

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

FORM OF INDEX

D.A./T.A./R.A./C.G.P.T No. 395 1987  
S.D. Nigam (Dead) vs. N.O. (W.P. No. 2790/79)  
Through Smt. R. Nigam P A R T - I

1.	Index Papers	:- 1 to 2
2.	Order Sheet	:- 3 to 18
3.	Any other orders	:- —
4.	Judgement	:- 19 to 23
5.	S.L.P.	:- —

*20/3/1988*  
DY. Registrat

*1/1/1988*  
Supervising Officer

*30/12/1987*  
Dealing Clerk

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

*1/1/1*

Dealing Clerk

V.K. Mishra

(1)

ANNEXURE - A

CAT

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

INDEX SHEET

CAUSE TITLE 395 of of 1987 (T)

NAME OF THE PARTIES S.D. Nigam (dead) Through Sm-R. Nigam

Applicant

Versus

U.O.I & Others & Respondent

Part A, B & C

S. No.	Description of documents	PAGE
<u>A-File</u>		
1.	General Index	1
2.	Order Sheet	2-8
3.	Judgment	9-13
4.	Section	14-19
5.	Annexure	20-23
6.	Affidavit	24-25
7.	Counter Affidavit	26-34
8.	Annexure	35-41
9.	Rejoinder affidavit	42-46
10.	Power	47
11.	Supplementary affidavit	48-50
12.	Order Sheet of Hon'ble High Court	51
2	File - B	1-42
3	File - C	1-33

(3)

WBMS.  
One impressed Re 100. 00/-

Adhesive \_\_\_\_\_

Total Re 100. 00/-

orrect but final Court fee ~~report~~

will be made on receipt of lower  
Court record.

In time up to

Papers filed. Copy of ~~B. C.~~  
should also be filed.

Appeal - Bench.

Writ of Mandamus.

Quesad  
28/8/79

Revd (by)  
(Signature)

28.8.79.

No. MS. 3.

No. MS. 3.

Within the  
next week.

St. H.  
27 - Aug 29.  
R

(4)

Hon'ble T.S. Misra, J.  
Hon'ble K. S. Varma, J.

The petitioner has alleged  
that his representations made  
on 19/21st June, 1978 and on  
25.4.1979 have not yet been  
disposed of one way or the other.  
If that be so, the opposite  
parties 1 and 2 are directed  
to dispose of the said representations  
within six weeks.

List the writ petition in the  
first week of December, 1979 for  
further orders.

For Ks  
19.10.1979

ZMY

Hm T.S. Misra  
Hm K. S. Varma

Admit. Issue notice

For Ks  
19.3.1980

MAS

(5)

Revd Copy  
Muneeb  
19.2.80

Hon T.S. Miraj J.  
Hon K.S. Varma J  
\_\_\_\_

Put up on 22.2.1980

B.R.  
Z  
19.2.80

Orders passed  
on order sheet

B.R.  
Z  
19.2.80

Hon T.S. Miraj J.

Hon K.S. Varma J

Allowed as prayed. The  
amendments may be incorporated.

D.V. M

19.3.1980

AB

(6)

Date of death of P. 26.5.84

May 5

June 30

July 31

Aug. 23

89 days

Notice today:  
Vakalatnawa answered

9

By

23.8.84

Put up with the file  
List within three weeks  
for orders

✓

Ad. Regd  
23.8.84

By

(7) 59 2

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 2790 of 1979

v/s.

Dated of  
which  
case is  
adjourned

Date

Note of progress of proceedings and routine orders

1

2

3

Hon. Misra J.

Hon. Jha J.

list in the next  
week.

Sd: T.S. Misra

Sd: D.N. Jha

27-9-79

10.10.1979 fixed F.O

MS

10-10-79

Writ for orders

Hon. Misra J.

Hon. Varmen J.

The learned counsel for the  
petitioner prays for and is allowed  
time till 12.10.1979 to file a  
supplementary affidavit enclosing  
therein a copy of the leave order.

MS

10.10.1979

19.10.1979 fixed F.O

19-10-79

Writ for orders

Hon. Misra J.

Hon. Varmen J.

Set out petition in the  
first week of December 1979  
for further orders.

MS  
29.10.79

(9) 7/2  
(525)

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 2290 of 1979

25.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
6.2.80	Wait for orders Hon. Mere S. Hon. Varma S. S.D. 6.2.80	
12.2.80	Wait for orders Hon. H.S.S. Hon. Mathew S. S.D.	
19.2.80	Wait for orders C.M.A. for amendment filed on 19.2.80 Hon. Varma S. Put up on Friday the 22nd February, 1980 S.D.	19.2.80
22.2.80	Wait for orders with C.M.A. 801 (w) 100 Hon. Mathew S. S.D. 22.2.80	

## **ORDER SHEET**

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. \_\_\_\_\_ of 197

-vs.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
7-7-1980	JL	
	<p>Seen the office report to the effect that no process fee is needed as all the opposite parties are represented through Mr. B. L. Shukla, office to proceed</p> <p>SL</p>	
		7-7-1980

## ORDER SHEET

(12)

(2)

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## ALLAHABAD

T.A. NO. 395 OF 1987

S.D. Nigam vs. Union of India &amp; Others

SL NO of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
		<p><u>Office report</u></p> <p>W.P. 2790/79 has been received on transfer from Hon'ble High Court Luck. W.P. is admitted. CA and RA both have not been filed. W.P. regarding illegally realised the salary of the Plaintiff. Notices issued to both the parties on 22-9-87 by speed post. Non-delivered sealed cover has been returned back. W.P. is pending for orders.</p> <p>Submitted from J.S. (18/9/87)</p>	

T.A. No. 395/87.

(6) 18.12.87

Hon. S. Zahoor Hasan, V.C.  
Hon. A. Johri, A.M.

On the request of applicant  
 learned counsel fixed this case on 20.1.88

M.WB

V.C.

A.M.

(3) 20.1.88

Hon. S. Zahoor Hasan, V.C.  
Hon. A. Johri, A.M.

Due to illness of the  
 learned counsel for the applicant  
 the case is adjourned to 10.3.88

M.BW

A.M.

V.C.

10-3-88.

Hon. S. Zahoor Hasan, V.C.  
Hon. A. Johri, A.M.

Due to illness of the learned  
 counsel for both the parties  
 the case is adjourned to  
 10-5-88.

QW

A.M.

V.C.

M.M.

10/1/88.

Adj to 28.7.88.

J

Order Sheet

T.A. No. 395/87

(16)

OR Case has been seeing  
from Add on 5.5.87  
Neither reply nor  
Any rejoinder have been  
filed. Submitted to add

(15) 11/5/89 No Siting Adjourned  
to 3/7/89 for hearing/order

(6) 10/5

See

OR Case was adjourned  
to 3.7.89 for order  
Submitted for order

OR Neither counter nor  
rejoinder have been filed  
submitted for order

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

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

(16)

3/7/89

This is a C.M.Ap.No. 8866/84, for substitution  
of the widow, sons and daughter of the deceased  
applicant Shri S.D. Nigam.

The show cause notice was issued on 22-9-87  
to Opp.Ps. by registered post. There is no  
reply from the Opp.Ps.

The substitution application is allowed.  
A Vakalatnama was filed on behalf of Shri  
Ashok Mohile, Advocate. Neither appearance  
has been made nor counter affidavit has been  
filed on behalf of the respondents as yet.

Notice be issued to Shri Ashok Mohile at  
Allahabad to arrange to file counter affidavit  
on behalf of the Opp.Ps. by 31-7-89 and put up  
this case for orders on that date.

AM  
A.M.

V.C.  
V.C.

OR  
Notice issued  
Sh. 7/7/89

(sns)

31/7/89

Hon. Justice K. Nath, V.C.  
The learned counsel for the applicant is  
present. Counsel for the opposite parties is  
not present. One Shri G.K. Singh  
describing himself to be a clerk of  
Opposite party No. 3 is present and  
says that Shri Ashok Mohile has  
made a request for another date.  
The matter is already very old.

The opposite parties may arrange  
to file the counts within ten  
days. In case no count is filed,  
the case will be taken up for  
ex parte hearing on 11-8-89.

OR  
Notice issued to  
Shri Ashok Mohile, Adv.  
Neither reply nor  
notice have been return  
back so far.  
Submitted for order

Sh. 7/7/89

Counter filed today

V.C.  
V.C.

1  
9/8

Re

Clarke

(8)

(18)

9.10.75. Compulsory Return ~~Ex-1~~

Representatives.

2.12.77 - ~~Am I~~

Information & Ds. P.R. no. 201-1176-STN (Pt.)  
date 18.11.77, app'd remitted on demand

| the date he remitted. The authority  
| must fix the date of his return to the  
| office he works shall be replaced by giving  
| him leave or the term of leave at his desire."

Notices in case H.M.R. (29 H.R.) on no. 25013/14/2) dated  
27.1.78 para III(4) must be read as follows  
Copies of the 32nd & 33rd Vols:

Authority ordering remitted to replace the authority  
fixed "as duty, or as leave or as does now on the  
service, taking into account the wants of the case".

Notify no order to meet the demand even on given

1  
Speedy order.

(8)

(19)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

...

Registration T.A. No. 395-87(T)

S.D. Nigam (dead) through  
Smt. R. Nigam & others  
legal representatives ..... Petitioners

Vs.

Union of India & others ..... Respondents

Hon' Mr Justice Kamleshwar Nath, Vice Chairman

Hon' Mr K. Obayya, Administrative Member

(By Hon'ble Mr Justice Kamleshwar Nath, V.C.)

The above mentioned writ petition has been received on transfer in this Tribunal under section 29 of the Administrative Tribunals' Act No.XIII of 1985, for a direction to the Opposite Parties to decide the deceased applicant's representation against the order of compulsory retirement, to treat him on duty on reinstatement and to pay the entire salary and allowances legally due to the deceased petitioner.

2. The deceased Shri S.D. Nigam was a Clerk when he was compulsorily retired by an order dated 9-10-1975 under Rule 56 of the Fundamental Rules. He preferred a representation against the retirement order. By an order dated 2-12-1977 (Annexure-1), he was reinstated. According to the learned counsel for the opposite parties, the reinstatement was done on the basis of a change in the policy of the Government. Be that as it may, the order Annexure-1 purports to have been passed in pursuance of DGP&T order No.201-1/76-STN(Pat) dated 18.11.77. It mentions that the applicant was "reinstated in service from the date he resumes duty. The intervening period from the date of his retirement till the date

of his reinstatement shall be regularised by granting him leave as due and admissible at his credit."

3. The case of the deceased applicant was that he could not have been deprived of the leave which was at his credit without giving him an opportunity of being heard. The case of the respondents is that the reinstatement has been done under the policy of the Government and the consequences of the reinstatement were provided by the Government of India, Ministry of Home Affairs (D.P.& A.R.) O.M. No. 25013/14/77-Est.A dated ~~5-1-1978~~ 5-1-1978 Para III (4) as printed at page 446 of Chaudhari's Compilation of F.R., S.R. 9th edition Vol. I, Para III(4). It mentions that the authority ordering reinstatement has to regulate the intervening period (between the date of compulsory retirement, 9-10-75, and the date of reinstatement, 2-12-1977) 'as duty or as leave or as dies-non, as the case may be, taking into account the merits of the case'.

4. Admittedly no opportunity was given to the deceased petitioner to meet the proposed order of treating intermediate period as period of leave due.

5. The learned counsel for the respondents says that the entire relevant material for the purposes of considering the merits of the case was with the Department, and, therefore, the Department would have fairly passed an order about the manner of regulating the intervening period without giving an opportunity to the deceased petitioner.

(1) (21)

We are unable to agree to this proposition.

6. It would be noticed immediately that the Government orders contemplated three alternatives; (1) duty, (2) leave or (3) dies-non. Which of the three alternatives should be adopted in a particular case has necessarily a bearing upon the rights of the employee. On the matter of the merits of the case also, the employee is in a position to indicate what, in his view, could be the true position.

It is well recognised that deprivation of leave, is a deprivation of right to a property, because, leave is encashable. We think that since the decision of the competent authority, in these matters could lead to civil consequences for the employee, it was necessary for the opposite parties to give an opportunity to the deceased petitioner.

7. The learned counsel for the respondents refers to clause (JJ) of F.R.-56 and says that there a similar situation is contemplated. That, however, it does not make any difference because, neither clause (JJ) under F.R.-56, nor the Government of India's order aforesaid, speaks whether or not, any opportunity ought to be given : rule as well as order are silent on this point. The ordinary law of the land, therefore, should prevail; and the law is that, no order can be passed to the prejudice to a person affecting his civil rights without an opportunity of being heard. We are of the opinion, therefore, that the impugned order in so far as it directs the intervening period to be treated as period on leave due is invalid and must be quashed.

8. We thought that perhaps, we could require

the Department to re-hear the matter, after giving an opportunity to the employee; but, it is established that the employee is no more alive. The petitioners before us now are his legal representatives. They are at an obvious handicapped in explaining the merits of the case. Since the rules contemplates all the three alternatives, it would be fair in the facts and circumstances of the present case that the entire intermediate period may be treated to be on duty. The learned counsel for the applicants has relied upon a decision of Rajasthan High Court, in the case of Desh Rai vs. Union of India and others, 1984(1)SLR. 705, to show that in similar circumstances, the High Court held that no order for treating the intervening period as leave due could be made, after the reinstatement in service were made in favour of the petitioner. The High Court ordered the opposite parties to pay the salary and allowances admissible to the petitioner from the date of order of compulsory retirement till the date he was reinstated. It may be mentioned that the decision does not deal with the orders of the Government of India, which we are considering in the present case. Even so, we are of the opinion that having regard to the particular facts and circumstances of this case and the principles set out by the Hon'ble High Court Rajasthan, it may be fair to require the opposite parties to treat the deceased applicant as on duty, treating the period from 9-10-75 to 2-12-77 and pay all the benefits of salary and allowances and all other

consequential benefits to the present applicants.

9. In the result, the direction in the impugned order Annexure-1 to the petition dated 2-12-1977 to treat the aforesaid intervening period as leave due is quashed. We direct that the said period is to be treated as on duty and further direct the opposite parties to pay the salary and allowances for that period as well as such other consequential pecuniary benefits which may follow therefrom to the present applicants. The opposite parties will be at liberty to adjust such payments which may had been made to the deceased applicant in consequence of the directions contained in Annexure-1. The opposite parties will comply these directions within four months from the date of the receipt of the copy of this order.

Parties shall bear their own costs.

*Principles*  
MEMBER (ADMINISTRATIVE)

*Dr.*  
VICE CHAIRMAN

(sns)

January 4, 1989.

Lucknow.

(Chapter XLI, Rule 2, 9 and 15)

Nature and number of case..... 101. 27.9.0-29.

Name of parties..... S. D. Nijam. 18. Union of India

Date of institution..... 27.9.29. 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.		Writ, with Annex and affidavit	13.		10/- 00			
2.		Power	1-		5/- 00			
3.		Cost. Supplementary affidavit	3-		2/- 00			
4.		Cmta 881 (W) of 80	7-		7/- 00			
5.		Cmta 8866 (W) of 84	4,		7/- 00			
6.		Power	1-		5/- 00			
7.		order Sheet	3-		-			
8.		Print Copy	1-		-			

I have this

day of

197

examined

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 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.

Munsarim

Date.....

Clerk

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

2790

Civil Misc. Writ Petition No: of 1979.

S.D. NIGAM ... Petitioner,

versus

UNION OF INDIA

&

Others, ... Opposite Parties.

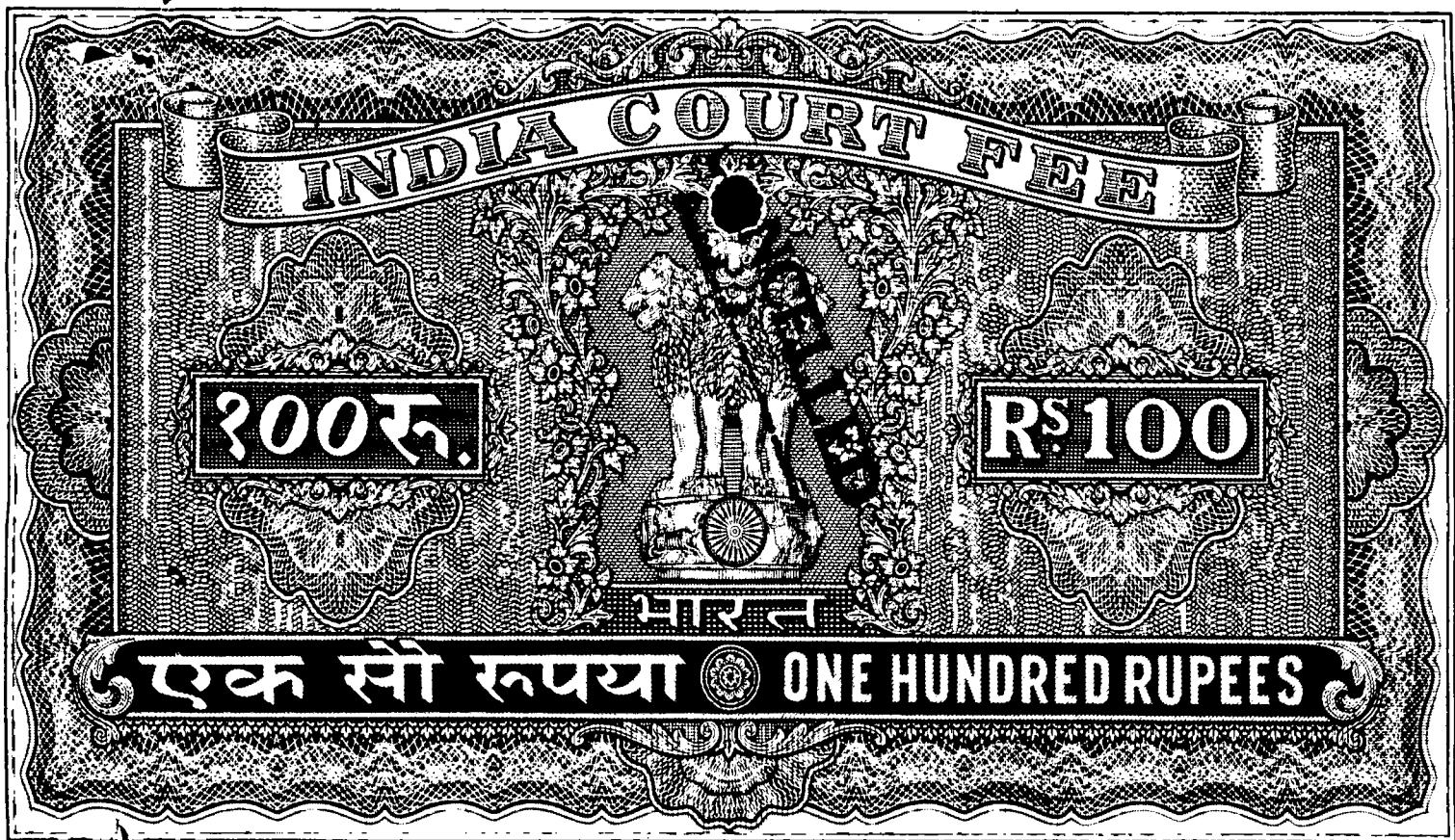
I N D E X.

<u>Sl. No.</u>	<u>Particulars.</u>	<u>Pages.</u>
1.	Writ Petition	1 - 5
2.	Annexure 1	- 6
3.	Annexure 2	- 7
4.	Annexure 3	- 9
5.	Affidavit	- 10
6.	Power	- 12.

Lucknow,

Dated: 28<sup>th</sup> Aug. 1979.  
11.9.79

S. M. K. Choudhary  
Counsel for the Petitioner.



In the High Court of Judicature At Allah-

Writ Petition No 2790 of 79.

S. D. Nigam v. .... Petitioner  
Vs.

Union of India & other Respondents

S. M. K. Chendry  
Advocate

Counsel for Petitioner

resume duties after order of reinstatement dt. 12.12.1977, which was passed on merit, on the representation of the petitioner.

11. That the petitioner has not been paid his full salary for 324 days and half salary for 442 days. The O.Ps. are illegally withholding the aforesaid amount.

12. That the O.Ps. have wrongly treated the period of 442 days on half-pay and that of 324 days ~~as~~ as leave without pay and failed to pay the amount of that period to the petitioner.

13. That the petitioner was wrongly retired and, therefore, the authorities subsequently revoked the order of compulsory retirement and reinstated the petitioner. The petitioner was always ready to discharge his duties efficiently and honestly and there was no legal justification to keep the petitioner out of job and to withhold his salary, legally payable to him.

14. That the petitioner did not retire at his own will, nor resigned from service; as such, the period intervening his retirement and reinstatement should be treated as on duty with full pay, except leave due to the petitioner's credit.

15. That the petitioner made a representation on 19/21.6.78 to the President as well as to the O.Ps. Nos: 1 & 2, a copy of which is being attached herewith as Annexure 2. The O.P. Nos: 1 & 2 have not yet replied to the above representation dt. 19/21.6.78, nor paid the amount due legally to the petitioner.

16. That neither under law, nor under principles of Natural Justice, the O.P. Nos: 1 & 2 are entitled to withhold the aforesaid amount of about Rs.13,500/- of the petitioner and are legally bound to pay the same to the petitioner.

17. That a sum of Rs. 1740/-, in 12 monthly instalments of Rs.145/- each, has further been illegally realised from the

(4)

petitioner as 'interest', for his inability to refund the amount of the Death-cum-Retirement Gratuity, paid to the petitioner before time, i.e. before the age of superannuation.

18. That the aforesaid amount of Gratuity was never applied for by the petitioner to be paid to him and, for the irregular action and fault of the O.P. Nos: 1 & 2, the petitioner cannot be made liable to suffer. Moreover, the aforesaid amount was paid after the compulsory retirement by the O.P. Nos: 1 & 2, without any condition, whatever, as for its refund.

19. That the petitioner is fully entitled to get refund of the aforesaid amount of Rs.1740/-, illegally realised from him.

20. That the petitioner sent a reminder on 25.4.1979, a copy of which is being attached herewith as Annexure 3, but the petitioner has received no reply from the O.Ps.

21. That inaction of the O.Ps. are causing great prejudice and loss to the petitioner and now, petitioner does not have any hope that O.P.Nos: 1 & 2 would give any relief to the petitioner or would decide his representation.

22. That non-payment of the aforesaid admitted amount by the O.P.Nos: 1 & 2, as well as no orders having yet been passed on the representation, fully entitled the petitioner to approach this Hon'ble Court under Article 226 of the Constitution of India, to challenge on one amongst other

g r o u n d s .

(1) Because the O.P.No: 1 has no legal justification not to pass any order on the representation of the petitioner, filed in June 1978 and reminder in April 1979, on account of which, the petitioner's right under F.R. 54-A is being prejudiced.

P.T.O.

S.D.mgmn



(5)

(19)

(2) Because inaction of the O.P.Nos: 1 & 2, in not making payments to the petitioner legally due to him, is injuring the right of the petitioner to get his full salary, as contemplated under Fundamental Rule 54-A.

(3) Because the O.P.Nos: 1 & 2 have wrongly treated 442 days as leave on half-pay and the period of 324 days as leave without pay and failed to pay the amount of that period to the petitioner, which is contrary to the provisions of the F.R. 54-A and principles of Natural Justice.

R E L I E F.

It is, therefore, most respectfully prayed that this Hon'ble Court be pleased to

(i) issue writ, order or direction in the nature of 'mandamus', directing the O.P.Nos: 1 & 2 to decide the representations made on 19/21.6.78 and 25.4.79 by the petitioner.

(ii) issue writ, order or direction to direct O.P.Nos: 1 & 2 to treat the petitioner as on duty, during the period between compulsory retirement and reinstatement and pay the entire salary and allowances legally due to the petitioner.

(iii) issue writ, order or direction to direct the O.Ps. 1 & 2 to refund the aforesaid amount of interest of Rs.1740/-, illegally realised from the petitioner and quash the order contained in Annexure 1, as quoted in paragraph 4 of the writ petition.

(iv) grant any other relief which this Hon'ble court may deem fit and proper.

(v) award cost of the litigation.

Lucknow:  
Dated .1979.

S. M. K. Choudhary  
Counsel for the Petitioner.

S. D. M. I. G. A. M.

(6) (20)  
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,  
Lucknow Bench, Lucknow.

Civil Misc. Writ Petition No: of '79.  
(Under Article 226 of the Constitution of India)

S.D. NIGAM ... Petitioner,  
Versus  
UNION OF INDIA  
& Others ... Opposite Parties.

ANNEXURE - I.

OFFICE OF THE CHIEF SUPERINTENDENT, LUCKNOW T/T DIVISION,  
C.T.O., Lucknow-226001.

MEMO NO: E-118(PMR)-SDN/75, Dated at Lucknow  
#2.12.'77.

Subject: Reinstatement of Shri S.D. Nigam, Clerk (Rtd), C.T.O.  
Lucknow.

In pursuance of D.G's P&T New Delhi orders No: 201-1/76-  
STN (Pat) dated 18.11.77, communicated under G.M.T.U.P., Lucknow  
No: Staff/M-14-23-1/76/3 dated 2.12.1977, Shri S.D. Nigam, retired  
Clerk, C.T.O., Lucknow, is hereby reinstated in service from the  
date he resumes duty. The intervening period from the date of his  
retirement till the date of his reinstatement shall be regularised by  
granting him leave as due and admissible at his credit.

The official is required to refund the Pension, DORG etc.  
as per D.G's orders.

The official shall be accommodated against one of the  
existing vacancies in C.T.O. Lucknow.

(Sd) K.L. Vaish,  
Chief Superintendent,  
C.T.O. Lucknow.

Copies to:-

1. Shri S.D. Nigam, 255/45-A, Garhaiya, Kundri, Rakabganj, Lucknow,  
for compliance.
2. The ACS(G), C.T.O., Lucknow for necessary action.
3. The G.M.T. (Staff) U.P. Circle, Lucknow with reference to his  
letter No: Staff/M-14-23/76/3 D/d 2.12.77.
4. The Head Clerk (Staff) C.T.O. Lucknow for necessary action.
5. The LSG (Accts) C.T.O. Lucknow.
6. The Leave Clerk, for necessary action.
7. The Accountant, C.T.O. Lucknow for necessary action.
8. Spare.

(Sd) K.L. Vaish,  
Chief Supdt., C.T.O., Lucknow.

True Copy.

*S.D. Nigam*

(7) (21)

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

Civil Misc. Writ Petition No: of 1979.  
(Under Article 226 of the Constitution of India)

S.D. NIGAM ... Petitioner,  
Versus  
Union of India &  
Others, ... Opposite Parties.

ANNEXURE - IV.

To

The PRESIDENT,  
Union of India,  
NEW DELHI.

(through proper channel)  
HON'BLE SIR,

The petitioner humbly states :

1. That the petitioner was a clerk in Central Telegraph Office, Lucknow. He was prematurely retired in October, 1975. In December, 1977, he was re-instated. He is now due to retire in March, 1979.
2. That the petitioner did not resign or retire at his own will, but at that of the Deptt. As such, the period intervening his retirement and re-instatement should be condoned without affecting the leave due at his credit. He is thus entitled to full pay and allowances for the entire period in question.
3. That out of the 793 days of his gap in service, the petitioner received full pay for 27 days, half-pay for 442 days and no pay at all for the remaining 324 days. (vide enclosure).
4. That a sum of Rs. 1740/- in 12 monthly instalments of Rs. 145/- each, is being realised from him, as 'interest' for his inability to refund the amount of DCR Gratuity, paid to him before time. The petitioner's humble submission is that if the thing was, for aught, irregular, it was ~~so~~ but technically and, above all and again, an act of the Deptt. itself, for which the petitioner cannot be made to suffer, particularly, when he never applied for it. Besides, there was no question of its refund, if the petitioner had not joined service.
5. Lastly, recovery of the 3 months' pay received by the petitioner in lieu of notice, is also unjust, being paid by the Deptt. unconditionally and of its own will.

The petitioner, therefore, prays :

- i) that the period intervening his retirement and reinstatement be condoned without affecting the leave due at his credit ;
- ii) that arrears of the petitioner's pay & allowances, as adjusted against the amount of pension drawn during the period, be paid to him ;
- iii) that the amount of 3 months' pay recovered from the petitioner be refunded to him ; and
- iv) that the monthly deductions of interest on the amount of DCRG be stopped forthwith and the amount already deducted, refunded to the petitioner.

In case of no reply within reasonable time, the petitioner shall be compelled to seek justice in a court of law.

(S.D. Nigam)  
(P.T.O.)

(8) (8) (2) 22 X10  
in a court of law.

(Sd) S.D. Nigam,

Dated, Lucknow:  
19/21.6.78.

P e t i t i o n e r .  
Clerk, C.T.O.,  
Lucknow.

Enclosure : Copy of leave-order.

True Copy.

COPY OF LEAVE-ORDER.

P-744.

Dated 2.3.1978.

Subject--Grant of leave.

Shri S.D. Nigam, Clerk, C.T.O., Lucknow.

1. E/L FSP for 11 days	...	9.10.75 to 19.10.75
2. Half-pay leave 73 days	...	20.10.75 to 31.12.75
3. E/L FSP for 15 days	...	1.1.76 to <del>15.1.76</del> 15.1.76
4. Half-pay due 167 days	...	16.1.76 to 30.6.76
5. FSP for 1 day	...	1.7.76
6. Half-pay for 182 days	...	2.7.76 to 30.12.76
7. E.O.L. for 224 days	...	31.12.76 to 16.8.77
8. Half-pay leave for 20 days	...	18.8.77 to 5.9.77
9. E.O.L. for 100 days on application.	...	10.9.77 to 14.12.77.

(Sd) Illegible,  
C.S., C.T.O.,  
Lucknow.

Copy to:-

1. S.D. Nigam, C.T.O. Lucknow.  
2. Pay Bill.  
3. Pension.

S.D. Nigam

True Copy.

(9) (23) 11

In the Hon'ble Hig Court of Judicature at Allahabad (Lucknow Bench),  
Lucknow.

Civil Misc. Writ Petition No:  
of 1979.  
(Under Article 226 of the Constitution).

~~Ex parte~~

S.D. NIGAM ... Petitioner,

Versus

Union of India  
& Others, ... Opposite Parties.

ANNEXURE - III.

(four copies)

To

The P R E S I D E N T,  
Union of India,  
N e w D e l h i .

(through proper channel)

HON'BLE SIR,

With reference to his petition dated 19/21.6.78, the petitioner states as follows :



1. That the petitioner has retired on 31.3.79.
2. That he has received no reply, whatever, upto this time.
3. That he has no option now, except to take recourse to law and natural justice, the responsibility of the consequences of which will lie with the Union of India.
4. That the instant reminder be kindly treated as the petitioner's final decision and necessary action taken accordingly.

Dated, Lucknow:  
25.4.'79.

Sd/- S.D. Nigam,

Petitioner.

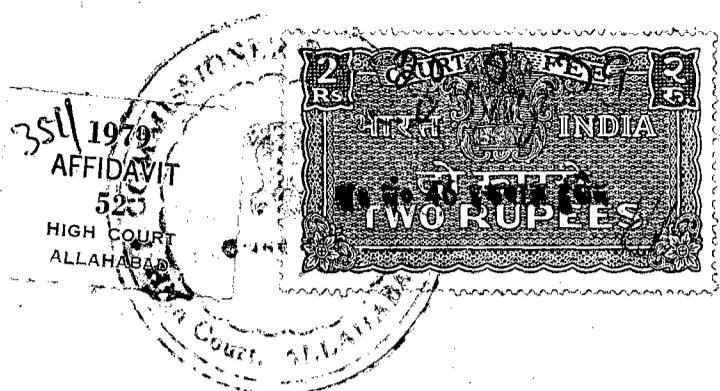
True Copy.

S.D. Nigam

(10)

(21)

12



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

Civil Misc. Writ Petition No: of '79.

S.D. NIGAM ... ... Petitioner,

Versus

UNION OF INDIA & Others ... Opposite Parties.

AFFIDAVIT.

I, S.D. NIGAM, aged about 58 years, S/O Late Sri Jagan-nath Prasad, R/O 255/45-A, Garhaiya, Kundri, Rakabganj, Lucknow, do hereby solemnly affirm and state as under :-

1. That the deponent is the petitioner in the abovenoted case and as such, he is fully conversant with the facts of the case.
2. That the contents of paras 1 to 4, <sup>8, 9, 11, 13, 14, 16, 17, 18, 19</sup> <sub>7</sub> of the accompanying Writ Petition are true to my personal knowledge.
3. That contents of paras <sup>15, and 20.</sup> <sub>5, 6, 10, 12,</sub> of the Writ Petition are based on ~~legal advice received~~.

Lucknow dated <sup>1</sup> <sub>12/8/79</sub>

Verification.

S.D. Nigam  
Deponent

I, the abovenamed deponent do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my personal knowledge. No part of it is false and nothing material has been concealed. So help me God.

Lucknow, Dated:  
12/8/1979.

S.D. Nigam  
Deponent.

I identify the deponent who has signed before me.

S.K. Pandey Clerk  
Sri S.M.K. Chaudhary Advocate.

Solemnly affirmed before me on <sup>10/8/</sup> <sub>9</sub> day of <sup>10/8/</sup> <sub>9</sub> at a.m./p.m. by Sri S.D. NIGAM, the deponent, who is identified by Sri S.K. Pandey Clerk to Sri S.M.K. Chaudhary Advocate, High Court, Lucknow.

(11)

(2)

(2)

13

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

S.D. Migan

M.P. Singh

OATH COMMISSIONER,

High Court Allahabad,

Lucknow Bench.

No. 134/881/52

Date. 20.10.94



Filed today  
1/9/87

26

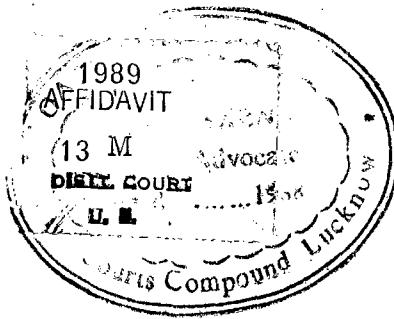
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW

\*\*\*\*\*

Counter Affidavit

In

Registration No. 395 of 1987 (T)



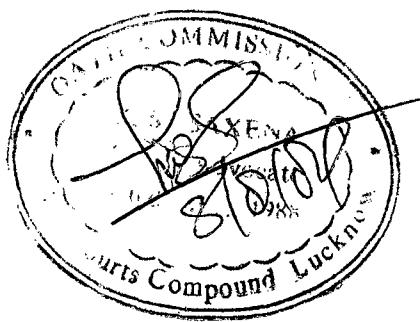
Smt. R. Nigam & others ----- PETITIONERS

versus

Union of India & others ----- RESPONDENTS

AFFIDAVIT of Shri Granga  
Ram Jaiswal, aged about  
42 years, son of Shri Hari  
Mangal Jaiswal, Chief  
Supdt. Central Telegraph  
Office, Lucknow.

Deponent



I, the deponent abovenamed, do hereby  
solemnly affirm and state on oath as under :

1. That the deponent is working as Chief Superintendent in Central Telegraph Office, Lucknow and has been authorised to file this affidavit on behalf of the respondents. He is, as such, fully conversant with full facts of the case deposed to below.

*(R. Jaiswal)*

(27)

/2/

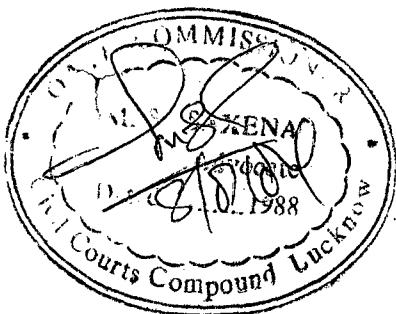
2. That the contents of paragraph no. 1 of the petition call for no comments.

3. That in reply to the contents of paragraph no. 2 of the petition it is submitted that the representation of the petitioner was considered as per procedure laid down in Government of India, Department of Personnel and A.R. Ministry of Home Affairs O.M.No. 25013/14/77-Est.A dated 5.1.1978 para III (7), a copy of which is being filed herewith and marked as Annexure No. CA-1 to this affidavit.

4. That the contents of paragraph no. 3 of the petition call for no comments.

5. That in reply to the contents of paragraph no. 4 of the petition it is submitted that the intervening period of the petitioner between the date of premature retirement and the date of reinstatement was regularised by opposite party no. 2 and not opposite party no. 1 in accordance with existing orders on the subject on the merit of the case. A copy of the abovementioned order is being filed herewith and marked as Annexure No. CA-2 to this Affidavit.

6. That the contents of paragraph no. 5 of the petition are wrong hence vehemently denied.



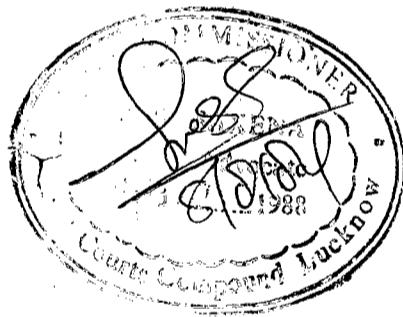
*(R. Daisar)*

(2)

/3/

It is submitted that the petitioner was reinstated by opposite party No. 1 in accordance with the procedure laid down in order dated 5.1.1978 (Annexure No. CA-1).

7. That in reply to the contents of paragraph no. 6 of the petition it is submitted that the contents of the same are denied. The authority, competent to regularise the period intervening between the date of premature retirement and the date of reinstatement regulated the aforesaid period in accordance with the procedure laid down in para III(4) of the Annexure No. CA-1 to this Counter Affidavit taking into account the merits of the case. The intervening period could as a rule be regulated as duty or as leave or dies-non in accordance with the facts of each case and not necessarily as period on duty claimed by the petitioner.



8. That in reply to the contents of paragraph no. 7 of the petition it is submitted that the contents of the same are denied for want of knowledge regarding the payment of salaries, the petitioner is put to strict proof thereof.

R. Daisar

9.

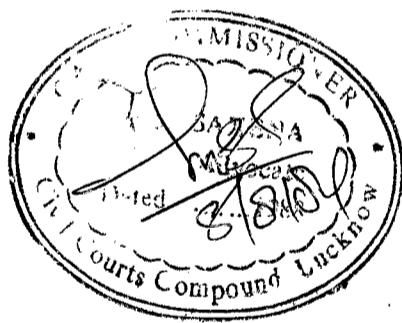
That in reply to the contents of

2

141

paragraph no. 8 of the petition it is submitted  
that the order was passed in accordance with law  
and government orders on the subject.

3 in reply to  
10. That the contents of paragraph no. 9  
of the petition it is submitted that the same are  
denied and there is no provision in the rules  
for providing opportunities before deciding the  
question of regularisation of the intervening  
period between compulsory retirement and reinstat-  
ement. In petitioner's case orders were passed  
after due consideration of the merits of the  
case.



11. That in reply to the contents of paragraph no. 10 of the petition it is submitted that the contents of the same are denied in view of what has already been stated in the preceding paragraphs 7 & 10.

12. That the contents of paragraph nos. 11 & 12 of the petition are denied and it is submitted that in accordance with the order on the subject contained in Annexure No. CA-1 the period between the date of compulsory retirement and reinstatement in the case of the petitioner was treated as period of <sup>2a2</sup> leave due to him and the

R. W. Ward

petitioner was paid leave salary for the said period.

13. That in reply to the contents of paragraph no. 13 of the petition it is submitted that the petitioner's case was reviewed by a High power committee which found him unfit to be retained in service. However, owing to change of policy indicated by Annexure No. CA-1 (para-7) the petitioner's case was reconsidered and he was ordered to be reinstated. However, the procedure for consideration of representation and the orders to be passed thereon are provided in para III of Annexure No. CA-1 and the petitioner's case was dealt with accordingly.



14. That in reply to the contents of paragraph no. 14 of the petition it is submitted that the reinstatement of the petitioner to service and regularisation of his intervening period was done in accordance with rules as mentioned in Annexure No. CA-1 to this Counter Affidavit. There was, therefore, nothing irregular in the order passed in the case of the petitioner.

15. That in reply to the contents of paragraph no. 15 of the petition it is submitted that the petitioner's representation dated 19.6.1978

*Rajiv*

(31)

16/

addressed to the President of India, New Delhi  
~~xxx~~ was decided on 18.1.1980 by the Director General, Post and Telegraph, New Delhi and the same has been rejected.

~~as regards~~

16. That ~~the~~ contents of paragraph no. 16 of the petition it is submitted that the same are not admitted. It has already been stated in reply to paragraph no. 6 of the petition that the intervening period between compulsory retirement and reinstatement was treated as leave due in accordance with rules. The petitioner is not entitled to the amount claimed by him. It is further submitted that ~~xxx~~ petition is not the proper remedy for a claim for money which should be claimed by a regular suit.



17. That in reply to the contents of paragraph no. 17 of the petition it is submitted that the amounts have been realised in accordance with the instructions of Ministry of Finance Department of Expenditure vide their Office Memorandum No. 4(12)-EC (B)/76 dated 24.12.1976 received under opposite party letter no. 4-1/77 Pen dated 28.1.1977 and opposite party no. 2 endorsed the same as No. Pen/ /1/77/10 dated 14.2.1977. A copy of these orders are made as Annexure No. CA-3 to this Counter Affidavit.

*Rajeev*

/7/

18. That in reply to the contents of paragraph no. 18 of the petition it is submitted that the amount of gratuity was paid to the petitioner as a consequence of his premature retirement. The petitioner himself gave undertaking for refund of the amount of DCRG, GPF withdrawal etc. at the time of his retirement.

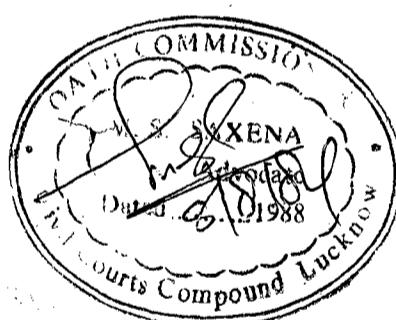
19. That in reply to the contents of paragraph no. 19 of the petition it is submitted that in view of the orders received from the Ministry of Finance, Department of Expenditure referred to in para 17 above, the petitioner is not entitled to any such refund.

20. That in reply to the contents of paragraph no. 20 of the petition it is submitted that no such reminder was received in this office.

21. That the contents of paragraph no. 21 of the petition are denied.

22. That the contents of paragraph no. 22 of the petition including grounds 1 to 3 are denied. It is submitted that in accordance with the existing procedure the contention of Director General Post & Telegraph, New Delhi

(R) Jaiswal



/8/

letter dated 18.1.1980 were communicated to the petitioner, as the rules do not require the letter in original should be sent to him. It is further submitted that the representation of the petitioner was carefully considered by the DG P&T New Delhi and rejected. It is further submitted that the rules do not provide for personal hearing at the time of the consideration of representation.

23. That the action in question taken by the opposite party is not contrary to the provisions of F.R. 54-A and principle of natural justice.

24. That the contents of relief claimed of the petition are denied and it is submitted that the petitioner is not entitled to any relief claimed.

I, the deponent abovenamed, do hereby solemnly affirm and state on oath that the contents of paragraph nos. 1 and 2 \_\_\_\_\_ of this affidavit are true to my personal knowledge and those of the contents of paragraph nos. 3 to 24 \_\_\_\_\_ of the same are based on perusal of records and those of the contents of paragraph nos. \_\_\_\_\_ of the same are

*R. Jaiswal*

/9/

based on legal advice which all I believe to be true. That nothing material has been concealed. So help me GOD.

*R. Jaiswal*

Deponent.

I, *P.K. Yadav*, Clerk to Shri ~~Shashik~~ V.K.

*Chaudhary Mohiley*, Advocate, Additional Standing Counsel for Union of India, do hereby declare that the person making this affidavit and alleging himself to be Shri Ganga Ram Jaiswal is the same person and is known to me personally.

*P.K. Yadav*  
Clerk.

Solemnly affirmed before me on this the th day of August 1989 at about AM/PM

Solemnly affirmed before me in office on 3-10-89 by Shri Ganga Ram Jaiswal said clerk.

He is identified by this signature of Shri

Chaudhary Mohiley, Advocate.

I have satisfied myself by examining the deponent that he understands the full content of this affidavit which has been read over,

translated and explained to him by me.

*M.S. Saxena*  
M. S. Saxena  
Oath Commissioner  
Civil Courts Lka.

OATH COMMISSIONER

33

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

**CIRCUIT BENCH, LUCKNOW**

\*\*\*\*\*  
Annexure No. CA-1  
Counter Affidavit

In

Registration No. 395 of 1987 (T)

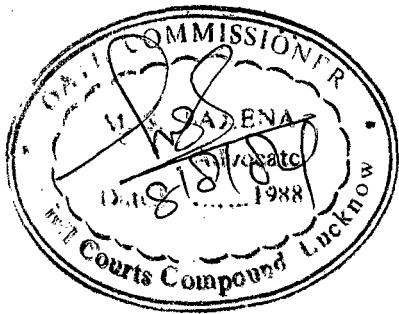
Smt. R Nigam & others ----- Petitioners

## versus

Union of India & others----- Respondents

7. As and when representations are received from affected employees against the orders of premature retirement relating to the period of emergency or on receipt of a fresh representation in such cases, even if an earlier representation against the premature retirement had already been considered by the appropriate committee and rejected, they should be examined by the appropriate committee and rejected, they should be examined by the appropriate 'Representation Committee' which shall take special step to see that :

(a) Over rigorous standards were not applied at the time of original review in the matter of ~~judging~~ judging ineffectiveness of the employee on account of a mistaken sense of over jealousy; and

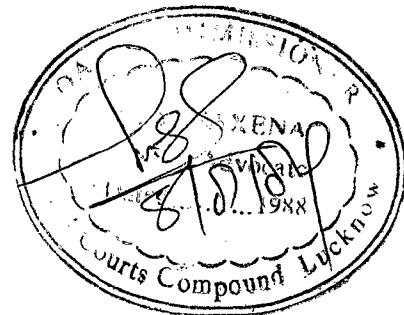


W. Jackson

/2/

(b)

Premature retirement was not resorted to as a means of political or personal victimisation.



\*\*\*\*\*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW

\*\*\*\*\*

ANNEXURE NO. CA-2

In

Counter Affidavit

In

Registration No. 395(T) of 1987

Smt. R. Nigam & others ----- Petitioners

versus

Union of India & others ----- Respondents

INDIAN POSTS & TELEGRAPHS DEPARTMENT

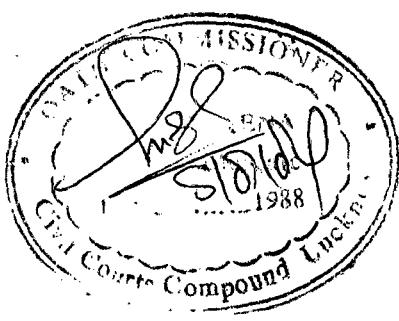
Office of the General Manager Telecom, U.P.Circ

Lucknow - 226 001

Memo No. Staff/M-14-23-1/76/3 dated Lucknow the

2nd December 1977.

Subject : Reinstatement of Shri S.D.Nigam, Clerk  
CTO/Lucknow.



In pursuance of the orders contained in DG's No. 201-1/76-ST (Part) dated 18.11.1977, Shri S.D.Nigam retired clerk/CTO/Lucknow is hereby ordered to be reinstated in service. The interim period from the date of his retirement till the

*R. D. Nigam*

/2/

d ate of his reinstatement should be regularised by granting him leave as due and admissible at his credit. If the official has been paid pension, DCRG etc. he may be asked to refund the same in the light of the instructions on the subject.

The official should be accommodated against one of the existing vacancies in DTO, Lucknow.

Sd/-

(K.K.Srivastava)

Asstt. Director Telecom. (Staff)

GMT UP



*MR Daisen*

(35)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW

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ANNEXURE NO. CA-3

In  
Counter Affidavit

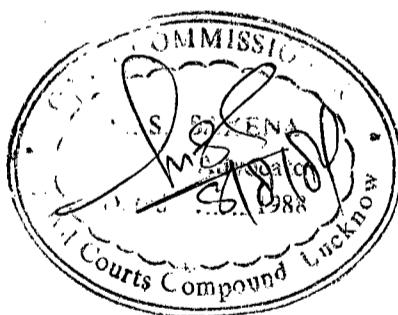
In  
Registration No. 395(T) of 1987

Smt. R.Nigam & others ----- Petitioners  
versus  
Union of India & others----- Respondents

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Copy of the D.O.No. 135/60/77/SPB-II dated 21st  
November 1977 from A.K.S. 1 D.G. (P) addressed to  
all PMGs.

Dear Shri.....



As you are aware, the cases of the P&T  
employees who had been retired or ordered to be  
retired from service prematurely under the provi-  
sions of FR 56 pf Rule 48 of CCS (Pension) Rules, 1972  
during the period from June 1975 to March 1977 are  
being reviewed fresh by the D.G. Government and  
necessary orders issued as a result thereof.

2. In case of a favourable decisions, one  
of the conditions prescribed for reinstatement of  
such persons or that the retirement benefit taken

*R. Nigam*

40

/2/

by them, if any are to be refunded to Government before they are reinstated in service. Another condition prescribed for reinstatement of persons who have been out of employment for more than a year is that each of them produce a certificate of fitness for continuance in government service from the competent medical authority under the rules.

3. In this connection, a reference is invited to the instructions issued in Ministry of Finance Department of Expenditure O.M.No. 4(12)-EV(B)/76 dated 24.12.1976 a copy of which had been forwarded to all concerned with this office letter no. 4-1-77 Pem. dated 28.1.1977 and another copy of which is annexed for ready reference. These instructions internally provide that the amount of DCRG/terminal gratuity may be recovered in not more than 12 instalments and interest at adhoc rate of 6% per annum should be charged on the amount of DCRG/terminal gratuity from the date of actual payment of premature retirement of the date on which the final instalment or premature retirement or the date on which the final instalment on premature retirement is paid back or to the date of final retirement, whichever is earlier. As regards refund of commuted value of pension, commutation is a lump sum payment like DCRG and if the ex official is not in a position to refund the entire amount in lump sum its



*Raisen*

(W)

/3/

recovery should be effected like DCRG gratuity in monthly instalments not exceeding 12 and interest at adhoc rate of 6 percent per annum should be charged on the above lines.

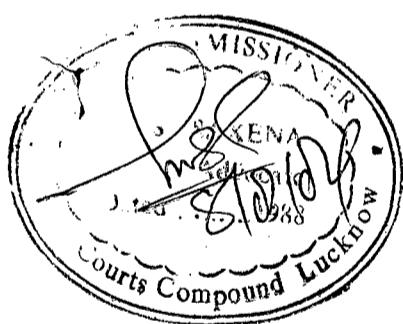
4. If any person who had been prematurely retired and for whom reinstatement orders are issued from the directorate express his inability to refund in lump sum the retirement benefits taken by him and gives an undertaking in writing to refund the same in instalment in the manner prescribed in para 3 above, he may be permitted to join duty subject to his fulfilling another conditions prescribed in the order of reinstatement. However, the conditions of providing certificate of fitness for continuance in government service from the competent medical authority need not be insisted upon.

5. The main point to be noted is that a person who has been order to be reinstated on review should not be kept away from joining duty on account of recovery of the retirement benefits.

No./TC/Pen/Misc/Rlg/466 dated at Lucknow 10.12.77

Copy of common No. 4-1/77 pen dated 28.1.1997 from DG P&T/New Delhi under Endorsed Pen/Rlg.-i/77/10 dated 14.2.1977 from G.M.T. UP.

R. Daisen





BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT  
BENCH LUCKNOW.

REJOINDER AFFIDAVIT

IN

Registration no. 395 of 1987.

Smt.R.Nigam and others. . . . . Petitioner .

Versus.

Union Of India and others. . . . . Opp.Particles.

Affidavit of Shri Rajeev

Nigam, aged about 28 years, son  
of Late Shri S.D.Nigam, R/o  
2 Bagh Lalji Near Siddhnath  
temple Nadan Mahal Road,  
Lucknow.

I, the deponent abovenamed do hereby solemnly  
affirm and state as follows:-

1. That the deponent is the substituted petitioner  
no.2, in the above noted case, and as such he is fully  
conversant with the facts deposed hereunder.
2. That the deponent has read the contents of  
the counter affidavit filed by the opposite party  
no.3, the Chief Superintendent C.T.O.Lucknow and has  
understood the contents thereof.



*[Signature]*

(43)

-2-

3. That the contents of paragraphs 1 and 2 of the counter affidavit needs no reply.
4. That the contents of paragraph 3 of the counter affidavit are not admitted hence denied, and in its reply the contents of paragraph 2 of the petition are reiterated. The annexure C-A.1 does not apply to the petitioner.
5. That the contents of paragraph 4 of the counter affidavit needs no reply.
6. That the contents of paragraph 5 of counter affidavit are denied and in its reply the contents of paragraph 4 of the petition ~~xx~~ are reiterated.
7. That the contents of paragraphs 6 and 7 of the counter affidavit are incorrect hence denied. In reply it is submitted that treating the intervening period as leave due was illegal invalid and contrary to the principle of natural justice.
8. That the contents of paragraphs 8 and 9 of the counter affidavit are not admitted, hence denied and in reply the contents of paragraphs 7 and 8 of the petition are reiterated.
9. That the contents of paragraph 10 of the



*M. J. S.*

(My)

-3-

counter affidavit are not admitted and in reply the contents of paragraph 9 of the petition are reiterated. It is further submitted that no opportunity was given as itself evident from the contents of paragraph 10 of the counter affidavit.

10. That the contents of paragraphs 11 and 12 of the counter affidavit are not admitted and in reply the contents of paragraphs 10,11,12 of the writ petition are reitherated.

11. That the contents of paragraph 13 of the petition are not admitted hence denied ,and in reply it is submitted that the petitioner was reinstated after nothing was found against him, and it was not justified to treat the intervening p-eriod as leave due.

12. That the contents of paragraph 14 and 15 of the counter affidavit are denied and in reply the contents of paragraphs 14 and 15 of the petition are reiterated.

13. That the contentsof paragraph 16 of the counter affidavit are denied and in its reply it is submitted that neither under the law nor under the principles of natural justice the opposite - parties are entitled to withhold the amount.



*My answer*

-4-

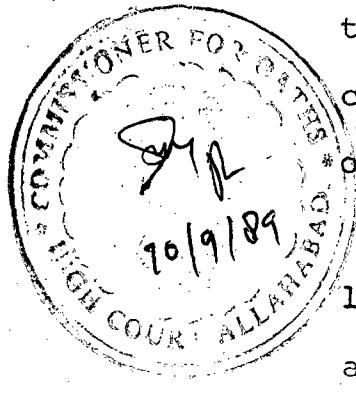
14. That the contents of paragraphs 17 and 18 of the counter affidavit are not admitted, hence denied and in reply the contents of paragraphs 17 and 18 of the writ petition are reiterated.

15. That the contents of paragraph 19 of the counter affidavit are denied and in reply it is submitted that the amount has illegally been realised from the petitioner.

16. That the contents of paragraphs 20 and 21 of the counter affidavit are denied, and in reply the contents of paragraphs 20 and 21 of the petition are reiterated.

17. That the contents of paragraphs 22, 23 and 24 of the counter affidavit are not admitted, hence denied and in reply it is submitted that the action of treating the intervening period as leave due is contrary to the provision of F.R.54-A and principle of natural justice.

18. That upon the facts and circumstances stated above the writ petition of the petitioner deserve to be allowed.



46

-5-

Lucknow Dated.

10-9-1989.

*M. J. Nigam*  
Deponent.

Verification

That the contents of paragraphs 1 to 18 of the affidavit are true to my personal knowledge; and those of paragraphs 19 to 22 are based on record; and those of paragraphs 23 to 26 are based on legal advice; which I believe to be true that no part of it is false. So help me God.

*M. J. Nigam*  
Deponent.

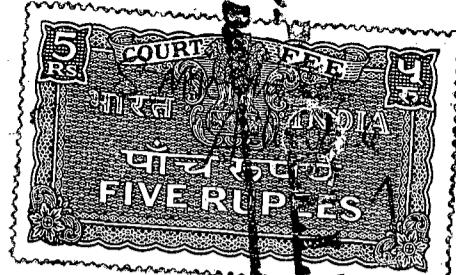
I identify the deponent who has signed before me.

*R. Srivastava* *Advocate*  
Solemnly affirmed before me on 10-9-1989 at 10.45 a.m. by Shri Rajeev Nigam the deponent is identified by Shri Y. C. Srivastava, Advocate.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit.

*S. K. PANDEY*  
Oath Commissioner,  
High Court, Allahabad.

7/23/Date 10/9/89  
Lucknow Bench



(12)

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अभिभाषक पत्र (वकालतनामा)

# हाई कोर्ट आफ जूडीकेचर, इलाहाबाद

Writ No. of 1979 सन् १९७९

S. D. Nizam

वादी प्रतिवादी  
अपीलान्ट

बनाम

Union of India

वादी प्रतिवादी  
रेस्पान्डेन्ट

मैं कि S. D. Nizam. नं. 255/45-A  
हम Gashiyal Kundri Rakhalgarh, 210

उपरोक्त प्रकरण में हम अर्नो और के पक्ष समर्थन के हेतु

## श्याम मोहन कृष्ण चौधरी

फोन ५४३१२.

एडवोकेट हाई कोर्ट  
१८, एलगिन रोड, इलाहाबाद New Hydabad, 240.

को कानूनी शुल्क (मेहनताना) नियत करके अपना अभिभाषक वकोल (वकोल) नियुक्त करता है करते हैं

निश्चित और (यह स्वीकार करता है) कि उक्त सज्जन हमारा और से वाद-पत्र (अर्जीदावा), प्रतिवाद-पत्र (वाद तहरीरी), वाद स्वीकार पत्र, विवाद पत्र पुनरबलोकन एवं पुनर्निर्णय प्रार्थना पत्र दरख्वास्त), शापथिक कथन (हलफनामा) प्रवर्तन पत्र (दरख्वास्त इजराय), मूजवात अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना पत्रादि एवं लेखादि की प्रतिलिपियां अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथिक पुष्टीकरण कर और आवश्यक सवाल जवाब करें और लेखादि की प्रतिलिपियां एवं हमारे प्राप्यधन को अपने हस्ताक्षारी पावती देकर प्राप्त करें हमारी और से किसी को मध्य पत्र, तथा साक्षी (गवाह माने और उससे सम्बन्धित प्रार्थना पत्र प्रस्तुत करें तथा उसका समर्थन करें, तथा तसदीक करें, वाद-पत्र उठावें छोड़े अथवा समझौता करें, तथा सलहनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना पत्र दाखिल करके उसका समर्थन करें अर्थात प्रकरण से सम्बन्ध रखने याली कुल कार्यवाही डिग्री के भर पाई होने के समय एक स्वतः या संयुक्त करें आवश्यकता होने पर किसी अन्य वकोल महोदय को वकोल करें।

उक्त सभो कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भाँति हमका मुझको सर्वथास्वीकार होगा' अगर मैं कानूनो हम निश्चत् शुल्क उक्त सज्जन की न है तो उनको अधिकार हांगा कि वह हमारी और से मुकदमा की पैरवी न करें। उपरोक्त दशा में सज्जन का कोई उत्तरदायित्व न रहेगा।

अतएव यह अभिभाषक पत्र लिख दिया कि प्रमाण रूप से समय पर काम आये।

तिथि

मास

सं

स्वीकृत है



In the High court of Judicature at allahabad,

Lucknow Bench

In

Civil Misc. Writ Petition No. of 1979.

S.D.Nigam ... .... Petitioner .

Versus.

Union of India and others. ... .. Respondents.

Supplementary Affidavit

On behalf of petitioner.

Affidavit of S.D.Nigam, aged about 58 years, son of Sri Late Jagannath Prasad, E/O 255/45-A, (Garhaiya) Kundri, Rakabganj, Lucknow.

I, the deponent abovenamed do hereby solemnly affirm and state as follows :-

1. That the deponent is the petitioner of this case and as such acquainted with the facts deposed to below.
2. That the petitioner in order to substantiate the allegations made in paragraphs 11 and 12 of the writ petition and that he was not given his full pay and salary after his reinstatement, is filing the original leave order dated 2.3.1978, as annexure <sup>which</sup> may be treated as Annexure IV to the writ petition.
3. That it is necessary in the interest of justice that this Hon'ble Court be pleased to allow the

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the petitioner to file the above noted document else  
the petitioner shall suffer irreparable loss.

Lucknow Dated

12.10.1979.

S.D. Nigam  
Deponent

VERIFICATION

I, the deponent abovenamed do hereby  
verify that the contents of paragraphs 1,2, and 3  
of this affidavit are true to my personal knowledge;  
which I believe to be true that no part of it is false  
and nothing material has been concealed. So help me  
god.

Lucknow Dated

12.10.1979.

S. D. Nigam.  
Deponent.

I identify the deponent who has signed  
before me.

S.K. Pandey, C.R.

Solemnly affirmed before me on 11.10.1979,  
at 8.50 a.m./p.m. by Sri S.D.Nigam, the deponent, who  
is identified by Sri S.K. Pandey, Clerk to Sri S.M.K.  
Choudhary, Advocate, High Court, Allahabad, Lucknow.

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

Krushna Singh Pandey

Mr. S.K. Pandey	Commissioner
High Court, Allahabad	Lucknow Bench.
No. 361/82	
Date 12/10/79	

S. Nigam.

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

Annexure.

In

Civil Misc. Writ Petition No. of 1979.

S. D. Nigam ..... Petitioner.

Versus.

Union of India and others Respondents.

भारतीय डाक-तार विभाग  
Est. 1836 INDIAN POSTS AND TELEGRAPHS DEPARTMENT

सं. No. P-744/ दिनांक/Dated 2.3.1978

विषय—छुटी की मंजूरी

Subject—Grant of leave

कि श्री/श्रीमती/कुमारी/Shri/Shrimati/Kumari S. D. Nigam Clerk C.T.O. Lucknow

(नाम एवं पदनाम/Name and Designation)

छुटी की किस्म/Kind of Leave ..... छुटी की दौरा से/From ..... तक/To

1. E.L.F.P. for 11 days 9.10.75 to 19.10.75

2. Half pay leave 73 days 20.10.75 to 31.12.75

3. Dated leave 100 days 1.1.76 to 15.1.76

4. Half pay leave 100 days 16.1.76 to 30.6.76

Leave on half average pay/Leave on quarter average pay 14.7.76 to 26.8.76

प्रिवेट छुटी/छुटी/शेष/नहीं/असाधारण छुटी/अन्य किसी दौरा से नहीं 1.7.76 to 30.12.76

Continued leave for 162 days 31.12.76 to 16.8.77

7. E.O.L. for 224 days 31.12.76 to 5.9.77

8. Half pay leave for 20 days 17.8.77 to 5.9.77

9. E.O.L. for 100 days 10.9.77 to 14.12.77

विकिता प्रमाण-पत्र के/On M. C.

विकिता प्रमाण-पत्र के/Without M. C.  
on application.

उन्हें छुटी के पूर्व/छुटी के बाद/रविवार/अवकाशों की छुटी के साथ जोड़ने की अनुमति दी जाती है।

He/She is permitted to prefix/suffix Sundays/Holidays on.....

2. यह दिनांक ..... इस कार्यालय के ज्ञापन सं. ....

द्वारा मंजूर की गई छुटी के क्रम में है।

This is in continuation of the leave sanctioned in this office Memo.

Copy to:— S.D.Nigam dated 2.3.1978

1. E.O.L. account C.T.O. Lucknow

2. Pension Pay bill x 3. Pension

भारतीय तार वर

लखनऊ-226001