

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE T.A. 694 OF 1987

NAME OF THE PARTIES R. Kamal

Applicant

Versus

U. O. I. & other Respondent

Part A, B & C

Sl. No.	Description of documents	Page
1 A-1	General Index	1
2 A-2	order sheet	5
3 A-3	Judgment 22-7-91	11
4 A-4	petition copy	8
5 A-5	Affidavit	2
6 A-6	Annexures	31
7 A-7	Power	1
8 A-8	S. C. A.	5
9 A-9	Annexures	10
10 A-10	S. D. A.	4
11 A-11	R. A. on Behalf of App.	4
12	C. A.	(61) 5
13		

CERTIFICATE

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

Dated... 15/3/2011...

File B/C destroyed on 09/5/12

Counter Signed.....

Section Officer / In Charge

Signature of the
Dealing Assistant

CIVIL

SIDE

GENERAL INDEX

~~CRIMINAL~~

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case..... W.P. 2637-80

Name of parties..... R. Kaur vs. The Union of India & Ors.

Date of institution..... 18-9-80

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	1	General Index	1	-	-	-		
2	2	Order sheet	1	-	-	-		
3	3	1st to 44th GENERAL INDEX with enclosures	44	5	102	-		
4	4	Index	1	3	5	-		
	5	Order sheet	1	-	-	-		
	6	Bench Copy	1	-	-	-		

I have this

day of

198 ,

examined

the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the papers correspond with the general index, that they bear Court-fee stamps of the aggregate value of Rs. that all orders have been carried out, and that the record is complete and in order up to the date of the certificate. ☐ ☐ ☐ ☐

Date.....

Munsarim

Clerk

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 2637 of 1980
 R. Kamal vs. Mulla of India for

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
18-9-80	Item T.S. Misra Item D.N. Jha —	
	Admnl. Issue notice.	
	Sd. T.S.M.	
	Sd. D.N. Jha	
	18-9-80	
	<u>Service report-</u>	
	All the opposite parties are served through eff S. B. L. Shukla	
	Advocate Court Office to proceed.	
	SP	
	Item B.L.	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 684 of 198 7/87

APPELLANT
APPLICANT

VERSUS

DEFENDANT
RESPONDENT

2/2

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
6.9.89	<p>Hon. Justice K. Nalk, V.C. Hon. K. J. Raman, A.M.</p> <p>Sh. C.B. Verma files his vakalatname on behalf of the applicant to say and he admits that a counter affidavit has been filed in the Hon'ble High Court whose copy is in his possession. The record does not contain the counter affidavit. Sh. Verma will file a copy of the counter affidavit along with a rejoinder affidavit within two weeks time.</p> <p>Appearance is made by the brief holder of Sh. B.S. Rameshwar, learned counsel for the respondents.</p> <p>List this case for final hearing on 26.9.89.</p> <p><i>[Signature]</i> A.M.</p> <p><i>[Signature]</i> V.C.</p>	<p>OR</p> <p>This case has been recd. from Ald. on 19.7.89. W.P. is admitted. CA/RA has been filed. Notices issued from C.A.T.A. etc. attached for Subr. order.</p> <p>575</p> <p>OR</p> <p>As directed by the court's order dt. 07.09.89, no reply has been filed. Submitted for order.</p>

2/7 TA 694/87 (T)

31/1/90

Non. Justice K. V. R. N.

Non. K. J. Ramana, Am.

On the prayer made on
behalf of Sri. I. M. Chakraborty
for adjournment the case be
adjourned for 1/3/90 for
final hearing.

W. R.
Am.

Dr
V. C.

S. P. N. R.

2/2

Non. Justice K. V. R. N.

Non. Mr. K. J. Ramana Am

On the request of both the
parties the case is adjourned to
15.3.90 for hearing.

W. R.
Am

Dr
V. C.

On

S. F. H.

~~TA 694/87 (T)~~

14/3

No sitting of O/B. adjourned

to 17/5/90

Dr

15/3/90

B. O. C.

694/87

2/1

16.7.90

Hon'ble Mr. Justice K. Math, V.C.
" " K. Obayya, A.M.

Mr. Surendram P. for the petitioner and Mr. I.M. Quaderi for the respondents are present. Counter Affidavit on record is no Counter in the eyes of law. It bears no signature. It is sworn by none. Consequently the counsel for the respondents party for is allowed two weeks time to file a proper C.A. Petitioner will have an opportunity to file RA within one week thereafter. Listed for hearing on 16th August 1990 and it may not be ~~taken up~~ ^{treated} as a tied-up to this Bench.

(A.M.)

(V.C.)

OR
He for 2 parties have not compliance the court's dt. 26.7 S. F. H. 10/8

16.8.90 Hon'ble P. Ginnissay, A.M.
" J.P. Sharma, J.M.

Sri Surendram P. for the applicant. Dr. Omesh Chandra for Sri I.M. Quaderi for the respondents. Dr. Chandru files M.P. No. 492/90 which is an application for extension of time by one week to file supplementary Counter affidavit. M.P. No. 492/90 is allowed and the respondents shall file a reply within a week from today. The applicant to file R.A. along, within a week thereafter. Post-the case for final hearing on 31.8.90.

Member (J)

16/8 Member (A)

31-8-90

Hon'ble Mr. D K. Agrawal - J.M.
Hon'ble Mr. K. Obayya A.M.

On the request of both the parties the case is adjourned to 14-9-90
A.M.

OR
Sd/- CA filed duly signed on the applicant.
Sd/- RA Not filed.
S. F. H.

13/9 30/8

N/6

TA 694/89(T)

13-12-90

Hon Mr Justice K. Nattive
Hon Mr K. Ganga, A.M.

Arguments heard.
Judgment reserved.

A

A.M.

VC

22.1.91

Hon Mr Justice K. Nattive

Judgment pronounced today

VC

Received copy of
Judgment.

Received copy of
Judgment
N. Ganga
5/2/91
for (Sis. M. Suddhai)
(M. Suddhai)

5-8-72 - Asst
Temp. Computer APHA.

~~19-5-79~~ - Issued C/S. - (1) Unauthorised absence from 9-4-79 to 26-4-79 - when not entitled to pay under Provins 67/2 17

(2) Unauthorised absence from 9-4-79 to 25/4/79, hence

(3) Since appt in Errata Section he has neither obtained allotment of work from Supri, nor filled his daily diary, hence contravenes R3 of Conduct Rules.

17.7.79 - Repts: Chp I & II denied = Chp I & II denied as leave was sanctioned till 7.7.79 & all payments of salary etc were made.

Chp III - is vague hence reports of Acharya Pl. in Errata Section, & at 27.4.79 of Asst. Hk Asst. Dir. Cms, are in my absence. If the authentic copy of their reports are made available to me, then only can be possible for me to explain any more.

But then are annexed with c/s -

9-10-79 = EO applied.
An 4.

~~25/14/79~~ = Chaps for provins - Consumed up to 16(5).

This is late as fact. (with provins) of Hk C/A - Annexed on 25/12/79.

Q = Since enquiry was not held under Rule 16 & EO was applied, the DA was not entitled to pass an order under Rule 16(c) without a formal enquiry proceedings in view of R 16(4).

- See note 5 under Rule 14 at p 51 of 1974 (c)

1-1-80 = Termination order simpliciter up to 5(1) of (Temp. Cms) Rls.

Ann 7

Why :- Suppl. C/A Prov 3 = Advan. 1974-75
appt. remarks up to 4th

C/A - R 4 = Advan. 1978 =

Temp. Tech Computer.

5-2-72. Appd.

1-1-80 Terminates w/r 5 (1) CCS (Temp seni) Rels 1965.
Am 7

18.9.80 L.P. file -

April 1984. ^{by R3} CA₁ officers to have been filed with the HC but the original is not on record. The plea taken is that CS w/r 16 CCS (CCA) Rels
Am 2 219.5-79

was used with effect to the detriment of the absence from 9.4.79 to 26.4.79, & for performed no function since appointed in Errata Section & hence counted misconduct under R3 CCS (Conduct) Rels. P further a ref, the competent authority found the charges proved, hence he was censured.

Service order of 1.1.80 was passed as the P was not considered suitable for the post, & his selection was not considered in the interests of the department. The appeal on ground that the P claim of his work record being unblemished was ~~not~~ denied.

- Before appeal could be filed, the case was dropped later Tribunal. Since the CA file in HC was not on record, appeals were permitted to file a fresh case. Thus CA of 16.8.90 on behalf of P was filed on 26.9.89 at the same place as in earlier CA. P filed a rejoinder thereto stating that the P was a regular employee ^{not a temporary officer} as appeared from the service list, hence senior could not be treated w/r 5.

Further pleaded that ~~the case was dropped~~ this application of the P was cancelled and on the same date his services were terminated, & hence there was no punishment.

- The appeals then filed a further CA of 28.8.90 to elaborate the stand taken in the CA of 16.8.90. That the P was terminated because he was not considered suitable for the post.

Admitted in para 4 of appeal Rejoinder.

Adverse remarks = 1974-75 for taking action post in application of retraction in staff. Represented at 26.2.76 on request by order of 9.3.76, & ~~the case was dropped~~ order of 25-9-76.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Lucknow Circuit Bench

~~G.A. No.~~
T.A. No.

694

1997 (T) (L)

DATE OF DECISION

R. Kamal Petitioner

Shri C.B. Verma Advocate for the Petitioner(s)
Shri Sudendran, P. Versus

Union of India & Others Respondent

S/m B. P. Shukla Advocate for the Respondent(s)
Shri L. S. Ramchandra
Shri J. M. Chakrabarti

CORAM :

The Hon'ble Mr. Justice K. Datta, Jc.

The Hon'ble Mr. K. Dabray, Am.

1. Whether Reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgment ? Yes
4. Whether to be circulated to all other Benches ? No

.....

Ghanshyam

22.1.91

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
LUCKNOW CIRCUIT BENCH

Registration T.A. No.694 of 1987
(Writ Petition No.2637 of 1980 of the)
(High Court of Judicature at Allahabad)
(Lucknow Bench, Lucknow.)

R.Kamal Petitioner

Versus

Union of India & Others..... Respondents

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

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

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

The Writ Petition described above is before us under Section 29 of the Administrative Tribunals Act, 1985 for quashing the punishment of censure contained in Annexure-6 dated 25.12.79, an order of termination of the petitioner's services contained in Annexure-7 dated 1.1.1980 and an order dated 29.4.1980 contained in Annexure-9 dismissing the petitioner's appeal against the order of termination.

2. The petitioner was working as a Temporary Assistant Compiler in the office of respondent No.3, the Director of Census since 5.8.1972. He was served with a chargesheet dated 19.5.79 to hold a departmental enquiry under Rule 16 of the C.C.S.(CC&A) Rules, 1965 for unauthorised absence from 9.4.79 to 26.4.79 and for failing to perform any functions since appointment in the Errata Section and thereby violated Rule 3 of the C.C.S. (Conduct) Rules. The petitioner submitted a reply dated 17.7.79, Annexure-3 in which he denied the charges and pointed out that his leave had been sanctioned upto 7.7.79 and payment of salary etc. had already been

- 2 -

made. It was also said that the charge regarding failure to perform functions in the Errata Section was vague because reports dated 27.4.79 of Achhu Lal and Ajit Singh were made in his absence and that he could furnish his full explanation if authenticated copies thereof could be made available to him.

3. An Inquiry Officer was appointed by order dated 9.10.79, Annexure-4. The Inquiry Officer submitted his report and the disciplinary authority finding the charges proved censured the petitioner by an order dated 25.12.79, Annexure-6.

4. Subsequently on 1.1.1980 the impugned order of termination was passed under Rule 5(1) of the C.C.S. (Temporary Service) Rules, 1965 as the petitioner continued to be a temporary Govt. servant. The petitioner preferred an appeal to respondent No.2, Registrar General who dismissed the appeal by impugned order, Annexure-9.

5. The petitioner's case is that the impugned censure entry is illegal because there is no evidence in support thereof and that the order of termination is illegal because it is by way of punishment and the petitioner was not given opportunity to show cause.

6. Counter and Rejoinder have been exchanged. We have heard the learned counsel for the parties and have gone through the record.

7. So far as the punishment of censure is concerned the petitioner has failed to make out any case. The chargesheet, Annexure-2 contains not only a statement of

92

imputations of misconduct but also a list of documents in support thereof. This list includes the Earned Leave application dated 27.4.79, the reports of Achhey Lal and Ajit Singh, the concerned officials, and the own explanation dated 8.5.79 of the petitioner. It is immediately noticeable that the petitioner made the application for Earned Leave after he had already remained absent from 9.4.79 to 26.4.79. The fact therefore that some time later (of which the correct date is not known) the leave was sanctioned does not do away with the fact that the petitioner had remained absent without his leave application. The submission that he could give a proper reply if he could be given an authenticated copy of the reports of Achhoy Lal and Ajit Singh is a bare pretence because the reports accompanied the chargesheet and he had no business to doubt their genuineness. The contention of the petitioner therefore that there was no material in support of the charge of unauthorised absence or of failure to perform the duties in the Errata Section has no substance. The respondent No.2 in his order dated 25.12.79 imposing the penalty of censure has mentioned that the petitioner had failed to explain the reasons for unauthorised absence and that the record and the diaries connected with the petitioner's work left no manner of doubt that the petitioner had avoided to perform his work. The censure penalty contained in Annexure-6 therefore does not deserve to be interfered with.

8. In respect of the order of termination of the petitioner's services the petitioner's case is in

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- 4 -

two parts. Firstly, it is alleged to be punitive without opportunity. Secondly, it is said to be illegal inasmuch as a chargesheet having been issued for acts of misconduct and an enquiry having been held, the provisions of Rule 5 of the C.C.S.(Temporary Service) Rules could not be made use of.

9. The termination order was passed on 1.1.80; the appellate order was passed on 29.4.80. The Writ Petition was filed on 18.9.80. The respondents appear to have filed a Counter Affidavit of respondent No.3 in the High Court some time in April, 1984 but when the records were received by transfer in this Tribunal under Section 29 of the Administrative Tribunals Act, 1985 the original Counter Affidavit was not found on record. The respondents filed an unsigned copy of the counter; the petitioner had not filed his rejoinder till then. However, the respondents were directed to file a proper counter. Consequently, a counter affidavit dated 16.8.90 was filed on behalf of the respondents containing the same pleas as were contained in the Counter Affidavit of respondent No.3 purported to have been filed in April, 1984 in the Hon'ble High Court. It was stated in the Counter Affidavit that the petitioner had remained absent unauthorisedly from 9.4.79 to 26.4.79 in respect of which the chargesheet in question was issued which also contained the allegation of his failure to perform functions in the Errata Section constituting misconduct. It was added that the petitioner had furnished a reply, and the competent authority found the charges proved, on which basis the petitioner was censured. It was next said that the termination order was passed and the

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- 5 -

petitioner was not considered to be suitable for the post and his retention in service was not considered to be in the interest of the Department. It was added that the petitioner's claim that his work and conduct was unblemished was not correct.

10. The petitioner filed a Rejoinder Affidavit dated 26.9.89 stating inter alia that he was a regular employee, not temporary employee, and therefore he could not be terminated under Rule 5 of the Temporary Service Rules. He added that after the chargesheet, the order of censure as well as of termination of service were passed on the same date and were therefore part of the same transaction with the result that the termination order was punitive.

11. Later on the respondents filed Supplementary Counter Affidavit dated 28.8.90 to elaborate the stand taken in the Counter Affidavit dated 16.8.90 that the petitioner's services were terminated because he was not considered suitable for the post. It was stated that adverse remarks were given to the petitioner for the year 1974-75 for taking active part in the agitation against retrenchment in the staff and his representation against the entry was rejected by order dated 9.3.76, Annexure-SCA1 and a further appeal against rejection was also rejected by order dated 25.9.76, Annexure-SCA2. This statement is admitted in para 4 of the petitioner's Supplementary Rejoinder. It was further stated in the Supplementary Counter that for the period from April, 1975 to December, 1975 an adverse remark contained in Annexure-SCA3 was made in the petitioner's A.C.R. recording

- 6 -

that the petitioner's punching work was poor, that he had been warned for late attending in the office on 9th, 10th and 11th July, 1975 and that he had quarreled with the superior officers in the office. The portion regarding quarreling with the officers was expunged by letter dated 28.6.77. These statements are also admitted in para 6 of the Supplementary Rejoinder with the only difference that according to the petitioner whole of the adverse remarks had been expunged as indicated in Annexure-SCA3. That is not quite correct because Annexure-SCA3 contains the cuttings which concerned only the part regarding the petitioner's quarreling with his officers; the remaining entries regarding poor performance in punching work and warning for late attending the office have remained untouched. The Supplementary Counter Affidavit further stated that the petitioner was awarded adverse remarks for the year 1978 also which were communicated to him by letter dated 6.4.79, Annexure-SCA4. The entry stated that although the petitioner was very intelligent but he was never found keen to learn work, he refused to take work, always quarreled with his superiors, was not punctual and left office without any application for leave. There is no indication in the Supplementary Counter that the petitioner has made any representation against this entry. The petitioner had stated in para 5 of the Supplementary Rejoinder that he did make a representation against those entries which was still pending; but he has not filed any proof of his making the representation.

12. It was further said in the Supplementary Counter that ~~so~~ many complaints were received against the

petitioner which were enquired into and the petitioner even cross-examined the witnesses. In para 8 of the Supplementary Rejoinder the petitioner said that no complaints were received and no enquiries were made.

13. Finally, it was stated in the Supplementary Counter that on a consideration of the material, the Director i.e. respondent No.3 found the petitioner to be the liability in the office and terminated his services. The petitioner stated in para 9 of the Supplementary Rejoinder that the Director had considered material which had never been brought to his notice and is stigmatic. The petitioner went on to say in the Supplementary Rejoinder (dated 20.12.90) that he had never been told that he was unsuitable for the post and his retention in service was not in the interest of the Department. He repeated that the termination was for misconduct and constituted punishment without opportunity.

14. It may be immediately noticed from the statement of the parties contained in their affidavits as mentioned above, that before the impugned termination order was passed on 1.1.1980, the petitioner had adverse remarks in his A.C.R. for the years 1974-75, 1975-76 and 1978 and that in respect of the first two the petitioner's representations had been considered and appropriate orders were passed. In respect of the year 1978, it was not established that the petitioner did make any representation against the adverse entry

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which admittedly were communicated to him. These remarks in the A.C.Rs undoubtedly reflected upon his suitability for continued employment.

15. The respondents, of course, have not been able to show that many complaints had been received against the petitioner which were enquired into when the petitioner cross-examined the witnesses. A report dated 28.7.79 of the petitioner himself is annexed to Supplementary Counter which indicates that on enquiry made from him the petitioner protested with some surprise that if he had really hurled abuses in front of the room of the Assistant Registrar as alleged, then a clarification on six points set out by him in the report might be given so that he could submit his reply to the allegation. There is no specific denial of these documents in the petitioner's Supplementary Rejoinder. The upshot is that it is not as if there were no complaints whatsoever against the petitioner; but even if the allegation in the Supplementary Counter that there were many complaints against the petitioner be ignored, there was enough material in the Annual Confidential remarks of the petitioner coupled with the censure entry, Annexure-6 dated 25.12.79 after enquiry into allegations of unauthorised absence and failure to perform functions in the Errata Section reflecting upon his suitability to be retained in service. The question whether or not the petitioner was suitable to be retained in service or whether his performance was satisfactory or not is essentially a matter for consideration of the competent administrative authority; it is not for this Tribunal to hold whether on the facts

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- 9 -

and circumstances of the case the petitioner should or should not have been held to be unsuitable for continued employment. The case of the petitioner that the order of termination was passed on the same date on which the punishment or censure was awarded is incorrect. The censure order, Annexure-6 itself is dated 25.12.79. It was only communicated on 1.1.1980. It is true that the termination order was passed on 1.1.1980 but that does not mean that the order of termination was in the same course of transaction as the order of censure because between the penalty of censure and the order of termination a perusal of the record of the petitioner had to be gone through which consists of the material set out above.

16. It is futile for the petitioner to complain that he had never been told that he was unsuitable for the post or that his retention was not in the interest of the Department. Nothing in the Rules requires the petitioner to be told every now and then whenever he fails to discharge his functions or to act in accordance with the expected standards of a Govt. servant. In this particular case adverse entries were being made against the petitioner, enquiry was being held against him and at all occasions he had opportunity to explain his position and he did make representations from time to time. There is no basis therefore for the petitioner's contention that he was never told that he was unsuitable for the job or his retention was not in the interest of the Department. The further contention that ~~in~~ the case of the respondents that the retention of the petitioner was a liability in the office is stigmatic also has no

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force. There is no question of its being stigmatic. An employee who does not discharge his functions despite repeated opportunity is undoubtedly a liability to the Department and a statement of his being a liability is not a statement casting any stigma upon him. The order of termination is an order ~~ex~~ simpliciter. A scrutiny of the facts and circumstances behind that order showed that it was passed not by awarding any penalty to the petitioner but because his work and conduct was found to be unsatisfactory, the competent authority found him to be unsuitable for retention in Govt. service. The learned counsel for the petitioner lastly urged that since an enquiry on a chargesheet had been instituted, it was not open to the respondents to drop the enquiry and pass the order simpliciter because under the provisions of Rule 16(4) of the C.C.S.(CC&A) Rules, 1965 the disciplinary enquiry should have been completed and order should have been passed. We are unable to agree. In the first case the enquiry was instituted for a minor penalty. The form of the enquiry is not material. There is no provision in the rules prohibiting the awarding of a minor penalty on a minor penalty chargesheet. Secondly, the proceedings of a chargesheet came to an end with the censure order; it could not be extended to the order of termination of services.

17. The learned counsel for the petitioner has referred to a decision of the Hon'ble High Court of Allahabad in the case of Yadwandan Prasad Versus State of Bihar 1988 SCD 323 to show that if a chargesheet had been

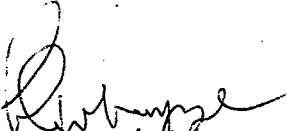
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furnished, termination cannot be done by dropping the proceedings. As already stated, the contention is misconceived because the proceedings of the chargesheet ended by the censure entry which cannot be ^{connected} with the termination order. The learned counsel for the petitioner also referred to the case of Dr. (Smt) Sumati P. Shere Versus Union of India & Others 1989 UPLBEC 125 in which the Supreme Court observed that the employee should have been apprised that his performance was defective in a certain manner. The facts of that case are not applicable to the present case because as already indicated in the case before us the petitioner had been informed of the various infirmities in his work and conduct from time to time in respect of which he had even made representations.

18. The case in the rejoinder that the petitioner was not a temporary employee but a regular employee has no basis whatsoever and the learned counsel for the petitioner made no effort to substantiate it.

19. These are all the points which have arisen in this case. We find that the case of the petitioner has no force and must fail.

20. The petition is dismissed; parties shall bear their costs.


Member (A)


Vice Chairman

Dated the 22nd January, 1991

RKM

Group A 13(a)

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A 3/1

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

Writ Petition No. 2637 of 1980

R. Kunal

-Petitioner

versus

Union of India and others

-Opponents

INDEX

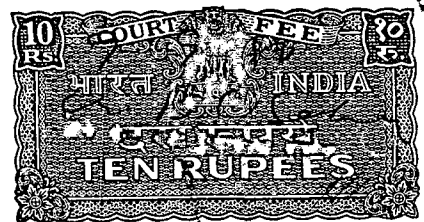
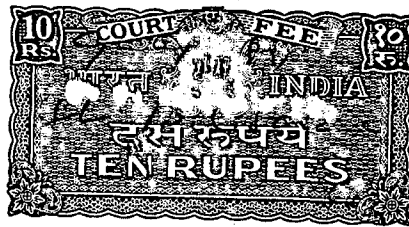
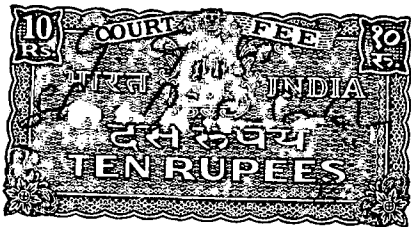
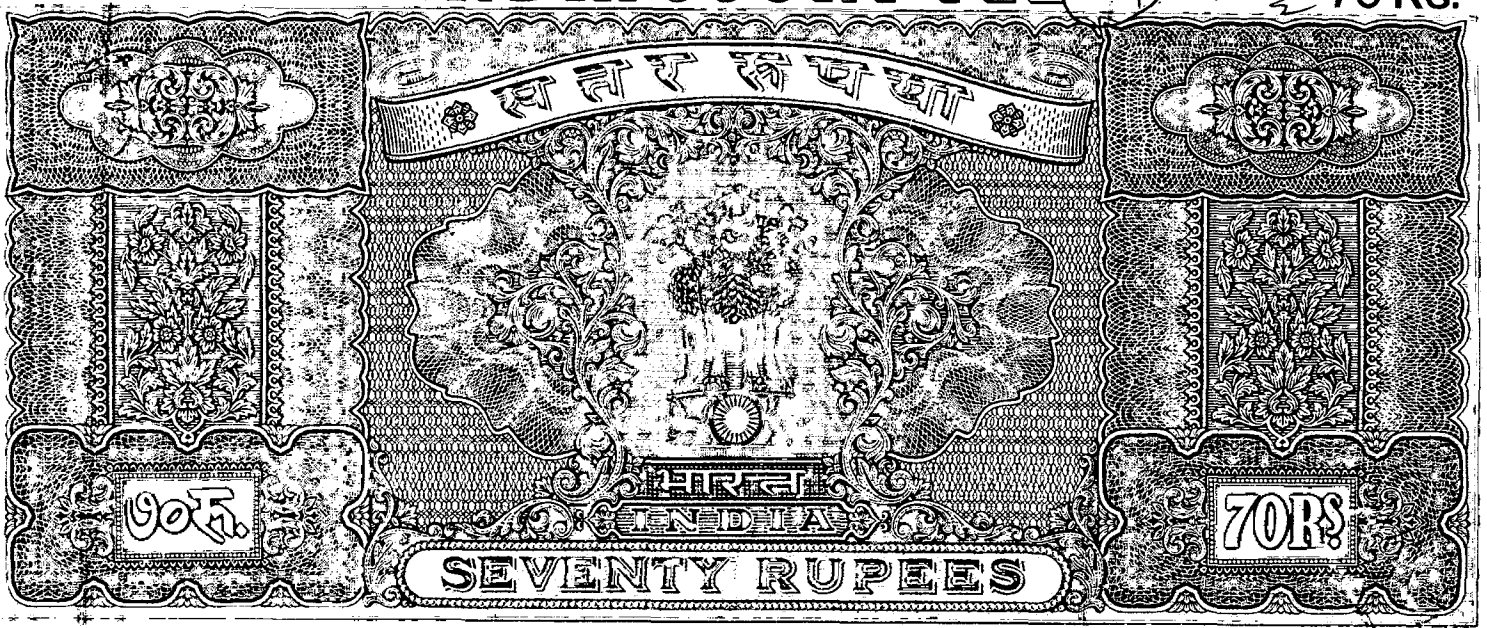
Sl. Description of paper no.	Annex. no.	Page
1. Writ Petition		1-8
2. Affidavit in support of the petition		9-10
3. Appointment order dated 3.3.1972	1	11-12
4. Charge-sheet	2	13-16
5. Explanation to the charge-sheet dated 17.7.1979	3	17-18
6. Order dated 9.10.1979	4	19-20
7. Order dated 15.11.1979	5	21-22
8. Order dated 1.1.1980 awarding leave to the petitioner	6	23-25
9. Order dated 1.1.1980 terminating the petitioner's services	7	26-27
10. Appeal dated 4.1980 preferred by the petitioner	8	28-40
11. Order dated 2.5.1980 rejecting the petitioner's appeal	9	41-42

B. C. Saxena

(B. C. Saxena)
Advocate

INDIA COURT FEE

70 Rs.



In the Honble High Court of Judicature at Allahabad
sitting at Lucknow

with Petition no 2637 of 1980

A 3/1

R. Kamal Petitioner

vs

Union of India & others opp. Parties

B. S. Akseene

counsel for the Petitioner

15
A3/ 23

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

--
Petition under Article 226 of the Constitution
of India

Writ Petition No. 2637 of 1980

R. Kamal , aged about 37 years, son of Sri
Chheda Lal, resident of 11/8, Sant Kabir Nagar,
Dr. Ambedkar Marg, Kanpur-12

Petitioner

versus

- 500
1. The Union of India through the Secretary,
Ministry of Home Affairs, New Delhi
2. The Registrar General, India, 2-A, Nan Singh
Road, New Delhi- 11
3. The Director of Census Operations, U.P.,
6 Park Road, Lucknow

Opp-parties

This humble petition on behalf of the
petitioner above-named most respectfully sheweth:-

1. That the petitioner along with two others was
appointed as Assistant Compiler in the scale of

pay of Rs. 110-180 by means of office order bearing/ ^{✓ endorsement}
No.A-10298/DCO-UP dated 5.8.1972 . A true copy of
the said office order is being annexed as
Annexure no.1 to this petition.

2. That the petitioner while working as Assistant
Compiler in the office of opposite-party no.3
was by means of memorandum bearing no. AE/42-79
/DCO-UP /A1516 dated 19.5.1979 was informed that
it was proposed to take action against him under
rule 16 of C.C.S.(CCA) Rules, 1965. A statement
of the imputation of misconduct on which action
was proposed to be taken was enclosed to the
said memorandum. A true copy of the said memo.
along with its enclosures is being annexed as
Annexure no.2 to this petition. Enclosure 1
to the said memorandum was a statement of imputa-
tion of misconduct while annexure 2 was a list
of documents in support of the imputation of
misconduct.

3. That the petitioner submitted an explanation
to the said memorandum on 17.7.1979. With a view
to bring on record the facts stated by the
petitioner, a true copy of the said explanation
dated 17.7.1979 is being annexed as Annexure no.3
to this petition.

4. That opposite-party no.3 by office order dated
15.11.1979 appointed Sri S.K.B. Srivastava

Assistant as the Presenting Officer to present the case in support of the articles of charges before the Inquiring Officer. It may also be stated that earlier thereto by an order bearing no. AE/42-79/DCO-UP/A-9349 dated 9.10.1979 opposite-party no.3 appointed one Sri V.K. Bhargava, the then Deputy Director of Census Operations, Uttar Pradesh, Lucknow as the Inquiring ~~officer~~ Authority to inquire into the charges framed against the petitioner in place of one Sri S.K. Agarwal who was appointed as Inquiring Authority by order dated 30.7.1979. True copies of the order dated 9.10.1979 and 15.11.1979 are being annexed as Annexures nos. 4 and 5 to this petition.

5. That opposite-party no.3 after having initiated and set in motion the disciplinary proceedings under rule 16, by an order dated 1.1.1980 bearing no. AE/DCO-UP/ A-2 reached the conclusion upon an alleged reconsideration that the formal inquiry under rule 16(b) is not required in every case. He took the view after going through the imputation of misconduct or misbehaviour that the matter can be adequately dealt with under rule 16(a) and, therefore it was not necessary to appoint an Inquiry Officer. The orders made for appointment of the inquiry officers etc. were cancelled. Opposite-party no.3 in the same order reached the conclusion that the imputation of misconduct had been proved and therefore directed that the

petitioner be censured for absenting himself without proper authority and neglecting his work. A copy of the order was directed to be placed in the character roll dossier of the petitioner. By another order bearing no. AE/DCO-Up/79-A-5 of the same date viz., 1.1.1980 opposite-party no.3 terminated the petitioner's services forthwith in purported exercise of power under the proviso to sub-rule (1) of rule 5 of the Central Civil Services (Temporary Service) Rules, 1965. Copies of the aforesaid two orders are being annexed as Annexure nos. 6 and 7 to this petition.

6. That aggrieved by the so-called order of termination the petitioner preferred an appeal on 4.4.1980 under rule 5(2)(a) of the Central Civil Service Temporary Service Rules, 1965 before opposite-party no.2. With a view to bring on record the facts stated and the grounds raised in the said appeal, a true copy of the same is being annexed as Annexure no. 8 to this petition. Since annexures thereto have also been annexed separately to this petition, they are not being filed along with the memo. of appeal.

7. That in reference to the said appeal dated 4.4.1980 the petitioner on 2.5.1980 was served with a copy of memorandum bearing no. 19/29/-79-AG-1 dated 29.4.1980. A copy of the said

memo. as served on the petitioner is being annexed as Annexure no.9 to this petition.

8. That it is relevant to indicate that the petitioner is a member of Scheduled Caste and in the final seniority list of the grade of Assistant Compilers as on 1.10.1978 circulated by means of memorandum bearing no. AE/11-1/78/DCO-UP-1652 the petitioner's name has been shown at serial no. 203 thereof in a list comprising of 214 persons. Persons at serial nos. 204 to 214 are junior to the petitioner. In column 7 of the said seniority the petitioner's appointment in the grade has been indicated as being a regular appointment as contradistinguished from adhoc appointment. It is further stated that the persons from serials 204 to 214 have been retained in service while an order terminating the petitioner's services has been issued.

9. That the petitioner's service record has been unblemished except for the arbitrary order awarding a censure punishment. The petitioner earned his annual increments regularly.

10. That the post of Asstt. Compiler Grade I against which the petitioner was appointed and which he held has not been abolished till date. The petitioner's character roll is wholly unblemished. He has not been awarded adverse entry or any major or minor punishment whatsoever at any time.

11. That as stated in annexure 3 to the writ petition the department had sanctioned all the leave to the petitioner till 7.7.1979 and had also paid his salary after regularisation of the leave period.

12. That in the circumstances detailed above and having no other equally effective and speedy alternative remedy the petitioner seeks to prefer this writ petition and sets forth the following amongst others,

GROUNDS:

(a) Because opposite-party no.3 having issued the charge-sheet that it was proposed to take action against the petitioner under rule 16 C.C.S.(CCA) Rules 1965 and also having appointed the Presenting Officer and the Inquiring Authority could not have changed the proceedings to one under rule 16(a).

(b) Because the order for termination of the petitioners services contained in annexure 7 is based on no material specially in view of the fact that no evidence was led to bring home the allegation that the petitioner absented without proper authority. On the contrary the petitioner had been sanctioned leave asked for and had been paid salary for the said period.

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(c) Because the impugned order of termination has been passed in colourable and mala fide exercise of power.

(d) Because the impugned order of termination is in effect an order of punishment.

(e) Because in view of the fact that the petitioners juniors have been allowed to continue in service, the post against which the petitioner was appointed continues and there has been no retrenchment clearly shows that there has been violation of the provisions of Articles 14 and 16 of the Constitution of India.

(f) Because the order contained in annexure 6 to the writ petition is also based on no reason and the punishment of censure awarded thereby is wholly arbitrary and capricious.

(g) Because opposite-party no.1 erred in taking the view that the order of termination was passed in exercise of contractual rights.

Wherefore, it is respectfully prayed that this Hon'ble Court be pleased:

(i) to issue a writ of certiorari or a writ, order or direction in the nature of certiorari to quash the orders contained in annexures, 6, 7 and 9 to the writ petition.

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(ii) to issue a writ of mandamus or a writ, order or direction in the nature of mandamus commanding the opposite-parties to treat the petitioner as having continued in service and pay him the arrears of salary and allowances which accrue due accordingly.

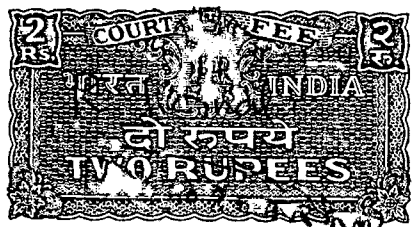
(iii) to issue such other writ, direction or order, including an order as to costs which in the circumstances of the case this Hon'ble Court deem just and proper.

Dated Lucknow

August 9th, 1980

B. S. Sakseena
(B. S. Sakseena)
Advocate

518
A. Sakseena



1980
AFFIDAVIT
28
HIGH COURT
ALLAHABAD

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

--
Affidavit

in

Petition under Article 226 of the Constitution
of India

--
Writ Petition No. of 1980

R. Kamal

--Petitioner

versus


Union of India and others

--Opp-parties

I, R. Kamal, aged about 37 years, son of Sri
Chhoda Lal, resident of 11/8, Sant Kabir X Nagar,
Dr. Ambedkar Marg, Kanpur -12, do hereby solemnly
take oath and affirm as under:-

1. That I am the petitioner in the above-noted writ petition and I am fully acquainted with the facts of the case.
2. That contents of paras 1 to.... of the accompanying petition are true to my ~~own~~ own knowledge.
3. That annexures 1,2,3,4,5,6 and 8 have been compared and are certified to be true copies.

Dated Lucknow
5.8.1980

 Deponent

(A 5/2)
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I, the deponent named above do hereby
verify that contents of paras 1 to 3 of
this affidavit are true to my own knowledge.
No part of it is false and nothing material
has been concealed; so help me God.

Dated Lucknow

[Signature]
Deponent

5.8.1980

I identify the deponent who has signed in
my presence.

[Signature]
(Clerk to Sri B.C. Saxena, Advocate)

Solemnly affirmed before me on 5.8.80

at 9.30 a.m./p.m. by R. K. Kameel.

the deponent who is identified by Sri *[Signature]*
clerk to Sri B.C. Saxena

Advocate, High Court, Allahabad. I have satisfied
myself by examining the deponent that he understands
the contents of the affidavit which has been read
out and explained by me.

[Signature]
Commissioner
Allahabad
Encl

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5.8.80

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A3/13

(A6)

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

Writ Petition No. of 1980

R. Kamal

--Petitioner

versus

Union of India and others

--Opp-parties

Annexure no.1

No. A /DCO-UP/

Government of India
Ministry of Home Affairs
Office of the Director of Census Operations,
Uttar Pradesh

6, Park Road,
Dated Lucknow August 5, 1972.

OFFICE ORDER

The following three officials are appointed as Assistant Compiler in the central scale of pay of Rs. 110-180 (together with dearness and other allowances at the rates admissible and subject to the conditions laid down in rules and orders governing the grant of such allowances in force from time to time) purely on temporary basis with effect from the dates mentioned against their names till 30.6.1972 in the Coding and Punching Cell, Kanpur

1. Shri Ram Bali 8.5.1972 (F.N.)
2. Shri Om Prakash 15.5.1972 (F.N.)
3. Shri R. Kamal 20.5.1972

2. Other terms and conditions of service will be governed by the rules and orders in force from time to time.

Sd. D. N. Sinha
Director

(A 6/2)

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No. A-10238/DCC-UP/ of date

Copy forwarded for information and necessary action to the:-

1. Dy. Director of Census Operations, I/C C.P.Cell Kanpur with reference to his letter no. 866/CPC(K) dated July 4, 1972 with four spare copies, one for the Treasury Officer and another for the personal file of the official concerned.
2. Accountant of this Office.
3. Official concerned through the Deputy Director of the C.P.Cell, Kanpur

Sd. Illegible
4.8.1972

Deputy Director

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

--
Writ Petition No. of 1980

R. Kamal

--Petitioner

versus

Union of India and others

--Opp-parties

Annexure no.2

No. Ad/42-79/DOO-UP/A-1516

Government of India
Ministry of Home Affairs,
Directorate of Census Operations, Uttar Pradesh,
(Administrative Section)

6, Park Road,
Lucknow
May 19, 1979

Memorandum

Shri Radhey Lal Kamal, Assistant Compiler of this office working in Erata Section, C-22, Mahanagar, Lucknow, is hereby informed that it is proposed to take action against him under rule 16 of C.C.S. (CCA) Rules, 1965. A statement of the imputation of misconduct on which action is proposed to be taken as mentioned above is enclosed.

2. Shri Radhey Lal Kamal is hereby given an opportunity to make such representation as he may wish to make against the proposal.

3. If Shri Radhey Lal Kamal, fails to submit his representation within 10 days of the receipt of this Memorandum, it will be presumed that he has

no representation to make and orders will be liable to be passed against said Shri Radhay Lal Kamal, Asstt. Compiler, ex-parte.

4. The receipt of this Memorandum should be acknowledged by Shri Radhay Lal Kamal, Assistant Compiler.

Sd. Ravindra Gupta
Director

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Shri Radhay Lal Kamal,
Assistant Compiler,
Errata Section, C-22, Mahanagar,
Lucknow.

SLA

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ANNEXURE I

Statement of imputation of misconduct against
Shri Radhey Lal Kamal, Assistant Compiler, Errata
Section, C-22, Mahanagar, Lucknow

1. That the said Radhey Lal Kamal, Asst. Compiler absented himself from duty abruptly on April 9 and remained absent till 26th April, 1979 without any authority. The period of his absence being unauthorised, he is not entitled to any pay and allowance during the period of the above absence under the proviso below F.R.17, thereby resulting in break in service.
2. That the said Radhey Lal Kamal, Assistant Compiler having absented himself abruptly from 9.4.1979 to 25.4.1979 without intimation and authority has displayed misconduct unbecoming of a Government servant and non-maintenance of devotion to duty, thereby he has contravened the provisions of rule 3 of the Central Civil Service (Conduct Rules, 1964).
3. That the said Radhey Lal Kamal, Assistant Compiler has neither obtained allotment of work from his superior nor filled his daily diary, since his posting in the Errata Section and thereby he has contravened the provisions of rule 3 of the Central Civil Services (Conduct Rules), 1964.

ANNEXURE II

List of documents in support of the imputation of misconduct against Shri Radhey Lal Kamal, Assistant Compiler, Errata Section, C-22, Mahanagar Extension, Lucknow

1. Attendance Register of Errata Section for the month of April 1979.
2. Application for earned leave dated 27.4.1979 of Shri Radhey Lal Kamal, Assistant Compiler.
3. Memo. dated 2.5.1979 of Shri Ajit Singh, Asstt. Director of Census Operations, U.P. to Shri Radhey Lal Kamal, Assistant Compiler (Reg. leave).
4. Explanation dated 3.5.1979 of Shri Radhey Lal Kamal, Assistant Compiler (Reg. leave).
5. Report of Shri Achhoo Ali, Statistical Assistant, Errata Section dated 27.4.1979.
6. Report of Shri Ajit Singh, Assistant Director of Census Operations, U.P. dated 27.4.1979.

--

Handwritten signature: S. G. Gera

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

--
Writ Petition No. of 1980

R. Kamal

--Petitioner

versus

Union of India and others

--Opp-parties

Annexure no.3

The Director,
Census Operations, U.P.,
6, Park Road,
Lucknow

Sir,

Kindly refer to your Memo. no. AE/42-79/DCO-UP/A-1516 dated 19.5.1979 received on 9.7.1979 by me.

I most humbly submit that any proposal for taking any disciplinary action on the basis of imputations per annexure I of the above, shall be quite injustice, unless I am given full fair chances for explaining my position.

At ~~per~~ the very ~~primary~~ primary stage I totally deny from each and every imputation and do not agree with any to be framed as charge.

The imputation no.1 and 2 have now been ~~itself~~ nullified because the department has sanctioned my all leaves till 7.7.1979 (last date of last leave) and have made all the payments of my salaries up to date.

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Only the imputation no.3 remains more, which itself seen vague, because of the facts that the report of Shri Achchhoo Ali S.A., Errata Section dated 27.4.1979 and the report of Shri Ajit Singh Asstt. Director of Census Operation, U.P. dated 27.4.1979 is in my abeyance.

If the ~~examined~~ scrutiny and authentic copy of the said two reports is, however, admitted to me then only can be possible for me to explain any more.

Yours faithfully,

Sd. R. Kamal
17/7

dated 17.7.1979

Asstt. Compiler,
Errata Section
C-22, Kahanagar (Extn.)
Lucknow

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

Writ Petition No. of 1980

R. Kamal

--Petitioner

versus

Union of India and others

--Opp-parties

Annexure no.4

No. 285/CR2/79 dated 9.10.1979

No. AE/42-79/DCO/UP/79/A

Government of India
Ministry of ~~xxx~~ Home Affairs
Office of the Director of Census Operations, U.P.
(Administrative section)

6, Park Road, Lucknow
Dated October 9, 1979

-
ORDER

Whereas an inquiry under rule 16 of the CCS (CCA) Rules, 1965 is being held against Shri Radhey Lal Kamal, Assistant Compiler (Coding and Punching Cell, Kanpurat Lucknow) C-22, Mahana ar Extension, Lucknow.

And whereas the undersigned considers that the Inquiring authority appointed vide order no. AE/42-79/DCO-UP/A-2463 dated July 30, 1979 to enquire into the charges framed against the said Shri Radhey Lal Kamal, Assistant Compiler be replaced.

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replaced.

Now, therefore, the undersigned, in exercise of the power conferred by sub-rule (2) of the said rule, hereby appoints Shri V.K. Bhargava Deputy Director of Census Operations, Uttar Pradesh, Lucknow as the Inquiring Authority to inquire into the charges framed against the said Shri Radhey Lal Kamal, Assistant Compiler, in place of Shri S.K. Agarwal, Deputy Director of Census Operations, Uttar Pradesh, Lucknow

(Ravindra Gupta)
Director

No. AE/42-79/DCO-UP/A-9349(i) of date.

1. Copy to Shri Radhey Lal Kamal, Assistant Compiler (coding and Punching Cell, Kanpur at Lucknow) C-22, Mahanagar Extension, Lucknow
2. Shri V.K. Bhargava, Deputy Director of Census Operations, Uttar Pradesh, Inquiring Authority, 6, Park Road, Lucknow
3. Shri S.K. Agarwal, Deputy Director of Census Operations, Uttar Pradesh (Data Processing), C-22, Mahanagar Extension, Lucknow

Sd. Ravindra Gupta
(Ravindra Gupta)
Director

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A 3/23

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

--
Writ Petition No. of 1980

R. Kamal

--Petitioner

versus

Union of India and another

--Opp-parties

Annexure no.5

No. A /DCO-UP/

Government of India
Ministry of Home Affairs

Office of the Director of Census Operations, U.P.,
(Administrative Section)

6, Park Road,
Lucknow- 226001
Dated November 15, 1979

OFFICE ORDER

Whereas an inquiry under rule 14 of the
Central Civil Services (Classification, Control
and Appeal) Rules, 1965 is being held against Shri
R. Kamal, Assistant Compiler of this office.

And whereas the undersigned considers it
necessary to appoint a Presenting Officer to
present the case in support of the articles of
charges against the said officer before the
Inquiring Authority.

Now, therefore, the undersigned in exercise
of the powers conferred by rule (5)(c) of the
said rule hereby appoints Shri S-K.B. Srivastava,
Assistant as the Presenting Officer to present

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the case in support of the articles of charges against the said officer before the Inquiring Authority.

Sd./-
(Ravindra Gupta)
Director of Census Operations,
Uttar Pradesh

no. A-3472(i)/DCO- UP/ of date

Copy to:-

1. Shri R. Kamal, A.C., C.P. Cell, Kanpur at Lucknow
2. Shri V.K. Bhargava, Dy. Director, Inquiring Officer
3. Shri S.K.B. Srivastava, Assistant, Presenting Officer.

Sd. H.O.K. Lavana
(H.O.K. Lavana)
Deputy Director

SLA

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

--

Writ Petition No. of 1980

R. Kamal

--Petitioner

vs.

Union of India and another

--Opp-parties

Annexure no. 6

No. AE

/DCO-UP/A- 2

Government of India
Ministry of Home Affairs
Office of the Director of Census Operations, U.P.
(Administrative Section)

6, Park Road,
Dated Lucknow December 25/1979
I-I-1980

ORDER

Under rule 16 of CCS(COA) Rules, 1965 a statement of imputation of misconduct on which action was proposed to be taken was given to Shri Radhey Lal Kamal vide this office memo. AE/42-79/DCO-UP/A-1516, dated May 19, 1979. Shri Kamal was given an opportunity to make such representation as he may wish to make against the proposal. Since the memo. could not be served on him it was published in the Pioneer dated June 19, 1979. Shri Kamal's representation was received on 19th July, 1979.

Vide this office order no. AE/42-79/DCO-UP/79-A, dated June 30, 1979, Shri S.K. Agarwal, Deputy Director was appointed the Inquiry Authority. These orders were later on amended and Shri V.K. Bhargava, Deputy Director was appointed as Inquiry Authority. The matter was reconsidered

by me. Rule 16 defines the procedure for imposing minor penalty. A formal inquiry under rule 16(b) is not required in every case. I have gone through the imputation of misconduct or misbehaviour in the matter under consideration and am of the view that this can be adequately dealt with under rule 16(a). For this purpose it is also not required to appoint an inquiry officer. The orders made in this regard are, therefore cancelled.

The ~~xxxx~~ imputations against Shri Kamal are as follows:-

1. ~~the~~ i Unauthorised absence from April 9-26, 1979
2. Not obtaining allotment of work from his superiors and filling his daily diary since his posting in the Errata Section.

Shri Kamal denied these imputations of misconduct. In respect of the 1st, he has claimed that it was infructuous because leave had been sanctioned and salary paid. In respect of the other, he has stated that the reports of the S.A. and A.D. were written in his absence and, therefore, he would like to see authenticated copies. I have gone through the evidence cited. Obviously Shri Kamal has not explained the reasons for his unauthorised absence from April 9-26, 1979. He has only glossed over by saying that leave has been sanctioned and salary paid. I, therefore, conclude that the imputations of misconduct

regarding unauthorised absence is proved. In regard to the second imputation, the record and the diaries have been seen and there is no doubt that Shri Kamal has avoided doing work. This imputation is also, therefore proved.

Shri R. Kamal is, therefore, censured for absenting himself without proper authority and neglecting his work. A copy of this order be served on Shri Kamal and another kept on his character roll Dossier.

(Ravindra Gupta)
Director
25.12.1979

No. AE (i)/D.O. UP/A of date.

Copy to:-

1. Shri R. Kamal, A.O.
2. AD(H) for keeping it on the Character roll Dossier of Shri R. Kamal, A.O.

H.O.K. Lavania
Sd. ~~Illegible~~
25.12.1979
(H.O.K. Lavania)
Deputy Director (ADMIN).

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

Writ Petition No. of 1980

R. Kamal

--Petitioner

versus

Union of India and another

--Opp-parties

Annexure no. 7

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D
No.AE/DCO-UP/79/A-5

2.
Government of India
Ministry of Home Affairs
Office of the Director of Census Operations, U.P.,
(ADMINISTRATIVE SECTION)

6, Park Road,
Lucknow: Dated: January 1, 1980

ORDER

In pursuance of the proviso to sub-rule (I) of the rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, I hereby terminate forthwith the services of Shri Radhey Lal Kamal a temporary Assistant Compiler and direct that he shall be entitled to claim pay plus allowances for the period of notice at the same rates at which he was drawing them immediately before the termination of his service.

Ravi
(RAVINDRA GUPTA)
DIRECTOR

No.AE/DCO-UP/79/ (1) A-5 of date

Copy forwarded for information and necessary action to:-

- ✓ 1. Shri Radhey Lal Kamal, Assistant Compiler through Shri Ram Sahai, Tabulation Officer.
2. Tabulation Officer (CRR) with the remark that proper acknowledgement of this termination notice by the above named official may please be obtained and ~~immediately~~ sent to the undersigned.
3. Accountant of this office.

SC 1
H. O. K.
(H. O. K. LAVANIA)
DEPUTY DIRECTOR

ACKNOWLEDGEMENT

I hereby acknowledge the receipt of this day of the ~~notice~~ ^{order} of termination from service of which the above is a copy.

Counter signed:

TABULATION OFFICER (CRR)

Signature of the official

Designation

Place

Date

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

--

Writ Petition No. of 1980

R. Kamal

--Petitioner

versus

Union of India and others

--Opp-parties

Annexure no. 8

Before the Registrar General, India 2/A, Mansingh
Road, New Delhi- 110011

Appeal/ Review/ petition under section 5(2)(a)
of Central Civil Services Temporary Services
Rules, 1965 by R. Kamal, a temporary Asstt.
Compiler, Office of the Director of Census
Operations, U.P. (Administrative section, Govt.
of India Ministry of Home Affairs 6, Park Road,
Lucknow., r/o 11/8, Sant Kabir Marg, Dr. Ambedkar
Marg, Kanpur, 208012.

Sir,

Being aggrieved by the order reference No.
AE/DOO UP/79(i) A-5 dated January 1, 1980
terminating forthwith the services of the appellant/
petitioner Radhey Lal Kamal, a temporary Assistant
Compiler in Administrative Section, Office of the
Director of Census Operations Ministry of Home
Affairs, Government of India, 6, Park Road, Lucknow
the above-named petitioner begs to prefer this
appeal/review petition on the following facts and
grounds:-

Brief facts

(a) That the petitioner/appellant was appointed as

as Assistant Compiler in the office of the Deputy Director, Census operations, Kanpur and joined his services with effect from 15.5.1972.

(b) That the appointment was against regular post.

(c) That the petitioner/appellant is educated up to B.A. He rendered his services with effect from 15.5.1972 up to the date of termination of service forthwith i.e. January 1, 1980 i.e. for about 7 1/2 years.

(d) That as per section 3 of the Central Civil Services Temporary Services Rules, the appellant/petitioner became the quasi-permanent in view of the deeming clause which reads as under:-

" A Government servant shall be deemed to be in quasi-permanent service--

(i) If he has been in continuous temporary service for more than three years that during the aforesaid tenure of rendering the services, the appellant/petitioner was never censured or given any adverse entry having regard to the quality of his work conduct and character as to his suitability for employment.

(e) That the appellant/petitioner is legally advised that appointments made and accepted subject to pleasure of appointing authority, does not confer common law powers upon appointing authority to terminate services arbitrarily (1979 A.L.R. page 12 Supreme Court (summary).

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(f) That the appellant/petitioner is further advised that word or can be read as and and word and can be read as or, where it is necessary to do so to give effect to the intention of the Legislature.

(g) That in view of the aforesaid case law, the appellant/petitioner has to submit that sub-clause (ii) of section 3 in respect of making a declaration to that effect by the appointing authority is not wholly and solely dependant upon the pleasure of appointing authority, but is subject to common law powers. The appellant/ petitioner has to submit that if no declaration to that effect has been made by the appointing authority on account of exercise of power in arbitrary and discriminatory manner, the appellant/ petitioner cannot be permitted for the inaction and omission of the appointing authority.

(h) That on 19.5.1979 the appellant/petitioner was given a memorandum under rule 16 of the Central Civil Services, C.S.A. Rules, 1965 insinuating the appellant/petitioner that he has absented himself from duty abruptly on April 9 and remained absent till 26th of April, 1979 without any authority and further without intimation and authority has displayed misconduct unbecoming of a Government servant and non-maintenance of devotion to duty and (x) a (iii) has neither obtained allotment of work from his superior nor filled his daily diary.

(i) That on 17.7.1979 the appellant/petitioner replied urging therein that imputations no. 1 and 2 have now been nullified and became non-existent because the department has sanctioned his leave till 7.7.1979 and have made all the payments of his salary up to date. Thus the said insinuation and imputations stand waived and abandoned.

(j) That in regard to imputation no.3, it is vague because the fact that report of Sri Achchu Ali, S.A and Sri Ajit Singh, Assistant Director of Census Operations dated 24.7.1979 is in abeyance. Further the authentic copy of the said two reports have not been submitted to the appellant/petitioner and therefore it is not possible for him to explain the adequate reply and reasons.

(k) That vide order dated 9.10.1979 Sri V.K.Bhatgava was appointed as Enquiry Authority. Thereafter, Sri S.K.V.Srivastava, Asstt. was appointed as Presenting Officer.

(l) That on 1.1.1980 the appellant/ petitioner received an order the perusal of which, clearly evinced that "I have gone through the evidence cited. Obviously, Sri Kamal has not explained the reasons for his unauthorised absence from April 9 to 26th of April, 1979. He has only glossed over by saying that leave has been sanctioned and salary paid. I, therefore, conclude that imputations of misconduct regarding unauthorised absence is proved. In regard to second imputation, the record and diaries have been seen and there is no doubt that Sri Kamal has avoided doing work. This

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* IMPUTATION is, therefore, proved. Sri R - Kamal is therefore censured for absenting himself without proper authority and ignoring his duty. A copy of this order be served on Sro Kamal and another ~~copy~~ kept on his character roll register.

(m) That the photostat copy prepared by mechanical process, being true and correct reproduction of the original, is being adduced for your honours kind perusal as annexure 'A' to this ~~xxx~~ appeal-petition.

(n) That the appellant/petitioner has to submit that this order further clearly goes to show that no enquiry was conducted against the appellant/petitioner and he was prevented from affording natural opportunity ~~xxx~~ of hearing and was also prevented from making adequate representation, the testimony of the witness cannot be recorded as true unless he is subjected to cross-examination. In the present case, the formal inquiry was dispensed with, which is evident from the order (annexure A) itself, which reads as under:-

" A formal enquiry under rule 16(b) is not required in every case. I have gone through the imputation of misconduct or misbehaviour in the matter under consideration and am of the view that this can be adequately be dealt with under rule 16(a). For this purpose it is also not required to appoint an enquiry officer. The orders made in this regard are, therefore, cancelled.

(o) That the appellant/ petitioner has to submit that with the said order another order assailed under appeal / revision subject to review was also received by the appellant/ petitioner when the appellant was astonished to know that his services have been terminated forthwith without any just cause.

(p) That the petitioner/appellant has to submit that aforesaid order was a motive for the order of termination of service and it amounted to penalty. Further , the services of following employees junior to the appellant/petitioner was retained:-

1. 204 Sri Khuah Ram
2. 205 Sri Indra Jit
3. 206- Sri Hira Lal
4. 207 Sri Ram Lal
5. 208 Sri Mewa Lal
6. 209 Sri Ram Parey Rawat
7. 210 Sri Vijay Bahadur
8. 211 Sri Jagdish Prasad Rawat
9. 212 Sri Parmashwer Din
10. 213 Sri Ram Bahadur Singh
11. 214 Sri Ram Kumar

(See Annexure 'C').

(q) That the appellant/ petitioner holds his post at serial no. 203 in the gradation list.

(r) That as the termination order dated 1.1.1980 is not in accordance with the provisions of law and is based on ulterior motive and stigma, hence this appeal/ petition on the following grounds:-

Grounds of appeal/ petition

1. That the order under appeal is bad in view of a decision of the Supreme Court of India, reported in 1979 A.L.R. page 12 (Summary) which is also the law of the land under Article 141 of the Constitution of India, because in the said case it was held, "The service of the respondent, Belliappa has been terminated without assigning any reason. Albeit in accordance with the condition of the service, while three employees summarily situated to Belliappa in the same temporary cadre, have been retained. However there is material on record to show impugned order was preceded by a show cause notice of the proposed disciplinary action against Belliappa, it could, therefore, be presumed for this show cause notice the service of Belliappa was good. At any rate, there is nothing on record to show that service of Belliappa was in any way inferior to his three juniors, who have been retained in service. It was held order of termination of service is arbitrary, amounts to discrimination appointment made and accepted subject to pleasure of appointing authority, does not confer common law powers upon appointing authority to terminate service arbitrarily; termination of service rightly quashed.

2. That the facts and circumstances of the case of the appellant/petitioner are similar and identical to the aforesaid case law. In the present case also, a show cause notice of imputation was given and motivated by the aforesaid cause and acting, not in sound condition and good mind, the appointing authority terminated the services of the appellant/petitioner arbitrarily and in

direct ~~xxx~~ contrast to the said law, because the services of the petitioner/appellant having serial no. 203 at graduation list was, terminated while the services of 11 juniors to the appellant/ petitioner were retained without an just and cogent cause.

3. That ~~this~~ order under-petition~~xxx~~/appeal also suffers from illegality read with in view of sections 3 and 5 of the Central Civil Services Temporary Service Rules,. Under section 3, the appellant is required to be deemed as quasi-permanent, because he completed his service for more than 7½ years and under section 5(1) (a) of the said rules, the services of a temporary Government servant being in quasi-permanent service can never be terminated by the order under revision.

4. That the petitioner/appellant is further advised that when the principal provision is clear a proviso cannot expand or limit it. A provision must be limited to the subject-matter of the enacting clause (A.I.R. 1975 Supreme Court, page 1758).

5. That further in 1975 Patna, Law Journal, page 109 it has been held that the object of the proviso is to carve out from the main section. A clause or category to which the main section does not apply and as such proviso cannot possibly deal with an entirely different topic or subject.

6. That in view of the aforesaid case law, the proviso under rule 5 of the Central Civil Services Temporary Service Rules, 1965 is contrary to the main rule because under rule 5(1)(a), the termination

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of service of temporary Government servant cannot be made prior to expiry of one month while the proviso speaks that it can be made forthwith and thus this act contrary to rule 5(1)(b) as the law says that proviso cannot override or over rule or prevail over the main rule. Therefore, the service of the petitioner/appellant cannot be terminated prior to expiry of a month from the date of service of the order dated 1.1.1980. As the services have been terminated forthwith by exercising power, which is non-existent in the eye of law and, therefore, said order is nullity and not operative.

7. That the order under appeal/ petition is bad in the eye of law and facts, is against the principles of opportunity of hearing and without a say in the matter and violates the provisions of Article 16(1), Article 14, Article 15(1) and 16(1) of the Constitution of India and, therefore, the said order is nullity, void and illegal and is not sustainable.

PRAYER

It is, therefore, humbly prayed that the Hon'ble Authority may kindly be pleased to call for the record of the case in regard to termination of service forthwith of Sri Madhey Lal Kamal, a temporary Assistant Compiler in Administrative section of the office of Director of Census operations, U.P. Administrative Section, Government

2.1.1980

of India, Ministry of Home Affairs, 6, Park Road,
Lucknow, terminated vide order dated 1.1.1980 and
may further be pleased to set aside and recall the
said order thereby reinstating the service of the
petitioner/appellant to his regular service with
all emoluments and benefits permissible under the
law in the ends of justice.

Appellant/petitioner
Radhey Lal Kamal
Through
Sri Chhoday Lal Kureel
Advocate
Court Compound
Kanpur

Dated 4.4.1980
Kanpur

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Before the Registrar, General, India 2/A, Mansingh Road,
New Delhi- 220011

--

Petition under section 5 of the Limitation Act read with rule 5(2) (Proviso) of the Central Civil Services Temporary Service Rules, 1965 for condonation of delay of 2nd and 3rd of April, 1980.

--

Sir,

The applicant/appellant/petitioner Sri Radhey Lal Kamal begs to submit as under:-

1. That the petitioner/appellant/applicant was appointed as Asstt. Compiler against regular post in the Census Operations Deptt. and has rendered his services from 15.5.1972 to January 1, 1980, whereupon the services of the petitioner/applicant/appellant were terminated illegally under stigma and ulterior motive for which he has preferred petition/appeal before the Hon'ble Authority, which is pending.

2. That the petitioner was to submit his appeal/petition within three months under rule 5(2) of the Central Civil Services Temporary Service Rules. As the said rules were not available in the law books therefore the appellant/petitioner has to rush from one shop to another for about a month and then he was able to avail a book from Advani and Co.

3. That due to making hectic efforts, the appellant/petitioner became the victim of Jaundice (Hepatitis) and remained confined to bed for about a month and

could only recover on 4.4.1980. He visited the office of his counsel, Sri Chhotay Lal Kurael, Advocate and then his counsel was able to draft the appeal/petition.

4. That the appellant/ petitioner is advised that 1.1.1980 when the order of termination of services was made, cannot be counted in view of the limitation and in the same manner, 4th April, 1980 cannot be counted as on the same date, the appeal/petition drafted and posted as per law, the memo of appeal, in the ends of justice, therefore, the appellant has only committed the delay of 2 days. The said delay of two days is on account of the aforesaid ailment due to jaundice and (hepatitis) and, therefore, the same is required to be condoned within the ambit of rule 5(2) of the Central Civil Services Temporary Service Rules, because the Hon'ble Authority empowered to condone the delay for special circumstances. The said delay is required to be condoned within the ambit of section 5 of the Indian Limitation Act also.

5. That the appellant/petitioner is adducing the medical certificate, which bears the true and correct signatures of the appellant/petitioner, duly attested by the doctor and also the signatures and seal of the said doctor. This is the true and correct certificate and proves that the appellant/petitioner became the victim of Jaundice (Hepatitis) and remained confined to bed from 3.3.1980 to 3.4.1980, the afore, the delay of two days i.e. of 2nd and 3rd ~~xxxx~~ of April, 1980 may kindly be condoned in the facts and

circumstances of the case because in exceptional circumstances the appellant/petitioner could not submit the appeal/petition within time.

Prayer

It is, therefore, humbly prayed that the Hon'ble Court may kindly be pleased to condone the delay of 2nd and 3rd April, 1980 in not preferring the appeal/petition within time for the reasons that appellant remained confined to bed due to jaundice and hepatitis, and could not prefer the appeal, because it was beyond his approach and control.

Appellant/petitioner
R. Kamal
Through
The counsel
Sri Chhotay Lal Kural, Advocate

Dated 4.4.1980

Kanpur

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

Writ Petition No. of 1980

R. Kamal

--Petitioner

versus

Union of India and another

--Opp-parties

Annexure no. 9

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3/11

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तार : "नून गणना"
Telems : "REGGENLIND"

सं.

No. 19/29/79-Ad.I

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

भारत के महापंजीयक का कार्यालय

OFFICE OF THE REGISTRAR GENERAL, INDIA

नई दिल्ली, दिनांक

New Delhi, the

12 9 APR 1980

MEMORANDUM

With reference to his appeal/review petition dated the 4th April, 1980, against the order No. AE/DCO-UP/79/A-5, dated the 1st January, 1980, issued from the office of the Director of Census Operations, Uttar Pradesh, Lucknow, terminating his services, Shri R. Kamal, formerly an Assistant Compiler in the office of the Director of Census Operations, Uttar Pradesh, Lucknow, is hereby informed that termination of his services, under Rule 5, has been brought about by the exercise of contractual rights and does not per se amount to dismissal or removal.

The undersigned, after considering all facts of the case, has come to the conclusion that the appeal/review of the said Shri Kamal, filed under Rule 5 (2)(a) of the Central Civil Service (Temporary Service Rules), 1965, is not maintainable. The appeal/review is, therefore, rejected.

(P. PADMANABHA)
REGISTRAR GENERAL, INDIA

Shri R. Kamal,
11/8, Sant Kabir Nagar,
Dr. Ambedkar Marg,
Kanpur- 208012.

Received
12/9/80

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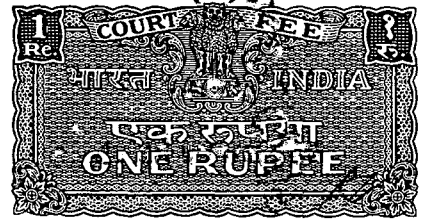
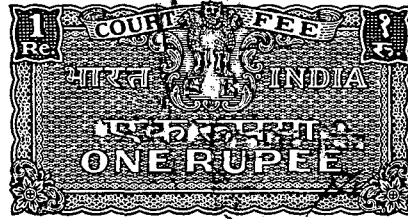
In the Honble High Court of Judicature at Allahabad
य अदालत श्रीमान
sitting at Lucknow महोदय

वादी अपीलान्त

-----का

वकालतनामा

प्रतिवादी रेस्पान्डेंट



R. Kamal.

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(वादी मुद्दाई) 9/5

Union of India & others

बनाम

प्रतिवादी (मुद्दाअलेह)

न० मुकद्दमा

सन् १६

पेशी की ता०

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Shri B. C. Saklana एडवोकेट

महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पेंरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या जोटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दाबा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और दसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरोकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त [दस्तखति] रसीद से लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको स्वयं स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पेंरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

Accepted
Balakrishna हस्ताक्षर

साक्षी [गवाह]

साक्षी [गवाह]

दिनांक

महीना

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आर० बी० चिन्हा

लै. दार : कलेक्टरी लखनऊ

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



Supplementary Counter Affidavit

In re:

T.A. No. 694 of 87-T ~~1990~~
filed on 31.8.90.

R. Kamal

... Petitioner.

Vs.

Union of India & others

... Opp. Parties.

I, Ranga Saha, aged about

55 years, son of Sri Bhellan Singh -
working as Head Assistant in the office
of the Director of Census Operation, U.P.,
~~and~~ the deponent do hereby solemnly
affirm and state on oath as under :-

1. That the deponent is working as Head Assistant
in the office of the Director of Census Operation, U.P.,
and as such he is fully conversant with the facts
deposed to hereinafter.

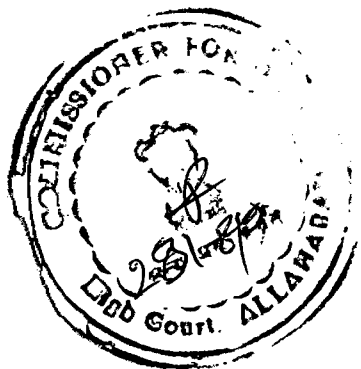


Ranga Saha

2. That in reply to the contents of paragraphs 5 and 8 of the writ petition, the deponent has stated in para 5 and 8 of the counter affidavit filed on behalf of the opp. parties that the services of the petitioner were terminated as he was not considered suitable for the post and his retention ~~in~~ⁱⁿ service was not considered in the interest of the department. Therefore it is necessary in the interest of justice to apprise this Hon'ble Tribunal about the service record of the petitioner on the basis of which the petitioner was not considered suitable for the post through this supplementary counter affidavit.

3. That in the year 1974-75, the petitioner was awarded adverse remark against the column "Amenability of discipline" the following adverse remark was awarded which was communicated to him :-

"Took active part in agitations against retrenchment in staff"



The petitioner preferred a representation dated 26.2.76 against the said adverse remark but the same was rejected after due consideration by the Director, Census Operation vide letter dated 9.3.1976. Thereafter the petitioner preferred a representation to the Registrar General who also vide his letter dated 25.9.1976, rejected his representation. The true copies of the said letters dated 9.3.1976 and 25.9.76 are being annexed herewith as Annexure SCA-1 and SCA-2 to this supplementary counter affidavit.

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4. That in the year 1978, the adverse remarks were again made in his annual confidential reports which are as follows :-

"Very intiligent but never ~~joined~~ found keen to learn the worl.

"Refused to take work"

" Always quarrels with his superiors"

"Not punctual left office with-out any any appliation of leave".

said

The/adverse remarks ~~were~~ were communicated to the petitioner by the Director of Census Operation, U.P., vide letter dated 6.4.1979. A true copy of the said communicated letter dated 6.4.1979 is being annexed herewith as Annexure SCA-3 to this supplementary counter affidavit. ~~affidav~~

5. That in the April, 1975 to December, 1975 the ~~adverse~~ ~~following~~ remarks was made in his annual confidential report and the same was communicated to the petitioner. A true copy of the said adverse remark, is being annexed herewith as Annexure SCA-4 to this affidavit.

It is however, submitted that two ~~one~~ ^{of the} adverse remarks viz ~~Misconduct~~ quarrel with the superiors officer in the office" except on certain dates were expunged vide letter dated 28.6.1977.



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6. That the punishment of ^{Sensuses} ~~senior~~ for absenting himself without permission of the proper authority and ^{neglecting} ~~engaging~~ his work, was awarded. In fact, vide letter ~~xxxx~~ dt. 25.12.1979 but the Director of Census Operation ~~of~~ was dispatched through ~~xxxx~~ later on 1.1.1980.

7. That the petitioner was a Daily Passenger from Kanpur for which he was not given any permission and he was publisher of monthly magazine by name of "Nirnayak Bheen" ~~wxxx~~ and was also publisher "Baba Sahab Bhim Rao Ambedakar" in the name of 'Nirnay'. True photostat copies of the relevant pages of the said Magazines are being annexed herewith as Annexure SCA-5 and Annexure SCA-6 to this supplementary counter affidavit

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So many complaints were received against the petitioner which were enquired into and the petitioner also cross examined the witnessess.

8. That on consideration of all the material the Director, Census Operation observed that the said employee in the office is a liability. His services were terminated under Rule-5 of Central Govt. Service Rukes (Temporary Services Rules), 1965.

9. That the service record of the petitioner would also show that ~~thax~~ use to misbehave with the persons whivh is evident from ~~thx~~ one report and reply



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of the explanation of the petitioner. True copies
of which are ^{filed herewith} ~~received~~ by ^{the} way of example for this
purpose the answering opp. parties are ready to show
the service record of the petitioner before this Hon'ble
Tribunal.

Lucknow : Dated
August 28th, 1990

[Signature]
Deponent.

I, the abovenamed deponent do hereby verify
that the contents of paras 1 as 2
are true to my own knowledge, those of paras 6, 7, 8
are based on records which I believed to be true and
those of paras 3, 4 as 5 as 9
are based legal advice. No part of it is false and
nothing material has been concealed. So help me God.

Lucknow : Dated
August 28th, 1990

[Signature]
Deponent.

I identify the deponent who has
signed before me.

[Signature]
Advocate.

Solemnly affirmed before me on 28-8-90
at 9-35 a.m. / p.m. by Sri *[Signature]*
the deponent who is identified by Sri J. M. *[Signature]*
Advocate, High Court, Lucknow Bench, Lucknow.
I have satisfied myself by examining the deponent
that he understood the contents of the affidavit
which has been read out and explained by me.



[Signature]
JATH COMMISSIONER
HIGH COURT, ALLAHABAD
JUDICIAL OFFICE

C-251175
C-281-8/90

Annexure SCA-1

सं. ११३/११३०-६०
No. A-927 LSCH-UP

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS

कायदाय जनगणना निदेशक एवं पदेन जनगणना अधीक्षक, उत्तर प्रदेश
Office of the Director of Census Operations & ex-officio Superintendent of Census
Operations, Uttar Pradesh

6 पार्क रोड,
लखनऊ-1 दिनांक
6, Park Road.
Lucknow-1, Dated

9/3/76

OFFICE ORDER

The representation dated 26.2.1976, submitted by Shri R.Kamal, Assistant Compiler, Coding and Punching Cell, Kanpur, against the annual confidential remarks for the period 1974-75, has been carefully considered and rejected.

D.M. SINGH
DEPUTY DIRECTOR

Ref. 927(1)/SOC-UP/CP of Sale.

Copy forwarded for information to:-

1. Shri R.Kamal, Assistant Compiler, through the Assistant Director D/C Coding and Punching Cell, Kanpur.
2. The Assistant Director D/C Coding and Punching Cell, Kanpur.

(D.M. SINGH)
DEPUTY DIRECTOR



Issued
D.H.

7/3

"SECRET"
"REGENLAND"

सं० Annexure SCA-2

No. 19/53/76-Ad.I

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

भारत के महापंजीयक का कार्यालय

OFFICE OF THE REGISTRAR GENERAL, INDIA

नई दिल्ली, दिनांक

New Delhi, the September ,1976.

M E M O R A N D U M

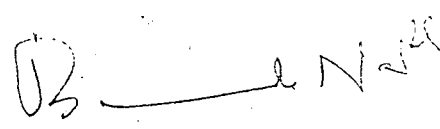
With reference to his representation dated 5th June, 1976 regarding adverse remarks contained in his A.C.R. for the year 1974-75, Shri R. Kamal, Assistant Compiler is informed that it has been considered by the Registrar General. The position is as follows:-


(i) The observation "took active part in agitation against retrenchment in staff" only indicated the factual position. He himself has admitted that he had taken part in the agitation.

(ii) The remarks "not yet" against the column fitness for promotion to the next higher grade is based on the provisions of the Recruitment Rules. An Assistant Compiler becomes eligible for promotion only after he has put in 3 years regular service. Shri Kamal had not put in 3 years service by end March, 1975. This comment is only factual.

(iii) The remark "an average worker" is not an adverse remark.

In view of the considerations explained above the Registrar General has rejected his representation.


(BADRI NATH)
DY. REGISTRAR GENERAL, INDIA.


Shri R. Kamal,
Assistant Compiler,
Office of the Director of Census Operations,
Lucknow.



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Annexure SCA-3

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE REGISTRAR GENERAL, INDIA

FORM OF CONFIDENTIAL REPORT ON*

Report for the year 1975 (April 75 to Dec. 1975)

Part I

Personal Data

(To be filled by the Administrative Section
concerned of the Ministry/Department/Office)

1. Name of official Shri R. Kamal, Asstt. Compiler
2. Office/Division where employed Office of the Dy. Director of Census Operations,
I/C Coding and Punching Cell, Kanpur
3. Date of birth June 5, 1942
4. Date of continuous appointment to May 15, 1972
the present grade, viz.,
5. Whether S.C./ S.T. Scheduled caste
B.A.
6. Whether permanent, quasi-permanent, Temporary
Temporary
7. Section(s) in which served during the Coding and Punching Cell, Kanpur
year under report and period of
service in each
8. Period of absence from duty on leave,
training etc. during the year.

Part II

A brief statement of the work handled
by the official during the year/period
under report.

(To be filled by the Reporting Officer)

Done the checking of P.C.A. of Kanpur
typing / Comparison of P.C.A. & HLL Dots.
infillation of Subadary Table. BVI Part A(4)-1.
collected / Compared to miscell. Cables of Chitrakut Shan.
done punching in P.C.A. cards.
check of Table BVI Part B(4)-1.
copy of M.C.R.T. Sec.



LSu

Annexure SCA-4

No. 13- / 75/200-U / 1-949

Government of India

Ministry of Home Affairs

Office of the Director of Census Operations, U.P.

6, Park Road,

Lucknow; Dated: March, 1979.

MEMORANDUM

The observations reproduced below, made in the Annual Confidential Remarks for the year 1978, are hereby communicated to him. The duplicate copy may be signed with date in token of having received this memorandum.

OBSERVATIONS

1. State of health Very Good
 2. General intelligence and keenness to learn Very intelligent but never ~~gave~~ ^{never} ~~to~~ ^{to} learn who was
 3. Proficiency in typing/Calculating/Key Punching/ verifying/PABX/Duplicating machine
 - (a) Excellent
 - (b) Very good Refused to take work
 - (c) Good
 - (d) Average
 - (e) Poor
 4. Professional ability
 - (a) Excellent
 - (b) Very Good
 - (c) Good Refused to take work
 - (d) Average
 - (e) Poor
 5. Industry and Keenness
 - (a) Fits in hard work and is keen to do his job thoroughly Refused to take work
 - (b) Is indifferent and required Prompting and constant supervision to ensure completion of his work.
 6. Has he ever been entrusted with work other than routine? If so indicate his capacity to express himself with clarity and comprehension, in his notes and drafts X
 7. Amenability to discipline : Always quarrels with his superiors
 8. Punctuality in attendance : Not punctual left office with out any
 9. Relations with fellow employees : Satisfactory (application of leave)
 10. Integrity : Certified
 11. Has the Officer been reprimanded to indifferent work or for other causes during the period under report? Is so, please give brief particulars : Admonished verbally
 12. Has the Officer done any outstanding or notable work meriting commendation? Briefly mention it on -
 13. Length of service under Reviewing Officer 11 years under reviewed
- Do you agree with the remarks of the Reporting Officer? If not, indicate the extent of your disagreement. If you wish to add anything with regard to the work and conduct of the Officer, over and above the remarks of the reporting Officer, please mention them. You may also sum up your views here

En Su



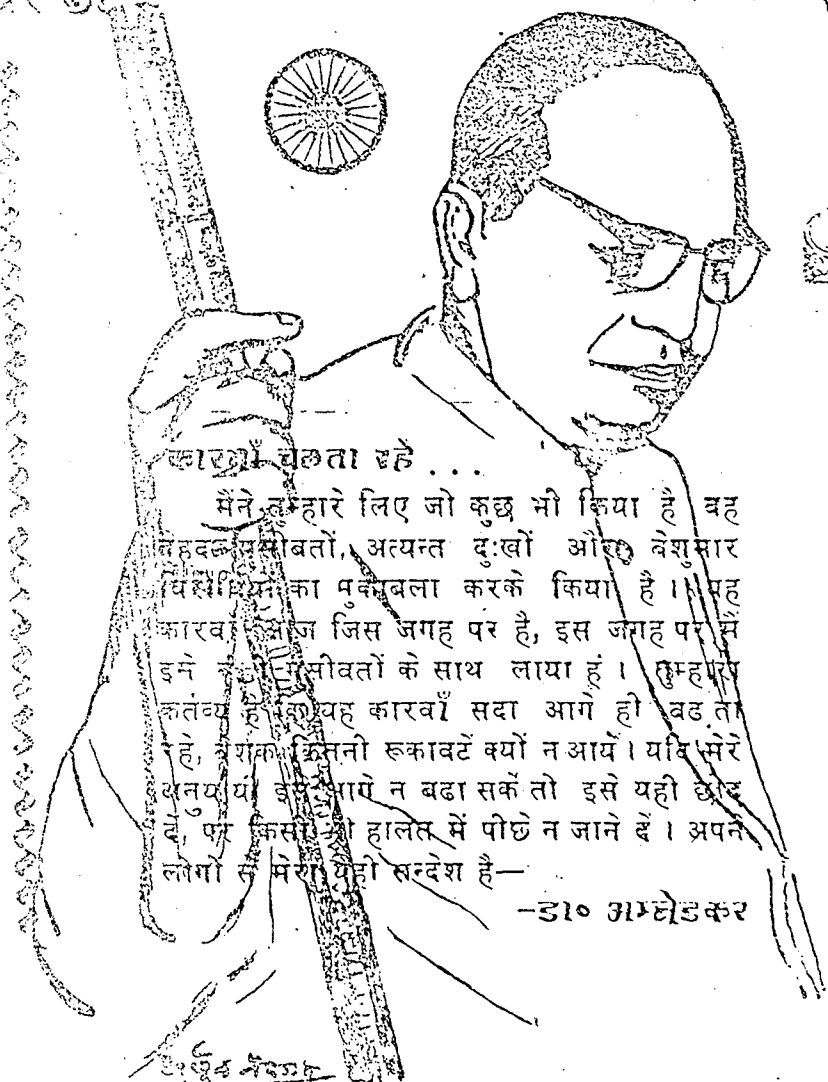
A9
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Annexure SCA-5

परिणामिक - भीष्म

दिसम्बर ७८

(साप्ताहिक)



कारवाँ चलाता रहे ...

मैंने तुम्हारे लिए जो कुछ भी किया है वह तुम्हारे सुखों, अत्यन्त दुःखों और बेशुमार विहीनता का मुकामला करके किया है। यह कारवाँ आज जिस जगह पर है, इस जगह पर मैं इन्हीं सुखों के साथ लाया हूँ। तुम्हारा कर्तव्य है कि यह कारवाँ सदा आगे ही बढ़ता रहे, शर्त कि तुम्हें रुकावटें क्यों न आयें। यदि मेरे अनुयायी इसे आगे न बढ़ा सकें तो इसे यही छोड़ दें, पर किसी भी हालत में पीछे न जाने दें। अपने लोगों से मेरा यही सन्देश है—

—डा० अम्बेडकर

★ परिनिर्वाण दिवस विशेषांक ★

मूल मूल्य १ रुपया मिशन प्रकाशन वाणिज्य १ रुपया

2. Sri R. Kamal A.C. is residing at ...
from there to Lucknow for ...
... application for permission for stay ...
application is available in ...
... It will be better ...

Handwritten signature



A 9
6

मिश्रित हो !

संगठित हो !!

संघर्ष करो !

20

निर्णायक-भीम (मासिक)

बाबा साहेब अम्बेडकर मिशन का मुख-पत्र

वर्ष-१

अंक-१

दिसम्बर-१९७८

लेखकों व मनुष्यों से निवेदन

- १- लेख तथा रचनाएँ, प्रभावी तथा २००० शब्दों से कम न हों।
- २- प्रोषित, पीड़ित, दलित एवं कमजोर वर्गों के सामाजिक एवं आर्थिक उत्थान से संबंधित रचनाएँ हों।
- ३- रचनाएँ परिमार्जित भाषा में, शुद्ध साफ एवं जहाँ तक संभव हो द्वै-पंक्ति-पूरी टाईप सफेद कागज पर एक तरफ लिखित हों।
- ४- जनवरी अंक "आरक्षण विशेषांक" पर शीघ्र आपकी रचनाएँ एवं लेख आमन्त्रित हैं।
- ५- लेखक बन्धु लेख के साथ अपना संक्षिप्त जीवन-परिचय अवश्य भेजा करें।
- ६- "निर्णायक-भीम" (मासिक) में प्रकाशित सामग्री हेतु लेखक स्वयं उत्तरदायी होंगे।



पढ़िए और पढ़ाइए

राष्ट्रीय विचारधारा का स्वतन्त्र हिन्दी साप्ताहिक पत्र

मर्यादा

प्रधान कार्यालय :

१०३/२२६ फर्नेलगंज, फानपुर।

इस अंक में

- १- सम्पादकीय
- २- समाचार दर्शन
- ३- कौन सा धर्म उचित धर्म है।
—भिक्षु प्राज्ञानन्द ७
- ४- सबैया (कविता), मोहन सिंह बनीषिया 'बन्दा' ८
- ५- क्या बौद्ध धर्म निराशावादी धर्म है।
—डा० प्राणीलाल परिहार ९
- ६- खून के रिस्ते (कविता), ज. वि. पवार १०
- ७- क्या शुद्ध स्वतन्त्र होंगे ?, सीताराम शास्त्री ११
- ८- कौन-कहाँ (गतांक से आगे) १६
- ९- भीम अभिनन्दन (कविता)
—अरविन्द कुमार राव १८
- १०- कांति दीप जला दो (कविता)
—आर० डी० प्रसाद १८
- ११- देश आगे कैसे बढ़े - सोहनलाल शास्त्री १९
- १२- भारत में डा० अम्बेडकर का बौद्ध आन्दोलन
—डा० डी० आर० जाटव २१
- १३- पूज्य बाबा साहेब की पुण्य स्मृति में (कविता)
—पी० आर० पंकज २२
- १४- मंजिल हमारी एक है (कविता)
—एम० तारिक अस्लम 'तस्नीन' २२
- १५- बाबा साहेब का निर्वाण या हमारा निर्माण
—एस० आर० एस० आदित्य २४
- १६- बाबा साहेब डा० वी० आर० अम्बेडकर—
(व्यक्तित्व और कृतित्व)— डा० अंगने खाल २६
- १७- 'शेरपुर का शेर' और गीदड़ों का घेरा
—सीतागम चौधरी ३०
- १८- बाबा साहेब कौन थे ? —भिक्षु फरुणाकर ३२
- १९- डा० अम्बेडकर की अमर वाणी—महावीर सिंह ३३
- २०- 'बाबा साहेब के प्रति' और 'गजब हिन्दुआई है'
(कविताएं) ३५

आर० कमल, सम्पादक, निर्णायक-भीम (मासिक), ११/८ सन्त कबीर नगर, डा० अम्बेडकर मार्ग, फानपुर-१२

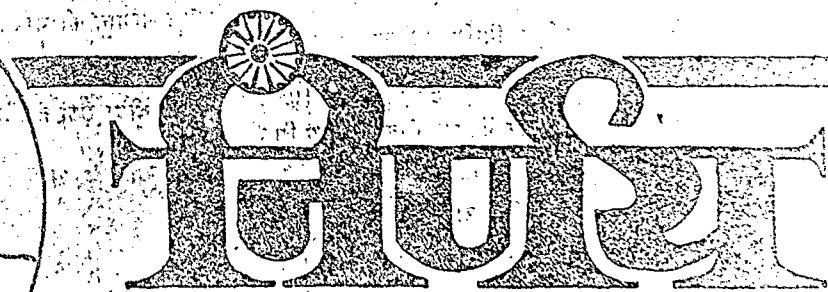
[३]



Annexure SCA-6

बाबा साहेब अम्बेडकर मिशन (रजि०)

का



सदस्य १९७८

(दुलेटिन)

“तुम्हें अपनी दासता अपने आप मिटानी चाहिए।
आत्म-सम्मान खोकर जीना अपमान-जनक है। आत्म-
सम्मान जीवन में सबसे महत्वपूर्ण चीज है। इसके
बिना आदमी शून्य के समान है। आत्म-सम्मान से
जीने के लिये आदमी को कठिनाइयों पर विजय प्राप्त
करनी होती है। कठिन तथा निरन्तर परिश्रम के
परचात् ही किसी को शक्ति, विश्वास तथा मान्यता
मिल पाती है। — —”

—डा० अम्बेडकर

सहयोगी धनराशि १ रु० । मिशन प्रकाशन वार्षिक १० रु०

The undersubscribers of this mission.

2. Sri R. Patel A.O. I provide
from there to the new for the M.
also applied for permission. For
application is available, the
it will be better if



49
8

शिक्षित हो !

संगठित हो !!

संघर्ष करो !!!

बाबा साहेब अम्बेडकर मिशन का "निर्णय" बुलेटिन

लेखकों से निवेदन !

हम अपने रचनाकारों से अनुरोध करते हैं कि आप किसी भी वर्ग या धर्म से संबंधित हो किन्तु एक बुद्धि-जीवी होने के नाते यदि आप, जाति-भेद, वर्णव्यवस्था, अहमन्यता और झूठी प्रतिष्ठा आदि के सामाजिक बुराई को राष्ट्रीय भावना से प्रेरित होकर, समूल नष्ट करने में विश्वास रखते हैं तो हम ऐसे लेखकों एवं कवियों के स्वच्छन्द विचारों को प्रकाशित कर स्वागत करेंगे।

मिशन प्रकाशन हेतु प्रेरित अपने निर्णायक विचार, लेख व रचनाएं, सुलेख सफेद कागज पर एक ओर स्पष्ट (जहां तक सम्भव हो द्वै-पक्ति दूरी-टाइप) भेजें, हम सहर्ष स्वीकार करते हैं। आपकी लेखनी की ताकत एवं कीमत का अन्दाज आपको तब लगेगा जब सदियों से म्वाथी वगैरों द्वारा बलात लादी गई सामाजिक गुलामी में फसे शोषित, पीड़ित एवं दलित समाज को स्वच्छन्द वातावरण एवं सही मार्ग दर्शन में आप निर्णायक सिद्ध होंगे।

अप्रभावित कृति की प्रत्यावर्ती-अपेक्षा में डाक टिकट सहित लिफाफा साथ भेजें। प्रकाशित सामग्री के लिए लेखक स्वयं उत्तरदायी होंगे।

आर० कमल
प्रकाशक

इस अंक में :

१. समालोचना ४
२. वैवाहिक विज्ञापन ४
३. समाचार दर्शन ५
४. डा० अम्बेडकर की दृष्टि में धर्म और समाज
सुदामा प्रसाद अहरबार ७
५. सूद होना बुरा है। (कविता).
जगन्नाथ आदित्य ११
६. बाबा साहेब अम्बेडकर का नैतिक दर्शन
डा० अंगने लाल १२
७. जात पात त्रिरोष-डा० भदन्त आनन्द कौसल्यान १५
८. भारतीय सासाजिक-समस्या और आधुनिक,
शंकराचार्य-डा० डी० वी० सिंह 'हरित' १६
९. "आँख का अन्धा, नाम नयन सुख"
(कहानी गतांक से आगे) डी० पी० वरुण १८
१०. मसीहा हैं हमारे वे (कविता)
संजीत कुमार २०
११. कोन-कहाँ २१
१२. सद्गुरु कबीर के दार्शनिक सिद्धान्त
हर्षदेव हंस २३
१३. धर्म क्या है, अधर्म क्या है २७
१४. 'चक्कर (संवाद) -रामदेव गौतम २८
१५. बौद्ध धर्म में व्यक्ति और समाज
-डा० डी० आर० जाटव २९
१६. अपना अधिकार मिले कैसे (कविता)
मोहन सिंह बनोघिया "बन्दा"

प्रकाशक : आर. कमल, महासचिव, बाबा साहेब अम्बेडकर मिशन (रजि०)

११/८ संत कबीर नगर, डा० अम्बेडकर मार्ग कानपुर-१२



no. 728/CPC(K) / 30.7.79 गांधीनय
कोडिंग एवं पंजिंग मैल
महानगर

उपनिदेशक (टी)

आज सुबह 10.10 ए.एम. पर सर्वश्री अमिताभा सिंह सहायक, हीरा दुलाप स. नि. तथा एम. एन. राय सहायक सहायक निदेशक के कमरे में यह समझा ले कर आए कि उनके उपस्थिति गिबद्ध पत्रिका - कोडिंग कस के सामने वाले कमरे (जिसे टी.ओ. ज. रूप कहा जाता है) में सुबह 10.00 बजे व शाम को 5.00 बजे मिल जान चाहिए। इस समझौते पर विचार करने के लिए साधुवासन के साथ व चले गए।

सर्वश्री-आर.एन. लाल, देवेन्द्र सिंह व टी.ए. उसमानी को विचार-विमर्श के लिए बुलाया जाता था, सब से पहले श्री-आर.एन. लाल सहायक निदेशक के कमरे में पहुंचे, जब सर्वश्री-देवेन्द्र सिंह व टी.ए. उसमानी कमरे में आए तो सहायक निदेशक के दक्षिण तरफ वाली खिड़की की तरफ से श्री आर. कमल ने बिना आवाज किए सा. अधिकारियों के लिए अमरु गाथा में उन्हें द्वार में बोलना शुरू कर दिया जिसके कारण अधिकारियों की कार्यालय में बैठकर काम करना रुक हो गया। वे उपनिदेशक (टी) निदेशक से बात करना चाहते थे। यह पत्रिका 10.30 बजे के समय भी होगी। स. नि. ने उन्हें अवगत कराया कि इस समय मुख्यमंत्रि ने ही बड़ी हिन्दी कमेटी की गीटिंग के कारण कार्रवाई अखिर नहीं मिल पाएगा। बी-25 नंबर के फोन द्वारा मुख्यमंत्रि बात करने की कोशिश की। फोन पर बात न हो सकने के कारण सर्वश्री देवेन्द्र सिंह, टी.ए. उसमानी और आर.एन. लाल शामिल हुए तब पर उ. नि. (टी) / निदेशक से मिलने मुख्यमंत्रि को चल दिए, इसे संदर्भ में पत्रांक 718/टी पी.सी. (का) दिनांक 28.7.79 (गांधीनय) के माध्यम से उ. नि. (टी) को अवगत करा दिया गया था।

स. नि. व अमरु व्यवहार के लिए श्री आर. कमल से स्पष्टीकरण

दिया था जिसका उत्तर आपको अवगत करा जा रहा है।

विद्वत् विचारों पर ध्यान दे।

30/7/79



लेवाने,

81

सहायक निवेदन
जगजगता, उष्य
चारपत्र

गद्येवम,

आपके पत्र ले० १११/सीपी०सी (का०) २१-७८
दि० २८.७.७९ के सन्दर्भ में मुझे बड़े आश्चर्य
के साथ आपसे यह निवेदन मिला है कि सहायक
निवेदन के कार्रवाई के सागने यदि वास्तव में मैंने
गारिमा को आदान प्रदान किया है तो जैला के
आपका आरोप है कि इस सन्दर्भ में आप निम्न
तथ्यों की कसौटी करने की कृपा करें ताकि अत्यंत
आरोप का उत्तर दिया जा सके।

1. किस किस सारणीय अधिकारी को गद्दी-
गारिमा दी है ?
2. गारिमा देने का क्या कारण था ?
3. शक्ति मंगल सेने के साथ किन कमिश्नरों
की उम्मीदवारी उस समय थी ?
4. गारिमा देते समय क्या कहा था ?
5. गारिमा देते हुए उनके मिलने देकर ?
6. क्या वास्तव में मैं ही गारिमा दे
रहा था या आपको प्रतिष्ठित किया
गया है ? अथवा कोई और है ? (P.T.O.)

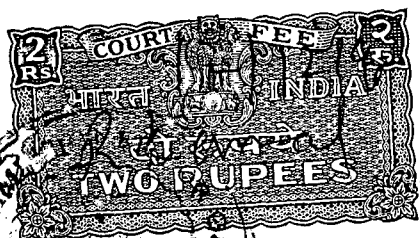




BEFORE THE HON'BLE ADMINISTRATIVE TRIBUNAL: LUCKNOW

W.P. No. 2637 OF 1980

T.A. No. 694/87 (T)



R. Kamal Applicant

versus

Union of India and othersOpp. Parties

SUPPLEMENTARY REJOINDER AFFIDAVIT

I, R. Kamal, aged about 48 years, son of Sri Chheda Lal, resident of 11/8 Sant Kabir Nagar, Dr. Ambedkar Marg, Kanpur, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the applicant in the above noted case and as such he is fully conversant with the facts of the case.
2. That the contents of para 1 of the Supplementary Counter needs no reply.
3. That in reply to the contents of para 2, it is submitted that the deponent was never told that he is unsuitable for the post and his retention in service was not considered in the interest of the department.
4. That the contents of para 3 needs no reply.
5. That in reply to the contents of para 4 of the Supplementary Counter, it is submitted that representation against the adverse remark was moved

by the deponent and the same is still pending.

6. That in reply to the contents of para 5, it is submitted that the remark for the period in question was expunged on 28-6-77. Annexure C-3 may kindly be perused.

7. That in reply to the contents of para 6 of the supplementary counter affidavit it is submitted that the censure entry was passed on 1-1-1980.

8. That the contents of para 7 of the supplementary counter affidavit are denied. The deponent was not a daily passenger from Kanpur. In fact he applied for permission to stay at Kanpur but it was not granted to him. Therefore, he used to stay at Lucknow. The deponent was not a Publisher of Monthly Magazine Nirnaik Bheen and Baba Saheb Bheem Rao Ambedkar in the name of Nirney. The photostat copies Annexure C-5 and C-6 do not indicate that the publisher of ~~xxx~~ both these Magazines was the deponent. The opposite parties never made any enquiry in this connection and the deponent was not given any opportunity to show that he was not the publisher. In relation to the complaints it is submitted that there was no complaint against the deponent and the opposite parties never informed or supplied copies of the complaints or any enquiry on the basis of complaints were conducted. It is absolutely wrong to say that the deponent cross examined witnesses. It is respectfully submitted that the allegations made in para under reply are



[Handwritten signature]

-3-

baseless, fabricated and it was done with purpose only with a view to legalise their illegal action.

9. That in reply to the contents of para 8 of the supplementary counter affidavit, it is submitted that the Director before Passing the termination order considered all those materials which was not brought to the notice of the deponent or any opportunity to prove his innocence was given. It is further submitted that the Director's remark that the deponent is a liability in the office casts a stigma, and this observation was made without giving him any opportunity. It is respectfully further submitted that the authority who passed the impugned order took into consideration all those materials and passed the impugned order. It is also relevant to point out that all those charges mentioned in para 7 and 8 of the supplementary counter were not before the appointing authority at the time of framing of charges against the deponent or it was before him at the time of filing the original counter affidavit. It was manipulated with purpose, and the impugned order is based on those charges for which the deponent has not given any opportunity and it has been passed by way of punishment



[Handwritten signature]

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10. That the contents of para 9 are denied. The deponent never misbehaved to his superior authorities. Misbehaviour comes under the definition of misconduct for which a detailed enquiry should have been conducted but in this case no such enquiry has been conducted and the impugned order is an out-come of serious charges for which no enquiry was conducted as such attracts the provisions of Article 311 of the Constitution.

Dated: Lucknow

Deponent

12-12-1990

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 to 10 of this affidavit are true to my knowledge. No part of it is false and nothing material ~~xxxx~~ has been concealed.

So help me Go.

Dated: Lucknow

12-12-1990

Deponent

I identify the deponent who has Signed before me. *He is known to me personally.* Advocate

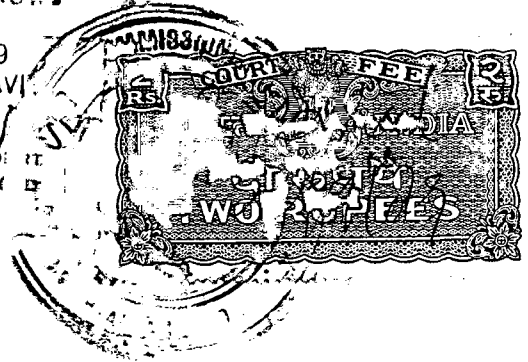
Solemnly affirmed before me on 12-12-90 at 9-00 am/pm by *R. K. Karmal* the deponent who is identified by Sri *Surendra P. D.* Advocate, High Court, Lucknow. I have satisfied in examining the deponent who understands its contents which have been readout and explained by me



Q. J. Hasan Khan
OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench;
No: 12/1052
Date 12-12-90

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD CAMP
LOCAL.

1989
AFFIDAVIT
69
HIGH COURT
ALLAHABAD



Rejoinder Affidavit on behalf of
Petitioner

In re:

✓ T.A. No 694/07 (T) 2

A. Aslam

.....

...petitioner

Versus

Union of India and others

...op. parties

I, A. Aslam, aged about 46 years,
S/o Sri Chhed: Lal, R/o 11/1 Sant
Kubir Nagar, Mr. Ambedkar Marg, Kanpur
-12 do hereby solemnly state as
under:-

1. That the content of para 1 of the counter affidavit are not disputed.
2. That in reply to the contents of para 2 of the counter affidavit para 1 of the writ petition is reiterated.
3. That the contents of para 3 of the counter affidavit need no comments.

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*Filed today
12/11*



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2.

4. That the contents of para 4 of the counter affidavit are denied the contents of para 5 of the writ petition are reiterated. It is further submitted that a perusal of the seniority list copy of which is ~~enclosed~~ ✓ itself shows that the petitioner was regular employee termination order passed under rule 5 of the C.C.S. (Temporary Service) Rules 1965 is void-ab-initio. It is necessary to point out here that against the petitioner the departmental disciplinary proceedings were pending and chargesheet was served and after receiving the explanation the petitioner was censured and on same day the services of the petitioner was terminated, it can well be said that the order is founded on the chargesheet and is therefore punitive. It is also pertinent to point out here that Hon'ble Supreme Court held in so many cases that even a temporary employee also entitled to protection of Article 311(2). In Harpal Singh's case the order of termination was passed after the adverse entries were made against the petitioner who was not confirmed and was still a temporary employee. Although order was one of termination simpliciter without stigma but has to be quashed as it was grounded upon features of stigma against the petitioner and was passed without giving him opportunity to defend.



5. That the contents of para 5 of the counter affidavit are denied. It is further submitted that as stated in proceeding para the termination order

[Signature]

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3.

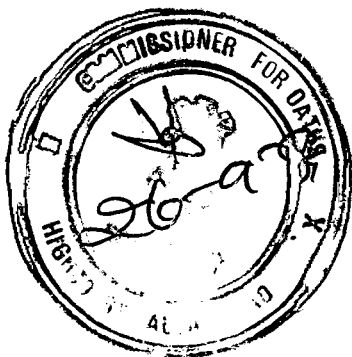
is punishment which violates the provisions of Article 311(2) of the Constitution of India. The rest of the contents of para 6 of the writ petition are reiterated.

6. That the contents of para 6 of the counter affidavit need no comments.

7. That the contents of para 7 and 8 of the counter affidavit are denied. The contents of para 8 and 9 of the writ petition are reiterated.

8. That the contents of para 9 of the counter affidavit need no comments as it is admitted by opp. parties that the petitioner was on sanctioned leave.

9. That in reply to the contents of para 10 of the counter affidavit it is submitted that the order of termination passed by opp. parties No.3 is by way of punishment as the penal of the orders itself clearly shows. It is also pertinent to point out here that -s till the date of termination the petitioner was not unsuitable as no such types of charges was mentioned in chargesheet issued to the petitioner. The counter affidavit filed by opp.



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parties is baseless, false and as the result the writ petition succeeds and may be allowed with costs.

Lucknow: Dated

26.9.1989.

[Signature]
Petitioner.

Verification

I, the abovenamed ~~de~~petitioner hereby verify that the contents of paras 1 to 9 of the rejoinder affidavit are true to my knowledge.



Signed and verified on 26.9.89 at Lucknow Court.

Lucknow: Dated

26.9.1989.

[Signature]
petitioner.

I identify the deponent who has signed before me. He is personally known to me.

CBR
26/9/89

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In the Hon'ble Central Administrative Tribunal

Circuit Bench Lucknow.

Filed 31.8.90

Case No 694/190

R. Kama lPetitioner.

Versus.

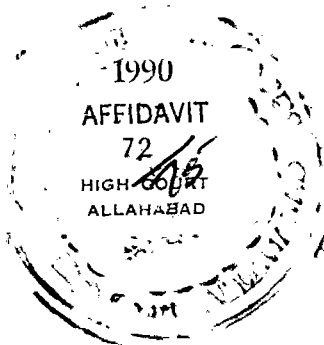
Union of India and others.....Opp.P arties.

Counter Affidavit on behalf

of opposite party.

I, Rango Sahan aged about
55 years, son of Sh. Shikhar Singh
posted as Head Assistant in the
office of the Director of Census operations
and the deponent do hereby solemnly affirm
and state on oath as under :-

1. That the deponent is working as Head Asst
in the office of the Director of Census operations
and as such he is fully conversant with the facts
deposed hereinafter.
2. That the deponent has read the writ petition
filed by the petitioner and has fully understood the
contents thereof.



[Handwritten signature]

3. That the contents of paragraph 1 of the writ petition are admitted. The petitioner was appointed as Assistant Complier as evidenced from Annexure-1 to the writ petition. The appointment was on purely temporary basis for a specific period and the same was extended from time to time.

4. That the contents of paragraphs 2 to 4 of the writ petition are admitted.

5. That in reply to the contents of paragraph 5 of the writ petition, it is submitted that Rule 16 of the Central Civil Services (Classification Control and Appeal) Rules, 1965 defines the procedure for imposing minor penalty. A formal enquiry is not required to every case as will appear from the provisions of Sub Rule (1) (b) of Rule 16 of the C.C.S. (C.C.A) Rules, 1965. That the petitioner's case considered by the competent authority and it was found that the charge of unauthorised absence from duty as was substantiated and regarding the second charge of unauthorised absence from duty was substantiated and regarding the second charge it was proved from the work diary that the petitioner had avoided to perform his duties. The charges having been proved the petitioner was censured. It is further submitted that the orders



of termination of the petitioner's service dated 1.1.1980 were passed as he was not considered suitable for the post which he held. The retention of the petitioner to service was not considered in the interest of the department and his services were terminated under rule 5 of the Central Civil Services (Temporary Service) Rules, 1965. The petitioner was given one month's pay in lieu of notice.

6. That in reply to the contents of paragraph 6 of the writ petition, it is submitted that the petitioner ~~performed~~ preferred an appeal against the order of termination of his services to the opp. party no. 2 who is the Head of the Department, through his counsel. The appeal was considered and rejected by the Registrar General, opp. party no. 2. A copy whereof is annexure-6 to the writ petition. The petitioner was informed by the said order that the termination of his services under Rule 5 of the Temporary Service Rules does not amount to dismissal or removal.



7. That the contents of paragraph 7 of the writ petition are admitted.

8. That in reply to the contents of paragraph 8 of the writ petition, it is submitted that the seniorty list of the grade of Assistant Complier ~~and~~

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- 4 -

was circulated by Memo No. AB-11-1/78-DCU/1652 dated 1.10.1978. Confirmator of the officials was made thereafter taking into consideration their work and suitability. The petitioner could not be confirmed ~~as~~ as his work was not found to be upto the mark. The confirmed officials of the grade of Assistant Compiler ~~ranked~~ ranked senior to the petitioner. Persons from serial no. 204 to 213 were confirmed in the grade of Asstt. Compiler and sl. no. 214 in the grade of class IV. As stated in para 6 and the petitioner's case is not one of retrenchment but his services were terminated as he was not considered suitable for the post.

9. That in reply to the contents of paragraph 9 ~~of the writ~~ and 10 of the writ petition, it is denied that the petitioner's work and conduct had been unblemished.

10. That in reply to the contents of paragraph 11 of the writ petition, it is stated that the petitioner was sanctioned leave to the extent it was admissible.

11. That in reply to the contents of paragraph 12 of the writ petition, it is submitted that the termination of petitioner's services by opp. party no. 3 who was competent to pass such orders is neither by way of dismissal or removal nor has the order been passed by way of punishment. The order has been passed under Rule 5 of the C.C.S. (Temporary Service) Rules, 1965 or the petitioner was found unsuitable for the post. The writ petition is



Ag. Secy

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- 5 -

without substance and is liable to be
dismissed with costs.

Lucknow : Dated

Er Sr

August 16, 1990

Deponent.

Verification

I, the abovenamed deponent do hereby verify
that the contents of paras a of this counter affidavit
are true to my own knowledge, those of paras 2 to
10 are believed to be true on the basis of informa-
tion from record and legal advice. Nothing material
has been concealed. So help me God.

Lucknow : Dated

Er Sr

August 16, 1990

Deponent.

I identify the deponent who
has signed before me.

Chd. J. Advocate.

Solemnly affirmed before me on 16-8-90
at 4-30 a.m/p.m. by Sri Ganga Sanyal

the deponent who is identified by Sri J. P. Mishra
Advocate, High Court, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent
that he understood the contents of the affidavit
which has been read out and explained by me.

Er Sr

Romana
JATH COMMISSIONER
High Court, Allahabad
Lucknow Bench

Do-----
Date-----
72/19-5
16-8-90