

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE TA-1752/82 of 19
W.P. No. 2438/85

Name of the parties Goatendra Kumar

.....Applicant.

Versus.

Commission of Judicial Inquiry Respondents

Part A

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CERTIFICATE

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

Recheck

Date :

Countersigned

Signature of the 23/8/11

A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

~~O.A./T.A./R.A./C.C.P./~~ No. 1752 19 87
Satendra Kumar vs. U.O.P. 2438/85
PART - 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 |

22/1/89
DY. Registrar

KL
Supervising Officer
(*KL*)

BLR
Dealing Clerk
(*A. K. Ravi*)

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

Nil

BLR
Dealing Clerk
(*A. K. Ravi*)

V.K. Mishra

A-1
①
4/2

CIVIL
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case WP 2438-85
Name of parties Swalambra Kuman vs. Uma B Dandur
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-	WP. with Dargun and affidavit	16		202-00			
	2-	Howe -	1-		5-00			
	3-	cm dno 6637/6 of 85 jashay	1-		5-00			
	4-	arch. Shuk	1-		-			
	5-	Bret. 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 SHEETCAUSE TITLE T.A. 1752 of 19 07 TNAME OF THE PARTIES Swatantra Kumar andOthers

Applicant

Versus

Union of India

& Respondent

Part A, B & C

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12	File C — C 175 TO C 182	

Shankar
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 taken
and that the case is fit for consignment to the record room (decided).

Dated :

COUNTER SIGNED :

Arakum
27.11.01
Signature of the
dealing Assistant

Section Officer/Court Officer

43

5

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned	
1	2	3	
17/8/85	HOBBS MO 680 List in the next week HOBBS 17.8.85		
26/8/85	Went with 6637-85 HOBBS MO 680	to Bk next week	
9/9/85	HOBBS MO 680 Put up in the next week. S.O. 10/9/85		
12/9/85	Went with 6637-85 HOBBS MO 680	to Bk next week	

(6) ^{A/b} (A4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

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

S. Kvr.

Applicant(s)

Versus

U.O.L

Respondent(s)

Sr. No.	Date	Orders
23-1-09	<u>D.R</u>	<p>This case has been received dt. 10-1-09 from C.A.T., Alid. So the case is fixed for 23-1-09 before D.R (J)</p> <p>Applicant is present. The case is adjourned to 22/2/09 for reply.</p> <p style="text-align: right;"><u>D.R</u></p>
22/2/09	<u>D.R</u>	<p>No reply filed. Reply may be filed on 29.3.09.</p> <p style="text-align: right;"><u>D.R</u></p>
29/3/89	<u>DR</u>	<p>No one is present on behalf of respondent. Fix on 10-4-89 for filing reply.</p> <p style="text-align: right;">Mahamudji for DR</p>
10/4/89	<u>Registrar</u>	<p>No one is present for respondent. Fixed 28/4/89 for filing reply.</p> <p style="text-align: right;">Registrar (10) 4</p>

(Dt)

(7)

6R

Notes: Have
been issued to ~~both~~
both the parties finally
21.12.88 for hearing
at C.B. Lechaon. But
the case could not
be listed on 21.12.88 as
the same was not
received till that date
from Allahabad.
Alone has represented
for respondents at C.B.
~~But~~ No reply has
so far been filed in this
case.
Submitted for orders

Qud
27/4

24

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, ^{respondents one} ~~he is~~ 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
J.M.

bl
A.M.

brd/

OP Reply filed today
by the learned counsel
for the respondents. No 1 & 2.

19.7.89

No sitting. Adj. to. 30.07.
for orders. C.M. An. No. 193/89(1)
& Rejoinder filed duly served
on the O.Ps.

h
19/7

h
9/5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

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
---------------------------------	--	--

5/8/89

Iron Justice K. Nath, vs.

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 employees. It is not necessary to get all the papers. Contents of paras 9 & 10 of the Comptroller's affidavit indicate that the applicant ~~has~~ has been found to be unsuitable for ~~the~~ 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.

Wc

on Case is submitted for hearing

(A7)

1752/07(7)

(9)

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

19-9-89

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

De
J.M.

(S.H.S.)

20-11-89

No sitting. Adj. to 17-1-90
Counsel for reports is present

L
20/11/89

Submitted for

14/1

17-1-90. No sitting of D.B. Adj. to
6.3.90

L
Boc

6.3.90

No sitting of D.B. Adjourn to
6.4.90

L
Boc

OR

S.F.H

6-4-90

Hon. Justice Mr. K. Nethi v.c.
Hon. Mr. K.J. Raman A.M.

L
2/4/90

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

for

A.M.

for

V.C.

26-7-90

Hon'ble Mr. Justice K. Nethi v.c.
" " K. Raghav A.M.

Arguments heard. Judgment reserved.

(A.M.)
1.8

(V.C.)

10

A-10

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 stipulations¹ 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

9m

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 he 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~~ 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

R

(12) (A-12)

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 the order of termination is set out ⁱⁿ 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

or

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A-13

- 4 -

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 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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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 schedule 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

2

(15) (A-15)

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

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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.

Dt. 9th Aug., 1990.

Member (A)

Vice Chairman

1/6

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CAT /1/11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI. Lko.

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

S. Kumar

Applicant(s)

Versus

Union of India & Ors

Respondent(s)

Sr. No.	Date	Orders
	9.8.90	<p>It delivered today in of Court NO 5 at Add. Petition is Dis by Honk. Mathur Honk. obeyyashan. and after issuing the certified copy of it file send to Lko GB. immediately.</p> <p>Jksn 10/9/90</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Lucknow Circuit Bench

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

DATE OF DECISION _____

Sivantaben K. & Another PETITIONER

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

VERSUS

Union of India & others RESPONDENT

Sri Rakesh Sharma Advocate for the
Respondent(s)

CORAM :

The Hon'ble Mr. Justice Rameshwar Nath, VC.

The Hon'ble Mr. K. Obayya, Jm.

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/

over 288
in 1975 - J.S. 100

Group A-13(a).
A-17
3800

(5) 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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Lucknow,
Dated. 21/5/85

M. K. Gupte
Advocate
Counsel for the Petitioner.

7/69

Wait Position No. of 1985

45

Opp. Party ✓



LA 21-5-85

Kenzmann

A-20

✓

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

Annexure I
Letter of appointment of petitioner no.1 dated 19/20.8.83.

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 enclosed as Annexure II.

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

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



Suman

A-21

15

training for one month, the petitioner no.1 completed in December 1984, and obtained total Grade 'B' and other obtaining 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 performance 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 misbehaviour 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

Suman

A-22

1/6

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

is enclosed as Annexure IV.

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 ^{not} be ^{initiated} ~~taken~~ against him for the serious lapses. The said memorandum is enclosed as Annexure V.

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

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
Petitioner No.1's
explanation dated
16-2-85

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
petitioner no.1 with an order, dated 6-5-1985, ^{referring to a non-existing appointment letter} 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
blamelessly on the post of Investigator. In Zonal
Training for one month, the petitioners no.2 completed



Suman

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 Superintendnet, 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 him. The memoradum is enclosed as Annexure VIII.

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 theallegations and stating that theschedules had already been submitted. A copy of reply of petitioner no.2 is enclosed as

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

Annexure IX.

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



Suman

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

Annexure XI

Reply of petitioner
no.2 dt.18.2.85.

reply is enclosed as Annexure XI.

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.



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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 ~~is 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



Sumar

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 Statistids, 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 creiteria 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



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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, but ⁱⁿ 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 (discriminatorily).

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:-



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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(ii) 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 ~~notice~~ ^{order} 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 ^p ~~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

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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. Suman
Advocate
24/5/85

1.

2.

3.

Suman
Suman

Petitioners

Dated: Lucknow
May 24, 1985.

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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



Suman

सं०- 2(2)न्यायन-1/3090(2) 83-84/6482

भारत सरकार
योजना मंत्रालय, सांख्यिकी विभाग
राष्ट्रीय प्रतिदर्श सर्वेक्षण संगठन, क्षेत्र संकार्य प्रभाग

दिनांक: 19-8-1983

20 AUG 1983

:ज्ञापन:

=====

कर्मचारी चयन आयोग की सिफारिश पर श्री स्वतंत्र कुमार को क्षेत्र संकार्य प्रभाग, राष्ट्रीय प्रतिदर्श सर्वेक्षण संगठन में रुपये 38000-12-1440... दर से 15-560 के देतनमान में अन्वेषक के पद पर अस्थायी नियुक्ति का प्रस्ताव दिया जाता है। उनके प्रारम्भिक देतन का निर्धारण नियमानुसार किया जाएगा। नियुक्त व्यक्ति मंहगाई भत्ते तथा अन्य भत्तों को भी उस स्वीकार्य दर पर पाने के अधिकारी होंगे जो कि समय-समय पर ऐसे भत्तों की स्वोक्ति के लिए लागू होने वाले नियमों तथा आदेशों के अधीन निर्धारित शर्तों पर ग्राह्य हों।

2: नियुक्ति की शर्तें निम्नवत् हैं:-

क: पद अस्थायी है लेकिन इसके बने रहने की सम्भावना है। उनकी नियुक्ति अस्थायी आधार पर की जाएगी।

ख: यह नियुक्ति किसी भी एक पक्ष की ओर अर्थात् नियुक्त व्यक्ति अथवा नियुक्ति प्राधिकारी द्वारा समय-समय पर पथासंशोधित केन्द्रीय सिविल सेवा अस्थाई सेवा नियम 1965 के उपबंधों के अन्तर्गत एक माह का नोटिस देकर किसी भी समय बिना कोई कारण बताए समाप्त की जा सकती है। तथा नियुक्ति प्राधिकारी नियुक्त 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 देतन तथा भत्तों की समतुल्य राशि की अदायगी कर समाप्त करने का अधिकार सुरक्षित रखते हैं।

ग: वे दो वर्ष की अवधि के लिए परिवीक्षाधीन रहेंगे/रहेंगी। नियुक्त कर्मचारी को परिवीक्षा अवधि तथा परिवीक्षा की बढ़ाई अवधि, यदि कोई हो संतोषजनक रूप से पूर्ण करने में असफल रहने पर अथवा अन्य किसी कारण से सूचना सेवा मुक्त किया जा सकता है। परिवीक्षा की अवधि में यह नियुक्ति किसी भी एक पक्ष की ओर से अर्थात् नियुक्त व्यक्ति अथवा नियुक्ति प्राधिकारी द्वारा किसी भी समय एक दिन का नोटिस देकर बिना कोई कारण बताए समाप्त की जा सकती है।

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

॥ड०॥ सेवा की अन्य शर्तें समय-समय पर लागू होने वाले संबंधित नियमों तथा आदेशों द्वारा शासित होंगी ।

3: नियुक्ति को अन्य शर्तें इस प्रकार होंगी :-

॥क॥ किसी सक्षम चिकित्सा प्राधिकारी, जैसे सिविल सर्जन, जिला चिकित्सा अधिकारी अथवा समकक्ष स्तर के किसी चिकित्सा अधिकारी द्वारा उन्हें आरोग्य घोषित किया जाय ।

॥ख॥ संलग्न फार्म ॥अनुबंध-1॥ में वैवाहिक घोषण प्रस्तुत करनी होगी तथा प्राथी एक से अधिक पत्नियां जीवित होने अथवा एक से अधिक पत्नियों वाले व्यक्ति से विवाहित होने की दशा में यह नियुक्ति इस सम्बंध में उसे इस शर्त के लागू किये जाने से छूट मिलने पर निर्भर होगी ।

॥ग॥ विहित फार्म ॥अनुबंध-2॥ में भारत के संविधान के प्रति निष्ठा/अस्था की शपथ अथवा इस संबंध में सत्य निष्ठा से प्रतिज्ञा करनी होगी ॥ लेनी होगी ।

॥घ॥ निम्नलिखित प्रमाण-पत्र मूल रूप से प्रस्तुत करने होंगे :-

॥अ॥ शैक्षणिक श्रेष्ठ तथा अन्य तकनीकी अर्हताओं/योग्यताओं संबंधी डिग्री डिप्लोमा प्रमाण पत्र ।

॥आ॥ आयु प्रमाण-पत्र

॥इ॥ जिस शिक्षा संस्थान में अन्तिम बार शिक्षा ग्रहण की हो उसके प्रधान से विहित प्रपत्र ॥अनुबंध 3॥ में चरित्र प्रमाण पत्र तथा इस प्रकार का प्रमाण पत्र अपने नियोक्ता से, यदि कोई हो । इन दोनों में से कम से कम एक प्रमाणपत्र प्रथम श्रेणी के वैतनिक मजिस्ट्रेट जिला मजिस्ट्रेट अथवा उप-मण्डल मजिस्ट्रेट भी इसमें सम्मिलित है से अनुप्रमाणित हो ।

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

॥उ॥ यदि इससे पहले कोई नौकरी की हो तो विहित प्रपत्र में वहां से सेवा मुक्त होने का प्रमाण पत्र ।

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4. यह भी बताये कि क्या प्रार्थी केन्द्रीय सरकार के किसी अन्य विभाग अथवा राज्य सरकार के अथवा सार्वजनिक प्र तिष्ठान / प्राधिकरण में सेवा तो नहीं कर रहे हैं अथवा उनमें सेवा करने की बाध्यता के अन्तर्गत तो नहीं है ।
5. यदि प्रार्थी द्वारा की गई कोई घोषण या प्रस्तुत की गई कोई जानकारी मिथ्या सिद्ध हुई या पता चला कि उसने किसी महत्वपूर्ण जानकारी को जानबूझ कर छिपाया है तो उन्हें नौकरी से अलग किया जा सकेगा और सरकार अन्य जो भी कार्यवाही आवश्यक समझेगी कर सकेगी ।
6. प्रार्थी को सर्वप्रथम प्राधिकारों द्वारा निश्चित किए गए किसी भी स्थान पर 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 स्वीकार है तो वे दिनांक 5.4.1983 अथवा इससे पहले क्षेत्रीय सहायक निदेशक, रा० प्र० सं० 32-A, रॉजली रोड, इलाहाबाद को ड्यूटी के लिए रिपोर्ट दें । यदि वे निर्धारित 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 ।

कुंजी सिंह
॥ के० बी० सिंह 20-8-83 ॥
क्षेत्रीय सहायक निदेशक,

✓ श्री स्वतंत्र कुमार स० श्री निवेश कुमार श्रीवास्तव
.....राजकीय उद्यान
.....गुप्तार घाट, फैं प्रां० 3
प्रति सूचनार्थ प्रेषित:-

1- निदेशक, क्षेत्र० सं० प्र० ॥ रा० प्र० सर्वे० सं० पश्चिमी खण्ड-8, विंग नं० 06 रामकृष्णपुर नई दिल्ली ।

2. परीक्षा नियंत्रक, कर्म चारी चयन आयोग.....को उनके पत्र सं०,दिनांक.....के संदर्भ में ।

3. श्री स्वतंत्र कुमार.....की वैयक्तिक फाईल ।

4. क्षेत्रीय सहायक निदेशक, रा० प्र० सर्वे० सं० क्षेत्र० सं० प्र० ॥ त्रिखंड ॥

5. उपनिदेशक, रा० प्र० सर्वे० सं० क्षेत्र० सं० प्र० ॥,अध्यक्ष.....अंजल.....
.....इलाहाबाद.....

॥ के० बी० सिंह ॥
क्षेत्रीय सहायक निदेशक



T.C
Shuman

सुधीर/17.8.83/

A34
16
18

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

Writ Petition No. of 1985.

Swatantra Kumar
and another

...

Petitioner

versus

Union of India

Opp. parties.

Annexure II



Swatantra

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 ~~xxxx~~ 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.

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21-5-83
Stuman

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:-

- C.M.O*
- 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, ~~xxxxxx~~ 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.

Countersigned

and 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.

.....3/-

21-5-88

Human

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.

J.K.

(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

21-5-83
ALLAHABAD

T.C
Shuman

(A37)

(20)

1/21

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



S. Kumar

Memorandum

Confidential


Faizabad

17th Sept' 84

Sub: Non-submission of NSS-39th Round schedules
Original and duplicate in respect of sample
Slnos 11326, 11329 and 11431 and ~~original~~
Copy of Slnos 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 incapability 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 Asstpt 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 late comer 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 availing holidays falling on account of Bakrid and 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 Sri Kumar told the undersigned that he has postal and great power at Faizabad

P.T.O



Kumar

From pre-page

— and he will see the person (indicating one Asstt/supt) 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, Batashewali Gali
Aminabad, Lucknow

1/11/84

17984 (KSLW)

Supt

SKO Farzabad

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 SKumar

1/11/84

17984 (KSLW)

Supt FZB

8/2/85

T. C.

Kumar

A39

23

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

V23

Swatantra Kumar
and another

...

Petitioners

versus

Union of India
and another

Opp. parties.

Annexure IV



Shuman

To,

Sri K.S.Lal
Suptt.
N.S.S.O. (F.O.D.)
C.Z, Ludnow.

Through Superintendent Faizabad.

Subject:- Compliance of Your letter No. P-12345 (10) /Adm/S.N.O./84 /
1207 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. I had informed you the fact orally & in writing to at the same time. The question of carrying above mentioned schedules at my residence for Preparing table I & II, does not arise, as I had prepared table I & II of sample Sr. No. 11326, 11329, 11431, in 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.

Human

P.T. (

*Received
Two copy
one for K.S. Lal
one for R.A.D.
1/10/84
Atchegav
Faizabad*

(25)
125

A 41

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 at 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 misshapening 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 article 9.9 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 losses, shown indiscipline and as such there arises no question of severe warning which is based on prejudice and personal grudge.

P.T.O.



Stuman

442

26

V/L

-2-

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.

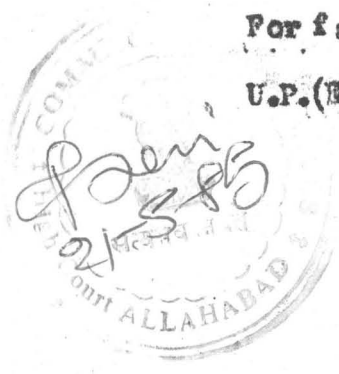
Yours faithfully,

Suman
11/10/84

(Swatantra Kumar)

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

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



Suman
11/10/84

(Swatantra Kumar)

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

T.C
Suman

Aum

27

8/2

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

Writ Petition No. of 1985

Swatantra Kumar
and another

...

Petitioners

verses

Union of India
and another

Opp. parties.

Annexure V



Shuman

GOVERNMENT OF INDIA
MINISTRY OF PLANNING
DEPARTMENT OF STATISTICS
NATIONAL SAMPLE SURVEY ORGANIZATION
(P.O. Box 110, New Delhi-110 055)

Office of the Regional Asstt. Director,
U.P.(XX(E) 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. 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
2.	11327	Sangaldeep	copy
3.	11329	Muili	Original copy
4.	11431	Sonha	Original & duplicate copy -do-

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

To,
Shri S. Kumar,
Investigator,
N.S.S.O. (FOD),
SRO-FAIZABAD.

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

T.C
Kumar

A45

29

1/29

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

80-5-85
21-5-85
ALLAHABAD

Suman

सूचना

क्षेत्रीय सहायक निदेशक
राष्ट्रीय प्रतिदर्श सर्वेक्षण संगठन

क्षेत्रीय कार्यालय (शे. सं. ५०)
बिलासपुर

महोदय,

दिनांक 11.2.84 पत्र सं. C(FZD)/M.S/
- UPE/84-85 से प्राप्त विवरण के सम्बन्ध में मुझे यह
कहना है कि -

① मंत्र क्रम संख्या 11326, 11329 व 11431 की सिर्फ मूल
अनुसूचियाँ तालिका I व II बनाने के लिए क्रमशः 23.7.84
24.7.84 व 25.7.84 को प्राप्त किया था। और वर्युंकि
एक अनुसूची की तालिका I व II बनाने में 7 घंटे से ज्यादा
समय नहीं लगता इसलिए मंत्र क्रमशः 11326 को
दिनांक 23.7.84 को क्रम सं. 11329 को दिनांक 24.7.84 को
व दिनांक 25.7.84 को क्रम सं. 11431 की अनुसूचियों के
साथ तालिका I व II प्रेषित का दिया था। जिसका
विवरण मेरी दैनिकी में है। और दैनिकी की द्वितीय
पृष्ठ को मंत्र 20.8.85 के साथ प्रेषित किया था
जिसे तत्कालीन अधीक्षक महोदय जी के 14.8.85
जी से अनुमोदित किया था।

② द्वितीय पत्र (Duplicate) अनुसूचियों के सम्बन्ध में
प्रार्थी को कोई जानकारी नहीं है क्योंकि द्विलिपिकरण के
उपरांत मंत्र कार्यालय से कोई भी द्विलिपिकृत अनुसूची
नहीं प्राप्त की तालिका I व II बनाने के लिए मुझे सिर्फ
मूल अनुसूचियाँ प्राप्त हुई थीं जिनका प्रेषण मंत्र उक्त
उपर्युक्त विवरण के अनुसार का दिया था।

③ मंत्र तालिका I व II बनाने के लिए अनुसूचियों सहित अधीक्षक
को सामाजिक आर्थिक स्कीम के इन्चार्ज जी दयाराम जी से
प्राप्त की थी तथा तालिका बनाने के उपरांत तालिका I व II
के साथ अनुसूचियों को जी दयाराम जी को वापस कर
दिया था। चूंकि उस समय तक कार्यालय में प्राप्ति व वापसी
की रसीद देने की कोई प्रथा नहीं थी इसलिए मंत्र
अनुसूचियों के प्राप्ति के समय न कोई रसीद दी थी
न वापसी के समय कोई रसीद ली थी।

④ क्रम सं. 11327 की मूल अनुसूचियों के सम्बन्ध में मुझे
यह कहना है कि इस अनुसूची का कार्य (क्षेत्र कार्य)
समाप्त होने के बाद प्रेषण के उपरांत मुझे कार्यालय
से कभी भी प्राप्त नहीं हुई क्योंकि इस अनुसूची का
द्विलिपिकरण कार्य भी एक अन्य अन्वेषक से उस समय
कराया गया था जब मैं चिकित्सा अवकाश पर था।
(गैस फाइल 2 पर →)

Suman

5) कम संख्या 11327 की मूल अनुसूचियों से तालिका I व II (31) बनाने के लिए जब मैंने अनुसूचियों में गी तो दिनेश जी D.P.D को प्रेषित हो चुकी थी व मूल अनुसूचियों का कार्यालय में कहीं पता न था। मैंने इस सम्बन्ध में सहायक अधीक्षक व अधीक्षक महोदय से मॉरिवक व लिखित रिपोर्ट की थी। इसलिए मेरे अपर यह आरोप सर्वथा निराधार है कि मैंने 11327 संगतदीप की मूल अनुसूचियों तालिका I व II के लिए प्राप्त की।

6) प्राप्त पत्र के विवरण में लिखा है कि मेरे द्वारा किये दिये 39 वें दौर के कार्य में अत्यधिक अन्तर पाया गया है। जब कि मैंने अपना कार्य पूर्णतया इमानदारी अथक परिश्रम, लगन व निष्ठा पूर्वक किया है और पुनः निरीक्षण के उपरान्त निरीक्षण कर्ता ने 2 व 4% से ज्यादा अन्तर नहीं पाया गया है। मैं आपसे सविनय अनुरोध करूँगा कि आप पुनः मेरे कार्य का यदि महोदय चाहें तो पुनः निरीक्षण कर सकते हैं। मैंने 39 वें दौर के सभी ग्रामों का कार्य अत्यंत निष्ठा पूर्वक किया है जैसा कि पुनः निरीक्षण के समय तब स्पष्ट रूप से लाये आया है। 2 व 4% का अन्तर हो सकता है। Major want की सुविपूर्ण सूचना, Time Gap और Non Sampling Error के कारण आया है।

प्राप्ति को इस सम्बन्ध में कुछ और तथ्य सामने आये हैं जिसके सम्बन्ध में प्राप्ति आपसे सविनय अनुरोध करना चाहता हूँ। कि प्राप्ति को गाननीय अधीक्षक महोदय जी के 0 एस 0 लाह जी ने दिनांक 17-Sep-84 को पत्र संख्या F-12345(16)/Admin/S.R.O/84-85 के माध्यम से एक आपन दिया था जिसमें उन्होंने निम्न लिखित बातें दर्शायी थीं → "It is observed At the time of preparing Table I and II for Vital events Sh. Kumar showed his incapability 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 वक्त मैं बहुत कमजोर था। नहीं मैंने इस सम्बन्ध की कोई आज्ञा लिखित या मॉरिवक प्राप्त की थी।

इस आपन के पूर्व एक सामूहिक आपन गाननीय अधीक्षक महोदय ने कार्यालय में सभी कमचारीयों को जारी किया था जिसमें उक्त Schedules के बारे में और इसके अलावा कुछ अन्य अन्वेषकों के Schedules जो कार्यालय से गायब था के बारे में सभी कमचारीयों से जानकारी माँगी गयी थी।

31-8-84 3 पृष्ठ

21-8-84

Kumar

अब अगर प्राप्ति की सारी बातों पर विश्वास न करके मात्रात्मक अधीक्षक महीधर की सारी बातों को मान लिया जाय तो मेरे द्वारा प्रेषित क्रम सं० 11326, 11329 व 11431 की तालिकाओं (Table I & II) कार्यालय में उपलब्ध थीं जिसे मैंने वरिष्ठ अधिकारियों की आज्ञानुसार मूल प्रति में संलग्न करके कार्यालय में D.C. (कम) के उ-चार्य श्री दयाराम सस० अधीक्षक महीधर को प्रेषित किया था। जब तालिकाओं I व II कार्यालय में उपलब्ध थीं तब ही जो बाप में D.P.D. भेजी गयी तो फिर अनुसूचियों के बारे में मुझे दोषी ठहराना निराधार लगता है।

प्राप्ति को इस सम्बन्ध में सस० अधीक्षक महीधर श्री दयाराम जी के उपर शक है क्यूं कि उन्होंने मुझे तालिका I व II अनुसूचियों के साथ कार्यालय में लेने के उपरांत तालिका I व II तो कार्यालय में उपलब्ध थी लेकिन अनुसूचियों का कहीं पता नहीं था। इस सम्बन्ध में उल्लेखनीय है कि श्री दयाराम जी स्वयं विरोधी हैं और जातीयता के आधार पर मेरे रहन सहन इत्यादि से जलते हैं। मेरे तत्कालीन क्षेत्र के सस० अधीक्षक महीधर श्री राजीव राय और मेरे बीच के मधुर सम्बन्ध भी उन्हें नापसन्द थे। उन्होंने कार्यालय और कार्यालय से बाहर भी मुझे गर्म बातें कहे की कोशिश की लेकिन प्राप्ति हमेशा उसे अपवाद करने की कोशिश करता था। उन्होंने प्राप्ति को कई बार नौकरी में फँसा देने की भी धमकी दी है। और हमेशा हर अधिकारी के सामने बयानाफ करने की भी कोशिश भी करते रहे हैं। जबकि प्राप्ति को एक साल की नौकरी के दौरान किसी किस्म का कोई सापन नहीं मिला था। लेकिन अब सस० अधीक्षक महीधर इधर कुछ माह से प्राप्ति को मानसिक रूप से प्रताड़ित कर रहे हैं। प्राप्ति को कार्यालय की कोई भी फाइल भा डायरी से सम्बन्धित चीजों को छूने की भी इजाजत नहीं है। प्राप्ति के साथ इस तरह का व्यवहार उक्त महीधर करते हैं जैसे प्राप्ति कोई "चोर" हो।

अतः इस सम्बन्ध में प्राप्ति आपसे सविनय अपील करता है कि इस "अनुसूचियों" के सम्बन्ध में जो वास्तव में कार्यालय से गायब हुआ है के सम्बन्ध में उच्च स्तरीय जांच कराये और अगर प्राप्ति इस सम्बन्ध में दोषी पाया जाय तो प्राप्ति को सस० 203 हकी कार्य है और अगर यह प्राप्ति के खिलाफ षडयंत्र है तो दोषी व्यक्तियों की जांच करें।

Sumar 16/2/85

T.C. Sumar

Aug

33

1/33

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

Writ Pet. No. of 1985.

Swatantra Kumar
and another

...

Petitioners

versus

Union of India
and another

Opp. parties.

Annexure No. VII



Suman

(34)
34

(A50)

CONFIDENTIAL


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)
(o o o)

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/3.9(2)/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.


(K. 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.

(K. B. Singh)
Regional Assistant Director

T.C
Swatantra

(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



Shuman

Faizabad
17th Sept '84

A52

Memorandum

Sub: Non-submission of schedule for NSS
39th Round sample Sura 11413, and 11325
— x — x — x — x —

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
Srl numbers are not submitted by him after
preparation of Table I + II for the vital events

It is also reported that ~~he~~ ^{he} has
taken sample srl no 11325- schedule of
38th Round which is also not returned
by him 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
Lucknow address. Otherwise suitable
administrative action will be taken
against him.

Sri SPSingh Inv
% Dy Director
NSSO (FOD)
Central Zone
Lucknow

11/9/84
17/9/84
(KSH)
Supt
SRO Faizabad

Copy to RAD, NSSO (FOD) Allahabad
for information

11/9/84
17/9/84
(KSH)
Supt

T.C
Suman

(A53) (37)
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 IX

Shuman



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

Dated:- 28th Sept., 84.

To,

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

THROUGH PROPER CHANAL.

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.Suptd. at any time. My Tour Diary Month July, 1984 has approved by honourable Superintendent.

Yours faithfully,

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

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

(S. P. SINGH)
INVESTIGATOR

T.C
Shuman

A55

39

39

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

Writ Petition No. of 1985.

Swatatra Kumar
and another

...

Petitioners

versus

Union of India
and another

Opp. parties.

Annexure X

Slaman



Office of the Regional Asstt. Director,
U.P(E) 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 ~~showed~~ 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.

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

(K. B. SINGH)
REGIONAL ASSTT. DIRECTOR

T.C
Stuman

A 57

(41)

V
W

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

Writ Petition No. of 1985.

Swatatttra Kumar
and another

...

Petitioners

versus

Union of India
and another

Opp. parties.



Annexure XI

S. Kumar

सेवाने

क्षेत्रीय सहायक निदेशक (क्षेत्रीय)

राष्ट्र संसद (पूर्वी क्षेत्र)

इलाहाबाद

दिनांक 18-2-85

संदर्भ:- क्षेत्रीय सहायक निदेशक (उपनिदेश) इलाहाबाद के पत्रसंख्या C-(FZD)M.S./JPE 84-85 (क्षेत्रीय) दिनांक 11-2-85 के संदर्भ में।

महोदय,

आपके सापेक्ष संख्या C-(FZD)M.S./JPE/84-85 के सम्बन्ध में मुझे निम्न लिखित तथ्य आपकी साक्षात् राय व निष्कर्ष के लिए सादर प्रस्तुत करता हूँ।

- (1) जब से मैंने फैलावादा उस क्षेत्र कार्यक्षेत्रों में कार्य गार शायद किया मुझे उनके दौर-समाप्ति के संबंध में जानकारी का कार्य आवंटित किया गया था। मेरे द्वारा पूर्ण किए गए प्रतिदर्श कुल 3 थे। मेरे द्वारा पूर्ण किए गए तीनों प्रतिदर्शों में पिपरा क्रमांक (11325) निनावा क्रमांक (11413) वीरपुर जाटफले क्रमांक (11412) का निरीक्षण सा आरक्षण अधीक्षक महोदय द्वारा किया गया था।

क्रमांक (11412) आगरीरु जाटफले, क्रमांक (11413) निनावा पिपरा का निरीक्षण सा आरक्षी राजीव राम तथा प्रतिदर्श सा निनावा (11413) का निरीक्षण श्री के.एस.एल. अधीक्षक महोदय ने दिनांक 25.5.84 को किया था। सा आरक्षी और अधीक्षक महोदय के निरीक्षण आरक्षण को यदि शीघ्र आयलॉक करना चाहें तो स्पष्ट ही आरक्षण कि मेरे कार्य की गुणवत्ता का स्तर कैसा रहेगा अधीक्षक श्री के.एस.एल. ने तो मुझे तक लिखा कि "Being a new entrant his quality of work is adjudged as good".

अतः यह कहना न्याय संगत नहीं है कि मेरे कार्य की गुणवत्ता संतोषजनक नहीं पाई गई थी। जहाँ तक पुनः निरीक्षण तथा जांच के समय पार गए अंतर का प्रश्न है इस सम्बन्ध में मुझे यह कहना है कि पुनः निरीक्षण तथा जांच के सम्बन्ध में मुझे आज तक किसी प्रकार का निरीक्षण या जांच आपन आज तक प्राप्त नहीं हुआ है। फिर भी जहाँ तक मुझे सात है मेरे स्थिति में सा वीरपुर जाटफले (11412) की जनमृत्यु दर की जांच श्री दया राम सा आरक्षी द्वारा आरक्षण के प्रथम सप्ताह में प्रतिपादित किया गया है स्वयं मात्र उज्ज्वल रूप में मृत्यु की गटना से मेरे द्वारा न दर्शाया जाना उन्होंने पाया है। जिसका कारण मेरी कार्य कुशलता की कमी नहीं बल्कि सूचकों की समझ शक्ति या अन्य कोई कारण हो सकता है। संभवतः मेरे द्वारा किए गए कार्यों के प्रति अपेक्षा या उदासीनता बरती जाने पर भ्रमताओं की संख्या अधिक भिन्न हो सकती है। जो कि मह प्रमाण है मेरी अच्छी कार्य कुशलता का। इस प्रकार स्पष्ट है कि मेरे द्वारा किए गए कार्य को निर्धारित स्तर सामान्य स्तर से शायद अधोपाया गया है और मुझे कार्य के प्रति अपेक्षा पूर्ण आश्वासन का परवाह नहीं करना अन्यायपूर्ण स्वयं राय से परे है।

- (2) जुलाई वर्ष 1984 में अधिकारियों द्वारा मुझे उनके निर्देशानुसार उनके दौर में पूर्ण किए गए सूचियों अनुसार निम्न से देवुल बनाने का निर्देश दिया गया था। जिसके लिए कार्यक्षेत्र में सा आरक्षी दया राम से मुझे मूल आरक्षण प्राप्त हो चुका है। जिसके आधार पर मेरे कार्य

(43)

की उपस्थिति में टेबुल I व II बनाकर तथा टेबुलों को अनुसूचियों सहित श्रीदय
राम राठ और की ही प्रस्तुत कर दिया था कारण कि वे ही इस कार्य के इन्चार्ज
थे।

इस प्रकार यह आरोप बिल्कुल निराधार है कि मैंने आतंक उन अनुसूचितों
को वापस नहीं किया है।

संलग्नक:-

- ① श्री कै० रमण लाल, अधीक्षक
महोदय का निरीक्षण प्रपत्र
प्रतिदर्शिताग विनोद क्रमंक
(11413)।

भवदीय
Shri Ram Lal Singh

(रमण लाल सिंह)

अन्वेषक

उप-द्वारा - जे. जे. जे.

दिनांक 18-2-85.

T. C.
Shuman

A59

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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

Human

(45)
1/44

(A60)
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.

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.


(K. B. Singh) 6.5-85
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, PSSO (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
Stuman

Pushpa Devi
High Court, Allahabad
Lucknow
34/267
21-5-85

(46)
✓
45

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

A f f i d a v i t

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 portion in bracket, 27 of the writ petition
are true to my own knowledge.

Handwritten notes:
- Annexures I to XII
- correct
- are true, photostat copies of the original.
Signature: Swatantra

A62

47

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.

Suman

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 21st day of May, 1985 in the hon'ble high court compound at Lucknow.

Suman
Deponent

I identify the

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

[Signature]
Advocate
(D.C. Gupta)



[Signature]
High Court, Lucknow
34/267
21-5-85

(A63) 3/1

C. M. 150 Adm. No 6637(w)-85

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

2438

Writ Petition No. 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. G. Munshi
Advocate

Dated : Lucknow
May 23 1985.

Petitioner

1865

In the Central Administrative Tribunal
Lucknow

बअदालत श्रीमान महोदय

वादी (मुद्दै)

मुद्दै (मुद्दालह)

का

वकालतनामा

Case No 1752 of 1987 (T)

Suatantha Kumar Canalhi
Versus

Union of India & others

वादी (मुद्दै)

वनाम

Asit Kumar Chattervedi

प्रतिवादी (मुद्दालेह)

Sri Abdul Mannan Bdr

एडवोकेट

Sri Arun Kumar Sharda

वकील

महोदय

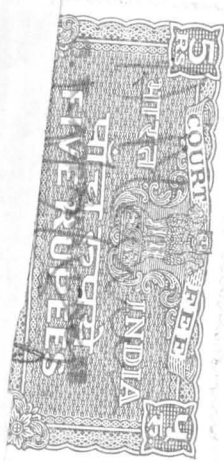
को अपना वकील नियुक्त करके (इकरार) करता हूँ और लिख देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दाबा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया 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 मुकद्दमा 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 आवे।

हस्ताक्षर... Skerman

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 19/7/89

महीना



नाम बदालस
नं० मुकद्दमा
नाम फरीकसन

Accepted
Asit Kumar
21/12/88

AGG

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

filed today
Being on
record.
28/4/89

I, S.N. Misra aged about 48 years, Son of ^{late} Shri S.N. 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:-

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

.....2



S.N. Misra

(AGT)

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.

Laurel

ACB

- 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 assesment of the work, conduct performance of the petitioner he was found unfit & unsuitable for the job. The petitioner No. 1 was not fit for further rete-ntion 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



Dr. S. S. S. O.

A-69

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.



19-11-85

A-70

"वे दो वर्ष की अवधि के लिए परिवीक्षाधीन रहेंगे। नियुक्त कर्मचारी को परिवीक्षा अवधि तथा परिवीक्षा की बढ़ाई अवधि यदि कोई हो संतोषजनक रूप से पूर्ण करने में असफल रहने पर अथवा अन्य किसी कारण से सेवामुक्त की ओर से अर्थात् नियुक्त व्यक्ति अथवा नियुक्ति 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 corrigendum 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



Signature

(A71)

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 discription 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.



19-9-83

A72

13.

That the contents of para-13 are denied. The petitioner No. 2's contention that working satisfactorily and blamelessly 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 Schedules pertaining to Statistical surveyes were deliberately 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.



Sanjay

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A73

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 Superintendant) 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

A-74

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 harassed 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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A76

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 existence 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).

25. 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.

26. That the contents of para-26 are denied. 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.



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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 reliefs as claimed by them.

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



LUCKNOW : DATED 19-9-88

DECEMBER, 19 1988
Adu

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
Arad



DEPONENT

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 18.4.88 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

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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-CAT/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.) Examination. 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.

Encl. Ag 1 dossier.

Yours faithfully,

Sd/
(G.C.Srivastav)
Regional Director

Sanjay



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बजीकृत
अतिशायी

संख्या-2/10/यू0बी0सी0/83-84

भारत सरकार

1426

राष्ट्रीय प्रतिदर्श सर्वेक्षण संगठन

क्षेत्र संकार्य प्रभाग

कार्यालय सहायक निदेशक, उत्तर प्रदेश मध्य क्षेत्र

बो-991, सेक्टर "ए" महानगर

लगानऊ दिनांक:- 30-8-83

सेवा में,

श्री शिव प्रताप सिंह,

द्वारा विश्वनाथ सिंह

सहायक विकास अधिकारी

सांख्यिकी विकास गण्ड कार्यालय

मिलकीपुर

जिला फैजाबाद

महोदय,

आपका चयन अन्तेष्टक बद हेतु विचाराधीन है। कृपया सम्बन्धित सूचित करें। कि आपने बी0एस0सी0/ए0डी0/ बरीक्षा में कुल कितने विद्यार्थी का चयन किया है क्योंकि आपके संकलिका में केवल प्रथम प्रश्न पत्र से सप्तम प्रश्न पत्र ही वर्णित है विद्यार्थी का नाम नहीं है अतएव आप प्रत्येक प्रश्न पत्र के विद्यार्थी लिखकर उत्तरमें प्राप्त ^{उके लिखकर} ~~अंक~~ तुरन्त भेजें।

भावदीप,

जे0के0सिंह

क्षेत्रीय सहायक निदेशक लगानऊ

o/c

अ0सर्वसेना



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सेवा में

देशीय सहायक निदेशक,
लखनऊ।

(9)

राष्ट्रीय प्रतिदर्श सर्वेक्षण संगण

उत्तर प्रदेश (मध्य क्षेत्र)

7/9/83 B-991, सेक्टर (रु) महानगर लखनऊ।

महोदय

निवेदन है कि आपका पत्र संख्या-2(10) यू.पी.सी. 83-84 प्राप्त हुआ। प्रसंगत पत्र के परिपालन में अन्वेषक पद पर नियुक्ति हेतु आप द्वारा को दित विषयवार अंकतालिका (फोटोस्टेवकॉपी) प्रस्तुत है।

कृपया निम्नलिखित हेतु आदेश प्रसारित करने की कृपा की जावे।

संलग्न उपरोक्तानुसार -
तीन पन्ने (फोटोस्टेवकॉपी) प्र
(मूल प्रति)

आपका विश्वास पात्र,
(शिव प्रताप सिंह)

पुत्र श्री विश्वनाथ सिंह
सहायक विकास अधिकारी (संख्यिकी)
विकासखण्ड कार्यालय - मिर्जापुर
पोस्ट - जनायतनगर
जनपद - फैजाबाद (उ.प्र.)

राष्ट्रीय प्रतिदर्श सर्वेक्षण संगण
National Geographic Survey Organ
डायरी नं० 4060
Diary No.....
दिनांक.....लखनऊ
Date.....Lucknow,

7/9/83



Amugir
Mark Sheet
of B.Sc. 1st
year
B.Sc. 1st
year

Signature

LAKSHMI RAMAN ACHARYA

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

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:



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

Samir

D.N. BASAK
DEPUTY DIRECTOR(CZ)

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

REGISTERED/CONF.

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 the removal of S/Shri S.P. Singh, Swatantra Singh Kumar & Ram Raj, Invt. 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, Invt. (2 posts) | 5. S.P. Singh, Invt. (2 posts) |
| 2. K.C. Ambhast, Invt. (2 posts) | 6. Swatantra Kumar, Invt. |
| 3. Smt. Anju Rani Gupta, Invt. | 7. Ram Raj, Invt. |
| 4. S.M. Srivastava, U.D.C. (4 posts) | |

With regards,

Yours Sincerely,

Encl: As above.
7 Probation Reports

(D.N. BASAK)

Shri K.D. Singh,
Asstt. Director,
R.S.S.C. (FOD)
ALLAHABAD/

Copy to:-

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

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



A83

CONFIDENTIAL

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 (111) of offer of appointment
issued to Shri Swatantra Kumar
vide Memo. No. 2(2)Estt-I/U.P(E)/85-86 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.

WBS 6.5.85
(K. B. Singh)

Regional Assistant Director

To,

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

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 Swatantra Kumar
- 5- The Superintendent, NSSO (POD), Faizabad.

WBS 6.5.85
(K. B. Singh)

Regional Assistant Director



A-804

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.

O R D E R

In terms of para 2 (111) 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,
HSSO (POD),
Faisabad.

Copy to :-

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

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

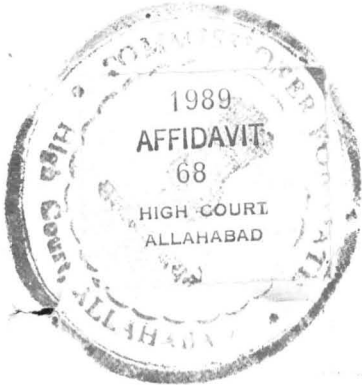


A.O.

In the Central Administrative Tribunal, Additional Bench,
Lucknow

Circuit Bench, Lucknow

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



Swatantra Kumar and another Petitioner

Versus

Union of India and others Opp-Parties

Re joinder Affidavit to the Counter Affidavit
on behalf of opposite party no. 1 and 2

I, Swatantra Kumar, aged about 27 years,
son of Shri D.K.Srivastava, resident of 60 Batashey
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



9-4-1989

(A05)

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

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

^{tan}
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

A. Immanan
Counsel for the Petitioner

19-7-89

Lited before
Court on 30.04.
for orders
19/7

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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 5.7.85 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



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- 3 -

on the same. Several investigator^{who} are junior to the
and
petitioner/have several adverse inspection notes have
been retained in service while the petitioner's services
have been terminated such as Sarvashri K.C. Ambast
(Varanasi), Ram Murti Maruya (Azamgarh), Brij Bhan
Pandey (Faizabad) etc. The services record alongwith
inspection notes and monthly dairies 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, ^{there is} 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



29/07/89

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- 4 -

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 perusal 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 perusal of 1st year probation report will itself indicate 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.

Kneel
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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 H on'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 Department Promotion Committee will ^{initial} ~~vitate~~ on this account also.

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



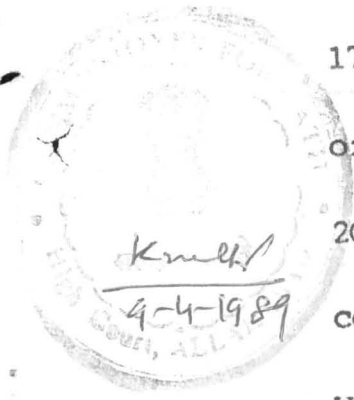
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of the petition are reiterated as correct. It is here to be stated that the termination order has been passed by way of punishment which shall be evident from the pursal of the monthly dairies, inspection reports, first year probation report, Department 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.

17. ²² 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 Department Promotion Committee. The investigator, having inferior records have been retained. The pursal of service record of the petitioner will prove the same.



4-4-1989

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

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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 9th, 1989

L. T. I. of the deponent
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 9th, 1989

L. T. I. of the deponent
Deponent

K. N. S. S.

High Court, Allahabad

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

Dated: Lucknow:

April 9th, 1989

D. W. Tewari

Clerk to Shri A. Mannan, Advocate

Solemnly affirmed before me on this 9th day of April, 1989 at 1.00 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.

AN 157/85
Annexure No R-1
A95
NATIONAL SAMPLE SURVEY ORGN., Course 'C'
(FIELD OPERATIONS DIVISION) Batch ' XV'
CENTRAL ZONE, LUCKNOW. 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%

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*GPs/

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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.)

Basale
5/1/85

DEPUTY DIRECTOR
CENTRAL ZONE

No. Q-12011/1-C/14-CST/CZ

कविश कुमार