय लगाकर
मेरा बलि करना चाहे है तथा जोरमे गोपनीय चलयन्त्र रचना
कर रहे है।

अतः करवध माघीना है कि तत्काल जचि करने की द्याकी
जावे तथा द्वारिकारंगपोस्टआफिस के सील मुहर स्टाक रजिस्टर, पास
बुक स्टाक रजिस्टर आदि को सील करलियाजावे एवं माफी के रोजी
रौटी की रक्षा की जावे।

माफी
Paras Nath Upadhyay

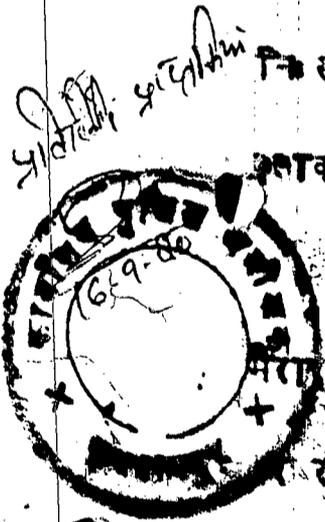
दिनांक 16/9/80

प्रतिलिपि-

पुलिस अधीक्षक महोदय को मुस्तापुर कार्यवाही हेतु ।

Paras Nath Upadhyay

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16.9.80

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,
LUCKNOW

T.A. No. 1520/87(T)
Paras Nath Upadhyay Versus Union of India and Others

ANNEXURE R-4

श. 16 98
80

पत्र जे. एल. ए.

से. ए. ए.

1) श्री. वी. ए. ए. महोदय
इलाहाबाद

2) श्री. ए. ए. ए. महोदय
इलाहाबाद

3) श्री. ए. ए. ए. महोदय
इलाहाबाद

3



16/9

Paras Nath Upadhyay

Attested
True copy
M. D. Upadhyay
Adv.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,

LUCKNOW

T.A. No. 1520/87(T)

Paras Nath Upadhyay

Versus

Union of India and Others

ANNEXURE R-5

AP/24

A/135

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

L U C K N O W.

....

Writ petition No. 243 of 84.

Paras Nath Upadhyaya

....

Petitioner.

Vs.

The Union of India, through the secretary,
Post and Telegraph Department, central secretariat
New Delhi and others

....

Respondent.

Lucknow dated:- 13.1.84.

Lucknow dated 13.1.84.

Hon'ble K.N.Goyal, J.

Hon'ble S.S.Ahmad, J.

List after two months. It is expected that in the meantime the appellate authority shall dispose of the petitioner's appeal which is reported to be pending since 1982.

TRUE COPY

R. S. Goyal
18/1/84
Section Officer

Copying Department.

High Court, Lucknow Bench,
LUCKNOW.

sd/- K.N.Goyal.

sd/-S.S.Ahmad.

13.1.84.



Paras Nath Upadhyaya

*Noted
True copy
M. D. Goyal
Adv*

23-9-80

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(C)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench ~~ALLIANCE BENCH~~ Lucknow.

~~23 A, Thornhill Road, Allahabad-211 001~~
Sandhi Bawan (Opposite Residency)
Lucknow.

No. CAT/A11d/Jud/ 29483 Dated the 8/11/80

A.No. 1520/87 (T) of 1987 (T)

Sri Paras Nath Upadhyaya Applicant's

Versus

The Union of India. Respondent(s)

To

For P.K. Khare Advocate
High Court I.K.O. Bench Lucknow.

Whereas the marginally noted cases has been transferred by High Court Lucknow. under the provision of the Administrative Tribunal Act (No.13 of 1985) and registered in this Tribunal as above.

Writ Petition No 4280
of 1984.
of the Court of HC
LUCKNOW arising out
of Order dated —
passed by — in

The Tribunal has fixed date of 25 April 1988. The hearing of the matter.

If no appearance is made on your behalf by your some one duly authorised to Act and pled on your behalf

the matter will be heard and decided in your absence.

Given under my hand seal of the Tribunal this 7 day of 4 1988.

DEPUTY REGISTRAR

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
(ALLAHABAD BENCH)
23-A, Thurphill Road, Allahabad-211001.

Genetki Bhawan (off. Residency)
Lucknow DATED _____

No. AT/ALLD

Transfer Application No. 5/ of 1988 (T)
(Regd No-1520-87(T))

P. N. Upadhyay APPLICANT
VERSUS

Union of India & others. RESPONDENTS

To

P. K. Khare
Advocate, High Court,
Lucknow Bench, Lucknow

(C)

WHEREAS the marginally noted case has been transferred
by _____ under the provisions of
Administrative Tribunal Act (No. 13 of 1985) and registered in
this Tribunal as above.

No. 5- of 1988 (T) The Tribunal has fixed the
of the Court of _____
arising out of the order dated _____
Passed by _____
in _____

date of 19-7-88
1988
for the hearing of the
matter.

If no appearance is
made on your behalf by your-
self, your pleader or by
someone duly authorised to

act and plead on your behalf, the matter will be heard and
decided in your absence.

Given under my hand and seal of the Tribunal this 23-5-88
day of _____ 1988

DEPUTY REGISTRAR.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
~~ALLAHABAD BENCH~~

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(5)

~~23-A Tripathi Road, Allahabad-211001.~~
Gandri Bhawan (opp. Residency)
Lucknow DATED _____

No. AT/ALLD

Transfer Application No. 5/ of 1988 (T)

(Regd No. - 1520-87(T))

P. N. Upadhyay APPLICANT
Versus

Union of India & others RESPONDENTS

To

P. K. Khare
Advocate, High Court,
Lucknow Bench, Lucknow.

WHEREAS the marginally noted case has been transferred _____ under the provisions of the Administrative Tribunal Act (No. 13 of 1985) and registered in this Tribunal as above.

As No 5- of 1988 (TL) The Tribunal has fixed the date of 19-7-88 of the Court of _____

arising out of the order dated _____ for the hearing of the matter.

Passed by _____ If no appearance is made on your behalf by yourself, your pleader or by someone duly authorised to

act and plead on your behalf, the matter will be heard and decided in your absence.

Given under my hand and seal of the Tribunal this 23.5.88 day of _____ 1988

DEPUTY REGISTRAR.

Central Bench Lucknow Add Bench
IN THE HON'BLE HIGH COURT OF JUDICATURE (AT ALLAHABAD,
LUCKNOW BENCH, LUCKNOW.

A/139

(CIV)

...Alh. No. 1520 of 1982.. (1)

P. N. Upadhyay PETITIONERS/APPLICANTS
APPELLANTS

Versus,

Union of India OPPOSITE-PARTY/PARTIES
RESPONDANTS

FIXED FOR 25-4-82

MEMORANDUM OF APPEARANCE

In the above noted petition/case/ appeal I appear for the Respondent
having been appointed as Additional Standing Counsel for the Govt. of India and its officers and so
instucted by department of Justice, Ministry of Law, Govt. of India, New Delhi to appear and
pled on his/ their behalf i. e. Respondent

LUCKNOW : DATED :

25-4-1982 .

V. K. Chaudhari

(V. K. CHAUDHARI)
Advocate

Counsel for Respondent

Additional Standing Counsel
for Central Govt.

R/O 14/629, Barafkhana, Nai-Basti
Udaiganj, Lucknow.

Tel. Nos. 34986 (Residence)

33640 (Cham. - High Court)

RECEIPT OF MEMO

RECEIVED the Memo of Appearance from Sri V. K. Chaudhari, Advocate High Court,
Additional Central Govt. Standing Counsel High Court, Lucknow Bench of Allahabad High Court
in No. of 19.....

Bench Secy. Court No.....

Sec. officer.....

O/L A/1340

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench ~~ALLAHABAD BENCH~~ Lucknow
~~23 A, Thornhill Road, Allahabad-211 001~~

Gandhi Bhawan (Opposite Residency)
Lucknow

D.CAT/A11d/Jud ~~29402 to 403~~ the & 214

A.No. 1520/87 (T) of 1987 (T)

Sri Paras Nath Upadhyaya Applicant's

Versus

The Union of India Respondent's

V.K. Choudhary, Advocate
High Court, Lucknow.

To ~~1. Mr. S. Ranjanan Advocate~~
2. Mr. P.K. Khare Advocate
High Court Ho. Bench Lucknow.

Whereas the marginally noted cases has been transferred by High Court Lucknow under the provision of the Administrative Tribunal Act (No.13 of 1985) and registered in this Tribunal as above.

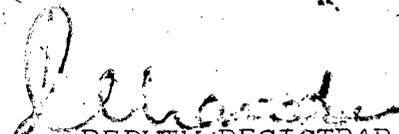
Writ Petition No. 4280
of 1984
of the Court of HC
Lucknow arising out
of Order dated —
passed by — in

The Tribunal has fixed date of 25 April 1988. The hearing of the matter.

If no appearance is made on your behalf by your some one duly authorised to Act and pled on your behalf

the matter will be heard and decided in your absence.

Given under my hand seal of the Tribunal this 7 day of 4 1988.


DEPUTY REGISTRAR

Dk

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Central Bankal Lick

अदालत श्रमान्

महोदय

[वादी] अपीलान्त

श्री

का

वकालत

प्रतिवादी [स्टाडेन्ट]



टिकट

वादी (अपीला)

For S. K. Pathy

बनाम

प्रतिवादी (स्टेन्ट)

Union of India

नं० मुकद्दमा

TA 1520/87 (T)

सन

पेशी की ता०

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

H. C. T. Advocali

वकील

महोदय

एडवोकेट

नाम अदालत	बनाम
मुकद्दमा नं०	
नाम फरीकेन	

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दाबा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखली) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अग- मुकद्दमा अदम पैरबी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी बिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर.....

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

25/11/88

महीना

सन् १९

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स्वीकृत