

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW**

**INDEX SHEET**

CAUSE TITLE TA 1752/82 of 19  
(W.L. No. 2438/85)

Name of the parties Govindra Kumar

Applicant.

Versus.

Union of India Respondents

**Part A**

**Description of documents**

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2. Order sheet	A 3 to A 8
3. Judgment order dt. 09-8-90	A 9 to A 16
4. Petition	A 17 to A 20
5. Affidavit	A 21 to A 26
6. Cross affidavit	A 27 to A 29
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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) *Check*

Date :

*26/8/90*

Countersigned *Govind Kumar*

Signature of the *23/8/90*

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

FORM OF INDEX

D.A./T.A./R.A./C.C.P./ No. 1752-1987  
Satandre Kumar vs. U.O. W.P. 2438/85  
P A R T - I

1.	Index Papers	:- 1-2.
2.	Order Sheet	:- 3-9
3.	Any other orders	:- Nil
4.	Judgement	:- 10-16 dated 9 Aug. 1990
	S.L.P.	:- Nil

DY. Registrat

Supervising Officer  
(Lokendra)

Dealing Clerk  
(A.K.Rai)

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

Nil

Dealing Clerk  
(A.K.Rai)

V.K. Mishra

CIVIL SIDE  
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

A-1

4/1

①

Nature and number of case ..... W.P. 2438-85

Name of parties ..... Swallowra Kumar vs. Usha B. Dandia

Date of institution ..... 24.5.85

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 Dandia and applicant	6		20/- 00			
2.		Power	1-		5/- 00			
3.		C.M.D. 6637(a) of 85 Jashy	1-		5/- 00			
4.		Archived	1-		- - -			
5.		Book Copy	1-		- - -			

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 orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Date .....

Munsarim

Clerk

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

INDEX SHEET

CAUSE TITLE T.A 1752 of 1987 T

NAME OF THE PARTIES Swatantra Kumar and

Others —

Applicant

Versus

Union of India

& Respondent

Part A, B & C

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12	File C	C 175 TO C 182

Shrikant  
27.11.91

Annexure -B

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

APPLICATION No. \_\_\_\_\_ of 19

TRANSFER APPLICATION No. \_\_\_\_\_ of 19

OLD WRIT PETITION No.: \_\_\_\_\_ of

CERTIFICATE

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

Dated :

COUNTER SIGNED :

*Shakoor 27.11.81*  
Signature of the  
dealing Assistant

Section Officer/Court Officer

\*\*\*\*\*

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
17/8/85	HOBRENT MO 6857	
	List in the next week	
	Plaza Inn 17.8.85	S
	Writ with 6637-85	
26/8/85	HOBRENT MO 6857	to Bar next week
18/8/85	HOBRENT MO 6857	
	Put up in the next week.	8-8-85 16.8.85
12/9/85	Writ with 6637-85 FO	to Bar
19/9/85	HOBRENT MO 6857	next week

(6) 16 (A4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH AT LOKNO.

O.A/T.A. No. 1752 1987 (I)

S. Kr.

Applicant(s)

Versus

V.O.L

Respondent(s)

Sr. No.	Date	Orders
	23/1/89	<u>D.R</u> This case has been received dt. 10.1.89 from C.A.T, Alld. So the case is fixed for 23.1.89 before DR (3) Applicant is present. The case is adjourned to 22/2/89 for reply. <u>D.R</u>
	22/2/89	<u>D.R</u> No reply filed. Reply may be filed on 28.3.89 <u>D.R</u>
	29/3/89	<u>D.R</u> No one is present on behalf of respondent. Fix on 10-4-89 for filing reply. Mahamayi for DR
	10/4/89	<u>Register</u> No one is present for respondent. Fixed 28/4/89 for filing reply. <u>Register</u> 10/4

22.

28.4.89

Hon D.S. Misra, A.M.  
Hon. D.K. Agarwal, J.M.

Shri. A.K. Chaturvedi brief holder  
of Shri. A. Mannan advocate states that  
Shri. A. Mannan's Vakalatnama on behalf of the  
petitioners will be filed shortly. He also  
states that he had received a copy of the  
Counter reply filed by the respondents and wants  
time to file rejoinder. As the copy of the counter  
is not available on record, ~~was~~ <sup>respondent's one</sup> allowed one weeks  
time to file the same. The applicant may file rejoinder  
within 10 days thereafter.

Let this case be listed for final hearing  
on 19th July, '89.

J.M.

A.M.

brf/

19.7.89

No Sixty. Adj. to. 30.0f.  
for orders. C.M. An No. 193/89(1)  
& Rejoinder filed duly verified  
on the O.Ps.

h  
19/7

OP Reply filed today  
by the learned counsel  
for the resps. No 142.

W  
2/5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

Cm. No. 193/89

REGISTRATION NO. 1252 of 1987

APPELLANT  
APPLICANT

VERSUS

DEFENDANT  
RESPONDENT

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

3/8/89

Hon. Justice K. Nethaji, V.C.

Heard the learned counsel for the applicant. A number of documents are sought to be summoned by the applicant through this application. The case relates to the termination of the service of the applicant during the period of probation. It appears that the ~~every~~ effort of the applicant is to obtain documents which concern his performance during the period of the employee. It is not necessary to get all the papers. Contents of pages 9 & 10 of the Counter affidavit indicate that the applicant ~~has~~ has been found to be unsuitable for ~~not~~ service in view of ~~the~~ his first year probation report and the recommendation of the Departmental Promotion Committee. It is enough therefore to peruse the first year probation report, the recommendation of the DPC and the final orders passed by the Competent Authority leading to the impugned order of termination. The opposite parties are directed to reproduce these papers on the ~~next~~ next date of hearing and fix for final hearing

on 19-9-89.

M  
VC

On ~~Can be submitted~~  
for hearing

(A7)

1752107(7)

(D)

Hon' Mr. D.K. Arora, T.M.

19-9-89

No Bench is sitting. List  
the case on 20-11-89  
for hearing.

DR  
T.M.

(SNS)

20-11-89

No Sitting. Adj. to 17-1-90  
Counsel for rebots is present

20/11/89

Submitted to the

16/11

17-1-89. No Sitting of D.B/ Adj. to  
6.3.90

L  
B.C.

6.3.90

No Sitting of D.B/ Adjourn to

6.4.90

Hon' Justice M.S. K. Nath, V.C.

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

OR  
S.P.H  
27/11/89

On the request of both the  
parties case is adj. to 26-7-90

DR

M.M.

DR  
V.C.

26-7-90 Hon' Mr. Justice K. Nath, V.C.  
" " K. Raman, A.M.

Arguments heard. Judgment reserved.

DR  
(A.M.)

DR  
(V.C.)

(10)

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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
LUCKNOW CIRCUIT BENCH

Registration T.A. No.1752 of 1987(L)  
(Writ Petition No.2438 of 1985 of the )  
(High Court of Judicature at Allahabad )  
( Lucknow Bench, Lucknow.)

Swatantra Kumar & Another .... Petitioners

Versus

Union of India & Another .... Respondents.

Hon. Mr. Justice K. Nath, V.C.

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

(By Hon. Mr. Justice K. Nath, V.C.)

The Writ Petition described above is before us under Section 29 of the Administrative Tribunals Act, 1985 for quashing two orders dated 6.5.1985, Annexure-7 and Annexure-12 by which the services of petitioners 1 & 2 respectively as probationers were terminated with effect from 10.5.85.

2. By Annexure-1 dated 19.8.83, the petitioner No.1 was appointed as Investigator in temporary capacity in the National Sample Survey Organisation of the respondents by Annexure-2 dated 14.9.83, the petitioner No.2 also was similarly appointed as Investigator. The terms and conditions of appointment in the two letters are identical. One of the stipulations was that the services could be terminated by one month's notice without assigning reasons in accordance with the provisions of the C.C.S. (Temporary Service) Rules, 1965 as amended from time to time with further right of the Appointing

Authority to terminate the services forthwith and make payment of the Pay & Allowances for the period of notice. The stipulated provision was two years with a further provision however that if the period of probation could not be completed satisfactorily or for any other reason, the appointment may be terminated at any time by one day's notice given by either side to the other without assigning reasons. That is how the services of both the petitioners were terminated by the impugned notices, Annexures- 7 & 12 with one day's notice.

3. The petitioner No.1's case is that they had been working satisfactorily but he was served with a memo dated 17.9.84, Annexure-3 for indiscipline and loose talks with senior officers against which he made a representation, Annexure-4 dated 1.10.84. He was again given a memorandum dated 1.2.85, Annexure-5 for unsatisfactory performance and to explain why action may not be initiated against him for serious lapses to which also the petitioner No.1 gave a reply dated 16.2.85, Annexure-6 but he did not receive final orders on his replies.

4. The petitioner No.2 claimed that having joined on 7.9.83 he had been working satisfactorily but he also received a memorandum on 17.9.84, Annexure-8 for failure to submit certain schedules with a warning for suitable action if ~~he~~ did not submit the schedule. To this he replied by Annexure-9 dated 28.9.84. However, on 11.2.85 he again received a memorandum, Annexure-10 asking for his explanation as to why action

may not be initiated against him to which also he replied by Annexure-11 dated 18.2.85. According to the petition he also did not receive any order in respect of his replies.

5. However, the services of both the petitioners were terminated by the impugned orders Annexure-7 and 12 dated 6.5.1985.

6. The grievance of the petitioners is that although in the order of termination is set out innocuous language it was in fact by way of punishment for which an opportunity to show cause and a formal departmental disciplinary proceedings ought to have been instituted.

7. In para 5 of the Counter, it is stated that a self contained memorandum setting out serious deficiencies noticed in the course of day-to-day discharge of duties by petitioner No.1 was given to him on 17.9.84 which revealed that the petitioner No.1 was not performing his duties properly. Eight items of such deficiencies have been mentioned in the paragraph and it is stated that on an overall assessment of the work, conduct and performance of petitioner No.1 he ~~was~~ found unfit and unsuitable for the job. In para 9 of the counter it was added that while the reply of petitioner No.1 to the memoranda issued to him was receiving attention, a D.P.C. was held which examined the performance of the petitioner No.1 and gave his opinion by a D.O. dated 5/6.2.85 that he was not fit

for retention in service. In para 10 it is stated that the work, conduct and performance of petitioner No.1 was not found satisfactory and his services were terminated on the basis of the first year probation report on the recommendation of the D.P.C.

8. In respect of petitioner No.2 it was stated in para 13 that at the time of inspection of his field work, numerous errors were observed and communicated to him in the inspection note. In para 14 it was stated that the petitioner No.2 had deliberately taken away the records of certain statistical ~~surveys~~ <sup>or</sup> with ulterior motive to escape from serious inconsistency and misreporting the data collected by him. In para 17 it was added that while the reply of petitioner No.2 was receiving attention, the D.P.C. met and recorded its opinion communicated by a D.O. dated 5/6/2.85 that petitioner No.2 was not fit to be retained in service. In para 19 it was stated that the services were terminated on the recommendation of the D.P.C., the first probation report and doubtful integrity. It was added that on an overall assessment of work, conduct and performance he was found to be unfit and unsuitable for the job.

9. It was lastly said that in case of both the petitioners, the termination order does not cast any stigma on the petitioners and is innocuous order simpliciter.

10. The petitioners have also filed rejoinder.

11. The learned counsel for the petitioners urged that the very grounds set out in para 5 of the counter

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- 5 -

show that some of the acts attributed to petitioner No.1 as basis of the order of termination constitutes misconduct and therefore the order of termination amounts to punishment without enquiry. The contention of the learned counsel for the respondents is that even if some of these items may be so, the remaining items are undoubtedly facts which are relevant for suitability and performance of petitioner No.1 and have nothing to do with misconduct requiring the disciplinary enquiry on notice. We think that the contention of the learned counsel for the respondents is correct.

12. The only items which the learned counsel for the petitioners challenges are :-

(i) Misbehaviour

(ii) Taking Govt. records with malafide intention and not returning the same, and

(iii) Threatening Supdt. at point of pistol.

13. The other items are :-

i) Unpunctual in attendance and absence from office during working hours,

ii) Habitual late coming to the office resulting in deduction of Casual Leave.

iii) Disobedience of Superior orders,

iv) Indulging in ~~loose~~ talks during office hours.

v) Direction to the petitioners to submit schedules immediately.

14. There can be absolutely no doubt that the later set of five items is directly concerned with the performance of the applicant in respect of his duties. Of the items in the first set the expression "misbehaviour" is rather vague because if misbehaviour is concerned with performance of duties it can also be a ground of suitability. Be that as it may, we are unable to agree

with the contention of the learned counsel for the petitioners that activities of misconduct cannot be separated from the activities of unsuitability as a **mental** process of the Appointing Authority deciding **to take which** course of action. The law of subjective satisfaction which applies to cases of deprivation of personal liberty like preventive detention has no application to the matters of objective satisfaction which are relevant for judging the suitability of an employee for retention. Even in cases involving punishment the law **as** settled by Hon'ble Supreme Court in the case of State of Orissa and Others Vs. Bidya Bhushan Mahapatra 1963 S.C. 779 is that if the order of dismissal based on several grounds may be supported on any of the findings as to substantial misdemeanour for which punishment can lawfully be imposed, **it is** not for the courts to consider whether that ground alone would have **weighed** with the authorities in dismissing the public servant. We are of the opinion therefore that the order of termination of petitioner No.1 cannot be characterized to be one of punishment which might have required a disciplinary enquiry with notice.

15. The next point urged by the learned counsel for the petitioner is that the termination order is not the **mental** act of the Appointing Authority but is only the result of a recommendation made by the D.P.C. for the removal of both the petitioners. It is the case of the respondents that the D.P.C. did recommend the removal of both the petitioners from service after consideration of the probation report regarding them. The letter dated 5.2.85 of the Deputy Director in this matter is annexed to the counter. The letter mentions that as

per the first year probation report duly reported by the Reporting Officer and reviewed by the Assistant Director, the D.P.C. had recommended removal and that the Assistant Director could issue the orders of removal without assigning reason or mentioning about the decision of the D.P.C. The learned counsel for the respondents has pointed out that the termination orders were issued almost three months after this letter and therefore it cannot be fairly said that the termination is a result only of the advice of the D.P.C. Even the advice of the D.P.C. is a result of the probation reports of the petitioners. We are also of the opinion that the advice of the D.P.C. is a stage in the decision making process as contemplated by the Rules for determining the suitability of an employee and therefore no grievance can be made of the advice of the D.P.C. Ultimately, it is the performance of the petitioners which has prompted the action of removal from service.

16. So far as the petitioner No.2 is concerned there is not a single element of misconduct in the reasons which have prompted his removal from service. As already indicated the order of termination is an order simpliciter. The respondents have also placed before us the personal record of the petitioners. It contains a number of memos issued to the petitioners for inadequate and unsatisfactory performance. We are satisfied that the order of termination has been passed bonafide for germane reasons and does not suffer from any illegality.

17. The petition is dismissed. Parties shall bear their costs.

Due to non-availability of a Bench with one of us as the Member at Lucknow Circuit Bench for quite some time, this judgement is being delivered at Allahabad. Office will issue copies to the parties immediately and will despatch the record alongwith copy of the covering letter to the Lucknow Bench.

John  
Member (A) *John*  
Dt. 19 Aug., 1990. Vice Chairman  
9-8-90

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~~A-Q~~

CAT 111

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI. Lho.

~~O.A./T.A. No.~~ 1752 1987

S. Kumar

**Applicant(s)**

## Versus

Union of India 80s

**Respondent(s)**

Sr. No.	Date	Orders
9.8.90		<p>It delivered today is of Court No 5 at</p> <p>Add. <u>Petition is Dis by Honk. Mathur</u></p> <p><u>Honk obeyas</u>: and after issuing</p> <p>the certified copy of it file send to</p> <p>Adv GB. immediately.</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

*Lucknow Circuit Bench*

O.A. NO. 175-2  
1987  
T.A. NO.

DATE OF DECISION

Swaranand K. & Another PETITIONER

Smt. A. Mannan Advocate for the  
Smt. A. K. Chaturvedi Petitioner(s)

VERSUS

Union of India & others RESPONDENT

Smt. Rakesh Sharma Advocate for the  
Respondent(s)

CORAM :

The Hon'ble Mr. Justice Ganeshwar Nath, V.C.

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

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

Dinesh/

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Ex. 208  
C. S. J. S.  
in H. T. S.  
- 4-6

Group A-13(a).  
A-17

3800

In the Hon'ble High Court of Judicature at Allahabad  
Lucknow Bench Lucknow.  
Writ Petition no. 2438 of 1985;

Swatantra Kumar and another .... Petitioners.

versus

Union of India and another .... Opp. parties.

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5.	Annexure IV (Representation Dt. 1.10.84)	23 to 26
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Lucknow,  
Dated. 21/5/85

Kiran Kumar  
Advocate  
Counsel for the Petitioner.

In the Hon'ble High Court of Judicature at Allahabad  
Lucknow Bench, Lucknow  
Writ Petition No. of 1985

Secabanta Kumar & another

VS

Petitioners

University of India & another

Opp. Party

AIO

Y/N



Lucknow  
21-5-85

Kishanand  
Counsel for the Petitioners

Writ Petition under Article 226,

Constitution of India respectfully

showeth:-

1. That the petitioner No.1 was appointed on the post of Investigator, in the Field Operation Division, National Sample Survey Organization, by the Regional Assistant Director, as per Office

Annexure I  
Letter of appointment of petitioner no.1 dated 19/20.8.1983.

Memorandum (letter of appointment dated 19/20.8.1983) which is enclosed as Annexure I.

2. That the petitioner No.2 was appointed, on the post of Investigator, in the Field Operation Division, National Sample Survey Organization, by the Regional Assistant Director as per Office Memorandum (letter of appointment dated 14-9-1983) which is

Annexure II  
Letter of appointment dt. 14.9.83 of petitioner no.2

enclosed as Annexure II.

3. That both the petitioners 1 and 2 have been appointed on probation, for a period of two years.

4. That the petitioner No.1 joined services of Investigator on 1.9.1983, and has since then been working satisfactorily on the said post. In Zonal

*Z. Jumai*



tra ining for one month, the petitioner no.1 completed in December 1984, and obtained total Grade 'B' and other obtaijing lower grade are still working whereas the petitioner's services have been discriminately terminated. On the basis of Inspection Notes also the petitioner No.1's pefformance is good but he has been asked to leave whereas persons with bad and unsatisfactory performance are still working.

5. That the petitioner no.1 received Memorandum dated 17-9-1984, from the Superintendent S.R.O. Faizabad, stating to the effect that he is directed to note that such indiscipline and loose talks before senior officers is liable to award petitioner severe punishment and that he (petitioner) is severely warned for his indiscipline and misbehavious and loose talks. A true photostate copy is submitted as Annexure III .

Annexure III  
Memorandum dated  
17-9-1984.

7. That the petitioner no.1 made a representation dated 1-10-84 in reply to the above memorandum, denying the allegations made against him. The representation

*C. Kumar*

P 22

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Annexure IV  
Representation  
of petitioner  
no.1 dt.1-10-84.

is enclosed as Annexure IV.

Annexure V  
Memorandum dated  
11-2-85 by  
Regional Asstt.  
Director

8. That the petitioner No.1 received another  
Memorandum dated 1-2-1985 from the Regional Asstt.  
Director, to the effect that it has come to his  
knowledge that the performance of the petitioner  
No.1 is not satisfactory, and he was asked to explain  
why action should/be taken/against him for the serious  
lapses. The said memorandum is enclosed as Annexure V.

Annexure VI  
Petitioner No.1's  
Explanation dated  
16-2-85

9. That the petitioner no. 1 submitted his  
explanation dated 16-2-1985, refuting the allegations  
made against him and stating the real and correct  
state of affairs and that the petitioner no.1 was  
discharging his duties properly for the past so much  
time. The said explanation is enclosed as

Annexure VI.

10. That what happened of the two memorandums and  
the petitioner No.1's explanation, the result is  
not communicated to the petitioner No.1 till date.

11. That finding that the opposite parties cannot  
succeed in throwing out the petitioner No. 1 as there



*Suman*

was nothing against him, ultimately they served the <sup>referring to a nonexisting appointment letter</sup> petitioner no.1 with an order, dated 6-5-1985, that the services of petitioner no.1 Investigator on Probation, is terminated w.e.f. 10-5-1985 and that this should be treated as one day's notice required for this purpose. A true photostat copy of the said order is enclosed as Annexure VII

Annexure VII  
Order dt.6.5.85

12. That after due selection, the petitioner No.2 was not allowed to join the service by opposite party no. 2 for reasons best known to the opposite parties. He had to file a writ petition in the Hon'ble High Court. When ultimately he was allowed to join, writ petition was compromised. But the opposite parties who bore some grudge against the petitioner no.2 before joining the service, became annoyed after writ, and continue to bear grudge against the petitioner no.2.

13. That the petitioner No.2 joined service on 17.9.83 and is thereafter working satisfactorily and <sup>✓</sup> blamelessly on the post of Investigator. In Zonal Training for one month, the petitioner no.2 completed



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in September 1984, and obtained total Grade 'B' and others obtaining lower grades, are still working whereas the petitioner's services have been discriminaorily terminated. On the basis of Inspection Notes also the petitioner's performance is good, but persons with bad and unsatisfactory performance are still working.

14. That the petitioner no.2 received a memorandum dated 17-9-1984, from Sri K.S.Lal, the Superintendent, S.R.O. Faizabad to the effect that petition no.2 had not submitted certain schedules and that he is directed to submit the schedule otherwise suitable action will be taken against

Annexure VIII  
Memorandum dated 17-9-1984 sent by  
Suptdt. SRO  
Faizabad.

15. That the petitioner No.2 submitted his reply dated 28-9-1984 denying the allegations and stating that the schedules had already been submitted. A copy of reply of petitioner no.2 is enclosed as

Annexure IX.

Annexure IX  
Reply of petitioner  
no.2 dt. 28-9-84.

16. That another memorandum dated 11-2-1985 was received from the Regional Assisstant Director

*Suman*



A25

-7-

asking explanation, from the petitioner no.2 as to why action be not initiated against the petitioner.

Annexure X

Memorandum  
dated 11-2-85.

The said memorandum is enclosed as Annexure X.

17. That the petitioner sent his reply dated 18-2-1985 to the opposite party denying the allegations of the memorandum. A copy of the reply is enclosed as Annexure XI.

Annexure XI  
Reply of petitioner  
no.2 dt.18.2.85.

18. That the petitioner no.2 has not been communicated the result of the above investigations.

19. That the petitioner No.2 in absence of any communication as to fate of his representation and the opposite parties finding that they cannot succeed in throwing the petitioner no.2, as there was nothing against him, ultimately they served the petitioner no. 2 with an order dated 6-5-85, to the effect that the appointment of the petitioner no.2 Investigator on Probation is terminated. It is

Annexure XII

Order dated  
6.5.85.

enclosed as Enclosure XII to this writ petition.

*CXumar*

20. That the petitioner No.1 is Vice President of All India Association of Investigators of U.P. Regional Unit at Allahabad and takes active part in the affairs of the Association vis-a-vis the opposite parties. The opposite party ~~xxxxxx~~ Sri K.S. Lall, reporting officer is personally biased and the opposite parties are prejudicial against petitioners. They are being harassed since long. Their January-February; March 1985 T.A. bills are with the Asstt. Director but till date no payments have been made.

21. That in the background of the pending proceedings, and prejudice against the petitioners and malafides of opposite parties, the order of termination is not termination simpliciter, but punitive and in effect order of dismissal. It is a camouflage to the malafide intentions of the opposite parties and puts stigma on petitioners nos. 1 and 2.

22. That the petitioners nos. 1 and 2 are senior to about 300 persons, who are juniors and are still

*CXumar*

working on the posts, and posts are still continuing and have not been abolished. Not only this, but about 100 vacancies have occurred, after promotions, deaths, resignations for the posts of Investigator. There is already one vacancy for the post for the past about 8 months in National Sample Survey Organization Department of Statistics, Ministry of Planning, Sub-Regional Office, Faizabad, where the petitioners are employed.

23. That petitioners 1 and 2 were not given equitable opportunity of being heard, but their services abruptly terminated without any hearing.



24. That there is no list for misfits. In absence of that list, the petitioners 1 and 2 could not be chosen and selected discriminatorily out of so many persons. It is also not shown on what criteria or yardstick, have the services of petitioners 1 and 2 been terminated.

25. That the Central Services Temporary Services Rules have not been complied with. Rule 5(1)(a) envisages

*Shuman*

one month notice or one month's salary in lieu thereof. But the petitioners have been given 1 day's notice. The Clause 2(ii) of appointment letters Annexures I and II which are in accordance with Rule 5(1)(a) have not been followed.

26. That amongst so many employees, many junior to petitioner, it has not been disclosed as to on what criteria the services of petitioners 1 and 2 above have been arbitrarily terminated.

27. That there number of persons whose deficiencies have been communicated to them ( after one year and two years of probation) but still they are working, in but/the case of petitioners 1 and 2 there are no deficiencies , nor such communication has been made to petitioners and still petitioners' services have been terminated (discriminately).

27. That having tried and exhausted all other methods, and there being no other efficacious alternate remedy available to the petitioners, they are filing this petition on the following grounds:-

*C. Kumar*

Grounds of Writ

1. That no notice of termination being issued in accordance with the provisions of Central Civil Services (Temporary Service) Rules, 1965, viz. Clause 15(iii) the termination orders Annexures VII and XII are illegal, ultravires and without jurisdiction.
2. That in the background of prejudice, and malafides and consequent harassment to petitioners, the termination order dated 6.5.85 Annexure VII and XII is ~~order of~~ notice of dismissal.
3. That the order Annexures No. VII and XII are ultravires Article 311 of the Constitution of India as no equitable chance of being heard was given to the petitioners.
3. That about 300 juniors to petitioners are still working, the posts still are ~~in~~ there in existence, the petitioners record being satisfactory, vis-a-vis persons still working on the posts, there being no misfit list, the orders Annexures

-12-

VII and XII are discriminatory.

5. That no criteria nor yard-stick being laid down,

and no criteria nor yard-stick being shown in

the order Annexures VII and XI, the order is

arbitrary and is ultravires the Constitution of

India.

6. That the order is arbitrary, illegal, without

jurisdiction and ultravires the Constitution of

India and fit to be set aside.

It is most respectfully prayed that a writ, order or direction, in the nature of Certiorari, be passed issued, quashing the order dated 6-5-1985 Annexure VII and order dated 6-5-85 Annexure XII, a writ, direction or order, in the nature of Mandamus be issued, directing the opposite parties to decide the case of the petitioners in accordance with Rules and law, and such other suitable writ, direction or order be passed to which the petitioners are found entitled to and the costs of this writ be also awarded to the petitioners.

K. Bhushan  
Advocate  
24/5/85

1. S. Kumar  
2. B. Jayaram  
3.

Dated: Lucknow  
May 21 1985.

Petitioners

(A31) (13) ✓ 15

In the court of the Hon'ble High Court, Lucknow Bench  
Lucknow.

Writ Petition No. of 1985.

Swatantra Kumar  
and another ... Petitioners

versus

Union of India.  
and another Opp. parties.

Annexure I



*Swatantra Kumar*

सं०-२(२) ट्रायापल-१३०९०(प्री) ८३-४६४८२

भारत सकराकर  
योजना मंत्रालय, सार्वियको विभाग  
राष्ट्रीय प्रनिदर्श सर्वेक्षण संगठन, केन्द्र संकार्य प्रभाग

14

दिनांक: १९ - ०१.१९४३

20 AUG 1983

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कर्मवारो घयन आयोग की सिफारिश पर श्री स्वरेच्छ कुमार.....; को क्षेत्र संकार्य प्रभाग, राष्ट्रीय प्रतिदर्श सर्वेक्षण संगठन में हृपये ३४८१२-५५००८८५०-१५-५६० के देननमान में..... अन्तिमके..... के पद पर अस्थायी नियुक्ति का प्रस्ताव दिया जाता है। उनके ग्रामीभक वेनन का निर्धारण नियमानुसार किया जाएगा। नियुक्ति व्यक्ति महार्दि भत्ते तथा अन्य भत्तों को भी उस रूपीकार्य दर पर पाने के अधिकारी होंगे जो कि समय-समय पर ऐसे भत्तों की स्वीकृति के लिए लागू होने वाले नियमों तथा आदेशों के अधीन निर्धारित शर्तों पर गृहीय हों।

2: नियुक्ति की शर्ते निम्नवत् हैं:-

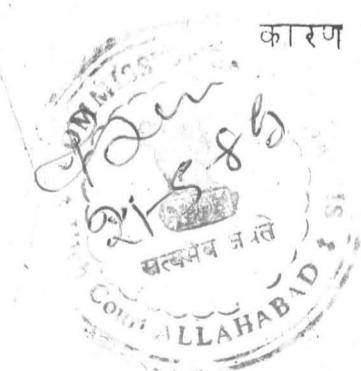
पद अस्थायी है लेकिन इसके बने रखने को सम्भावना है। उनकी नियुक्ति अस्थायी अधार पर की जाएगी।

४५५ यह नियुक्ति किसी भी एक पक्ष की ओर अर्थात् नियुक्ति व्यक्ति अथवा नियुक्ति प्राधिकारी हारा समय-समय पर प्रथासंशोधित केन्द्रीय सिविल सेवा अस्थाई सेवा नियम 1965 के उपर्योग के अन्तर्गत एक माह का नोटिस देकर किसी भी समय बिना कोई कारण बताए समाप्त की जा सकती है। तथा नियुक्ति प्राधिकारी नियुक्ति व्यक्ति की सेवाओं को तत्काल ही अथवा नोटिस की अनुबद्ध अवधि समाप्त होने से पूर्व ही नोटिस की अवधि अथवा नोटिस की समाप्ति अवधि के वेतन तथा भत्तों को समतुल्य राशि की अदायगी कर समाप्त करने का अधिकार सुरक्षित रखते हैं।

ग्रृह वे दो वर्ष की अवधि के लिए परिवीक्षाधीन रहेगी और होगी। नियुक्त कर्मचारी को परिवीक्षा अवधि तथा परिवीक्षा की बढ़ाई अवधि, यदि कोई हो संतोषजनक रूप से पूर्ण करने में अनुफल रहने पर अथवा अन्य किसी कारण से ज्ञात अवधि सेवा मुक्ति किया जा सकता है। परिवीक्षा की अवधि में यह नियुक्त किसी भी एक पक्ष की ओर से अर्थात् नियुक्त व्यक्ति अथवा नियुक्ति प्राप्तिकारी द्वारा किसी भी समय एक दिन का नोटिस देकर बिना कोई कारण बताए समाप्त की जा सकती है।

..... . . . . . 21-

S. Kumar



४८ नियुक्ति के साथ भारत के किसी भी भाग में सेवा करने का दायित्व जुड़ा हुआ है।

४९ सेवा की अन्य शर्तें समय-समय पर लागू होने वाले संबंधित नियमों तथा आदेशों द्वारा शासित होंगी।

५० नियुक्ति की अन्य शर्तें इस प्रकार होंगी :-

५१ किसी सक्षम चिकित्सा प्राधिकारी, जैसे सिविल सर्जन, जिला चिकित्सा अधिकारी अथवा समक्ष स्टर के किसी चिकित्सा अधिकारी द्वारा उन्हें आरोग्य घोषित किया जाय।

५२ संलग्न फार्म अनुबंध-१ में वैवाहिक घोषण प्रस्तुत करनी होग तथा प्राथी एक से अधिक पत्नयां जीवित होने अथवा एक से अधिक पत्नयों वाले व्यक्ति से विवाहित होने की दशा में यह नियुक्ति इस सम्बंध में उसे इस शर्त के लागू किये जाने से छूट मिलने पर किरण होगी।

५३ विहित फार्म अनुबंध-२ में भारत के संविधान के प्रति निष्ठा/अस्था की शपथ अथवा इस सम्बंध में सत्य निष्ठा से पुतिज्ञा करनी होगी तो लेनी होगी।

५४ निम्नलिखित प्रमाण-पत्र मूल रूप से प्रस्तुत करने होंगे :-

५५ शैक्षणिक श्रेष्ठ तथा अन्य तकनीकी अहताओं/योग्यताओं संबंधीडिग्री डिप्लोमा प्रमाण पत्र।

५६ आपु प्रमाण-पत्र

५७ जिस शिक्षा संस्थान में अन्तिम बार शिक्षा ग्रहण की हो उसके प्रधक्षन से विहित प्रपत्र अनुबंध ३ में चरित्र प्रमाण पत्र तथा इस प्रकार का प्रमाण पत्र अपने नियोक्ता से, यदि कोई हो तो इन दोनों में से कम ऐ कम एक ग्रमाणपत्र प्रथम श्रेणी के वैतनिक मजिस्ट्रेट जिला मजिस्ट्रेट अथवा उप-मण्डलोप मजिस्ट्रेट भी इसमें सम्मिलित हैं।

५८ यदि अनुसूचित जाति अथवा जनजाति समुदाय के हैं तो विहित प्रपत्र में समुदाय प्रमाण-पत्र।

५९ यदि इससे पहले कोई नौकरी की हो तो विहित प्रपत्र में वहाँ से ऐसा मुक्त होने का प्रमाण पत्र।

*Seeman*

4. पह भी ज्ञाते कि क्या प्रार्थी केन्द्रीय सरकार के किसी अन्य विभाग अथवा राज्य सरकार के अथवा सार्वजनिक प्रतिष्ठान प्राधिकरण में सेवा तो नहीं कर सकते हैं अथवा उनमें सेवा करने की बाध्यता के अन्तर्गत तो नहीं है।

5. यदि प्रार्थी द्वारा की गई कोई घोषणा या प्रस्तुत को गई कोई जानकारी मिथ्या सिद्ध हुई या पता बदल चला कि सूझने किसी महत्वपूर्ण जानकारी को जानबूझ कर छिपाया है तो उन्हें नौकरी से अलग किया जा सकेगा और सरकार अन्य जो भी कार्यकारी भावशयक समझेगी कर सकेगी।

6. प्रपुर्थी को सर्वप्रथम प्राधिकारों द्वारा निश्चित किए गए किसी भी स्थान प्रशिक्षण करना होगा और तब उनकी नियुक्ति/तैनाती नियमित कार्य के लिए बाहर की जायेगी जिनके लिए केवल साधारण यात्रा भत्ते का भुगतान किया जायगा।

7. यदि श्री-.....कुमार.....को यह प्रस्ताव उपर्युक्त शर्तों पर स्वेकार है तो वे दिनांक २९.१९८३ अथवा इससे पहले क्षेत्रीय सहायक निदेशक, राज्य संस्कृत एवं ज्ञान योग, इलाहाबाद को ड्यूटी के लिए रिपोर्ट दें। यदि वे नियमित तिथि तक ड्यूटी पर उपस्थिति न हुए तो यह प्रस्ताव रद्द मान लिया जायगा।

8. नियुक्ति पर जाने के लिए अथवा नियुक्ति की समाप्ति पर कोई यात्रा भत्ता नहीं दिया जायगा।

कुमार १५८  
कौली सिंह २०.८.८३

क्षेत्रीय सहायक निदेशक,

श्री स्वतंत्र कुमार अ. श्री निदेश कुमार व्यवस्था  
राज्य की यात्रा  
गुरुवार चार्ट, कैंप खांबांड  
प्रति सूचनार्थ प्रेषितः-

1. निदेशक, क्षेत्रीय सहायक निदेशक, राज्य संस्कृत एवं ज्ञान योग, दिल्ली को नई दिल्ली।

2. परीक्षा नियुक्ति, कर्म चारी चयन आयोग दिनांक के संदर्भ में।

3. श्री स्वतंत्र कुमार की वैयक्तिक फाईल।

4. क्षेत्रीय सहायक निदेशक, राज्य संस्कृत एवं ज्ञान योग, दिल्ली।

5. उपनिदेशक, राज्य संस्कृत एवं ज्ञान योग, अंबल।

इलाहाबाद।

कौली सिंह।

क्षेत्रीय सहायक निदेशक

सत्यमेव सुधीर/ 17.8.83/

T. C  
Shuman

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

Writ Petition No. of 1985.

Swatantra Kumar  
and another

Petitioner

versus

Union of India

Opp. parties.

Annexure II



Y  
19

No.2(5)UPC/83  
Government of India  
Ministry of Planning  
Department of Statistics  
National Sample Survey Orgn.  
(Field Operations Division)  
OFFICE OF THE REGIONAL ASSISTANT DIRECTOR, UP (C) REGION  
B-991, Sector (A) Mahanagar,  
Lucknow: Dated: 14/9/1983

OFFICE MEMORANDUM

On the recommendation of the Staff Selection Commission  
Shri S.P.Singh is offered a temporary post of INVESTIGATOR in the  
Field Operations Division, National Sample Survey Organisation in  
the scale of 380-12-440-EB-15-560-EB-20-640 his initial pay will  
be fixed as per rules. The appointee will also be entitled to  
draw dearness and other allowances at the rates admissible under  
and subject to conditions laid down in rules and orders, governing  
the grant of such allowances in force from time to time.

2. The terms of appointment are as follows:-

- i) The post is temporary but is likely to continue. His appointment will be made on a temporary basis.
- ii) The appointment may be terminated at any time by a month's notice given by either side viz. the appointee or the appointing authority, without assigning any reason, in accordance with the provisions of Central Civil Services (Temporary Service) Rules, 1965, as amended from time to time. The appointing authority, however, reserves the right to terminate the services of the appointee forthwith or before the expiry of the stipulated period of notice by making payment to him, of sum equivalent to the pay and allowances for the ~~maxed~~ period of notice or the unexpired portion thereof.
- iii) He will be on probation for a period two years. The appointee can be discharged from service for failure to complete the period of probation including the extended period, if any, satisfactorily or for any other reasons. During the probation period, the appointment may be terminated at any time by a day's notice given by either side viz. the appointee or the appointing authority without assigning any reasons.

..... 2/

  
S. Kumar

*C.M.O*

Other conditions of service will be governed by the relevant rules and order, in force, from time to time.

3. The appointment will be further subject to:-

- i) His being declared fit by the Competent Medical Authority, viz. Civil Surgeon, District Medical Officer or a Medical Officer of equivalent status.
- ii) Submission of a marital declaration in the form enclosed (Annexure-I) and in the event of a candidate having more than one wife living, the appointment of the requirement in this behalf.
- iii) Taking an oath of allegiances/faithfulness to the constitution of India (or making a solemn affirmation to the effect) in the prescribed form (Annexure-II).
- iv) Production of the following original certificates:-
  - (a) Degree/Diploma/Certificates of Educational and other technical qualifications.
  - (b) Certificate of age.
  - (c) Character certificates in the prescribed form (Annexure-III) from the head of the educational Institution last attended by him and a similar certificate from his employer, if any ~~xxx~~ attested by a stipendary first class Executive Magistrate (including a District Magistrate or Sub-Divisional Magistrate).
  - (d) Community Certificates in the prescribed form, if he belongs to Scheduled Castes or Tribe community.
  - (e) Discharge certificates in the prescribed form of previous employment, if any.

Land at least one of them

4. While sending reply, it may be stated whether the candidate is serving or is under obligation to serve, another Central Govt. Department, a State Government or public authority.

5. If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have willfully suppressed any material/information, he will be liable to removal from service and such other action as Government may deem necessary.

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6. The candidate will undergo in the first instance a training at any place decided by the authority and then posted outside for regular work for which only ordinary T.A. bill be paid.

7. If Shri S.P.SINGH accepts the offer on the above terms and conditions he/she should report for the Office of the Regional Assistant Director, B-991, Sector(A) Mahanagar, Lucknow or or Before 24.9.1983.

If he fails to report for duty on the prescribed date the offer will be treated as cancelled.

8. No travelling allowance will be allowed for joining the appointment or on termination thereof.

*Jitendra*

( J.K.SINGH )  
REGIONAL ASSISTANT DIRECTOR

To

Shri S.P.Singh  
C/o Sri Vishwanath Singh,  
Asstt.Development Officer(Statistics),  
Development Block Officer,  
Milkypur, Post-Inyatpur,  
Distt:-Faizabad(U.P.)  
Copy forwarded for information to:-

1. The Director, Field Operations Division, NSSO, Wing No.6, West Block No.8, R.K.Puram, New Delhi.
2. Personal file of Shri S.P.Singh
3. Regional Assistant Director, NSSO, (FOD), UP(C)Region, Lucknow. (Estt.I)
4. Dy.Director, NSSO, (FOD), Central Zone, Allahabad.

( J.K.SINGH )  
REGIONAL ASSISTANT DIRECTOR



*Jitendra Singh*

(A31)

(20)

V21

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

Writ Petition No. of 1985.

Swatantra Kumar  
and another

...

Petitioners

versus

Union of India  
and another

Opp. parties.

Annexure III



*Skumar*

Confidential

Memorandum

A38

Faizabad

17th Sept' 84

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Snb: Non submission of NSS-39<sup>th</sup> Round schedules original and duplicate in respect of Sample Slno 11326, 11329 and 11431 and ~~original~~  
Copy of Slno 11227.

1. Attention of Shri Swatantra Kumar Investigator is drawn to the above subject.

2. It is observed that the above mentioned schedules are not submitted by him.

3. At the time of preparing Table I and II for vital events Sri Kumar showed his inferiority to concentrate in office and he sought permission to carry the schedules completed by him to his residence for the work. He was allowed under a special circumstances considering his weakness after illness.

4. The schedules were neither submitted to his A/Officer nor to the undersigned till date.

5. He is directed to submit the schedules immediately.

6. Further, he may note that he should behave properly with his superiors.

7. He should be punctual and should observe half an hour lunch break as prescribed by the Govt. He has been found habitual lati come and at times half day casual leave is debited from his account. During lunch hours also he is found missing for hours.

8. He also disobeys orders from superiors. He was directed to take up the work of Urban sample of Faizabad in the first week of Sept' 84. He was keen and ready to complete the rural sample without a waiting Sunday. But for urban sample he made a prestige issue and took leave. He went to see RAD, Allahabad without the permission of the undersigned.

9. On 5-9-84 at Rly station Faizabad Shri Kumar told the undersigned that he has fasted and great power at Faizabad

P.T.O



Central Statistical Organization  
Allahabad  
02/10/84

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From pre-page

— and he will see the person (indicating one Asslt/snpdt) if anything is done against him.

10 Sri Swatantra Kumar is directed to note that such indiscipline, and loose talks before superior officers is liable to award him severe punishment

11 He is severely warned for his indiscipline misbehavior and loose talks.

12 He is directed to submit the schedules referred to on last page, immediately otherwise suitable administrative action will be taken against him. The compliance report should be submitted to undersigned at Lucknow address.

To  
✓ Sri Swatantra Kumar  
Investigator  
(On Leave)  
Sarad Upasana Sadan  
H. No 60, Bata Shewali Gali  
Aminabad, Lucknow

1 May

17984 (KSL)

Snpdt

SRD Faizabad

Copy to RAD, Allahabad for information.  
All papers are with me related to this case which will be forwarded in due course, on receipt of compliance from Sri Kumar

1 May

17984

(KSL)

Snpdt FZB

8/5/87  
S. Kumar

A39

23

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

1/3

Swatantra Kumar  
and another ... Petitioners

versus

Union of India  
and another Opp. parties.

Annexure IV



*Shuman*

AMO

(24)

F (1) N.P.(B)/INV/S.M./84 (5)

Confidential

Dt: 1.10.1984.

To,

Sri K. S. Lal  
Supdt.  
N. S. S. O. (P.C.O.D.)  
C. Z. Ludnow.

Through Superintendent Faizabadi.

Subject:- Compliance of Your letter No. F-12345 (10) /Adm/S.N.O./84 /  
1307 Dt: 17th Sept. 1984.

Sir,

With regard to your letter noted above, I respectfully state  
as under:-

- 1.. That I had submitted the schedules of sample Sr. No. 11326, 11329, 11431 original alongwith duplicate and also the original copy of Sr. No. 11227.
- 2.. That I had prepared the table I & II of the sample Sr. No. 11326, 11329, & 11431 on 23rd, 24th & 25th July 84 respectively in the office itself and submitted the schedules along with table I & II on the same day i.e. on 23rd, 24th, & 25th July 84. Regarding the sample Sr. No. 11227, the schedules were not available in the Office when I was asked to prepare the table I & II. The schedules were searched by me & other concerned staff, but it could not be found.

*Received  
J. P. T. M.  
Two copy  
one for K. S. Lal  
Supdt. V.K.O.*

*One for R. A. D. the office and the schedules of sample Sr. No. 11227 was not available in the office. I never seek the permission to carry the schedules at my residence but it is surprising to note that you have made a false story against me regarding the responsibility of above mentioned schedules.*

*C. Kumar*

P.T.

From Pre page:-

Not only these schedules mentioned here but the schedules of some other samples (Original & Duplicate both) are also missing from the Office which is known by every staff since from mid of the Aug, 84, and the same has been searched in the office itself many times through all possible means upto the 1st week of Sept, 84. But when schedules could not be available the responsibility of the schedules have been thrown upon me through this false story.

Let us presume that I had sought the permission to carry the above mentioned schedules of my residence for preparing table I & II, there was no use of both copies (i.e. original & Duplicate) but either original or Duplicate copy was sufficient to prepare table I & II. I could not understand, under which circumstances, I had been allowed to carry the schedules, original & Duplicate both at my residence?

3. That none of my superior has complained me regarding my behaviour. It is first time, it has been told by you, some thing regarding my behaviour, which seems only the reaction of above mishapening in the office.

4. That I am quite punctual in attending the office & I have never availed, more than half hour lunch break.

5. That I have submitted my work programs on the 10th Sept. 84, for the said urban sample but due to my illness from 13th to 27th Sept 84 it could not be possible to take up the work. I had started the work of the said urban sample from 29th Sept. 84 i.e. Just after my joining in the office.

6. That the facts mentioned in my file # 9 of the referred letter is totally false & self made, in order to harass & defame me.

7. That neither I have misbehaved with any staff nor made any loose talk, showed indiscipline and as such there arises no question of severe warning which is based on prejudice and personal grudge.

P.T.O.



*C. Kumar*

26

442

Y.C

The facts mentioned in the said letters are false & twisted having no sequence order, your kind honour have made wrong idea in your mind about me, which reflects in the contents of the letter.

Yours faithfully,

*Suman*  
11/10/184

( Swatantra Kumar )

Investigator N. S. S.O.F.O.D., Faizabad.

For favour of information & necessary action copy to the R.A.D., U.P. (E) region Allahabad through subdt. Faizabad.

*Suman*  
11/10/184

( Swatantra Kumar )

Investigator N. S. S.O.F.O.D., Faizabad.

T.C  
*Suman*

Au3

27

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

Writ Petition No. of 1985

Swatantra Kumar  
and another ... Petitioners

versus

Union of India  
and another Opp. parties.

Annexure V



*Swatantra Kumar*

Government of India  
Ministry of Planning  
Department of Statistics  
National Sample Survey Organisation  
(Phase III, 1984-85)

Office of the Regional Asstt. Director,  
U.P(X)(E) Region, 32-A, Stanley Road,  
Allahabad.

Dated this 11.2.85

MEMORANDUM

It has come to the knowledge of the undersigned that the performance of Shri S. Kumar, Investigator is not satisfactory. On a verification of birth and death events in the sample done by him in 39th round, it was noticed that there were heavy variations. The figures reported by him were found to be wrong and under-reported. Thus he showed utter negligence of his duties and did his work carelessly.

Further he was given the schedules completed by him in 39th round to compile proforma I and II of the birth and death events, but he has not yet returned the following schedules :-

Sl.No.	Sample sl.no.	Name of the vill/ town.	Schedule set missing
1.	11326	Sukrauli	Original & duplicate copy
2.	11327	Sangaldeep	Original copy
3.	11329	Muili	Original & duplicate copy
4.	11431	Sonha	-do-

*Parikh 5*  
Shri S. Kumar is asked to explain why action should not be initiated against him for the above serious lapses.

*K.B. Singh* ( K. B. SINGH ) 11-2-85  
REGIONAL ASSTT. DIRECTOR

To,  
Shri S. Kumar,  
Investigator,  
N.S.S.O. (F&D),  
SRO-FAIZABAD.

*T.C*  
*S Kumar*

45

29

29

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

Writ Petition No. of 1985.

Swatantra Kumar  
and another ... Petitioners

versus

Union of India  
and another Opp. parties.

Annexure VI

*Kumar*

सुवाम

- १८८३ साहायक निदेशक  
काशीय प्रतिदर्श सर्वेषण संगठन

श्रीगंग लालिका (संख्या ४०४०)  
कलाश बाद

महोदय

दिनांक ११.२.८४ पंचांग (१२०) M.S/

- U.P. १८४-८५ में प्राप्त विवरण के सामने में मुझे यह  
कहता है कि -

① मंत्रे क्रम संख्या ११३२६, ११३२७ व ११४३१ की सिफ़े मूल  
अनुष्ठानियों तालिका १ व २ व बनाने के लिए क्रमांक: २३७४  
२४-७-८४ व २५-७-८४ को प्राप्त किया था। और वर्षे की  
एक अनुष्ठानी की तालिका १ व २ व बनाने में २ घंटे से ज्यादा  
सामय नहीं लगता इसलिए मंत्रे क्रमांक: ११३२६ को  
दिनांक २५-७-८४ को क्रमांक ११३२७ को दिनांक २४-७-८४ को  
त दिनांक २५-७-८४ को क्रमांक ११४३१ को अनुष्ठानियों के  
Copy received तालिका १ व २ व प्राप्ति का किया था। जिसका  
विवरण भी इनियों में है। और इनियों की द्वितीय  
प्रति की मंत्रे २१०८० बिन्दु के साथ प्राप्त किया था।  
१५/८/८५ १५ से तत्कालीन अधीक्षक भौतिकों द्वारा २१०८० लाल  
जी ने अनुमोदित किया था।

② द्वितीय प्रति (Duplicate-ed) अनुष्ठानियों के सम्बन्ध में  
प्राप्ती को कोई जानकारी नहीं है लेकिं द्वितीय प्रति के  
उपरान्त भौति कार्यालय में कोई भी द्वितीय प्रति के  
नहीं प्राप्त की तालिका १ व २ व बनाने के लिए गुम्भे राम  
मूल अनुष्ठानियों प्राप्त हुयी वीं जिनका प्राप्ति भौति के  
उपर्युक्त विवरण के अनुसार कर दिया था।

③ मंत्रे तालिका १ व २ व बनाने के लिए अनुष्ठानियों द्वारा अधीक्षक  
सामाजिक आर्थिक एकीकरण के द्वारा भी बमाराम जी से  
प्राप्त की वीं तथा तालिका बनाने के उपरान्त तालिका ११४३१  
के द्वारा अनुष्ठानियों की भी दमारम जी को वापस केर  
दिया था। द्वैष्टि ३८ संख्या तक कार्यालय में प्राप्त व बनानी  
की वस्ती द्वैष्टि को कोई प्राप्त नहीं वीं द्वारा इसलिए भौति  
अनुष्ठानियों के प्राप्ति के लगभग ने कोई राष्ट्रीय वीं वीं  
ने वापसी के समय कोई दारीद्र ली वीं।

④ क्रम संख्या ११३२७ की मूल अनुष्ठानियों के सामने गुम्भे  
भौति कहता है कि इस अनुष्ठानी का कार्य (दोग लार्ग)  
समाप्त होने के बाद प्राप्ति के उपरान्त गुम्भे कार्यालय  
को कभी भी प्राप्त नहीं हुयी क्योंकि इस अनुष्ठानी का  
द्वितीय प्रति का कार्य भी एक अन्य अन्वेषक से ३१ राग  
कराया गया वीं जब भौति किसी भावकाश पर वीं।  
(ग्रंथ पृष्ठ २ पर → )

Xuman

5) अम संघा 11327 की गुल डानुष्पुरियों से लालिका 1 व 2 31 वर्गी के लिए जब भी ने अनुष्पुरियों में तो द्वितीय पुरी D.P.D को उपेत हो चुकी थी तो गुल डानुष्पुरियों का कार्मालम भी कही पता न था। भी इस मामले में 1310 अधीक्षक व आद्यीक्षक भैदया से भी रिवॉव लिरिवॉट रिपोर्ट की थी। इसलिए ऐसे ऊपर यह आरोप संवृण्ण निराधार है किमें। 11327 संगतधीप की गुल डानुष्पुरियों लालिका 1 व 2 31 के लिए प्राप्त की।

6) प्राप्त पत्र के विवरण में निराव है कि भी द्वारा किये दुर्भाव वे दोर के कार्य भी अत्यधिक अत्यर पाया गया है। जो कि भी अपना कार्य पूर्णतया इमानदारी अपेक्षित रिपोर्ट, लागा व निष्ठा पूर्वक किया है और पुर्तः निरीक्षण के उपरान्त निरीक्षण करता है २९४% ऐ ज्योपा अत्यर नहीं पाया गया है। भी आपस माविन डानुरोध करेंगा किंतु पुर्तः भी कार्य का चर्दि भौदय चाहे तो पुर्तः निरीक्षण कर लकते हैं। भी ने 31 वे दोर के अभी ग्रामों का कार्य अत्यंत निष्ठा पूर्वक किया है जैसा कि पुर्तरीक्षण के मध्य तक संपर्क का सौ लाखी आया है। २८४% का अत्यर दो लकता है जिनका गुटपूर्ण शुल्क, Time ग्राम और Non Sampling Error के कारण आया है।

प्राप्ती की इस मामले में कुछ और तथा हासिले आये हैं जिसके सम्बन्ध में प्राप्ती उपस साविनय डानुरोध करना चाहता है। उके प्राप्ती को गाननीय अधीक्षक भौदय भी के ११३२० लाहौ ली तो दिनांक १७.८०.८४ को पत्र संख्या F12345(16)/Admn/S.R.0184-85 के आदेश से

एक जापन द्विमा.वा जिसमें उन्होंने नियत लिरिवॉट वर्ते दर्शायी थीं → "It is observed At the time of preparing Tables I and II for Vital events Smt. Kumar showed his inability to concentrate in office and he sought permission to carry the Schedules completed by him to his residence for the work. He was allowed under a special circumstances considering his weakness after illness."

जबकि वास्तव में ऐसा कुछ नहीं था नहीं उस वर्क में बहुत कमजोर था। नहीं भी इस मामले वाली ओर आज्ञा लिरिवॉट भा और रिपोर्ट प्राप्त की थी।

इस जापन के पुर्व एक राष्ट्रीय शापत गाननीय अधीक्षक भौदय ने कार्मालम में अभी कमचारीओं की जारी किया था जिसमें उकत Schedules के बारे में भी उसके अलावा कुछ अन्य अन्वेषकों के Schedules जो कार्मालम से गायब था के बारे में अभी कमचारीओं में उपर्युक्त भी गयी थी।

अब अगर प्राची की सारी बातें पर विश्वासा ने कहा कि आनन्दीय अधीक्षक महायज्ञ की सारी बातें लो आनन्द लिया जाय तो ऐसे हारा उपर्युक्त नं. ११३२६, ११३२७ व ११४३। की तालिकाएँ (Table I & II) कार्यालय ने उपलब्ध की जिसे ग्रन्त वरिष्ठ अधिकारियों की आनन्द नुसार शूल पुरि में संलग्न करके कार्यालय में S. C. बोर्ड के ३-याज्ञ प्री द्यमाराम मासा अधीक्षक महायज्ञ को उपर्युक्त किया था। जब तालिकाएँ व व ये कार्यालय में उपलब्ध की अनुष्ठानियों जो वापर वे D.P.D भी जीवी गयी तो पिर अनुष्ठानियों के बारे में गुम्भे दीखी उहराना निराधार लगता है।

प्राची की इस संववन्ध में सासा० अधीक्षक महायज्ञ प्री द्यमाराम जी के उपर शक्ति है क्यों कि ३-होने शुल्क तालिका I & II अनुष्ठानियों के साथ कार्यालय में लेने के उपरान्त तालिका I & II तो कार्यालय में उपलब्ध की लेकिन अनुष्ठानियों को कहीं पता नहीं था। इस संववन्ध में उल्लेखनीय है कि प्री द्यमाराम जी साथ विरोधी है और जातीयता के आधार पर और रहने मृत्यु इत्यादि से जर्तीत है। ऐसे तत्त्वकालीन को के सासा० अधीक्षक गणीय जी राजीत राज्य और भी वीच के भद्र भावन्य में उन्हें नापसंबंधी हैं। और ऐसे वीच के भद्र भावन्य में उन्हें नापसंबंधी हैं। उन्होंने कार्यालय और कार्यालय से वाहर भी अमुक्ते गर्म वार्तालाप करने की कोशिश की लेकिन प्राची हमेशा उसे Avoid करने की कोशिश करता था। उन्होंने प्राची को कहा वार शुल्क नौकरी में पेंसन देने की भी घोगकी थी है। और हमेशा इस अधिकारी के बाहरे बद्यनाम करने की भी कोशिश भी करते रहे हैं। जबकि प्राची को एक हाल की नौकरी के दोसराने किसी किसी को कोई शापन नहीं भिजा था। लेकिन उन्हें क्षमा० अधीक्षक महायज्ञ इधर दूध भाद से प्राची को मानसिक रूप से प्रताङ्कित कर रहे हैं। प्राची को वायोग्य को कोई भी बात भी नहीं है। प्राची को वायोग्य में संववन्धित चीजों को दूरी की भी इजाजत नहीं है। प्राची के साथ उसांतरे का वरदार उक्त अहीय करते हैं। जैसे प्राची को दोषी कीर्ति हो जाए।

जाता है कि इस संववन्ध में प्राची कामें मानवनाम अपील करता है कि इस "अनुष्ठानियों" के संववन्ध में जो वातान्वय में कार्यालय से गायब हुयी हैं के संववन्ध में उच्चेष्टरीय जोंमें करोये और आगे प्राची इस संववन्ध में दोषी परमा पाय तो प्राची को सभी २०३ एवं कार्य हुए और कुण्ड यह प्राची के विवलक घड़यें हैं तो दोषी व्यक्तियों को दूरी करें।

(Aug)

(33)

133

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

Writ Pet. No. of 1985.

Swatantra Kumar  
and another ... Petitioners

versus

Union of India  
and another Opp. parties.

Annexure No. VII

*S. Kumar*

ABO

34

CONFIDENTIAL

Y 34

No. 2(2)Estt-I/U.P(E)/85-86-Pt-II  
Government of India  
Ministry of Planning  
Department of Statistics  
NATIONAL SAMPLE SURVEY ORGANISATION  
(Field Operations Division)

Regional Office U.P(East)  
Allahabad.

Dated :- 6th May, 1985.

O R D E R

In terms of para 2 (iii) of offer of appointment  
issued to Shri Swatantra Kumar  
vide Memo. No. 2(2) ~~स्थापना~~ - I/3.प्र(८) /83-84 dated 7.9.1983  
the appointment of Shri Swatantra Kumar, Investigator  
on probation is terminated with effect from 10-5-1985.  
This should be treated as a day's notice required for this  
purpose.

*WB Singh*

( R. B. Singh ) 6.5.85  
Regional Assistant Director

✓ To,

Shri Swatantra Kumar  
Investigator,  
NSSO (FOD),  
Faizabad.

Copy to :-

- 1- The Director, NSSO (FOD), New Delhi.
- 2- The Deputy Director, NSSO (FOD), Lucknow.
- 3- The Assistant Director, NSSO (FOD), Lucknow.
- 4- Personal file of Shri Swatantra Kumar
- 5- The Superintendent, NSSO (FOD), Faizabad.

*T. C  
Swatantra*  
( R. B. Singh )  
Regional Assistant Director

(A 51)

(35)  
35

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

Writ Petition No. of 1985

Swatantra Kumar  
and another

Petitioners

versus

Union of India  
and another

Opp. parties.

Annexure VIII

*Suman*



F 12345(10)/Admn/SRO/84/1209 Regd AD  
Confidential

(36)

Memorandum

Faizabad  
17th Sept '84

A 52

(36)

Sub: Non-submission of schedule for NSS  
39th Round Sample Encl no 11413, and 11325

Attention of Sri SPSingh Investigator  
is drawn to the subject noted above

It is observed that original copies  
of the set of schedules of above noted sample  
SL numbers are not submitted by ~~from~~ after  
preparation of Table I + II for the vital events

It is also reported that ~~he has~~  
taken sample Encl no 11325 - schedule of  
38th Round which is also not returned  
by ~~from~~ till date.

Non-submission of these schedules have  
delayed the work of verification and final  
despatch of schedules.

Sri Singh is directed to submit  
these schedules immediately under  
intimation to the undersigned at ~~his~~ <sup>undersigned</sup> Lucknow address. Otherwise suitable  
administrative action will be taken  
against him.

SPS  
21/5  
Sri SPSingh. Inv  
Go Dy Director  
NSSO (FOD)  
Central Zone  
Lucknow

1 (A) 1  
17/9/84  
(KSH)  
Supt  
SRO Faizabad

Copy to RAD, NSSO (FOD) Allahabad  
for information

1 (A) 1  
17/9/84 (KSH)  
Supt

T. C  
General

(A53)

(37)

(37)

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

Writ PetitionNo. of 1985.

Swatantra Kumar

and another

...

Petitioners

versus

Union of India

and another

Opp. parties.

Annexure IX

*Swatantra Kumar*

No. SPS/PF/SRO/Fa/Sept/84

1454

38

38

Dated:- 28th Sept., 84.

To,

The Superintendent,  
N.S.S.O. (F.O.D.),  
Central Zone,  
LUCKNOW.

THROUGH PROPER CHANNEL.

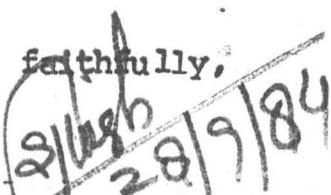
Sub.: As per your letter No. F-12345 (10)/Admn/SRO/84-  
1209/Confidential.

Sir,

With due respect I want to say I have already submitted my all schedules after preparation of Table I + II for the vital events. Sample Srl.No. 11413 & 11325 39th round. Including 38th round schedule Srl.No. 113325.

Respected Sir after seeing my tour Dairy the submission of schedules is also shown in my Tour Diary. The Chalan of Schedules is never given by Asstt. Supdt. at any time. My Tour Diary Month July, 1984 has approved by honourable Superintendent.

Yours faithfully,

  
S.P. SINGH  
28/9/84

(S.P. SINGH)  
INVESTIGATOR, SRO,  
Faizabad.

Copy to the Regional Asstt. Director, NSSO (FOD), Allahabad for kind information.

  
(S.P. SINGH)  
INVESTIGATOR

  
T.C.  
Kumar

A55

39

39

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

Writ Petition No. of 1985.

Swatantra Kumar  
and another ... Petitioners

versus

Union of India  
and another Opp. parties.

Annexure X

*Skumar*



AB6

CONFIDENTIAL  
C-(FZD)M.S./UP/84-85

40

NAT

Office of the Regional Asstt. Director,  
U.P(S) Region, 32-A, Stanely road,  
Allahabad.

11.2.85

MEMORANDUM

It has come to the knowledge of the undersigned that the performance of Shri S.P. Singh, Investigator is not satisfactory. On a verification of birth and death events in the samples done by him in 39th round, it was noticed that there were heavy variations. The figures reported by him were found to be wrong and under-reported. Thus he ~~xxxxxx~~ showed utter negligence of his duties and did his work carelessly.

Further he was given the schedules completed by him in 39th round to compile proforma I and II of the birth and death events, but he has not yet returned the following schedules :-

Sl.No.	Sample sl.no.	Name of the vill/ town.	Schedule set missing
1.	11413	Ninawan	Original copy
2.	11325	Pipra	-do-

Shri Singh is asked to explain why action should not be initiated against him for the above serious lapses.

WPS-cc-8  
( K. B. SINGH ) 11-2-85  
REGIONAL ASSTT. DIRECTOR

To,  
Shri S.P.Singh,  
Investigator,  
N.S.S.O. (FZD),  
SRO-FAIZABAD.

T. C  
Shuman

A57

(41)

Y  
W

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

Writ Petition No. of 1985.

Swatattra Kumar  
and another

Petitioners

versus

Union of India  
and another

Opp. parties.

Annexure XI

*Swatattra Kumar*

खेळाने

ਫੇਨੀਗ ਸਟਾਈਲ ਨਿਫੇਲਾਂ ( ੫੦੦ ਸਾਫ਼ )  
੨੦੦ ਸਾਫ਼ ਰੰਗ ( ਪੱਧੀ ਥੇਚ )

## Science

ABCD

42

112

दिनांक १८-२-८५

सेदक :- शोधीय सदायक नियंत्रण (उ०ग्र०७०) इवाचावाद के प्रभासंरक्षण (-(F2D)M.S. / P.E ४४-४५ (शोधीय) दिनों ११-२-४५ के संदर्भ में।

स्टोद्य

आपके सापन संख्या-८ (F2D) M.6. / UPE/84-85 के रास्ते में मुझे निम्न लिखित तथा  
आपके साथ सहायता देने वाले विद्यार्थी के लिए रास्ता बनाया गया है।

(1) अब रोमेने फैलावाद उम क्षेत्र नार्मदायांते नार्मदा वार वाटवा किया हुआ उन्हें उपर्योग समझा-  
किंवद्द रावेंद्रण कालीन आंबेतिर किया गया था। मेरे हारा पूर्ण किंवद्द गह विद्युत कुल ३  
थे। मेरे हारा पूर्ण किंवद्द ताए तीनो प्रतिलिपीं पिपरा कमाक (11325) निंवावा कमाक  
(11413) वीरपुर जाटको जर्खेल (11412) का निर्विकलन स्थान वाम डावीकर्तम-  
दीदय जारा किया गया था।

11325

क्रमांक (11412) द्वारा दिये गए जाटकों, व इनमें से शास्त्रियों का विनीतान  
संग आठ अंत इण्डियन राज्य लद्दा अंति धर्मी शास्त्रियों (11413) का निर्विकारण  
भी की गई। १८८० लाल, अधीक्षक महोपयन ने दिया कि २५,५,८४ को किमांचा।  
साठ आठ और अधीक्षक अटोटग के निरीक्षण आख्या की अदि श्रीगिराज अवलोकि  
करना चाहें तो स्पष्ट दी जाएगा कि ऐसे कार्य को गुणवत्ता का रुतर केरा रहता  
अधीक्षक भी को १८८० लाल ने तो यही तरह चिरता कि "Being a new  
entrant his quality of works is adjudged as good

उत्तर: अहं कहना न्याय साबह नहीं है कि मेरे कार्य की गुणता संतोष-  
जनक नहीं पाइगई थी। जहाँ तक पुनः निरीक्षण तथा जांच के सामय पार-  
गए अन्तर का प्रश्न है इस सम्बन्ध में मुझे यह कहना है कि पुनः निरीक्षण  
तथा जांच के सामने मुझे आजतक किसी प्रकार का निरीक्षण पश्च या कोई  
जापन आजतक प्राप्त नहीं हुआ है। किसी भी जहाँ तक मुझे लात है मेरे  
स्फूर्तिदर्शी यात्रा वीरपुर जाटपाते (11412) की जन्म-मृत्यु दरकी जांच शुरू  
दिया राय २०३७ द्वारा झागरता के प्रथम सामादर में अतिपाकित किया गया है  
स्वयं मात्र ३ जन्म स्थान् ३ मृत्यु की जटाएं मेरे द्वारा न दर्शाया जाए  
उन्होंने पाया है। जिसका कारण मेरी कार्य कुशलता की कठीनता है। विकल-  
स्वयं को दी स्मरण शक्ति ना अन्य कोई कारण ही शक्ता है। रागवतः  
मेरे द्वारा किसी भी कार्य के प्रति उपेक्षा या ३ दातीना बदली जाने पर  
जिसका उन्होंने की संख्या आधिक मिलनी चाहहर थी। जो कि मह धनाण  
है मेरी अद्भुती कार्य कुशलता का। इसका अस्पृष्ट है कि मेरे द्वारा किस-  
गर भी कार्य को निर्धारित स्वयं सामान्य स्तर से दूर अद्यापाया-  
या है और मुझे कार्य के प्रति उपेक्षा पूर्ण आभ्या लापरवाद के द्वारा  
अन्याय पूर्ण स्थान रात्मता से परे है।

(3) जुलाई वर्ष 1984, में अधिकारियों द्वारा मुझे उनके निर्देश नुसार उन्हें दौर में पूर्ण किये गए ~~संकेत~~ अनुसुनियों से टेलुल बनाने का निर्देश दिया गया था। जिसके लिए नार्माकम में २०० तांत्रिक मार्ग से मुझे मूल उन संकेत लाने के लिए बुलाया गया। उनके द्वारा उनमें से कुछ निम्नलिखित हैं।

(43)

की उपरितात में टेबुल्ट I व II बनाकर तगा टेबुलों को अनुसूचि में सहित ग्रीष्म  
राम सर्व आम की ही प्रस्तुत कर दिया आ कारण कि वे ही इस कार्यक्रम के इन्हीं

इस प्रकार यह आरोप लिट्टल निरापार है कि मैंने आवातक जन अनुसूचि  
को वापस नहीं किया है।

रांगत का:-

① श्री के० स्वरूप लोह, अधीक्षक  
महोपय का निरीक्षण प्रपत्ति  
प्रतिदर्शी वाज विनोदा क्रमों  
(1413)।

अवधीय  
Shri R. P. Loh  
(राम लोह रिट)

उपरिपक्व  
उप-दोत्र - जै जाग्रट  
दिनांक - 18. 2. 85.

T. C  
R. Lohman

(44)  
A59

W  
W3

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

Writ Petition No. of 1985.

Swatantra Kumar  
and another

...

Petitioners

versus

Union of India  
and another

Opp. parties

Annexure XII



*Swatantra Kumar*

CONFIDENTIAL

45

44

No. 2(2)Estt-I/UP(E)-85-86 - Pt-II  
Government of India  
Ministry of Planning  
Department of Statistics  
NATIONAL SAMPLE SURVEY ORGANISATION  
( Field Operations Division)

Regional Office, U.P (East)  
Allahabad.

Dated :- 6th May, 1985.

O R D E R

In terms of para 2 (iii) of offer of appointment  
issued to Shri S. P. Singh  
vide Memo. No. 2(5)/UP(C)/83 dated 14.9.83  
the appointment of Shri S. P. Singh, Investigator  
on probation is terminated with effect from 10-5-1985.  
This should be treated as a day's notice required for this  
purpose.

*kbSseed*  
( K. B. Singh ) G. S-85  
Regional Assistant Director

To,

Shri S. P. Singh,  
Investigator,  
NSSO (FOD),  
Faizabad.

Copy to :-

- 1- The Director, NSSO (FOD), New Delhi.
- 2- The Deputy Director, NSSO (FOD), Lucknow.
- 3- The Assistant Director, NSSO (FOD), Lucknow.
- 4- Personal file of Shri S. P. Singh.
- 5- The Superintendent, NSSO (FOD), Faizabad.

*( K. B. Singh )*  
Regional Assistant Director

*T. C*  
*S. Kumar*

*Rishabh Dev*

High Court, Allahabad  
Lucknow  
341267  
21-5-86

(46)

R.G.

Y.W.

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

Writ Petition No. of 1985



Swatantra Kumar  
and another

Petitioners

versus

Union of India  
and others

Opp. parties

### Affidavit

I, Swatantra Kumar, aged about 23 years, son of Sri Dinesh Kumar Srivastava, resident of care of Sri Inderjeet Singh, 590, Begum Ganj, Maqbara, Faizabad, do hereby solemnly affirm on oath as under:-

1. That the deponent is petitioner No.1 in this writ petition and is fully conversant with the facts of this case.

2. That contents of paras 1 to 20, 22, to 24, 26  
~~except para 1 to 24~~  
 except portion in bracket, 27 of the writ petition are true to my own knowledge. <sup>the annexes 1 to 27</sup>  
<sup>are true & correct</sup>  
<sup>photostat copies of the original.</sup>

*Kumar*



✓ 46

3. That the contents of paras 21, 25, portion in brackets of para 26 of the writ petition are believed to be true by me.

*Kumar*

Deponent

✓ Lucknow: Dated ✓  
May 21 1985.

Verification

I, the above named deponent verify that the contents of paras 1 to 3 above are true to my own knowledge. Nothing material has been concealed.

So help me God.

Signed and verified this the 21<sup>st</sup> day of May, 1985  
in the hon'ble high court compound at Lucknow.

*Kumar*  
Deponent

I identify the

Sworn & verified by the *Swaranand Kumar* deponent who has signed  
deponent this day before me on 21-5-85 before me  
at 3 p.m. on 21-5-85 before me  
identification by Sri D.C. Gupta  
Advocate

✓ K. I. Gururaj, Advocate,

High Court. I have satisfied  
myself that the deponent has  
fully understood the contents  
of this para which have been  
read over and explained to him  
by me.

*D.C. Gupta*

*High Court, Advocate*

34/267

21-5-85

(A63) 3/

C. M. 156 Abn. No 6637 (w)-8)

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

Writ Petition No. 2438 of 1985.



Swatantra Kumar

and another

...

Petitioners

versus

Union of India & another

Opp. parties.

For the facts stated and reasons shown in the  
*& charge having not been taken from petitioners*  
accompanying affidavit, the operation of the

orders dated 6-5-1985 Annexures VII and XII be

stayed, during pendency of writ petition and such  
other suitable relief be granted as deemed just  
and equitable.

*K. Bhuvanach  
Advocate*

Dated : Lucknow  
May 23 1985.

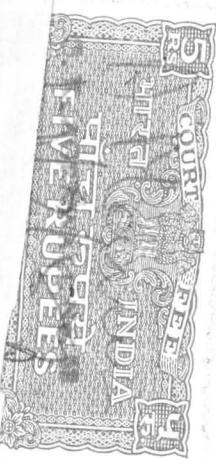
Petitioner

In The Central Administrative Tribunal

ब्राह्मदालत श्रीमान

Lucknow

महोदय



वादी (मुद्र्द्दी)

मुद्र्द्दी (मुद्रालेह)

का

## वकालतनामा

Case No. 1752 of 1987 (T)

Swatantra Kumar Banerji,  
Versus

Union of India &amp; others

वादी (मुद्र्द्दी)

## वनाम

Asit Kumar Chaturvedi प्रतिवादी (मुद्रालेह)

Sri Abdul Mannan Ad. एडवोकेट महोदय

Sri Amrap Kumar Sherkh Ad. वकील

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

hastakhar..... Skemar.

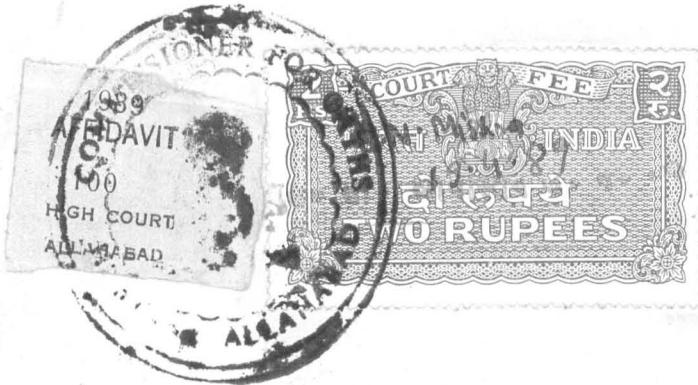
साक्षी (गवाह)..... साक्षी (गवाह).....

दिनांक 19/7/89 महीना.....

A66

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,  
ALLAHABAD CIRCUIT BENCH: LUCKNOW

Case No. T.A. No. 1752 of 1987(T)



BETWEEN  
SWATANTRA KUMAR & OTHERS ..... APPLICANT  
AND  
UNION OF INDIA ..... OPP. PARTIES.

COUNTER AFFIDAVIT ON BEHALF OF O.PARTIES 1 AND 2

I, S.N. Misra aged about 48 years, Son of <sup>late</sup> Shri <sup>L</sup> ~~S.P. Misra~~ working as Asstt. Director in the office of the Regional Assistant Director, U.P.(C) Region, B-991, Sector-A, Mahanagar, Lucknow. 226006 do hereby solemnly affirm and state on oath as under:-

28/4/89

1. That the deponent is working as Asstt. Director in the office of the Regional Assistant Director, U.P. (C) Region, B-991 Sector-A, Mahanagar, Lucknow and as such he is well conversant with the facts of the case. He has been authorised to file this affidavit on behalf of opposite parties 1 and 2. He has also gone through the petition application filed by the petitioner.

2. That the contents of paras-1, 2, 3 need no comments.

3. That with reference to the contents of para-4 it is

(86)

submitted that the petitioner no. 1 joined service as Investigator on 1.9.83 but his overall performance was not found to be satisfactory. The zonal training is imparted to the field staff of the Organisation to improve their knowledge about the work assigned to them and is only one aspect of one's performance among numerous other aspects. This is not the only aspect to keep in view in judging the performance of a person and to decide whether he is fit for retention in service or not. As regards inspection notes, it is not correct that his performance was found to be good. At the time of inspections of his field work numerous errors were observed and communicated to him in the inspection notes. Serious errors were also observed when his work of 39th round of survey was re-verified in the matter of birth and death rates. Moreover, the inspections of field work are done in every sample as a measure of quality control as a small error may lead to a serious conclusions in any statistical survey done on random sampling method. The performance in one sample speaks of only one aspect of the working of an Investigator. This is not the only criterion to judge his fitness for retention in service.

5.

That the contents of para 5 are not admitted. The Superintendant has rightly issued a self contained memorandum containing serious deficiencies noticed in course of day to day discharge of duties by the petitioner no. 1. It is clear from the memorandum, dated 17-9-84 that the petitioner was not performing his duties properly. There was adverse material against him of following nature.

A68

- i. Misbehaviour,
- ii. Taking Government records with, malafide intention and not returning the same.
- iii. Unpunctual in attendance and absence from office during working hours.
- iv. Habitual late coming to office resulting in deduction of casual leave.
- v. Disobedience of Superior's orders.
- vi. Threatening the Superintendent at the point of pistol.
- vii. Indulging in loose talks during office hours.
- viii. The petitioner was also directed to submit the schedules immediately otherwise suitable action will be taken against him.

Thus on an overall assessment of the work, conduct and performance of the petitioner he was found unfit & unsuitable for the job. The petitioner No. 1 was not fit for further re-entration in the services of the Department.

- 6. That the contents of para-6 is missing in the petition.
- 7. That in reference to para-7, it is submitted that the Superintendent, Faizabad has issued a self contained memorandum to the petitioner No. 1 vide his memorandum dated 17-9-84 and no reply was asked for except for the submission of schedules. Therefore no official cognisance was given to the representation by the petitioner no. 1 vide his letter dated 1-10-1984 by the Superintendent. However, the Regional Assistant Director, N.S.S.O.(FOD), Allahabad being not satisfied with the reply of the petitioner no.1 issued fresh



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fresh memorandum dated 11-2-85 shown at annexure-v. It is evident from the said memorandum that the performance of the petitioner no. 1 was not satisfactory.

8. That the contents of para-8 need no comments.

9. That the contents of para-9 are not admitted. The petitioner no. 1 submitted his explanation dated 16-2-85 in reply to the Regional Assistant Director's memorandum dated 11-2-85. The matter was receiving attention, but in the mean time the Departmental promotion Committee (D.P.C.) for the post of Investigators with head quarters at Lucknow with the Deputy Director as Chairman communicated to the Regional Assistant Director. Allahabad its decision on the Ist Year's probation report of the petitioner no. 1 that he is not fit for retention in service vide D.O.No.2(4) DPC/CZ/85, dated 5/6-2-85 received on 21-2-85 and the matter was considered as closed. The petitioner's contention that he was discharging his duties properly for the past so much time is his own conclusion and not based on records and facts.

10. That the contents of para-10 are denied. The services of the petitioner No. 1 were terminated on the recommendation of the D.P.C. as stated in para-9 above on the basis of Ist year's probation Report. The ~~work~~ conduct & performance of the petitioner were not found satisfactory.

That the contents of para -11 are denied. The services of the petitioner no. 1 were terminated in terms of para-2(iii) of offer of appointment issued to the petitioner no. 1 as reproduced below and on the recommendation of the DPC.

D.P.C.



(A70)

"वे दो वर्ष की अवधि के लिए परिवीक्षाधीन रहेंगे। नियुक्त कर्मचारी को परिवीक्षा अवधि तथा परिवीक्षा की बढ़ाई अवधि यदि कोई हो स्थोषनक रूप से पूर्ण करने में असफल रहने पर अथवा अन्य किसी कारण से सेवामुक्त की जाए तो स्थोषनक रूप से अर्थात् नियुक्त व्यक्ति अथवा नियुक्त पदाधिकारी द्वारा किसी भी समय एक दिन का नोटिस देकर बिना कोई कारण बताए समाप्त की जा सकती है।

The date of appointment letter quoted in the termination order dated 6-5-85 was wrongly typed as 7-9-83 instead of 19/20-8-83 which was a clerical error. The corringendum in this regard has already been issued by the registered post on 1st July, 1985 (Copy enclosed). The same has been returned back undelivered with the remarks that

"इस नाम का आदमी बिना पता बाहर रहता है, वापस हो।"

This corrigendum has again been sent on the permanent address of the petitioner No. 1 vide postal receipt No. 4644 dated 2-7-85. The acknowledgement is still awaited.

12. That the contents of para-12 are denied. The allegations are false and baseless. It is false and baseless to say by the petitioner No. 2 that the opposite party No. 2 did not allow him to join the service. In fact his appointing authority was not the Regional Assistant Director, N.S.S.O(FOD). Allahabad, but the Regional Assistant Director, N.S.S.O(FOD) Lucknow. He was offered the appointment on 14-9-83 by the Regional Assistant Director, Lucknow and he joined on 19-9-83. It is also false that the petitioner No. 2 had filed a writ petition in the Hon'ble High Court. In fact the petitioner No. 2 is a Graduate in Agricultural Science, i.e. B.Sc. (Ag). The requisite qualification for the post of Investigator is a Graduate with Economics or Statistics



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as one of the subjects. Mark-Sheet submitted by him to the Staff Selection Commission which was available in his folder did not show the subjects offered by him, but it only showed the description theory, and 'practical' against all subjects described as Ist paper to VII paper. The Regional Assistant Director, Lucknow had asked the petitioner No. 2 vide his letter No.2(10)/UPC/83-84/1426 dated 30-8-83 (Copy enclosed) to intimate to him the names of subjects offered by him in B.Sc. (Ag) to verify whether he had Economics and or Statistics as one of his subjects. The petitioner No.2 deposited his original Mark-Sheet subject wise to the Regional Assistant Director, Lucknow vide his letter dated 6-9-83 ( Copy enclosed) This fact was also referred to the Staff Selection Commission responsible for the selection of the candidates for the post of Investigator. The Commission vide its letter No. 6(3)/82 -SSC-Exam, dated 23.8.83 ( Copy enclosed ) clarified that generally Economics and Statistics are included in Syllabus of B.Sc. (Ag) Examination. If it is so Shri S.P. Singh will be eligible for appointment. They also advised to verify the original Mark-Sheet etc. to check up the candidate's eligibility. However, when the matter was under correspondence the petitioner No.2 lost his patience and served the Department with the writ notice through Shri Laxmi Narayan Acharya, Senior Advocate, High Court Bench, Lucknow which was also subsequently withdrawn which is evident from the letter dated nil from the Advocate (Copy enclosed). Thus petitioner No.2's contention that the writ was compromised is totally false and also the question having a grudge against him is baseless as neither there was any matter to have a grudge against him nor the office of the opposite party No.2 was the appointing authority at the time when he was offered the appointment.



13.

That the contents of para-13 are denied. The petitioner No. 2's contention that working satisfactorily and blamlessly is his self-thinking. Zonal training is imparted to the field staff of the Organisation to improve their knowledge about the work assigned to them and is only one aspect of one's performance among numerous other aspects. This is not the only aspect to keep in view in judging the performance of a person and to decide whether he is fit for retention in service or not. As regards inspection notes, it is not correct that his performance was found to be good. At the time of inspection of his field work numerous errors were observed and communicated to him in the inspection notes. Serious errors were also observed when his work of 39th Round of survey was re-verified in the matter of birth and death rates. Moreover, the inspection of field work ~~was done~~ in ~~every~~ sample as a measure of quality/control as a small errors may lead to serious conclusions on random sampling method. The performance in one sample speaks of only one aspect of the working of an Investigator. This is not the only criterion to judge his fitness for retention in service.

14.

That the contents of para-14 are denied. The Superintendent, N.S.S.O.(FOD), Faizabad has rightly issued the Memorandum dated 17-9-84 to the petitioner No.2 as the most important Government record in this organisation viz. filled in Schedule -es pertaining to Statistical surveys were taken away by the petitioner No. 2 with ulterior motive as he wanted to escape from the responsibility of serious inconsistency and misreporting in the data collected through these schedules by the petitioner No.2.



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15. That the contents of para-15 are denied. The petitioner No. 2 submitted his reply dated 28-9-84 to the above Memorandum denying the allegation and taking the false stand that the Schedules have been submitted.

16. That the contents of para-16 are denied. Finding the reply of the petitioner No.2 unconvincing the Regional Assistant Director (The Superior Officer to the Superintendent) issued another Memorandum to the petitioner No.2 dated 11.2.85.

17. That the contents of para-17 are denied. The petitioner No.2 again denied the charge in his reply dated 16-2-85. The matter was receiving attention, but in the mean time the Departmental promotion Committee(D.P.C.) for the post of Investigators with head Quarters at Lucknow with the Deputy Director as Chairman Communicated to the Regional Asstt. Director, Allahabad its decision on the 1st year's probation Report of the petitioner No.2 that he is not fit for retention in service vide D.O. letter No.2(4) DPC/CZ/85, dated 5/6-2-85 received on 21-2-85 and the matter was considered as closed.

18. That the contents of para-18 are denied. The matter has already been explained in para-17 above.

19. That the contents of para-19 are denied. The services of the petitioner No.2 were terminated on the recommendation of the D.P.C. as stated in Para-17 above on the basis of 1st year probation report and doubtful integrity. After this, there was no question of proceeding further in the matter. He was found unfit for the job as a result of overall assessment of the work, conduct & performance of

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the petitioner so he was found unfit and unsuitable for the job.

20. That the contents of para-20 are denied. The contention of the petitioner No.1 that he was harrassed by the Reporting officer (the Superintendent) because he was an office-bearer in the Investigator's Association is baseless and false. His T.A. Bills under reference have already been paid to him by the Regional Assistant Director after thorough scrutiny as per procedure disallowing inflated claims.

21. That the contents of para-21 are denied. It may be seen by this Hon'ble Tribunal from the termination orders issued to the petitioner No.1 and 2 that their services were terminated on the basis of their 1st year's probation reports finding their overall performance as unsatisfactory in terms of the offer of appointment para-2(iii). The word dismissal has been deliberately indicated by the two petitioners to give un-necessary weightage to the termination order. The contention of the two petitioners that the opposite parties had malafide intention is denied in toto. The opposite parties, Union of India have served the termination order as a part of their sincere discharge of duties with no discrimination. They were unfit and unsuitable for Government job.

22. That the contents of para-22 are denied. Termination of service during the probation period has no relevance with the seniority. The retention of a probationer in Government Service is based on his overall performance adjudged through probation report. As both the petitioners were not found fit for retention in service by the



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Departmental promotion committee their services have been terminated in terms of the offer of appointment completing all formalities and procedures laid down by the Government of India. The existance of vacancies has no relevance with the case.

23. That the contents of para-23 are denied. There is no provision of hearing in person before passing the termination order based on probation report and therefore, the question of giving any opportunity to the petitioners did not arise.

24. That the contents of para-24 are denied. It is not obligatory on the part of Union of India to maintain a list of misfits. The petitioner Nos. 1&2 were found misfit for retention in Government service and accordingly their services were terminated in terms of the offer of appointment para-2(iii).

5. That the contents of para-25 are denied. The services of the two petitioners have not been terminated under Rule 5(i) (a). The services of the two petitioners have been terminated in accordance with the terms and condition laid down in offer of appointment through which they were appointed vide Government of India O.M.No.10/66-Estt.(C), dated 26.8.1967.

That the contents of para-26 are ~~dated~~. As the termination of the services of the two petitioners are under the terms of appointment para-2(iii) which clearly speak that During the probation period the appointment may be terminated at any time by a day's notice given by either side namely the appointee or the appointing authority without assigning any reasons. Therefore the question of indicating criteria in the termination order served to the petitioner Nos.1 and 2 did not arise.



27.

That the contents of para-27 are denied. As per rules when a Government Servant is found unfit for retention in service and consequently his services are terminated it is not obligatory to communicate his deficiencies and hence the termination order to the two petitioners have been served accordingly.

None of the grounds mentioned is tenable in the eye of law.

That the termination orders issued is as per rules and procedure laid down by the Union of India and as such it is legal within the powers of the Competent Authority exercising the termination order and within jurisdiction.

It is a simple termination order in terms of offer of appointment issued to the petitioners and not dismissal order as contended by the petitioner.

Since the termination of services of the two petitioners is under the terms of the offer of appointment which is binding on both parties and not dismissed, removal or reduction in rank of persons employed in the Union or a State, and so it does not violate the provision of the Article 311 of the Constitution of India.



The petitioners are not entitled for any of the relief as claimed by them.

The petition/Application is devoid of merits and the same is liable to be dismissed with costs.

LUCKNOW : DATED 7-4-88  
19-4-88

DECEMBER, 19 1988  
Abu

*S. D. Narayan*  
DEPONENT 7-4-88

VERIFICATION

I, the above named deponent, do hereby verify that the contents of para-1 of this affidavit are true to my own knowledge and paras 1 to 25 are true on the basis of official records and paras are true on the basis of legal opinion received from his counsel. No material facts has really been concealed by me, so help me God.

LUCKNOW : DATED 18-4-88

DECEMBER, 19, 1988  
After

DEONENT

18-4-88

I, identify the deponent who has signed before me.  
Personally known to me.

( RAKESH SHARMA ) ADVOCATE

COUNSEL FOR UNION OF INDIA.

Solemnly affirmed before me on 19-12-88 at 11-30 a.m./p.m. by the deponent, who is identified by Sri Rakesh Sharma, Advocate, C.A.T. Allahabad Bench, Lucknow. I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read out and explained by me.

OATH COMMISSIONER

18-12-88

A18

Copy of the Staff Selection Commission letter no. 6/3/83- SSC  
Exam. dated, 23, 8, 83

To

Shri P.K.Ray,  
Deputy Director  
National Sample Survey Orgn.,  
Allahabad.

12

Sir,

With reference to your letter no. 16011/4/82-C&T/CZ/1121  
dated, 12th Aug. 83 regarding appointment of Investigator, I am  
to say that generally Economics & Statistics are included in the  
syllabus of B.Sc. (Ag.) Examinations. If it is so, Shri S.P.Singh  
will be eligible for appointment. It is, therefore, requested that  
original mark sheets etc. of the candidate may please be checked up to  
find out his eligibility. His dossier is accordingly being returned.

Yours faithfully,

Sd/

( G.C.Srivastav)  
Regional Director

Encl. Ag 1 dossier.

*Sanjiv*



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to

## पंजीकृत अतिशायक

संख्या T-2 । १०८ यू०पी० सौ०/८३-८४

२४४ रत्न सरकार

## राष्ट्रीय प्रतिदर्श सर्वेक्षण संगठन

४६ त्रि शकार्य श्रृ-ताग

कार्यालय सहायक निदेशक, उत्तर प्रदेश मध्य कौशल

बौ-११। सेक्टर "ए" महानगर

लग्नान्त दिनांकः- 30-8-83

सेवा में

श्री शिव ब्रताप सिंह ,  
द्वारा विश्वनाथ सिंह  
सहायक विकास अधिकारी  
[तारिखको] विकास वापड कायालिय  
मिलकीपुर  
जिला ऐजाबाद  
महोदय,

२- रात्रिय

जै०कै०सिंह

## कौत्रीय सहायक निदेशक लगानक

अ०स्वलेन ॥



100

सेवा में

दूर्जीय सहायक निदेशक,  
लखनऊ।

(9)

२१५३३५ नातेशी सर्वेक्षण संग्रह

उत्तर बंदर (मध्यात्मन)  
१०८ B-११, सेक्टर (रु) महानगर लखनऊ।

मध्येदय

निवेदन है कि आपका पञ्चांश-२(१०) प्र० पी.सी.  
०३-४ वर्ष हुआ। प्रसंगत पत्र के परिपालन में अन्वेषण पर  
पर नियुक्ति हेतु आप हारा को द्वितीय विधयकार औंकतातिक  
(फोटोस्टेटकॉम्पारी) प्रस्तुत है।  
(मूल पत्रि)

कृपया नियुक्ति हेतु आदेश प्रसारित करने की

कृपा की जावे।

संलग्न उपरोक्त नुसार -  
तीन पत्ते (फोटोस्टेटकॉम्पारी)  
(मूल पत्रि)

साप्तरीय प्रतिक्रिया संग्रह  
National Survey Survey Organisation  
इवरी सं. ५०६०

Diary No. ....  
दिनांक ..... लखनऊ

Dated ..... Lucknow,

७/९/८३

आपका विश्वास पत्र,  
श्री अमरलाल (६९/४३)  
(शिव प्रताप सिंह)

पुन श्री विश्वास पत्र  
संदर्भ विकास अधिकारी (संस्थिकी)  
विकास स्कॉल कामिल्य - मिल्कीपुर  
पोस्ट - इनायरनगर  
जनपद - फैजाकाद (उ.प्र.)



AB1

LAKSHMI RAMAN ACHARYA

Phone: 42856  
4, LALBAHADUR SHASTRI MARG,  
LUCKNOW- 226 001.

(26)

TO WHOM IT MAY CONCERN

Sri Shiv Pratap Singh approached me a few days ago for filing a writ petition with regard to his selection on the post of Investigator by the staff selection commission Allahabad. But later on he informed me that due steps have been taken in his matter and he has been declared as selected. As such no writ petition was filed on his behalf only writ notice was given.

My office and the Advocates on record in my office have already returned his papers to him.

Dated:

Jan 15/80



sd/-  
( L.R. Acharya )  
Senior Advocate  
High Court- Lucknow .

D.N. BASAK  
DEPUTY DIRECTOR(CZ)

AB2

REGISTERED/CONF.

NO.2(4)DPC/CPZ/85  
Government of India  
Ministry of Planning  
Department of Statistics  
National Sample Survey Orgn.,  
(Field Operations Division)

WBS  
2/2

OFFICE OF THE DEPUTY DIRECTOR(CZ)  
38, Kurmanchal Nagar, Lucknow. Dt: 5th Feb. '85

Dear Shri Singh,

I regret to inform you that the D.P.C. has ~~recommended~~ recommended the removal of Shri S.P. Singh, Swatantra Singh Kumar & Ram Raj, Invts. as per 1st year Probation Reports duly reported by the Reporting Officer and reviewed by you.

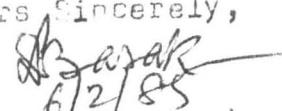
In this connection, I am to inform you that while issuing the orders of removal, you need not mention about the decision of the D.P.C. You can issue the termination orders without assigning any reasons.

I am returning herewith the Probation Reports in original of the following officials bearing DPC recommendations for the needful.

S/Shri  
1. Banwari Singh, Inv. (2 parts) 5. S.P. Singh, Inv. (2 parts)  
2. K.C. Ambastha, Inv. (2 parts) 6. Swatantra Kumar, Inv.  
3. Smt. Anju Rani Gupta, Inv. 7. Ram Raj, Inv.  
4. S.N. Srivastava, U.D.C. (4 parts)

With regards,

Yours Sincerely,

  
6/2/85  
( D.N. BASAK )

Encl: As above.  
7 Probation Reports

Shri K.B. Singh,  
Asstt. Director,  
D.S.S.O. (FOD)  
ALLAHABAD/

Copy to:-

1. The Director, NSSO (FOD) New Delhi for kind information.  
2. Reg. Asstt. Director, NSSO (FOD) Lucknow.

  
( D.N. BASAK )  
Deputy Director (CZ)



(A83)

CONFIDENTIAL

No. 2(2)Estt-I/U.P(E)/83-84-Pt-II  
Government of India  
Ministry of Planning  
Department of Statistics  
NATIONAL SAMPLE SURVEY ORGANISATION  
(Field Operations Division)

Regional Office U.P(East)  
Allahabad.

Dated :- 6th May, 1985.

O R D E R

In terms of para 2 (iii) of offer of appointment  
issued to Shri Swarantra Kumar  
vide Memo. No. 2(2)क्रमांक -I/39-(2)/83-84 dated 7.9.1983  
the appointment of Shri Swarantra Kumar, Investigator  
on probation is terminated with effect from 10-5-1985.  
This should be treated as a day's notice required for this  
purpose.

WBS 6-5-85

( K. B. Singh )  
Regional Assistant Director

To,

Shri Swarantra Kumar  
Investigator,  
NSSO (POD),  
Faisabad.

*Copy to :-*

- 1- The Director, NSSO (POD), New Delhi.
- 2- The Deputy Director, NSSO (POD), Lucknow.
- 3- The Assistant Director, NSSO (POD), Lucknow.
- 4- Personal file of Shri Swarantra Kumar
- 5- The Superintendent, NSSO (POD), Faisabad.

WBS 6-5-85  
( K. B. Singh )  
Regional Assistant Director



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CONFIDENTIAL

No. 2(2)Estt-I/UP(E)-85-86 - Pt-II  
Government of India  
Ministry of Planning  
Department of Statistics  
NATIONAL SAMPLE SURVEY ORGANISATION  
( Field Operations Division)

.....

Regional Office, U.P (East)  
Allahabad.

Dated :- 6th May, 1985.

**Q U A D E R**

In terms of para 2 (iii) of offer of appointment  
issued to Shri S. P. Singh

vide Memo. No. 2(5)/UP(C)/83 dated 14.9.83

the appointment of Shri S. P. Singh, Investigator  
on probation is terminated with effect from 10-5-1985.  
This should be treated as a day's notice required for this  
purpose.

*WBS 6-5-85*  
( K. B. Singh )  
Regional Assistant Director

To,

Shri S. P. Singh,  
Investigator,  
NSSO (POD),  
Faisabad.

Copy to :-

- 1- The Director, NSSO (POD), New Delhi.
- 2- The Deputy Director, NSSO (POD), Lucknow.
- 3- The Assistant Director, NSSO (POD), Lucknow.
- 4- Personal file of Shri S. P. Singh.
- 5- The Superintendent, NSSO (POD), Faisabad.

*9/6 WBS 6-5-85*  
( K. B. Singh )  
Regional Assistant Director



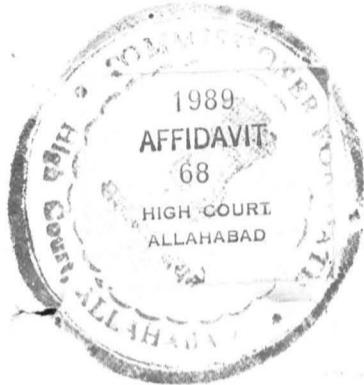
RAK

In the Central Administrative Tribunal, Additional Bench,

Lucknow

Circuit Bench, Lucknow

Case No. T.A.No. 1752 of 1987 (T)



Swantantra Kumar and another

.... Petitioner

Versus

Union of India and others

.... Opp-Parties

Rejoinder Affidavit to the Counter Affidavit

on behalf of opposite party no. 1 and 2

I, Swantantra Kumar, aged about 27 years, son of Shri D.K. Srivastava, resident of 60 Batashay Wali Gali, Upasana Sadan, Aminabad, Lucknow, states on oath as under :-

1. That the deponent is the petitioner no. 1 hence fully conversant with the facts and circumstances of the case. The deponent has read and understood the contents of the counter affidavit under reply and states hereinafter.

2. That the contents of para 1 and 2 of the

21/01/2012

RA 85

In the Hon'ble Central Administrative Tribunal, Lucknow  
Additional Bench, Lucknow

Cricuit Bench, Lucknow

Civil Misc. Application No. 193 of 1989 (L)  
In re:  
Case No T.A.No. 1752 of 1987 (T)

Swantra Kumar and another ..... Petitioners  
Versus  
Union of India and others ..... Opp-Parties

Application for Summoning the Record

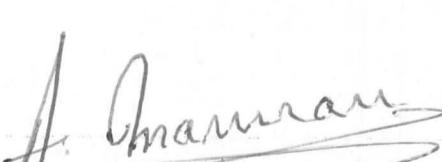
The applicant/petitioner most respectfully submits  
as under :-

That the above petition is directed against  
the termination order of the petitioners.

Therefore, it is prayed that for the reasons  
disclosed in the accompanying affidavit and the petition  
the Hon'ble Tribunal may be pleased to direct the  
respondents to produce complete monthly dairies, inspection  
reports, first year probation report, departmental  
promotion committee proceedings, termination order record  
and appointment order records of the petitioner/applicants,  
Sarvashri K.C.Aumbast (Varanasi), Ram Murti Maurya (Azamgarh)  
and Brij Bhan Pandey (Faizabad) at the time of hearing  
before the Hon'ble Tribunal in the interest of justice.

Dated: Lucknow:

April , 1989

  
Counsel for the Petitioner

19-7-89

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- 2 -

counter affidavit need no reply.

3. That the contents of para 3 of the counter affidavit are vehemently denied and contents of para 4 of the writ petition is reiterated as correct. It is here to be stated that the work and conduct of the petitioner was to the full satisfaction of his superiors and has been never warned or censured or punished by his superiors except the order under challenge in the petition. The Zonal Training is imparted to only those investigator whose work and conduct is satisfactory during his employment under opposite parties. Some of the persons appointed and selected alongwith the petitioner as investigator were not imparted Zonal Training alongwith the petitioner as their work and performance was not satisfactory. The certificate issued after successful completion of Zonal Training will indicate that work and performance was good and satisfactory. A copy of the certificate dated 5.1.85 is being annexed as Annexure No. R-1 to this affidavit. In the inspection notes the petitioner has never been communicated any errors or fault. The memo issued to the petitioner regarding 39th round (Annexure No.5 to the writ petition) was duly replied (Annexure No.6 to the writ petition) but thereafter the petitioner was not been communicated any decision

*Kneeh 9-4-1989*

*Kneeh 9-5-1989*

AGB

who  
on the same. Several investigator are junior to the  
and  
petitioner/have several adverse inspection notes have  
been retained in service while the petitioners services  
have been terminated such as Sarvashri K.C.Awmbast  
(Varanasi), Ram Murti Maruya (Azamgarh), Brij Bhan  
Pandey (Faizabad) etc. The services record alongwith  
inspection notes and monthly daires of the aforesaid  
persons may be produced before the Hon'ble Tribunal so that  
that the comparative study may be done by the Hon'ble  
Tribunal.

4. That the contents of para 5 of the counter  
affidavit are denied and contents of para 5 of the writ  
petition are reiterated as correct. It is here to be  
stated that Memo dated 17.9.84 (Annexure No.3 to the  
petition) was replied in detail on 1.10.1984 (Annexure  
No.4 to the petition) but no decision was communicated  
by the respondents till date. The allegation levelled  
against the petitioner are false, fictitious and  
fabricated. The adverse material indicated in the para  
under reply are vague and non existent, as no material  
in support thereof. The overall work, conduct and  
performance of the petitioner was to the full satisfaction  
of his superiors which shall be evident from the monthly  
dairies alongwith inspection notes w.e.f. 1.9.1983  
to 10.5.1985 of the petitioner which is in custody of the

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respondents. The aforesaid record may be produced by the respondents before the Hon'ble Tribunal at the time of hearing of the petition. The petitioner is fit for retention in service.

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

6. That the contents of para 7 of the counter affidavit are denied and contents of para 7 of the petition are reiterated as correct. It is here to be stated that Annexure No.3 and 5 are on different subjects which is evident from the purusal of the same. The reply of the petitioner was not considered by the competent authority. The memo's were issued with ulterior motives as they are false and fictitious.

7. That the contents of para 8 of the counter affidavit need no reply.

8. That the contents of para 9 of the counter affidavit are denied and contents of para 9 of the petition are reiterated as correct. It is here to be stated that the purusal of 1st year probation report will itself indicates that the specific allegations have been levelled against the petitioner and for the same a departmental enquiry proceeding was a must. However

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the first year probation report was submitted much after the completion of one year. In the meantime Shri K.S.Lal, Superintendent, Faizabad, who has initiated the aforesaid report, demanded rupees ten thousand only from the petitioner as a price of submission of a favourable first year probation report. But the petitioner refused to oblige Shri Lal and only thereafter Shri Lal submitted an adverse first year probation report ~~only thereafter~~. The petitioner was not aware of any proceedings before the Department Promotion Committee, however the case of the petitioner ~~and not for confirmation.~~ The was placed before the promotion committee for promotion and not for confirmation. The Department Promotion Committee proceedings alongwith others may be produced before the Hon'ble Tribunal at the time of hearing.

9. That the contents of para 10 of the counter affidavit are denied and contents of para 10 of the petition are reiterated as correct. It is here to be stated that the termination order was passed by the appointing authority without application of mind only on the recommendation of the Department Promotion Committee.

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10. That the contents of para 11 of the counter affidavit are denied and contents of para 11 of the petition are reiterated as correct. It is here to be stated that the service of the petitioner was terminated by way punishment as the termination order is stigmatic in nature. The termination order has been passed in utter disregard and violation of the terms of appointment and other conditions. The Department Promotion Committee has no jurisdiction to advise the appointing authority under the rules on the subject. The corringendum has not been delivered upon the petitioner.

11. That the contents of para 12 of the counter affidavit are denied and contents of para 12 of the petition are reiterated as correct. It is here to be stated that no enclosure has been attached with the counter affidavit delivered to the counsel for the petitioner.

12. That the contents of para 13 of the counter affidavit are denied and contents of para 13 of the petition are reiterated as correct. It is here to be stated the record in custody of the respondents regarding petitioner no.2 may be produced before the Hon'ble Tribunal at the time of hearing so the facts



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may be clear as the petitioner no.1.

13. That the contents of para 14 of the counter affidavit are denied and contents of para 14 of the petition are reiterated as correct. It is here to be stated that the purusal of the memo and its reply will prove that the charges are false and fictitious and non existent.

14. That the contents of para 15 and 16 of the counter affidavit are denied and contents of para 15 and 16 of the petition are reiterated as correct. It is here to be stated that the memo dated 11.2.85 has no relation with the earlier memo. The memo's were issued with ulterior motive.

15. That the contents of para 17 and 18 of the counter affidavit are denied and contents of para 17 and 18 of the petition are reiterated as correct. It is here to be stated that the reply of the petitioner no. 1 and 2 to the memo dated 11.2.85 was not placed before the departmental promotions committee hence the proceedings of the Departmental Promotion Committee will ~~violate~~ <sup>initiate</sup> on this account also.

16. That the contents of para 19 of the counter affidavit are denied and contents of para 19

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of the petition are reiterated as correct. It is here to be stated that the termination order has been passed by=way of punishment which shall be evident from the purusal of the monthly dairies, inspection reports, first year probation report, Department Promotion Committee proceedings and other proceedings related to the termination order. The same may be produced before the Hon'ble Tribunal at the time of hearing. The work and conduct of the petitioner was to the full satisfaction of his superiors and was never warned or censure or punished. The petitioner is fit for service.

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17. That the contents of para 20, 21, and 23 of the counter affidavit are denied and contents of para 20, 21, 22 and 23 of the petition are reiterated as correct. It is here to be stated that the T.A.bills were paid after harrasement to the petitioner. The termination order is by way of punishment without holding any enquiry and opportunity. The order was passed without application of mind on the only basis of recommendation of Departmental Promotion Committee. The investigator having inferior records have been retained. The purusal of service record of the petitioner will prove the same.

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18. That the contents of para 24, 25, 26, 27 and other paragraphs are denied and contents of

(All)

para 24, 25, 26, 27 and 28 of the petition are reiterated as correct. It is here to be stated that the services were terminated in utter disregard and violation of the rules and terms of appointment. The writ petition is full of merits and deserves to be allowed with cost to the petitioner. The Hon'ble Tribunal may be pleased to summon the complete record as requested earlier in the interest of justice.

Dated: Lucknow:

April 9<sup>th</sup>, 1989

Lucknow  
Deponent

L.T.I. of the deponent

Verification

I the above named deponent do hereby verify that the contents of paras 1 to 18 of the affidavit are true to my own knowledge. Nothing is wrong in it and nothing material has been concealed, so help me God.

Dated: Lucknow:

April 9<sup>th</sup>, 1989

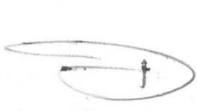
Lucknow  
Deponent

Kneel  
Supreme Court of India  
High Court, Allahabad  
Court Room  
68 of 1987  
9-4-1989

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

Dated: Lucknow:

April 9<sup>th</sup>, 1989

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

Solemnly affirmed before me on this 9<sup>th</sup> day of April, 1989 at 10 a.m./p.m. by the above named deponent who has been identified by the Clerk to Shri A. Mannan, Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

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

Answer No 6-1

Ab

NATIONAL SAMPLE SURVEY ORGN.  
(FIELD OPERATIONS DIVISION) Course 'C'  
CENTRAL ZONE, LUCKNOW. Batch 'XV'  
\*\*\*\*\* Period 3.12.84 to  
28.12.84

PERFORMANCE ANALYSIS SHEET

Name SHRI SWATANTRA KUMAR Designation Investigator

Place of posting FAIZABAD Regional Office ALLAHABAD

Description of assignments	** Grade Obtained	Maximum Marks
1. General personality and aptitude of the candidate which include his punctuality, discipline, self confidence, his interest in the training, intellectual traits etc.	A	10
2. Performance in seminars, group discussion and other assignments.	A	10
3. Theoretical and practical aspects including ability to detect mistakes in filled-in-schedules.	A	10
4. Tests		
(a) Assignments No. 1	B	20
(b) Assignment No. 2	A	20
(c) General test	B	30
5. Total	B	100
6. ** Over all grade	B	

\* A-60% and above, B-50% to 60%, C-40% to 50%, D- Below 40%

Lacn 9/12  
\*GPs/

Kumar  
9-4-1989

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7. (For trainees graded C & D please record your suggestion to make up the deficiencies in regard to the following).

(i) Verbal/written expression:

(ii) Cohesiveness in thinking and projection of ideas:

(iii) Attentiveness:

(iv) Understanding of concept and definitions of survey:

(v) Working capacity:

(vi) Working habits (interest in job/promptness in the disposal of work.)

No. Q-12011/1-C/14-C&T/CZ

*Basale*  
5/11/85

DEPUTY DIRECTOR  
CENTRAL ZONE

*Kachin*