

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

INDEX SHEET

CAUSE TITLE Vijai Nandan Singh 49 OF 1987

NAME OF THE PARTIES Vijai Nandan Singh Applicant

Versus

Union of India Respondent

Part A.

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CERTIFICATE

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

filed out
Dated 13/4/2011

B/C destroyed on 09-5-12

Counter Signed.....

Section Officer/In charge

Signature of the
Dealing Assistant

30/1/87

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,
23-A, Thornhill Road, Allahabad-211001

Registration No. 49 of 1987

APPLICANT (s) Vijai Narain Singh

RESPONDENT(s) Union of India through Secretary, Ministry of Finance

Department of Revenue, New Delhi & 2 others

Particulars to be examined	Endorsement as to result of Examination
1. Is the appeal competent ?	Ys
2. (a) Is the application in the prescribed form ?	Ys
(b) Is the application in paper book form ?	Ys
(c) Have six complete sets of the application been filed ?	Ys. 8 sets filed.
3. (a) Is the appeal in time ?	Ys
(b) If not, by how many days it is beyond time ?	-
(c) Has sufficient cause for not making the application in time, been filed ?	-
4. Has the document of authorisation/Vakalat-nama been filed ?	Ys
5. Is the application accompanied by B.D./Postal-Order for Rs. 50/-	Ys
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	Ys Certified in 2 copies
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Ys
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Ys Attested in 2 copies

A
3

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH ALLAHABAD

.....No.....49.....of 1987

.....V/I/21/.....Maraim Singh.....Vs.....U.O.-I.....

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1 29/1/87	Hon. D.S. Misra — AM. Hon. G.S. Sharma — JM	2 3
	On the application of learned counsel for the applicant, the case is adjourned to 5/2/87 for hearing.	
	AM	JM
2.2.87	On Case was adjourned to 5/2/87 for hearing on admission on the request of learned counsel for respondent applicant. To be further fixed for hearing on admission.	
	AM	JM
5/2/87	Hon. D.S. Misra — AM. Hon. G.S. Sharma — JM	
	On the request received on behalf of applicant's counsel, the case is adjourned to 19/2/87 for hearing on admission.	
	AM	JM

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

NO..... 49 OF 1987

VN Singh VS.....

NO of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as (if any) taken to action on order
	6/5/87	<p><u>Deputy Registrar</u></p> <p>On the request of Counsel for respdt, he is allowed to file reply by 26/5/87.</p> <p>DR(J)</p> <p><u>GR.</u></p> <p>No reply has been filed so far.</p> <p>Submitted.</p>	
	26/5/87	<p><u>Deputy Registrar</u> 26/5/87</p> <p>On the request of Counsel for respdt, he is allowed to file reply by 29/6/87.</p> <p>DR(J)</p> <p><u>GR.</u></p> <p>No reply has been filed</p>	

आदेश पत्रक
ORDER SHEET

(AS)

अपील
निर्देश आवेदन रजिस्टर में सं०

No. in Reference Application Register
Appeal

6A 49/87

अपील अधिकरण
Appellate Tribunal

अपीलार्थी

आवेदक

Appellant
Applicant

अपीलार्थी
आवेदक द्वारा

बनाम

प्रत्यर्थी

Appellant
Applicant

Vs.

Respondent

प्रत्यर्थी द्वारा
Respondent

आदेश की क्रम संख्या
और तारीख
Serial number of
order and date

संक्षिप्त आदेश, निर्देश देते हुए, यदि आवश्यक हो
Brief order, mentioning reference, if necessary

पालन कैसे हुआ और पालन
करने की तारीख
How complied with and
date of compliance

23.9.87 Hon. S. Zahoor Hasan, V.C.

Hon. A. Johri, A.M.

Sri N. B. Singh, learned
counsel for the respondents, states
that his file is locked in the High
Court, due to strike and pray that
some time may be given. The reply
may be filed with a copy to the
learned counsel for the appellant
by registered post by 1.11.87.
On receipt of the reply the learned
counsel for the appellant may send
a rejoinder affidavit, if any, by
16.11.87 by post and thereafter put
up this case before the D.R.(J.)
for fixing a date for final
hearing and inform the appellant's
counsel by post at his last known
address when final hearing is held.

(क०६०३०/P.T.O)

M
V.C.

31
H.M.

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

F.G

..... No. OA ... 49 ... of 1987

..... Vs.

Sl. No. of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
135.00	13.5.80	<p><u>Order</u></p> <p>no counter affidavit has been filed. but before court for not hearing on 27.7.80 as ex parte as already ordered on 16.11.87.</p> <p style="text-align: right;">Dd</p>	
	27/7/80	<p><u>Hon. D.S. Misra - AM.</u></p> <p><u>Hon. G.S. Sharma - JM</u></p> <p>Reply has been filed today on behalf of the respondents. The cause is adjourned. No one is present for the applicant. The case is adjourned.</p> <p style="text-align: right;">be AM.</p> <p><u>O.R.</u></p>	
19.1.89	19.1.89	<p>As per Respected Dr Registrar's order dtd 16.1.88 on Transfer Appl.</p> <p>Information has been communicated to Respondents by Regd Post Fixing 2.2.89 for hearing at LKO C.B.O/C & attached to T.O. 10.1.89</p>	

4/6/89

Hon. Justice K. Nath, V.C.
Hon. D.S. Misra, A.M.

✓

It appears from the Order sheet that the Counter affidavit was filed at Allahabad but has not been received alongwith the record at this Circuit Bench. The learned Counsel for the applicant is present and says that he has a copy of the Counter affidavit. The office at Allahabad is directed to search for the original Counter affidavit and send the same to this Bench within two weeks. In the meantime the learned Counsel for the applicant will arrange to file two copies of the Counter affidavit and one copy of rejoinder affidavit all on tough paper and the case be put up for further orders on 17-4-89. The opposition Counsel for the opposite parties may be informed by post.

Dr
A.M.

Dr
V.C.

4/6/89

OR
Notice issued to the sole Standing
Counsel by the resp. Post. 9/4

7/4/89

OR A letter was issued on 4-4-89 to Allahabad for searching the Counter affidavit at Allahabad. Reply of the letter received, and it is reported that no Counter affidavit has been filed at Allahabad. (Copy enclosed). However vide Court's order dt. 27-7-88 the CA was fixed and that order was passed before transfer to this bench. Submitted for orders.

Dr

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

OA No. 49/87
REGISTRATION No. of 198.

(S)
(D)

APPELLANT
APPLICANT

V. N. Singh

DEFENDANT
RESPONDENT

Union of India 208.

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

20/9/89

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

Shri V.K. Chaudhary, Counsel for
the respondents is not available.
Therefore, list this case on
21-9-89 for hearing.

J.M.

(SNS)

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

21/9/89

Shri K. Mohan, counsel for the applicant
and Shri V.K. Chaudhary, Counsel for the
respondents are present and heard.
Judgment dictated at the bar.

J.M.

(SNS)

cc'd Copy
of Judgment
Mr. M.
(22/9/89)

Other
20/9

(A21)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

.....
September 21, 1989

Registration O.A. No. 49 of 1987

Vijai Narain Singh Applicant
Vs.

Union of India and ors ... Respondents

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

This application under section 19 of the Administrative Tribunals' Act, 1985, has been filed by the above named applicant, a retired Income Tax Officer Grade II on 19-2-1987, for directions to the respondents to pay interest on delayed payments of amount of gratuity, G.P.F., Pension and commuted pension. The applicant has further claimed Rs.2277/- on account of leave salary for the period from 16-8-81 to 15-11-81, Rs.443/- on account of leave encashment and Rs.750/- on account of a T.A. Bill.

2. The respondents have denied their liability to pay interest on the amounts of gratuity, G.P.F., Pension and commuted pension. They have urged that the delay was caused on account of bona-fide processing of papers and not otherwise. They have further alleged that the leave salary for the period from 16-8-1981 to 15-11-1981 was not due to the applicant under Rule 30(2) of the revised Leave Rules, 1972. As regards leave encashment, they have urged that according to the leave account of the Officer ~~1150~~ days unutilised earned leave was due to him in respect of which payment has been

D.K. Agrawal

made and, therefore, no further payment is due to him. As regard to the T.A. bill, the contention of the respondents is that the T.A. bill was never received at their end.

3. Having heard the learned counsel of the parties, it appears that the leave salary for the period from 16-8-81 to 15.11.81 has been wrongly withheld by the respondents. The reason is that Rule 30(2) of the Revised Leave Rules, 1972 reads as under as quoted at page 3 of the rejoinder affidavit:

" Where a Government servant who has been granted commuted leave resigns from service or at his request permitted to retire voluntarily without returning to duty, the commuted leave shall be treated as half pay leave and the difference between the leave salary in respect of commuted leave and half pay leave shall be recovered.

Provided that no such recovery shall be made if the retirement is by reason of ill health incapacitating the government servant for further service or in the event of his death. "

In view of the proviso quoted above, the applicant was entitled to be sanctioned commuted leave on full pay, if due to him. The fact that 182 days half pay leave was not due to the applicant, has not been urged by the respondents. Therefore, the conclusion is that, half pay leave of 182 days was due to the applicant. If so, he was entitled to 91 days commuted leave (commuted leave being due for 50% days of the half pay leave). Notwithstanding the fact that the applicant had sought voluntary retirement because the retirement was necessitated by reason of ill health.

Dr. G. S. Sankar

As such, despite the voluntary retirement, the applicant was entitled to commuted leave of 91 days, within the meaning of the proviso quoted above. Therefore, he is entitled to Rs.2277/- as salary (the quantum of salary having not been disputed).

4. As regards the leave encashment, the respondents have pleaded in para 8 of their counter affidavit that only 115 days unutilised earned leave was due to the applicant on the date of his retirement, payment in respect of which has already been made to him. The said allegation has not been rebutted on behalf of the applicant. Therefore, it has to be accepted that the applicant has been paid salary for unutilised earned leave due to him on the eve of his retirement. The applicant has failed to bring any document or record to show had the amount of Rs.443/- was still due to him as leave encashment.

5. The applicant's claim for T.A. bill of Rs.750/- has also not been substantiated inasmuch as the respondents have denied having been received the T.A. bill. No proof has been furnished by the applicant about the submission of the T.A. bill and its contents. However, the claim of the applicant in this regard cannot be rejected on this ground. The applicant may submit his T.A. bill to the respondents, if permissible under rules, who after due process shall pass orders in accordance with the rules within one month of the submission of the T.A. bill.

6. The main question is about the payment of interest on the amounts of gratuity, G.P.F., Pension

and commuted pension as alleged in para 6 (g) (i to iv) of the application. In this regard the plea of the respondents as contained in para 7 (ii) of their counter affidavit, appears to be reasonable. They have urged therein that an objection was raised by I.A.C. Office on 17-2-82 and the objection was removed by the applicant on 27-2-82. This fact has not been rebutted in the rejoinder affidavit. If so, the period of two months, as laid-down by Hon'ble Supreme Court of India, in the case of State of Kerala and ors Vs. M. Padmanabhan Nair, A.I.R. 1985 SC 356, will begin to run w.e.f. 28-2-82. Thus, the applicant will be entitled to payment of interest on delayed payment w.e.f. 1-5-82. As to rate of interest, Hon'ble Supreme Court has laid-down in the above noted case that the same is payable at the market rate. The official market rate of interest is 12%. The Hon'ble Supreme Court was pleased to grant interest @ 12% in the aforesaid case. Therefore, I hold that the applicant will be entitled to the interest @ 12% on the amount mentioned below for the period mentioned against each item:

S.No.	Item	Amount	Period from	To
(i)	Gratuity	16,926/-	1-5-82	- 24-5-83
(ii)	G.P.F.	31,517/-	1-5-82	- 6-1-83
(iii)	Pension	13,338/-	1-5-82	- 13-5-83
(iv)	Commuted Pension	23,022/-	1-5-82	- 1-8-83

7. The application is partly allowed. The respondents are directed to pay interest as mentioned

D.K. Gopalan

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in para 6 of this judgment, also the leave salary as mentioned in para 3 of the judgment within two months hereof. The application in regard to claim for leave encashment is dismissed. In regard to T.A. bill, the applicant, as directed above, shall submit the bill to the respondents, who within 30 days of the receipt of the same dispose it off in accordance with the rules on the subject. There will be no order as to costs.

MEMBER (JUDICIAL)

Dr. C. S. Rao
21.9.89

(sns)

September 21, 1989

LUCKNOW.

ATU

In the Central Administrative Tribunal, Additional Bench,

Reg. No. 49 of 1987
Constitutive Tribunal

Allahabad.

1. Initial Bench

BETWEEN

A. A. M. G. RATHA, A. J. ABALPUR

Date of file 2-1-87 OR

Date of receipt by Post

for Lehane
Deputy Registrar.

VIJAI NARAIN SINGH

... ... APPLICANT

AND

UNION OF INDIA & OTHERS

•• •• Respondents.

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3.	Representation dated 5.8.1983.	13-15
4.	Representation dated 1.10.1985.	16-21
5.	Representation dated 23.3.1986.	22-23
6.	Reply of Chairman, C.B.D.T., dated 3.4.1986.	24
7.	Notice U/s 80 C.P.C. dated 19.8.1986.	25-27
8.	Vakalatnama	28
9.	Bank Draft/ Postal Order	29

Dated : 27-12-1886

W. M. D.
APPLICANT.

Central Statistical Bureau

To be listed on 30.1.1980

Date : 2-1-4017... OR
Date c. 2-1-2017

Re: Re: 2601

2/18/87
55.1.87
MF

In the Central Administrative Tribunal
Additional Bench, Allahabad.

BETWEEN

VIJAI NARAIN SINGH aged about 60 years,
Son of Late Sri Bhuwal Singh, R/o 97,
Guru Govind Singh Marg, Lucknow. ... Applicant.

AND

1. Union of India through its Secretary
Ministry of Finance, Department of
Revenue, New Delhi.
2. Chairman, Central Board of Direct Taxes,
New Delhi.
3. Chief Commissioner of Income Tax, and

••• Respondents.

DETAILS OF APPLICATION

1. Particulars of the applicant :-

(i) Name of the applicant : VIJAI NARAIN SINGH

(ii) Name of Father : Late Sri Bhuwal Singh

(iii) Designation & Office in which employed. : Retd. Income Tax Officer, Posted as Tax Recovery Officer, Moradabad - U.P.

contd....2...

1/16

-: 2 :-

(iv) Office Address : Not applicable.
(v) Address for service of all notices. " Kailash Kuteer " 97, Guru Govind Singh Marg, Lucknow - 226 019.

2. Particulars of the respondent :-

(i) Name and/or designation of the respondent. a. Secretary, Ministry of Finance, Deptt. of Revenue, New Delhi.
b. Chairman, Central Board of Direct Taxes, New Delhi.
(ii) Office Address of the respondent. c. Chief Commissioner of Income Tax, Lucknow.
& Commissioner of Income Tax, Lucknow.
(iii) Address for service of all notice. As Given above.

3. Particulars of the order against which application is made.

The application is against the following order :-

(i) Order No. F.No. OSD/CH(DT)/86-87/D-254/7
(ii) Date : 3.4.1986
(iii) Passed by Chairman of Central Board of Direct Taxes, New Delhi.

Interest claimed on delayed payment of :-

(iv) Subject in brief : a. Leave salary
b. G.P.F.
c. Gratuity
d. Pension.

contd...3...

4. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation :

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

6. Facts of the case :

The facts of the case are given below :-

(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue, fact or otherwise) :-

- a. That the applicant was serving under the Income Tax Department as an Income Tax Officer- Class - II and was lastly posted as Tax Recovery Officer at Moradabad, U.P., where he served upto 15.11.1981.
- b. That the applicant sought voluntary retirement and was actually retired on 15.11.81 vide order No. P.No. 43-592-II dated 16.12.81, passed by the Commissioner of Income Tax, Lucknow.
- c. That prior to retirement the applicant fell ill so he applied for commuted Medical Leave on full pay w.e.f. 16.8.81 to 15.11.81 but he was wrongly sanctioned Medical Leave on half pay w.e.f. 16.8.81 to 15.11.81 in contravention of the rules vide order No. 43-592-II/4429 dated 12.8.1983 passed by

W.S.

AB
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the Income Tax Officer (HQ) Admn. Lucknow half pay for this leave period illegally withheld, amounts to Rs. 2,277/-.

- d. That even the salary was allowed only after 5 months i.e. half of the salary and interest for 5 months have not been paid. As per calculation it comes to Rs. 2,277/- plus interest.
- e. That maximum within 2 months of his retirement on 15.11.81, the applicant was entitled to be paid all his dues including pensionary benefits i.e. latest upto 15.1.82 but the same were paid highly belatedly as detailed hereinafter, and so the department become liable to pay compound interest @ 18% per annum for the period of delay in payment.
- f. That after writing several letters to the department and after service of a notice U/s 80 C.P.C. dated 23.3.1982 the department paid GPF after 13-1/2 months, pension after 18 months and gratuity after 18-1/2 months leaving behind some leave encashment and last T.A. Bill etc.
- g. That on retirement latest by 15.1.1982, the applicant was entitled to the following payments including pensionary benefits which were paid belatedly on dates mentioned against each item. The interest due against each belated payment is also mentioned against each item :-

W.D.W.

contd...5...

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G
G

- 5 -

S. No.	Item	Amount	Paid on	Months delay	Compound Interest due as on 31.10.86
		Rs.			Rs.
(i)	Gratuity	16926/-	24.5.83	16	8168/-
(ii)	G.P.F.	31517/-	6.1.83	12	5298/-
(iii)	Arrear of pension.	13338/-	13.5.83	16	2697/-
(iv)	Commututed pension.	23022/-	Aug., 83	14	3860/-
(v)	Leave salary from 16.8.81 to 15.11.81.	2277/-	Not paid so far	-	2277/- Intt. (+) Rs. 3051/-
(vi)	Leave encashment.	443/-	"	-	443/- Intt. (+) 6.52/-
(vii)	T.A. Bill	750/-	Not paid so far.	-	750/- Intt. (+) 974/-
TOTAL ...					Rs. 28,170 = 00

Rupees twenty Eight thousand One hundred seventy only

(h) The future interest w.e.f. 1.11.86 to the date of actual payment of the amount due is also claimed.

(i) That after a protracted correspondance from June, 1983, to 23.3.86 regarding claim of interest and all the dues, the Chairman C.B.D.T. vide his letter dated 3.4.1986 informed the applicant that he shall be hearing very soon from the Chief Commissioner of Income Tax and Commissioner of Income Tax, Lucknow but nothing has yet been heard even after two reminders dated 10.6.1986; 11.7.1986 and notice U/s 80 C.P.C. dated 19.8.86 which has been duly served upon the departmental defendants/ respondents. ¹⁰

contd... 6...

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(j) The Hon'ble Supreme Court and Hon'ble Allahabad High Court have held that if the delay in payment of retirement benefits is beyond two months of the date of retirement, the Government is liable to pay interest at market rate. The market rate of compound interest at present being charged by Nationalised Banks is 18% p.a.

7. Relief(s) sought :-

In view of the facts mentioned herein above, the applicant prays for the following reliefs :-

This Hon'ble Tribunal may be pleased to order the respondents to pay to the applicant :-

- A. A sum of Rs. 24,700/- by way of interest for the delayed payment of pensionary benefits as claimed in para (g) above.
- B. A sum of Rs. 2277/- as half pay leave salary due for period 16.8.81 to 15.11.81 as claimed in para (g) above.
- C. A sum of Rs. 443/- as leave encashment for ~~and T.A. Bill for Rs. 750/-~~ period as claimed in para (g) above.
- D. Costs of the proceedings.
- E. Pendente lite and future interest from 1.11.86 to the date of payment by the respondents @ 18% per annum.

8. Interim Order, if prayed for :-

Pending final decision on the application, the applicant seeks issues of the following interim

contd...7...

(A)
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-: 7 :-

order :-

(Give here the nature of the interim order
prayed for with reasons) Not applicable.

9. Details of the remedies exhausted :

The applicant declares that he has availed of
all the remedies available to him under the
relevant service rules, etc.

(Give here chronologically the details of
representations made and outcome of such
representations) :-

Outcome Results

a.	Notice U/s 80 C.P.C.	-
	dated 23.3.1982.	
b.	Representations	-
	dated 5.8.1983. v	
c.	Representations	-
	dated 1.10.1985.	
d.	Representation	Reply of Chairman
	dated 23.3.1986.	C.B.D.T. dated
		3.4.1986.
e.	Notice U/S 80 C.P.C.	-
	dated 19.8.83.	

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contd....8...

(A)
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-: 8 :-

10. Matter not pending with any other court, etc. :

The applicant further declares that the matter regarding which the application has been made is not pending before any court of Law or any other authority or any other Bench of the Tribunal.

11. Particulars of Bank Draft/ Postal Order in respect of, the application fee :-

1. Name of the Bank : -----
on which drawn.

2. Demand Draft No. : -----

Or

1. Number of Indian : DD 546305
Postal Order(s). 5

2. Name of the issuing : G. P. O.
Post Office. Lucknow

3. Date of issue of : 26-12-86
Postal Order(s).

4. Post Office at : G. P. O.
which payable. Allahabad

12. Details of Index :

An index in duplicate containing the details of the documents to be relied upon is enclosed.

D. J.

contd....9....

13. List of enclosures :-

(i) Annexure I

(ii) " II

(iii) " III

(iv) " IV

(v) " V

(vi) " VI

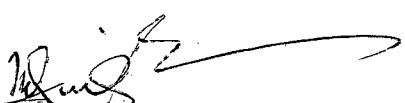
(vii) Vakalatnama

(viii) Postal order for Rs. 50/-

No. DD 546305

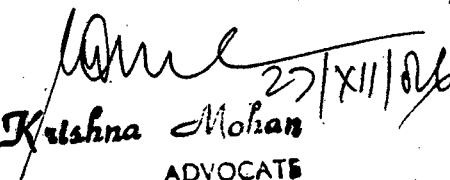
In Verification :

I, Vijai Narain Singh (name of the applicant)
S/o Late Shri Bhuwal Singh, aged 61 years, working as
(Retired Income Tax Officer), R/o " Kailash Kuteer ",
97, Guru Govind Singh Marg, Lucknow, do hereby verify
that the contents from 1 to 13 are true to my personal
knowledge and belief and that I have not suppressed
any material facts.


Signature of the applicant.

Place : Lucknow

Date : 27-12-86


Krishna Mohan
ADVOCATE

10
A
24

In the Central Administrative Tribunal,

Additional Bench, Allahabad.

BETWEEN

VIJAI NARAIN SINGH

... APPLICANT.

AND

UNION AND INDIA & OTHERS

.. RESPONDENTS.

ANNEXURE NO. I

REGISTERED A/D

From :

D.R. Sinha,

M.A., LL.B., Advocate High Court,
M.S.-38, Sector-D, Aliganj, Scheme,
Lucknow-6. Phone No. 81396.

To,

Union of India,

Through : The Secretary,
Ministry of Finance,
Govt. of India,
New Delhi.

Sir,

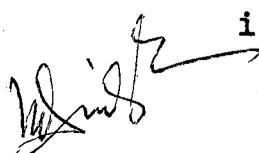
Ref : Statutory Notice Under Section 80 C.P.C.

Under the instructions of my client Shri Vijay Narain Singh, Tax Recovery Officer, Moradabad(U.P.) S/o Late Shri Bhuwal Singh, R/o 97, Guru Govind Singh Marg, Lucknow (hereinafter referred as ' my client ') I hereby give you notice under 80 Civil Procedure Code, 1974 as under :-

1. That my client was serving Income Tax Department as Tax Recovery Officer and was lastly posted as T.R.O. at Moradabad in U.P.
2. That my client fell ill so he applied for medical leave and was granted medical leave w.e.f. 16th Aug., 1981 to 15th Nov., 1981.

D.S.
contd... 2...

3. That the salary of the aforesaid period i.e. from 1.8.1981 to 15.11.1981 has not yet been paid to my client inspite of many reminders for the reasons best known to the Department.
4. That because of bad health my client sought retirement from service voluntarily w.e.f. 15.11.81 and applied for the same through a notice dated 14.8.1981.
5. That as per request of my client the Department retired him from service w.e.f. 15.11.1981.
6. That my client has written many letters on 17.11.81 and 26.2.82 and has contacted Commissioner Income Tax many times for the payment of his salary from 1.8.1981 to 15.11.81 and for the payment of G.P.F., gratuity and other dues but due to mischief and misconduct of some officers, the Department has not paid any thing uptill now.
7. That due to mischief and malice of these officers which resulted in non-payment of his genuine salary and other dues to my client is made to suffer financially, mentally and physically for which Govt. is responsible and is also liable to pay suitable compensation.
8. That on 27.11.81 my client applied for payment of his salary G.P.F., gratuity and other dues on prescribed forms and on 21.12.81, 25.1.82, and 26.2.82 reminders were also sent but nothing has been intimated to my client nor payment was made.



contd...3..

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9. That through this notice also my client demands earliest payment of his salary with interest for the aforesaid period, G.P.F., Gratuity and fixation and payment of pension and suitable compensation for the mental torture.

I hereby give you notice to arrange payment of aforesaid dues and suitable compensation for his sufferings due to misconduct of the department to my client within two months from the receipt of this notice otherwise my client will be compelled to take legal action in an appropriate court of law against you for which you will be responsible for costs etc. Please note.

Yours sincerely,

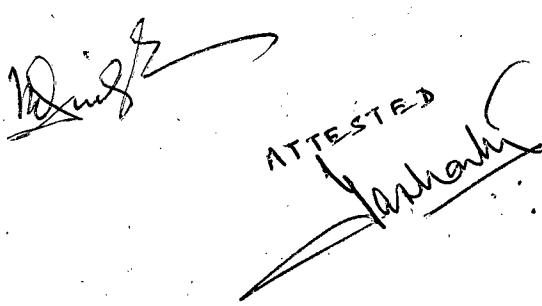
Dt. 23.3.82

(D.R. SINHA)
Advocate

Copy forwarded by Regd. Post A/D for information and necessary action to :-

1. The Commissioner Income Tax, Lucknow.
2. Shri Dharni Dhar, Commissioner, Income Tax, Lucknow.

23.3.82.


ATTESTED
D.R. Sinha

TRUE COPY

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B

In the Central Administrative Tribunal,
Additional Bench, Allahabad.

BETWEEN

VIJAI NARAIN SINGH APPLICANT

AND

UNION OF INDIA & OTHERS RESPONDENTS

ANNEXURE NO. II

From: V.N. Singh,
97, Guru Govind Singh Marg,
Lucknow.

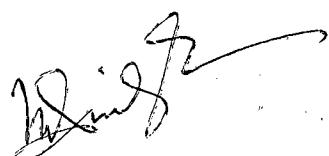
To, The Commissioner of Income-tax,
Lucknow.

Sub : FINAL PAYMENT.

Dear Sir,

Since I had given a vol. retirement notice on 14.8.81 on the ground of my ill health to retire on 15.11.81 it was the duty of the Deptt. to clear some of my dues of retirement benefits on or just after final retirement on 15.11.81 as per rules as quoted on page 196 of I.T.E. Service Rules published by I.T.E. Federation Eleventh (Revised) Edition 1983 which reads as under :-

" Ordinarily the pension or gratuity or both shall be determined before the actual retirement of the Govt. servants. The Head of office shall sanction 100% of the pension calculated with reference to the information so obtained as a provisional pension. The Death-cum-Retirement Gratuity should similarly be determined (on the contd.....2...



- : 2 :-

basis of last drawn).

A deduction of 10% of gratuity or Rs.1000/- whichever is less shall be made to cover the unassessed dues, if any."

But to any ones utter surprise the leave salary was paid after 4 months, encashment after 8 months, pension after 17 months, Gratuity after 17-1/2 months and the commutation of pension for the late payment of pension is yet to be received after 2 months hereafter. In the circumstances I have been put to financial loss of atleast to the extent of fixed deposit with the bank which is 12% which is calculated as under :-

(a)	Leave salary payable much before my retirement.	Rs. 4564.00
(b)	Leave encashment on my retirement.	Rs. 6166.00
(c)	Gratuity on my retirement on 15.11.81.	Rs. 16923.00
(d)	Pension from month to month.	Rs. 14000.00
(e)	G.P.F. of Rs.32874/- but paid.	Rs. 31517.00
(f)	Commutation of pension of Rs.23022/- not yet paid on above interest @ 12% is calculated as under :-	
a)	On leave salary from upto 1.12.81 130.00 1.9.81 to 29.3.81 draft received on 29.3.81. " 29.3.81 206.00	336.00
b)	Leave encashment from 16.11.81 to 19.7.81 draft received on 19.2.81 i.e. for 8 months.	494.00
c)	Gratuity from 16.11.81 to 22.11.81 draft received on 22.11.81 for 18 months.	3060.00

contd....3...

-: 3 :-

d)	Pension on progressive basis from 1.12.81 to 15.5.83, i.e. for 17 months.	1190.00
e)	G.P.F. paid on 6.1.83 Rs. 31517 to have been paid @ intt. @ 12%	<u>Rs. 32874</u> 1357.00
f)	Interest on Rs. 23022/- commutation of pension on the assumption that it may be paid in Aug. '83 and in the regular course it could have been paid in Jan. '82 i.e. 19 months @ 12% Rs. 4374	
	Less- Pension of 168/- for 18 months which would not have been recd.	<u>Rs. 3024</u> 1350.00
	Total :	Rs. 7787.00

Interest is also payable as per the G.I. Deptt. of Personnel & A.R.O.M. No. F.7 (1) -PU/79 dt. 11.7.79.

I hope needful will be done at your earliest to avoid complications in the matter.

Yours faithfully,

Dated : 5th Aug., 83.

Sd/-

(V.N. SINGH)

TRUE COPY

ATTESTED

Nashadhi

W. Singh

To

M.S.

Annexure III

16

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Sri Varayanan,
Chairman, Central Board of Direct Taxes,
New Delhi.

Sub:- Settlement of claims of retirement benefits.

Dear Sir,

1. Please refer to your FNO A 24012/28/63-AD VIA dated 22/30. 7.85 on the above subject.

2. On receipt of your above quoted letter, I went through the Financial Express dated 5.8.85 under the caption 'New Scheme for Interest of Gratuity' wherein it has been pointed out in the last para which is narrated hereunder:-

"However Rule 19A(1) of the All India Services (Death-cum-retirement benefits) Amendment Rules 1985 says it has to be 'clearly established' that such delay has been due to an administrative lapse and is not attributable to the member of the service".

3. That the above para has prompted us to write to you in detail as to how the delay in payment has been caused intentionally by the IAC Sri N.G. Tewari and the C.I.T. Sri Dharni Dhar in my case. The reasons for the delay caused may be summarised as under:-

(1) That all of a sudden on 26.4.81, Sunday, I was required to ~~hand~~ over charge and proceed to join Training College, Ranchi in the morning of 27.4.81. Fortunately, the other potent officer Sri Khare took charge upto 9.30 P.M. on 26.4.81. This behaviour of Sri Dharni Dhar C.I.T. perturbed us and as a consequence, I was hospitalised due to severe shock. Prior to this he had called for hundreds of files for undue enquiries making it difficult for me to work. Daily, one or two files were called from Dec'1980 & to 26.4.81 and were kept in his office unnecessarily to terrorise us although nothing incriminating could be found upto 15.11.81 till my retirement. This was done just due to ^{me} humiliate in the public and staff at the instance of S. H. Bant, D.T. and Sri Ghaher Yader LDC (Record keeper of my office)

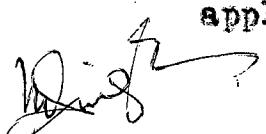
Wsd

(ii) That even before this permission for sale of my plot was not accorded, though it was sought on 18.1.80, till I retired on 15.11.81 for reasons best known to Sri Dharni Dhar due to which I had faced great humiliation in public as well as amongst my friends and relatives, though, this plot was purchased with the permission of the department.

(iii) That in order to humiliate me further, in public and staff, I was posted as IRO, Moradabad, the farthest place from my native village in Azamgarh while I was on medical leave for two months.

(iv) That I joined as IRO, Moradabad where minimum staff existed and there was no Inspector who was purposely withdrawn prior to my joining. I could not bear all such humiliating circumstances which were created deliberately done. I could not bear all these as I had worked with the best officer in the R.P.T. Circle, Kanpur from 1946 to 1957 and had worked as Steno to Sri S.Narayan, now retired, Chairman, C.P.T. ^{for 3 yrs} and with excellent work record, I could rise from the post of L.D.C. to I.T.C., and even as I.T.O. I had given the maximum disposal of 1000 cases at Bulandshahar in the month of March 1977. This humiliation was caused due to advice and instigation of ^{HC Pant 97c 2} Sri Jhabbar Yadav L.D.C., about whom I have written to Sri R.R.Jha, C.I.T., Allahabad, ~~exact~~ copy enclosed. He being the pet of Sri H.C.Pant and Sri Dharni Dhar for doing some wrong to me.

(v) That best and honourable officers cannot work with worst officers which resulted in a notice of voluntary retirement on 14.8.81, whereby I preferred my date of such retirement on 15.11.81. During this period ~~from~~ 15.6.81 to 15.11.81, I could not join my duty as I was not medically fit and upto the last date, i.e., 15.11.81 my medical advisor did not permit me to join duties. Although, I was applying for the leave on due dates every month, the C.I.T.



did not sanction my legitimate leave and did not pay my leave salary which was afterwards paid on 1.4.82 i.e., after 5 months of retirement although the leave was sanctioned on 11.12.81. This was all due to Hon'ble Sadan Behari, my successor in office, TRO Moradabad who acted on the advice of Sri Dharni Dhar and Sri N.C.Tewari MM Bhatia ~~etc.~~

(vi) That even upto 15.11.81, Sri Dharni Dhar could not be able to pass any order on my notice as aforesaid, hence, vide my letter dated 17.11.81, in accordance with office memorandum No. 25013/7/77 Estt.(A) dated 26.8.77, I informed the CIT, IAC & CBDT, that I have automatically and ^{no} IPSOFACTO returned on 15.11.81 when no objection was made and ^{no} communication made to me on or before 15.11.81.

(vii) That accordingly, I submitted my papers in toto regarding disposal of my claim GPF etc., on 27.11.81 to IAC for onward submission transmission to ZAO but to my dismay, even ^{onwards upto 31-3-82 2} this post office job was not done by ^{onwards upto 31-3-82 2} Sri N.C.Tewari, IAC, Moradabad most probably on the best advice of Sri Dharni Dhar upto 16.6.82 i.e., after 7 months when the ZAO sought verification in my service book from 1.2.72 to 30.9.72. Hereby, before proceeding with the details further with the details as per service rules as published on page 196 of IES Service rules published by IES Federation 11th. (revised) Edition 1983 the provisional pension and gratuity ought to have been paid to me on the date of retirement i.e., on 15.11.81 otherwise, for what purpose the notice of 3 months was sought by the department. As to the mind and ulterior motive of Sri Dharni Dhar, it was the period for concocting a case for charge-sheeting me to retain in the department. Whereas, I daily peruse in the newspapers that the ^{wanted} person if any should be got retired honourably when his service of 30 years has been completed and he has attained the age of 50 years. I had put in a service of 36 years and had attained the age of 56 years, so I could have ^{been} easily got retired by Sri Dharni Dhar.

Dharni Dhar



as you have got retired 6 CIT's and 28 IAC's in the current year and screening of the staff ~~on going~~ to my utter surprise, why the same formula was not applied in my case particularly when he did not like me and bys-o-going, his ulterior motives could have been nurtured.

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

..... the pension & Gratuity or both shall be determined before the actual retirement of the Govt. servant. The Head of Office shall sanction 100% of the pension calculated with reference to the information so obtained as a provisional pension. The death-cum-retirement should similarly be determined (on the basis of last pay drawn).

A deduction of 10% of gratuity or Rs. 1000/- whichever is less shall be made to cover the unassessed dues if any.

(viii) That the Head of office learned Sri Saran Behari, TRO, Moradabad ought to have paid gratuity and pension (provisionally) on 15.11.81 instead of May/1983 i.e., after about 18 months. This is gross negligence of Sri Saran Behari, TRO, Moradabad at the instance of Sri N.C. Tewari IAC, and Sri Dharmi Dhar (CIT) hence, interest atleast @ 5% must be paid to me as per Rule 19A as quoted above at the market rate as per the following rulings ² and recovered from the above erring staff:-

- ① As per Hon'ble High Court of Allahabad as allowed on the petition of Sri Prahlad Singh, dated 29.9.83.
- ② As per Supreme court order dated 17.12.84 on the petition of Sri Padmanabhan Nalger.

That similarly, interest @12% must be allowed to me because my Form GPF-10A for final withdrawal of the sum of Rs.30,000/- (approximately) must not have been detained by the IAC, Moradabad to whom the same was submitted on 27.11.81. It was withheld with the IAC at the instance of Sri Dharmi Dhar with the result that the final payment of Rs.31,517/-



was made only on 6.1.83 i.e., after 13 months. He, too the ZAO has given the authority for payment in the month of Oct. '82 but Sri N.C. Tewari got it delayed upto Jan. '83 due to which interest at the rate prescribed by the Govt. was allowed upto Sept. '82 and interest from Oct. '82 to Dec. '82 still remains to be paid by Sri N.C. Tewari, IAC, even at the prescribed rate and for 13 month's interest ^{How} at market rate must be paid in accordance with the Allahabad High Court and Supreme Court Rulings as quoted above. This is to be recovered from Sri N.C. Tewari who is in the habit of throwing papers in the office feeling no responsibility whatsoever. In my case as well he never cared to submit his report to CIT, most probably at the instance of Sri Darni Dhar, else, why action for non-submission of report was not taken at all. In this connection and support I am submitting a copy of my letter dated 30.6.85 (enclosed herewith) for your kind perusal and necessary suitable action. Nothing has yet been heard either from Sri N.C. Tewari or Sri Darni Dhar.

(xi) That I know for definite reasons that Sri N.C. Tewari must not be submitting his report as he has been doing in the past. My records may kindly be ~~checked~~ for and verified as the matter is ~~hanging~~ ^{called} in air for the last 2 years. My past claim was made on 6.8.83 but inspite of complaints made by me on 27.10.83 the CRDT has not been able to even call for the report in my case, to Mr. CLEAN (Hon'ble Sri Rajiv-Gandhi) and Sri HONEST (Sri V.P.Singh) who are managing the country in the best possible manner with greatest zeal. Truly speaking, the wrong had gone out of gear with the country from 1977 which with the Hon'ble Supreme court Ruling on Article 311(2) of the Constitution of India appears to be ~~steering~~ ^{coming} on the right path. May God help the country. I have seen in my ~~life~~ ⁱⁿ the service period from July. '1945 to Nov. '81 and have observed that every letter of the Board was taken to be a ~~horrible~~ ^{or higher authorities} one and every efforts to comply with the same without loss of time were made by the CIT's.

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made by the CIT's. This is my observation in the CIT's office by virtue of my working in that office since 30.7.87 to 30.10.88 and on transfer as Inspector, I never wished to go out of the CIT's office. Now I observe that Sri Dharni Dhar although posted at Lucknow remains with his brother-in-law Sri V.C. Shukla for some sports and all the rules and regulations of transfer have been set aside as he is completing his unsuccessful service at Lucknow for more than six years, what escapes him from the clutches of screening. The reasons are definitely political and service rules in his case have been kept in abeyance.

In the aforesaid circumstances, I may be kindly awarded my due interest for which I am legally entitled and the same be recovered from Sri N.C. Tewari and Sri Dharni Dhar as the case may be as narrated above.

Again I may remind you that my application was submitted in the month of June, '85 and Sept. '85 is ending i.e., practically 2½ months have elapsed. I am fully confident that the report must not have been received in your office as in the past. Should you exert your utmost and exercise all your powers to obtain the necessary report.

Lastly, I may submit that even if you are not going to allow any relief as sought for, I may be informed about your decision at the earliest and not as late as one year or so as in the past, as by that time Sri Dharni Dhar would retire nothing may be recovered from him.

Justice delayed is justice denied. I ~~xxxx~~ am not fond of early settlement of the claim but I desire that the delay if any may not be an intentional one. May I request that

officers like Sri Saran Behari, N.C. Tewari and Sri Dharni Dhar must be taught lessons of service and pension rules with which they are unaware. I hope that you will atleast allow me the interest and recover the same from them which will be the best training but there must not be further delay.

Thanking you,

Yours faithfully,

Dharni

(V.N. SINGH)

97, Guru Gobind Singh Marg, Lucknow

Enc
TESTED
Dharni

① Copy of letter to
QR of the CIT Allah
Dh 30-5-85

② Copy of letter to
Allah Dh 30-6-85
Dated 1/10/85

In the Central Administrative Tribunal, Additional Bench,
ALLAHABAD.

BETWEEN

VIJAI NARAIN SINGH APPLICANT.

AND

UNION OF INDIA AND OTHERS RESPONDENTS.

ANNEXURE NO. IV

To,

Shri M.S. Narayanan,
Chairman,
C.B.D.T.,
New Delhi.

Sub : Settlement of claims of retirement
benefits - Reminder for -

Dear Sir,

Please refer to your F.No. A.24012/28/83-Ad.VI(A) dated 15.10.85 and my further reminder dated 16.11.85 on the above subject.

2. After a protracted correspondence for several years I could receive a sum of Rs.239/- as interest on GPF for the month of October 1982 on 19.3.86. I received my G.P.F. account on 6.1.83 this fact was brought to the notice notice of the Z.A.O. vide my letter dated 25.5.83 but interest only for one month has been received. How about the interest for the months of Nov. & Dec., 1982. It is not understood why the Department is interested in dragging me on into litigation. Will you please ask your Z.A.O. at Lucknow why he has calculated interest for only Oct., 1982 ?

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3. With your letter quoted above it appeared that you are proceeding in the matter very honestly and promptly but, it looks, somebody has again come in between to get everything delayed as long as possible. I have already requested that I want a final reply from the Department and not the amount in question so that I may proceed further in the matter. Should I ask you to please let me know your final reply in the matter or say how much more years are required to finalise my claims. It has already taken more than four years.

4. A very early decision is requested.

Yours faithfully,

Dated : 23.3.1986

(V.N. Singh)

Retd.

Income-Tax Officer,

97, Guru Govind Singh Marg,
Lucknow.

Copy to Shri V.P. Singh, Finance Minister(Central),
New Delhi for necessary action at his end as the matter is
hanging in the air from 15.11.81.

(V.N. SINGH)

TRUE COPY

ATTESTED
J. N. Singh

24

In the Central Administrative Tribunal, Additional Bench,
ALLAHABAD.

BETWEEN

VIJAI NARAIN SINGH

... ... APPLICANT.

AND

UNION OF INDIA AND OTHERS

... ... RESPONDENTS.

ANNEXURE NO. 7

F.No. OSD/CH(DT)/86-87/D-254/

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE

CENTRAL BOARD OF DIRECT TAXES

M.S. NARAYANAN
CHAIRMAN

New Delhi, the 3.4.86

Please refer to your petition dated 23.3.86. Necessary
instructions have been issued to the Chief Commissioner(Admn)
U.P. & Commissioner of Income-tax, Lucknow. Hope, you will
hear very soon from him.

Sd/-

(M.S. NARAYANAN)

Shri V.N. Singh,
97, Guru Govind Singh Marg,
Lucknow.

ATTESTED

TRUE COPY

Malhotra

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In the Central Administrative Tribunal, Additional Bench,
Allahabad.
BETWEEN

VIJAI NARAIN SINGH APPLICANT

AND

UNION OF INDIA & OTHERS RESPONDENTS

ANNEXURE NO. VI

Krishna Mohan
Advocate

R.A.D.

92, Guru Govind Singh
Marg, Risal Dar Park,
Lucknow - 226 019

To,

Dated : August 19th, 1986.

The Union of India,
Through The Secretary,
Ministry of Finance,
Government of India,
New Delhi.

Sir,

Ref : STATUTORY NOTICE U/S 80 C.P.C.

Under the instructions of my client Sri V.N. Singh,
Rtd. I.T.O., S/o Late Sri Bhuwal Singh, R/o 97, Guru
Govind Singh Marg, Lucknow (hereinafter referred to my
client), I hereby give you notice under Section 80 of
C.P.C. 1974 as under :-

1. That my client was serving Income Tax Department
as an Income Tax Officer and was lastly posted as
T.R.O. at Moradabad in U.P.
2. That my client fell ill so he applied for full pay
Medical Leave, i.e. commuted leave but was granted
only half pay Medical Leave w.e.f. 16.8.81 to
15.11.81. This was against all rules.

W.D.S. contd...2..

3. That even this salary was allowed only after 5 months i.e. half of the salary and interest for 5 months have not been paid.
4. That as per the notice for voluntary retirement dated 14.8.1981 my client retired voluntarily on 15.11.1981.
5. That after writing several letters and a notice U/s 80 of C.P.C. the Department paid GPF after 13-1/2 months, Pension after 18 months and gratuity after 18-1/2 months leaving behind some leave encashment and last T.A. Bill etc., hence interest at the market rates as per Hon'ble High Court, Allahabad and Supreme Court Rulings was claimed by my client.
6. That after a protracted correspondance from June, 1983 to 23.3.1986, the Chairman, Central Board of Direct Taxes, vide his letter dated 3.4.1986 informed my client that my client shall be hearing very soon from the Chief Commissioner & C.I.T., U.P., Lucknow, but nothing has yet been heard even after two reminders dated 10.6.1986 and 11.7.1986.
7. That due to mischief, malice and misconduct of some of the officers, the Department has avoided payment of salary, G.P.F., Gratuity and Pension upto the maximum period of 18-1/2 months and now the payment of interest is being delayed even after the instructions of the highest authority of the department, i.e. Chairman, Central Board of Direct Taxes, New Delhi.
8. That due to mischief and malice of these officers

contd....3..

Dinesh

-: 3 :-



which resulted in non-payment of pension, G.P.F., Gratuity and interest on the delayed payments and other dues, my client is made to suffer financially mentally and physically for which the Government is responsible and is also liable to pay suitable compensation.

9. That through this notice my client demands earliest payment of interest and other dues at the market rate as per Hon'ble High Court & Supreme Court of India Rulings and suitable compensation for physical torture for not paying pension for 18 months and financial, mental and physical torture for not paying leave salary, G.P.F., Gratuity and other dues ranging from 5 months to 60 months for his sufferings due to misconduct of the department to my client.

I hereby give you notice to arrange payment of aforesaid dues and suitable compensation for his sufferings due to misconduct of the department to my client within two months from the receipt of this notice otherwise my client will be compelled to take legal action in an appropriate court of law against you for which you will be responsible for costs etc., which please note.

Yours sincerely,

Sd/-
(KRISHNA MOHAN)
Advocate

Copy forwarded by Regd.
A.D. for information and
necessary action to :-

ATTENDED

1. The Chairman, Central Board of Direct Taxes,
New Delhi.

2. Sri Dhani Dhar, Chief Commissioner & Commissioner
of Income-Tax, U.P., Lucknow.

3. C.I.T., Lucknow.

TRUE COPY

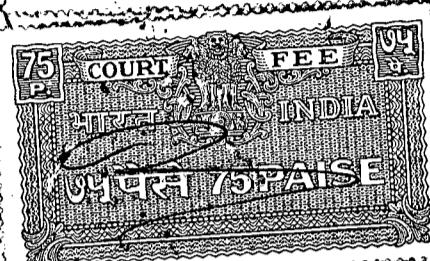
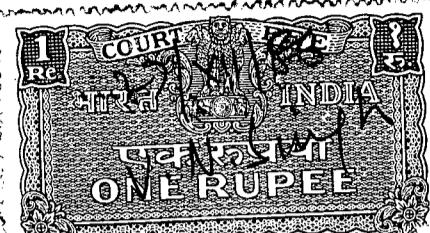
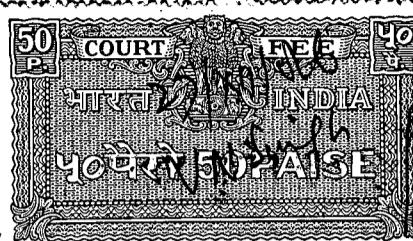
ब अदालत श्रीमान
[वादी] अपीलान्ट
..... श्री का वकालतनामा

Central Administrative Tribunal
Additional Bench, Allahabad

महोदय

A-42

प्रतिवादी [रेस्पाइंट]



Vigai Narain
Singh

Union of India & others

बनाम

नं० मुकद्दमा

सन्

पेशीकी तारीख

१०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री युहन मोहन एवं यशवर्ण

वकील
महोदय
एडवोकेट

दूरुक्त गोविन्द सिंह माझी, रिसाल दार पार्क

लखनऊ-226 019

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता है और लिखे देता है 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 रूपया वसूल करें या या सुलहनामा व इकबाल दाखा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावे या कोई रूपया जमा करें या हमारी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें — वकील महोदय द्वारा की गयी वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता हूं ता अगर मुकद्दमा अद्दम पैरवी में एक तरफ़ मेरे खिलाफ़ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया ताकि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक

27 महीना

स्वीकृत

YASHVARN
Advocate

27/11/06
(KRISHNA MOHAN)
Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH ALLAHABAD

COUNTER AFFIDAVIT

IN

REGISTRATION NO. 49 OF 1987

H.S. Today
17/4
Vijay Narain Singh Applicant

Versus

Union of India & Others Respondents

AFFIDAVIT of Shri H. P. Singh

aged about 45 years, son of

Late Sri Nand Singh, at present

posted as I.T.O. (H.Q.) Adm./

O/O the Commissioner of Income

Tax.

(DEPONENT)

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

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1. That the deponent is the Commissioner of Income Tax and has been authorised to file the counter affidavit on behalf of respondent and as such he is well acquainted with the facts of the case deposed to below.
2. That the deponent has read the application of Sri Vijay Narain Singh filed in the Hon'ble Tribunal and has understood their contents.
3. That the contents of paragraphs 1, 2, 3, 4 and 5 of the application need no reply.
4. That the contents of paragraph 6(a) and (b) of the application need no reply.
5. That the contents of paragraph 6(c) of the application are not admitted. The applicant applied for commuted Leave for 31 days w.e.f. 17.8.1981 to 16.9.1981 which was sanctioned vide C.I.T's Lucknow.

(RJ
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letter P.No. 43-592-II dated 2.11.1981. In continuation of this he extended the leave upto 15.11.1981 for grant of commuted leave. Commuted leave from 17.9.1981 to 15.11.1981 for 60 days sanctioned vide C.I.T's Lucknow order dated 11.12.1981 issued vide his office endorsement Estt. P.No.43-592-II dated 16.12.1981 on half pay. Again in view of the I.A.C's letter F.No.10(a)/82 dated 28.4.1982 the learned C.I.T. Lucknow converted the commuted leave for 31 days into half pay leave vide his endst. Estt./P.No. 43-592-II dated 3.5.1982

Under Rule 30(2) of the revised leave rules 1972. Thus the commuted leave for 91 days w.e.f. 17.8.1981 to 15.11.1981 has been sanctioned correctly. These applications were supported by the medical certificates. No dues of leave salary amounting to Rs. 2277/- is outstanding.

6. That the allegations made in paragraph 6(d) of the application are not admitted and a suitable reply has already been given in the earlier paragraphs.

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7. That in reply to the contents of paragraph 6(e) of the application it is stated that as regards the pensionary benefits are concerned the sequence of events from the date of submission of papers to its final payments are produced below :-

(i) The Pension papers were submitted by the Officer concerned to this office on 1.12.1981.

(ii) Objection raised by the I.A.C. Office on 17.2.1982 for removing the objections by Shri V.N. Singh and Tax Recovery Officer, Moradabad, for sending the L.P.C. of the retd. I.T.C. with no dues certificates. Objection removed by the applicant on 27.2.1982.

(iii) Reminder issued to T.R.O. by this office on 2.3.1982 calling for the documents at 2 above.

(iv) Reminder issued to T.R.O. by this office on 20.3.82 for documents at 2 above.

(v) On 28.4.82 instructions were sought from the C.I.T. in connection with Commuted Leave. Instructions issued by the C.I.T. on 3.5.82.

(vi) On 28.4.82 Service Book sent to the I.A.C. Lucknow for making entries regarding drawal of increment from 1.6.81 at the stage of Rs. 775/-.

(vii) On 3.5.82 objection was raised by this office for the recovery of the excess payment made to him and for issuing revised L.P.C.

(viii) Telegram sent on 25.5.82 to T.A.C. Lucknow, for doing the needful at 6 above.

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(ix) Revised L.P.C. issued on 17.5.82
by the T.R.O. Moradabad.

(x) Service Book returned by the I.A.C.
Lucknow, duly completed on 1.6.82.

(xi) Pension papers submitted to the
A.Z.O. on 16.6.82.

(xii) The Z.A.O. Lucknow raised the
objections in Pensipn papers on
31.7.82 with a copy to Shri V.N. Singh
also.

(xiii) Letter addressed on 11.8.82 to
T.P.O. Moradabad for removing the
4 objections raised by the Z.A.O.
above at xii.

(xiv) Objections removed by the T.R.O.
28.8.82.

(xv) After removing objections Service Book etc. sent back to Z.A.O. Lucknow on 18.9.82. The pension admitted by the Z.A.O. as per Service Book on 7.3.83.

(xvi) G.P.F. payment authority sent to this office by the Z.A.O. wrongly in favour of I.A.C. Moradabad which was sent back on 18.10.82 to the Z.A.O. for issuing the same in favour of T.R.O. Moradabad.

(xvii) The payment of the above was received by Shri V.N. Singh on 6.1.83.

(xviii) D.C.R. Gratuity payment authority dated 9.3.83 sent to this office by Z.A.O. wrongly in favour of I.A.C. Moradabad sent back on 20.3.83 to Z.A.O. Lucknow, for issuing the same in favour of T.R.O. Moradabad.

(xix) The payment of the above was received by Shri V.N. Singh on 22.5.83.

The perusal of the above alongwith the circular of M.O. Home affirs No. 7/1/P.A./79 dated 11.7.1979 circulated under C.I.T's C.No. 158-297/60-1 dated 14.11.1979, makes it very clear that no interest is payable in this case on payment of Gratuity as there does not appear to be any administrative lapse in handling the case.

8. That in reply to the contents of paragraph 6(f) of the application it is stated that as regards the payments of G.P.F. and Gratuity are concerned the same have already been explained in detail in earlier paragraph. So far as the payment of leave encashment and T.A. Bill is concerned, the position of the same is given as under :

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Leave encashment

As per leave account of the officer concerned 115 days un-utilized earned leave was due to him. The payment of the same has already been made. No payment on this account remains payable to him.

Travelling Allowance Bill

No such claim appears to have been submitted to this office, The T.R.O. Moradabad, has also recorded that no such claim or bill is available in his office. Hence the question of payment of Rs. 750/- as claimed by the retired officer does not arise.

9. That the contents of paragraph 6(g) of the application has already been stated in the above paragraphs. It is further stated that the applicant is not entitled to any interest.



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10. That in reply to the contents of paragraph 6(h) of the application it is stated that no payment is outstanding, the question of payment of interest does not arise.

11. That the contents of paragraph 6(f) of the application it is stated that no comments are to be offered by the office, of the answering respondent.

12. That in reply to the contents of paragraph 6(j) of the application it is stated that from the above facts it is very clear that there appears no administrative lapse in handling the case. Hence, no interest is liable to be paid to the applicant.

13. That the aforesaid application is not maintainable and is liable to be dismissed. The applicant has failed to make out any case for interference of this

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Hon'ble Tribunal jurisdiction and the present application is liable to be dismissed.

I, the abovenamed deponent do hereby declare that the contents of paragraphs 1 and 2 OF THIS AFFIDAVIT are true to my personal knowledge ; those of paragraphs 3, 4, 5, 6, 7, 11 & 12 of this affidavit are based on perusal of record and those of paragraphs 8, 9, 10, & 13 of this affidavit are based on legal advice which all I believe to be true, no part of it is false and nothing material has been concealed.
SO HELP ME GOD.

Deponent

I, V.P. Tripathi, Clerk to Sri N.B. Singh, Senior Standing Counsel, Central Government, High Court Allahabad do hereby declare that the person making this affidavit and alleging himself to be the same person which was produced before me by the deponent.

Clerk.



: 12 :

Solemnly affirmed before me on this 14th day of Oct., 1987 at 8:30 a.m./p.m. by the deponent who has been identified by the aforesaid person.

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

OATH COMMISSIONER

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH, ALLAHABAD

Registration No. 49 of 1987

VILJAI NARAIN SINGH APPLICANT

Versus

Union of India & Others Respondents

REJOINDER AFFIDAVIT

I, Vijai Narain Singh, aged about 62 years son of Late Sri Bhuwal Singh, resident of 97-Guru Govind Singh Marg, Lucknow, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is an applicant in the above mentioned case, thus he is fully conversant with the facts deposed hereunder.
2. That the contents of para 1 of the counter-affidavit need no comments.
3. That the contents of para 2 of the counter-affidavit needs no comment.

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4. That the contents of para 3 of the counter-affidavit needs no comment.
5. That the content of para 4 of the counter-affidavit needs no comment.
6. That the contents of para 5 of the counter-affidavit are wrong and denied and the corresponding para of the application is reiterated as correct.
7. That it is further stated Under Rule 7(2) of the Revised Leave Rules 1972 which runs as under :-

" When the exigencies of Public Service so require, leave of any kind may be refused or revoked by the authority competent to grant it but it shall not be open to that authority to alter the kind of leave due and applied for except at the written request of the Government Servant."

Thus it is very clear from these Rules the Respondent No. 3 (Competent Authority) before commenting the commuted leaves to half pay leave, ought to have given a notice to the applicant but the Respondent No. 3 has done everything without notice and his action is

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arbitrary and in contravention of the Rules and is in violation of Principles of natural justice.

Though Under Rule 30 (2) of the Revised Leave Rule, 1972 which runs as under :-

" Where a Government servant who has been granted commuted leave resigns from service or at his request permitted to retire voluntarily without returning to duty, the commuted leave shall be treated as half pay leave and the difference between the leave salary in respect of commuted leave and half pay leave shall be recovered.

Provided that no such recovery shall be made if the retirement is by reason of ill health incapacitating the government servant for further service or in the event of his death. "

Now it is evident from the proviso clause that if the retirement sought by the government servant on health ground then the commuted leave shall not be treated as half pay leave.

In this way the Respondent No. 3 has over-riden all the rules and regulations in converting the applicant's commuted leave to half pay leave as envisaged under rules 7(2) & 30(2) of the Revised Leave Rules 1972. The applicant is entitled for Commuted Medical Leave on full pay w.e.f. 16.8.1981 to 15.11.1981.

7. That the contents of para 6 of the counter-affidavit are wrong and denied and the corresponding para of the application is reiterated as correct.
8. That the contents of para 7 of the counter-affidavit are wrong and denied and the corresponding para of the application is reiterated as correct.

That it is further stated that as per pension rules the provisional gratuity and provisional pension ought to be give on the basis of last pay drawn on the date of retirement i.e. on 15.11.1981.

That as per pension rules other pensionary benefits should have been given within two months of applicant's retirement i.e. upto 15.1.1982. In this connection the Hon'ble Supreme Court and Hon'ble Allahabad High Court have held if the delay in payment of retirement benefits is beyond two months of the date of retirement, the Government is liable to pay interest at Market rate.

Thus sequence of events as enumerated in sub-paragraph (i) to (xix) of Paragraph 7 of the Counter-Affidavit, are the departmental correspondance, for which the applicant has no

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concern and should not suffer. It appears that there is administrative lapses in handling the applicant's case, for which Respondent No. 3 is responsible.

The Respondent No. 3 has not paid any heed to the instructions of the highest authority of the Department (Annexure - V of the application).

9. That the contents of paragraph 8 of the counter-affidavit are denied and wrong and the corresponding para of the application is reiterated as correct.

That the concerned officers of Respondent No. 3 never informed that the applicant's T.A. Bill is missing otherwise he must have submitted the duplicate T.A. Bill. The original T.A. Bill was sent to the Inspecting Asstt. Commissioner of Income Tax, Moradabad, by registered post vide R. No. 2826 dated 30.11.81.

The Hon'ble Tribunal may kindly order to Respondent No. 3 to furnish the details of 115 days leave because the leave was allowed upto 30.6.1981 and actually it ought to have been allowed upto 15.11.1981 till the date of applicant's retirement.

10. That the contents of para 9 of the counter affidavit are wrong and denied and the corresponding para of the application is reiterated as correct.

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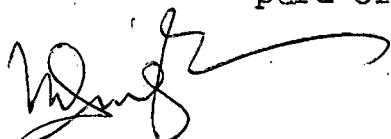
: 6 :

11. That the contents of para 10 of the counter - affidavit are wrong and denied and the corresponding para of the application is reiterated as correct.
12. That the contents of para 11 of the counter - affidavit are wrong and denied and the corresponding para of the application is reiterated as correct.

The Hon'ble Tribunal may kindly order to Respondant No. 3 to submit the copy of instructions given by the Chairman, Central Board of DirectTaxes, New Delhi. On the perusal of the Annexure V to the application, it shows that necessary instructions were issued to the Respondent No. 3, and he was to inform to the applicant with his suitable action but he has not yet informed anything in this connection to the applicant.

When the Respondent No. 3 is not following the instructions of the Chairman, Central Board of Direct Taxes, New Delhi then how does he expect compliance from his subordinates, as guaranteed in paragraph 7 of the Counter - Affidavit.

13. That the contents of paragraph 12 of the Counter - Affidavit are wrong and denied and the corresponding para of the application is reiterated as correct.



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14. That the contents of para 13 of the Counter - Affidavit are wrong and denied and the applicant is entitled for the relief as detailed in paragraph 7 of the application.

Lucknow:

Dated:


Applicant/Deponent

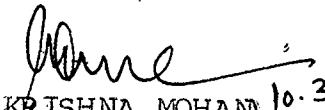
VERIFICATION

I, the above named deponent, do hereby verify that the contents of paragraph 1 to 14 of the Rejoinder - Affidavit are true to my personal knowledge.

Signed this day of October, 1988 at Lucknow.


Deponent

I identify the deponent who has signed before me.


(KRISHNA MOHAN) 10.3.88
Advocate.

of No. 49/1987

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VAKALATNAMA

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

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Vijai Narain Singh Plff./Applt./Petitioner/Complainant

Verses

Union of India Defent./Respt./Accused

KNOW ALL to whom these presents shall come that I/We C.L.I.
the above-named *Respondent* do hereby appoint

Shri V. K. CHAUDHARI, Advocate,

..... High Court, Lucknow Bench

(hereinafter called the advocate/s) to be my/our Advocate in the above-noted case and
authorised him :—

To act, appear and plead in the above-noted case in this Court or in any other Court
in which the same may be tried or heard and also in the appellate Court including High Court
subject to payment of fees separately for each Court by me/us.

To sign, file, verify and present pleadings, appeals, cross-objections or petitions for
executions, review, revision, withdrawal, compromise or other petitions or affidavits or other
documents as may be deemed necessary or proper for the prosecution of the said case in all
its stages.

To file and take back documents, to admit &/or deny the documents of opposite
partys.

To withdraw or compromise the said case or submit to arbitration any differences
or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

To deposit, draw and receive moneys, cheques, cash and grant receipts thereof and
to do all other acts and things which may be necessary to be done for the progress and in the
course of the prosecution of the said cause,

To appoint and instruct any other Legal Practitioner authorising him to exercise the
power and authority/herby conferred upon the Advocate whenever he may think fit to do so
& to sign the power of attorney on our behalf.

And I/we the undersigned do hereby agree to ratify and confirm all acts done by the
Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all
hearings & will inform the Advocate for appearances when the case is called.

And I/we undersigned do hereby agree not to hold the advocate or his substitute
responsible for the result of the said case. The adjournment costs whenever ordered by the
Court shall be of the Advocate which he shall receive and retain for himself.

And I/we the undersigned do hereby agree that in the event of the whole or part of
the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to
withdraw from the prosecution of the said case until the same is paid up. The fee settled
is only for the above case and above Court I/we hereby agree that once the fees is paid. I/we
will not be entitled for the refund of the same in any case whatsoever.

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the
contents of which have been understood by me/us on this 2nd day of Feb 1989

Accepted subject to the terms of fees.

John 15/4/89
Advocate

Client

Client

Defendant
21/4/89
High Court Lucknow
J. P. (S.) Prakash, M.A.

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Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, GANDEO BHAWAN,
LUCKNOW

No. CAT/CB/LKO/ 1103 Dated : 5-4-89

Registration No. 49 of 1987

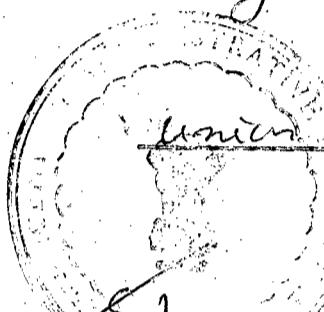
Vijai Mehta Singh Applicant

Versus

Union of India

Respondent's

To



Shri M. B. Singh, Adv
Sri Standing Counsel Central Govt.
High Court - Allahabad

Please take notice that the applicant above named has presented an application a copy whereof is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed 17 day of 4 1989 for order

If no appearance is made on your behalf by your pleader or by some one duly authorised to Act and plead on your in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 5 day of 4 1989.

dinesh

For DEPUTY REGISTRAR

Central Administrative Tribunal
Lucknow

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Registered A.D.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
23-A Thornhill Road, Allahabad-211 001

(Registration No. 49 of 1987)

No. CAT/Alld/Jud/-

Dated:

V. N. Singh APPLICANT(s)

Versus

U. O. I Sec Min. of Finance & others New Delhi
RESPONDENT(s)

NOTICES ISSUED TO FOLLOWING RESPONDENTS

① Sec. Min. of Finance Deptt of Revenue N. Delhi
② Chairman, Central Board of Direct Taxes
③ Chief Commissioner of Income Tax, LKO

Please take notice that the applicant above named
has presented an application a copy whereof is enclosed
herewith which has been registered in this Tribunal and the
Tribunal has fixed. 8th day of Feb 1989. For
hearing at LKO Circuit Bench
LUCKNOW.

If, no appearance is made on your behalf, your
pleader or by some one duly authorised to Act and plead on
your in the said application, it will be heard and decided
in your absence.

Given under my hand and the seal of the Tribunal
this 19th day of Jan 1989.

dinesh/

For DEPUTY REGISTRAR (Jud.)

ANJANATAWA

④ Commissioner of Income
Tax, LKO