

Before the Honble Central Administrative Tribunal
d/o

Case A. —/93

S.NO 40

Badri Prasad Gupta

v/s

Union of India & others:

- that the abovenoted case is fixed today before the Honble Tribunal.
- that due to some personal & urgent work I am unable to attend the Honble Tribunal today

Prayer

Wherefore it is most respectfully prayed that the above noted case may finally be adjourned today and some other date may be fixed.

W/o

Dated: 7/10/94



(Anil Kumar)
Advocate
Counsel for Petitioner

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

O.A./T.A./R.A./C.C.P./ No. 1706-1987

V.K. Kaushal Vs. U.O.I. (W.P.M. GIS/PS)

PART - I

- | | | |
|----|------------------|-----------|
| 1. | Index Papers | :- 1 |
| 2. | Order Sheet | :- 21.7 |
| 3. | Any other orders | :- NIL |
| 4. | Judgement | :- 8.1.10 |
| 5. | S.L.P. | :- NIL |

V.K. Mishra
DY. Registrar

[Signature]
Supervising Officer

[Signature]
Dealing Clerk

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

NIL

[Signature]
Dealing Clerk

Check on
30-12
on

Called bt for weekly at
Rajendra
SOD

V.K. Mishra

THE JUDICIAL COMMISSION TRIEBUNAL

T.A. 1706/87

(wp. 615-85)

W.K. Kanthra

VERSUS

U.O. J. Lotters

PART (A)

Check List

A- to A-

✓ Order Sheet

A1 - A2

✓ Final Judgment Order

A3 - A5

4.8.92

✓ Petition Co. with Power

A6 - A27

✓ Stay Appl. for stay - with Lotters

A28 - A29

✓ Counter with Power

- A30 - A37

✓ Rejoinder Affidavit

A38 - A46

PART (B)

B4) to B86

PART (C)

C85 to C86

Completed
and

13.10.93

(5)

2

(2)

Mr SSAT

Mon 1865

It may be listed
in 16 next week
for admission along
with writ petition
No. 133 of 1865.
Dr. V. S. S. S. S.
learned Senior
standing Counsel for
Union & India
shall seek instructions.
Till the next listing
of the case the operation
of the impugned order
continued in Amara
No. 6 shall remain
stayed.

Placed
7-2-65
C

3

Hon'ble Mr. Justice K. Nath, VC.

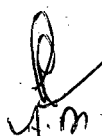
Hon'ble Mr. K. Chayya, AM.

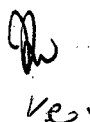
18/12/89

Heard.

ADMIT.

Detailed orders based on the
order sheet of the date.


J.M.


VC.

(SNS)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 1706 of 198 7 Ch

APPELLANT
APPLICANT

V. K. M.

VERSUS

DEFENDANT
RESPONDENT

DO

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
1/11/89	<p><u>Hon' Mr. L.K. Agrawal, J.M.</u></p> <p>This case has been received on transfer from Allahabad. Let notices be issued to the parties. List this case on <u>18-12-89</u> for orders.</p> <p style="text-align: right;">J.M.</p> <p>(sns)</p> <p><u>Hon' Mr. Justice Kamleshwar Nath, V.C.</u> <u>Hon' Mr. K. Obayya, A.M.</u></p>	<p>OK Case has been received from CHJ And on 14.9.04.</p> <p>Case is not admitted by CHJ No CA/RA filed. Date was fixed for CHJ And out of CHJ not attending.</p> <p>Submitted to</p>
18/12/89	<p>Shri J. K. Sinha counsel for the applicant and Shri V.K. Chauchary counsel for the Op. Parties heard. ADMIT.</p> <p>Issue notice to respondents to file counter reply within four weeks to which the applicant may file rejoinder, if any, within two weeks thereafter.</p> <p>List this case for <u>orders/hearing</u> as the case may be on <u>5/2/90</u>.</p> <p style="text-align: right;">A.M. V.C.</p> <p>(sns)</p> <p>No Siding yet to 31.3.90 Applicant is present</p>	<p>OK</p> <p>Case has been received on 11.12.89. Notices have been on 11.12.89.</p> <p>No objection to the order being submitted to.</p> <p>Submitted to</p> <p>OK</p> <p>No CA filed S.P.</p> <p>28th</p>

5.290

(6)

(3)

T. A. 1706/87(7)

A2

28.1.91

D.R.

Both the parties
are present
today. Applicant
is directed
to file rejoinder
by 14/2/91.

14/2/91

This is final
date for Rejoinder
reply, but Appli-
cant failed to
file this and
he is absent
also. Applicant
is not present
for up to
24/4/91 for
final Rejoinder
reply.

24.4.91

D.R.

Both the parties are
present today. Counsel
for the applicant
files Rejoinder today
Hence, this case is to
be listed on 24/7/91
for final hearing before
the Hon. Bench.

4.7.91

No sitting order 9.8.91

J

A3 (8)

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Transfer Application No. 1706 of 1987

(Writ Petition No. 615 of 1985)

V.K. Kanthra Applicant

Versus

Union of India & Others Respondents.

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

Hon'ble Mr. K. Obayya, Member (A)

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

Against the termination order, the applicant filed a writ petition before the High Court challenging the said termination order and one of the grounds taken by him was that the services of a similarly placed employee Amrit Lal Nagar which case was quite similar, but he was not terminated. The writ petition of the applicant was admitted and interim order was granted, with the result that the applicant is continuing in service. By operation of law the writ petition has been transferred to the tribunal.

2. According to the applicant, after written test and medical examination and interview he was recruited as Air Man, and after recruitment he was sent for 6 months training at Bangalore. The applicant was allotted Wireless Operator Trade in which a test was held to which the applicant could not qualify for the same, therefore, he was discharged from the service of Indian Air Force. He remained in service for two years and 167 days. The copy of the discharge certificate has been placed on the record

Contd...2/-

14

A4 (10) (9)

:: 2 ::

The applicant got himself enrolled in the Employment Exchange and passed the Intermediate Examination and thereafter graduated himself. His name was forwarded in the service of Posts and Telegraph Department by the Employment Exchange from among the category of Ex-service men. The applicant qualified ^{in the} oral and written examination and was selected and approved for appointment to Group-D Cadre and given an appointment on 16.9.1982. Vide a letter dated 10.5.1984 he was informed that the Air Officer I/C. Air Force Records New Delhi had informed that he did not fall in the category of Ex-Servicemen and as such the applicant was required to intimate as to how he got himself registered as Ex-Service Man in the Employment Exchange. The applicant submitted his reply on 25.7.1984, notwithstanding the said reply, his services shall stand terminated.

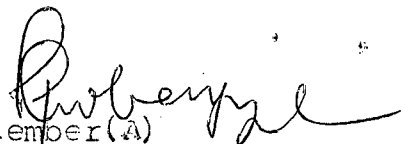
3. The respondents in their counter-affidavit have also stated that his services were terminated as he was not an Ex-Service man and was appointed from that quota. There is no denial of the fact that the genuineness and correctness of the discharge certificate filed by the applicant, ~~has not been~~ denied. A reference to which also found place in the application. In the reply, which was filed by the applicant to the department when a query in this behalf was made. It appears that the certificate earlier was not attested that's why it was not recog-

Contd...3/-

AS → (H) (F) (10)

:: 3 ::

nised. The certificate itself indicates that the applicant was working and ^{he} ~~there~~ was discharged from Indian Air Force and thus he comes within the category of Ex-Service Men. Consequently, the order of termination was legally bad. It can not be sustained. The application is allowed and the termination order dated 17.1.1985 is quashed. The applicant who is already in service will be deemed to be continuing in service without any break. No order as to the costs.


Member (A)


Vice-Chairman

Lucknow Dated 4th August, 1992.

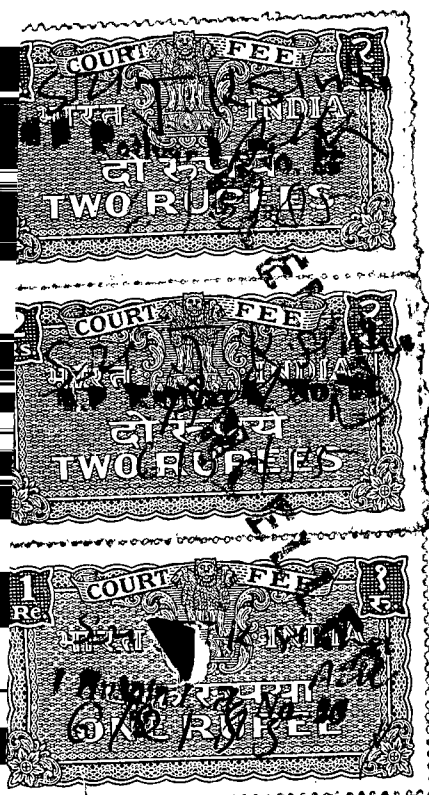
(RKA)

A28 $\frac{3}{1}$

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

C.M.An.No. 1570 (w) of 1985
In re:
Writ Petition No. 65 of 1985

3 C.S.S.S. 7/2/85



Vijai Kumar Kanthra ... Applicant

In re:

Vijai Kumar Kanthra ... Petitioner

Versus

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

APPLICATION FOR STAY

FOR THE Facts and reasons given in the accompanying Writ Petition and duly supported and affidavit it is most respectfully prayed that this Hon'ble Court may kindly be pleased to stay the impugned order dated 17.1.85 contained in Annexure No.6 to this petition during the pendency of the same.

Any other order may also be passed which may deem fit and proper in the circumstances of the case.

Lucknow Dated:

February 6, 1985.

J.K. Sinha
(J.K. Sinha)
Advocate
Counsel for the Applicant.

A29 6/11

3

W.P. No. 615 of 1985

_____ **VS.** _____

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
7-285	<p>Ken SS A ?</p> <p>Ken BK, ?</p> <p>It may be noted in the week commencing next week — — — — —</p> <p>remain stayed</p> <p>Sci SSA</p> <p>Sci BK</p> <p>7-285</p> <p>C-M. Ar. No 1570 285</p>	
7-285	<p>Ken SS A, ?</p> <p>Ken BK, ?</p> <p>For orders, see our order — — — — —</p> <p>W.P.</p> <p>Sci SSA</p> <p>Sci BK</p> <p>7-285</p>	
7/27/24	<p>20-2-85</p> <p>fixed with C.M.A. 1570 (285) 285 order</p> <p>Hobbs</p> <p>Hobbs</p> <p>A request has been</p>	<p>by 21-8-51</p> <p>Dance</p> <p>with</p> <p>133-85</p>

④

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. NO _____ 199 (L)

T.A. NO _____ 1706 of 1987(L)

Date of Decision 4th August, 1992

V.K. Kanthra

PETITIONER.

Advocate for the Petitioner(S)

V E R S U S

Union of India & Others. RESPONDENT.

Advocate for the RESPONDENT(S)

CORAM

The Hon'ble. Mr. Justice U.C. Trivastava, V.C.

The Hon'ble. Mr. K. Obayya, Member (Administrative)

1. Whether Reporter of local papers may be allowed to see the Judgment?
2. To be referred to the reporter or not ?
3. Whether their Lord ships wish to see the fair copy of the Judgment?
4. Whether to be circulated to other benches ?

Vice-Chairman/Member

CIVIL

SIDE

GENERAL INDEX

CRIMINAL

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case..... W.P. 615-85

Name of parties..... Vignar Kumar Rathore vs. Union of India

Date of institution..... 7/2/55

Date of decision.....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
	1-	W.P. with Ammagan and affidavit	21-		102-00			
	2,	Power	1-		5-00			
	3	Cm.D. 1570(W) of 85 for stay	1-		5-00			
	4:	order sheet	1-		-			
	5-	Back copy	-		-			

I have this

day of

198 ,

examined

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

Date.....

Munsarim

Clerk

Group A-15(a)

1005 AB

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

WRIT PETITION NO. 615 OF 1985

Vijai Kumar Kanthra ... Petitioner
Versus
Union of India & others. ... Opp. Parties.

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6.	Annexure No.5	17
7.	Annexure No.6	18
8.	Affidavit.	19-20
9.	Stay Application	
10.	Power	21

LUCKNOW DATED:

FEBRUARY 6, 1985.

R. Sinha

(J.K.SINHA)
ADVOCATE

COUNSEL FOR THE PETITIONER.

Completed
CA/PA

1917

A7 1/2

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

..... 615
WRIT PETITION NO. 615 OF 1985

Vijai Kumar Kanthra aged about 26 years,
son of Sri Mahadeo Prasad, r/o Ikarna
Tahsil Bahraich District Bahraich... Petitioner

Versus

1. Union of India through Secretary Posts and
Telegraph Department, Government of India
New Delhi.
2. Superintendent of Post Offices Bahraich,
Region Bahraich.
Air Officer i/c Air Force Records New Delhi
3. The District Soldier Board, Bahraich through
the Secretary. ... Opp. Parties.

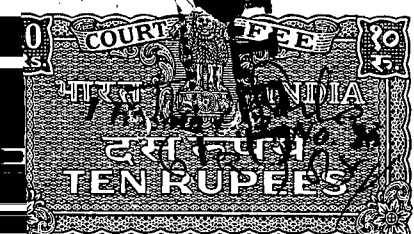
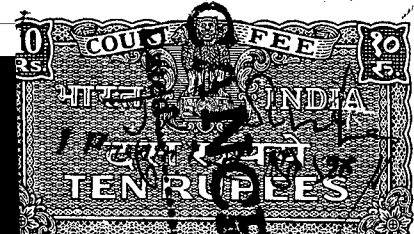
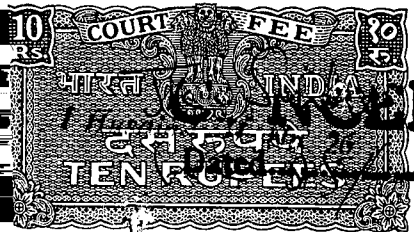
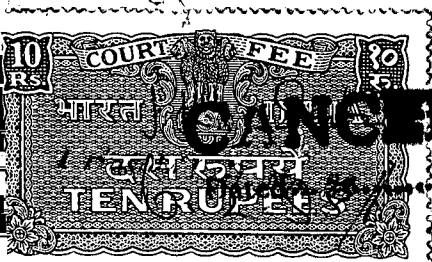
WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION
OF INDIA

To:

The Hon'ble Chief Justice and his
Companion Judges of the aforesaid
Court.

.....

The humble petition of the abovenamed
petitioner most respectfully begs to submit as under:



Kantra

1/5
A10

he joined his duties at Bahraich Post Office on 19 Feb. 1983 in the pay scale of Rs.196-232. The petitioner was attached with the Head Post Office Bahraich and at present the petitioner is working in Bahraich Head Office since 19.2.83. That though there has been a break in the service of the petitioner for a few days but he has been given increments in the year 1984 in his pay.

7. That vide letter dated 10.5.1984 the Superintendent of Post Offices, Bahraich, respondent no.2 informed the petitioner that the Air Officer I/C.Air Force Records New Delhi had informed that he did not fall in the category of Ex-servicemen and as such the petitioner was required to intimate as to how he got himself registered as Ex-service Man in the Employment Exchange, Bahraich. A true copy of the said letter dated 10.5.1984 is being annexed herewith as Annexure No.3 to this writ Petition.

8. That again a letter was addressed to the petitioner on 23.7.1984 to give his explanation. A true copy of the said letter is being annexed herewith as Annexure No.4 to this Writ Petition.

9. That the petitioner submitted his reply on 25.8.1984 a true copy of which is being annexed herewith as Annexure No.5 to this petition.



Kanitha

1/6
All

10. That vide order dated 17.1.1985, the services of the petitioner have been terminated under sub-rule (1) of Rule 5 of Central Civil Services Temporary Services Rules, 1965. The said letter was served on the petitioner on 18.1.1985 and it has been provided in the said order that the services of the petitioner shall stand terminated with effect from the date of expiry of the period of one month from the date on which the notice is served. The original order terminating the services of the petitioner is being annexed herewith as Annexure No.6 to this Writ Petition.

11. That a perusal of the termination order would reveal that no reason has been assigned for terminating the services of the petitioner and in view of the fact mentioned above in the present petition it is evidently clear that the services of the petitioner have been terminated on the basis of the information sent by the Air Officer I/C Air Force Records New Delhi. The petitioner has not been communicated with any such letter of the Air Officer I/C. Air Force Records New Delhi, and no reason has been assigned in the order terminating the services of the petitioner. The petitioner had already submitted the Discharge Certificate from Indian Air Force the original was also shown and on the basis of the said Discharge Certificate which was issued to the petitioner by the wing Commander Commanding Officer, he got himself registered with the Employment Exchange and at the time of appoint-



Kanwar

1/7
A12

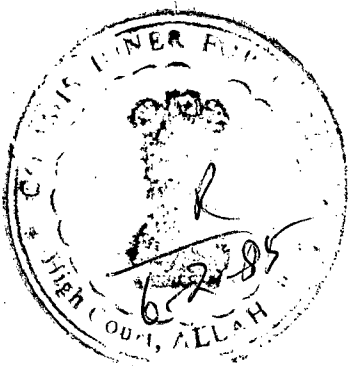
ment also the said papers were seen by the Department. As such now it cannot be said by the respondents that the petitioner is not an Ex-service man.

12. That there is no allegation against the petitioner that he had concealed any material fact on the basis of which his appointment could be cancelled.

13. That in any case, by the impugned order the services of the petitioner have been terminated instead of cancelling his appointment. The order terminating his services is absolutely arbitrary and illegal.

14. That the other class IV employees who were appointed along with the petitioner, except Sri Amrit Lal Nagar are still continuing in service and there are still vacancies in the Head Office itself of Class IV employees and as such there was no justification for terminating the services of petitioner. It is noteworthy that Amrit Lal Nagar whose case is quite similar to petitioner had filed the writ petition challenging the termination order. This Hon'ble Court was pleased to pass Interim stay order in the Writ Petition No.133 of 1985. Amrit Lal Nagar Versus Union of India.

15. That it may be stated here that the Certifi-



Continued

cate of Discharge which was issued in favour of the petitioner is, in fact, a recommendation for civil employment as is evident from the Certificate itself.

16. That the order of termination is absolutely illegal and without jurisdiction and is mala fide.

17. That in case the impugned order of termination dated 17.1.1985 is not stayed the petitioner would suffer grave and irreparable loss.

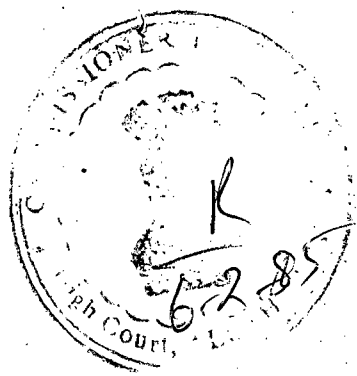
18. That feeling aggrieved by the impugned order and having no other alternative and efficacious remedy, the petitioner begs to invoke the writ jurisdiction of this Hon'ble Court, inter alia, on the following:

GROUNDS

(A) Because, the order of termination is absolutely arbitrary, illegal and without jurisdiction.

(B) Because, the order of termination is violative of Article 14 and 16 of the Constitution of India.

(C) Because the Discharge Certificate which was



A. Karthikeyan

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A14
issued in favour of the petitioner from the ~~Army~~
was a recommendation for employment in Civil services.

(D) Because no reason has been assigned in the order of termination and other class IV employees, who were appointed alongwith the petitioner, are still working.

(E) Because the letter of the Air Officer I/C. Air Force has not been sent to the petitioner.

(F) Because the Discharge Certificate issued to the petitioner is a recommendation for employment in ~~xx~~ Civil Services as such the petitioner was rightly appointed as Class IV employee.

(G) Because the petitioner had not concealed any fact either at the time of enrolment in the Employment Exchange or at the time of his appointment and he was appointed after verification of his ~~app~~ papers and as such the respondents are now estopped from saying that the appointment of the petitioner was not legal.

(H) Because the order of termination is absolutely illegal and arbitrary.

PRAYER

WHEREFORE, it is most respectfully prayed that

1/10
AIS

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this Hon'ble Court may kindly be pleased to:

(i) Issue a writ, order or direction in the nature of certiorari quashing the termination order of the petitioner dated 17.1.1985 contained in Annexure No.6 to the writ petition.

(ii) Issue a writ, order or direction in the nature of mandamus commanding the respondents not to give effect to the aforesaid order of termination dated 17.1.1985.

(iii) Issue any other writ, order or direction which this Hon'ble Court deems fit and proper in the circumstances of the case.

Lucknow Dated:
February 6, 1985.

J.K. Sinha
(J.K. Sinha)
Advocate
Counsel for the Petitioner.

10
11
A16

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

.....

WRIT PETITION NO. OF 1985
Vijai Kumar Kanthra Petitioner
Versus
The Union of India & others. ... Opp. Parties.

ANNEXURE NO. - 1

PART III
INDIAN AIR FORCE
DISCHARGE CERTIFICATE.

(For use on discharge from the Service)

Certified that Rank AC(U/T) Name Kanthra Service Number
635566M Trade U/T TELST/RT/OPR was discharged from the
Indian Air Force on (date) First August Nineteen Eighty
(in words) in the rank of AC(U/T) Reason for discharge.

"DISCHARGED FROM THE IAF
UNDER AF RULES 1969,
CHAPTER III RULE 15(J),
AS UNLIKELY TO MAKE AN
EFFICIENT AIRMAN."

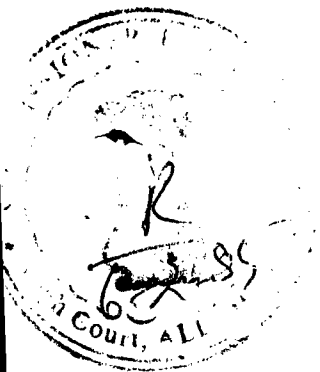
Total Service (in words)

Regular Two years One hundred Sixty seven
days only. Character and Genral Behaviour during service
Good Trade Proficiency Trainee.

Sd/-Illegible
(D.S.Saama)

Wing Commander
Commanding Officer
Officer Commanding (Unit)

Issued at No.3 GTS, AIRFORCE on 1st. August, 1980.



TRUE COPY

Kanthra

11

12
A17

PART (C) 42

PART : III

INDIAN AIR FORCE

DISCHARGE CERTIFICATE

(For use on discharge from the Service.)

Certified that Rank... AC (U/T) Name ... KANTHRA VK
Service Number ... 635566 N Trade... U/T TELST/RT/OPR was

discharged from the Indian Air Force on (date).

... ELST AUGUST NINETEEN EIGHTY (in words)

in the rank of AC (U/T)

Reason for Discharge :- " DISCHARGED FROM THE IAF
UNDER AF RULES 1969,
CHAPTER III RULE 15 (J),
'AS UNLIKELY TO MAKE AN
EFFICIENT AIRMAN."

Total service (in words) :-

Regular TWO Years.. ONE HUNDRED SIXTY SEVEN days only.

Character and General Behaviour during service..... GOOD

Trade Proficiency TRAINEE

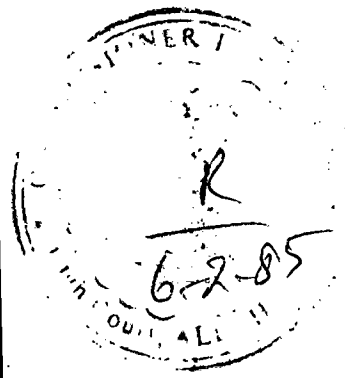
Attested
3-2-85



[Signature]

(D.S. Sarma)
Wing Commander
Officer Commanding (Unit)

Issued at NO. 3 GTS, AIR FORCE on... 01 ST AUGUST, 1980



DISCHARGE CERTIFICATE

1. Great care must be taken of this certificate. If this is lost, A Duplicate copy will not be issued. Only in exceptional circumstances and at the discretion of O.C. Air Force Record Office, New Delhi 10, a Substitute copy IAFF (P)53 may be issued.
2. This Certificate is not transferable. In case of loss the OC Air Force Record office, New Delhi-10, and the local police must be immediately informed.
3. A finder of this certificate has not right to retain it. He should either deposit with the nearest police station or post this unstamped to the owner whose address is given on page 5, column 9 or to the OC Air Force Record Office, New Delhi-10.
4. This certificate may be used by the person to whom this is issued. In support of the facts stated herein for any subsequent employment any creasures of corrections, not properly authentidated will make this certificate totally invalid.



K. K. M. 22

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

.....

WRIT PETITION NO. OF 1985

Vijai Kumar Kanthra ... Petitioner
Versus
Union of India & others. ... Opp. Parties.

ANNEXURE NO. 2

INDIAN POSTS AND TELEGRAPH DEPARTMENT
OFFICE OF THE SUPDT. OF POST OFFICES, BAHRAICH DIVI-
SION BAHRAICH 271801

Memo No. Con-11/Exa/Group-D/82 dated at Bahraich
the 16.9.1982.

As a result of examination for recruitment to
Group-D cadre from EDAs held on 5.9.1982, the follow-
ing candidates who have qualified, are selected and
approved for appointment to Group-D cadre in differ-
ent units of the Division and allotted to unit noted
against each.

Sl. No.	Name and Designation of the candidates	Roll No.	Name of unit to which allotted.
1.	2	3	4

- | | | | |
|----|--|--------|----------------|
| 1. | Sri Bans Gopal Awasthi
BPM Khaira Bazar | BRN-3 | S.D.I. (South) |
| 2. | Bechu Dayal
EDDA Hasnapur | BRH-5 | S.D.I. (South) |
| 3. | Lal Vikram Awasthi
EDA Balchandpur. | BRH-9 | S.D.I. (South) |
| 4. | Onkar Nath Shukla
EDR Balchandpur. | BRH-10 | S.D.I. (South) |



Kanthra

-2-

5. Ram Gopal Shukla BHH-15 SDI (South)
EDDA Nanpara S.O.
6. Sayed Mustafa Ali BHH-21 Postmaster BHH
BPM Nanpara R.S. HO
- S.C. Candidates
7. S/Sri Keshav Ram Arya BHH-31 SDI (Central)
EDMP Mahru Murtiha
8. Ram Sumiran BHH-33 SDI (South)
EDDA Kundasar

S.T. Candidate

9. Ganga Ram BHH-41 SDI (North)
EDR Fakirpuri

Ex-Servicemen Candidates

10. Vijay Kumar Kanthra BHH-43 Postmaster BHH HO
S/o Sri Mahadeo Pd.
Near Hospital Ikauna
Bahraich.
11. Amrit Lal Nagar BHH-46 Postmaster BHH HO.
At Post Sikanderpur
Bahraich.

2. The names of the approved candidates are arranged in order of seniority both for OC. SC and ST candidates separately.

3. The unit Incharge will ~~not~~ utilise the services of approved candidates for appointment (Regular and officiating). They will in no case now engage outsider unless prior approval of undersigned is obtained.

4. The Service particulars and age in respect of Ex-service man candidates should be verified from original records before their appointment.

Sd/- (Ram Prasad)

Supdt. of Post Offices,
Bahraich Division, Bahraich.



Kanthra

15
A21 1/16

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

.....
WRIT PETITION NO. OF 1985

Vijai Kumar Kanthra ... Petitioner

Versus

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

ANNEXURE NO. 3

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

From

The Supdt. of Post Offices,
Bahraich Division, Bahraich-271801.

To:

Shri Vijai Kumar Kanthra,
Class-IV, Bahraich H.P.O.

No.B-2/Rectt. Dated at Bahraich the, 10.5.84.

Sub:- Rectt. of Sri V.K.Kanthra in Postal Asstt. Cadre
against Ex-servicemen quota in P & T deptt.

...

The Air officer I/C. Air Force Records New Delhi
has intimated to this office that you do not fall under
the category of an ex-servicemen as you were not attes-
ted in the Indian Air Force and you have not served for
a continuous period of six months after attestation.

Therefore, please intimate how you have got
registered yourself as ex-servicemen in the employment
exchange Bahraich.

Sd/-
Supdt. of Post Offices,
Bahraich Division
Bahraich-271801.

TRUE COPY



Vijai Kanthra

16
A22 17

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

....
WRIT PETITION NO. OF 1985

Vijai Kumar Kanthra Petitioner

Versus

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

ANNEXURE NO. 4

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

From:

The Supdt. of Post Offices,
Bahraich Division, Bahraich-271801.

To

Shri Amrit Lal Nagar,
Class IV Bahraich HO.
Sri V.K. Kanthra,
Class IV Bahraich HO.

No.B-2/Rectt. Dt. at Bahraich the, 23.7.84.

Sub: Rectt in Postal Asstt. Cadre against Ex-Servicemen
quota in P & T Deptt.

...

Please refer this office letter no. even and submit
your explanation within three days positively.

This is urgent.

Sd/-

Supdt. of Post Offices
Bahraich Division Bahraich
-271801.

TRUE COPY



Kanthra

17

A23 1/18

इन दि आनरेबल हाई कोर्ट आफ जूडीकेचर ऐट इलाहाबाद
लखनऊ बेंच, लखनऊ।

रिट पिटीशन नं० आफ १६८५

बिजय कुमार कैथरा --- पिटीशनर
बनाम

यूनियन आफ इण्डिया आदि. --- अपोपार्टीज
अनेजर नं० 5

सेवा में,

श्रीमान अधीक्षक,
डाकघरे बहराइच,
प्रखण्ड बहराइच। २७१८०१।

द्वारा:

पोस्ट मास्टर
बहराइच।

बिषय:- प्राथी के चयन के सम्बन्ध में।

सन्दर्भ: आपका पत्रांक बी-२। रिज्यूटमेंट दिनांक १८-५-८४।

महोदय,

आपके संदर्भित पत्र के बिषय में प्राथी का निवेदन है कि इण्डियन स्येर फा'स द्वारा प्राप्त भार मुक्ति प्रमाण-पत्र (डिस्चार्ज सर्टीफिकेट) को सेवा नियोजन कार्यालय में प्रस्तुत करने पर मुझे मृतपूब सैनिक (रक्ष-सर्विसमैन) मानकर पंजीकृत कर लिया। भार मुक्ति प्रमाण-पत्र की फोटो स्टेट कापी श्रीमान जी की सेवा में प्रेषित है।

संलग्नक

उपरोक्त प्रमाण-पत्र।

दिनांक २७-७-८४।

प्राथी

बिजय कुमार कैथरा
गुपे डी
प्रधान डाकघर बहराइच।

सत्य-प्रतिलिपि

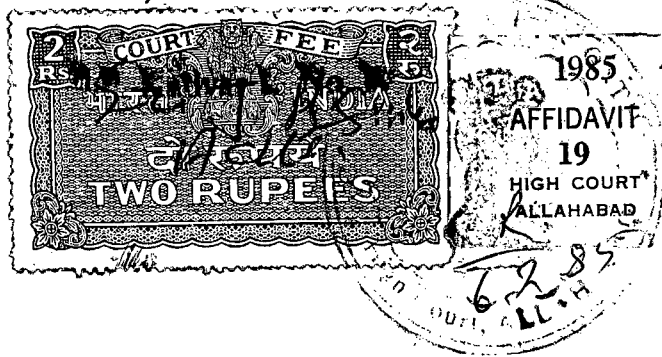


Kanthra

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A25/20

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

.....
WRIT PETITION NO. OF 1985



Vijai Kumar Kanthra Petitioner

Versus

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

AFFIDAVIT

I, Vijai Kumar Kanthra aged about 26 years,
son of Sri Mahadeo r/o Ikauna, Tahsil Bahraich
District Bahraich, the deponent, do hereby solemnly
affirm and state on oath as under :-

1. That the deponent is petitioner himself
in the abovenoted Writ Petition and as such he is
fully conversant with the facts of the case deposed
hereinafter.

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



Kanthra

181
A24 19

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

.....

WRIT PETITION NO. OF 1985

Vijai Kumar Kanthra ... Petitioner

Versus

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

ANNEXURE NO. 6

INDIAN POSTS AND TELEGRAPH DEPARTMENT
OFFICE OF THE SUPDT. OF POST OFFICES BAHRAICH DN.
BAHRAICH-271801.

...

Memo No.B-2/Rectt. Dt. at Bahraich the, 17.1.1985.

In pursuance of Sub-Rule (1) of Rule-5 of the Central Civil Services (Temporary Service) Rules, 1965, IRam Pd. Supdt. of Post Offices Bahraich Division, hereby give notice to Shri Vijai Kumar Kanthra Class IV Bahraich H.P.O that his services shall stand terminated with effect from the date of expiry of a period of one month from the date on which this notice is served on, or as the case may be tendered to him.

Sd/-
Supdt. of Post Offices,
Bahraich Division
Bahraich-271801.

Copy to:

1. Shri Vijai Kumar Kanthra Class IV Bahraich, H.P.O. for information.
2. P.M. Bahraich H.O. for information and n/a.
3. Service Book of the official.
4. P.F. of the official.
5. C.R. file of the official.
6. Spare.

TRUE COPY

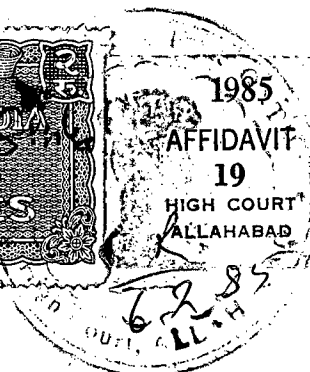
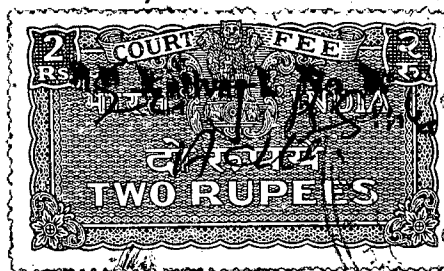


Kanthra

19
A25/20

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

.....
WRIT PETITION NO. OF 1985



Vijai Kumar Kanthra Petitioner

Versus

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

AFFIDAVIT

I, Vijai Kumar Kanthra aged about 26 years,
son of Sri Mahadeo r/o Ikauna, Tahsil Bahraich
District Bahraich, the deponent, do hereby solemnly
affirm and state on oath as under :-

1. That the deponent is petitioner himself
in the abovenoted Writ Petition and as such he is
fully conversant with the facts of the case deposed
hereinafter.

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



Kanthra

A26

3. That Annexures x are certified copies
And Annexures 1-6 are true copies which have
been compared with their respective originals by
the deponent.

Lucknow Dated:

February 6, 1985.

Kanthra
Deponent.

VERIFICATION

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

Lucknow Dated:

February 6, 1985.

Kanthra
Deponent.

I identify the deponent, who has signed
before me.

J.K. Sinha
Advocate.

Solemnly affirmed before me on 6-2-85
at 2.47 p.m. by Sri Vijai Kumar Kanthra
the deponent, who is identified by Sri J.K. Sinha,
Advocate, High Court, at Allahabad.

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



J.K. Sinha
J. K. SINHA
ADVOCATE
HIGH COURT
ALLAHABAD
LUCKNOW BENCH
NO. 19/123
Date 6-2-85

J.K. Sinha

21

2
1

ब अदालत श्रीमान्

[वादी] अपीलान्त

प्रतिवादी [रेंस्पॉडेन्ट]

In the Honble High Court of

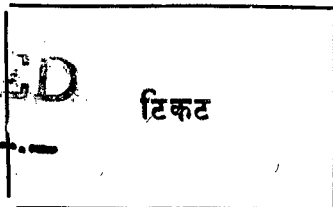
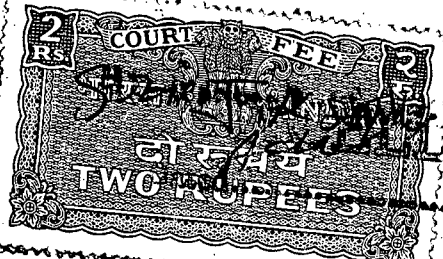
महोदय

Judicature at Bhubaneswar

Office of the Advocate

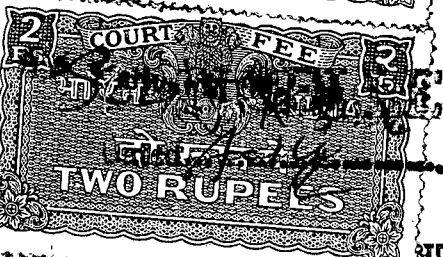
वकालतनामा

A2)



टिकट

वादी (अपीलान्त)



बनाम

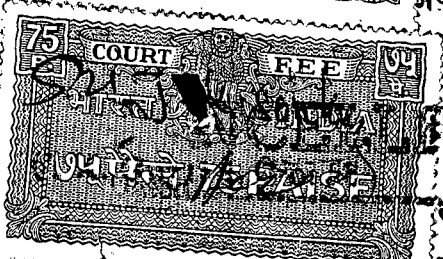
Union of India vs प्रतिवादी (रेंस्पॉडेन्ट)

सन्

पेशी की ता०

१६ ई०

अपनी ओर से श्री



J.K. Sinha

वकील

महोदय

एडवोकेट



ल नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील परवी व जबाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल या हमारी ओर से डिगरी जारी करावे और रुपया वसूल या मा व इकबाल दावा तथा अपील निगरानी हमारी ओर अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा ई रुपया जमा करें या हारी विपक्षी (फरीकसानो) 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 होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम परवी 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

J.K. Sinha

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६

ई०

स्वीकृत

J.K. Sinha

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

.....

WRIT PETITION NO. OF 1936

Vijai Kumar Kaushra Petitioner
Versus
Union of India & others. ... Opp. Parties.

INDEX

Sl. No.	Description of papers	Page No.
1.	Memorandum of Writ Petition.	
2.	Annexure No. 1	
3.	Annexure No. 2	
4.	Annexure No. 3	
5.	Annexure No. 4	
6.	Annexure No. 5	
7.	Annexure No. 6	
8.	Affidavit.	
9.	Stay Application	

LUCKNOW DATED:

FEBRUARY , 1936.

(J. K. SINHA)
ADVOCATE
COUNSEL FOR THE PETITIONER.

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

.....

WRIT PETITION NO. OF 1985

Vijai Kumar Kanthra aged about 26 years,
son of Sri Mahadeo Prasad, r/o Ikarna
Tahsil Bahraich District Bahraich... Petitioner
Versus

1. Union of India through Secretary Posts and
Telegraph Department, Government of India
New Delhi.
2. Superintendent of Post Offices Bahraich,
Region Bahraich.
3. The District Soldier Board, Bahraich through
its Secretary. Opp. Parties.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION
OF INDIA

To:

The Hon'ble Chief Justice and his
Companion Judges of the aforesaid
Court.

.....

The humble petition of the abovesaid
petitioner most respectfully begs to submit as under:

names were called from Employment Exchange Bahraich and the name of the petitioner was sent in the category of Ex-service men.

4. That a written and oral test was held for appointment on the said post of class IV employees and the petitioner was found qualified for appointment. As such, vide order dated 16.9.1932, the petitioner was selected and approved for appointment to Group-D Cadre and was attached in Bahraich Unit of Posts and Telegraphs Department. A true copy of the said order dated 16.9.1932 is being annexed herewith as Annexure No. 2 to this writ petition.

5. That clause 4 of the said order would indicate that the service particulars and age in respect of Ex-service men candidates were to be verified from original records ~~before~~ before their appointment. The petitioner was required to submit the copies of the discharge certificate issued from the Indian Air Force which the petitioner complied with and the original discharge certificate was also submitted by the petitioner for verification to the duplicate copies which he had submitted. The original was subsequently returned back.

6. That in pursuance of the selection, the petitioner was appointed as Class IV employee &

10. That vide order dated 17.1.1985, the services of the petitioner have been terminated under sub-rule (1) of Rule 5 of Central Civil Services Temporary Services Rules, 1965. The said letter was served on the petitioner on 13.1.1985 and it has been provided in the said order that the services of the petitioner shall stand terminated with effect from the date of expiry of the period of one month from the date on which the notice is served. The original order terminating the services of the petitioner is being annexed herewith as Annexure No. 6 to this writ petition.

11. That a perusal of the termination order would reveal that no reason has been assigned for terminating the services of the petitioner and in view of the fact mentioned above in the present petition it is evidently clear that the services of the petitioner have been terminated on the basis of the information sent by the Air Officer I/C Air Force Records New Delhi. The petitioner has not been communicated with any such letter of the Air Officer I/C, Air Force Records New Delhi, and no reason has been assigned in the order terminating the services of the petitioner. The petitioner had already submitted the Discharge Certificate from Indian Air Force the original was also shown and on the basis of the said Discharge Certificate which was issued to the petitioner by the wing Commander Commanding Officer, he got himself registered with the Employment Exchange and at the time of appoint-

this Hon'ble Court may kindly be pleased to:

(i) Issue a writ, order or direction in the nature of certiorari quashing the termination order of the petitioner dated 17.1.1985 contained in Annexure No 6 to the writ petition.

(ii) Issue a writ, order or direction in the nature of mandamus commanding the respondents not to give effect to the aforesaid order of termination dated 17.1.1985.

(iii) Issue any other writ, order or direction in this Hon'ble Court deems fit and proper in the circumstances of the case.

Encl. Dated:

February , 1985.

(J.R. Sinha)
Advocate
Counsel for the Petitioner.

IN THE HON'BLE HIG. COURT OF JUDICATURE AT ALLAHABAD
SITING AT LUCKNOW.

.....

WRIT PETITION NO. OF 1986

Vijai Kumar Kanthra Petitioner

Versus

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

AFFIDAVIT

I, Vijai Kumar Kanthra aged about 26 years, son of Sri Mahadeo r/o Ikauna, Tahsil Bahraich District Bahraich, the deponent, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is petitioner himself in the abovenoted writ petition and as such he is fully conversant with the facts of the case deposed hereinafter.

2. That the contents of paragraphs 1 to 17 of this writ petition are true to my own knowledge.

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

.....

C.M.An.No. (w) of 1985
In re:
Writ Petition No. of 1985

Vijai Kumar Kanthra ... Applicant
In re:
Vijai Kumar Kanthra ... Petitioner
Versus
The Union of India & others. ... Opp.Parties.

APPLICATION FOR STAY

FOR THE Facts and reasons given in the accompany-
ing Writ Petition and duly supported and affidavit
it is most respectfully prayed that this Hon'ble Court
may kindly be pleased to stay the impugned order dated
17.1.85 contained in Annexure No.6 to this petition
during the pendency of the same.

Any other order may also be passed which may deem
fit and proper in the circumstances of the case.

Lucknow Dated:

February ,1985.

(J.K.Sinha)
Advocate
Counsel for the Applicant.

A30

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

T.O.A. NO. 1706 of 1989(T)

Vijai Kumar Kanthra ... Applicant

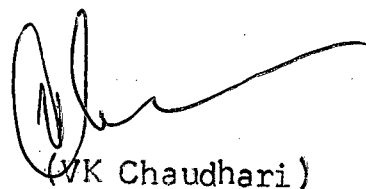
-vs-

Union of India and others .. Opp. parties

CONDONATION OF DELAY IN FILING COUNTER AFFIDAVIT.

That the opposite parties beg to submit as under:-

1. That in the above noted case the counter affidavit could not be filed in time inadvertent. The same is now ready and is being filed along with this application.
2. Wherefore it is most humly prayed that the delay in filing the counter affidavit may kindly be condoned and counter affidavit be taken on record.



(VK Chaudhari)

Addl Standing Counsel for central Govt
Counsel for the Opp. parties.

Lucknow,

Dated: 24 July 1990.

A31

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

T.A.
EX. NO.

1706/T.

Vijai Kumar Kanthra

... Applicant

-vs-

Union of India and others

... Opp. parties

COUNTER AFFIDAVIT ON BEHALF OF OPP. PARTIES.

I, T.D. Gulie

31/2/92
aged about 48 years, son of late Shri R.D. Gulie
at present posted as Supdt. of Post Offices, Behraich
Division, Behraivh do hereby solemnly affirm and state
as under:-

31/2/92
1. That the deponent is the Opp. party no.2
in the above noted case as such he is well conversant
with the case and he read and understood the
contents of the application, as well as the
facts deposed to herein under in reply thereof.


2. That before giving parawise comments
on the application it is pertinent to give brief
history of the case as under:-

CTD. Gulie

A32

(a) That the applicant filed the said application before this Hon'ble Tribunal against termination order under Rule 5 of CCS(T/S) Rules, 1965.

(b) That there were two vacancies against Ex-servicemen quota in Group-D Cadre in Bahraich Postal Division for the recruitment year 1982. In this connection the names of Ex-servicemen were sought for from District Employment Exchange Behraich who sent a list of 10 candidates. Out of these ten candidates, 2 candidates vis. S/Shri Vijai Kumar Kunthra and Amrit Lal Nagar were declared successful for appointment to the Post of Group-D cadre after a departmental examination held in the Month of Sept. 1982, as employment exchange nominee of Ex-servicemen quota. The result was announced vide letter dated 16.9.82. The above both the officials are working as Group-D employee at Head Post office, Behraich.

 (c) That subsequently the vacancies for recruitment of Postal Assistant for 2nd half year of 1982 were notified and above both the officials has also applied for recruitment to the cadre of Postal Assistant against the vacancies reserved for ex-servicemen. The departmental selection committee considered the applications of above both officials on 27.1.83 and selected above both the officials provisionally subject to confirmation of being them actually ex-servicemen as they have been discharged from training only.

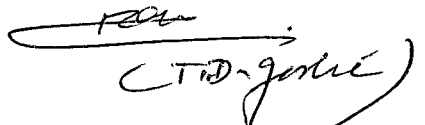
A33

-3-

These remarks were noted by the Selection committee on the summary sheet of both the officials and on the register named 'Z8' as well. Accordingly the Secretary District Soldiers Board Behraich was addressed on 21.2.83 for tendering opinion whether the above candidates are eligible for appointment as Ex-servicemen, who opined in respect of the applicant vide his letter dated 28.2.83 that the applicant who discharged on grounds 'unlikely to make an efficient Airmen and did not serve for six continuous months after attestation'. He does not fall under the category of Ex-servicement'. The case of the applicant were also referred to the commanding officer, Airforce Records office New Delhi on 15.7.83 who opined vide his letter dated 19.8.83 that the applicant does not fall under the category of an Ex-serviceman as he was not attested in the Indian Airforce.

(d) That on receipt of the above information from the Secretary District Soldiers Board, Behraich the case was referred to the Director Postal Services Lucknow Region, Lucknow for necessary instructions on 23.5.83 and 16.8.84 as the official was working as Group-D in Behraich Head Office at that time who intimated vide his letter No.RBL/Rectt/M-2/I/83/I dated 1.1.85 that the applicant can not be taken under the Ex-servicemen quota.

(f) That on receipt of the instructions from the Director, Postal Services, Lucknow Region, Lucknow the notice of termination of services of the applicant


(T.D. Guleria)

A34

Under Rule 5 of CCS(T/S) Rules, 1965 was issued under letter dated 17.1.1985 and served on the applicant on 18.1.85 against which this application has been filed.

3. That the contents of para 1 of this application does not relate to the answering deponent.
4. That the ~~xxx~~ contents of para 2 of the application need no comments.
5. That the contents of para 3 and 4 of the application are not disputed.
6. That the contents of para 5 of the application need no comments.
7. That in reply to the contents of para 6 of the application it is submitted that the applicant was allotted to Behraich Head office unit under the administrative control of Postmaster Behraich.
8. That the contents of para 7 and 8 of the application are not disputed.
9. That in reply to the contents to para 9 of the application it is submitted that the petitioner got his name registered at employment exchange Behraich on the basis of discharge certificate issued from Indian Airforce.

[Handwritten signature]
3/1/90

[Handwritten signature]
CTD-gurke

A35

10. That in reply to the contents of para 10 of the application it is submitted that the order dated 17.1.85 was a notice for termination of services of the applicant after expiry of one month's period from the date on which the notice is served on the applicant, which was issued when it was confirmed that the applicant does not fall under the category of Ex-servicemen as he did not serve atleast six months in Armed Forces after his attestation.

11. That the contents of para 11 of the application are incorrect as stated, hence denied and in reply it is submitted that the petitioner was already informed vide office letter dated 18.5.85 about the information received from Air ~~for~~ Officer Incharge, Airforce Records office, New Delhi that the applicant does not fall under the category of Ex-servicemen. This fact has also been admitted by the applicant ~~xxxxxx~~ himself in para 7 of the writ petition.

12. That the contents of para 12 of the petition are incorrect as stated, hence denied.

13. That the contents of para 13 of the petition are incorrect as stated, hence denied and in reply it is submitted that the notice dated 17.1.85 regarding termination of services of the petitioner was issued as per provisions contained in sub-rule-I of Rule 5 of CCS(Temporary Service) Rules, 1965 and it is legal.

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14. That in reply to the contents of para 14 6 of the petition ~~xxx~~ it is submitted that the other class -D employees were recruited against the vacancies reserved for Extra departmental employees of the department by the departmental examination whereas the petitioners appointment was based on his actually being Ex-servicemen as he was recruited against vacancies reserved for Ex-servicemen and when it was confirmed that he does not fall under the category of Ex-servicemen the notice dated 17.1.85 under Rule 5(1) of CCS (T/S) Rules, 1965 was issued.

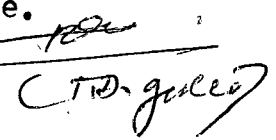
15. That the contents of para 15 of the petition are incorrect as stated, hence denied.

16. That in reply to the contents of para 16 of the petition it is submitted that the order dated 17.1.1985 is legal and was issued under the provisions of Rule 5(i) of CCS(T/S) Rules, 1965 and is not malafide.

17. That the contents of para 17 of the petition needs no comments.

18. That the grounds taken by the petitioner are not maintainable in the eyes of law.

19. That in reply to the contents of para 18-A of the application /petition it is submitted that the order dated 17.1.85 is legal and was issued under the provisions of Rule 5(I) of Central Civil Services Temporary Services Rules 1965 and is not malafide.


C. D. Jaleel

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20. That the contents of para 18-B & 18-C of the petition are not admitted, being incorrect.

21. That the contents of para 18-D of the petition ~~xxx~~ need no comments as no termination order has been issued. The order dated 17.1.85 was a notice of termination of services.

22. That the contents of para E to H of para 18 of the petition are incorrect, hence denied.

23. That in view of the facts and circumstances stated in the preceeding paragraphs, the petition filed by the petitioner is liable to be dismissed with costs to the Opp. parties.

Lucknow,

Dated: 3-2-90

Deponent. (Signature)
Superd of Post Office
Behrwal

Verification.

I, the above named deponent do hereby verify that the contents of paragraphs 1 is true to my personal knowledge, those of paragraphs 2 to 15 are believed to be true on the basis of record and information gathered, and those of paragraphs 16 to 19 are also believed by me to be true on the basis of legal advice. No part of this affidavit is false and nothing material has been concealed.

~~xxx~~

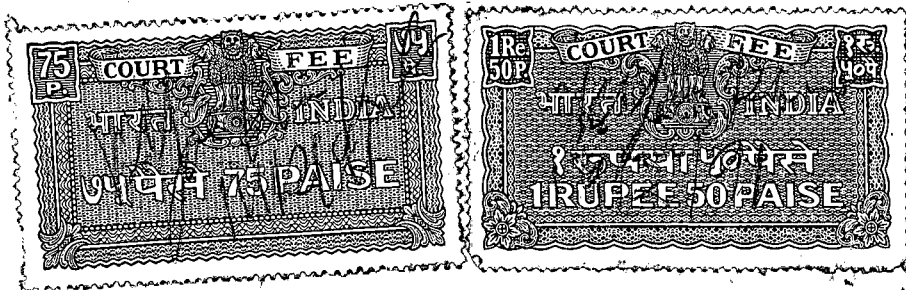
Lucknow
Dated: 3-2-90

Deponent. (Signature)
Superd of Post Office
Behrwal

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

T.A. NO. 1706/89 (T)



Vijai Kumar Kanthra Applicant.

Versus

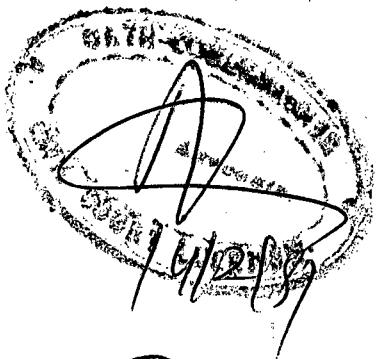
Union of India and Others. Opp. Parties.

REJOINDER AFFIDAVIT

I, Vijai Kumar Kanthra aged about 32 years son of Maha Dev Prasad, resident of Idauna Tahsil Bahraich, District Bahraich, the deponent do hereby solemnly affirm and state on oath here as under -

1- That the deponent is applicant in the above named application as such he is fully conversant with the facts and circumstances of the case. The counter affidavit filed on behalf of the opposite parties has been read over and explained. After understanding of the same he is giving reply parawise.

2- That the contents of para 1 of the counter



Filed today
24/4/91
Kanthra

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affidavit need no comments.

3- That the contents of para 2A of the counter affidavit is true hence not denied.

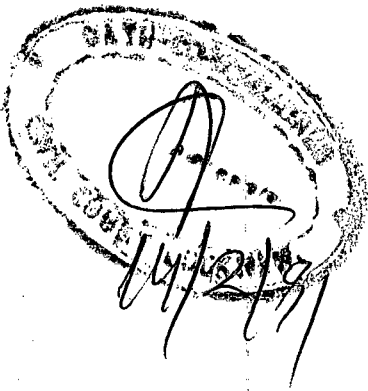
4- That the contents of para 2B of the counter affidavit are also not denied.

5- That in reply to para 2C of the counter affidavit it is respectfully submitted that the petitioner after joining the services continuously worked for more than two years, was terminated on the ground that he does not fall under the category of ex-servicemen on very technical ground that the petitioner had not served for six continuous months after attestation which was not justified at all.

6- That the contents of para 2D & F of the counter affidavit are related to the brief history as given by the opposite parties in the counter hence need no comments.

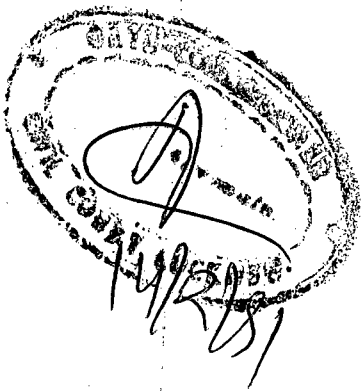
7- That the contents of paras 3 to 8 of the counter affidavit need no comments as the contents of the writ petition has been accepted by the opposite parties.

8- That in reply to para 9 of the counter affidavit,



H. Karthikeyan

it is respectfully submitted that the petitioner was duly selected as an Airman after written examination and interview. He was also medically examined and was found fit by the selection Board of Airforce. After his selection he served as an Airman two years one hundred sixty seven days but later on he was discharged from the services. A discharge certificate was duly issued by the officer Wing Commander, Commanding Officer and the same has also been filed alongwith writ petition and on that basis the petitioner's name was enrolled in the employment exchange and employment exchange sent petitioner's name to the postal department and the postal department appointed the the petitioner. It is not the case of the opposite parties that the petitioner has committed any fraud or has produced false certificates if the employment exchange has enrolled his name as an Ex-servicemen on the basis of certificates of discharge produced by the petitioner then the petitioner has committed no fault and if the employment exchange has wrongly referred his name the petitioner should not suffer for that.



K. S. R. R.

9- That the contents of para 10 of the counter affidavit need no comments as the reply has already been given in the above mentioned para of this rejoinder affidavit.

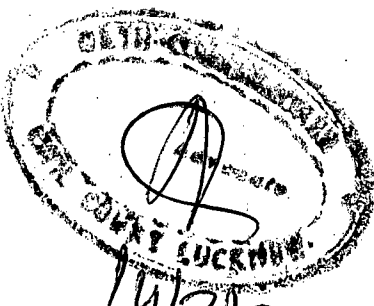
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10- That in reply to the contents of para 11 of the counter affidavit it is respectfully submitted that if in too technical terms the petitioner does not fall in the category of ex-servicemen even then he should not be terminated from the services because the petitioner had completed now seven years in IV Class and had suffered a lot because till date no promotion has been made and the result of departmental examination has also not been declared merely because the petitioners case is pending in this Hon'ble Tribunal.

11- That the contents of para 12 of the counter affidavit need no comments.

12- That the contents of para 13 of the counter affidavit are incorrect hence denied. Sub Rule 1 of Rule 5 of (Temporary service) Rule 1965 is not applicable in the case of the petitioner hence the termination order is illegal.

13- That in reply to the contents of para 14 of the counter affidavit it is respectfully submitted that now the petitioner has completed seven years of his service as Class IV employee in the department when he has joined the service he was graduate and has also served the Air-force. It may not fall under the category of ex-service



K. K. Sharma

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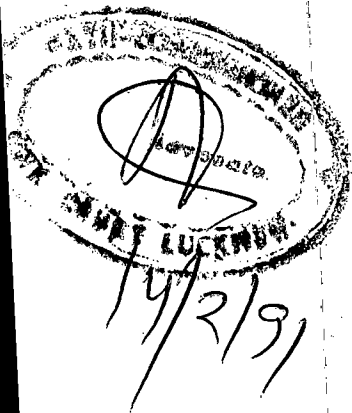
men and technical terms but the fact remains that on this basis the petitioners name was enrolled in the employment exchange and his name was referred and on the basis of certificates issued by Airforce the petitioner was selected the postal department could not ascertained for about two years in respect of ex-servicemen and after two years the petitioners services was terminated and since 1985 the case is pending in the High Court and Hon'ble Tribunal. The petitioner is ^{aged} now/about 32 years and has become overage to join any other post in the days of great hardships if the petitioner is deprived of his job he will suffer irreparable loss and will reach on verge of starvation.

14- That the contents of para 15 of the counter affidavit are incorrect hence denied.

15- That in reply to the contents of para 16 of the counter affidavit, it is respectfully submitted that the said rule is not applicable in the case of the petitioner.

16- That the contents of para 17 of the counter affidavit need no comments.

17- That the contents of para 18 of the counter affidavit are incorrect hence denied.



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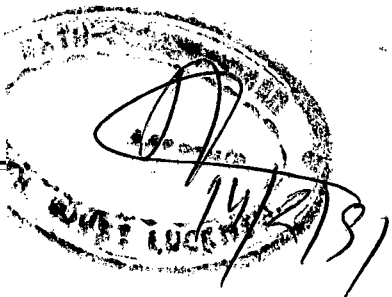
18- That the contents of para 19 of the counter affidavit are incorrect hence denied.

19- That the contents of paras 20 to 23 of the counter affidavit are incorrect hence denied. It is further submitted that the petitioner who has completed seven years of the service and has become overage and can not get employment else where if his services are now terminated on a very technical ground he will suffer irreparable loss. The petitioner who is graduate and has attained the experience as a IV class employee.

20- That the Post and Telegraph department is an industry and if a employee completes 240 days he becomes entitle for regularisation while the petitioner who has completed seven years of his services should not be terminated.

21- That it is further respectfully submitted that the petitioner during the pendency of the writ petition in the Hon'ble court and during the pendency of the application in the Hon'ble Tribunal has been allowed three times to appear in the departmental examination and further the petitioner has been also declared fit person to be appointed in Quasy. Permanent capacity in Grade of Group-D of Bahraich, Head office w.e.f. the

H. K. S. Thakur



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date 1.6.1986. A photo copy of the letter dated 18.2.1987 issued by the Post Master Bahraich is being filed herewith this Rejoinder Affidavit as ANNEXURE NO.-R1.

22- That in the above mentioned circumstances when the petitioner has been made permanent employee in the Grade of Group-D and has also completed seven years services, if the petitioner's services are terminated he will suffer irreparable loss and injury. Particularly when he has become overage and will be become out of employment though he is graduate and deserves to be atleast a Clerk in the Department.

23- That the applicant deserves to continue his services and the termination order deserves to be quashed.

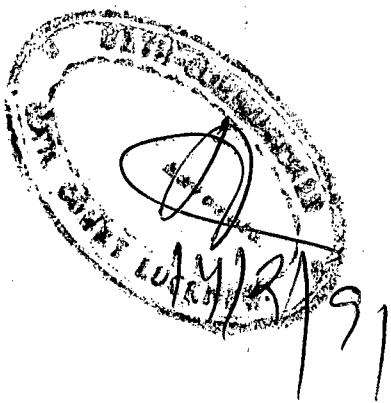
Hearitha

LUCKNOW:DATED:

DEPONENT.

VERIFICATION

I, the abovenamed deponent do hereby verify that the contents of para 1 to 23 ✓ of the Rejoinder affidavit are true to my personal knowledge. The contents of paras p ✓ are believed to be true on the basis of legal advice obtained by his counsel and



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those of paras

p ✓

are based on records.

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

V. K. Sinha

LUCKNOW: DATED:

DEPONENT.

I identify the deponent who has signed before me.

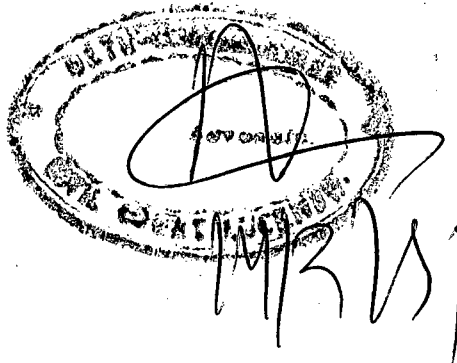
V. K. Sinha

Advocate.

Solemnly affirmed before me on 14-2-91 ✓
at 4.15 a.m./p.m. by Sri V. K. Sinha
the deponent who is identified by

Sri V. K. Sinha
Adv.

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



Annexure No RI

A4.

Indian Posts and Telegraphs Department.
Office of the Postmaster Bahraich HO.
Bahraich. 271801

Memorandum B/Genl Group D/ B.P/86-87/dated Bahraich.
18/2/87.

In Pursuence of rules. 384 of the central.
civil services (Temporary) rules 1965. J. R. R.
Mishra Postmaster Bahraich HO. being satisfied
as to the suitability of the following officials
in respect of age, qualification, work and
character, hereby declare that they are fit
person to be appointed in B.P. capacity in
the Grade of Group D of Bahraich HO. W. e. f.
the date noted against each.

SL. No.	Name of the officials and designation	Date.
1.	Sri Vijay Kumar Kautha.	1-6-86.

Copy to

- ① The official concerned.
- ② The P.F. of the officials
- ③ A.P.M. Ales.

K. K. K.

