

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

RC Taiwan - 147

FORM OF INDEX

~~D.A./T.A./R.A./C.C.P./ No.~~ 1760/85
(Rev. No 44-B/T/88) U.P. 2741/85
P A R T - I

1.	Index Papers	:- 2 -	1 to 2
2.	Order Sheet	:- 12 -	3 to 13
3.	Any other orders	:- nil	-
4.	Judgement	:- 11 -	14 to 24
5.	S.L.P.	:- Nil	

8/3/1988
Dr. Registrat

Supervising Officer

R.H.G.
Dealing Clerk

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

Nil

7/1/1988
Dealing Clerk

File B/C. handed out/-

S.O.(S).

n

ANNEXURE -A

CAT

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

INDEX SHEET

CAUSE TITLE TA. No. 1760 of 1987 (T)
W.P. No. 2741/85

NAME OF THE PARTIES

R.C. Tiwari

Applicant

Versus

Union of India & Others Respondent

Part A, B & C

Sl. No.	Description of documents	PAGE
1	Order sheet	A-1 to A-2/ A-86 to A-87
2	Judgement	A-3 to A-4, A-24 to A-34
3	Writ Petition	A-5 to A-16
4	Objection	A-17 to A-23
5	Notice	A-35
6	Writ Pet. S.	A-36 to A-40/ A-5 & to A-73
7	Annexure	A-49 to 55
8	Rejoinder	A-56 to A-57
9	Interim order	A-74 to A-85
10	Stay Application of Writ Petition	A-88 to A-116
11	Measure	A-117 to A-126
12	Affidavit	A-127 to A-128
	Power	A-129
	<u>B file</u>	B-129 to A-137
13	Writ Petition	B-138 to 150
14	Annexure	B-151 to B-156
15	Measure Application	B-157 to B-190
16	Rejoinder	B-191 to 201
17	Application for Interim order	B-202 to 212
18	Measure Application	C-213 to 218
19	Interim order Application	C-219 to 223
20	Writ Petition	

7

AC 86

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.D. No. 5741 of 1985

(3)

vs.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
18/6/85	Hon B. Kumar S List this petition for admission. Counsel for petitioner	Sd/B. Kumar
	C.N. No. 7669 (W) 85	
18/6/85	Hon B. Kumar S for, credit see main petitioner	Sd/B. Kumar
16/8/85	Hon K. S. V S	to Bank
17/8/85	Hon S. S. A S	Banks and by day

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

u.s. No. 2741 of 1985

-No.-

No. 2741

—of 198 S

~~AS7~~

5

2

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
15-11-85	<p>Hon'ble K. S. Varma J</p> <p>A Counter affidavit has been filed. Rejoinder affidavit may be filed within ten days.</p>	<p>ct Am/Singh By Ct in Nov. 85</p>
29-11-85		<p>ct Affdile by ct.</p>

A 37
(5A)

Order Sheet

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH ALLAHABAD

T. A. No. 1766/87 of 198

Rajesh Chandra Jaiswal vs. (Citizen of India) et al.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
12.4.88	<p>Police report in C.M. Appn T. 22-B-T-88</p> <p>Civil Justice Appn for interim relief has been filed by Sir R. B. Pandey Counsel for petitioner with Notice & motion.</p> <p>W.P. No. 2741-85 has been received on transfer from High Court H.C.</p> <p>An Application for transferring the case has already been filed from the petitioner's Counsel.</p> <p>Dismissed by order.</p> <p>12.4.88</p>	
14.4.88	<p>Hon. Ajay Jain, A.M.</p> <p>Hon. G. Sharma, J.J.</p> <p>In this case an application for interim relief has been moved but with the consent of the parties, who were heard on merits of the case. and they said that the consideration of the application for interim relief does not arise. Arguments heard. Judgment reserved.</p>	

~~12~~
CAT/J/11

ON THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHADAD BENCH, ALLAHABAD.

Review Application 1108.

D.A./T.A. No. 1160/87(T) 198

Rajesh Chandra Tewari Applicant(s)

Versus

Union of India & Ors. Respondent(s)

Sr. No.	DATE	Orders
	11.7.88	Office of the Review Application has been filed by Sri R. B. Pandey Counsel for Applicant on 21/6/88 against the judgment of 5.5.88 passed by Hon'ble A. J. Khera, A.M and Hon'ble G. S. Stein S.M.
		Submitted for orders.
	13/7/88	Hon. A. J. Khera, A.M. Hon. G. S. Stein, S.M. Sri R. B. Pandey for the Applicant. Sri K. L. Saini for the Respondent.

As proposed put up on
20.8.88 for interlocutory which
period reply and sight to be
exchanged between the parties.

3
T.M.

3
Mr.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LOCH NO.

Case/T.A. No. 1760 1987 (T)

R.C. Tewari Applicant(s)

Versus

V.O.J. Respondent(s)

Cr. No.	Date	Orders
	22/12/88	No sitting, adjourned to 23/1/89 for hearing Rm 22/12.
	23-1-89.	Hon. L.S. Misra, A.M Fran. T. S. Sharma, A.M. The applicant in person is present. No one is present for the respondent. List this case before the proper Bench under intimation to the two parties. DZ A.M.
noted 10/3/89 22/12/88	1/1/89 13/3/89	J.M. D List before appropriate Bench for hearing on 27/2/89.

AB
(10)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Review Application No. 44-B/T of 1988.

IN

Registration (T.A.) No. 1760 of 1987.

Rajesh Chandra Tewari & others Applicants.

Versus

Union of India & others Respondents.

Hon'ble Ajay Johri, A.M.
Hon'ble G.S. Sharma, J.M.

By this application filed under Section 22(3)(f) of the Administrative Tribunals Act, 1985, a review is being sought of the judgment given by this Bench of the Tribunal on 5.5.1988 in T.A. No. 1760 of 1987, Rajesh Chandra Tewari & others v. Union of India & others. The contention raised in the review application is that in the writ petition, which was decided by this Bench after it was received on transfer from the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow, the petitioner had sought relief of setting aside the order of termination dated 27.5.1985 along with regularisation of his service in Group 'D' post; that this Tribunal omitted the legal and factual position which was advanced on behalf of the applicant; that the view taken by this Tribunal that the impugned order was not an order of termination but a mere suspension of job. According to the applicant there is no legal provision to suspend the services of Skilled Casual Labour, so the impugned order was actually an order of termination. Further since the workers, who have put in more than 240 days of service can be appointed against regular Group 'D' post and the applicants have rendered more than 1200 days of service, hence the impugned order was null and void and this point has not been correctly interpreted, so the legal and factual position has not been touched in the judgment. It is

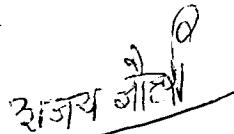
(11)

also a ground that the material furnished by the applicant during the course of arguments has not been touched in the judgment. Yet, another ground taken is that this Tribunal had held that petitioner no.10 has also been taken back on duty. This position was factually wrong. The correct fact was that the person whose name has been mentioned at Sl.No.10 in the impugned order has been taken back on duty. Thus there is an apparent error of facts in the judgment and the matter has been adjudicated beyond the scope of the relief.

2. In their replication the Government respondents have opposed the review application. According to them the contents of the various grounds taken are not sustainable.

3. ~~Since~~ ^{3/} the various grounds raised in the review application are based on the ground that this Tribunal has taken an erroneous view in the matter in giving the judgment and ~~these~~ ^{3/} do not lie within the four corners of Order 47 Rule 1, C.P.C., which lays down the parameters under which a review is possible. Since the attempt made is in the nature of an appeal against the judgment given by this Tribunal it cannot form a subject matter of a review application. The other error in regard to petitioner no.10 and Sl.No.10 of the impugned order does not materially effect the purport of the judgment and, therefore, is not material. We, therefore, reject this review application.


MEMBER (J).


MEMBER (A).

Dated: April 28, 1989.

PG.

(2)

7- ShureshChandra Savita,
aged a out 26 years,
son of Sri Basant Lal,
R/O 554/181 Chota Barha, Alambagh
Lucknow.

8- Shyam Sunder Kushwaha,
aged about 27 years,
son of Sri Ram Singar,
R/O L26 Bhatehali Ka Talab,
Dhobi Ghat, Jail Road, Charbagh
Lucknow.

9- Bindesh Chaubey,
aged about 27 years,
son of Sri Devi NarainChaubey,
R/C 549/254 Bara Barha,
Lucknow.

10- Harihar Pandey,
aged about 23 years,
son of Sri Sarva Dev Pandey,
R/C 55/J/63 Ram Prasad Khera,
Alambagh, Lucknow.

11- Jitendra Kumar Verma,
aged about 24 years,
son of Sri Babu Ram Verma,
R/O 269/253 Sohan Lal Ki Gali,
Birhana Park, Lucknow.

...PETITIONERS

V E R S U S

1- Union of India through Its Secretary,
P & T Department,
Civil Secretariat,
New Delhi.

2- Director General,
Postal Service, of India,
New Delhi.

3- Director, P.M.G.
Postal Head quarter,
P.M.G. Office,
Lucknow.

4- Senior Superintendent,
Railway Mail Service,
'O' Division,
Lucknow.

...OPP.PARTIES

WRIT PETITION UNDER ART. 226
OF THE CONSTITUTION OF INDIA

R.C. Mehta

The Hon'ble Chief Justice and other
companion judges of the aforesaid High Court;



(3)

The petitioners above named respectfully
pray as under:-

- 1- That the petitioners were initially engaged in capacity of casual labour in P.&T department as Skilled Mazdoor in existing vacancy.
- 2- That the petitioners against the existing vacancy engaged in the department and continuously rendered their services since the date of initial engagement in said capacity without any single day break in service. The date of their joining are also annexed as ANNEXURE No. 1 to this Writ Petition accordingly.
- 3- That the daily wages of the petitioners are fixed by the competent authority through its many circulars issued time to time and at present existing rates are as under;
 - (i) Rs 9.80p for the incumbent who has successfully completed more than 240 day
 - (ii) Rs 13.80/ for the incumbent who has successfully completed more than 720 days
 - (iii) Rs 18.40p for the incumbent who has successfully completed more than 1200d
- 4- That according to the schedule of wages as already fixed, most of the petitioners have already completed 1200 days without a single day break in service and they are getting at the rate of Rs 18.40p and now by virtue of many circulars issued time to time by Opposite Party No. 2 they are



R. C. P. W. C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
A L L A H A B A D

C.A. No.

1987

T.A. No. 176/87

DATE OF DECISION

15/8/88

Rajesh chandram Tiwari & others Petitioner

Sri R.B. Pandey Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

Sri V.K. Chaudhary Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Ajay Jaiswal - AM

The Hon'ble Mr. G.S. Shrivastava - 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?

.....

Sahu/-

33
5/61

{

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

RECORDED

Registration (T.A.) No. 1760 of 1987.

Rajesh Chandra Tewari & others ... Petitioners

Versus

Union of India & others ... Respondents.

RECORDED

Hon'ble Ajay Johri, A.M.

Hon'ble G.S. Sharma, J.J.

(Delivered by Hon. Ajay Johri, A.M.)

This writ petition has been received on transfer from the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The case of the petitioners is that they were initially engaged as casual labour in the Post & Telegraph (P&T) Department in the category of Skilled Labour. According to them they rendered continuous service without any single day's break since the day of their joining service, but instead of their services being regularised the same have been terminated. The petitioners claimed that a mandatory provision was made for regularisation of casual labours in Group 'D' post vide Circular No. 49014/7/83-Estt(6), dated 13.10.1983 and since the petitioners fulfilled those qualifications they should have been regularised instead of being terminated. They have submitted that

215

+ : 2 :-

before the termination no notice of termination was served on them, thus their terminations are illegal. They have alleged that the vacancies are still existing and they had completed more than 1200 days of work, but the respondents under *ma fide* intentions want to engage their own chosen persons ignoring all rules and regulations in regard to regularisation of casual labours. Any casual labour, who has completed at least a period of 240 days in a year, cannot be terminated by virtue of a simplicitor termination. They have, therefore, prayed for issue of an order in the nature of *cum hoc* quashing the impugned notice dated 27.5.1985 (Annexure 'III' to the writ petition) and for reinstatement of the petitioners on their posts with all service benefits. They have also prayed for issue of a direction in the nature of mandamus commanding the respondents to regularise their services in terms of the Circular dated 13.10.1983 (Annexure 'II' to the writ petition) along with all service benefits.

3. This writ petition has been opposed by the respondents. They have said in their written statement that the petitioners were initially engaged as casual labours and they were not engaged as skilled workers. They were not appointed against any posts or vacancies, and their services were utilised as and when the work was available. They have annexed as Annexure 'I' to the reply a chart showing the number of days each one

- : 3 :-

of the petitioners worked, which, according to them, clearly shows that the petitioners had not worked continuously. As a matter of fact in certain months they had never worked at all and in certain other months they worked only for a few days. They have admitted that casual labours, who have put in minimum of 240 days work in a year in preceding two years, are eligible to appear in the departmental examination held for filling departmental posts. Merely putting in 240 days service does not automatically qualify them to be appointed. It only makes them eligible for being considered. They have further said that besides the eligible casual labours, Extra Departmental Employees (ED Employees) of the Department, who have completed three years' of service, ~~are~~ also become eligible to appear in the same examination. ED employees are selected first and if any vacancy remains after absorbing all eligible ED employees, who have qualified, the casual labours, who have qualified in the examination, are considered. According to the respondents, the petitioners had also forged some of their duty charts and they had tried to claim wages for the periods for which they had not worked. This fraudulent amount claimed by them were recovered from the petitioners on their own requests. When this fraud ~~had~~ come to light the petitioners were ~~also~~ temporarily suspended till the completion of the departmental enquiry. On completion of the requisite number of days the absorption is not mandatory. It only makes

them eligible for being considered. The respondents have denied that there is any mala fide intention on their part and they have also said that after the detection of the fraud of false claims the department decided not to engage them till proper enquiry was conducted. ^{3/} They did not launch any criminal proceedings against them and the department is prepared to pay one month's wages if this temporary suspension of engagement is treated as termination from the post. The respondents have also opposed the plea taken by the petitioners in regard to their becoming over age if they are discontinued from the service and not absorbed in the department. They have further gone on to say that even completion of 1200 days will not entitle the petitioners to become temporary servants. They will have to be duly selected before they can be regularised in their appointments. They have also said that ~~xxx~~ a number of casual labourers, who have worked more number of days than the petitioners, are still casual labourers as there are no vacancies and there is a ban for appointing new persons since November, 1983.

4. In their rejoinder affidavit the petitioners have said that the plea of fraudulent excess payment taken by ~~them~~ ^{the respondents} to end their services tantamounts to casting a stigma. ^{3/} Therefore, they should be protected against termination by the relevant provisions of law. In any case they have reiterated that this allegation does not sustain because there is no criminal case pending against the petitioners.

- : 5 :-

5. We have heard the learned counsel for the parties. The learned counsel for the petitioners submitted that a number of juniors of the petitioners are still in service and this has been admitted in the written statement and the impugned order of termination has been passed by a Clerk and it has also not been served on the petitioners. No notice of one month was served on the petitioners. ~~one~~ Therefore, the termination is bad in law on this ground alone. Also one of the petitioners, viz. petitioner no.10 has also been taken back on duty. He stressed on the aspect that the foundation of termination was the fraud committed in 1982. According to the learned counsel 44 persons were involved but these 11 petitioners have been discriminated against and their services have been terminated. Since the foundation is the stigma, ~~in~~ ^{as} a simple order of termination would be bad in law. He also relied on the rules of 1972-73 ^{in re} ~~in re~~ ^{no} exemption is required to be passed by the casual labours before they are regularised. According to him the petitioners should be regularised on the basis of length of service. They should also be paid same wages as other Group 'D' employees of the department in terms of the Hon'ble Supreme Court's decision in the case of Daily Rated Casual Labour Union of India (1988 S.L.R. 211). Sri K.C. Sinha, learned counsel for the respondents, contended that the regularisation of casual labours is done in terms of annexure 'C-1' to the reply. According to him a

casual labour has to possess proper qualifications, has to be within the age limit, and his antecedents should also be good. He has denied that the letter of termination has been issued by a clerk, ~~but~~ ^{as} it has only been issued on the basis of an authority. He further submitted that since the fraud was committed, therefore, the petitioners are kept out ~~of~~ ^{of} service till further orders.

6. There is no doubt that the services of casual labours, who have put in continuous service, can only be terminated within the rules laid down for that purpose. And not on the plea that since a fraud was committed, therefore, they could be terminated by a simple order. It can also not be disputed that amongst the casual labours, ~~those~~ ^{of those} with longer service shall have a priority over those who have joined later, i.e. principles of 'last come first goes' to be followed.

7. As late as in 1984 by their communication No.45/20/73-SP-1, dated 20.10.1984 the process of rationalisation of categories of various class IV staff has been circulated by the Director General (P&T), New Delhi. In this letter decisions were taken that part-time staff may be employed only for certain functions for which AD staff are not permissible. The part-time casual labours and the full time casual labour have also ~~to~~ to be brought to a common panel for the purpose of recruitment to Group 'D' posts and such

staff become eligible if they have put in more than 240 days of service in each of the preceding two years, in the case of full time casual labours and in each of the preceding four years in the case of part-time casual labours. However, the rules for recruitment to Group 'D' posts have not undergone a change. According to para 5 of the instructions, which are annexed as Annexure 'C-1' to the reply, vacancies in class IV test category posts in each year in all branches of P&T Department, other than those mentioned in section II are to be filled from amongst the qualified boy peons available in the recruiting unit at the time of selection and if certain vacancies are left unfilled the same have to be filled from amongst the categories specified as follows :

30/

- (i) Non-test category class IV staff,
- (ii) Extra departmental agents,
- (iii) Casual Labours,
- (iv) Part Time Casual Labour, &
- (v) Nominees of the Employment Exchange.

The 1984 letter only did away with the category of part-time casual labours and they were clubbed together. The recruitment from the next category is to be made only when there is no qualified person available in any of the higher category or categories. According to para 5(d) the casual labours have to pass the literacy test and they ~~are~~ be given the benefit of the services rendered by them in the computation of their age, according to the principles laid down in this

para. Only it is in the non-test categories that the recruitment is done by means of an interview by the Divisional Officer concerned and there is no literacy or educational qualification for the recruitment to Group 'D' of the non-test category post. The instructions contained in the letter no. 49014/7/83 Estt-6, dated 13.10.1983 also lay down similar conditions ~~for them~~ in regard to the computation of the age at the time of ~~it is not under dispute that~~ recruitment. ~~the candidates~~ have to be eligible in all other respects, i.e. in regard to their qualifications, etc.

8. The order dated 27.5.1985 refers to certain orders issued by the Senior Superintendent, RMS Division, Lucknow whereby 14 persons were barred from being engaged till further orders. It is the petitioners' claim that after the issue of this letter by which they were barred from being engaged in future nothing has been done by the Department to either terminate their services in accordance with the rules or to give them further employment. It has been admitted by the respondents in para 11 of their reply that the services of the petitioners were not terminated and they were only temporarily suspended pending the enquiry regarding frequent payment of wages which they had claimed for certain periods for which they had not worked and they are prepared to pay one month's wages if this temporary suspension of engagement is treated as termination from the post. It has further

A-22
23

- : 9 :-

been said in this para that the opposite party has also got prepared formal orders of termination of services of the petitioners, which the respondents intend to serve on the petitioners. In their submissions made during the hearing of the case it was not brought out either by the learned counsel for the petitioners or by the learned counsel for the respondents whether the services of the petitioners have since been terminated according to law or not.

9. The averments made in the petition as well as in the written statement go to indicate that the petitioners' services had not been terminated and that they were only temporarily suspended pending finalisation of the enquiry. The petitioners have also in their relief claimed only the quashing of the order dated 27.5.1985 which placed a bar on their further ~~engagements~~ ^{or till further orders} ~~and~~ the prayer made by the petitioners is that they should be regularised in Group 'D' posts with all service benefits. ~~as~~ ^{as} ~~has~~ no force because they can only be regularised in terms of the orders, which we have quoted above and, therefore, has to be rejected. As far as the temporary bar placed on their future engagement is concerned that order in itself ~~was~~ ^{is} ~~an~~ innocuous order and we do not find that there was anything wrong ~~on~~ ⁱⁿ the part of the respondents not giving them further engagement pending enquiry of the case against them for the fraudulent ~~drawal~~ ^{withdrawal} of wages for periods during which they had not worked and which

A 23
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- :10:-

they have not denied. As a matter of fact they have admitted this fact by saying that some of them, who are similarly taken up, had been re-engaged. Since no final orders regarding termination are under challenge and have also not been annexed the prayer of the petitioners seeking the quashing of the notice dated 27.5.1985 does not have any meaning. The respondents had only temporarily stopped their ~~management~~ ^{enquiry} management until further orders. So this request is liable to be rejected.

10. Under the circumstances we do not find any good reason to issue any directions to the respondents for the regularisation of the petitioners or quashing the order of not giving them jobs temporarily pending finalisation of the enquiry committee proceedings. The application (Writ Petition no.2741 of 1985) is, therefore, dismissed. The parties will bear their own costs.

Member (J)
MEMBER (J)

Member (A)
MEMBER (A)

Dated: May 5th, 1988/
PG.

CIVIL

SIDE

CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case 609/27/61-85

Name of parties Rajesh Chandra Tripathi vs. Collector of Dibrugarh

Date of institution 18/6/85

Date of decision.....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
1.		W.P. with Answer and Affidavit	37-		110/- 00			
2.		Paper	1-		5/-			
3.		Cm. No 7069(w) of 85	1-		5/-			
4.		Memo	1-		-			
5.		Counter affidavit	16-		2.00			
6.		C. on the for valuation, modification etc.	5-		7.00			
7.		Order Quo. b.	2-		-			

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

7692

Champ H - 15 - (a)

10/3/85

44365

X

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH, LUCKNOW

Writ Petition No. 2741 of 1985

Rajesh Chandra Tewari & others

...Petitioners

Versus

Union of India & others

...Opp. Parties

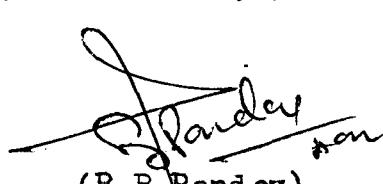
I N D E X

1- Stay application	1
2- Writ Petition	1-18
3- Annexure No. 1 Date of petitioners Joining	19
4- Annexure No. 2 Copy of circular dt. 13/14th October, 83	20-22
5- Annexure No. 3 Copy of impugned order dt. 27.5.85	23
6- Annexure No. 4 Copy of Circular dt. 1.10.84	24
7- Annexure No. 5 Copy of circular dt. 12.2.85	25
8- Annexure No. 6 Copy of representation dt. 29.5.85	26
9- Annexure No. 7&8 Copies of representations dt. 1.6.85 and 3.6.85	27-28
10-Affidavit	29-30
11-Vakalat Nama	31

Place: Lucknow.

Dated 14-6-85

Raju/-


(R.B. Pandey)
Advocate
Counsel for the petitioner

(R.B. Pandey)
Adv.



In the Hon'ble High Court of Judicature
at Allahabad

LKO Bench LKO

one rupee
rs. 500/-
by
17/6/85

CO.8 NO. - 85.

Rayksh Chandra Tiwari & others

v

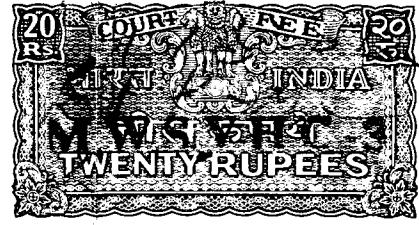
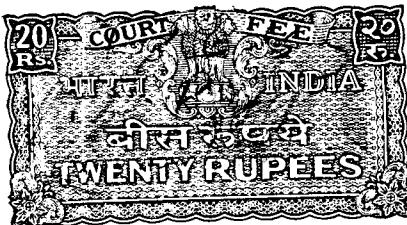
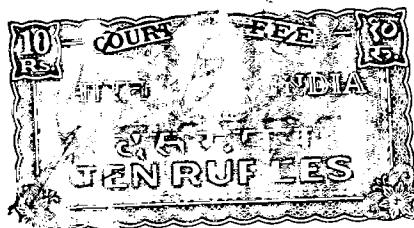
Union of India & others

R.S. Pandey
Adv.

17/6/85

INDIA COURT FEE

8/90 50 RS.



In the Hon'ble High Court of
Judicature - At All
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Due Postage 30/-
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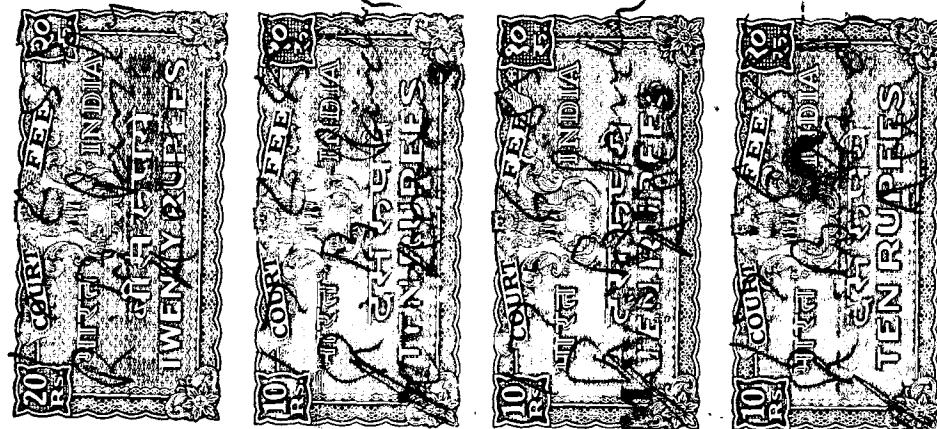
Rakesh Chandra Tiwari
Sltr. of C. & D. & others.

R B Pandey
Adv.

INDIA COURT FEE

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Rs 10/- C.R. Rs 5/-

17/6/85 - In the name of the court of appeals
All the Bench etc

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Rajesh Chandra Tiwari & Sons

Agents of

India & Sons

R. B. Pandey

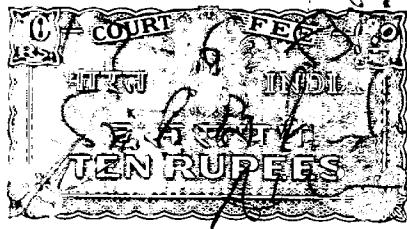
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In the Hon'ble High Court of
Judicature Al-See
LKO Bench LKO

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Two Rupees 50/-
Total 10/-

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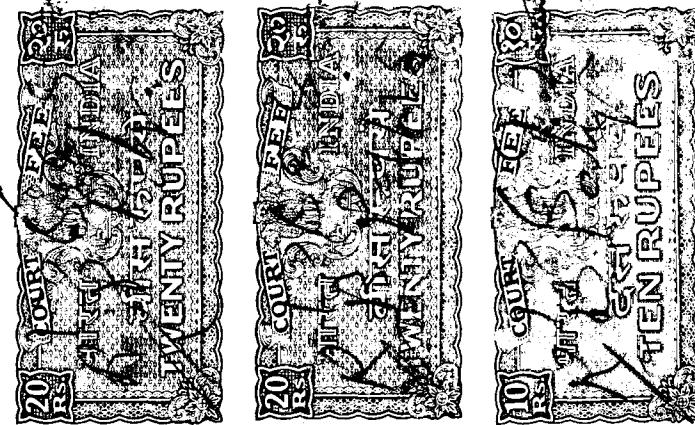
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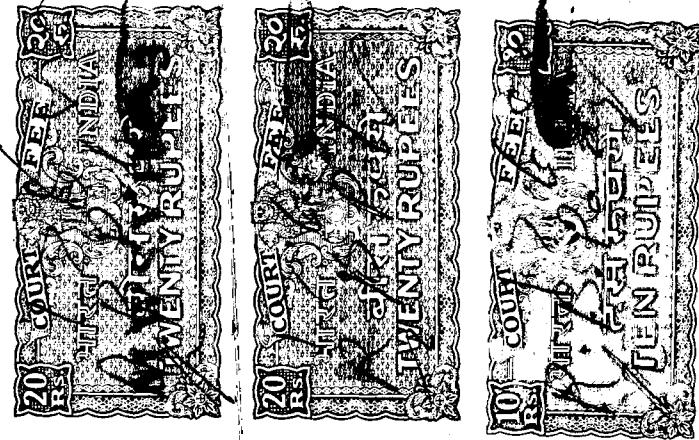
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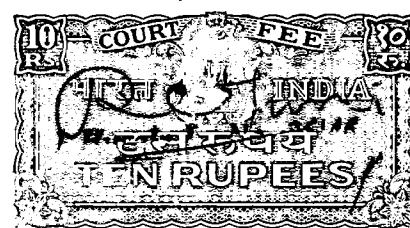
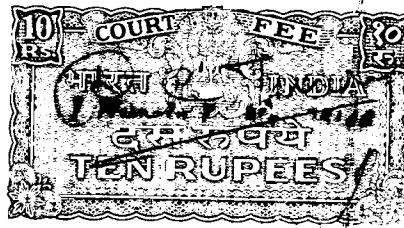
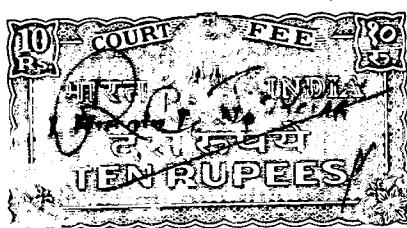
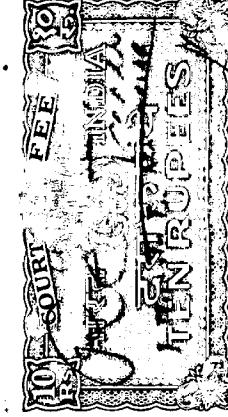
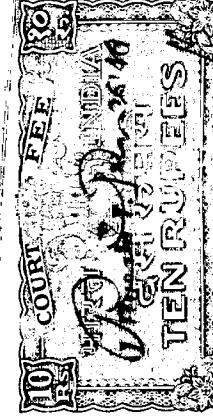
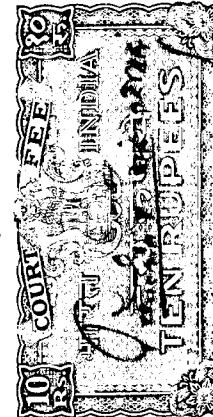
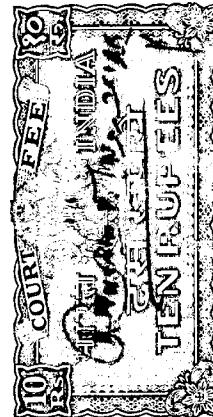
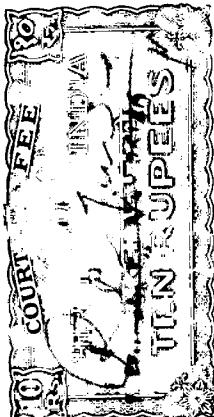
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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH, LUCKNOW

Writ Petition No.

of 1985



1-

Rajesh Chandra Tewari,
aged about 25 years,
son of Sri Kailash Deuari,
R/O 248/17 Lakar Mandi Yahiya Ganj,
Lucknow.

2-

Kunwar Bahadur Singh,
aged about 30 years,
son of Sri Kishan Pal Singh,
R/O Shanti Nagar,
Chota Barha, Alambagh,
Lucknow.

3-

Gajraj Singh,
aged about 28 years,
son of Sri Chote Lal
R/O Gauria Khat, Rasoipur,
P.O. Tikiya Mai Gosain Ganj,
Lucknow.

4..

Surendra Kumar,
aged about 27 years,
son of Sri Krishna Bahadur,
294/942-Khala Bazar,
Lucknow.

5..

Ramesh Kumar Tripathi,
aged about 30 years,
son of Sri Ram Chandra Tripathi,
R/O 54/140 Chitwa Pur Bhuvian, Peeragarh,
Lucknow.

6..

Azad Ali,
aged about 25 years
son of Sri Abdul Ali,
R/O Melibagh, Kherika Asiyana Nohalla,
Bankey Lal & Bhawan,
Lucknow.

100/-
100/-
17.6.83



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(4)

deserving to be regularised in class 'D' service.

5- That as already narrated in the above paras of this claim petition, that the petitioners as Skilled Mazdoor in the department had rendered a very beautifull performance without any unsuitability or misconduct are enefficiency from their own part, but it is surprising that the Opp. Party No. 4 instead of regularisation of the services of the petitioners, by virtue of harassment, he issued an order by which the services of the petitioners came to an end without any reason and rhyme.

6- That vide a circular No. 49014/7/83 Estt(6)/13th Oct. 1983 the Opposite Party No. 2 issued a circular in mandatory provision for regularisation to casual labours in group 'D' post and what ever the condition laid down in the circular the petitioners are fulfilling all those qualification but the Opposite Party No. 3 and 4 did not honour the mandatory provision of circular and the regularisation of the petitioners services in group 'D' post has yet not been made. It has further laid down in this circular dated 13th October, 1983 that the employees recruited before 21.3.1979 are deserving for regularisation in group 'D' post. If they have successfully completed at least 240 days of service in the capacity of casual Mazdoors in the department.



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7- That the humble petitioner has already completed all the condition laid down in circular for regularisation in group 'D' post but the same has not been implemented by Opposite Party No. 3 & 4 in case of the petitioners. A true copy of circular dated 13/~~26~~th October, 1983 is filed herewith as ANNEXURE No. 2 to this Writ Petition.

8- That it would also very pertinent in this regard that the necessary provision laid down in many other circulars issued time to time by Opposite Party No. 2 regarding termination of such an incumbent who has been ~~communicated~~ engaged as Casual Labours in the department and the same mandatory provision has also been violated by Opposite Party No. 4 and on dated 27.5.1985 the said Opposite Party No. 3 and 4 arbitrarily issued an order by which the services of the petitioners came to an end though it is not a termination order according to law and the said order by which the petitioners has been thrown out from the department has also not served upon to the petitioners and any how, the communication of the said letter has been made by one Sri R.S. Shukla on same very day i.e. 27.5.1985 who is totally incompetent to pass any order like termination against the petitioners. A true copy of the impugned order by which the services of the petitioners came to an end is also filed here with as ANNEXURE No. 3 to this Writ Petition.



9- That as already narrated in the above paras of this Writ Petition this fact would also very necessary to mention that the petitioners are skilled labours in the department and they successfully rendered their services since very long time also they have successfully completed the existing days of more than 1200, and the vacancies are still existing on which the petitioners were working. The Opposite Party No. 4 under malafide intention wants to engage his chose persons for wrongfull ~~game~~ gain after ignoring all the rules regulation and requirements in this regard. Thus it is crystal clear that the Opposite Party No. 4 in arbitrary manner is adopting theory of pick and choose, also in intention to engage his chose persons in said capacity for the purposes of wrongfull ~~game~~ gain as already narrated above. Thus the impugned order by which the petitioners has been thrown out from employment without any reason and rhyme is highly illegal punitive bias and capricious in character.

10- That in regards the termination of casual Mazdoor the Opposite Party No. 2 time to time issued circulars. In this regard the circular No. 269/130/78-Stn New Delhi dated 1.10.1984 was issued by Opposite Party No. 2 in which mandatory provision has laid down that the incumbents in said capacity like casual labours who have completed atleast a period of 240 days in a year their services cannot be

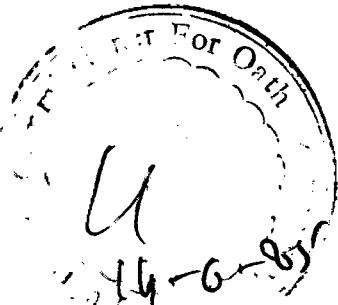


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terminated by virtue of simplicitor termination order without giving ~~in~~ this notice or one months pay admissible in rule.

11- That it appears a clear intention of Opposite Party No. 2 to minimise the service of such casual mazdoors who have successfully completed atleast existing period of 240 days to be deserved in class 'D' post with further intention that the termination of said incumbent can only be made according to the provision laid down for the termination of temporary employees. It is not understood that how and in which capacity the Opposite Party No. 4 arbitrarily after ignoring the mandatory provision of circular passed the impugned order against the petitioner which resulted that the petitioners ~~were~~ now not in the employment of department in view of annexure no. 3. A true copy of the circular dated 1.10.1984 is also filed here with as ANNEXURE No.4 to this Writ petition.

12- That the Opposite Party No. 2 has a higher and wellfair authority in the department further issued a circular on dated 12.2.1985 in the same consequence and reiterated the provision laid down in the circular dated 1.10.84. In this regard the another circular No. DGP&T No. 45/54/84-SPD-1 dated 12.2.1985 the Opposite Party No. 2 further directed by issuing this circular to all the authorities within their control for implementation of their said circular. In this circular it is also clearly



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laid down that the casual labours who have served in the department for atleast a total period of 240 days in a year their services cannot be terminated by the department without giving him one month notice, or in lieu of the payment of one month's salary. A copy of this latest circular dated 12.2.85 is also filed herewith as ANNEXURE No. 5 to this Writ Petition.

13. That the vide Annexure No. 1 as mentioned the continuous service of the petitioners in the department since from a long time without a single day break in service the petitioners are going to be overage for the employment in the other department, and there is no further avenue of appointment if the regularisation of their services in the department is not being made. In this regard it is further stated that the Opposite Party No. 4 only under malafide intention in arbitrary manner acted against the petitioners and thrown out them from employment, while the petitioners as narrated are deserving candidates for regularisation by virtue of mandatory provision issued time to time by higher authorities.

14. That the humble petitioners by aggrieving the impugned notice Annexure No. 3 to this writ petition by which their services came to an end invited the kind attention of Opposite Party No. 3 and 4 through proper channel by virtue of their representation,

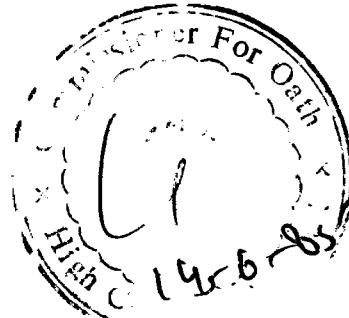
application dated 29.5.85. Under this application the humble petitioners further narrated that the impugned notice has been issued by which their services came to an end without any reason and rhyme. The petitioners have further invited the kind attention of Opposite Party No. 4 for setting aside the operation of the impugned notice and prayed for their reinstatement in the department in said capacity as Casual Mazdoor. A copy of the application/representation dated 29.5.1985 is filed herewith as ANNEXURE No. 6 to this Writ Petition.

15- That the humble petitioners not only the first representation/matter application i.e. filed as above also made continuous request by virtue of another application/representation dated 1.6.1985 to all the concerning authorities i.e. Opposite Party No. 3 and 4, but it is surprising that none took any response till today. and all the circulars and mandatory provision have been violated by Opposite Party No. 3&4 in case of the petitioners. The petitioners in continuation of their previous application dt. 29.5.1985 further made an application dated 3.8.1985 and reiterated all their request but none has to consider the matter of the petitioners judicially and in this regard a copy of representation moved by the petitioners to Opposite Party No. 3 and 4 dated 1.6.85 and 3.6.1985 are also filed herewith as ANNEXURE NO. 7&8 of this Writ Petition.

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16- That in law the impugned notice what ever communicated to the petitioners by an incompetent authority cannot be said any order of termination according to the law and as already narrated a copy of the original order by competent authority has also not been served upon the petitioners. Thus it is crystal clear that in case of the petitioners the malafide intention has deliberately adopted after ignoring all the mandatory provision given in circular issued time to time by Opp. Party No. 2 the highest authority of the department. Thus it cannot be said clearly that Opposite Party No. 3&4 committed ~~wrong~~ dishonour^{ed} and disobeyed the order of higher authority passed time to time and the impugned notice by which the services of the petitioners came to an end is highly illegal punishment in the eyes of law.

17- That regarding the employment, it is well settled view of law that the employment is the fundamental guarantee of ~~other~~ ^{all} incumbent by virtue of provision laid down in the constitution of India. The humble petitioners there after engaged and started career as a Casual labour in the department in due hope that their services will be regularised and they will start their further career accordingly but the Opposite Party No. 4 under prejudice intention terminated the services of the petitioners by issuing an impugned notice as Annexure No. 3 to this writ



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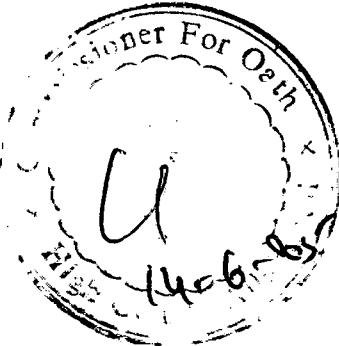
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Petition on dated 27.5.1984. This intention of Opposite Party No. 4 is highly arbitrary biased capricious in character and amounting harassment and punishment for petitioners and also damaging the own career of petitioners in violation of fundamental guarantee provided by the constitution of India.

18- That the act of Opposite Party No.4 by which the services of the petitioners have been thrown out illegally is also violating the mandatory provision of Art. 14 and 16 of the constitution of India along with its fundamental gurarantee in violation of Art. 19 of the Constitution of India;. The Opposite Party No. 4 under discriminatory treatment acted against the petitioners only in intention to engage his own chose persons.

19. That the entire factual position narrated in this writ petition it is ample clear that the petitioners as completed successfully more than 1200 days in the department in capacity of Casual Mazdoor their services are deserving to be regularised, but the Opposite Party No. 4 did not act according to the mandatory provision given through many circulars issued timeto time by Opposite Party No. 2 and as such the impugned notice by which the petitioners are governing and thrown out from employment is highly illegal arbitrary punishment in the eyes of law.

Referred



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20.. That as already narrated vide Annexure No. 2 a circular dated 13th Oct. 1983 it is further laid down by appropriate authority Opposite Party No. 2 that the employees who recruited before 21.3.1979 be regularised in group 'D' post and in the same consequence it is further laid down that none of the fresh appointment, recruitment or engagement be made on the post of Casual Mazdoor till the services of those incumbents who are working before 31.3.1979 ^{not} be regularised. The Opp. Party No. 4 by their own personal intention time to time engaged many casual labours in the year 1983 and 84 and they are still retaining within the service, but the petitioners have been thrown out i.e. clear violation of Art. 14 and 16 of the Constitution of India .

21- That the Opposite Party No. 4 committed further illegality and they did not regularise the services of the petitioners while the petitioners are most senior casual mazdoors in the department in violation of circular dated 13th October, 1983(Annexure No.2) to this Writ Petition.

22- That the many juniors than the petitioners are still retaining in the department , while they have engaged much after than to petitioners, and the petitioners services have been came to an end is discriminatory under malafide intention in violation of Art. 14 and 16 of the constitution of India. The date of appointment of the



R.C. Tewari

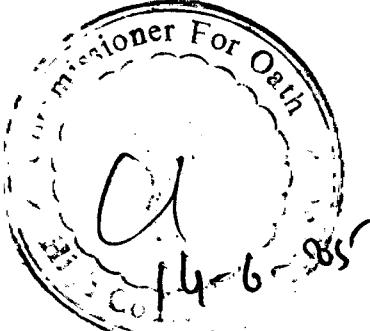
juniors as Casual Mazdoor are as under; to prove this fact that the petitioners were highly discriminated in illegal manner;

Sl. No.	Name	Date of joining
1-	Sri Narendra Kumar Srivastava	7.3.83
2-	Sri Bodh Prakash	23.3.83
3-	Sri K.K. Singh	7.12.83
4-	Sri V.K. Singh	11.3.83
5-	Sri Ram Kumar	14.3.83
6-	Sri Baboo Lal III	8.12.83
7-	Sri Ram Saroop	7.3.83
8-	Sri Ram Chandra Bhagawansi	7.3.83
9-	Sri Dinesh Kumar Misra	8.12.83
10-	Sri K.K. Misra	7.12.83
11-	Sri Sheo Prasad	12.3.83

23- That it would also not out of place to mention in this connection that the petitioners already engaged for the job are still existing in the department and also the same very post against the petitioners were working is still existing and the opposite party no. 4 deliberately wants to engage some fresh persons on the post of Casual Mazdoor for his wogfull gain.

Thus the deliberately malafide intention of Opposite Party No. 4 is highly illegal against the petitioner in violation of every Government service rule and every canon of law, rule of natural justice and fundamental guarantee given by the Constitution of India.

24- That in this consequence, it is further stated that no retrenchment, abolition has been made by appropriate authority i.e. opposite party no.2, thus the opp. party no.2 has no legal right to thrown out the employment of petitioners without any such policy framed by the Opposite Party No.2 the intention of Opposite Party No.2 by virtue of many circular issued time to time also filed in this writ ^{petition} is to regularise the services of those casual masdoors, who have successfully completed 1200 days in the department, but the Opp. Party No. 3 and 4 did not honour and totally disobeyed



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the same provision is highly illegal bad in law.

25- That the petitioners are also having the necessary education qualification and experience for regularisation in class 'D' Post by virtue of mandatory provision given incircular dated 13th October, 1983 . Thus the act of Opposite Party No. 4 is highly illegal and against the intention of circular which is totally bad in law.



26- That the petitioners by aggrieving the impugned notice dated 27.5.85 by which their services have been came to an end have no alternative remedy except to file this Writ Petition ^{after pressing} with the following many other grounds;

G R O U N D S

i- Because the petitioners are more senior & successfully completed more than 1200 days on the post of Casual Mazdoor and by virtue of mandatory circular they are legally entitled to be regularised on class 'D' Post. Thus the act of Opposite Party No. 4 by issuing the impugned notice is highly illegal, bad in law.

ii- Because the Opposite Party No. 4 has also not acted according to the mandatory

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provision given in circular and as such the impugned notice is highly illegal violating the provision laid down in circular dated 1.10.1984 and 12.2.1985 (Annexure No.4&5).

iii- Because neither one month notice nor the pay in lieu ^{there} of has been paid to petitioners. Thus the impugned notice without any reason and rhyme and foundation is highly illegal bad in law.

iv- Because the petitioners have rendered successfully more than 1200 days in capacity of Casual Mazdoor in the department without a single day break in service also without any inefficiency or unsuitability. Thus they are deserving to be regularised in said post and impugned notice is highly illegal bad in law amounting punishment.

v- Because the impugned notice dated 27.5.1986 ^{has} does not served upon the petitioners and by virtue of a mere communication made by incompetent authority known as R.S.Shukla arrangement clerk is highly illegal, not according to law and the said impugned notice cannot be said any order like termination.

vi- Because by virtue of impugned notice the petitioners services have ^{Came} ~~not come~~ to an end. Thus it is highly illegal bad in law and violating every canon of service rules.

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vii- Because many juniors as already mentioned than the petitioners are still retaining in service while the senior most petitioners have been thrown out from employment is highly illegal, discriminatory in violation of Art. 14 and 16 of the Constitution of India.

viii- Because the meritorious services of the petitioners have not been considered by Opposite Party No. 4 accordingly .

ix- Because the several representation /application as also has been thrown out by Opposite Party No. 3 and 4 without any decision which is also illegal and evident is malafide intention in bias mood.

x- Because none of the retrenchment or abolishment has been made by appropriate authority. Thus the impugned notice to throw out the petitioners from employment is highly illegal, bad in law.

xi- Because the petitioners as skilled casual mazdoors were working in the department since very long time and their services has illegally been thrown out while the unskilled casual labours also much junior than to petitioners are still working which is totally discriminatory, arbitrary bad in law in violation of Art. 14 and 16 of the Constitution of India read with principle of natural justice.

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xii- Because the impugned notice of termination is also clearly violating the mandatory provision of circulars.

xiii.. Because the impugned notice dated 27.5.84 is arbitrary beyond jurisdiction and issued by totally an incompetent authority in violation of mandatory provision ^{which} supporting to petitioner's claim.

P R A Y E R

WHEREFORE, the petitioners prays for following reliefs:-

That this H^oble court may please to issue:

(A) A writ, direction/order in nature of ~~six~~ certiorari quashing the impugned notice dated 27.5.1985 contained in Annexure No. 3 to this Writ Petition and the petitioners be reinstated on their posts with all service benefit.

(B) A writ, direction/order in nature of ~~Commanding~~ mandamus with direction to Opposite Parties that the services of the petitioners be regularised in class 'D' post by virtue of circular dated 13th October, 1983 contained in Annexure No.2 along with all service benefit, seniority promotion etc.

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(C) A Writ, Writs, direction/ order
what ever this Hon'ble ~~Tribunal~~ ^{High Court - be} deemed fit and
proper be also awarded to petitioners along
with cost of this ~~exam~~ Writ petition,
against Opposite Parties.

Place: Lucknow.

Dated: 14-6-85

R.C. Jiwani
PETITIONERS

~~R. B. Pandey~~ ^{Adv}
(R. B. PANDAY) ^{Adv} 14/6/85
ADVOCATE
COUNSEL FOR THE PETITIONERS

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

Writ Petition No. of 1985

Rajesh Chandra Tewari & others ...Petitioners

Versus

Union of India & others ...Opp. Parties

ANNEXURE No. 1

Particulars of Service of the petitioners

Sl.No. Name Date of Joining

1-	Rajesh Chandra Tiwari	20.10.1978
2-	Kunwar Bhadur Singh	19.1.1979
3-	Gazraj Singh	6.11.1978
4-	Surendra Kumar	1.3.1977
5-	Ramesh Kumar Tripathi	18.11.1978
6-	Azad Ali	30.6.1975
7-	Suresh Chandra Savita	28.7.1978
8-	Shayam Sunder Kushwaha	3.1.1979
9-	Bindesh Chaubey	16.11.1978
10-	Harihar Pandey	7.3.1983
11-	Jetendra Kumar Verma	7.12.1983



R.C. Tewari

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

Writ Petition No. of 1985

Rajesh Chandra Tewari & others. ...Petitioners

Versus
Union of India & others

~~State of Bihar & others~~ ...Opp. Parties

ANNEXURE No. 2

Letter No. 49014/7/83-Estt(6) dated 13th October, 1983

Subject:- Regularisation of Casual Employees in
Group 'D' posts.

Ministry of Home Affairs the undersigned is
directed to say that as per the instructions issued
by this department from time to time, casual employees
recruited before 21.3.1979 in various ministries
departments and attached and subordinate offices
of the Government of India may be regularised in
Group 'D' posts subject to the following conditions:-

1- A daily wage worker should have put in
at least 240 days of service as such (including
broken periods of service) during each of the two
preceding years (4 years in the case of part time
casual workers) on the date of appointment against
a regular Group 'D' post.

2- A daily wage worker should be eligible
in respect of maximum age limit on the date of
appointment to the regular post. For this purpose,
the period spent by him as daily wage worker is
deducted from his actual age.

3- A daily wage worker should posses the
minimum educational qualification prescribed for the
post.



KC Towns

It is also stipulated in para 1(d) of O.M. No; 490/4/77-Estt(G) dated 10th October, 1979 that casual employees who were engaged till 20th March, 1979 otherwise than through the employment exchange and who are eligible in all other respects may be regularised without insisting on the condition referred to in para 1(d) (1) of AROM of 21st March, 1979. It has been brought to the notice of this Department that in certain cases, casual employees, through recruited through employment exchanges, had already crossed the upper age limit prescribed for appointment to group 'D' posts, with the result, that facility for regularisation cannot be made available to them. In view of the fact that the casual employees belong to the economically weaker section of the society and with a view to avoid undue hardship of them, it has been decided that such of the casual employees as were recruited in various Ministries, Departments and their attached and subordinate offices before 21.3.1979 may be considered for regularisation in Group 'D' posts even though they may have crossed the age limit prescribed for the post provided they are otherwise eligible for regularisation,

The Ministry of Finance Etc. are requested to take appropriate action to regularise the eligible casual employees in group 'D' posts in accordance with decision mentioned above. Their attention is, however, invited to para 1(a) of this Departmental O.M. No. 49014/4/79-Estt(G) dated

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21.3.1979. Wherein it was staged that there was a ban on recruitment of casual employees for regular nature of work and the various Ministries etc. were advised not to engage persons on daily wage basis against such regular posts. These instructions are still in force and it is requested that they may be followed scrupulously all concerned.



True Copy

Received

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

Writ Petition No. of 1985

Rajesh Chandra Tewari & others ... Petitioners

Versus

Union of India & others ... Opp. Parties

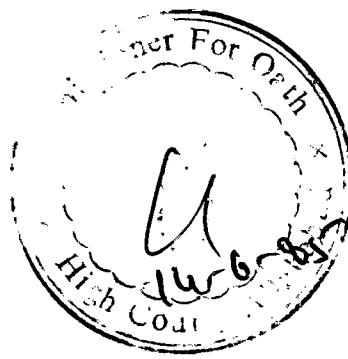
ANNEXURE No. 3

The following O/S should not be engaged
till further order vide S.S.R.M.(O) Division
Lucknow letter No. 13-1/14-C/03/83 dated 27.5.85.

- 1- S.S. Kushwaha
- 2- Bindesh Chaubey
- 3- Ramoo
- 4- Raj Kumar Bajpai
- 5- Azad Ali
- 6- Rajesh Chandra Tewari
- 7- Kunwar Bahadur Singh
- 8- Ramesh Kumar Tripathi
- 9- Suresh Chandra Savita
- 10- O.P. Pandey
- 11- Gaj Raj Singh
- 12- Jitendra Kumar Verma
- 13- Surendra Kumar
- 14- Hari Har Pandey

Sd/-R.S. Shukla
Arrangement Clerk. CL IV.
27.5.85

True w/



R.C. Tewari

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCK NOW BENCH, LUCKNOW

Writ Petition No. of 1985

Rajesh Chandra Tewari & others ...Petitioners

Versus

Union Of India & others ...Opp. Parties

ANNEXURE No. 4

Notice of Termination in respect of
Casual Daily Rated Mazdoors in the P & T Department.

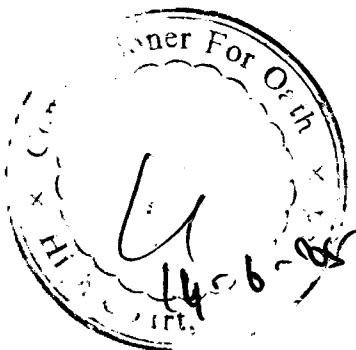
No. 269/130/78-SIN New Delhi I, the 1.10.1984.

In order to implement certain judgements in respect of Casual Mazdoors, the question of issuing a notice of one month of payment of wages in lieu thereof to casual mazdoors whose services are terminated by the Department, has been engaing the attention of this Directorate for some time past. It has now been decided that such of the casual mazdoors who ~~decided that such of the casual mazdoors who~~ serve the Deptt. for at least a total period of 240 days in a year and whose services are proposed to be terminated by the Department shall be served a notice of one month before termination of their service or one month wages in lieu thereof be paid to them.

2- The above orders take effect from the date of issue.

True copy

KC.Tewari



(25)

p-123

32
(25)

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH, LUCKNOW

Writ PETITION No.

of 1985

Rajesh Chandra Tewari & others

...Petitioners

Versus

State of India & others
Union of India & others

...Opp. Parties

ANNEXURE No. 5

Subject:- Procedure to be followed in regard to
termination of services of Casual Labourers
engaged in Postal Wing.

D.G.P.&T No. 45/58/84-SPB-I

Dated 12.2.1985

The procedure followed by the Department
in terminating the engagement of casual
labourers has been adversely noticed by certain
judicial bodies. In certain cases termination has
been annulled on the ground that proper notice or
wages in lieu thereof were not given.

The procedure to be followed in terminating
the engagement of casual labourers has been examined
in this office carefully from all angles and it has
been decided that such of the Casual labourers who
have served the Department for at least a total
period of 240 days in a year and whose continued
engagement is not considered necessary shall be
served a notice of one month before terminating
their services or, alternatively, one months'
wages in lieu thereof will be paid to them.

These orders will come into force from
the date of issue.

True copy

Reference



इन दि आनरेबुल हाई कोर्ट आफ लुडिकेर एट इला हाबाद,
लखनऊ, लखनऊ ।

रिट पिटीशन नं० आफ 1985
राजेश चन्द्र तिवारी व अन्य --- वादी
बनाम
उ०प्र०राज्य सरकार व अन्य --- प्रतिवादी

सैलमनक संघया-७
=====

सेवा में,

प्रवर अधीक्षक,
रेल डाक व्यवस्था,
कूदोड़ प्रखण्ड, लखनऊ ।

विषय:- बगेर कारण बतलाए प्रवर अधीक्षक "शो" प्रखण्ड लखनऊ
के द्वारा कार्य न दिय जाने का आदेश ।
=====

महोदय,

निवेदन यह है कि प्राथी रेल डाक व्यवस्था "शो"
प्रखण्ड मैसूर 1978 से कार्यरत है। प्राथीनि प्रत्येक वर्षी में लगातार
240 दिन से अधिक की नेवा पूर्ण करते हुए 1200 दिन की सेवा
अवधि भी पूर्ण कर ली है।

प्राथी को दिनांक 27-5-85 को बगेर कोई कारण
बतलाये हुए कार्य नहीं दिया गया है कार्य न दिये जाने के सम्बन्ध
में प्राथी को किस द्वारा के अन्तर्गत कार्य नहीं दिया जाना रहा है।
कृपया लिखित आदेश देने की कृपा करें। अन्यथा प्राथी को जितने
दिन कार्य पर नहीं लिया गया है, उसे कार्य पर समझा जाये और
उसका वेतन दिया जाये।

अतः आपसे निवेदन है कि प्राथी को कार्य देने की
कृपा करें अन्यथा बाध्य होकर प्राथी को न्यायालय का सहारा
लेना पड़ेगा।

उचित आदेश हेतु आभारी रहें।

लखनऊ
दिनांक

प्राथी गण
1-राजेश चन्द्र तिवारी 2- सरेन्द्र कमार
उमर हर पाण्डेय 4- रमेश कमार त्रिपु
5-केवर बहादुर सिंह 6- गजराज सिंह
7-बिन्देश चौधरी 8- आजाद शली
9-श्याम सन्दर वर्षवाहा
10-लुद्देश चन्द्र सविता 11-दितेन्द्र कुमारवर्मा

प्रतिलिपि प्रैषित :

1-ठुक निदरह
2-पोस्ट मास्टर जनरल।

(21) A127
26 29

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH, LUCKNOW

Writ Petition No. of 19 85

Rajesh Chandra Tewari & others ... Petitioners

Versus

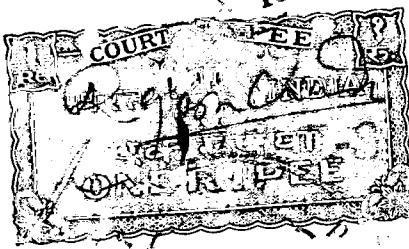
Union of India & others ... Opp. Parties

1985

AFFIDAVIT

3

HIGH COURT
ALLAHABAD



AFFIDAVIT

I, the above named deponent Rajesh

Chandra Tewari, aged about 25 years, son of Sri
Baij Nath Tewari, R/O 248/17 Lakar Mandi Yahiya
Ganj, Lucknow do hereby solemnly affirm and state
on oath as under:-

- 1- That the deponent is the petitioner No. 1 in the above noted writ petition and is well acquainted with the facts of the case, also on behalf of all the petitioners.
- 2- That the contents of paras 1 to 15, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 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(3)

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VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my personal knowledge.

Nothing material has been concealed,
so help me God.

Signed and verified on this 14 day of June, 1985 at Lucknow.

R.C. Tiwari
DEPONENT

I, identify the above named deponent who has signed before me.


(R.B. Pandey) Advocate

Solemnly affirmed before me on 14-6-85
at 11 a.m./p.m. by the deponent who has identified
by Sri R.B. Pandey, Advocate, High Court.

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
OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench
No. 31-254.....
Date 14-6-85

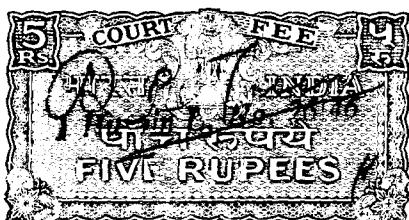


अदालत श्रीमान
वादी अपीलान्ट

High Court of Judicature of
Lucknow Bench Ls

Adv 20
Shahabudin

प्रतिवादी (रेस्पान्डेन्ट)



का वकालतनामा

15/6/1980

31

वादी (अपीलान्ट)

2

Rajesh Chandra Tiwari & others

नं० मुकद्दमा श्री गुरुमाम सन् पेशी की तारीख प्रतिवादी (रेस्पान्डेन्ट)
उपर लिखे मुकद्दमा में अपनी ओर से श्री १६ ई०

R. B. PANDEY Adv

महोदय
एडवोकेट

अदालत	नाम
मुकद्दमा नं	मुकद्दमा नं
मात्रा	मात्रा

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया बसूल करें या या सुलहनामा व इकाल दादा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर द्वारा (दस्तखती) रसीद से लेवें या पंच नियुक्त करें - वकील महोदय दारा की गयी वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोङ्गार को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिये यह वकालतनामा लिख दिया ताकि प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर

साक्षी (गवाह) ————— साक्षी (गवाह) —————

दिनांक 16 - 6 - 85 महीना सन १६ ई०

स्वीकृत

गुरुमाम कुमार लक्ष्मीनाथ

गुरुमाम कुमार लक्ष्मीनाथ

सुखेंदुर सविता

दरहरपाठी

ठाठाठाठालिहौ

जलन्दुर भाटी

जेश चट्टातकर्ता

रमेश कुमार विपाठा

Main Copy

A-5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT ALLAHABAD

Registration T.A. No. 1760/87

In transferred writ petition no. 2741 of 1985
From Hon'ble High Court of judicature at Allahabad
Lucknow Bench, Lucknow

Rajesh Chandra Tewari & others

...Applicants

Versus

Union of India & others

...Respondents

Review App No. 44-B-T/88

Review Application against the judgment
passed by this Hon'ble tribunal dated
5.5.1983, copy of which has been received
by the applicant on 16.5.1983.

*Received
Chandu
sent to
Smt. K. C. Sahu
21/6/88*

The humble applicants respectfully
submit as under;

1- That the applicants have submitted a
writ petition no. 2741 of 1985 before the Hon'ble
High Court of judicature at Allahabad, Lucknow
Bench, Lucknow which has thereafter transferred
under section 29 of the Central Administrative
Tribunal's Act, 1985 before this Hon'ble tribunal.

2- That the petitioner in this writ petition
/application sought mainly 2 reliefs i.e. to
set aside the impugned order of termination
dated 27.5.1985 contained as Annexure No. 3
along with regularisation of their services
in class 'D' post by virtue of a circular
dated 13th October, 1983 also shown as

*J. S. Chandra
A.*

(2)

Annexure No. 2 in the writ petition/application.

3- That the Counter Affidavit and Rejoinder Affidavit has been exchanged by the parties subsequently on 14.4.1988 the arguments has been advanced in this case by both the parties and above said judgment has been delivered in which the reliefs prayed by the applicants have been rejected.

4- That during the course of arguments many legal and factual position has been advanced on behalf of applicant but this Hon'ble tribunal omitted many of those, decided the matter on 5.5.1988. Hence against the order dated 5.5.1988 this review application is being filed with the following grounds;

i- Because this Hon'ble tribunal vide their judgment dated 5.5.1988 has held that the impugned order dated 27.5.1985 is not the order of termination of services of applicant subsequently the Opposite Parties in their CA has said that it was a mere suspension of job and not the termination order. In regards the same this very material point has not been touched by this Hon'ble tribunal, that there is no legal provision laid down to suspend the services of skilled casual labour. As such the impugned order of termination dated 27.5.85 cannot be said any suspension of work but it

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(a)

is actually the end of service of the applicant as casual labour in the department.

ii- Because along with the writ petition/application the annexure no.2, i.e. the copy of circular dated 13th October, 1983 has been filed which proves that the workers who have put in at least 240 days of service can be appointed against the regular group of 'D' post. The admitted fact is that the applicants have rendered their performance continuously in the department for more than 1200 days in the year 1985 when they have filed the writ petition. Hence the impugned order as challenged is null and void violating the provision laid down in Annexure No. 4 & 5 of the writ petition/application. This very material point has not been correctly interpreted according to the view of circular. Hence this review application deserves to be allowed.

iii- Because it is admitted that by virtue of pleading submitted by both the sides that several juniors retained in service and the applicants in view of the discriminatory foundation have been terminated. As such the impugned order is totally illegal, which has not been considered by this Hon'ble tribunal in its judgment dated 5.5.1986. Subsequently it is also stated that the mandatory provision laid down vide circular filed as Annexure No.2 4 & 5 has been omitted. Hence the order is liable to be reviewed.



A 10

(4)

iv- Because the legal interpretation of the verdict mentioned in the impugned order ' should not engaged till further orders' is clearly showing the end of service of the petitioner not the suspension of work. According to the legal terminology of word suspension is defined that only the work of incumbent is being suspended for time bound under initiation of departmental proceedings. In the instant case the impugned order is only amounting as termination which ended the services according to the legal interpretation. Hence this order deserves to be set aside and this very material point has not been touched by this Hon'ble court in the judgment dated 5.5.1988 which shows apparent error in the eyes of law.

v- Because as already interpreted the legal and factual position has either not been touched or omitted. Hence this review application for consideration before this Hon'ble tribunal.

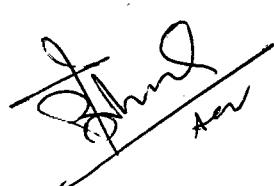
vi- Because this has been clearly stated by the Opposite Parties in their CA/WS that the order dated 27.5.1985 is not the order of termination subsequently they have alleged further that the formal order of termination is ready for service on the applicants. These both the pleadings are contrary with each other.

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(5)

vii- Because the said Opposite Parties are saying that in the case of fraud the services of the applicants have been suspended while the impugned order against the applicants shows nothing. Thus according to the CA/MS filed by Opposite Parties the contrary an legal position is also wrong and not sustainable. Since this very material point has been omitted and not clarified by this Hon'ble tribunal in its judgment dated 5.5.1988 which is an error of fact and law. Hence this review application.

viii- Because a very contrary factual and legal position has been replied by the Opposite Parties in their CA/MS as one way the Opposite Parties are saying that the services of the petitioner have been suspended in contemplation of departmental enquiry and in other way in para 10 of the CA/MS it has been alleged that there are no statutory rules for initiating disciplinary proceedings against the casual labours. This contrary material fact as alleged by the Opposite Parties is itself making support to applicants' contention and this very material point has been omitted by this Hon'ble tribunal in their judgment dated 5.5.08 which is an error in law and judgment deserves to be reviewed.



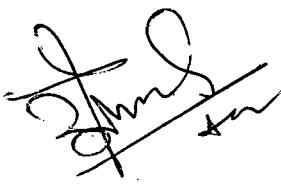
ix- Because the Hon'ble tribunal in their judgment and decision, the matter against the

(6)

applicant by making suggestion which is not according to the pleadings. The material furnished by the applicant during the course of arguments has not been touched and the documents in support of the petitioner whatever filed has also not been considered, which is apparent error of law.

(i) - That on behalf of petitioner/applicant none of such pleading has been made that the order dated 27.5.88 is not the order of termination only the Opposite Parties in their CA/WS has said that the order dated 27.5.88 is a mere suspension of work. This Hon'ble tribunal in para-9 of its judgment has wrongly held which is apparent error of law.

(ii) - Because under para-5 of the judgment it has been held by the Hon'ble tribunal that the petitioner no. 10 has also been taken back on duty. This factual position has wrongly been included in the judgment, while the correct fact is that the person whose name has been mentioned at serial no. 10 in the impugned order has been taken back on duty. It is also not the subject matter mentioned in the judgment dated 5.5.1982 it is also an apparent error of law which is liable to be reviewed.

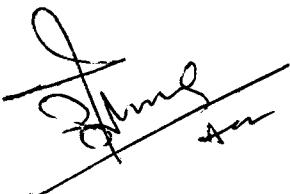


(7)

xii- Because the material and many Supreme Court decisions has supplied on behalf of applicants at the time of arguments which has not been taken into consideration. It is also stated that the mandatory provision vide circular for absorption of casual labours and R.T.P.S. etc was given but did not consider in the judgment dated 5.5.1988.

xiii- Because another relief for regularization as sought by the applicant in their writ petition/application is also fully deserving to be allowed in view of various authorities circulars and judgment of Hon'ble High Courts and Supreme Court, which were produced before this Hon'ble tribunal at the time of arguments, which but this Hon'ble tribunal did not consider the same.

xiv- Because the facts as alleged by the Opposite Parties in their C.A./S that a departmental enquiry is pending is also not sustainable because of since 1985 till today nothing has been intimated to the applicants in this regard. Thus it is also crystal clear that the impugned order as challenged or the termination of the applicants has not been touched in the judgment dated 5.5.1988 i.e. an apparent error of law.

A handwritten signature in black ink, appearing to read "S. J. Singh & Son". The signature is written in a cursive style with a diagonal line through it.

xv- Because in considering the factual position of fraud as alleged by Opposite Parties this matter has already been finalised after recovery from the wages of the applicants meaning thereby the punishment has been awarded finally while the fraud was played by the then male agents and not by the casual labours. In this situation, the discriminatory treatment has also been done which further proves the malafide and this Hon'ble tribunal inspite of arguments has not touched all those, which is an error of law and facts.

xvi- Because this Hon'ble tribunal adjudicated the matter beyond the scope as relief sought by the applicants which is an error of law and facts. Thus this review application deserves to be allowed.

xvii- Because during the course of arguments it has been said on behalf of the applicants that the applicants are still working in view of the Stay order granted by the Hon'ble High Court at the time when the writ petition was preferred in the year 1985. But this Hon'ble Tribunal in their judgment dated 5.5.1988 has said that no evidence came forward up to this extent whether the applicants have been reengaged in service or not. This contrary discussion made by this Hon'ble tribunal in their judgment dated 5.5.1988 is an error of law and facts both.



xviii- Because in the operative portion of the judgment it has been held by this Hon'ble court that the applicants were provided the job temporarily pending finalisation of the enquiry proceedings. In this regard, it is stated specifically that under para 10 of the CAWS it is admitted position that there is no statutory rule for initiating disciplinary proceedings against a casual labour. This position is contrary with each making adverse affect to applicants. Hence it is crystal clear that that this Hon'ble tribunal has decided the matter after going beyond the perview of relief sought which is an error of law and liable to be reviewed.

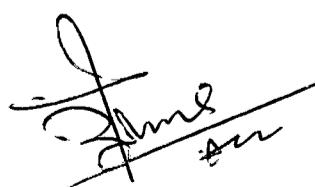
xix- Because in all respect the impugned order dated 27.5.1985 as challenged is the termination order by its nature also ended the services of casual labours. In this regard the provision as laid down in Annexure no. 4 & 5 of the writ petition/application hasnot been considered by this Hon'bletribunal inwhich the mandatory provision as laid down to provide one month notice or salary in lieu theirmof. Apart of this fact the Opposite Parties are sayihg that the order dated 27.5.1985 is not the termination order ~~which~~ which provides more suprort to petitioner's contention and order by way of ~~termination~~ admission is liable to be set aside. This material position has not been considered by this Hon'bletribunal in their judgment dated 5.5.1988 which is an apparent error of law.



(10)

xx- Because in considering the legal position for regularization of the applicants services in group "D" post, the position as discussed under para-7 of judgment dated 5.5.88 has wrongly explained without considering the factual position. In fact there are 3 different categories known as casual labour, E.D., and P.T. Only the post of Casual labour like the applicants is more superior than the others. For the casual labours the qualifying service for regularization is 2 years, while the E.D requires the qualifying service up to 3 years and subsequently the P.T. requires the qualifying service for 4 years. In this regard the circular during the course of arguments dated 20.10.84 was placed before this Hon'ble tribunal which hasn't been considered in the judgment dated 5.5.1988.

xxi- Because in the instant case the factual position for consideration before this Hon'ble court is that the applicants are serving in the department as casual labour since last 10 years and they became over age for another Govt. employment, hence on the basis of experience length of service they are entitled for regularization and their end of service if any under ~~regular~~ ^{regular} ~~manner~~ manner is not liable to be sustained. Thus the contention of the applicants as raised in the writ petition/ application deserves to be allowed on the basis of natural justice. This very material



(11)

point has been omitted by this Hon'ble Tribunal. Hence after considering all these legal and factual position this review application is being submitted to review the judgment dated 5.5.1988 passed by this Hon'ble Tribunal.

P R A Y E R

It is, therefore, most respectfully prayed that this Hon'ble tribunal may be pleased to allow the review application and the judgment dated 6.5.1988 passed by this Hon'ble tribunal may kindly be reviewed and the relief sought by the applicants as in the application be allowed in the interest of justice.

Place: Lucknow

Dated 2/6/88

(To) Ashok Shinde, Lawyer
ON BEHALF OF APPLICANTS

R. B. Pandey
(R. B. Pandey)
Advocate,
Counsel for the applicants
618-Jawhar Bhawan
Lucknow.

for See (L. Pandey)

(24)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH

AT MUMBAI.

OBJECTION

IN

REVIEW PETITION NO. _____ OF 1988.

IN

REGISTRATION NO. 1760 of 1987.

Rajesh Chandra Tewari and others Applicants

Versus

Union of India and others

..... Respondents.

To

Recd copy
✓
29/7/88
Am

The Vice-Chairman and His other companion
members of the aforesaid Tribunal.

The humble petition of the abovenamed applicant
most respectfully Showeth:-

- That while preparing the aforesaid application
against the judgment of this Hon'ble Tribunal, the
petitioner has not made out any case for interference
of this Hon'ble Tribunal under the powers conferred
under Section 22(iii), (f) of the Central Administra-
tive Tribunals Act, 1985. The power referred in the said

18

(2)

tion is a parameter of the provisions of order 47 Rule 1 of the Civil Procedure Code and in order to make out a case for interference under the review jurisdiction the petitioner has to make out a case that there was an error apparent on the face of the record. In none of the grounds taken by the petitioner it has been pleaded that the alleged error was committed by this Hon'ble Tribunal in giving the said judgment and as such the said application for review is misconceived and is liable to be rejected.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may be pleased to allow this objection and dismiss the review petition filed by the petitioners.

And/or be further pleased to pass such other and further order which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.

DT/- 29/9/84

Ulm
(K.C. SINHA),
Addl. Standing Counsel,
Central Government.

1988
AFFIDAVIT
91

HIGH COURT
ALLAHABAD

26/8/88 In THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH

AT ALLAHABAD.

COUNTER AFFIDAVIT

I.

REVIEW PETITION NO. _____ OF 1988.

II.

REGISTRATION NO. 1760 OF 1987.

Rajesh Chandra Jevari and Others Applicants

Versus

The Union of India & Others.

..... Respondents.

26/8/88

Affidavit of Shri Alok
aged about 30 years Son of
Shri J.S. Srivastava

(Designation)

Senior Superintendent

I, the deponent above named _____, Senior Superintendent, R.M.S. "O" Unit, Lucknow-226011
affirm and state on oath as under :---


Shri Alok Srivastava
Senior Superintendent
R.M.S. "O" Unit, Lucknow-226011

(2)

1. That the deponent is posted as SSE (O) DR. Lucknow and is authorised to file this counter affidavit on behalf of the respondents and as such he is fully acquainted with the facts of the Case deposed to below.
2. That the Contents of the review petition have been read over by this deponent and he has fully understood them and is in a position to reply the same.
3. That the Contents of paragraph nos. 1,2 and 3 of the review application need no comments.
4. That the contents of paragraph no.4 of the review petition are not correct and as such are denied. It is absolutely wrong to allege that the Tribunal has omitted any submissions made on behalf of the petitioners.
5. That the contents of ground no.1 are not sustainable in the eyes of law. The applicants were temporarily suspended to be engaged as inquiries regarding

26/8/58

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Deo

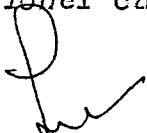
(3)

fraudulent claims of wages were in progress. Moreover, the said ground is not sufficient to call upon this Hon'ble Tribunal to invoke the jurisdiction of the review.

6. That the Contents of ground no;ii are not sustainable in the eyes of law. The Departmental rules prescribe that the daily wagers who have put in 240 days work in each year in preceding two years before the date of the examination are eligible to appear in the departmental examination against a post. Moreover, the eligible casual labours, E.O.employees of the department who have completed three years service are also eligible to appear in the said examination for recruitment as group 'D' staff. The U.O.I.s. employees are selected first and if any vacancy remains, in that event the question of recruitment of casual labour who have qualified in the examination, arises.

7. That the Contents of ground no. iii of the review application are not sustainable in the eyes of law.

1688 In case the finding given by this Hon'ble Tribunal is wrong, the petitioner can challenge the said finding



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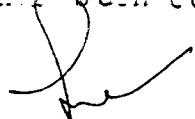
before the Hon'ble Supreme Court of India and not in the review proceedings.

8. That the Contents of ground no.4 are not sustainable in the eyes of law. The petitioners were not terminated. The arrangement was temporarily suspended and inquiries regarding fraudulent payment in wages was in progress.

9. That the Contents of grounds nos. v to x of the review application are also not sustainable in the eyes of law. The judgement given by this Hon'ble Tribunal is in order and the petitioners have no made out any case for interference of this Hon'ble Tribunal.

26/8/85
In Case the finding of this Hon'ble Tribunal is wrong, the petitioner could have challenged the same before the Hon'ble Supreme Court of India.

That the Contents of paragraphs nos. 1 and 2 of this affidavit are true to my personal knowledge; these objections nos. 3,4,5,6,7,8 and 9 are based on legal advice which I believe to be true but no proof. It is false and nothing material has been concealed to help me lied.



A-23

(5)

I, D. S. Chaturvedi, Collector, Kharai K.C. India, Ed'l. Standing
Counsel, Central Government, High Court, Allahabad, do
hereby declare that the person in the above affidavit
and alleging himself to be Sir D. S. Chaturvedi is known
to me personally.

.....
.....
.....

(Clock)

solemnly affirmed before me on this 26th
August
day of ~~July~~, 1988 at 9:54 A.M. by the deponent who
is identified by the Clerk noted above

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

Act. Commissioner

11

कृष्ण

Senior Superintendent

रेल आक व्यवस्था "ओ" नं. ८८८८८-२२६०१९
R.M.S. "O" n. Lucknow-226019

91
26.8.56

IV

In the Hon'ble Civil T. C. and Subordinate Bench
Aizawl, Aizawl.

Misc Application
2/3/1988

TA 1760/87
W.P. 2741-85 - S.C. Bench

Rajesh Chandra Tiwari & Ors. - Applicants
vs.

Union of India & Ors. - Respondents

Motion Notice

Respected Sir.

Kindly take notice that the undersigned
proposes to move the court on 16-4-88 at
2 pm or soon thereafter to Convene and pass
Order on the enclosed application.

The subject matter of the same is

14.4.88 indicated below.

Rajesh Chandra Tiwari
Signature

Subject matter - Interim relief application

Respectfully,
R. B. Pandey

R. B. Pandey
Advocate
for Petitioners.

Filed by me
on today
for 16-4-88
Signature
4/11/88

IN THE HON'BLE CENTRAL TRIBUNAL ALI ALLAHABAD BENCH ALJD.

CIVIL W.L.C. APPLICATION NO. 22187 OF 1988.

II. Re:-

W.L.C./1760 of 1987 (Transferred Writ Petition 2741/86
from Hon'ble High Court Lucknow Bench)

Rajesh Chandra Tiwari & others - - - - - Applicant.

Versus

Union of India & others - - - - - Respondents.

For

Interim relief application on behalf of applicants
in pending transfer application no. 1760 of 1987

the petitioners most respectfully showeth as Under:-

1. That the petitioner had filed the above
noted writ petition before the Hon'ble High Court
of Judicature at Allahabad Lucknow bench after
challenging the impugned order of termination
already filed as Annexure 'III' to this Writ
Petition.

2. That the Hon'ble H.C. Court of Lucknow
had placed the impugned stay order in the
above noted case which is still in operation &
the petitioners are continuing on his job.

Received
Chir
S. Venkatesh C. S.
4/4/88

-: ? :-

3. That as already stated in the writ petition that the petitioners were appointed as causal labour under opposite parties some times in year 1978 and till then the petitioners are continuously working without a single day break in service.

4. That it is also stated that many juniors that to petitioners who were appointed in similar situation some times in year 1978 they ^{were} ~~are~~ working while the petitioners services in discriminatory have been terminated which is bad in law and violation of article 14/16 of constitution of India.

5. That the petitioners came to ^{know} ~~to~~ from some reliable sources that the department are going to conduct ~~the~~ examination for regularisation of many candidates in ~~destitute~~ existing vacancies the petitioners are also being deprived for said examination which are positively being conducted by the authorities in the 3rd or 4th week of this month.

6. That out of vacancies existing the 71st petitioners are availing their right full claim to be appointed. In the matter of 71st, it is

-:-

also stated that the petitioners have ^{Songhi} shot a claim in the writ petition which is subject matter of decision before Hon'ble Tribunal, that the petitioners be regularies in class ^D most effect from 12 October 1992 in view of regular making entire support from prima-facie case for petitioners.

7. That in view of preceding, fact and legal position of the case the petitioners ^{can} ~~are not~~ be ~~entitled~~ to face in examination and therefore entitle for regularisation according to length of service and assessment of work is a matter of right.

8. That will pending of this case before this Hon'ble Court if any vacancies for the petitioners ^{would} ~~were~~ have been filled up certainly it will cause the irreparable loss to petitioners hence this application for praying that the direction be issued to opposite party to suspend the examination ~~mean~~ while are to receive the vacancies for the petitioners.

9. That the petitioners have a prima-facie case for interim relief as the relief sought in the writ petition takes clear support in view of ^{Opinion} and information ~~given~~ by court of Law.

-: 1 :-

10. That the ~~weightage~~ balance of convinience is also supporting to petitioners contention that during the pendency of this reference application any examination for regularization if any are being conducted after ignoring the petitioner right full claim is a matter of harassment, harrassment in arbitrary manner.

PRAYER -

- i) That this Hon'ble Tribunal may be pleased to issue a suitable direction/order to opposite parties that none of the examination may be conducted for regularization of Class 'D' Post till pendency of this application/petition. The opposite parties be directed further ~~so~~ that 11th Posts for the petitioners be kept reserved in the interest of justice.
- ii) Any other relief what ever this Hon'ble Court deems fit to proper be allowed in favour of petitioner in the interest of justice.

For Chandravanshi
applicants.

(Allied)

(Rajesh Tiwari)

1985
AFFIDAVIT
50/c/
HIGH COURT
ALLAHABAD

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

Writ petition no. 2741 of 1985

Rajesh Chandra Tewari & 10 others

..... Petitioners

Versus

Union of India & others ... Opposite parties

Counter affidavit to the writ petition on behalf of
opposite parties no. 1 to 4

I Kamlesh Chandra aged about 31 years, Son of Late
Shri Baij Nath Kureel, resident of J-204, Lalbagh,
Complex, Lalbagh, Lucknow do hereby solemnly affirm and
state on oath as under:-

1. That the deponent is posted as Sr. Supdt. in RMS 'U' Dn., Lucknow and has been authorised by the opposite parties to file this counter affidavit on their behalf.
2. That the deponent has read and understood the contents of Writ petition, stay application, Annexure and affidavit etc. filed by the petitioner as well as the facts deposed to here in under in reply thereof.
3. That the contents of para 1 of the Writ petition are not correct as stated and in reply it is submitted that they were initially engaged as Casual Labours in the department but the rest of the allegations of the para are denied as they were to be utilised as Casual Labour for the work of Casual and occasional nature. They were not engaged as skilled work in the department. They were not appointed against any post or vacancies, they were approved as Casual Labours for occasional work and their services were to be utilise as and when any

Contd..2/-

Kamlesh

5/2

-2-

occasional work was available

4. That the contents of para 2 of the Writ petition are not admitted as stated hence denied and in reply it is submitted that petitioners were not engaged in the department against any post or vacancy having 'lien'. Petitioners have not worked continuously since the date of their engagement. A duty chart showing the number of days each one performed duties is attached in a Annexure-I. It clearly shows that the petitioners did not work continuously. In some months they have not worked at all & in some months they worked only for few days. They were engaged for Casual Work as and when it was needed. A chart of duty period month wise was prepared and will be shown in case this hon'ble court so desires.

15.11.65
In reply to the contents of para 3 of the Writ petition it is submitted that the circulars were issued from time to time by the competent authority of the department i.e. for the revision of the rate of the Casual Labours as shown as Sub para (i)(ii)(iii) of para-3 of the petition, but these rates were to be revised under certain conditions laid down in the circular for revision of the rates. The rates are to be revised on fulfillment of the following condition:-

(a) These orders are applicable to only full time Casual Labour

(b) In case the revised rates are less than the current local rates, the local rates may continue to be paid.

(c) The benefit of increased rates of daily wages will not be admissible to Casual Mazdoors in whose case the continuous spells of duty are separated

Page -1

Contd...3/-

by a period of more than six months

6. That the contents of para 4 of the W.P. are not admitted as stated hence denied and in reply it is submitted that departmental rules prescribed that the daily wages who have put in minimum 240 days worked in each years in preceding two years before the date of examination are eligible to appear in the departmental examination against a posts. Merely that a person has put in minimum 240 days service in each year in last two years does not automatically qualify him to be appointed in Group D service. It only makes him eligible to sit in the departmental examination such candidates if he is able to qualify that examination only then he can be appointed in Group-D.

Besides eligible Casual Labours ED Employees of the department who have completed three years service are also eligible to appear in the same examination for the recruitment of the Group-D. The ED Employees are selected first and if any vacancy remains after absorbing all eligible ED Employees who have qualified in the examination only then the eligible Casual Labours who have qualified in the examination are to be selected against the remaining vacancies.

After selection Casual Labours are appointed in Group D Category only if their police verification and Medical report is found satisfactory.

7. That the contents of para 5 of the W.P are wrong hence denied and in reply it is submitted that the allegations of para 5 are denied

- i) Petitioners were not engaged as skilled Mazdoors.
- ii) A case, regarding fraudulent claim of wages by the petitioners for the period when they had not actually engaged is under enquiries. The period for which false

Contd...4/-

Issue 1

Issue 2

* * * * * absorption is

Contd..5/-

not mandatory. This rule only prescribe the conditions for eligibility of Casual Labours, who can appears in the departmental examination for recruitment of Group-D. The procedure regarding recruitment of Group-D Category is mentioned in para-II.

9. That in reply to the contents of para 8 of the W.P it is submitted that the services of the petitioners were not terminated and their engagement was temporary suspended as mentioned in para-5 as an enquiries regarding fraddulant payment in wages was in progress. However, the department is prepared to serve proper orders of termination and to pay one mont^h wages as prescribed in Annexure-IX of the Writ Peition. As for as the orders of Shri R.S. Shukla are concered Annexure-III of t e Writ Peition. This was communication of the order of SSRM 'D' Dn. Annexure-3 of Mail Agents and Head Sorters

10. That the contents of para 9 are wrong hence denied and in reply it is submitted that there is no modifide intension on the part of the opposite parties. The petitioners were found indulged in claiming false wages from the period they did not perform duties and it is thought after taking a lieuent view in the matter that they should not be engaged further after a through enquiry instead of launching any criminal proceedings against them. There are no statutory rules for initiating any disciplinary proceedings against Casual Labours

11. That the contents of para 10,11 and 12 of the Writ petition are not correct as stated hence denied and in reply it is su mitted that the Casual Labours were not terminated only their engagement was temporary suspended as an enquiries regarding fraudulent payment of wages was in progress as mentioned in para-7. However the department is prepared to pay one month wages if this

temporarily suspension of engagement is treated as termination from the post.

The opposite party has also got prepared formal order of termination of the services of the petitioners which he intend to serve on the petitioners.

12. That the contents of para 13 of the W.P are wrong hence denied and in reply it is submitted that the petitioners have not worked continuously since their engagement as mentioned in para-IV .As far as the question of becoming over age for the appointment in the other department their is no provision under the rules to consider the age while discontinuing of their service. During the period they were working as Casual Labours they were in full liberty to join any other department. Casual Labours are not automatically absorbed in the department as mentioned in the W.P .

13. The allegation regarding alafied intention is not based on the facts. The formal order of termination of the petitioner is ready and will be served upon the petitioners of this Hon'ble Court so allow.

14. That in reply to the contents of para 14 to 16 of the W.P it is submitted that an enquiry against the petitioner was being conducted in which the allegation of the petitioner was also taken into account. Not only this representation but the statement of the ~~petitioner~~ petitioners regarding claiming false wages was considered and it was found that the petitioners services should be terminated in the enterest of the department. The Writ petitions filed by the petitioners in premature and they should have waited for final orders. Till filing of ten W.P no. formal termination orders were issued.

15. That the contents of paras 17 to 22 of the Writ petition are not correct as stated hence denied and

in reply it is submitted that after working for more than 1200 days as Casual Labour the petitioners can not be deemed as temporary servant of Group 'D'. For abrobtion of in Group D they will have to appear in a test as provided in the Rules of recruitment to Class-IV posts (now Group D) copy of these rules alongwith letter dt. 29.6.73 are being annexed herewith as Annexure no. C-1 to this affidavit. The conduct of the petitioner in claiming wages praudulently for the period they actually did not perform outies created a notice for their continunance. In case they have done their duties honestly there was no reason for discontinuance of their engagement. The relationship between the petitioner and the opposite parties is merely contractual and is of Master of Servant. In any case the services of any servant, whose own conduct has shaken the belief and trust of the employee can not be thursted upon such employer or master. It is admitted that many Casual Labours who have put less days services than the petitioners are still being engaged but this is not dis-creminatory nor violative of the ~~xxm~~ provisions of Article 14 ~~xx~~ & 16 of the Constitution of India. The engagement of the petitioners was discontinued due to the conduct of the petitioner which created a notice for the aut ority, where as the Casual Labours whose engagement is continued have not gave any cause of complaint. It is also pertinent to point out here that a number of Casual Labours who have worked for more days than the petitioners are still working as Casual Labours as there are no vacancies and there is a ban order for appointment in the department since Nov. 1983. The petitioner must have continued as Casual Labours and on their turn absorbed in Group D in case they have not created the department by claiming fraudulent wages.

15. That the contents of para 29 of the writ petition is emphatically denied. This is no intention of

Contd.. 87-

Recd. -

A-47
S/

any of the opposite party to appoint person of their choice. The services of the petitioners were discontinued only due to their conduct and in case any fresh Casual Labours will be appointed, he will be appointed by holding a test and interview and after calling candidages from the employment exchange.

16. That the contents of para. 24&25 of the W.S are wrong hence denied and in reply it is submitted that the petitioners have no right to press or compell the authorities for their continuance as Casual Labours or abrobtion in Group D. There is no circular or direction of the higher authority that all the Casual Labours should invariably be continued or absorbed in Group D.

17. That in reply to the contents of para 26 and rounds taken their in it is submitted that the Writ petition of the petitioners is premature as their services were not terminated at the time of filing Writ petition. The grounds taken by the petitioners are unfounds and frivolumns. The same are not enable in the eyes of law.

18. That the petitioners are not entitled to the relief claimed and the Writ Petition is liable to be dismissed with cost to the apposite parties.

Keum -y
Deponent

Continued on next page

A-450
S/9

Verification

I, the above named deponent do hereby verify that the contents of para 1 & 2 of the Affidavit are true to my personal knowledge and those para 3 to 18 of the affidavit are true on the basis of information as received by official records and legal advice. Nothing material has been concealed, so help me God.

Signed and verified on this 15th day of Nov. at Lucknow.

Kamal
Deponent.

I, identify the deponent who has signed before me.

V.K. Chaudhary
Advocate,

Soememnly affirmed before me on at 5.55 a.m/p.m. by the deponent who has identified by Sri V.K. Chaudhari Advocate High Court.

I have satisfied my self by examining the deponent that he understands the contents of this affidavit which have been read out and explained by me.

Signature
(Oath Commissioner)

50/1071-
15.11.85

Annexure C-1

Pages 253 to 255, Appendix 12:-

For the existing Part-II substitute the following:-

Rules of Recruitment to Class-IV posts in the scale of Rs 70-1-80 EB 1-85 in all branches of the Indian Posts and Telegraphs Department

GENERAL

1. SCOPE OF SERVICE:

Persons are recruited for service within a particular unit i.e. a sub-division or LSG Office or H.O in case of Postal Dn. They are ordinarily able to transfer within the unit for which they are recruited, but in the interests of service they may be transferred at any time elsewhere.

2. AGE LIMIT AND SPECIAL REPRESENTATION:

Unless otherwise specified in any particular category, a candidate should not be less than 18 years and not more than 24 years of age on the first July of the rectt. year. The ~~maxmum~~ max. age limit will be relaxed for scheduled caste and scheduled Tribe candidates and other special categories as may be prescribed from time to time. The appointment of outside candidates will be made subject to the strict observance of the orders in force at that time regarding special representation in services.

3. SECURITY:

Officials will have to furnish security as may be prescribed from time to time.

4. PROBATION:

All candidates will be on probation for a period of two years. Any candidate, outsider or departmental, who is considered unsuitable during the period of probation is liable to be discharged from service or reverted to his former post.

SECTION I SUBDIVISION UNITS

5. TEST CATEGORY POSTS:

Vacancies in Class-IV test category posts in each year in all branches (Postal, RMS Telegraphs and Engineering) of the Indian Posts and Telegraphs Department other than those mentioned in section-II will be filled from among the qualified boy peons available in the recruiting unit at the time of selection, however certain vacancies of a year are left unfilled after providing all qualified boy peons, the same may be filled up from among the categories specified and in the order indicated below. Recruitment from the next category is to be made only when there is no qualified person available in any of the higher category or categories.

- (i) Non test category class-IV staff
- (ii) Extra departmental agents
- (iii) Casual Labourers
- (iv) Part Time Casual Labour
- (v) Nominess of the Employment Exchange

The manner of selection from each category is mentioned below:-

(a) QUALIFIED BOY PEONS:-

Age at the time of appointment should not

Contd. 82/-

Name -

be less than 18 years. A qualified boy peon will be eligible for appointment within the same branch in which he is engaged to any class-IV post in the test category in any one recruiting unit within the same divisional area in which he is serving. Qualified boy peons of the same unit shall have preference over those of other units qualified in the same year. As soon as a boy peon qualifies for such appointment, he will himself apply through the officer under whom he is serving to the appointing officer of the recruiting unit of his choice or appointment to any of the class-IV posts in the test category. The officer under whom he is serving will note in the register of selected qualified boy peon candidates the number, date and address of the letter forwarding the application, the date of passing the test and the number of marks obtained the appointment officers concerned will ~~register~~ register the applications of the qualified boy peons and inform the letter through the officers by whom their applications were forwarded that their applications have been registered. The qualified boy peon subsequently changes ~~mixt~~ his mind and applies for promotion to some other recruiting unit within the same divisional area, the request may be granted with the concurrence of the appointing officer concerned, i.e. the one under whom he now elects to serve. In that case his name will be ~~removed~~ from the waiting list of the recruiting unit previously elected by him and he will be treated as if he had not previously applied for a class-IV posts.

If the number of qualified boy peons exceeds the number of vacancies available in a year, those qualified boy peons who can not be provided against the posts will be born on a waiting list for appointment against vacancies arising next year and no recruitment from any of the other four category mentioned in para-5 above will be necessary.

No waiting list in respect of the other categories mentioned in para-5 to be maintained under any circumstance.

NOTE: Candidates for appointment as telegraphmen are required to possess bicycle of their own and to maintain the in serviceable condition for the due performance of the duties required of them.

(b) Extra Departmental Agents: For eligibility to take the Extra Departmental Agents should have put in three years of continuous service and should be below 40 years of age on the first July of the year in which recruitment is to be made. EDAs discharged from service not more than one year before the last date for the submission of applications for examination/appointment are also eligible, provided, they have rendered years service and are below 40 years of age and had been discharged from service on account of departmentalisation of the post office or upgrading of posts. They will be selected and appointed upto the number of vacancies in the order of the rank in which they passed the literacy test prescribed for boy peon in rule. of part-I above. ordinarily the selected EDAs may be appointed in the test category class-IV posts in their turn, only when there is a clear vacancies. However, if any selected EDAs wishes to be appointed in a short time vacancies, he may be appointed against a vacancy provided he provides a substitute at his own risk and responsibility for the ED Post for period he officiates in the class-IV posts.

Contd....3/-

Con't

45 in case of S/ST - 60/24/73 SPB-I dt. 23.8.73 concession of 5 years relax of age also applicable to EDAs who are deaf or orthopartically handicapped W.C.D 34/260/73 SPB-I dt. 20.9.74

(c) NON TEST CATEGORY CLASS-IV STAFF:

For their eligibility to take the test there is no maximum age limit. The officials will be selected upto the number of vacancies in the order of merit in which they pass the literacy test. After selection the interse seniority of the selected officials will be re-arranged according to the length of service in the non-test category class-IV for the purpose of appointment to test category class-IV

(d) CASUAL LABOURERS:

They will be selected and appointed upto the number of vacancies in order of merit in which they pass the literacy test they will be entitled to the benefit of having the services rendered by them in the ratio of deducted from their age at the time of absorption in a regular post as outside post for arriving at the maximum age limit of the 24. All broken periods of service rendered by the Casual Labourer shall be taken into account for this purpose provided at least one spell of service among the broken period is more than six months. They should, however apply through the Employment Exchange, if they were originally not employed through that agency and should have at least two years continuous service from the date of registration with the employment exchange.

(e) The interse seniority of the approved outside candidates of the same year will be determined according to the order of merit in the competitive literacy test/interview, as the case may be. When two or more candidates are bracketted together, their age will determine their inter-se seniority i.e. the older candidate will rank senior.

(f) Nominess of the employment exchange

They will have to the literacy test and will be appointed upto the number of vacancy in the order of merit.

NON TEST CATEGORY POSTS:

The recruitment will be by means of an interview by the divisional officer concerned. There is no literacy test or educational qualification for the recruitment to the class-II non test category posts. However persons who are to primary school standard will be given preference, other things being equal. The posts will be filled from among the categories specified and in the order indicated below. The recruitment from the next category is to be made only when there is no person available in any of the higher category/categories

- i) Unqualified boy peons who may be suitable for this post.
- ii) EDAs possessing sufficient knowledge of the post concerned and who have put in one year of continuous service and are below 40 years of age on the first January of the year in which recruitment is to be made.
- iii) Casual Labourers.
- (iv) Part-Time Casual Labourers.
- (v) Nominees of the Employment Exchange.

7. The selection of the candidates for the vacancies in all the units of the posta, R.S, Telegraph and Engineering divisions will be made by the divisional officers concerned. Presidency Postmasters or gazetted officer Incharge of telegraph offices will, however, select the candidates there in

Contd...4/-

Kamal

as recruitment in their own units is concerned. All orders of appointment will be issued by the competent authority concerned. As far as possible, the candidates should be allotted to the situated near their home towns. At the time of calling for outside candidates, references should be made to all the employment exchange over all throughout the division and not merely to the Exchanges situated in the headquarters of the division. In the R.S the Supdt. concerned should address the employment exchange in all the states or distt. concerned if his dn. extend over more than one state or distts.

CHARGEABILITY OF DUTIES OF TEST CATEGORY OFFICIALS:-

The duties of all class-IV belonging to the test category in a unit are chargeable within the unit as and when the exigencies of service are

REFERENCE IN SPECIAL CASES AND BONUS MARKS:-

Making selection of candidates for recruitment to Class-IV posts, things being equal:-

- (i) Preference should be given to the candidates who are willing to go on field service in the Army Postal Service provided they are found medically fit according to the standards of the APS which will be conducted before their actual appointment.
- (ii) A Bonus marks upto a max. of 5 may be given to sports qualifications to candidates recruited through competitive literacy test.
- (iii) A bonus of 5½ marks may be given to all qualified candidates for recruitment to class-IV test category posts. All promotion or outsiders, who know cycling and marks may be added to the total marks obtained by them in the literacy test. The test to judge the knowledge of cycling should be conducted at the place where written test is held. This rule is not applicable to the recruiting units where bicycles can not be used.

10. SENIORITY:

The seniority of the officials of the various categories will be decided in accordance with the order in which their selection is made inter-se seniority will be determined as follows:-

- i) Boy Peons :- The order in which their applications for recruitment to test category Class-IV posts were registered by two or more qualified boy peons apply on the test their interse seniority will be fixed according to length of service as boy peon.
- ii) EDAs :- Order of merit in the test.
- iii) Non test category officials :- Length of service in department.
- iv) Casual Labourers :- Order of merit in the test.
- v) Part Time Labour Order of merit in the test.

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Name

vi) Outside candidates: Order of merit in the competitive test. When two or more candidates are standing equal together, their age will determine inter-se seniority the older candidates will rank senior

Note: Not-withstanding the provisions of the above rules, if the candidate the waiting list of the recruiting units volunteer for Postal Service, they will be appointed to class-IV posts irrespective position in the waiting list and deputed to the A/S posts found fit according to the medical standards of the APS to be held before appointment.

SECTION II CIRCLE AND ADMINISTRATIVE OFFICES:

II) In the circle and Administrative offices recruitment of the posts will be made from amongst the numinees of the employment

EDUCATIONAL QUALIFICATION:

For the posts of Peons and Packers the candidates should possess the numinees educational qualification of a pass in the Middle school or its earliest examination of a recognised school. The following categories are ~~xxx~~ exempted from this qualification

- i) retrenched permanent displaced government servants.
- ii) retrenched temporary employees(displaced as well as central) who have put in a minimum of three years service before termination of their services.
- iii) Person demobilised from Army after having put in 3 years service and
- iv) demobilised personnel employed in the civil department whose total length of service in the Army and the civil department is not less than 3 years.

The selection for these posts will be made by means of an interview from amongst candidates possessing sufficient knowledge of the trade concerned. No minimum educational qualification or test is prescribed for recruitment to such class-IV posts in the circle and administrative offices which are included in the non test category of class-IV posts in subordinate units. However, persons who are of primary school standard will be preference, other things being equal. The official working in these units will not be appointed to the class-IV posts referred to in para 12 unless they are the requisite educational qualification of a pass in the middle school

Committee of selection:

Selection from amongst the eligible candidates to all class-IV posts may be made by the selection committee as stated below:-

Circle Offices: Deputy Director/Asstt. Postmaster General/Asstt. Director Incharge of staff selection and two other officers of the circle office to be nominated by the Director Incharge of the Circle Office.

Telephone Distt. Appointing authority and two other gazetted officers nominated by the head of the Distt.

Chief Controller: Appointing authority and two other gazetted officers nominated by the CC of Telegraph Stores Calcutta

Additional Chief: Appointing authority and two other gazetted engineer T&D officers nominated by the Additional Chief Circle, Jabol- engineer pur

Contd..6/-

Item 4

(e) Chief Accounts officer, Telegraph Stores and workshop Calcutta. Accounts Officer and two other gazetted officers nominate by the Chief Accounts Officer

(f) P&T Training Centre Saharanpur i) Principal
ii) Vice Principal
iii) Administrative Officer.

(g) General Manager Electrification Circle Calcutta-27 Appointing authority & no other gazetted officers nominate by the G.M. Electrification Circle

In making the selection, preference will be given to the following categories in the order indicated below:-

i) Candidates who are willing to go on field service in the Army Postal Service provided they are found medically fit according to the standards of the APS which will be held before appointment.

ii) Candidates possessing sports qualification

iii) Candidates knowing tailoring, painting, carpentry etc. appointments to class-IV posts in the Postal Stock Store depots.

The selected candidates will be brought on the approved list in order of merit judged by the committee and appointments will be made on the appointing authority.

Note: In the exigencies of service if the candidates already on the waiting list volunteer for service in the APS. They may be appointed to Class-IV post ~~xxx~~ irrespective of their position in the waiting list and deputed to the APS provided they are found medically fit according to the standards of the APS to be held before appointment.

Kamal

Bikram
HOD/ENCL
ADM/ENCL

~~SO/LOZL~~
~~15.11.65~~

Part of American C-1

Copy of DG P&T, New Delhi letter no. 45/13/72-SPB-I/Pt) dt.
29.6.73 to all Heads of Circles etc.

Sub: Rules of recruitment Class-IV

I am directed to say that at present as per provisions contained in part-II Appendix 12 of P&T Man. Vol-IV the test category Class-IV posts are filled up in the following order or preference:-

- a) Boy Peons
- b) E.L Agents
- c) Casual Labour
- d) Non test category class-IV
- e) Part time casual labour
- f) Outsiders through Employment Exchanges

The question of giving higher preference to non-test category class-IV over Extra. Departmental Agents in the matter of their absorption in test category class IV posts has been under consideration for some time past. The Govt. have now decided that vacancies in class-IV test category posts in each year in all branches of the department will hereafter be filled up in the following order of preference:-

- a) Boy peers
- b) Non test category class-IV
- c) ED Agents
- d) Casual labour
- e) Part time casual labour
- f) Outsiders through the employment exchange.

It is requested that the above instructions may be kept in view while filling up vacancies in class-IV test category posts in future and these instructions should be strictly followed.

No. STC/R-39/5

dt. at Lw 226001, 10.7.1973

Copy forwarded to all SSPDs/SPDs/PIs Grade A/SSSTS/ in UP
DEST and DEs Phones Buptd.I/C CTC Agra, Post Master Circle
Kanpur/Lucknow/Lacknow, Supt. Postal Stores Depot, Lucknow
for information and guidance.

5d/-

(T.N. SAXENA)
For Postmaster-General, U.P.

1400-1

Main Copy

A-46

14/4/88

In the matter of the Central Tribunal, Application No.

14/4/88

Case No. 10, 1760 of 1987 (Rejoined with Petition
No. 9741 of 1985 from the 1986 High Court
Bucknowalatih)

Rajesh Chandra Tiwari & others - - - - - Applicants

versus

Union of India & others - - - - - Respondents.

Request for taking rejoinder affidavit on record.

The Hon'ble Chairman and other companion members.

The petitioners respectfully prayed as Under:-

1. That the above noted transfer application
in the hearing mentioned was transferred from Hon'ble
High Court Lucknow Bench. It is stated that the
copy of rejoinder affidavit had been served
upon to the council of opposite parties on behalf
of Union of India on 14/4/86 SC.11.1985. It is also
stated that although the Central Tribunal Act
of 1985 came into existence and the above said
case was filed by the petitioner transferred to this Hon'ble
and
Tribunal/ the same has not been filed in due time.

2. That the petitioner came at all the hearing
of the case on 14/4/88 and found the list of cases
been re-dictated i.e. 1760/87. Thus this application

-: 2 :-

for making request, that the rejoinder affidavit may kindly be taken on record.

- P A Y A D H -

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may please be allowed this application and the rejoinder affidavit may kindly be taken on record in the interest of justice.

(Rajesh Chandra Tiwari)

applicant.

(Rajesh Chandra Tiwari)

(Allahabad)

14.4.1989.

High Court
Rajendra
Tiwari
for Plaintiff

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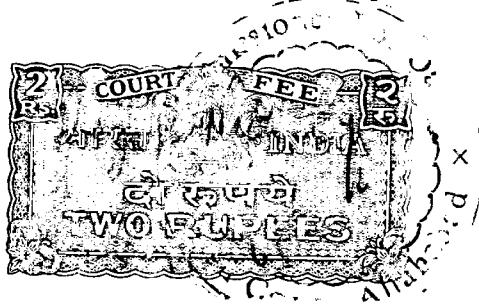
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW DIVISION

UNITED STATES, 1971-1975
✓
Rosh Chander Teuvi, etc. Petitioners

vs. 30

Union of India, etc. Petitioners

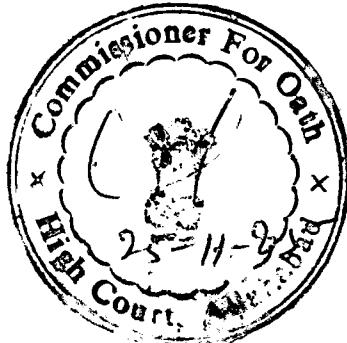
1985
AFFIDAVIT
95
HIGH COURT
ALLAHABAD



REJOINDER AFFIDAVIT OF ROSH
CHANDER TEUJI, etc. Petitioners
vs. The Petitioners.

I, Rosh Chander Teuji, aged about 25
years, son of Rosh Chander Teuji, Resident of
242/17 Sector 101, Village Govt, Lucknow do hereby
solemnly affirm and declare as under:-

- a. That the Plaintiff is the petitioner
in the above suit before this Court
also on behalf of all the
petitioners.
- b. That the Plaintiff has read the CM's
filed by the defendant in the suit with stay application
and affidavit and documents enclosed and fully under
stood with the help of the learned counsel, fully
discharging the Rejoinder affidavit.
- c. That the contents of para 1 and 2
of the affidavit are true to the best of my
knowledge and belief.



Rosh Chander

5. That the contents of para 2 of the S.A.I.S. as alleged in para 1 of the plaint and para 2 of the plaint and para 1 of the plaint as contained in the plaint are not correct. This is in view of the fact that the parties have not really engaged as contractors in the importation according to the contract, but as a result, even after importation, which the parties have agreed to pay only 10% payment to each other, it is a fact that the contractors of the said importation are not engaged as contractors but in the importation and do not benefit in the said importation. That is to say, the contractors are not engaged to import through the importers and by virtue of such importation, the contractors are not engaged to benefit in the importation of the said importation, which is legally entitled to be imported under the said laws.

6. That the contents of para 4 of the S.A.I.S., it is found that the plaint as alleged has misstated facts entirely and those of para 2 of the said plaint is not correct as reported. This is mainly because according to the said position of facts in the plaint, the foregoing parts of this complaint that the contractors are engaged in the said importation. This is notwithstanding the fact that it is clear that the contractors have no right to import in the eyes of law. It is further found that the contractors have not engaged in the importation in the said importation.



(3)

and also alleged to file in Annexure No. 1 to this affidavit, apart that the paper has not been filed and the opposite parties under para 4 of their C.I.M.S transferred the ~~obligation~~ ^{with} to this Hon'ble court to produce the necessary documents by order or direction of this Hon'ble court. These such conditional ~~assent~~ ^{with} of this Hon'ble court is highly wrong and ought not to be done in the eyes of law.

7. That the content of para 5 of C.I.M.S as alleged is wrong and is thus brought. The wrong interpretation made by the opposite parties relating to filing notice of suit as prescribed in rule 46 of rules 1901 of the C.I.M.S and those of para 3 of the 1960 Regulation is also correct. The petitioners were held according to the admissible rule entitled to the 45 days. Thus the opposite parties have no right to say in this regard above brought.

8. That the right of para 3 of the C.I.M.S is alleged as unauthorised under and thus of para 3 of the 1960 Regulation is also correct. The petitioners have to file more than 120 days service in the court of Court Magistrate. Thus by virtue of undated 100 letters issued due to which they are held liable to be recognized in class 101 posts. It is also very pertinent to mention the City of Dharwad circular filed along with 45 para 101 there is a such condition laid down for the 1st quarter of a day in the administrative and judicial. The 1st quarter of a day



Prakash Chaitanya

(4)

of length of punishment & after they are in
service cannot resign in the form & can also
resign in the discharge status, he is instead to
resign for their service & in the form
which they had informed to the Army before
definitely taking up work for general service.
To show only the specific intention of Opposite
Party No. 2 with the petitioner. It is further
stated in this regard that it is not so. 2 is the
mandatory circular dated 18th October, 1983. The
latest authority which will furnish the petitioner
after no such condition can be imposed or alleged
in such circular relating to departmental examination.
In fact during the year 1982 the Government with
reference to provide the facility for annual indoor
examination, they have to do so in the
month of April and issued a circular dated 10th April,
after consulting the Ministry of Defence in the department.
This type of circular orders that this regard prior
to this is not now to submit a defense and the
Circular is so. 2 of the Ministry provides maximum
supplies to the department, so that the Opposite
Party No. 2 definitely had a specific intention
against the petitioner. Upon consulting the
ministry regarding the same, the said
of the petitioner, which is ~~not~~ ^{required} in a
form which has been given in the circular. 2 of the
Ministry is that the date of the examination
is 10th April 1982, the petitioner can file a
complaint.



pb2

(5)

of the CLAIS included E.D. employees along with
petitions. This is also not tenable and denied. The
Anwazura No. II of plaint petition did not
say anything except to enquire wazoor and no detail
the records of the petitioners shall govern according
to the latest position and the condition of the
examination etc, is not applicable for the petitioners
as the incumbents who have completed more than 1200
days in their capacity. In fact these are all the
~~Condition~~ ^{Condition} which only be applicable for those incumbents
who has been appointed through employment
exchange and not transfer. The petitioners are solely
govern with the Interrogation of para 4 by the
appropriate authority. The Anwazura No. 2, 4 & 5 of
the plaint petition.

So that the content of para 7 of the plaint
petition as alleged is wholly wrong hence denied
and that of para 7 of the plaint petition be re-interpreted
as correct. Plaintiff for (1) of para 7 of
CLAS the employment term mentioned in the above
terms of this petition and para II of para 7 of the
CLAS as wholly baseless and baseless allegation
against the petitioners hence denied. The allegation
wrongly imposed on the petitioners relating to non
payment taken by the petitioners is also wrong and
denied. That of all it is narrated with the
petitioners committed no fault in excess payment
to any one been paid through the attestation of male
agent, manager or employee. All the duties done by
the petitioners have been duly performed by the
authorities, the agent of which has got sum of
Rs. 100/- to 150/- the sufferer of the petitioners



Kageshwaran

4) 63

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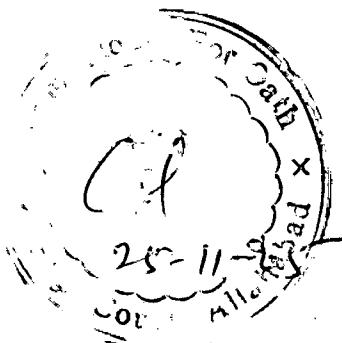
19. Febr. 1940

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(7)

not
 in the news/pressing and one of the person namely
 Sri O.P.Pandey has again been engaged after passing
 the impugned order ^{against} to the lit petitioners. The Opp.
 Parties under malafide intention have also alleged
 that the petitioners committed misconduct involving
 moral turpitude. This allegation particularly
 against the petitioner is nothing in the eyes of law
 except to false slay him. No such criminal case
 against the petitioner is pending. Thus the foundation
 what ever alleged is not sustainable without
 providing any opportunity or enquiry against the
 allegation. The contention of the Opposite Parties
 that the petitioners were not terminated and only
 their engagement was suspended temporarily till the
 completion of the departmental enquiry is also
 wrongly alleged because no such departmental
 enquiry either pending or starting or contemplating
 against the petitioners and the contention of the
 Opposite Parties that any enquiry is still pending
 against the petitioner is highly illegal without
 any basis. The case of excess payment in the
 department of about 46 persons is also not a new
 case and 1½ years back the said such occurrences were
 done through the mail agent. The petitioners in
 similar situation cannot be punished in such way
 and the foundation and allegation what ever alleged
 are entirely wrong, not sustainable in the eyes of
 law against the petitioners.

Zfaulzeen



(3)

10. That the contents of para 8 of the Circular
as alleged are wrong. Under Article 5 those of para
8(1) of the writ Petition be considered as correct.
The Annexure No. XI of the Writ Petition. The latest
directive issued by the appropriate authority is filed
supporting to petitioners case relating to regularization
of Group 'D' posts being qualified candidates
according to law. It is further surprising that the
Opposite Party No. 4 who issued this affidavit has
said that the Annexure to para 8 of the Petition is
not mandatory. It appears that deliberate intention
of Opposite Party No. 4 to ~~cancel~~ ^{wish to cancel} the order issued
by the higher authorities. Equally it appears,
a maleficent intention of the petitioners.
In the said circular filed Annexure no. 2
to the writ petition no such ~~intention~~ ^{Condition} of departmental
examination for regularization of petitioners
in group D post, and that over the procedure
laid down the petitioners are fulfilling. Thus
the intention of the Opposite Party No. 4 is totally
against the petitioners.

That the contents of paragraphs 2 and 3 of the CL/TS
as alleged in those before mentioned and those of para 4
of the Joint Petition hereinabove cited are correct.
By virtue of Imperial Order, the services of the
petitioner have till date been disengaged from
employment for committing ^{repeatedly} ~~repeatedly~~ as a heretic.
To this regard, it would also be taken note that
the impugned order dated 27.3.88 filed as Annexure
to the TII to the Joint petition has been born in
the impugned ^{order} of the 8th March 1988.

clerk on same day. This mere communication made by Sri R.S.Shukla also showing the arbitrariness of the order passed by incompetent authority without any notice or any pay in lieu thereof. Thus the such type of impugned order issued by an authority who is totally incompetent is a void order liable to be set aside. It has also wrongly alleged by the Opposite Parties that any enquiry in progress relating to default payment against the petitioner and all the allegation are quite wrong baseless and illegal. It is further surprising that after the impugned order Annexure No. 3 to this Writ Petition and after the ~~stay~~ stay granted by this Hon'ble court, the Opposite Party No. 4 has again prepared the termination order against the petitioners. This intention of the Opposite Party No. 4 is entirely an admission of a guilt which is contempt of court, dishonouring the order of this Hon'ble High Court deliberately.

12. That the contents of para 10 of the CAMS as alleged are ~~some~~ lines denied and those of para 9 of the writ petition be reiterated as correct. The petitioners have already completed the existing days of more than 1200. The vacancies ~~now~~ for regularisation in the department in group 'D' post are still existing. Thus the impugned order of Annexure No. 3 to the Writ Petition is highly illegal violating mandatory provision of circulars along with principle of natural justice and void ab initio, as none of the departmental criminal proceedings against the petitioners are pending.



Logistic for Court

(10)

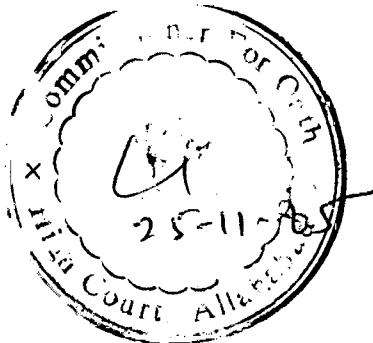
13. That the contents of para 11 of CA/IS as alleged are wrong & misrecd, hence denied and those of para 10, 11, 12 of the writ petition are reiterated as correct. It is surprising that Annexure No. 4 & 5 of the circular supporting to petitioners written have also been denied by the Opposite Parties, while there are all the mandatory orders issued by higher authorities of the department. It is further admitted of guilt of contempt ^{of Court} alleged by the Opposite Parties that the formal orders of termination of the petitioners have been prepared after granting the stay order by this Hon'ble court, with intention to serve upon the petitioners. This is clear admission of the Opposite Parties proves further malafide intention admitted contempt of court and the Opposite Party No. 4 the more the prima facie it is liable to be prosecuted in this regard. It is further stated that the Annexure No. 4 & 5 of the writ petition are latest circulars of dated 1.10.84 and 12.2.85. The Opposite Parties did not follow the provision laid down in said circulars during the time when the impugned order has been passed after filing the writ petition by the petitioner. The Opposite Parties now are in obligation to rectify the defect of their own order which is also against every man of rules & practice & therefore contempt of this Hon'ble court is clearly which the petitioners are committing on this article. Thus the contention of the Opposite Parties is not tenable.



Re: Sub Chaudhary

(11)

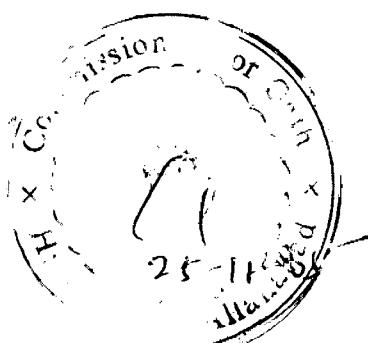
That the contents of para 12 of the CA/WS as alleged are wrong hence denied and those of para 13 of the writ petition be reiterated as correct. The petitioners ~~now~~ were completed more than 1200 days required for regularization in group 'D' post thus they are suitable candidates for said regularization and as such in contention to end the services of the petitioners by Opposite Party No. 4 is highly discriminatory and unjust. So far circulars issued by the appropriate authorities exempted the petitioners providing relaxation for age limit in regularization. Thus the contention of Opposite Party No. 4 by virtue of this para is also ~~discreet~~ ^{classless} in order of the higher authorities. The further contention of the petitioners that the termination order against the petitioners were prepared by Opposite Party No. 4 after passing the said order by this Hon'ble High Court on dated 18.6.85 is an admission of guilt to act against the petitioners and also against the order passed by this Hon'ble High Court. The Opposite Parties mostly the Opposite Party No. 4 who sown the affidavit submitted CA/WS on behalf of other parties also made a request from this Hon'ble court to allow him to serve the valid termination order after rectification of a factual error made in the impugned order challenged through this writ petition. This intention of Opposite Party is nothing in the eyes of law except in leading action against the petitioners and also for dishonoring the order passed by this Hon'ble court.



Syed Chaudhary

(2)

15. That the contents of para 13 of the C / S as alleged are being hence denied totally and those of para 14, 15 and 16 of the writ petition be reiterated as correct. The fact para 11 of the C / S is not a reply of para 14, 15 & 16 of the writ petition and the Opposite Parties made ultra allegation against the petitioners by saying that the departmental proceedings against the petitioners were being conducted. In this regard, it is stated that the Opposite Parties in their C / S one way they are saying that the departmental proceedings is being other way they are saying that it was going to be conducted. Not only this, but it is also alleged that the Opposite Parties are ready to produce the enquiry report against the petitioners before this Hon'ble court. This all contradictory facts against the petitioners alleged by the Opposite Parties. In thing in the eyes of law except to harassment and to make obligation ~~from~~ ^{on} to the Hon'ble High Court. This point, the C / S that ever filed in directive language is not sustainable in the eyes of law. The other contention of the Opposite Parties that the writ of the petitioners is premature ~~are also~~ ^{and} not tenable. The writ petitioners preferred this writ petition before this Hon'ble court after challenging the validity of Annexure no. 3 which is a matter of various legal grounds. This writ petition is maintainable liable to be allowed and the contention of the Opposite Parties is not tenable in the eyes of law. The writ petitioners also made their contention that the writ of the petitioners



Rosh Chaitanya

A 570

any response only in view of clafide intention.

16. That the contents of para 14 as alleged are not correct hence denied and those of para 17 to 22 of the writ petition are reiterated as correct. The petitioners have already completed more than 1200 days in capacity of casual labour and they are legally deserving to be regularised in group 'D' post which has not been done by the Opposite Party No. 1 and by virtue of the impugned order Annexure No. 3 to the writ petition, the services of the petitioner came to an end by ^{an} arbitrary order. It is further stated that the Opposite Parties have filed a copy of rule along with C.M./S which is only applicable to those candidates who engaged newly through employment exchange for further regularisation in group 'D' post. So far as the concerned of petitioner's matter the petitioners are working since 1978, continuously in the department thus in case of the petitioner the latest circular filed along with writ petition will apply. It is also stated that the writ petition has been preferred challenging the validity of the impugned order and as such the contention of Opposite Parties are not tenable according to the circumstances. The Opposite Parties have further committed wrong in discriminatory treatment after regularising many junior persons than to petitioners. Not only this much but many junior persons also who have taken the excess payment by wrong committed by mail agent are also not in the service without punishment. The petitioners are only the unlucky persons.



S. Joshi (Handwritten)

who have been penalised under malafide intention by Opposite Party No. 4. The Opposite Parties wrongly alleged relating to conduct of the petitioners. This contention are having more support to petitioners being a statutory matter in which the protection of natural justice and opportunity was must. Thus the ~~lato~~ ^{lato} Simplicitor order to end the services of the petitioner is highly illegal ^{by} virtue of ~~lato~~ ^{lato} foundation given by Opposite Parties by virtue of length of service and seniority experience and qualification, the petitioners have their first legal right for regularisation than to others. The ^{Condition} ~~mention~~ of examination is not mandatory, criticism according to the latest circular issued by the authorities, the character of the petitioners have also been verified by local police. Thus in all regard the regularisation of their rightfull claim is must. The petitioners under para 22 of the writ petition have specifically mentioned the name of many juniors who are holding the post and retaining in service in similar situation like petitioners and no reply in this regard has been given.

17. That the content of para 15 of the ~~W.L.S~~ as alleged has emphatically denied and those of para 23 of the writ petition be reiterated as correct. It has been admitted by the Opposite Parties that the services of the petitioners were disbarred/ discontinued only due to their conduct. In this regard, it is also stated that the conduct of the petitioners not been verified by the



departmental enquiry nor any criminal case is pending. Thus the allegation against the petitioner is stigmatizing and impugned order is punishment.

18. That the contents of para 16 of the C.A/W.S as alleged are wrong hence denied and those of para 24 of the writ petition are reiterated as correct. In this regard, the above said paras of this affidavit may kindly be perused in the interest of justice as reply has already been given.

19. That the contents of para 17 of the W.S. as alleged are totally wrong hence denied and those of para 26 of the writ petition along with grounds mentioned be reaffirmed, as correct. The writ petition of the petitioners is not premature on the basis of legal grounds ~~as~~ ^{Challenged as} impugned order of this writ petition was preferred under Art. 226 of the Constitution of India, this Hon'ble court is competent to decide the matter on legal grounds after setting aside the impugned order.

20. That the contents of para 18 of the C.A/W.S as alleged are wrong hence denied and the said affidavit be also treated as the reply of application submitted by Opposite Parties along with application of stay vacation. As the fact and circumstances already narrated in the writ petition along with this affidavit, the Writ Petition ~~will~~ ^{can} be allowed with cost against Opposite Parties in the interest of justice.



Reyes Chaudhary

Place: Lucknow,
Date: 25/11/05

Reyes Chaudhary
DRAFT

(16)

VERIFICATION

I, the above named deponent do hereby verify that the contents of pages 1 to 20 of this affidavit are true to my knowledge.

Nothing material has been concealed, so help me God.

Signed and verified on this 25 day of November, 1985 at Lucknow.

Logesh Chandra Pandey
DEPONENT

I, identify the above named deponent who has signed before me.

R. B. Pandey
(R. B. Pandey)
Advocate

Solemnly affirmed before me on 25-11-85
at 12th A.M./p.m. by the deponent, ^{Smt. Shobha Chandra} who has identified
by Sri R. B. Pandey, Advocate, High Court.

I have verified by self by examining
the deponent that he understands the contents
of this affidavit which have been read out and
explained by me.

Chheda Lal
OATH COMMISSIONER



OATH COMMISSIONER
High Court, Allahabad
Law Bench
No. 35/105
Date 25-11-85

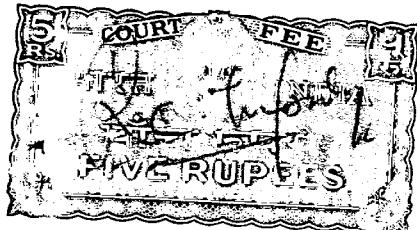
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH, LUCKNOW.

Writ Petition No. 2741/1985

Rajesh Chandra Tewari & others .. Petitioners

V. vs

Union of India & others .. Opp. Parties



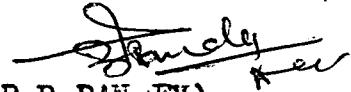
APPLICATION FOR CONTINUATION OF INTERIM ORDER PASSED BY THIS HON'BLE HIGH COURT

That in view of the fact and circumstances, already narrated in the writ petition along with its affidavit and annexures enclosed, it is most respectfully prayed to this Hon'ble ~~High Court~~ may kindly be continued the previous stay order already passed by this Hon'ble court after rejecting the vacation application moved by the Opposite Parties in the interest of justice.

Place: Lucknow.

APPLICANTS

Dated: 25/11/85


(R.B. PANDEY)
ADVOCATE
COUNSEL FOR THE PETITIONER

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench Lucknow

C.m. Application No. (w) of 1985

Senior Superintendent Railway Mail Service (O) Division
Lucknow. Applicant

Writ petition No. 2741 of 1985.

Rajesh Chandra Tewari Petitioner
& others

Vs.

Union of India & others Opposite parties.

Application for vacation, modification and
clarification of the interim order passed
in the above noted writ petition.

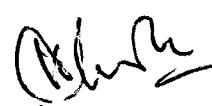
The applicant begs to submit as under:-

1. That for the facts reasons and circumstances
mentioned in the accompanying affidavit it is expedient in
the interest of justice that the applicant be allowed to
serve the order of termination upon the petitioner in
accordance with Rules and instructions.

It is therefore most respectfully prayed that
the interim orders passed in the above noted writ petition
be very kindly vacated or modified and clarified to the
extent that the applicant may terminate services of the
petitioner according to the conditions mentioned in the
circular letters dated 1-10-84 and 12.2.85 (Annexure Nos
4 & 5 to the writ petition.

Lucknow/Dated

16.11.85


(V.K. Chaudhary)
Advocate
Addl. Central Govt. Standing
Counsel
Lucknow Bench Lucknow.

AD26/

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

Writ petition no. 2741 of 1985

Rajesh Chandra Tewari & others... Petitioner

Versus

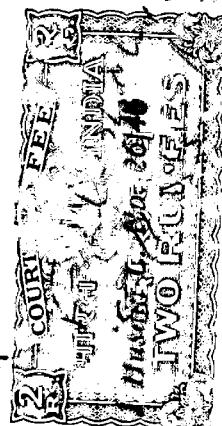
Union of India & others Opposite Parties

1985

AFFIDAVIT
30/6/85
HIGH COURT
ALLAHABAD

Affidavit in support of application for
interim order

I Kamlesh Chandra aged about 31 years, son of Late
Shri Baij Nath Kureel resident of B-204, Lalbagh
Complex, Lalbagh, Lucknow do hereby solemnly affirm
and state on oath as under:-



1. That the deponent is the posted as Senior
Superintendent, RMS 'D' Dn., Lucknow and has been
authorised by the opposite parties to file this
affidavit.

2. That the deponent has read and understood the
contents of writ petition stay application, Annexure
and Affidavit etc. filed by the petitioner as well as
the facts deposed to here in under:-

3. That the Writ petition filed by the petitioners
is premature as their services were terminated vide
order dt. 27.5.85 (Annexure no. 3 of the Writ petition)
but it was only a direction that they should not be
engaged till further orders. The petitioners who are
casual labours can not claim that they should
be appointed regularly.

4. That the order dt. 27.5.85 were issued due to
the fact that cases regarding false claim of wages by the
petitioner for the period during which they did not

Contd...2/-

Kamlesh

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• • 2 •

11. The 3rd and 4th articles are obviously out of place
as they do not fit in with the position of the Petitioner
as he claims. They do not fit in with the Petitioner's
position as he has not been granted any of the above
privileges and cannot be said to be ~~shameless~~.

12. The 5th Article is very odd in its tone. See
in particular Article 10 concerning the privilege of the
Petitioner in case he is in the state of grace in which
he is. It is strange that the Petitioner has no right to
use the privilege of the Petitioner ~~in~~ ^{most} these circumstances.
Nor is the Petitioner given any right of termination
in virtue of the 13th Article. In fact Article 13 - no date
is given to the Petitioner in this Article is ambiguous.

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French verbs

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concluded at 2 p.m. I & 2 of the said firms were true to my
portion of the work done on 24th 3rd of the firm
I was true on the basis of the firm. I believe the offici-
ated and am now in receipt of a copy of the same.
I am as per the sum.

was in the vicinity on 15th, 31 Nov. to 1st Dec.
Kennebunkport.

Alfred

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JKRan

وَمَنْ يَعْمَلْ مِنْ حَسَنَةٍ يَرَهُ وَمَنْ يَعْمَلْ مِنْ كُبْرَىٰ نَكَبَةٍ يَرَهُ وَمَنْ يَعْمَلْ مِنْ حَسَنَةٍ يَرَهُ وَمَنْ يَعْمَلْ مِنْ كُبْرَىٰ نَكَبَةٍ يَرَهُ

301104
15.11.85

24/11
(-23)

THE HIGHER COURT OF JUDICATURE

100, C. C. & C. C.

IN THE C. C. & C. C.

AT BOMBAY, ON 24/11/1988

APPEAL NO. 1 OF 1988
...Applicants

AND

...Respondents

RE: TO OBJECTION FILED BY C. C. & C. C. ON REVIEW APPLICATION.

RE:

THE HIGHER COURT OF JUDICATURE
AND OTHER
CONSTITUTIONAL JUDGES/MEMBERS OF THE HIGHER COURT.

THE HIGHER COURT OF JUDICATURE
AND OTHER
CONSTITUTIONAL JUDGES/MEMBERS OF THE HIGHER COURT.

1. THAT IN THE REVIEW APPLICATION FILED
BY THE APPLICANT THE RESPONDENTS HAVE FILED AN
OBJECTION ON THE POINT THAT THE APPLICANT IS
NOT THE PERSON WHO IS ENTITLED TO FILE AN
OBJECTION.

2. THAT THE OBJECTION FILED PURSUANT TO THE
OBJECTION IS NOT IN THE FORM HAVING BEEN DESIGNED OR
TAKEN OR PUBLISHED IN ACCORDANCE WITH THE RULES AND SECTION
20 IS NOT CONSIDERED AS CORRECT. THE OBJECTION OF THE
RESPONDENTS AS PER THE HIGHER SECTION 20(2)(F) OF
THE HIGHER COURT OF JUDICATURE ACT, 1925. THE
SECTION IS NOT CONFORMED TO THE HIGHER COURT ACT.

21/11/1988
Anand

Anand
Tiwari

by the judge in his capacity as a magistrate. In fact the order do not depend on ~~Section~~ 17 of the I.C. will apply in this case of the review application and accordingly the oral opinion of the respondent concerning the order/decision, and the legal and factual position the judge presented in the review application on behalf of the accused tribunal is well within the jurisdiction to review the matter and to refer back the same again. The ground taken in the review application is sufficient and covers the reasonable ground according to the order 47 rule 1 of C.R. I.C. Since the review application is maintainable and of legal merit at the time and the objections filed by the accused tribe is denied emphatically.

2. That the contents of paragraph 2,2425 of the objection in point 1 are hence denied by the respondent of the review application. It is crystal clear that the judgment in point 1 deserves to be reviewed after proper legal, legal and factual position. It is further stated that the review application is maintainable as several grounds are available to claim.

2nd ^{and} ~~and~~

Alvin
Gilingan

3. That the contents of paragraphs 3,767 of the objection as all right and proper since legal and those of point 2 of the review application are reiterated to extract. The comments of the respondent is well justified that there is no legal provision to initiate a criminal proceeding on the part of the respondent. The court must therefore

He is saying of the respondents that the departmental proceeding is not legal and sustainable. So far as the concern for the inspection of applicants of the registration ID of the crystal clear that in view of any decision held by the Hon'ble Supreme Court of India that in case in case with the length of service, notwithstanding the liability the applicants are entitled for registration on the ID posts. The concerned authority for making any examination etc. in registration of services it self came much up to them to entitlement of registration of the applicants. According to the relief sought the applicants are entitled for consideration of regularization on the ID with effect from 1982. In view of the case is already filed along with the writ petition in the subject matter of present application. This with the relief sought by the petitioners applicants are deserves to be allowed along with the present respondents. So far as the application is concerned, the unruled order that emanating the application itself speaks that by virtue of the ID the applicants services already come to an end which could not be said a mere cancellation of job etc. because in well settled view of law the registration requires certain mandatory information known as ID. Once allowed no one can challenge it in any court. In this case you consider only the respondents. As such the registration order is challenged to be set aside. Therefore.

(4)

objection of all the arguments hence referred and those of non-allowance of the review application are reiterated as appears. In the judgment which is subject matter of this review application is the legal or factual error which may into existence. It is opined that the relevant objection is maintainable and according to the answers sought deserves to be allowed.

Plaide: Lucknow

Dated: 26/11/88

Signature/Stamp
A.L.I.L.

11.10.1988

I, Nitin Bhupendra Tewari, aged about 28 years, son of Mr. Bhupendra Tewari, the agent of Shri D. B. Banerjee also on behalf of all plaintiffs at 212/17 Akbarpur, Lucknow, Uttar Pradesh, Lucknow do hereby verify that the contents of paragraphs 1 to 5 of this reply are true to my personal knowledge except the legal documents which are believed to be true, and that I have no suppressed any material facts.

Plaide: Lucknow

Dated: 26/11/88

Signature/Stamp
A.L.I.L.

7.3.7

(R.B. Banerjee)
Advocate,
Court of Session & Civil Litigants
212-Akbarpur Bhawan, Lucknow.

Shri S. S. Banerjee

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Circuit ALLAHABAD BENCH Lucknow.
23 A THORN HILL ROAD ALLAHABAD

Gandhi Bhawan Lucknow !!!!!!! Lucknow

No. CAT/ALLD/JUD/ 3356
Re: C.A. No. 44-8-788
T.A. NO. 176C OF 1987 (T)

DATED 13/10

Applicants'

V E R S U S

Union of India & Others. Respondents'

To Laxmi R.B. Pandey, Advocate

High Court Lucknow.

Sir K.C. Sinha, Govt. Advocate Flat No. 20 ADA First Ashok Nagar

Allahabad

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

Writ Petition No. 2741
OF 19 1988 of the

Court of High Court Lucknow
arising out of order dated
passed by
in

The Tribunal has fixed date
of 24/10/1988. The hearing
of the matter.

If no appearance is
made on your behalf by your
some one duly authorised to
act and plead on your behalf

the matter will be heard and decided in your absence.

12-10-88

GIVEN UNDER my hand seal of the Tribunal this

day of Kali Sankranti 1988

12/10/88

K.B. Singh
P.T.O. 2

DEPUTY REGISTRAR

J.K.S.
12-10-88