

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE DA-779 OF 1987

NAME OF THE PARTIES K.A. Siddiqui Applicant

Versus

Union of India Respondent

Part A.


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CERTIFICATE

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

Dated 07-06-11

Counter Signed.....


Signature of the
Dealing Assistant

31/0

Transfer (S.M.)

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 779 of 1987



APPLICANT (s) K. A. Siddiqui

RESPONDENT(s) U.O.I. through Engineer-in-Chief, Military

Engineering Service, New Delhi + 3 others

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

आदेश पत्रक
ORDER SHEET(A)
3अपील
निर्देश आवेदन रजिस्टर में सं०No. in Reference Application Register
Appeal

OA 779-17

अपील अतिकरण
Appellate Tribunalअपीलार्थी
आवेदकAppellant
Applicantअपीलार्थी
आवेदक द्वारा

बनाम

प्रत्यर्थी

Appellant
Applicant

Vs.

Respondent

प्रत्यर्थी द्वारा
Respondentआदेश की क्रम संख्या
और तारीख
Serial number of
order and dateसंक्षिप्त आदेश, निर्देश देते हुए, यदि आवश्यक हो
Brief order, mentioning reference, if necessaryपालन, कैसे हुआ और पालन
करने की तारीख
How complied with and
date of compliance

1/10/07 lawyers on strike adj to 13/11/07

Tms

13.11.07 Hon. G. S. Sharma Jcy

On the request of applicant
Counsel, the case is adjourned
to 1.12.07.

Jcy

1/12/87 Registrar

Wrongly listed today. List
before Court on 22/12/87 as prayed by
Counsel for applicant. Reply not filed
so far.

Registrar

779/87

25-5-90

Case not reached
adjourned to 20-9-90

(A/8)

✓
25/5.
B.O.C.

20-9-90

No sitting Adj to 28-11-90

28-11-90

Hon. Mr. Justice K. Math. v C
Hon. Mr. M. M. Srinivasan AM.

(10)

On the request of counsel for
Respondents case is adjourned
to 11-1-91 for hearing.

M M L
AM.

R
ve

11-1-91

No sitting Adj to 29-1-91

29-1-91

No sitting Adj to 5-3-91

(10)

5-3-91

Hon. Mr. Justice V. C. Srinivasan, V.C.
Hon. Mr. A. B. Goethel, AM.

Applicant in person.
Shri K. C. Sinha for Respondents.
Hear and the parties.

Judgment RESERVED.

Sanj
OXA)
Gulali Chandel
CE (West) LIA AM.
D

✓
ve

779/47

(A)

22.9.8 Hon. D.S. Misra, Am
Hon. G.S. Sharma, JM

Sri S.K. Chandhry files
vakaletname on behalf of the applicant
and requests for adjournment of the case.
Case is adjourned to 25.10.1988
for hearing.

Am

22.9.88
Am

25/10/88.

Hon. D.S. Misra, Am.

Sri R.C. Sharma files his vakaletname
on behalf of the applicant. He
requests for an adjournment. No one
is present on behalf of the respondents.
The case is adjourned to 21-11-88.

Am.

21.11.88

25.11.88.

No. Sitting. Adjourned to 25.11.88
for hearing.

Hon. D.S. Misra, Am.
Hon. G.S. Sharma, JM

The applicant's person is present.
On the request of the learned counsel
for the respondents Sri R.C. Sharma
the case is adjourned to 24-1-89.

J.M.

Am.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

O.A./E.A. No. 779 1987

K. A. Siddiqui

Applicant(s)

Versus

Govt. of U.P.

Respondent(s)

Sr. No.	Date	Orders
24-1-89	Hon. D. S. Misra, Am. Hon. G. S. Sharma, JM.	<p>Sri S.C. Chaudhary for the applicant is present and files two applications. On the request received from Sri K.C. Sinha for respondents the case is adjourned to 25-1-89 for disposal of the applications.</p> <p style="text-align: center;">} JM.</p> <p style="text-align: right;">} Am.</p>
25.1.89	Hon. D. S. Misra, Am Hon. G. S. Sharma, JM	<p>Sri K.C. Sinha, learned Counsel for the respondents is present. On the request received on behalf of learned Counsel for the applicant the case is adjourned to 24.2.1989 for hearing.</p> <p style="text-align: center;">} JM</p> <p style="text-align: right;">} Am.</p>

25.1.89

u/s

(A/8)

C.M.A. No. 8/89(L)
in
O.A. No. 779/87

Hon' Mr. D.S. Misra, A.M.
Hon' Mr. D.K. Agrawal, J.M.

30/3/89

Shri K.C. Sinha learned counsel for the respondents requests for further time to file reply to the application for amendment as well as, the petition for grant of interim relief. He is allowed to do so within 3 weeks. A request for adjournment of the case is also received on behalf of the applicant. List the case on 9.5.89 for hearing.

D.K. Agrawal
J.M.

(sns)

A.M.

OR
No reply has been filed
by the learned counsel
for the respondents.
Submitted for order

9/5

Hon' Mr. G.S. Shama, J.M.
Hon' Mr. K.J. Raman, A.M.

9/5/89

The petitioner in person and Shri K.C. Sinha, learned counsel for the respondents are present. Shri Sinha files objection against the amendment application, as well as, against the request for interim relief. On the request of the applicant, the case is adjourned to 26-5-89 for orders.

K.J. Raman
A.M.

J.M.

(sns)

26-5-89

no sitting. Adjourned to
13-7-89 for order.

S.P.P.
B.O.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

(A)
9

REGISTRATION No. 779 of 198 7

APPELLANT
APPLICANT

K. A. Siddiqui

VERSUS

DEFENDANT
RESPONDENT

Union of India 2 ors.

Brief Order, Mentioning Reference
if necessary

How complied
with and date
of compliance

Mr D.K. Agrawal, J.M.

applicant is present in person.

the request received on behalf of
K.P. Saha learned counsel for
petitioners the case is adjourned

29-9-89 (last Friday of the

month) as requested by Shri K.C. Sinha,

a hearing before single Member.

J.M.

J.M.

OK

Notice need
by the learned counsel
to the applicant for
hearing on 21.0.04.
Notice was issued
to the counsel for
reply by 29
Case is ready
for hearing

h
1/11

OK

Case is submitted
for hearing

h
28/9

(NS)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

107

O.A. No. 779 of 1987 199
T.A. No.

DATE OF DECISION March, 1991

K.A. Siddiqui Petitioner

The applicant in Person/
Shri G.D. Mukherji Advocate for the Petitioner(s)
Versus

Union of India and ors Respondent s

Shri K.C. Sinha Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice U.C. Srivastava, V.C.

The Hon'ble Mr. A.B. Gorthi, A.M.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether to be circulated to all other Benches ?

.....

Ghanshyam/

(A)
11

CENTRAL ADMINISTRATIVE TRIBUNAL

ALIA HABAD BENCH

.....

Registration O.A. No. 779 of 1987

K.A. Siddiqui ... Applicant

versus

Union of India and others... Respondents

Hon 'ble Justice U.C. Srivastava, V.C.

Hon 'ble A.B. Gorthi, A.M.

(By Hon 'ble A.B. Gorthi, A.M.)

The applicant K.A. Siddiqui, aggrieved by an order dated 11-10-1982 transferring him from Lucknow to Babina has filed this application under section 19 of the Administrative Tribunals Act, 1985.

2. The applicant was serving in the office of Garrison Engineer (West), M.E.S. Lucknow with effect from 2-5-75 as Superintendent B/R Grade II. The Chief Engineer, Central Command issued a general order dated 28-5-81 directing the transfer of two Superintendents B/R Grade II from Lucknow to Babina. The order says that the transferees should be either volunteers^{or} longest stayees. Garrison Engineer(West), who was to implement the order, drew a panel and picked up the name of the applicant for transfer to Babina. Accordingly a transfer order was issued on 28-1-82. The applicant represented requesting for a posting to a place nearer to Lucknow so that he could pursue some of his Court cases. He was then offered a transfer to Mamaura, a place nearer Lucknow on the condition that his stay tenure at

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Mamaura would be only for one year. The applicant turned down the offer and refused to move when the final transfer order was issued on 11-10-82.

3. The main grievance of the applicant is that he was neither a volunteer nor the longest stayee and hence should not have been transferred to Babina. He also challenged the competency of the Garrison Engineer(West) to issue the impugned transfer order. The applicant appeared before us and argued his case. He urged that his move to Babina would result in ^{ut} ~~under~~ ^s hardship to him in the matter of his children's education.

4. The applicant ~~xx~~ had a tenure of 7 years at Lucknow. As an employee of M.E.S., he knew that he was liable to serve any-where in the country. The office of Garrison Engineer(West) carefully worked out a panel and found that from among the candidates due for transfer, the applicant was the right candidate to be posted ^{out to} ~~at~~ Babina. On humanitarian considerations, he was even offered a berth in the office of Garrison Engineer Mamaura, but he refused to accept the same and became adamant. He refused to accept the movement order, did not join the office ~~at~~ Babina and thus remained an absentee.

5. We fail to understand the ~~competency~~ ^{competency} of the concerned authorities who ought to have initiated disciplinary action against this errant official. In fact the applicant argued, ^s ~~rather~~ ^{somewhat} xx convincingly, ~~xx~~ that since no disciplinary action was initiated against him, he would be deemed to be on duty and not an absentee.

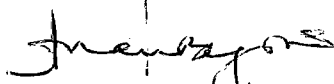
Handwritten signature

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6. The main issue before us is whether the transfer order issued was legal and just and fair. Admittedly the competent authority to order the transfer was the Chief Engineer, Central Command and not the Garrison Engineer (West) Lucknow, who signed the impugned transfer order. Annexure-CA-1, which is a letter from the Chief Engineer, Central Command clearly shows that this constituted authority for the issue of the transfer order. Although the letter directs that 2 Superintendents B/R Grade II should be transferred to Babina, without mentioning the names of the candidates, we do not find any impropriety in it. Moreover, copy of the final transfer order issued under the signature of Garrison Engineer (West) was endorsed to the Chief Engineer, Central Command.

7. As regards the question whether the applicant was the longest stayee or not, we are convinced that he was among those who had stayed more than 6 years at Lucknow and that keeping in view the transfer schedules of others - details of which ~~were~~ have been elaborately mentioned in the counter affidavit, on behalf of Respondent no.1, the selection of the applicant for post^{ing} to Babina cannot be said to be either arbitrary or unfair. Absence of malafide is established by the fact that the concerned authorities agreed to post him to Mamaura for a year.

8. In the result, we dismiss the application, but make no order as to costs.


MEMBER (A)


VICE CHAIRMAN

(sns)

March 15, 1991.

Alhabad.

(14/18)

Reg. No 779 1987
Central Administrative Tribunal
Additional Bench At Allahabad
Date of Filing 26/8/87
Date of Receipt by Post
for [Signature] By Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH: ALLAHABAD

I N D E X

I N

REGISTRATION NO. OF 1987.

K.A.Siddiqui. Applicant
Versus

Union of India & others. Respondents.

Sl. Nos. Particulars of the papers Page Nos.

- 1. APPLICATION 1 to 14
- 2. ANNEXURE NO. 1.
Copy of the movement order. 15
- 3. ANNEXURE NO. 2
copy of the Policy Letter 16 - 27
- 4. ANNEXURE NO. 3, 3(a) & 3(b)
Copies of the appeals 28 - 41
- 5. ANNEXURE NO. 4 & 5
Copies of the Representations. 42 - 50
- 6. ANNEXURE NO. 6
Copy of the Letter Dt. 30.12.86 51
- 7. ANNEXURE NO. 7.
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- 8. ANNEXURE NOS. 8, 9 & 10
Copies of the appointment letter as Defence Helper. 53 - 54, 55
- 9. Postal Orders. 56
- Valabat nama -

Noted for 31.8.87
PN Daidy
Cherle
To & G.D. Mukerji
7. Sep
26-8-87

DATED: 26 AUGUST, 1987.

(Anil Kumar)
Advocate
[Signature]
(G. D. MUKERJI)
ADVOCATE
COUNSEL FOR THE APPLICANT.

(A)
TG

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI
ADDITIONAL BENCH : ALLAHABAD.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL'S ACT, 1985.

For use in the Tribunal's Office.

DATE OF FILING : _____
REGISTRATION NO. : _____

(Signature of the Registrar)

B E T W E E N

K.A.Siddiqui, son of Late Khalik Ahmad
^{Siddiqui}
~~Siddiqui~~, Resident of 191/13 Bagh Shor Jung,
Lucknow, at present posted as Superintendent
B/R Grade -II in the Office of Garrison Engineer
(West), 11m Sardar Patel Marg, Lucknow-Cantt.

- - - - - Applicant.

Versus

1. The Union of India, through
Engineer-in-Chief, Military
Engineering Service, Kashmir House,
New Delhi.
2. The Chief Engineer, MES,
Central Command,
Lucknow.

(2)

3. The Zonal Chief Engineer,
Lucknow Zone Lucknow.
4. The Garrison Engineer(West),
11, Sardar Patel Marg,
Lucknow- Cantt.

----- RESPONDENTS.

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE APPLICANT

- | | | | |
|-------|---|---|---|
| (i) | Name of the Applicant | : | K.A. Siddiqui |
| (ii) | Name of the Father | : | Late Khalil Ahmad Siddiqui |
| (iii) | Age of the applicant | : | 52 years. |
| (iv) | Designation and particulars of office(Name and station) in which employed or was last employed before ceasing to be in service. | : | Superintendent B/R Grade-II in the Office of Garrison Engineer (West), 11, Sardar Patel Marg, <u>Lucknow Cantt.</u> |
| (v) | Office Address | : | As above. |
| (vi) | Address for service of all notices. | : | 191/13 Bagh Sher Jung, <u>Lucknow.</u> |

2. PARTICULARS OF THE RESPONDENTS

- | | | | |
|-------|------------------------|---|---|
| (i) | Name of the Respondent | : | (1) The Union of India, |
| (ii) | Name of the Father | : | through Engineer-in- |
| (iii) | Age of the Respondent | : | Chief, Military Engineering Service, Kashmir House, <u>New Delhi.</u> |

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(3)

(iv) Designation and particulars of office (name and station) in which employed.

~~(v) Office Address~~

(2) The Chief Engineer
MES, Central
Command, Lucknow

(3) The Zonal Engineer
Lucknow Zone
Lucknow

(4) The Garrison
Engineer (West),
11, Sardar Patel
Marg, Lucknow.

(v) Office Address

As above.

(vi) Address for service of notices.

As above.

3. PARTICULARS OF THE ORDER AGAINST WHICH APPLICATION

IS MADE

Amendment incorporated vide order dt. 29.9.82

1. Order No.
2. Date.
3. passed by.
4. Subject in brief.

~~Order No. 1010/BR/1634/BR dt. 10.10.1982~~
~~For not deciding the appeal.~~
~~(ii) C-6/KAS/16/BR dt. 30 Dec 1986 both~~
~~filed by the applicant in~~
~~issued by Garrison Engineer (West)~~
~~respect of his transfer order~~
~~from Lucknow and~~
~~from Lucknow to G.E. Babina~~
~~(ii) Order No. 120545/3213/BR dt.~~
~~vide movement order No. 1010/BR~~
~~23rd Jan 1982 issued by the~~
~~1634/BR, dated 11th October~~
~~Chief Engineer Lucknow Zone, Lucknow~~
~~1982.~~
~~now, CEN 2, Lucknow and for not~~
~~deciding the appeals filed by the applicant.~~
~~Also for not giving the~~

applicant movement order for
Garrison Engineer (REC) M. M. M.
issued by the Competent
Authority, nor T.A./D.A.
for his move from Lucknow

to Babina. Memo. and also
for denial of pay and allowances
- CEN 2, Lucknow - from 1982

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(4)

4. JURISDICTION OF THE TRIBUNAL

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

5. LIMITATION

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

6. FACTS OF THE CASE

The Facts of the case are as follows :-

6(1) That the applicant was posted as Superintendent B/R Grade-II in the Office of Assistant Garrison Engineer (Project) independent, Lucknow.

6(2) That on 28.7.1982, the post of Assistant Engineer Garrison (project) Lucknow was up-graded and are designated as Garrison Engineer, Lucknow, hereinafter referred to as Respondent No. 4 and the applicant was regularly absorbed in the regular establishment

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(5)

of the respondent No. 4 .

6(2) i That the Posting order of the applicant -
(See reverse of page 4)

6(3) That the applicant was transferred from G.E. West Lucknow to G.E. Babina, vide Movement Order No. 1010/BR/1634/E1, dated 11th October, 1982. A true copy of the aforesaid Movement Order dated 11th October, 1982 is being filed herewith and marked as ANNEXURE NO. -1 to this application.

17 Oct 74, 21st May 1975

6(4) That the Engineer-in-Chief, Military Engineering Service, New Delhi has promulgated vide letter dated 30th December, 1983 the policy for transfers of MES Personnels. A true copy of the aforesaid Policy Promulgated by the Respondent No. 1 vide his letter dated 30th December, 1983 is being filed herewith and marked as ANNEXURE NO. 2 and 2a to this application.

6(5) That the posting of the applicant could only be made by the Chief Engineer, Central Command, in accordance with para 5 of the aforesaid policy letter (Annexure-2 above), and also in accordance with para 6 of letter dt. 17 Oct 1974 (Ann-2a) and Para 9 of letter dt. 30 Dec 1983 (Ann-2)

6(6) That from a bare perusal of the Movement Order (Annexure-1 above) it would be abundantly clear that the authority for the move of the applicant quoted has been issued by

(A go)

(6)

the Chief Engineer, Northern Zone. It may respectfully be submitted that the Chief Engineer, Northern Zone/Lucknow Zone has no authority to order the transfer of the applicant from Lucknow to Babina .

6(7) That in accordance with paragraph 9 of the Policy Letter promulgated by the respondent No. 1 (Annexure-2) above it is clearly stated that the longest stayee in one particular station will be the first person may be transferred. But it may respectfully be submitted that the applicant not the longest stayee at Lucknow, but he was arbitrarily and in a most illegal manner transferred by the Chief Engineer, Lucknow Zone, hereinafter referred to as Respondent No. 3, for reasons best known to him. At this juncture it may be stated that Chief Engineer, Northern Zone has been re-designated as Chief Engineer, Lucknow Zone .

f2
6(8) That since the ~~movement order~~ *Posting order for Garrison*

Babina, was issued by an incompetent authority, moreover the applicant was not the longest stayee at Lucknow so the applicant preferred an appeal in accordance with the provisions of paragraph 25 of the Policy Letter issued by the Respondent No.1 (Annexure-2)

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(7)

True Copies of the appeal and representations filed by the applicant against his arbitrary and illegal transfer and that too by an incompetent authority from Lucknow to Babina dated 18~~th~~ October, 1982,

~~103rd April 1982~~ 10th January, 1983, and 26th July, 1986 are being filed herewith and marked as ANNEXURES-3, 3(a),

3(b) and 3(c) ~~and 3(b)~~ to this application.

6(9) That copy of the aforesaid appeal was received in the Office of Chief Engineer, Central Command, hereinafter referred to as Respondent No. 2, on 18.10.1982 .

6(10) That till date the respondent No.2 or Respondent No. 3 have not decided the above appeal of the applicant, nor has the respondent No. 4 issued any Movement Order to the applicant for his move from Lucknow to Babina ~~17th June~~.

6(11) That the applicant is regularly ~~xxx~~ working in the Office of Garrison Engineer, West, but the applicant is not being paid, nor is he allowed to sign the attendance register .

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(8)

6(12) That the applicant did not receive any reply from the Respondent No. 2 or Respondent No. 3 regarding his appeal against the order of transfer from Lucknow to Babina. The applicant made several representations, but he was informed by the Respondent No. 4 that he has got instructions not to ~~correspondence~~ or talk to you from Respondent No. 3 .

6(13) That when the applicant did not receive any reply to his appeal from Respondent No. 2, the applicant made several representations to the Respondent Nos. 1, 2 and 3, but till date the applicant's appeal has not been decided, nor has he been issued with any movement order ~~for~~ ~~paying~~ T.A./D.A. . True Copies of the representations dated 12th October, 1985 and 26th June, 1986 made by the applicant are being filed herewith and marked as ANNEXURE NO. 4 and 5 to this application .

6(14) That by letter dated 30th December, 1986 the respondent No. 4 had informed the applicant that the applicant stands transferred to GE Babina, and that he should report the above formation accordingly. This letter of the Respondent No. 4 was received by the applicant on 24.3.1987. A true copy of the aforesaid letter dated 30th December,

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(9)

1986 is being filed herewith and marked as ANNEXURE NO. 6 to this application . True Copy of the Respondent No. 4's letter dated 24.3.1987 addressed to the applicant is also enclosed herewith and marked as ANNEXURE NO.-7 to this application .

6(15) That it may respectfully be submitted that from a bare perusal of the Respondent No. 4's letter dated 30th December, 1986 (Annexure-6 above), it would be abundantly clear that the applicant is being told to move without any movement order or T.A./D.A.

6(16) That it may respectfully be submitted that no person can move without a proper movement order, otherwise the unit , in which he is transferred will not accept him , nor issue any part one order .

6(17) That the applicant is being deliberately harassed by the respondents, firstly by way of not giving any movement order for his move from Lucknow to ^{Memorandum} ~~Babina~~, secondly neither paying the applicant his T.A./D.A. and thirdly not giving him his pay and allowance from ^{1st Oct} ~~November~~, 1982 till date.

(10)

6(18) That the applicant is willing to go from Lucknow to ^{Memra} ~~Babina~~ on transfer, even ^{as} though the transfer ^{has been} ~~has not been~~ made by a Competent Authority, but the respondents *are* deliberately not issuing him any proper movement order nor giving him his T.A./D.A. and also not paying him his monthly pay and allowances .

6(19) That at this juncture it may respectfully be submitted that the applicant has not been charge-sheeted for any offence of mis-conduct and no disciplinary case is pending against him. It may respectfully be submitted that ^{in case the respondents felt that} the applicant is deliberately not going to his new appointment, then the respondents could have charge-sheeted him for dis-obedience of their orders .

6(20) That the applicant is appointed as Defence Helper in many enquiries and proceedings, which are drawn up against various civilian employees, and it is settled rule that a Defence Helper had to be a Central Government Servant, but in spite of this, the applicant is not being paid his regular pay and allowances every month . True Copies of the letters dated 2.4.1984, 10.2.1984 and 6.5.1987 issued to the applicant by various authorities and Enquiry Officers for

(11)

appearing as Defence Helper in several cases are being filed herewith and marked as ANNEXURE- 8, 9 & 10 to this application.

6(20)i not allowed.
6(20)ii See reverse of Page (10)

7. DETAILS OF THE REMEDIES EXHAUSTED

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

8. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT

The applicant further declares that he had not previously filed any application, writ petition, or suit regarding the matter in respect of which this application has been made, before any court of law or any other authority or any other bench of the Tribunal and nor -d nor any such application, writ petition, or suit is pending before any of them .

9. RELIEF SOUGHT

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may be pleased to issue:

- (i) writ order or direction in the nature of mandamus commanding the respondents to issue the applicant a proper movement order

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(12).

for his posting from Lucknow to
~~memora~~
~~Babina~~, and to pay his T.A./D.A.

according to law.

9 (i) a See reverse of Page #1

(ii) issue any other writ order or direction
which this Hon'ble Court may deems fit
and proper in the circumstances of the
case.

9(ii)a See reverse of Page 11

(iii) to award the costs of this application
in favour of the applicant.

G R O U N D S

(A) Because the transfer order from Lucknow
to Babina in respect of the applicant has
been issued by an incompetent authority.

(B) Because the applicant was not the longest
stayee at Lucknow and in accordance with
the policy issued by the Respondent No. 1
the applicant could not be transferred.

(C) Because the applicant's appeal, against
his order of transfer from Lucknow to
Babina has not been decided by the
Respondent No. 3.

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(13)

(D) Because the applicant has not been issued with a proper movement order after filing of his appeal before the Respondent No. 2.

D (1) See reverse of Page 12

(E) Because the applicant has not been paid any T.A./D.A.

10.

INTERIM ORDER

Not applied.

11.

NOT APPLIED.

12.

PARTICULARS OF THE POSTAL ORDERS IN RESPECT
OF THE APPLICATION FEE

(1) Number of the Indian Postal Orders:

50 568380
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(2) Name of issue Post Office:

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(14)

13. LIST OF ENCLOSURES

As mentioned at page No. 1(Index)

14. XX VERIFICATION

I, K.A.Siddiqui, son of Late Khalil Ahmad Siddiqui, age 52 years, working as Superintendent B/R Grade II, in the Office of Garrison Engineer (West) (Project), 11, Sardar Patel Marg, Lucknow Cantt. Resident of 191/13 Bagh Sher Bang, Lucknow, do hereby verify that the contents of paragraphs 6 (4) to 6 (20) are true to my personal knowledge and paras _____ to _____ are believed to be true on legal advice and that I have not suppressed any material facts.

Identified.

Air 1 Kumar
Advocate

Dated: 25. 8. 87.

Place:

[Signature]

(Signature of the Applicant.)

Identified
—
[Signature]

Annexure - 1

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Tele 511 613 -

Garrison Engineer (West)
11 Surdar Patel Road
Lucknow- 225 002

1634
1010/DE/ H/1/61

11 Oct 82

MES/ 430085

Shri KA SIDDHANT, Supdt W/A Cde II

PASTING/PLA/CPA. SUPD. W/A CDE II

1. You are hereby permanently transferred to GE Pabna in the interest of state.

Authy : G. N. Lakshmi letter No 120545/2213/EO(D) dated 20 Jan 82, and
1205-4/204/21/21(A) dated 03 Oct 82.

2. You will be relieved of your duties on 18 Oct 82 (BN) and to report to the new unit/formation after availing usual joining time.

3. TA/DA and joining period is admissible.

4. You will submit the following to this office before leaving office :-

- a) Clearance Certificate (b) Departure report
c) CRIS Card

5. It may please be noted that your pay and allowances for the month of Oct 82 and onwards will be claimed by your New formation only after arrival there.

Before I receive an order only my interview with CBE & LEO and B-me - interview arranged in following grounds.

Transfer is violation of H-me - Transfer Policy
I am not satisfied in G2 (A) & LEO
and cannot be transferred

1. H2 GE EC Lakshmi
2. H2 GE H2 Lakshmi
3. GE H2 Lakshmi
4. GE H2 Lakshmi
5. AD G2A G2 LEO
6. Pay/Manager CBE

3. After cancellation of order on appeal CBE & LEO office has exhausted his power and become helpless office and cannot reissue order for B-me

The pay and allowances for the month of Oct 82 in respect of above named individual has been claimed at the following rates :-

B/PAY	DE	ADA	CCA	HRA
700/-	294/-	339.50	31.50 13.25	105.00 44.70
DEDUCTIONS				
GEF NC No	155775	150/-		
DE GEF	294/-		13.25	44.70 = 57.95
G. P. No	20/-	P.M.		

Date of birth is 22-5-33
G. Availled - 7 days

Date of joining 1 16.2.61
Govt service 1

Avil Kumar
Adv.

[Signature]

16

(A/30)

ANNEXURE-2

Appendix 'A' to E-inc's Branch

Ag/o letter no. 70040/HIC (1) dt. 30.12.86

INSTRUCTION AND LINES REGARDING TRANSFER OF CIVILIAN
SUBORDINATE OF THE NSD OTHER THAN TO TENURE STATION
INSTRUCTION

1. The broad principles under which transfers of GP 'C' and CP 'D' Civ. subordinates are to be carried out are stipulated in Ministry of Defence O.N. NO. 13(1)/70/D (Appts) dated 20 Nov. 72 and 33(4)/73/D (Appts) dated 31 May 79. As laid down there in GP 'C' and ID' ~~person~~ personnel should not normally be transferred from one station to another except to meet the following contingencies:

- (a) Adjustment of surplus/ Deficiencies.
- (b) promotion.
- (c) Compassionate ground/factual basis.
- (d) Exigencies of service or administrative requirements.

2. The Government has further emphasised that specially in case of GP 'D' employees transfers should be effected to under very special circumstances.

TURNOVER FROM NON TENURE STATION

3. No compulsory turn over from non-tenure stations will be made after completion of and period of service except to cater for turn over from tenure

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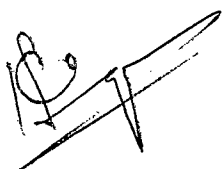
stations or to meet the job requirements.

4. The staff employed on executive duties or where financial dealings and contacts with the public should be made, the turnover should however be carried out. No person should be allowed to hold a particular sensitive appointment for a period of more than 3 to 4 years, It will be ensured that personnel posted to out stations are not due for posting to tenure station and they are also the senior most in the stations.

5. "Adjustments within the same station can be ordered by the CE Command CE Zone/CWE (Highest Officer in the station). But the Command C will order postings outside the station." The following guide lines are suggested:-

(a) Gde IIs should be turned over from one Division to another Division within the same station. If that is not possible because there is only one division in the station, they should be transferred from one sub division to another sub-division in case of B/R Gde IIs and from one section to another section for Supvr B/S Gde II and E/M Gde II by the GE.

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(b) Gde Is should be turned over from Executive to staff and vice-verse. They should be moved from one division to another division. In case there is only one division in a station, they shall be transferred to another station.

(c) Clerks working in a ~~sensitive~~ sensitive section will be transferred to another division if any such exists in that station. If no such division exists, they will be adjusted within that station in non-sensitive sections by the GE.

POSTING ON ADMINISTRATIVE GROUNDS

6. No individual will normally be posted to tenure stations or other normal stations on administrative grounds. Where it is considered that such a stop is absolutely essential, prior personal approval of the Chief Engineer/ Addl. CE Command will be obtained. If an individual to be posted out on administrative grounds happens to be due for posting to a tenure station, he will be posted out to a tenure station even if this involves posting out of turn. The Chief Engineer, Command will inform full details to

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E-inC's Branch simultaneously in a form of statement or case. For individuals protected against transfer, prior approval of E-inC will be obtained.

LIABILITY FOR ALL INDIA? SERVICE

7. Non industrial personnel are Command based and Industrial personnel are Area based. Normally their postings should be restricted to the Command/Area respectively. If due to becoming surplus a situation arises for posting out of Command/Area then the junior most who would otherwise have been retrenched/reverted will be posted out. In case of surplus promotees to be posted out of Command, the provision of para 10 below will be followed.

ENBLOC MOVE OF OFFICES/WORKS UNITS

8. In the exigencies of service, situations may arise when offices/works Units are asked to move enbloc to other locations. In such cases the personnel to be moved should be selected based on their length of service in the station i.e. the longest stayee should move by making local adjustments.

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LONGEST STAYEE

9. When transfers are inevitable volunteers will be given preference. In the absence of volunteers, the longest stayee will be moved. In determining the longest stayee in a station all MES units located in that station including satellite stations will be taken into consideration. The seniority in that station will be decided by the Chief Engineer, Command. Grouping of various Units in a station including adjacent localities will be decided by the Chief Engineer, Command and intimated to lower formations for information of all concerned in advance.

POSTING ON PROMOTION/SELECTIONS POSTS

10. When the DPG panel is out, this HQ will decide as to how many promotees will be adjusted within that Command and how many will move out. This decision will be primarily guided with a view to balance the deficiencies in all the Commands. If promotees within that particular Command, the surplus promotees will be posted out in other Commands if volunteers are not available. Before any promotee is adjusted even within the Command, the longest stayee amongst the promotees in non-tenure stations in a Command will move to other Command as allocated. The period to determine the longest stayee for this

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purpose will be from the time he returned last from a tenure station. Thereafter, the left over will be adjusted within that Command based on the seniority in their respective stations. The promotees ~~that~~ transferred to other Commands will be adjusted in the tenure stations of the receiving Commands.

In case there is no vacancy in tenure station, the promotees will be posted to a non-tenure station, ~~like~~ with the prior personal approval of the CE of receiving Command. That non-tenure station will be treated as tenure station for the concerned individual for all purposes. On completion of normal tenure of two to three years as the case may be, they will be repatriated to parent Command by the CE of the parent Command on receipt of repatriation from one the same lines as far repatriation will be without replacement unless volunteers are available.

11. Instances may arise when an individual has to move out on adhoc promotion to another station either within or outside the Command, At the time of regular DPC, if this individual does not make the grade or his seniority is altered in the DPC panel, he will continue to serve in that station where he was posted on adhoc promotion.

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ADJUSTMENT OF SURPLUSES WITHIN AREA/COMMAND /
INTER COMMAND

12. In all cases where non-industrials are rendered surplus by reduction in the authorised strength and their adjustment in the same Command becomes necessary, the longest stayee in the station will be posted out. In the case of postings involving inter-command transfers the junior most person in the grade within the Command will be declared surplus.

13. In case of industrial personnel when transfers are involved due to exigencies of service within the Area, the longest stayee will be posted out. In the case of industrial personnel rendered surplus due to reduction in the authorised strength and if their adjustment outside the CWE Area becomes necessary, the junior most in the grade will be posted out.

14. In all the above cases the volunteers will be given preference.

TIMING OF TRANSFERS

15. Care will be taken to ensure that transfers are avoided as far as possible during

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the middle of the academic year and any exception should only be to meet a really emergent requirement in the exigencies of service. It will be desirable to give three months time in the posting order for the move to be completed to enable an individual to sort out his personal administration. However, moves on administrative grounds, should be implemented forthwith.

AGE FACTOR

16. (a) Persons reaching the age of 55 years or over should not be transferred except at their request to station of their choice. However, if they have to move on promotion and if there is no clear vacancy in the station where they are serving, they will still be moved irrespective of the consideration of age.

- (b) For the above purpose the age to be considered will be the date of issue of posting orders by CE Command.

COMPASSIONATE POSTINGS/MUTUAL TRANSFERS

17. Following guidelines for compassionate postings will be followed:-

- (a) Individuals should themselves apply for compassionate postings through proper channels. Applications from

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[Signature]

relatives or received directly should be rejected and attempt to bring outside pressure should be discouraged.

(b) Applications on domestic grounds should be verified in consultation with civil authorities, if the CWE/CE Zone is not satisfied of the genuineness of the grounds.

(c) Applications on medical grounds should be accompanied by appropriate medical certificates from Authorised Medical Attendant (Where AMA is not available, from Registered Medical Practitioner) indicating the nature of illness and justification for transfer of the individual.

(d) CE's Commands should order a board to assemble every six months to screen these requests.

(e) Compassionate postings shall only be affected against clear vacancies falling which against volunteers. All compassionate transfers will be ordered at the expense of the individual only.

18. Applications for mutual transfers may be considered by Chief Engineer Commands for reasons other than on compassionate grounds.

19. To avoid grant of undue benefit it will be ensured (Before compassionate/mutual transfers are accepted and orders are issue that affected persons are not due for posting to tenure stations.

20. All mutual ~~grant~~ postings and those on compassionate grounds will be at the expence of the individual except when he has crossed the age of 55 years when the posting could be at Stage Expense.

21. Mutual transfer is not be preated as a compassionate posting and not protection can be claimed by the individual.

FEMALE EMPLOYEES

22. Female Employees should not be posted to Field Service/Concessional Area and non-family stations except on their own requests They may, however, be posted to a station where normal living facilities are available on the basis of their seniority of stay.

23. Where the spouse of the employee is an employee of the Central Government request for posting will be favourably considered

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and if accepted, will be treated at par with the requests for compassionate posting. If approved, the persons will be placed on the waiting list for a compassionate posting.

BALANCING OF POSTING OF MES MILY CADRE AND CIVILIANS

24. The ratio of the MES Militarised Cadre and Civilians will be maintained, on station basis and not on Unit/formation basis. No compulsory posting on this account from a station where more civilians than authorised, are held, will be made. The imbalance of vacancies will be rectified gradually. No civilians can claim retention or will be retained in the station Command against quota reserved for militarised cadre unless such vacancies are specifically released by the E-inc's Branch.

REPRESENTATIONS

25. Representation if any against the posting orders, will be made by the affected individual within 15 days of the receipt of posting order in the concerned office. When the representation received through proper channel

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is considered and rejected by the CE Command, the concerned individual will move without delay." Contingency may arise when the individual not being satisfied with the decision of the Chief Engineer, may represent his case to the E-inc's. The move of the individual will not be hold on this account. In case the decision of the E-inc is in favour the individual will be brought back at Government expense in the first available vacancy.

Avil Kumar

TRUE COPY.

Annexure - 3

To
Garrison Engineer (West)
Lucknow .

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(POSTIN / TRANSFER OF SRI K.A. SIDDIQUI SUPDT
B/RII AGAIN TO BABINA AFTER CANCELLING THE
PREVIOUS ORDER OF MOVE TO BABINA ON A PPEAL

Sir ,

The applicant most humbly beg to stat as
under :-

1. I was called by GE(West) Lucknow in his office
and w-as asked to receive the movement order.

2. T hat on that movement order the following comments
were endorsed by me
(a) Before receive the movement order my interview
with CEC Lucknow and E in C in turn be arranged
on the following grounds:-

- (i) The transfer is violative of E in-C
transfer policy.
- (ii) I am not surplus therefore can not be
transferred.
- (iii) After cancelling the previous order of
move to Babina on appeal the office of
GE CC Lucknow has exhausted its power
and has become functus officio and left
with no power to reconsider or reissue
the orders for Babina.

I may please be intimated the letter No
through which the above remarks endorsed on
movement order have been furthe transmitted to G W E
seeking further action and advice please.

Dated 12 Oct 82 Yours faithfully,

Copy & to :-

(K.A. Siddiqui)
Supdt B/R GDe II

1. GE CC Lucknow
2. GENZ Lucknow
3. CWE(P) Lucknow

Ans/ Kumar

[Signature]

[Signature]

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Annexure No. 3(a)

CHIEF ENGINEER
CENTRAL COMMAND
LUCKNOW.

POSTING TRANSFER

R/Sir,

with due respect it is submitted that applicant posted to G.E. Babina in flagrant violation of B.M.C. transfer policy. Therefore in that grant application made an appeal on 03 April 82,

That transfer order for G.E. Babina was cancelled and applicant was posted to G.E. (R.C.P.) ^{Memora} ~~Memora~~ vide ^{CE} G.B. CC Lko Letter No. 910 127/6/121/ B C(1) at 18 August 82.

That G.E. (West) Lucknow so far has not issued the movement order for Memora.

That G.B. (West) Lko tried to ~~save~~ upon the applicant movement order for G.E. Babina based on order of in camp ^{applicant} authority who was not empowered to ^{any} ~~the~~ individual ^{from} of one district to other district or zone.

That on request that attack cancellation order

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of posting for memora with the ^{reposting} ~~rescheduling~~ order for G.E. Barina the did not agree that G.E. (West) did not accede to the request.

The applicant in all Sincerity still prays.
That though applicant is still born in strenght of G.E. (west) Lucknow or posting order ^{for} G.E. memora ^{well} suit stands but applicant will accept the ^{movement} ~~memora~~ order for G.E. Barina if it is issued under authority ^{of CRCC who is only competent authority} and can issue posting order from one station/zone and ^{to} ~~of~~ other station and zone and interims of movement order TA/DA for travelling ^{are} ~~and~~ paid as the applicant is financilly is not in a position ~~to~~ ^{to} bear ^{expenses} ~~the response~~ of move as he and his family has started facing ^{affliction} ~~applicant~~ trouble and ^{inconvenience} ~~conveinence~~.

Your's Faithfully

Anil Kumar

K.A. Siddiqui
191/13 Bagh Sher Jung
Lucknow

St. 10/1/1983

[Signature]

[Signature]

31 (A) 87
Regd, No. 4764 dt.
26 July 1986

3 (D)
APPEAL

ENGINEER IN CHIEF
ARMY HEAD QUARTER
NEW DELHI

POSTING TRANSFER Shri K. A Siddiqui
Supertindent B/R Gde II

Respected Sir,

The humble submission is as under:-

1. That the applicant was transferred to G.E. Babina vide C.E.N2 Lucknow letter no. 120545/3213/E,c (i) dated 28th Jan. 82 under authority CB CC Lucknow No. 910127/6/195 E (i) dated 28th May 81.
2. That AGA (P) (indep) Lucknow vide ~~his~~ his letter no. 1010/BR/1543/E dated 29 March 82 intimated the above posting.
3. That the applicant preferred an appeal against the posting to GB Babina at Postings Stage in 03 April 82...
4. That the applicant received a letter no. ~~1010~~ 1010/BR/1625 f or dated 26 August 82 from ACBP (indep) Lucknow and came to know that his posting

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order for GB Babina has been cancelled and posted to GB(RCP) Memora vide CB NZ letter no. 120545/3329 /EC(1) dated 23 August 82 under the authority of CB CC Lucknow no. 910127 16/121 EIC(1) dated 18 August 82.

5.7 That movement order for GB(RCP) Memaura was not issued by AGF (P) (indep) Lucknow and finally in the month of July AGR(P) (index) Lucknow was set up graded at GR(West) Lucknow Vide E.N.C.S.Br. Army H R Letter No. 4/08198 AG₂ WPC/ Adt. 31 July 82 and started functioning from Sept 82.

6. That GR (West) Lucknow paid the applicant salary for the month of Sept 82.

7. That GR (West) Lucknow issued a movement order No. 1010/BR/1634/ E₂ dated 11 October 82 under incompetent authority CBN₂ Lucknow No. 12054/3213 EIC(1) dated 28 Jan and 120545/can./101 /EIC (1) dated 06 October 1982.

8. That the applicant indorsed few remarks in that Financial Movement order for Babina and appealed for arranging rules view of CB CC Lucknow . which so far has not been arranged not replied back.

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9. That applicant vide his letter dated 18 October 1982 copy⁶⁵ CE CC Lucknow CENZ Lucknow intimated the fact and desired to know the letter and date through which that remarks were transmitted. to CECC Lucknow.

10. That Since GE(WEST) Lucknow did not pay the applicant Salary till to date and did not allow him to Sign the attendance register in token of his presence in the office, GE (W) Lucknow. removed the attendance register and kept in the Almari under lock and key.

11. The applicant from October 82 till to date continued to attend GE(W) Lucknow as usual and carried out the duty/works entrusted to him during the course of this entire period.

12. That applicant continued to make correspondence from various authorities and appealed against his wrong transfer.

13. That applicant so far has never been involved in any disciplinary case and no fault. So far has been attributed to him. The applicant has rendered unblemished service till to date.

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15. The applicant at the time of his transfer to GE Babina was serving in the office of AGE(P) (Index) Lucknow.

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15. That applicant after two or three months service in GE (P) Lucknow was threatened by Shri S.S. Misra General Socy. U.P. M.E.S. workers Union that Leave Union other wise you will be murdered ⁱⁿ daylight. You will not be allowed to Serve in department peace-fully because ~~my~~ right from peon to CECC Lucknow every body fears and I can arrange your transfer every after Six Months and make you relling stone. Shri S.S. Mirs his agents and his capannion are in good book of officer therefore officer on their desire have transferred the applicant as they had deep scated enmity with the applicant.

16. That applicant noticed CENZ Lucknow making correspondence with my ~~arrived~~ party of Mohallah which had approached to CENZ Lucknow for ~~gathering~~ gettting the applicant transferred to remote distance.

17. That the applicant was transferred to GE Babina in ⁱⁿ Completed ~~dis~~ regard of B. ~~En~~ E. In-C transfer policy and ^{Munishy} ~~Munishy~~ of Defence OM No. 32 (4) /73/D (Deptt). dated 21 May 1975.

That more longest stayee ^{volunteers} ~~volenteers~~ in the station were available and dilbrately overlooking this fact applicant was posted to GE Babina.

18. That ~~ia~~ reality Mr. Kartar Singh (ii) Mr. Mohd. Zaki Ahmad were posted ^{to} ~~to~~ GE Babina but Mr. Karter Singh was accommodate in Lucknow ~~in~~ on the plea that his name has

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been included in the list of individuals due for posting to Hard Tenure Station.

Then the name of the She Busheel, Noel Ismail was added in place of Kartar Singh.

19. That an appeal of Noel Supdt. B/R.II on the ground that Kartar Singh has already done tenure how his name again for Second time is included in Hard tenure list. Mr. Noel then was given his Choice Station and posted to CWB Dehra Dun.

20. That it is note worthy that by accommodating Kartar Singh they had to send Babina some one therefore they added the name of applicant in that authority of CECC Lucknow. and did not ask any sanction from CECC Lucknow for transfer of applicant.

21. That in support of above Statement date of Authority can be seen for applicant CECC authorities 28th May, 1981, in CE In-Z. Letter No. 120545/3213/EG (1). Dated 28 Jan. 82. Where as for S.N. Srivastava and Shri Noel Ismail CECC. authority is dated 4 Sept. 81. It is next impossible

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that CEC Lucknow may accord posting earlier to applicant who is less longer stayee and later to Sri V. Srivastava and Hool Tsnail who are more longer stayee. This shows or establishes some Malafied wasplayed and manipulating the office records applicant was transferred to GE. Bebina.

22. That the applicant was never Sorted Movement order No. 1010/BR/1591/EIC dated 10 June, 82 and HGB (P) ~~xkxz~~ (Indep) Lucknow arbitrarily refused him to pay, pay and allowances for the month July 82, and August 1982.

23. That as the applicant continued to attend office and continued to sign in token of his presence in the office for the mnth of Jun. 82. and August 82. He met (AGB(P) Lucknow, who after long discussion asked the officials to claim pay for the months of July August 82. 82.

24. That the applicant feels he has been transferred merely reason of deep sealed enmity with S. S. Misra Gunsscy of U.P. MES. works Union his Companion and against and few MES Officer who bare enmity and personal grudge and applicants

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rival party of Mohalla who paid hand some amount and purchased the Union and departmental subordinate Cadre and officials. The departmental authorities on desire of and in Connivance of Rival party of Mohalla and S. J. Misra arranged the transfer for Babina.

25. Therefore the orders of transfer was mala fide and vindictive not to feed his grudge. It is further stated that Cancellation of transfer order to GE Babina of Sri Kartar Singh and Mohd. Zaki and to Accomodate him in Lucknow by ~~xxx~~ unfairly including his name in hard tenure list would show that transfer of applicant was passed MALA fide and as a Vindictive ~~xxx~~ measure.

26. That Movement order for Meora was not issued because AGE(P) Indep Lucknow was influenced by S. K. Datta Ext. Gen Secretary of U.P. (MES worker Union who happened to be the father-in-law of AGE(P) Indep). Lucknow. S. J. Misra, and S. K. Datta were in good terms to each other and even were of the same union.

27. That applicant was never served with the Cancellation order of Posting to Memora i.e. C ECC Lucknow. has so far not cancelled his posting order for GE Memora

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28. That the two question arose one (1) whether CEN²/CELZ Lucknow could by an executive order without being entitled by any rule under proviso to article 309 of the constitution alter the order of transfer from competent authority to the prejudice of applicant without the approved of E-In-C under E-In-C transfer policy (2) Whether CE-NZ CELZ ~~xxxx~~ while cancelling the posting order of Memora and issuing order for ~~xxxxxxx~~ reposting to Babina could unilaterally alter the posting order of the applicant done by the competent authority.

29. CECC Lucknow. There can be no dispute that the valid order of competent Authority for posting to Memora issued under ~~xxx~~ E-In-C Policy. Exercising powers Conferred by E-In-C cannot be altered / modified by the authority Lower in rank than complainant authority by mere ~~xxx xxx~~ executive orders without being empowered on this behalf.

30. That transfer order passed by CE NZ Lucknow. after cancelling himself the posting order for Munora. done by competent authority can be said to have been beyond the jurisdiction of the said authority therefore Reposting order for CE Babina done by CE NZ/CELZ is arbitrary, capricious or Malafide.

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31. That the applicant is entitled to arrears of Pay and allowances for the period he has not been paid salary. It is submitted that order of reposting of Babina being wrong and should be initiated as non-existent and his claim for pay and allowances being consequences to the holding of the office. The Govt. by its wrongful order has denied the right of applicant to hold the office and has kept him out of it forcibly by a tortuous act then applicant is ~~not~~ entitled to his pay and allowances for the period he is not allowed to sign the attendance register.

32. That in the circumstances as in the present case treating the applicant without pay or to have ceased to be Govt. Service / employee amounts to Removal from service and further that the said Removal without giving him an opportunity is to go against Article 311 of the constitution. Then can be no doubt that that order of reposting is illegal and applicant cannot be deemed to have ceased to be in Government service / employee or not entitled to his pay and allowances.

That the applicant prays that Reposting order for GB Babina issued by CB NZ / CBLZ Lko. be set aside.

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on the ground that it was issued by incompetent authority
it was illegal wrong full ultra vires and inoperative
and applicants salary for the period he is kept forcibly
without pay, may please be paid with allowances and other
dues made applicable to him from time to time.

That in the last If authorities after
cancelling Posting order for Menora under competent
authority issue the applicant Movement order for any f
ormation that will be acceptable to the applicant
as the authorities have failed to issue Movement order
for G B Babina based on order of competent authority.

Yours faithfully,

Sd. K. A. Siddiqui

19/ 13 Bagh Sher Jung

Lucknow.

Dt. 26 July 1986.

Avil Kumar

~~Seg~~

Kumar

42 (A/62)

Annexure -4

To ,

The Chief Engineer
HQ Central Command
Lucknow

POSTING TRANSFER OF SHRI K. A. SIDDIQUI
SUPDT B/RGDE II

R/Sir ,

1. Reference applicants (i) appeal dated 03 Apr 1982 (ii) OE NZ Lucknow letter No. 120545/3329/EIC(I) dated 23 Aug 82 (iii) AGE(P)(IND) Lucknow letter No. 1010/BR/1625/EI dated 26 Aug 82 (iv) Remarks endorsed on second Movement order for Babina by GE(West)Lucknow (v) Applicant application dated 18 Oct 82 addressed to GE (West)Lucknow copy to CE HQ CC Lucknow , CE NZ Lucknow and HQ CWE (P) Lucknow and many reminders dated 10.1.83 15.2.83, 22.4.83, 25.5.83, 29.6.83, 2.2.85, 15.4.85, 19.8.85 and application for pay and allowances.

2. With due respect and humble submission the applicant states that with greatest pain he is compelled to announce to youn the terrible entell-
igence of a sad and severe reverse of fortune which recently has over taken him for no
exprudence or fault on his par but mainly due to
(i) non taking him on strength either in GE(West) Lucknow or in G.E(RCP) Memaura after cancellation of posting order to GE Babina (ii) non payment of pay and allowances (iii) and huge expeditube of letigation which appouent party has inflicted

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45 43 (A/63)

upon applicant . Hope considering the very poor and weak state of financial position and severeness of calamity your honour will take the applicant on strength in G-E West Lucknow or in GE (RCP) Memaura as the posting order for GE (RCP) Memaura still stands good on considering the events given as follows :-

- (a) That the applicant was posted to GE Babina vide CE NZ Lucknow letter NO. 120545/3213/ETC dt. 23.1.82 .
- (b) That aggrieved by the above posting order which was done in utter disregard to E-in-C's policy of transfer than applicant preferred an appeal dt . 3.4.82 to HQ CE HQ C-C Lucknow .
- (c) That the said appeal of the applicant was very graciously accepted and up held and in the result posting order for GE Babina was cancelled vide C E NZ (Copy attached as appendix 'A') .
- (d) That AGE (P) (IND) vide his letter No. 1010 /B R/ 1625 /EI dated 26.8.82 informed the applicant that his posting order for GE Babina has been cancelled and in the same para further said that you are posted to GE (RCP) Mem-

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44 (A)
aura vide GE NZ Lucknow letter No.
120545 /3323/EIC(I) dated 23 Aug 82.

- (e) That applicant vide para 2 of AGE (P) (IND) Lucknow letter NO. 1010 /BR /1625/EI Dated 26 Aug 82 was called in the office of AGE (P) (IND) Lucknow to take movement order for GE (RCP) Memaura.
- (f) That unluckily after the above stage of the case the office of AGE (P) (IND) Lucknow was upgraded to GE(West) Lucknow and Shri J.N. Rastogi took over the charge of the office of GE(West) Lucknow.
- (g) That the applicant when went to collect the movement order for GE (RCP) Memaura in the office of GE(West) Lucknow, GE (West) Lucknow, GE(WEST) Lucknow did not issue movement order for G E(RCP) Mem-aura and insisted upon to issue movement order for GE Babina on specifically being known that posting order for G E Babina stands cancelled.
- (h) That so long the posting order for G E(RCP) Memaura remains in force, operative and not cancelled GE(West) was not empowered to issue movement order for GE B abina which erroneously he was insisting upon.

AK

12/9

(j)

That under such critical circumstances applicant endorsed few remarks as under on the movement order for G.E Babina and returned it then and there which G.E (East) insisted to issue illegally.

Remarks endorsed on Movement Order for GE Babina

(i)

Before I receive the movement order my interview with CE CC Lucknow and E-in-C's in turn be arranged on the following grounds :-

(aa) The transfer is violative of E-in-C transfer policy .

(b)) I am not surplus therefore can not be transferred .

(cc) After cancelling the previous order of move to Babina an appeal the office of CE CC Lucknow has exhausted the policy the and has become functus office and left with no power to reconsider or re-issue the order for Babina.

(k)

That applicant was left with no alternative except to intimate the factual position to CE CC Lucknow which

he did vide application dated 12 Oct 82
(copy of which) attached as appendix 'B').

(I) That the applicant so far is neither
enveloped in any disciplinary case nor at
any time misconduct or misbehaviour is bated
to him.

(II) That applicant contivided to attend the
office of GE (West) Lucknow regularly but
authorities claimed no pay and allowances
and paid no salary as yet.

(III) That the applicant was left without any
movement order as posting order to G.E
Babina was already cancelled and posting
order for GE(RCP) Memaura on the face
of record being existed, but no movement
order for GE(RCP) Memaura was issued.
Therefore, applicant was neither in a position
to move the -GE(RCP) Memaura nor to GE
Babina and authorities elected to remain silent
in all the applicant's letters, reminders.

(IV) That since non payment of pay and allowances
the applicant is unable to feed himself
and his wife and children thus applicant's
family's own lot in life is no longer
happy one as it was before, because
the fortunate moments have been snatched
away under duress by MES authorities.

49 47
 (A/GI)
 authorities and have deleberately driven the ennocent children and wife of the applicant to face afflicteins calamities and starvation and the applicant is made to stand as spectator. Now applicant in such sadplight is constrained to say that if any add thing happened for instance suicide , burnt to ashes or the life of the whole family is brought to an end to safe prestige then MES authorities under such circumstancess be responsible wholly for the mishap.

(p)

That applicant is being made to hurry deep ind debt, the education of children is made to suffer and all the court cases in absence of payment to counsels or adecates may be defeated , for all these MES authorities will be squarely responsible .

(Q)

That as AGE (P)(IND) letter No. 1010/BR/1625 /EI dated 26.1.32, the applicant is still born on the strength of GE(West)Lnc-know .Therefore GE(West) may please be directed to the applicant on its strength or applicant be issued movement order for GE(RCP) M enaura as posting order for G E(RCP) M enaura still holds good.

AK

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beset by troubles and exceedingly perplexed due non payment of pay and allowances for considerably long period. Therefore, your honour is requested to either grant him an interview as requested vide application dated 13 Oct 32 or post him to GE (PCP) Memauna, which is possible without any legal hurdle or if your honour deems fit to adjust him in Lucknow, in Bakshi - Ka-T-alab, or in Barabanki applicant has no objection.

4. Kindly decide the case as early as possible to avoid to relegate the applicant in most worst condition.

Dated 12 OCT 1935

Your faithfully,

Encls :-

AGE (P)(IND) letter No.

1010 /B R/1625/ET dt. 26.3.32 (K. A. SIDDIQUI)

(Appendix 'A')

Supdt B/R Gde II.

Anil Kumar

App;ocation dated 12.10.32

(Appendix 'B')

Ref

Signature

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ANNEXURE NO (5)

REMINDER

To,

Hon'ble Major General J M RAI,
Chief Engineer,
Central Command,
LUCKNOW.

Hon'ble Major General,

The stream of your bounty springs from the fountain head of generosity and grace and your allotment has not deviated from centre point of justice, as your honour's justice is a -like on all and both the scale of thy weight are parrelel. The applic_gnt had entered the temple of justice vide application dated 8.1.86 and 12.10.85 with a hope thathe will be saved from being pushed in the hot furance of hostility and crelicity.

2. That furtunately applicant could see your honour in the meeting of AIMCEA held on 15th Apr 86 in Ravindralaya Lucknow. Where your honour has very kindly promised to take the applicant on the strength either ih GE (West) Lucknow or AGE (MES) Memaora after listening the factual position verbally.

3. The applicant's world has become dark with the craelities shown by the officers under command ofyour honour. If your honour would make haste like moon and cast the shade of generosity and venevolence on the wonderer of the desert of misfortune, it would be better, else, the life of ailing wife, the treatment of whose, the education of innocent sons and criminal cases in several civil property cases and criminal cases in various courts which luckily applicant has won from the lower courts would be totally destroyed and ruined being in danger.

AVB
18/2/87

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(2)

4. In view of the above submission your honour's sphere of generosity and geniality is not so limited and narrow, that applicant's very little request of taking him on strength either in GE (West) Lucknow or AGE (MES) Memoura can not find room in it. Early reply is requested, and graciously please intimate the formation which I should report for duty and issue movement order for that formation.

Thanking you.

Yours Sincerely.

Sd/-

(MES- 430885 K A SISSIQUI)
Supdt. B/R Gde II
GE (West) Lucknow
191/13 Bagh Sher Jung,
LUCKNOW.

DATED: 26 JUN 86.

Anil Kumar

TRUE COPY

[Signature]

[Signature]

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51 (A/8)

ANNEXURE NO (6)

Tele Mil : 613

REGISTERED A/D
Garrison Engineer(West)
Lucknow-2

C-6/KAS/16/EIC

30 Dec 86.

Shri KA Siddiqui,
Supdt B/R Gde II
191/3, Bagh Sher Ganj,
Iqbal Manzil,
Lucknow.

POSTING/TRANSFER: SHRI K A SIDDIQUI, SUPDT B/R II

1. As per directions of higher authorities, you stand posted to GE Babina. You are, therefore, directed to report the above formation accordingly.

Sd/-

(Mathew M Kalathil)
Garrison Engineer.

Ans! Kumar

TRUE COPY

Mathew M Kalathil

Ans!

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CCJ

ANNEXURE NO. (7)

Tele Mil : 613

Garrison Engineer (West)
Lucknow- 2

C-6/KAS/17/EIC

24 Mar 87.

Shri KA Siddiqui
Supdt B/R Gade II
191/3, Bagh Sher Ganj,
Iqbal Manzil,
Lucknow.

POSTING/TRANSFER : SHRI KA SIDDIQUI, SUPDT. B/R II

1. Reference this office letter No. C-6/KAS/16/EIC dated 30 Dec 86,.
2. During the discussion between you and the undersigned it was found that this office letter quoted above addressed to you has not yet been received. Hence, a signed copy of the said letter is enclosed herewith for your early action.

Sd/-

(Mathew M Kalathil)
EE
Garrison Engineer

Encls: as above.

Avil Kumar

TRUE COPY

EE

[Signature]

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ANNEXURE NO. (8)

CONFIDENTIAL

PPB/Inquiry/Sharma/9

REGISTERED

Chief Engineer
Lucknow Zone
P.O. : Dilkusha
Lucknow Cantt-2

02 Apr 84.

Shri K.A. Siddiqui,
Supdt B/R II
191/13 Bagh Sher Jang
Near City Station
Lucknow.

INQUIRY: AGAINST SHRI R.K. SHARMA, SA II
ON PROBATION

Dear Sir,

1. Reference your letter dated 25.3.84.
2. In your above letter you have consented to defend the case of Shri R.K. Sharma, SA-II (On Probation).
3. Please confirm that you are not having more than 2 cases in hand to defend.
4. An early confirmation shall be highly appreciated.

Yours faithfully,

Sd/-

(S K Singhal)
Inquiry Officer

Anil Kumar

[Signature]

CONFIDENTIAL

TRUE COPY

[Signature]

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ANNEXURE NO. (9)

P/RKG/752/E1

REGISTERED
AGE E/M II CHAKERI
KANPUR- 8

10 Feb. 84.

Shri KA Siddiqui
Supdt. B/R Gde II
191/1 3 Bagh Sher Jung
Lucknow.

INQUIRY

1. The date fixed for inquiry was 10.2.84 at 1000 hrs. You had been advised to claim advance of YA/DA as per existing rule from your unit GE(W) Lucknow. GE(W) Lucknow had also been informed vide our No P/RKG/ /E1 dt. FEB 84. It is not understood as to how undersigned can arrange for your advance of TA/DA at appropriate time.
2. This amounts to delay in inquiry. Now the date fixed for C of I is 29 Feb 84 at 1000 hrs. You are once again requested to be present in the office of the undersigned to act as defence assistant for which you had already given your consent failing which ex-parte decision will be taken.

Sd/-

(R. K. GOVIL)
Capt
INQUIRY OFFICER.

Anil Kumar

TRUE COPY

[Signature]

S/S
S/S
(A/69)

ANNEXURE NO. (10)

(CONFIDENTIAL)

TELE : 623

Office of AGE E/M (Ref/AC & MT)
Lucknow- 2

P/Rajiv/MA/05/E1

09 May 87.

MES/ 411039
SHRI MUMTAZ AGHA,
Ref/Mech.

DISCIPLINE

Reference GE E/M Lucknow letter No. G-3/MA/15/E1C dated
-ed 28.2.87 & G-3/MA/16/E16 dated 06 Mar 87 and this office letter
-r No. P/Rajiv/MA/03/E1 dated 02 Apr 87.

2. The above court of inquiry will be held at GE's
Office, 35 Lal Bahadur Shastri Marg, Lucknow 25 and 26 on May
87 at 1500 hrs. You are therefore requested to present yourself
on the above date and time.

Sd/-

(Rajiv Khare)
AEE
AGE E/M (Ref/AC & MT)
INQUIRY OFFICER

Copy to:-

JC-81873-H,
Sub Maj, S..S. Gidda,
Office Supdt,
presenting Officer,
GE E/M Lucknow
GE E/M Lucknow- for

With reference to GE
E/M Lko letter No. quoted
above, you are requested
to attend with all
Necessary documents.
information and na pl.

Anil Kumar

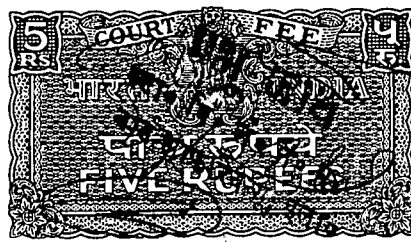
CONFIDENTIAL

Copy to:-

Shri K.D. Siddique,
Defence Counsel to,
Shri Mumtaz Agha, R/ Mech
191/13 Bagh Sher Jung,
Lucknow.

TRUE COPY

[Signature]



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Central Admin. ... Allahabad

हाईकोर्ट आफ जूडीकेचर इलाहाबाद

(A.70)

K. A. Siddiqui vs. वादी प्रतिवादी

अपीलान्ट

Union of India and others vs. वादी प्रविवादी

रेस्पान्डेंट

K. A. Siddiqui S/o Late Khalil Ahmed
Siddiqui R/O. 191/13, Bagh Sher Jung, Lucknow.
Lush A Lko.

उपरोक्त प्रकरण में/हम अपनी ओर के पक्ष समर्थन के हेतु

श्री G. D. Mukerjee एडवोकेट हाईकोर्ट इलाहाबाद

को कानूनी निश्चित शुल्क (मेहनताना) नियत करके अपना अभिभाषक वकील (वकील नियत करता हूँ/करते हैं, वह स्वीकार करता है/करते हैं कि उक्त सज्जन हमारी ओर से वाद-पत्र (अजीदावा), प्रतिवाद पत्र (बयानतहरीरी), बादस्वीकार पत्र, त्रिवाद पत्र पुनर्वलीकन एवं पुनर्निर्णय प्रार्थना पत्र (दरखवास्त), शापथिक कथन (हलफनामा) प्रवनन पत्र (दरखवास्त इजराय) मूजबात अरीज, निगरामो इत्यादि हर प्रकार के अन्य प्रार्थना आदि एवं लेखादि की प्रतिलिपियां अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथिक पुष्टीकरण करें और आवश्यक सवाल जवाब करें और लेखादि की प्रतिलिपियां एवं हमारे प्राप्यधन को अपने हस्ताक्षरों पावती देकर प्राप्त करें हमारी ओर से किसी को मध्य पत्र तथा साक्षी (गवाह) माने और उससे संबंधित प्रार्थना पत्र प्रस्तुत करें तथा उसका समर्थन करें तथा तसदीक करें, वाद-पत्र उठाये छोड़े अथवा समझौता करें तथा लहनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना पत्र पर दाखिल करके उसका समर्थन करें अर्थात् प्रकरण से सम्बन्ध रखने वाले कुल कार्यवाही डिग्री भर पाई होने के तत्पश्चात् या संयुक्त करे। आवश्यकता होने पर किसी अन्य वकील महोदय को वकील करे।

उक्त सभी कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भांति हमको/मुझको संत्रया स्वीकार होगी अगर मैं/हम कानूनी/निश्चित शुल्क उक्त सज्जन को न दे दें तो उनका अधिकार होगा कि वह हमारी ओर से मुकदमा की पैरवी न करे। उपरोक्त दशा में सज्जन का कोई उत्तरदायित्व न रहेगा।

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

वकालतनामा मन्जूर है

तिथि 25 माह 8 1927

हस्ताक्षर ... साक्षी

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Filed
22/12/87

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH- ALLAHABAD.

.....

CIVIL MISC. APPLICATION NO. _____/OF 1987

On behalf of Union of India

IN

Registration No. 778 OF 1987/

K.A. SiddiquiApplicant

Versus

The Union of India & others..... Respondents

Received Copy
for Sandey
Chell

BSG G. D. Mukherji
Dd

2-12-87

To

The Hon'ble the Vice-Chairman and
his other companion Members of the aforesaid
Tribunal.

The humble application on behalf of
respondents(Union of India) Most Respectfully
Showeth;

1. That the full facts and circumstances

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-2-

have been set out in the accompanying counter-affidavit.

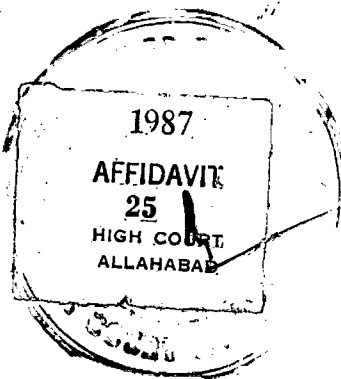
2. That for the facts and reasons stated in the accompanying counter-affidavit, it is expedient in the interest of justice to dismiss the petition of the petitioner with costs.

P R A Y E R

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to admit the counter-affidavit on behalf of the respondents and dismiss the petition filed by the petitioner with costs.

Dt/- _____/

(K. C. SINHA)
ADDITIONAL STANDING COUNSEL
CENTRAL GOVT.



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH- ALLAHABAD.

.....

C O U N T E R - A F F I D A V I T

IN

REGISTRATION NO. 778 OF 1987/

K.A. SIDDIQUI

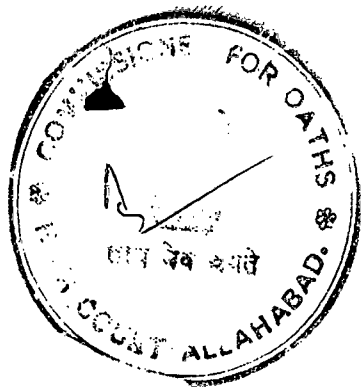
.....

APPLICANT

VERSUS

THE UNION OF INDIA & OTHERS.....

RESPONDENTS



AFFIDAVIT of MATHEW M. KALATHIL

aged about 42 years son of

Sri MATHEN MAMMEN posted

as G.E. (WEST) LUCKNOW

(DEPONENT)

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

1.

That the deponent is posted as

G.E. (WEST) LUCKNOW and has read over

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-2-

and understood the contents of the application filed by the abovenamed applicant and is in a position to reply the same.

2. That before giving a parawise reply, the following facts are being asserted in order to facilitate this Hon'ble Tribunal in administering justice.



3. That the respondent no.2 issued a posting and transfer order of the Supdt. B/R Grade-II on 28th May, 1981, through which, it was communicated to the Chief Engineer, Lucknow Zone, Lucknow, Central Zone Jabalpur that 5 number volunteers/longest stayee as per policy of Supdt. B/R. Grade-II shall be posted from Commander Works Engineer, Lucknow Zone, Lucknow to the respective distrination mentioned therein. A photo stat copy of the said circular dated 28th May, 1981 is being filed herewith and marked as ANNEXURE-CA-I to this affidavit.

4. That thereafter in pursuance of

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the aforesaid order dated 28th May, 1981, the office of respondent no.3 issued a letter to the Commander, Works Engineer, Lucknow on 2nd June, 1981 to sort out the list of volunteers/ longest stayee of Supdt. B/R Grade-II candidates in order to give effect of the order dated 28th May, 1981, issued by the respondent no.2. On 15th June, 1981, a list of 6 candidates was sent from the office of Commander Works Engineer, Lucknow to the respondent no 3. A photo stat copy of the said letter is being filed herewith and marked as ANNEXURE-CA-II to this affidavit. A perusal of the aforesaid letter would go to show that the persons mentioned at sl. no.2 and 3 i.e. Shri G.S. Saxena and Shri Santokh Singh have volunteered to be posted at Faizabad and Gorakhpur on their own expenses and their requests for posting at Faizabad and Gorakhpur were acceded to as Faizabad and Gorakhpur comes within the ambit of letter dated 28th May, 1981 issued by the respondent no.2.

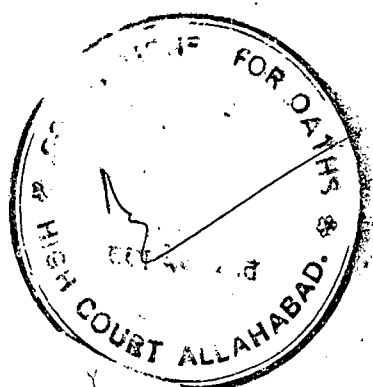
5. That in view of administrative exigencies, the respondent no.2 again issued a letter dated 4th September, 1981 through which,

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certain strength of B/R Grade-I & II were posted from one station to another and Chief Engineer, Lucknow Zone, Lucknow i.e. respondent no.3 was to pick out 2 volunteers/longest stayee as per policy of Supdt. B/R Grade-II who were to be posted from the office of Garrison Engineer, Lucknow to Garrison Engineer(P) Raipur and Garrison Engineer(P) Mouh. A photo stat copy of the letter dated 4th September, 1981 is being filed herewith and marked as ANNEXURE-CA-III to this affidavit.



6. That again respondent no.3 asked for the information about the longest stayees from the office of Commander Works Engineer, Lucknow through his letter dated 16th September 1981 and in pursuance of the said letter of respondent no.3, the office of Commander Works Engineer, Lucknow furnished an information on 12th October, 1981 giving a details of Supdt. B/R Grade-II. A photo stat copy of the said letter dated 12th October, 1981 is being filed herewith and marked as ANNEXURE-CA-IV to this affidavit. The perusal of the aforesaid letter would go

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-5-

to show that the petitioner finds his place in the list of longest stayee at serial no.5.



7. That after collecting the information from the office of Commander Works Engineer, Lucknow, respondent no.3 prepared a combined seniority list of B/R Grade-II who are longest stayee at the station after taking into accounts all the strength of office of Chief Engineer, Lucknow Zone, Lucknow, Commander Works Engineer Lucknow. The following chart is being given showing MES. number, name, designation, unit and station seniority according to their reporting for duty at the station and remarks which would give clear picture of the longest stayee;

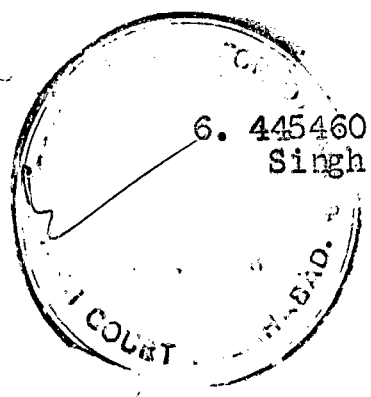
Sl.No.	MES NO.	name & Designation	Unit	Station seniority	Remarks
1.	442053	Shri R.D. Mishra B/R Gde-II	GE(E)	Lucknow 5.9.63	His name has been earmarked for posting to tenure station vide CE CE LK No.901300/61/ EIC(I) dated 11.6.81. Hence could not be posted out.
2.	440082	Shri Mohd. Zaki Ahmed B/R II	CE LZ.	Lucknow 26.7.73.	(Deputation)

contdd...6

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3. 41935 Shri Arun-
Kumar Gairola, B/R-II CE.LZ.Lucknow 15.4.74 -~~xxx~~ -
4. 450358 Shri G.S.
Saxena B/R-II CWE(P) Lko 5.5.74 Volunteered to
be posted to
Faizabad at own
expenses.
5. 44053 Shri Santokh
Singh mB/R-II ~~19.5.74~~ CWE(PLKO) 19.5.74 Volunteered for
posting to
Gorakhpur at ow
expenses.
6. 445460 Shri Kartar
Singh, B/R-II GE(P)E/M/LKO 14.6.74 His name had
earmarked for
posting to ten
station.vide C
CC LKO No.9013
61/EIC(I) dt.
11.6.81.Hence
could not be p
ted out.
7. 432144 Shri Navol.S.Ismile
B/R-II GE(W)LKO 9-7-74 -
8. 461536 Shri Narain
Srivastava, B/R-II GE(E)LKO 5-9-74 -
9. 430885 Shri K.A.
Siddiqui, B/R-II AGE(I)(P)LKO
Now GE(W)LKO -2-5-75 -
10. 432132 Shri Arun Lal
B/R-II GE(W)LKO - 29-5-75 -
11. 455120 Shri Virendra
Kumar Rawat, B/R-II GE(E)LKO - 10-10-76-
12. 405166 Shri Pratap
Singh, B/R-II GE(W) LKO - 6-12-76 -
13. 441228 Shri U.C.
Chaturvedi, B/R-II CE LZ LKO - 29-5-79 -
14. 440231 Shri OP Dogra,
B/R-II CE LZ LKO - 3-7-81 -



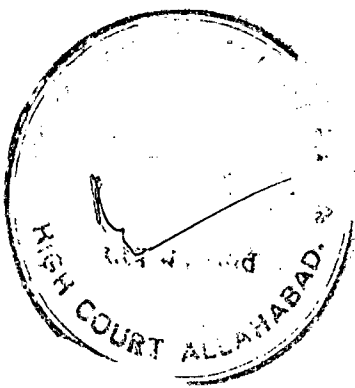
in view of the details mentioned above, the persons fig

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sl. no. 2,3,13 and 14 are working on the strength of respondent no.3 i.e. Chief Engineer, Lucknow Zone, Lucknow and rest of the B/R- Grade-II are working under the control of Commander, Works Engineer, Lucknow. A perusal of the aforesaid details would also go to show that the persons mentioned at serial no.3,4 and 5 Sri Arun Kumar Goriola Sri G.S. Saxena and Sri Santokh Singh who are working under the control of respondent no.2 and Commander Works Engineer have volunteered to posting at Faizabad and Gorakhpur on their own expenses and their requests were acceded to.



8. That a perusal of the aforesaid details would also go to show that the persons mentioned at serial no.1 and 6 i.e. Shri R.D. Mishra and Sri Kartar Singh, they have been earmarked for posting to tenure station vide letter dated 11th June, 1981 issued by the respondent no.2. A photo stat copy of the same is being filed herewith and marked as ANNEXURE-CA-V to this affidavit.

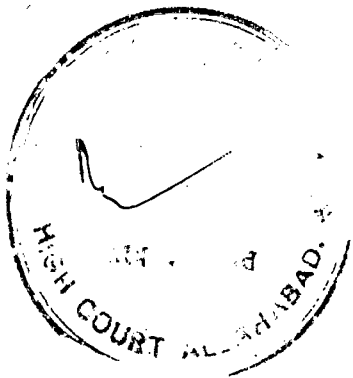
9. That a perusal of the aforesaid chart would further go to show that the ~~petition~~

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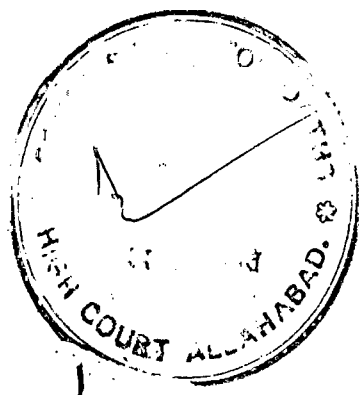
petitioner's name finds place at serial no.9 in the seniority list of Supdt. B/R Grade-II who are longest stayee at the station. Since the persons mentioned at serial no.3,4 and 5 have volunteered for posted to Faizabad and Gorakhpur and as such, in view of the order dated 28th May,1981 and 4th September,1981 only 4 B/R Grade-II were posted to out station and the persons mentioned at serial no.1 and 6 cannot be posted to the stations mentioned in the aforesaid list issued by respondent no.2 due to their posting at the tenure station and as such, only persons mentioned at serial no.2,7,8 and 9 were to be posted out in compliance of the orders issued by the respondent no.2 dated 28th May,1981 and 4th September,1981. Shri Mohd. Zaki reflected at serial no.2 was posted to Babina, but thereafter, he applied for posting on deputation as Jr. Engineer, Employees Provident Fund Organisation, Bombay and his request was acceded to and as such, he was posted to Bombay vide order dated 21st October,1982 issued by the respondent no.3, copy of which is being filed herewith and marked as ANNEXURE-CA-VI to this affidavit.



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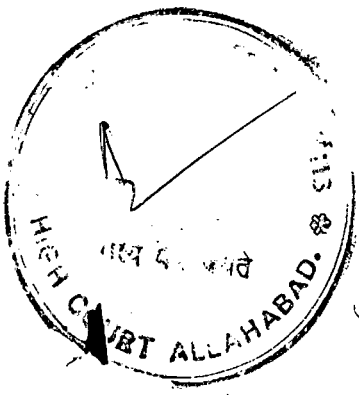
10. That in view of the facts stated above, only 4 vacancies were to be filled up in view of the letter dated 28th May, 1981 i.e. one for Mouh, one for Dehradun and two for Babina and serial no. 2, 7, 8 and 9 were to be posted out in compliance of the aforesaid orders. Prior to his posting to Babina on 28th January, 1982, office of respondent no. 3 issued an order through which in the interest of state, three B/R Grade-II mentioned therein were posted on their respective places reflected at serial no. 7, 8 and 9 of the aforesaid chart. A photo stat copy of the letter dated 28th January, 1982 is being filed herewith and marked as ANNEXURE- CA-VII to this affidavit.

11. That on 27th July, 1982, the petitioner moved an application praying therein that his posting from the office of AGE(P) to GE Babina may be deferred for six months, in order to pursue his cases pending in courts and also some person difficulties and his application was considered. A photo stat copy of the same is being filed herewith and marked as ANNEXURE- CA-VIII to this affidavit.

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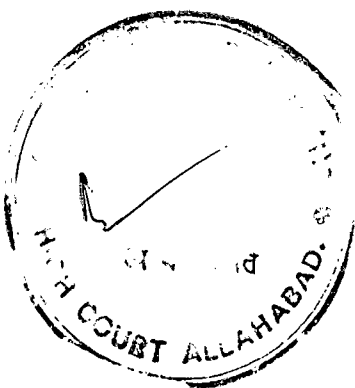


12. That in pursuance of the above application dated 27th July, 1982, respondent no.2 issued a letter dated 18th August, 1982 through which, it was intimated to the respondent no.3 that the posting of the petitioner from Lucknow to GE (RCP) Mamaura on compassionate grounds was approved as a special case for a period of one year and it was also specifically stated in the said letter that before the petitioner is relieved to join at Mamaura, a written undertaking to the effect that he will be posted to Mamaura, Babina and other stations on completion of one year stay and he will not represent against the posting order to any station. A photo stat copy of the letter dated 18th August, 1982 is being filed herewith and marked as ANNEXURE-CA-IX to this affidavit and in pursuance of the aforesaid order dated 18th August, 1982, respondent no.3 issued letter dated 23rd August, 1982 posting the petitioner to the office of GE(RCP) Mamaura for one year. A photo stat copy of the order dated 23rd August, 1982 is being filed herewith and marked as Annexure-CA-X to this affidavit. But since the petitioner did not give the undertaking

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in terms of the order dated 18th August, 1982 issued by the respondent no.2 and as such, recommendations for posting to Mamaura was withdrawn by the respondent no.3 through his letter dated 13th September, 1982. A photo stat copy of the said letter is being filed herewith and marked as ANNEXURE-CA-XI to this affidavit and his posting to Mamaura vide order dated 23rd August, 1982 was cancelled by the respondent no.3 on 6th October, 1982. A photo stat copy of letter dated 6th October, 1987 is being filed herewith and marked as ANNEXURE-CA-XII to this affidavit.

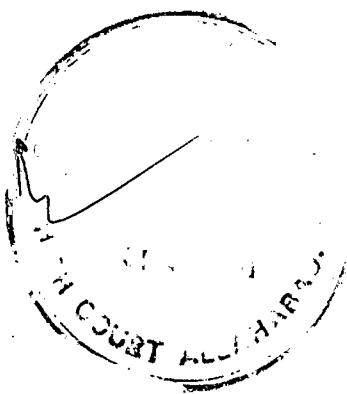
13. That on 11th October, 1982 with reference to the letter dated 6th October, 1982 and 28th January, 1982 was issued to the petitioner directing him to be transferred to GE(Babiha) in the interest of state and he shall be relieved on 11th October, 1982. The petitioner did not receive the movement order and he made an endorsement in his own hand writing that since the said order has been issued in violation of policy of transfer and also that he is not surplus in GE, Lucknow office. On 14th October, 1982, the

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office of GE(W) Lucknow has informed to the office of Commander Works, Engineer, Lucknow through which an information was given that the applicant has refused to accept the movement order on the grounds mentioned therein. A photo stat copy of the said information dated 14th October, 1982 is being filed herewith and marked as ANNEXURE-CA-XIII to this affidavit.



14. That on 21st October, 1982, the office of respondent no.3 informed about the said endorsement of the applicant on the transfer order to the office of respondent no.2. A photo stat copy of the letter dated 21st October, 1982 is being filed herewith and marked as ANNEXURE-CA-XIV to this affidavit. The petitioner has also represented his case on 18th October, 1982 to the office of respondent no.3 against the aforesaid transfer order. A photo stat copy of the said letter is being filed herewith and marked as ANNEXURE-CA-XV to this affidavit.

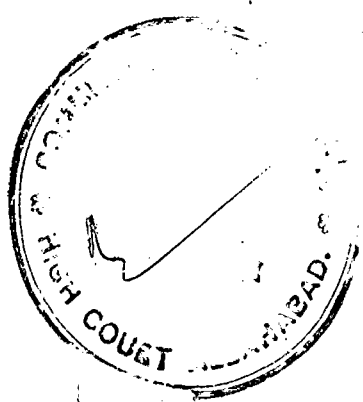
15. That since the petitioner has already been relieved from the strength of GE(W) Lucknow

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as such, he was intimated vide letter dated 30th October, 1982 that he should represent his case to the new formation i.e. G.E. Babina and on 20th November, 1982, the respondent no.2 issued a letter to the respondent no.3 through which a recommendation for initiating disciplinary actions against the petitioner was also made. A copy of the said letter (~~Photostat~~) was endorsed to the Chief Engineer Jabalpur Zone, Jabalpur under whose jurisdiction the office of GE, Babina falls. A photo stat copy of the said letter is being filed herewith and marked as ANNEXURE-CA-XVI to this affidavit.



16. That copy of the aforesaid posting/transfer order dated 11th October, 1982 was also sent through registered post on his postal address given in the office which could not be served by the postal authorities and endorsement was given by the postal agency that the petitioner is not available on his address, neither any information about his whereabouts has been given to the postal authorities. The office of commander Works Engineer, Jhansi also informed at

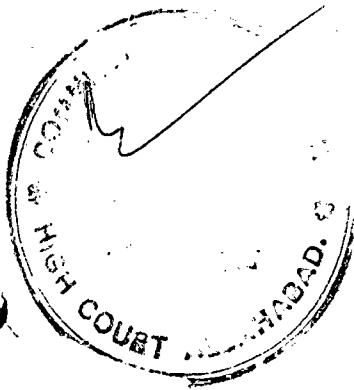
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the petitioner did not report to the office of GE, Babina, where he was to report ~~for~~ duty in pursuance of the transfer order dated 11th October, 1982.



17. That after a lapse of about 4 years, the petitioner has moved an application on 8th January, 1986 to the office of respondent no.2 mentioning therein that the petitioner has already moved an application to the respondent no.2 on 12th October, 1985. A copy of the said application was also enclosed along with the application dated 8th January, 1986. A photo stat copy as well as the typed copy of the application dated 8th January, 1987 is being filed herewith and marked as ANNEXURE-CA-XVII & CA-XVIII to this affidavit.

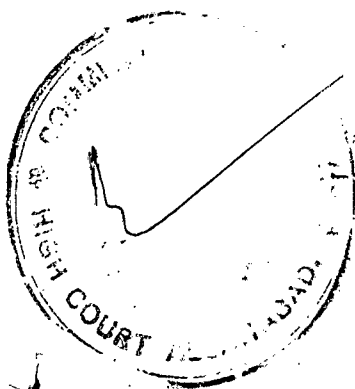
18. That the petitioner did not prefer any such correspondence dated 12th October, 1985 and also the correspondence which have been mentioned in one of alleged representation dated 12th October, 1985 (Annexure-iv) to the petition either with respondent no.2 or with

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respondent no.3. Moreover, since the petitioner has also been struck off from the strength of respondent no.2 and as such, whatever representation, the petitioner had to prefer it is with the office of GE(P) Babina, Chief Engineer, Jabalpur under whose jurisdiction GE(P) Babina falls. The petitioner has also moved an application on 7th February, 1986 to the Ministry of Defence ~~and~~ against his transfer order dated 11th October, 1982 and a complete report was asked by the office of E-In-C's Branch (respondent no.1) from respondent no.2 and a complete report communicating all the necessary facts and enclosing all the necessary documents was sent by the respondent no.2 to the office of respondent no.1 vide letter dated 26th May, 1986 and 18th June, 1986 and thereafter, the view taken by the respondent no.2 that the petitioner should report to GE(Babina) in pursuance of 11th October, 1982 was confirmed by the respondent no.1. On 18th August, 1986 the office of respondent no.2 issued a letter ~~dated~~ to respondent no.3 and copy was endorsed to Chief Engineer, Jabalpur and respondent no.1 stating therein that the petitioner should ~~report~~ be informed that he should report to GE, Babina and his leave should be regularised

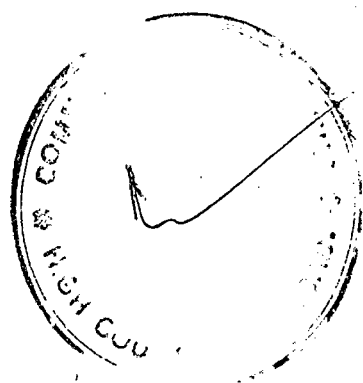


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as per the existing rules. The office of the respondent no.4 (G.E.(W) Lucknow) issued a letter on 30th December, 1986 at the home address of the petitioner intimating him that he should report to the office of G.E. Babina and the copy of the said letter has also been sent to the office of respondent no.2 and respondent no.3 and Commander, Works Engineer Lucknow.



19. That the contents of para-1,2,3 and 4 are matters of record, hence need no comments.

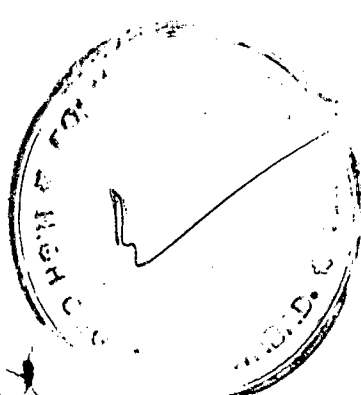
20. That the contents of para-5 of the petition are not correct as stated, as such are denied. The declaration which has been made in paragraph under reply that the petition is within limitation is absolutely wrong. Since the order dated 11th October, 1982 is being

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petition are the matters of record and as such need no comments.

22. That in reply to the contents of para-6(3) of the petition, it is submitted that the petitioner was posted out to AGE(B) Lucknow to G.E. Babina vide order dated 28th January, 1982 (Annexure-CA-VII) and ^{on} 27th July, 1982, the petitioner moved an application for defferment of his transfer order for one year and on compassionate ground giving sympathetic consideration to the request of the petitioner, his transfer was deffered for one year and he was posted to Mamaura with the condition that he shall furnish an undertaking agreeing to the terms of his transfer letter dated 27th July, 1982 in which, he has specifically stated that he shall not claim for completion of his tenure and he shall not submit any representation for further differment and cancellation of transfer order and also he will move immediately to the place then ordered. But since, he did not give the said undertaking and as such, his posting to Mamaura was cancelled and he was required to comply his transfer order passed on 28th January, 1982. The movement order dated



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11th October, 1982 which is referred in paragraph under reply was issued and the perusal of the aforesaid movement order would go to show that he was transferred to G.E. Babina in the interest of state under the authority of letter dated 28th January, 1982 and 6th October, 1982 (Annexure-CA-XII). A perusal of Annexure-1 of the petition would further go to show that the petitioner did not receive the said transfer order and he has endorsed on the face of order that interview with Chief Engineer, Lucknow Zone, Lucknow may be arranged on the grounds that his transfer order has been passed in violation of the transfer policy and also that he is not surplus. The said order would also go to show that the petitioner shall be relieved on 18th October, 1982 and he was directed to report to his new Unit after availing the usual joining time and T.A./D.A. shall also be given to him as its admissibility.

23. That the contents of para-6(4) (5) of the petition are matters of record, hence need no comments.

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24. That the contents of para-6(6) of the petition are not correct as stated, hence denied. It is further submitted that the petitioner has challenged the authority of Chief Engineer, Lucknow Zone, Lucknow transferring the petitioner to Jabalpur Zone i.e. from the office of G.E.(W) Lucknow to G.E. Babina on the ground of government policy letter dated 30th December, 1983 whereas, his transfer was made on 28th January, 1982 and as such, the said policy dated 30th December, 1983 shall not be applicable in the case of the petitioner. Moreover, on 28th May, 1981, respondent no.2 who is head of the Central Command issued a direction in the administrative exigency to the Chief Engineer, Northern zone and also Central Zone who falls under the jurisdiction of respondent no.2 directing them to post 2 B/R Supdt. Grade-II from Lucknow to Faizabad, one to Gorakhpur and 2 to Babina against the existing vacancies and in order to comply the said order under the said authority, respondent no.3 after summoning the requisite information from the office of Commander, Works Engineer, Lucknow and also taking into account the strength of Zone office, the order for transfer was issued on 28th January,



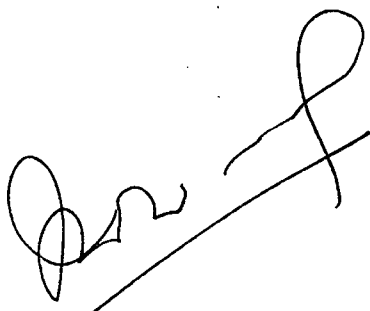
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1982 transferring the petitioner to G.E.(P) Babina which was subsequently approved by the respondent no.2 through his letter dated 20th November,1982 who has totally justified the transfer of the petitioner from G.E.(W)Lucknow to G.E.(P) Babina(Annexure-CA-XVI).

25. That the contents of para-6(7) of the petition are not correct as stated, hence denied. As stated above, the policy letter which has been filed as Annexure-2 to the petition itself, is not applicable in the case of the petitioner at all. Moreover, letter dated 28th May,1981, itself speaks that 5 members of Supdt. B/R. Grade-II either they are volunteers or longest stayee shall be selected for transferring those posts to the respective station mentioned in the said letter and in order to ascertain the list of longest stayee personnel with all fairness, the information was collected by the respondent no.2 from the office of respondent no.3 and also from the office of Commander Works Engineer and after ascertaining the said information, the



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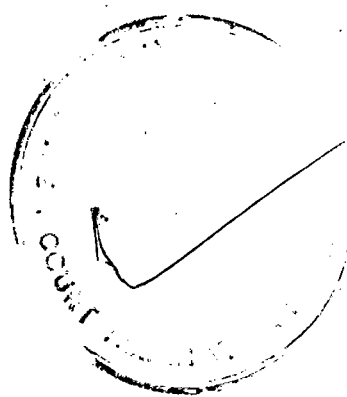
order was passed by the respondent no.3. By mere making bald statement that the applicant is not longest stayee will not help the petitioner. A detailed has already been furnished in para-7 of this counter-affidavit in which, it has been specifically stated that the petitioner has reported under the control of respondent no.3 on 2nd May,1975 and his name was picked up for transfer to G.E. Babina as per direction given by the respondent no.2 in his letter dated 28th May,1981. There is no departure from the said direction and as such, it is absolutely wrong to say that the petitioner's transfer was made arbitrarily and illegally.

26. That the contents of para-6(8)&(9) of the petition are not correct as stated, hence denied. A perusal of the aforesaid discussion would go to show that the petitioner was longest stayee at the station and his appeal referred in paragraph under reply was misconceived. Moreover, there is no such appeal dated 3rd October,1982 referred in para under reply. Annexure-3 is dated 18th October,1982 and not 3rd October,1982 which

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has already been reply through letter dated 30th October, 1982 intimating the petitioner that he should represent his case to his new formation i.e. G.E.(P) Babina as he has already been struck off the strength of G.E.(W) Lucknow on 18th October, 1982. The representation deffered as Annexure-3-a dated 10th January, 1983 is not at all traceable in the office of respondent no.2. It appears that the said representation has not at all been referred to the respondent no.2, since the petitioner has not referred about the said representation dated 10th January, 1983 in his subsequent representation which are alleged to have been made to respondent no.1 on 26th July, 1986, it fortifies further that it has not been sent to respondent no.3. The representation dated 26th July, 1986 which is alleged to have been made to respondent no.1 is also not traceable in the office of respondent no.1.

27. That the contents of para-6(10) of the petition are not correct as stated, hence denied.



28.

That the contents of para-6(11) of

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the petition are not correct as stated, hence emphatically denied. It is further submitted that it is absolutely wrong to say that the petitioner is regularly working in the office of G.E.(W), Lucknow. In fact on 18th October, 1982, he has been struck off from the office of G.E.(W), Lucknow reporting to G.E. Babina-. Nor, he reported to the G.E. Babina nor any office under the control of respondents.

29. That in reply to the contents of para-6(12) of the petition, it is submitted that since he has been posted out from the office of respondent no.4 and as such, it is G.E. Babina who has to be referred by the petitioner and not respondent no.3 and 4.

30. That the contents of para-6(13) of the petition are not correct as stated, hence denied. It is further submitted that since the petitioner has already been issued transfer/movement order on 11th October, 1982 stating therein that as per the rules, he shall be given TA/DA advance on his transfer from G.E.(W), Lucknow to G.E. Babina, no

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further correspondence is required to be made to the petitioner. Moreover, the representation dated 12th October, 1985 has never been referred to respondent no.2. It appears that the petitioner in order to bring his case under the limitation he has cooked up the said representation. Moreover, repeated representation which has been referred from time to time in various paragraphs of the petition, is not at all tenable in the eye of law. By preferring the appeal or representation the petitioner is not entitled to flout the orders of transfer which has been issued on 11th October, 1982.

31. That the contents of para-6(14) of the petition are not correct as stated, hence denied. It is absolutely wrong to say that the letter dated 30th December, 1986 was served on 24th March, 1987. It is again reiterated that in order to bring the case within the scope of section-21 of the Administrative Tribunal Act, 1985 the same has been mentioned.

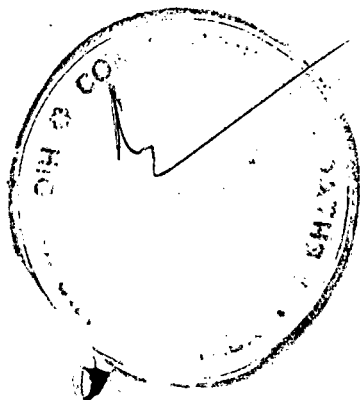
32. That the contents of para-6(15) of the petition are not correct, hence denied. It is

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submitted that as already stated above, the transfer order dated 11th October, 1982 about the T.A./D.A. is quite clear and it is not necessary that again the said words be repeated in the letter dated 30th December, 1986. In fact, this letter was issued with reference to his appeal or representation to the higher authorities.



33. That the contents of para-6(16), (17) & (18) of the petition are not correct as stated, hence denied. However, a detailed reply has already been given in foregoing paragraphs and hence need not be repeated here again.

34. That the contents of para-6(19)(20) of the petition has got no relevance with the present controversy.

35. That the contents of para-7 and 8 of the petition need no comments.

36. That in reply to the contents of para-9 of the petition, it is submitted that since the petitioner has failed to make out any

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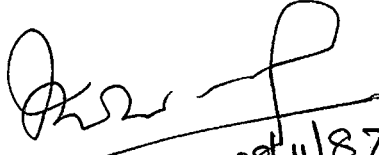
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prima-facie case in his favour for interference of this hon'ble Tribunal and as such, the petition is liable to be dismissed and no reliefs as mentioned in para-9(i)(2)(3) of the petition ~~xxx~~ can be granted in the circumstances mentioned above. Moreover, the grounds taken by the petitioner are not sustainable in the eye of law and the petition is ^{liable to be} dismissed with costs.

37. That the contents of para-10,11,12 and 13 of the petition are matters of record, hence need no comments.

I, the deponent abovenamed do hereby verify that the contents of paras 1, 2, of this affidavit are true to my personal knowledge; those of paras 3 & 3s and 37 are based on record; those of paras 36 are based on legal advice to which I believe to be true; that no part of it is false and nothing material has been concealed. So help me God.


Deponent 08/11/87

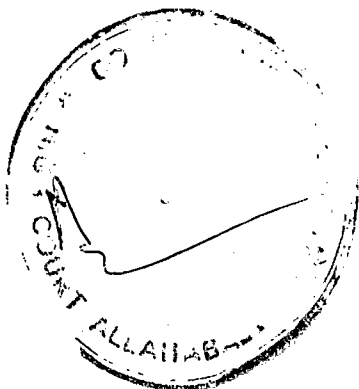
I, D.S. Chaubey, Clerk to Shri K.C. Sinha,

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Advocate, High Court, Allahabad do hereby declares that the person making this affidavit and alleging himself to be the same is known to me from the perusal of papers.

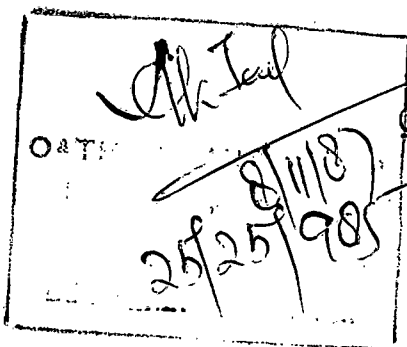
Clerk



Solemnly affirmed before me on this 8th day of November, 1987 at 9-00 PM by the deponent who has been identified by the 1 aforesaid Clerk.

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

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OATH COMMISSIONER.

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Chief Engineer
Mukhyalaya Madhya Pradesh
Chief Engineer
Headquarters Central Zone
Lucknow - 2

1957/6/195/EIC(I)

28 May 81

Chief Engineers
Northern Zone Lucknow
Central Zone Jabalpur

POSTINGS/TRANSFERS : SUPDT B/R GDE II

1. Reference CE NZ Lucknow letter No 12065/1703/EIC(I) dated 12/5/81

2. The following postings are hereby ordered in the interest of service

Sl. No.	DES No & Name	Designation	From	POSTED
1.	5 (Five) Nos volunteer /longest stayse as per policy on postings/transfers (Surplus)	Supdt B/R Gde II	Lucknow	AGE (I) - 2 Nos Faizabad CE (AF) - 1 No Gorakhpur CE Babinas 2 Nos

3. Above to be completed forthwith

(A S Sharma)
Brig
Addl CE
Chief Engineer

Copy to :-

1. CE (P) Lucknow
2. CE Allahabad
3. CE Jhansi
4. AGE (I) Faizabad
5. CE (AF) Gorakhpur
6. CE Babinas

ID

EID, EID (Ser Gp), EIO(Adm), Posting Folder

9/1/81

8/11/81

25/257605

Annexure CA-4

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File : Mily 660

Headquarters

Commander Works

229 Mahatma Gandhi

Lucknow- 226002

1033/3367 /316(I)

Chief Engineer

Northern Zone

Lucknow- 2

POSTINGS/TRANSFER : SUPDTS B/R GDE II

Reference your letter No. 120545/3111/313(I)

MES-450358 Shri GS Saxena and MES-440153 Shri Santokh Singh Supdts B/R Gde II of this office are willing for posting (Indep) Faizabad at own expense.

The following Supdts B/R Gde II are senior most in area. Their date of posting at Lucknow station are also against each :-

1. MES-442053
Shri RD Misra,
GE (C) Lucknow
5-9-68 His name has been marked for posting to station vide No. 901300/31/11.6.81.
2. MES-450358
Shri GS Saxena,
CWE (P) Lucknow
5-5-74 Volunteer for posting to Faizabad at own expense.
3. MES-440153
Shri Santokh Singh
CWE (P) Lucknow
19-5-74
4. MES-445460
Shri Kartar Singh
GE (P) E/M LKO
14-6-74
5. MES-432144
Shri Novel S Ismail
GE (C) Lucknow
9-7-74
6. MES-461536
Shri Sri Narain Srivastava
15-7-74

(GP Bhatnagar)
BSO
for Commander Works

8/11/67
29/2/90

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11/11/1966

Mukhya Engineer
Mukhyalaya Madhya Pradesh
Chief Engineer
Headquarters Central Board
Lucknow-226002

11/11/1966/392/EIC(I)

04 Sep 81

Chief Engineer
Madhya Pradesh
Chief Engineer
Madhya Pradesh
Jabalpur
(Surplus)

POSTINGS/TRANSFERS : SUBORDINATES

The following postings are hereby ordered in the interest of

Serial No. & Name	Designation	From	Post
1. One volunteer/longest stayee as per policy on postings/transfers (Surplus)	Supdt B/R AGE (MES) Gde I	Varennasi (Under GE (P) Allahabad)	GE (P) GOR Jabalpur
2. do	do	Bareilly	CHN Py Nagpur
3. do	Supdt B/R AGE (I) Gde II	Lonsdown	CNE (P) Dohnadun
4. One Nos volunteer/longest stayee as per policy on postings/transfers (Surplus)	do	GE (MES) Roorkee	GE (P) Mohan GE (P) Sangol
5. do	do	GE (P) Lucknow	GE (P) Raipur
6. One Nos volunteer/longest stayee as per policy on postings/transfers (Surplus)	do	GE (P) Bareilly	GE (P) Mohan AGE (I) Faizabad GE B/R Chokori Kanpur AGE (MES) Gaya AGE (MES) Panchwari AGE (MES) Katni GE (MES) Kanchi

For CE West UP Zone Bareilly only :- This has reference to his letter 11/11/1966/865/EIC(I) dated 21 July 81 and 812029/782/EIC(I) dated 23 July 81

to be completed forthwith.

(Gurbachan Singh)
Lt Col
SO I (Pers)
Chief Engineer

103

2010 : July 581

Headquarters
Commander Works Division
229 Mahatma Gandhi Road
Lucknow- 226002

11003/3579/EIC(I)

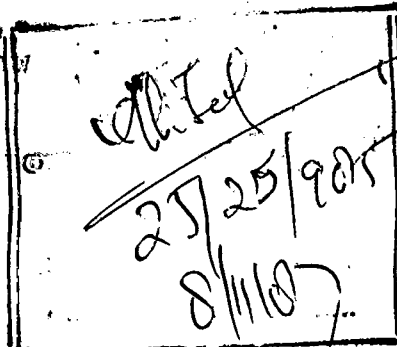
Chief Engineer
Northern Zone
Lucknow- 2

POSTINGS/TRANSFERS : SUPDTS B/R GDE II

1. Reference your letter No. 120-45/3169/EIC(I) dated 16 Sep 81.
2. No Supdt B/R Gde II from this area is willing for posting to Gs (P) Raipur and Gs (P) Mhow. However MES-452144 Shri Novel Supdt B/R Gde II of AGE (P) (I) Lucknow who already stands posted to Gs Dehina vide your letter No. 120-45/3169/EIC(I) dated 12 Sep 81 is willing for posting to Gs (P) Raipur at state expense. In this application dated 19 Sep 81 and 22 Sep 81 submitted by Shri Novel is forwarded herewith duly recommended for further disposal.
3. The following Supdts B/R Gde II are longest stayees in area. Their date of posting at Lucknow station are also shown against.

- | | | |
|--|-----------|--|
| 1. MES-442055
Shri RD Misra,
Gs (S) Lucknow | - 5-9-65 | Also earmarked
to tenure stat. |
| 2. MES-445460
Shri Kartar Singh,
GE B/M Lucknow | - 14-6-74 | do. |
| 3. MES-452144
Shri Novel S Ismile
AGE (P) (I) Lucknow | - 9-7-74 | Stands posted |
| 4. MES-461556
Shri Sri Narain Srivastava,
Gs (S) Lucknow | - 5-9-74 | He has applied
to Gs (ADG-2) I
application for
forwarded under
letter No. 11003
dated 29 Sep 81 |
| 5. MES-430885
Shri KA Siddiqui,
AGE (P) (I) Lucknow | - 20-5-75 | |
| 6. MES-452-32
Shri Arun Lal
Gs (S) LKO | - 29-5-75 | |
| 7. MES-455120
Shri Virendra Kumar
Rawat, Gs (S) LKO | - 1-10-76 | |
| 8. MES-405166
Shri Pratap Singh,
AGE (P) (I) Lucknow | - 6-12-76 | |

Encls:.. as above.



35

10 Aug 1981

$$\frac{\sqrt{A}}{104}$$

WARNING LIST FOR POSTING TO TENURE STATIONS : SUPDT B/R GEN. IT

(RD Jekind.)
AOI
Chief Engineer

- | | | |
|--------------------|----------------------|------------------------|
| 1. GE Bhopal | 12. GE Vy Nagpur | 22. GE Ranchi |
| 2. GE Buxilly | 13. GE Dehradun | 23. GE E/M (P) Lucknow |
| 3. GE Dehradun | 14. GE Tankadrome | 24. GE Vy Kanpur |
| 4. GE Ghazi | Babina | 25. GE Allahabad |
| 5. GE Gorakhpur | 15. GE Roorkee | 26. GE Saugor |
| 6. GE (E) Lucknow | 16. GE (E) Lucknow | 27. GE Danapore |
| 7. GE J. Jabalpur | 17. GE Khamaria | 28. GE (E) Jabalpur |
| 8. GE Allahabad | 18. GE Bomrauli | 29. GE (I) Faizabad |
| 9. GE Jabalpur | 19. GE ADGES Memaura | 30. GE (P) Pramauga |
| 10. GE Pithoragarh | 20. GE (W) Jabalpur | 31. GE Mhow |
| 11. GE Raigarh | 21. GE Ranchhet | 32. GE Babina |

DD
FORM 13
1-60

Warning List

Q. 25

35

Annex (A-V)

APPENDIX D to G.L. 30 Lucknow:
No. 21300/32 (G.L. 30)

WARNING LIST : SUPPLY B/R CDE II

Remarks

Sl. No. & Name

Formation

No.

2

3

4

1. MES No. 145480
Sgt. Harbhaj SinghCE B/M (P)
Lucknow

Posted to Lucknow on 28/10/62

2. MES No. 145490
Sgt. Shyam Sunder Tara

CE (SES) Ranchi

Posted to Ranchi

3. MES No. 145502
Sgt. S. S. Sathish Arora

CE (Fy)ampur

Already posted

4. MES No. 145520
Sgt. Shiv Prasad Choudhary

CE Allahabad

Referred for

X 5. MES No. 145537
Sgt. Shyam Sunder Khanna

CE Saugor

Deleted from

X 6. MES No. 145542
Sgt. S. S. Sathish Arora

CE Allahabad

Already posted

7. MES No. 145551
Sgt. S. S. Sathish Arora

CE Allahabad

Posted to Allahabad

8. MES No. 145572
Sgt. Mahesh Chandra Bindal

CE ADGES' Memoirs

To be posted on after Aug 1963.

9. MES No. 145610
Sgt. Purni Pal Singh

CE (P) Shahjehampur

Done at 8/11

10. MES No. 145676
Sgt. Parshottam Dass Gupta

AGE (I) Faizabad

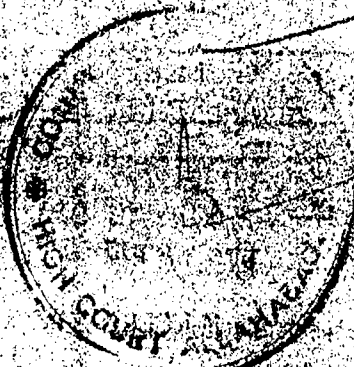
Deleted vide P

11. MES No. 145687
Sgt. Harish Chandra Saluja

CE Ranchi

Already posted

Contd.....2



[Handwritten signature]

File No. : 586

Mukhya Engineer
Mukhya laya Madhya Kaman
Chief Engineer
Headquarters Central Command
Lucknow- 2

91300/3/ 61 /EIC(I)

Jun 80

Chief Engineers

Northern Zone Lucknow
Central Zone Jabalpur
West UP Zone Bareilly
(P) Harsi

REVISE WARNING LIST FOR POSTING TO TENURE STATION
SUPDT B/R HDE-II /SA GDE-II

2. Revise warning list of Supdt B/R Gde-II/SA Gde-II who are due for posting to tenure stations in this Command is forwarded herewith as Appendix "A" to this letter.

3. This should be circulated to all concerned and they should be informed in writing to keep themselves ready to move to such stations on issue of their posting orders. Appeal if any made against this warning list should reach this HQ by 5th Jul 80 the latest after which no representation will be entertained.

4. This list will remain in force upto 31 Dec 81 after that the same will be revised/reviewed if necessary.

5. This HQ letter No-901300/3/82/EIC(I) dated 5 Feb 79 is deemed to be amended accordingly.

(NN Vishwanathan)

AG I

Chief Engineer

Copy to:-

- | | | |
|------------------------|-------------------------------|--------------------------|
| 1. CWE Kanpur | 22. GE Tankadrome Babina | 39. GE (Ty) Wks Kanpur |
| 2. CWE (P) Lucknow | 23. GE (P) Veh Ry Jabalpur | 40. GE (East) Lucknow |
| 3. CWE Dehradun | 24. GE (W) Jabalpur | 41. GE C/Town Dehradun |
| 4. CWE Bareilly | 25. GE Kanpur | 42. GE Izatnagar |
| 5. CWE Allahabad | 26. GE (P) Ranchi | 43. GE (I) (P) Ty Kanpur |
| 6. CWE (P) Ry Jabalpur | 27. GE Roorkee | 44. GE B/R Chakeri |
| 7. CWE Bhopal | 28. GE (P) Bareilly | 45. GE (AF) Gorakhpur |
| 8. CWE Jabalpur | 29. GE Khamaria | 46. GE (P) GCF Jabalpur |
| 9. CWE Harsi | 30. GE Bamrauli | |
| 10. CWE Meerut | 31. GE Allahabad | |
| 11. CWE Rampur | 32. GE Babina | |
| 12. GE Gwalior | 33. AGE (I) E/M Meerut | |
| 13. GE Saugor | 34. GE Ranilhet | |
| 14. GE Jhansi | 35. AGE (MES) Haldwani | |
| 15. GE (I) Meerut | 36. GE Dehradun | |
| 17. GE Meerut | 37. AGE (MES) Varanasi | |
| 18. GE Bhopal | 38. AGE (MES) Bakshi Ka Talab | |
| 19. GE (W) Lucknow | | |
| 20. GE (P) E/M Lucknow | | |
| 21. GE (E) Jabalpur | | |

EID

910127/HR-II/EIC(I)
Posting folder

Appendix (A-V)

Appendix "A" to GECC Lucknow
Letter No-931300/3/61/SEC(I)
dated 11 Jun 80

(A)
10

REVISE WARNING LIST FOR PASTING T TENURE STATION
SUPPLY B/R GDE-II/SA GDE-II

S.No	MES No	Name	Formations	Remarks
1	MES-452002	Shri UM Prakash Arora	GE Fy Wks Kanpur	Posted to Bikaner
2	MES-442158	Shri Chandra Mohan Awasthy	CWE(P) Lucknow	Posted to Bikaner
3	MES-435378	Shri Harcharan Singh Bhuttar	GE Clementtown after 25-6-80	To be posted out after 2 years stay
	MES-442559	Shri Govind Prasad Taspliyal	GE Iatragar	
	MES-450007	Shri Satya Prakash Sharma	GE(I)(P) Fy Kanpur	Posted to Bikaner
	MES-442005	Shri Sukter Singh	GE B/R Chakeri	Posted to Bikaner
	MES-452006	Shri Subash Chandra	GE Fy Wks Kanpur	Posted to Bikaner
	MES-251186	Shri Nand Yee Rai	GE AF Gorakhpur	To be posted out after 28-Jun-81
	MES-409140	Shri VSGK Nair	GE(P) GCF Jabalpur	Posted to Bikaner
	MES-409141	Shri MAN Mohan Singh	GE Wallor	Posted to Bikaner
	MES-407394	Shri Vishva Nath Vashisth	GE Saugor	Posted to Bikaner
	MES-411113	Shri CK Ayyappan	-do-	Posted to Bikaner
	MES-455004	Shri Sher Singh Gahlot	GE B/R Chakeri	Posted to Bikaner
	MES-407339	Shri CP Varughese	GE Jhansi	Posted to Bikaner
	MES-430197	Shri RC Mehta	GE (W) Meerut	Posted to Bikaner
	MES-407338	Shri GN Nawane	GE Clement town Dehradun	
	MES-407393	Shri KI Anthony	GE Mhow	Posted to Bikaner
	MES-407639	Shri K Rajayaran	CWE(P) Fy Jabalpur	Posted to Bikaner
	MES-460775	Shri Sube Singh	AGE Bakshi Ka Talab	To be posted out after 3 years stay
	MES-415087	Shri M Babay	-do-	Posted to Bikaner

Contd .../2-

Signature

(40)

Annexure (A) 375

No : MIA 746

Office of the Chief Engineer
Northern Zone
Lucknow - 226 002

123005/5/5/EIC

21 Oct. 82.

A
108

MES 440082
Shri Mohd ZAKI AHMED
Supdt B/R Gle II(QPt)

through E 2(Wrs) Section

DEPUTATION OF MES PERSONNEL TO EMPLOYEES PROVIDENT
FUND ORGANISATION IN MAHARASHTRA AT BOMBAY

1. You will be relieved of your duties on 30 Oct 82(AN) to take up the new appointment of Junior Engineer in Employees Provident Fund Organisation in Maharashtra at Bombay on deputation for a period of one year.

2. You will report to the Regional Office of the Employees' Provident Organisation in Maharashtra at Bombay.

Authority :- E-In-C's Branch, Army HQ No 90066/CPFC/EIC(1)
dated 17 Sep 82.

3. If you fail to rejoin this department(MES) within a period of one year from the date of release, you will lose your lien in the MES and shall have no claim against this department.

4. Before leaving this office you will submit the requisite documents together with the following to your section :-

- (a) Identity Card (b) Command Special Entry Pass (c) CGM's Ca.

(PN Kher)

For Distribution :-

AO-II
for Chief Engineer

1. E-In-C's Branch(EIC(I))
Army Headquarters
New Delhi - 110001
2. CE CC Lucknow
3. The Regional Office of the Employees' Provident Fund Organisation in Maharashtra at Bombay.
Central Provident Fund Commissioner, 9th Floor,
Nawar Bhawan, Connaught Circus, New Delhi - 110001
4. EIC(1)
5. Pay Group/ Record Group
6. E 2(Wrs)
7. Case No 123005/5/NZ/EIC
8. Accounts Office
(CMA CC) Lucknow

Stamp: OAT
Date: 25/2/985
Handwritten: 25/2/985

Handwritten signature and date: 21/10/82

41

Annexure CA-VII

Ref: MIL 632

Office of the Chief Engineer
Northern Zone
Lucknow-2A
109

10000/3213/ETC(I)

28 Jan 82

Commander Works Engineers (P)
LucknowBR/3110/3110/81
R/3210/82
3225/82
3233/82

POSTINGS/TRANSFERS - SUPDTS B/R GDE II

1. Refer to your No 11083/3579/ETC(I) dated 12 Oct 81 and No 11083/3579 dated 28 Dec 81.

2. The following postings are hereby ordered in the interest of state:

S. No.	IES No and Name	Postal	Remarks
No.	IES	IES	

1. 432144
Shri Novel S Ismail AGE (P) (I) HQ GDE (P) To move North
Lucknow Lucknow

(Authy: CE CC No 910127/392/ETC(I) dated 04 Sep 81 and CE Lucknow No 1010/T/92/ETC(I) dated 27 Nov 81)

431536
Shri Sri Narain GE (Test) GE (P) To move North
Griwastava Lucknow Mhow

(Authy: CE CC No 910127/392/ETC(I) dated 04 Sep 81)

430885
Shri K. S. Sindhu AGE (P) (I) GE To move North
Lucknow Babina

(Authy: CE CC No 910127/6/195/ETC(I) dated 23 May 81)

Dated 28 Jan 82 F/3228 F/3241

F/3110

K. Subramanyam

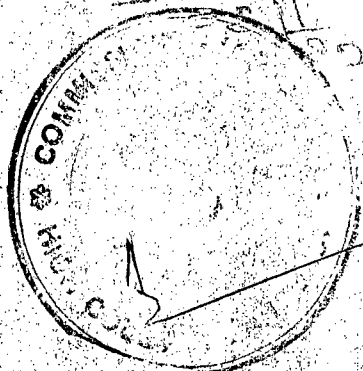
(S/R Subramanyam)

A7

for Chief Engineer

Copy to:-

CE CC Lucknow
CE CC Jabalpur
CE West UP Zone, Bareilly
CE Dehradun
CE (P) Dehradun
CE (P) Mhow
CE Shri
CE (P) Mhow
CE Babina
CE (Test) Lucknow
AGE (P) (I) Lucknow



Call. In 8/11/82

OATH

By 25/25/90

SI

Date.....

Handwritten signature: J. S. S.

42

Amrinder (A-2 VIII)

A-2
110

The Chief Engineer
Northern Zone
Lucknow - 12

POSTINGS/TRANSFERS: SUBORDINATES

Sir,

This has reference to the meeting Shri GS Bawa Vice President and other representatives of UP AREA Employees Union had with the Chief Engineer on 13 Jul 82.

2. I submit that in view of my present difficulties to start out by court cases I request that my case for retention at Lucknow or the other surrounding areas viz Bakshi ka Galia, Barabanki, for a period of six months to one year be considered favorably.

3. I also certify that I will not claim compensation of any kind.

4. I further certify that on the expiry of my stay at any of the places around Lucknow, I shall not submit representation for further deferment or cancellation and I will move immediately to the place then ordered.

5. In spite of the above commitments by me for 6 months or one year period, I request due consideration for at least one year period.

Yours faithfully,

(Signature)
27.7.82
(KA Siddiqui)
Supdt. B/R II

27.7.82

(Signature)

A-2	
DATE	8/11/87
SI	25/25/98
Date

43

Annexure CA-IX

CONFIDENTIAL

A
111

Date: July 68

Mukhya Engineer

Mukhyalaya Lucknow

Chief Engineer

Headquarters Central

Lucknow - 226001

25127/8/121/SIC (1)

To: Chief Engineer
Northern Zone
LucknowPOSTING/REASSIGNMENT: SHRI K A SIDDIQUI
Supt B/R CDE XI

1. Referance your Confidential letter No 120843/5212/8 dated 27 Jul 68.

2. Posting of Shri K A Siddiqui, Supt B/R Cde XI of Lucknow to CE (ACP) Meerut on compassionate grounds for a period of one year only is hereby approved. Before individual is relieved to Meerut a written undertaking that he will be posted out from Meerut to Bahin/odhan, with a period of one year stay there and will not represent against the posting. Any objection be obtained from him and forwarded to this HQ for consideration.

(Gurteachan Singh)
Lt Col
SO I (pers)
Chief Engineer

Copy to:-

1. CDE (P) Lucknow

2. EP (Ser Cp), Posting folder

CONFIDENTIAL

Gurteachan Singh

25127/8/121/SIC
8/11/68
25127/905

44

Annexure (A-X)

CONFIDENTIALA
172

Memo : Nil 632

Office of the Chief Secy
Northern Zone
Lucknow-2

120545/ 3339/EIC(I)

23 Aug 82

RB 32
FR 3
33

AGT (P) Lucknow

POSTINGS/TRANSFERS - SUPDTS B/R GDE II1. Refer Correspondence resting with AGT (P) (I) dated
No. 1010/BR/1605/E1 dated 02 Jul 82.

2. Posting of Shri KA Siddiqui, Supdt. B/R GDE-II, Lucknow to GE Babina ordered vide our No. 120545/ dated 29 Jan 82 has been cancelled vide our No. 120545/ dated 23 Aug 82.

3. Shri KA Siddiqui has now been transferred to GE Babina vide CE CC No 910127/6/121/EIC(I) dated 18 Aug 82. Leaving order has been issued separately by this office.

4. As desired by CE CC vide letter quoted above, before relieving the individual please obtain an acknowledgment from the individual and forward the same, in duplicate, signed by the AGT (P) (I) so as to reach this office.

5. The period of absence from 12 Jun 82 will be covered by grant of leave as admissible.

(N Sengul for Chief Secy)
AO-1
for Chief Secy

Copy to:-

AGT (P) (I)
LucknowCONFIDENTIAL

Handwritten signature

Alise 8/11/85
25/25/90

45

Annexure (A-X)

113

File : Mil 743

Office of the Chief Engineer
Northern Zone
Lucknow-2

120545/3336/EIC(I)

sep 82

Chief Engineer
Central Command
Lucknow

BR/3336
R/3336

POSTING/TRANSFER : SHRI KA SIDDQUI, SUPAT B/R Gde II

1. Refer your No 910127/6/121/EIC(I) dated 18 AUG 82.
2. We had directed AGE (P) (Indep) Lucknow to initiate the move of Shri KA Siddiqui, Supat B/R Gde II to GE (EIC) Baramulla by 10 sep 82 on furnishing the undertaking by him.
3. Shri Siddiqui has refused to sign the undertaking.
4. In view of this, we withdraw our earlier recommendations. He should move to GE Babina as ordered and the period of absence would be regularised by the receiving formation as deemed fit.
5. Please advise further action.

(SK Lamba)
Col

Additional Chief Engineer
for Chief Engineer

RCO:

Copy to:-

CWE (P) Lucknow - With reference to AGE (P) (Indep)
Lucknow No C-6/Gen/844/EIC dated 06 Sep 82



Al. Tel
8/11/85
25/25/905

46

Annex CA-XII

A114

CONFIDENTIAL

Ref : Mil 632

Office of the Chief Eng
Northern Zone
Lucknow-2

120545/cen/01 /EIC(I)

Oct 82

Commander Works Engineers (P)
LucknowPOSTING/TRANSFER : SHRI KA SIDDQUI
SUPDT B/R GDE II :

1. Refer our No. 120545/3336/EIC(I) dated 13 Sep 82 addressed to CE CC Lucknow and copy to your office.
2. The posting order issued under our No 120545/3329/EIC(I) dated 23 Aug 82 is hereby cancelled.
3. CE directs that Shri KA Siddiqui will be SGS on post to CE Bobina as ordered earlier and the period of absence will be regularised by the receiving formation as per Rules.
4. It will be ensured that his pay and allowances are claimed.
5. Please acknowledge receipt.

(N Samuel Nathew)
AO I
for Chief Engineer

Copy to:-

CE (West) Lucknow - for immediate action and confirmation.

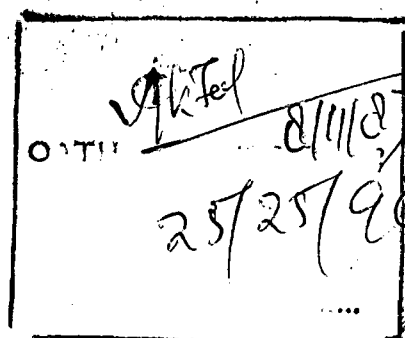
CONFIDENTIAL

CE

AO I

paka. Case 6
cc put up 6
CE in detail

2/9/82



48

Annex (A-XH) 3355

116

CONFIDENTIAL

Ref : Nil 632

Office of the Chief Engineer
Northern Zone
Lucknow-2

120545/3355/EIC(I)

21 Oct 82 BR/3336

FR 22/10/82

Chief Engineer
Central Command
Lucknow

POSTING/TRANSFER : SHRI KA SIDDIQUI, SUPDT B/R Gde II

Refer our letter No. 120545/3336/EIC(I) dated 13 Sep 82

1. Smt KA Siddiqui, Supdt B/R Gde II was SOS from GN (Lucknow wef 18 Oct 1982). The individual has refused to acc the movement order and has endorsed certain remarks on the. In this connection, a copy of GE (West) Lucknow letter No. 869/869/EIC dated 14 Oct 82 is enclosed as Appendix 'A' to letter.

2. The vacancy position of Supdt B/R Gde II at Lucknow is also attached as Appendix 'B' to this letter. It will be therefore that Supdt B/R Gde II are still surplus at Lucknow and the individual has no case for retention at Lucknow.

3. This is for your information please.

4. This issues with the approval of Adml GE.

for info.
to Supd Wgms

(M. Samuel Mathan)
AO I
for Chief Engineer

Copy to:-

- 1. CME (P) Lucknow
- 2. GE (West) Lucknow

- for information.

CONFIDENTIAL

Annex (A) 3355
to be sent
to the Lucknow
though I be
by can use of
him

2102



Alif
8/11/82
25/25/908

Handwritten signature

49

Annexure (A) - XV

(7/117)

Garrison Engineer (West)
Lucknow

(Through proper channel)

POSTING/REPOSTING OF SRI K. A. SIDDIQUI SUPDT B/R II
AGAIN TO BABINA AFTER CANCELLING THE PREVIOUS ORDER
OF MOVE TO BABINA ON APPEAL

Sir,

The applicant most humbly begs to state as under:-

1. I was called by GE (West) Lucknow in his office and was asked to receive the movement order.
2. That on that movement order the following remarks were endorsed by me:-

(a) Before I receive the movement order my interview with CGDC Lucknow and R-in-C in turn be arranged on the following grounds:-

- (i) The transfer is violation of R-in-C transfer policy.
- (ii) I am not surplus therefore can not be transfer.
- (iii) After cancelling the previous order of move to Babina on appeal the office of GE CC Lucknow has exhausted its power and has become functus officio and left with no power to reconsider or reissue the orders for Babina.

I may please be intimated the letter No through which the above remarks endorsed on movement order have been further transmitted to CME seeking further action and advice please.

Yours faithfully,

[Signature]

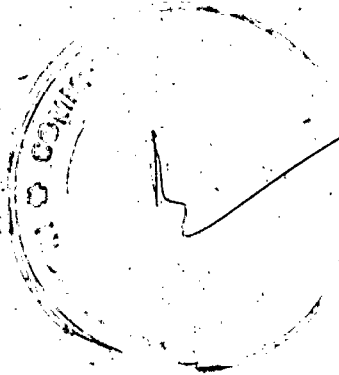
(K A Siddiqui)
Supdt B/R Cdr II

Date: 18 Oct 82

Copy for:-

1. GE CC Lucknow
2. CME Lucknow
3. CME (P) Lucknow

[Signature]



[Signature]
25/25/98/5

51

Annex CA-XVI

CONFIDENTIAL

The individual may be informed suitably.

165/A

119

(Gurbachan Singh)
Lt Col
SO I (Pers)
Chief Engineer

19/11/82

Copy to:-

CE, Jabalpur Zone
Jabalpur

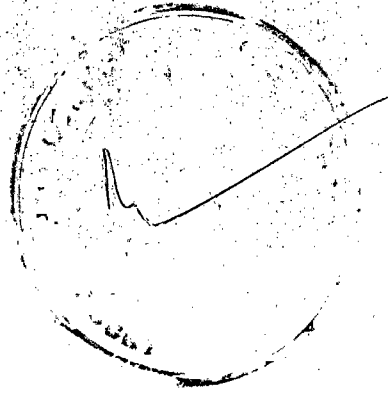
GWB Jabalpur

with reference to CE (W) Lucknow MO
quoted above.

Please initiate disciplinary action
against Shri M Siddique, Supdt D/R Gde II
under the existing rules, if he/continues absent
without permission.

CE (P) Lucknow
CE (K) Lucknow
CE Dabla

CONFIDENTIAL



Handwritten signature/initials.

OA	8/11/82
I	
S	25/25/985
D	

Chief Engineer (Major Gen J.M. Rao)
Central Command
Lucknow.

A
120

(3)

Respected Sir,

Being Compelled by the grim situation and most pitiable condition faced by the applicant - the applicant has emboldened to approach your honour to seek redress in the facts as under.

That for the last 3 years applicant has not been paid his pay and allowances. Due to non payment of salary and non keeping him on strength of either G2 (MISB) Lko or G2 (RCP) Meerut. his wife and children too are starving and leading most miserable pitiable life. The applicant is not under stood as to what guilt he has committed that applicant is subjected to such severe punishment and inhuman treatment.

That for details of the case the copy of applicant's application dt 12 Oct 85 with enclosure appended "A" and appended "B" is attached.

(1) That applicant was posted to Babina but on appeal it was cancelled as per appended "A" of application dt 12 Oct 85 attached to this letter.

(2) That in the same para of appended "A", CDR Lucknow posted the applicant to G2 (RCP) Meerut. The movement order for G2 (RCP) Meerut was not issued even after calling, the applicant to report.

(3) That after upgrading in office G2 (MISB), instead of issuing movement order for G2 (RCP) Meerut issued movement order for G2 Babina on which applicant endorsed remarks and sought interview of your honour as can be verified from Appended "B" of application which he has not been granted.

(4) That as long as the posting for G2 (RCP) Meerut remained force and not cancelled movement order for G2 Babina still is justified and cannot be issued.

(5) That applicant wrote many applications and reminders but all are kept unattended for or it is apprehended that the same is being destroyed at some quarters.

(6) That very graciously CDR Lucknow has written a letter dt 4 Dec 85 directing him to obtain in triplicate the application from Sri Siddhaji indicating in detail of the case and No. of cases Lko. and on 16 Jan 86 and write a letter to G2 (MISB) for obtaining Copies of application from Sri K. S. Siddhaji which applicant has come to know has been stopped by orders of CDR on Telegram on dt 7 Dec 86.

(7) That Sri S.S. Misra Gen Secy is not on good terms with applicant and Calamitously harming & spoiling the case.

In view of above and accompanying application dt 12 Oct 85 and in the end of justice kindly give an edictive order for an interview to the applicant so that applicant may be put in the way of coming on the strength either in Meerut or Lko.

Yours faithfully
18/1/86

19/1/86 K.A. Siddhaji - Gen Secy
BAGH SHAR TUG Lucknow

[Signature]

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Annexure CA-XVIII

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The Chief Engineer
HQ Central Command
Lucknow

POSTING TRANSFER OF SHRI K.A. SINDHIQUI
SUPPLY B/R UDE II

Sir,

Reference applicants (i) appeal dated 09 Apr 1982 (ii) GE NZ Lucknow letter No. 120545/3329/EIC(I) dated 23 Aug 82 (iii) AGE (P) (IND) Lucknow letter No. 1016/RR/1625/EI dated 26 Aug 82 (iv) Remarks endorsed on second Movement Order for Babina by GE (West) Lucknow (v) Applicant application dated 18 Oct 82 addressed to GE (West) Lucknow copy to GE HQ CC Lucknow, GE NZ Lucknow and HQ CWE (P) Lucknow and many reminders dated 10.1.83, 15.2.83, 22.4.83, 25.5.83, 29.6.83, 2.2.85, 15.4.85, 19.8.85 and application for pay and allowances.

With due respect and humble submission the applicant states that with greatest pain he is compelled to announce to you the terrible intelligence of a sad and severe reversal of fortune which recently has overtaken him, for no reason or fault on his part but mainly due to (i) non taking his strength either in GE (West) Lucknow or in GE (RCP) Meerut after cancellation of posting order to GE Babina (ii) non payment of pay and allowances (iii) and huge expenditure of litigation which opponent party has inflicted upon applicant. Hope considering the very poor and weak state of financial position and severity of calamity your Honour will take the applicant on strength in GE (West) Lucknow or in GE (RCP) Meerut as the posting order for GE (RCP) Meerut still stands good on considering the above as follows :-

- (a) That the applicant was posted to GE Babina vide GE NZ Lucknow letter No. 120545/3213/EIC(I) dt. 20.1.82.
- (b) That aggrieved by the above posting order which was done in utter disregard to E-in-C's policy on transfer then applicant preferred an appeal dt. 20.1.82 to GE HQ CC Lucknow.
- (c) That the said appeal of the applicant was graciously accepted and up-held and in the result posting order for GE Babina was cancelled vide GE Lucknow letter No. 120545/3328/EIC(I) dt. 23.1.82. (Copy attached as appendix 'A').
- (d) That AGE (P) (IND) vide his letter No. 1016/RR/1625/EI dated 26.8.82 informed the applicant that his posting order for GE Babina has been cancelled and in the same para further said that you are posted to GE (RCP) Meerut vide GE NZ Lucknow letter No. 120545/3329/EIC(I) dated 23 Aug 82.

Contd... 2/

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- (e) That applicant vide para 2 of AGE (P) (IND) Lucknow letter No. 1010/HR/1524/E1 dated 26 Aug 82 was called in the office of AGE (P) (IND) Lucknow to take movement order for GE (RCP) Memara.
- (f) That unluckily after the above stage of the case the office of AGE (P) (IND) Lucknow was upgraded to GE (West) Lucknow and Shri J N Rastogi took over the charge of the office of GE (West) Lucknow.
- (g) That the applicant when went to collect the movement order for GE (RCP) Memara in the office of GE (West) Lucknow, GE (West) Lucknow did not issue movement order for GE (RCP) Memara and insisted upon to issue movement order for GE Babina as specifically being known that posting order for GE Babina stands cancelled.
- (h) That so long the posting order for GE (RCP) Memara remains in force, operative and not cancelled GE (West) was not empowered to issue movement order for GE Babina which erroneously he was insisting upon.
- (j) That under such critical circumstances applicant endorsed few remarks as under on the movement order for GE Babina and returned it then and there which GE (West) insisted to issue illegally.

Remarks endorsed on Movement Order for GE Babina

- (1) Before receiving the movement order my interview with GE CC Lucknow and E-in-C's in which he arranged on the following grounds :-
- (aa) The transfer is violative of E-in-C transfer policy.
- (bb) I am not surplus therefore can not be transferred.
- (cc) After cancelling the previous order to move to Babina an appeal, the office of GE CC Lucknow has exhausted the and has become functus offi. and left with no power to reconsider or re-issue the order for Babina.
- (k) That applicant was left with no alternative except to intimate the factual position to GE CC Lucknow which he did vide application dated 18 Oct 82 (copy of which attached as appendix 'B').
- (l) That the applicant so far is neither involved in any disciplinary case nor of any time misconduct or misbehaviour is attributed to him.
- (m) That applicant continued to attend the office of GE (West) Lucknow regularly but authorities claimed no pay and allowances and paid no salary as yet.

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- 3 -

(a) That the applicant was left without any movement order or posting order to GE Babina was already cancelled and posting order for GE (RCP) Memara on the face of record being existed, but no movement order for GE (RCP) Memara was issued. Therefore, applicant was neither in a position to move to GE (RCP) Memara nor to GE Babina and authorities elected to remain silent in all the application letters, reminders.

(b) That since non-payment of pay and allowances the applicant is unable to feed himself and his wife and children thus applicant's family's own lot in life is no longer happy one as it was before, because the fortunate moments have been snatched away under duress by MBS authorities and have deliberately driven the innocent children and wife of the applicant to face all kinds of calamities and starvation and the applicant himself is made to stand as a spectator. Now applicant in such sad plight is constrained to say that if any such thing happened for instance suicide, burnt to death or the life of the whole family is brought to an end to save prestige then MBS authorities under such circumstances be responsible wholly for the mishap.

(c) That applicant is being made to carry deep and deep, the education of children is made to suffer and all the court cases in absence of payment to counsels or advocates may be defeated, for all these MBS authorities will be squarely responsible.

(d) That as AGE (P) (IND) letter No. 1010/BR/1625/E1 dated 26.10.82, the applicant is still born on the account of GE (West) Lucknow. Therefore GE (West) may please be directed to keep the applicant on its account or applicant be issued movement order for AGE (P) Memara as posting order for GE (RCP) Memara will hold good.

In view of above the applicant is beset by troubles and anxieties compounded due to non-payment of pay and allowances for considerably long period. Therefore, your honour is requested to either grant him an interview as requested vide application dated 18 Oct 82 or post him to GE (RCP) Memara, which is not this without any legal hurdle or if your honour does not wish to post him in Lucknow, in Bakhshi-Ka-Talab, or wherever, applicant has no objection.

Kindly dispose the case as early as possible to avoid further delay to applicant in more worst conditions.

18.10.82

Yours faithfully,

AGE (P)

AGE (P) (IND) letter No.
1010/BR/1625/E1 dt. 26.10.82
(Applicant's)(K. A. SIDDIQUI)
Super B/R Ode. II.Application dated 18.10.82
(Applicant's)


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Annexure (A) XVIII

APPEL

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File No. 111 613

10/10/82 1625/m

AGP (P) (Indop)
11 Sardar Patel Road
Lucknow - 226 002
Aug 82

1113-090806

From RA, SUPOT, Supot B/R Cdo II
1st/3 Bn, Supot Ganj
2nd/11 Bn, Lucknow

POSTING/TRANSFER : SUPOT B/R CDO II

1. Your posting order for CE Babina has been cancelled.
vide CE N2 Lucknow No 120345/3328/EC(I) dated 23 Aug 82
and posted to CE (RQ) Manaura vide CE N3 Lucknow letter
No 120603/3328/EC(I) dated 23 Aug 82.
2. Please report on duty to this office for taking movement of
order and finalise the case.

(M. 908)

CE

AGP (P) (I)

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Annex (A-XVII)

APPENDIX

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Carrison Engineer (West).
Lucknow

(Through proper channels)

POSTING/TRANSFER OF SRI K. A. SIDDIQUI SUPDT B/R II
AGAIN TO BABINA AFTER CANCELLING THE PREVIOUS ORDER
OF MOVE TO BABINA ON APPEAL

Sir,

The applicant most humbly begs to state as under:-

1. I was called by GE (West) Lucknow in his office and was asked to receive the movement order.

2. That on that movement order the following comments were endorsed by me:-

(a) Before I receive the movement order my interview with GECC Lucknow and B-in-C in turn be arranged on the following grounds:-

(1) The transfer is violation of B-in-C transfer policy.

(2) I am not surplus therefore can not be transferred.

(iii) After cancelling the previous order of move to Babina on appeal the office of GE CC Lucknow has exhausted its power and has become functus officio and left with no power to reconsider or reissue the orders for Babina.

I may please be intimated the letter No through which the above remarks endorsed on movement order have been further transmitted to GWS seeking further action and advice please.

Yours faithfully,

[Signature]

(K A Siddiqui)
Sundt B/R Gds II

Dated 18 Oct 82

Copy to:-

1. GE CC Lucknow
2. GE Z Lucknow
3. GWS (P) Lucknow

Received 18/10/82

Received 18/10/82

207x

[Signature]

8/11/82
287257 GDS

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Before the Central Administrative Tribunal,
Addl. Bench Allahabad.

Filed today
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Registration No. 779 of 1987
K.A.S iddiqui Applicant
Versus
The Union of India and
others Respondents.

Objection on behalf of the respondents
to the interim relief application is as under:-

1. That the contents of paragraph
no.1 of the interim relief application are
not admitted and as such are denied and the relief
sought by the petitioner cannot be granted at
this stage for the following reasons:-

(i) The applicant was relieved
by B.E.(West) Lucknow on his permanent transfer
to GE Babina on 18th October, 1982 and as per
order he should have reported there after availing
of the normal joining /journey period admissible
to him to enable the new unit to claim his pay and

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allowances etc. rather than resorting to various tactics and bringing in extraneous pressure for his retention at Lucknow.

(ii) He never joined his new unit as per orders and has been absenting himself wilfully, thus making him liable for disciplinary action for violation of orders under C.C.S. (CC & A) Rules, 1965.

(iii) Since he is absenting himself unauthorisedly and did not join within the permissible time limit, he is neither entitled to any pay and allowances until the absense period is regularised by granting leave nor he has lien on any appointment at present.

(iv) No leave can be granted to him for a continuous period exceeding five years unless sanction of the President is obtained.

2. That in reply to the contents of paragraph no.1(a) of the application, it is stated that the situation now he is facing

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is his own creation and he has himself to be blamed for it. Since there has been no injustice meted out to him, he is not entitled for any interim relief.

3. That in reply to the contents of paragraph no.1(b) of the application, it is stated that there are certain formalities to be observed before withdrawal from GP fund applied for by the individual is sanctioned by the competent authority. Since he has not reported to his office, he is posted in, and has been absenting himself wilfully, he is neither on the strength of his old unit nor to the unit to which he stands posted. The withdrawal, therefore, cannot be sanctioned on an application on a piece of paper. He is supported to fill the required form and supply the required data for this purpose to the Head of the Office for necessary action.

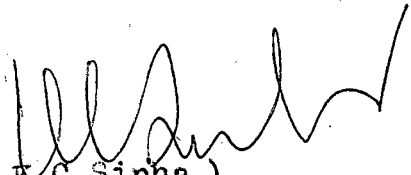
In view of the facts and circumstances stated above, the petitioner does not deserve any interim relief to be granted by this Hon'ble

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Tribunal and the application for relief may accordingly be dismissed. The matter is already subjudice before the Hon' ble Tribunal and the petitioner should have waited for final decision of the Hon' ble Tribunal.


(K.C. Sinha)

Dated: 14.2.89

Counsel for the Respondents

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Before the Central Administrative Tribunal, Addl.
Bench, Allahabad.

Misc. Application No. of 1989

On behalf of

The Union of India and

others Applicants

In

Registration No. 879 of 1987

K.A. Siddiqui Applicant

Versus

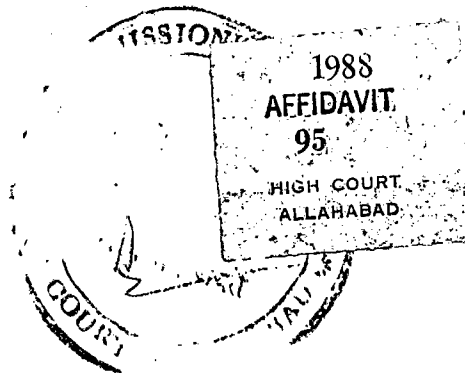
The Union of India and others Respondents.

To

The Hon'ble Members of the aforesaid
Tribunal.

The humble application of the applicants
aforesaid Most Respectfully sheweth as under:-

1. That the aforesaid petition has
been filed by the petitioner for a direction of
this Hon'ble Tribunal for issue of a proper
memo order for posting of the petitioner from
Lucknow to Banina alongwith other reliefs as
mentioned in para 9 of the petition.



Before the Central Administrative Tribunal,
Addl. Bench, Allahabad.

Counter-affidavit

In

Amendment Application

In

Registration No. 779 of 1987

K.A. Siddiqui Applicant

Versus

The Union of India and

others Respondents.

Affidavit of C.S. Misra,
aged about 52 years, son of
late Sri B.S. Misra, Administrative
Officer, Chief Engineer Central
Command, Lucknow.

(Deponent)

I, C.S. Misra, the deponent aforesaid,
do hereby solemnly affirm and state on oath
as under:-

1. That the deponent is Administrative
Officer in the office of Chief Engineer, Central
Command, Lucknow and as such is fully conversant
with the facts deposed to below.

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2. That the deponent has read the contents of the amendment application. He has fully understood the contents thereof and his reply on behalf of the respondents is as under:-

3. That the contents of paragraph no.1(a) of the amendment application are not admitted. As mentioned in the counter affidavit that the petition has not been filed within the time limitation and is highly time barred, the individual has now tried by making amendments to the original petition to come under the purview of the time limitation which may not be accepted at this stage.

4. That in reply to the contents of paragraph no.1(b) of the amendment application it is submitted by this amendment the petitioner wants to high light that he was neither given MO for GE (RCP) Memaura nor TA/DA for his movement from Lucknow to Memaura. In this connection it is submitted that the aspect has already been covered in the counter affidavit. Since the petitioner did not give the required undertaking, his posting to Memaura was withdrawn. The question of issue of MO and Payment of TA/DA, therefore, does not arise as he was subsequently posted to GE



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Bebina.

5. That in reply to the contents of paragraph no. 1(c) of the amendment application it is stated that the policy of posting/transfer remains the same even after the amendment requested by the petitioner.



6. That in reply to the contents of paragraph no. 1(d) of the amendment application it is stated that Chief Engineer Central Command Lucknow is the competent authority to issue posting order of subordinate staff working in its command and control, hence the amendment has no adverse effect.

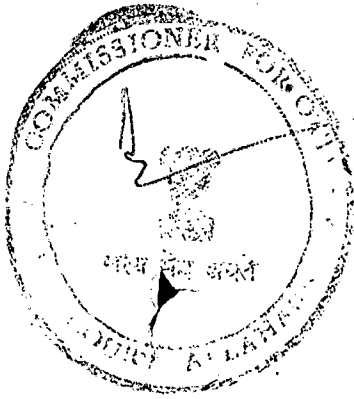
7. That in reply to the contents of paragraph no. 1(e) of the amendment application it is submitted that since the posting order issued by CE Lucknow Zone was based on the order issued by CE Central Command, the same was quite in order.

8. That in reply to the contents of paragraph nos. 1(f) to 1(g) of the amendment application, it is submitted that the counter affidavit remains the same even after the amendment.

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9. That in reply to the contents of paragraph no. 1(h) of the amendment application it is stated that by this amendment the petitioner wants to draw attention of the Hon'ble Tribunal that he has neither been issued MO nor TA/DA for his posting to Babina and his pay and allowances from October, 1982 has also not been paid. The reasons for the same have already been given in the counter affidavit and hence the same need not be reiterated here.



10. That in reply to the contents of paragraph no. 1(i) of the amendment application, it is submitted that movement order has already been issued and he is fully aware of it and should have acted upon the same accordingly.

11. That in reply to the contents of paragraph no. 1(j) of the amendment application it is submitted that no violation has been made by CE Central Command Lucknow/CE Lucknow Zone Lucknow. The position has been already explained in the counter affidavit and hence those averments need not be repeated here over and again. The statement made by the petitioner is wrong and as such is denied.

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12. That the contents of paragraph no.1(k) of the amendment application are denied. The question of issue of MO from Lucknow to Memaura did not arise ~~xx~~ for the reasons stated above.

13. That in reply to the contents of paragraph no.1(l) of the amendment application it is submitted that the amendment does not have any effect on the counter affidavit as already stated. The position has been fully explained in paragraph no.18 of the same.

14. That in reply to the contents of paragraph no.1(m) of the amendment application it is submitted that the petitioner did not follow the channel of correspondence, ~~xxx~~ for the reasons best known to him. Pressures from other ~~xxxxxxx~~ sources are not acceptable and have been at the risk of the individual. The petitioner would have been paid his pay and allowances had he reported for duty. As he was absenting unauthorisedly, the question of payment of his pay and allowances did not arise. His loss as mentioned by him in the amendment application is his own creation and he is to be blamed for it.

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15. That the contents of paragraph nos. i(n), (o) and (p) of the amendment application are denied. The reliefs sought for by the petitioner ~~are~~ do not warrant any consideration and the petitioner cannot be granted any of those reliefs for the following reasons:-

(a) Posting Orders/Movement order were correctly issued and were fully covered under the rules.

(b) The petitioner has been absenting ~~himself~~ wilfully and unauthorisedly hence he is not entitled for any thing. It is a breach of conduct and he has made himself liable for disciplinary action.

(c) As the petitioner is not entitled for any pay and allowance due to his continued wilful absence, the question of protection does not arise.

16. That the aforesaid application was filed by the petitioner for a direction of this Hon'ble Tribunal for ~~issue~~ issue of a proper memo order for his posting from Lucknow to Babina alongwith other reliefs as mentioned in para 9 of

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the petition.

17. That thereafter the petitioner has moved the application for amendment of his main petition narrating certain new facts as well as the grounds, which are actually not after thought but will infact change the nature of the case and will involve substantial amendments in the petition. The plea of malafide has been inserted by way of the said application as well the pleas which have not been taken in the original petition and that too without impleading the relevant Officer concerned. As such the amendment application is liable to be rejected.



I, C.S. Misra, the deponent aforesaid, do hereby declare that the contents of paragraph nos. 1, 2 and 3 of this affidavit are true to my personal knowledge; those of paragraph nos. 4 to 17 of the same are based on a perusal of records; and those of paragraph nos. on legal advice, which the deponent verily believes to be true. That no part of this affidavit is false and nothing material has been concealed or

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Before the Central Administrative Tribunal,

Additional Bench ... Allahabad.

Circuit Bench ... Lucknow.

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REJOINDER AFFIDAVIT

IN
AMENDMENT APPLICATION

in

REGISTRATION No.779 of 1987.

K.A.Siddiqi ... Applicant

Versus

The Union of India and others... Respondants.

To,

The Hon'ble Members of the,

Aforesaid Tribunal.

The humble submission of the applicant is as
under : -

1. That it is submitted that the above application had to be filed based on the documents then available and reliefs accordingly were sought, but in the light of the Annexures attached to the Counter Affidavit by the Respondants, which disclosed ~~that~~ some helpful facts and important documentary evidence which were not available to the applicant at the time of filing the above application. As such it has now become necessary to amend the application and incorporate these facts and documentary evidences which are essential for adjudication of the real controversy between the parties.
2. That the plea of malafide has been inserted solely by way of additional approach to the same set of facts of transfer case and by inserting the same, no prejudice is caused to the Respondants and no valuable right of

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limitation accrued to the respondents will be snatched and respondents No.3 and 4 by their conduct, ~~the~~ nature of dealing and manners are apparantly impleaded as relevant officers. The amendment application deserves to be accepted on the following :

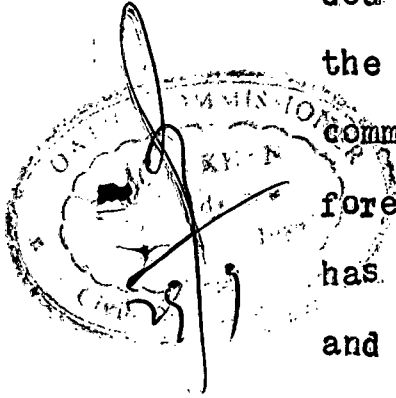
G R O U N D S :

1. Most of the amendments are due to typing error.
2. No injustice is caused to the respondents.
3. No irreparable loss is caused to the respondents.
4. No nature of suit will be altered.
5. No valuable right of limitation accrued to the respondents will be taken away.
6. Does not constitute an addition of new cause of action.
7. Does not raise a new case.
8. Amendment requested for, amounts to nothing more than additional approach to the ^{same} ~~same~~ set of facts of transfer case.
9. It shall be necessary for determining the real question in controversy between the parties.
10. The Respondants have admitted in para 5 that policy of transfer will remain the same even after amendment requested by the applicant.
11. The respondents have admitted in para 6 that amendment has no adverse effect.
12. The respondents have also admitted in para 8 that their Counter Affidavit remains the same even after amendment.
13. The respondents have admitted in para 13 that the amendment

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does not have any effect on the counter affidavit of the respondents.

3. That in the light of the above grounds and ^{being hopeful on} ~~the~~ the basis principles that the object of the hon'ble court while dealing amendment application, is to decide the rights of the parties and not to punish them for their mistakes they commit in conduct of theirs. The Hon'ble Tribunal ~~is~~, therefore is requested to allow the amendment application which has the merits and is necessary in the interest of justice and fair play.



P R A Y E R:

It is, therefore, respectfully prayed that the Hon'ble Tribunal may be pleased to accept the accompanying Rejoinder Affidavit to the amendment application and for the reasons disclosed in the affidavit, the amendment application be kindly allowed.

Lucknow:

Dated : 29.9.89

APPLICANT.

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Before The Central Administrative Tribunal.

Additional Bench: Allahabad.

Circuit Bench : Lucknow.

1989
AFFIDAVIT
8 IM
DIST. COURT
U. P.

REJOINDER AFFIDAVIT

in

Registration No. 779 of 1987.

K.A.Siddiqi

...

Applicant

versus

The Union of India and others...

Respondants.

AFFIDAVIT of K.A.Siddiqi, aged about
54 years son of late Khalil Ahmad Siddiqi
r/o 191/B Bhag Sher Jung, Lucknow.

... DEPONENT.

I, the above named deponent do hereby solemnly affirm
and state on oath as under : -

1. That the deponent is the sole applicant in the above noted case and as such he is well conversant with the facts of the case deposed hereinunder.
2. That the deponent has read the contents of the Counter Affidavit and its Annexures filed on behalf of the Respondants and has understood the contents of the same.
3. That the contents of para 1 and para 2 of Counter affidavit in the amendment application need no reply.

4. That the contents of paragraph 3 of the Counter Affidavit, the amendment application are not admitted. Whereas those of paragraph 1(a) of amendment application are re-iterated and affirmed. It may be respectfully submitted that order No. 120545/3213/E-I, C(1) dt. 28th January, 1982 (Annexure-C.A-VII) is the basis of movement order dated 11-10-82 (Annexure No. I) and is a subject matter of dispute. It was made available only when counter affidavit was

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submitted by respondents and letter dated 30-12-86 (Annex-VI) was already on record. Both the letters mentioned above added as amendment 1(a) were necessary for determining the real question in controversy between the parties. That the application has been filed within the time limitation and is not time barred firstly because the application has been filed on Aug.87. That it is within one year from the date of final order dated 30-12-86 (Ann.-6) Secondly it is also the very essence of CONTINUING WRONG that deliberate non issue of proper movement order based on posting order from competent authority, thus disabling the applicant, each day, to report for duty and illegally denying the pay and allowances without observing the statutory rules of C.C & A (C.C & A) Rules 1965 and article 311(2) of Constitution of India are wrongful act, which create continuing source of injury and renders the (respondents) does of such act responsible and liable for continuance of the said injury. However, the said wrongful act are of such a character that the injury caused by itself continues. Hence such acts constitute a CONTINUING WRONG OR TORT and in continuing wrong, ^{a fresh} ~~fresh~~ period of limitation begins to run at every moment of time during which CONTINUING WRONG continues. Therefore, the application in the above circumstances is not time barred and is well within the pervue of time limitation which deserve to be accepted.

5. That the contents of paragraph 4 of the counter affidavit in the emendment application are not admitted and denied, whereas the contents of para 1-Bb) of amendment application are reiterated, the amendment 1(b) is only meant to add facts and reality to this para and causing no injustice to

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the respondents. Therefore, deserves to be granted. It is most humbly submitted that applicant was never called by respondent No.4 and prior to him^{by} the Assistant Garrison Engineer (Project) Independent, Lucknow for giving any type of undertaking or never asked to sign any undertaking. The respondent No.3 vide para 12 of counter affidavit, admitted, stated that in pursuance of the application dated 27-7-82 respondent No.2 issued an order dated 18-8-82 (Annex.CAIX) Therefore the question of, firstly recommending and then the question of withdrawing the recommendation does not arise as order dated 18-8-82 (Ann.CA IX) is only in pursuance of application dated 27-7-82 as admitted by the respondent No.3. That is respondent No.3 has no jurisdiction to withdraw that recommendation which he had not done vide any letter to respondent No.2. The question of issuing the movement order for Memora arises because the respondent No.4 was supplied the copy of order dated 18-8-82. That the cancellation of posting order of the applicant for Memora by respondent No.3 on 06-10-82 (Ann.CA XII) before receiving the decision from respondent No.2 was beyond jurisdiction of respondent No.3, as respondent No.3 was not empowered to cancel it on that date. Hence in absence of any statutory provisions of obtaining approval/concurrence by the incompetent authority (CENZ, Lucknow), for his erring acts of cancelling the posting order for Memora on the date, on which respondent No.3 not earned such power, and finally converting the compassionate posting case of transfer of applicant to surplus case, and posting him to G.E Babina in Jabulpore Zone from Lucknow, being beyond the power of respondent No.3 will certainly amount to wrongful and illegal act of CENZ, Lucknow. Hence the question of issuance of movement order and payment of T.A , D.A certainly does

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advise , as the cancellation of posting ~~for~~ ^{for} Memora was beyond the jurisdiction of respondent No.3 and respondent No.4 should have given effect to the order dated 18-8-82 (Ann.CA IX) and respondent No.4 being a responsible officer was aware of the validity, legality or orders and competency of respondent No.3 and respondent No.2.

6. That in reply to the contents of para 5 of counter affidavit the amendment application, it is stated that respondent themselves are of the view that amendment No.1(c) is bringing no change in the policy of posting/transfer if amendment prayed for is allowed.
7. That in reply to the contents of para 6 of counter affidavit in the amendment application it is said that respondents have stated that amendment No.1(b) has no adverse effect, therefore can be allowed. It is also most humbly submitted that the powers conferred by para 3 of Engineer -In-Chief transfer policy dated 17-10-74 (Ann.2 a) is quasi-judicial. The expression " may issue supplementary instruction to implement the policy " does not confer any absolute discretion or plenary power on Chief Engineer, Central Command, Lucknow. Thus CECC, Lucknow is not competent or has no jurisdiction to impose or add any condition or ~~restriction~~ ^{restriction} over the intent already disclosed by office memorandum of Ministry of Defence dated 21-5-75 (Ann.2 a) and Engineer-In-Chief transfer policy dated 17-10-74 (Ann-2 a) and dated 30-12-83 (Ann-2).
8. That the contents of para 7 counter affidavit in amendment application are not admitted and para 1(e) of amendment application are reiterated and further stated that this is necessitated to remove the omission and typing error such as in place of posting order for GE Babina was typed

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Movement Order and an appeal dated 03-4-82, (Ann-3c) which was submitted through proper channel, was to be included as (Ann-3c) . That by this amendment no injustice is going to be caused to the respondents, therefore, deserves to be allowed. It is most humbly submitted that in terms of Engineer-In-Chief's transfer policy (Ann-2) and (Ann-2a) volunteers were to be called for by CECC, Lucknow and in determining longest stayee in a station all MES units including G.E's offices located in the station and adjacent localities will be taken into consideration. The seniority in that station will be decided by the Chief Engineer, Command. Grouping of various units in a station including adjacent localities will be decided by the Chief Engineer, Command. Since volunteers were called for by CENZ, Lucknow and longest stayee was also determined by CENZ, Lucknow therefore it can not be said that posting order was issued by CECC, Lucknow. That the posting order issued by CENZ, Lucknow was not based on the orders of CECC, Lucknow, the same, therefore, was not in order, as CENZ, Lucknow was not empowered to transfer the applicant from Lucknow Zone to Jabulpore Zone.

9. That in reply to the contents of paragraph 8 of the counter affidavit, it is said that the respondents have submitted that after incorporating the amendment 1(f) and 1(g), their counter affidavit will remain the same. Therefore, amendment 1(f) and 1(g) since are not causing any injury to the respondents therefore deserves to be allowed.

10. That the contents of para 9 of counter affidavit in amendment application are not admitted. That amendment

vide para 1(h) is very simple typing error and in no way is causing loss or injury to the respondents, therefore, deserves to be allowed. That it is true that firstly applicant is being harassed by way of not giving movement order for Garrison Engineer (RCP) Memora and secondly respondents are arbitrarily not paying the T.A /D.A for move to Memora and thirdly respondents are also not paying him ~~with~~ pay and allowances from 1-10-82 till date, though he has a right to the post by virtue of holding substantively permanent post of Superintendent, B/R Grade II (for rest of the reply reasons and details, please see para 5, 15 and 16 of the rejoinder affidavit).

11. That the contents of para 10 of counter affidavit in the amendment application are not admitted. So far as amendment 1(i) is concerned it was a typing error for Memora erroneously Babina was typed, and to correct the sequence of the sentence (even though) word occurring in second line and word (not) in between word " has " and being in third line was required to be deleted by amendment 1(i) and word "as" was to be substituted after the word transfer at the end of second line. This amendment 1(i) is not going to prejudice the respondents , therefore, deserves to be allowed. That it is also humbly submitted that respondents are not deliberately issuing him proper movement order nor giving him T.A/D.A and also not paying him monthly pay and allowances.

12. That the contents of para 11 of the counter affidavit in amendment application are not admitted , whereas the contents of para 1(j) and 6(2) i to para 6(2)iv of amendment application are reaffirmed and as the violation are concerned, para 5, 15 and 16 of this rejoinder affidavit is

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-7-

referred to read. The amendment 1(j) is only by way of adding facts and realities and they are not prejudising the defence of the respondents, hence deserves to be allowed.

13. That the contents of para 12 of counter affidavit with amendment application are not admitted, whereas ~~amendment~~ vide para 1(k) of amendment application are reiterated. It is submitted that amendment vide para 1 (k) of amendment application is only a typing error hence should be allowed. It is further humbly submitted that keeping the legal aspect in view the question of movement order from Lucknow to Memora certainly did arise so long as the cancellation of posting order for Memora is not served upon the applicant, secondly cancellation of movement order from Memora will only be justified when appeals are disposed off, interview granted, or opportunity of hearing afforded to the applicant with respect to the transfer order is not extended (further details please refer para 5 15 and 16 of this rejoinder affidavit) .

14. That the contents of para 13 of the counter affidavit in amendment application is not admitted and whereas the contents of para 1(l) of amendment application are strongly reiterated. It is also submitted that respondents submit that amendment 1(l) does not have any effect on their counter affidavit, so this amendment admittedly is not causing any prejudice or injury to the respondent, therefore deserves to be allowed. That the applicant has no knowledge what was ordered by respondent No.2 to other respondents or G.E. Babina, but no respondent has ever informed the applicant about any issue except the letter dated 30-12-86. So far the averments that after being S.O.S struck off

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strength. Applicant should have made correspondence with G.E Babina is not correct. That is only applicable in normal state of affairs when S.O.S and movement order is not disputed. And when movement order dated 11-10-82 and subsequent S.O.S all are challenged being illegal the question of making correspondence to the unit ~~where~~ applicant has not reported for duty does not arise.

15. That the contents of para 14 of counter affidavit in amendment application are not admitted whereas the contents of para 1(m) together with sub para 6(20)i to 6(20) iv of amendment application are strongly reiterated and reaffirmed. It is humbly submitted that by this amendment no injustice or irreparable loss is caused to the respondents, but amounts to no more than adding to the facts, the amendment therefore deserves to be allowed. It is also stated that when respondents intentionally made patently erroneous and without jurisdiction orders firstly posting order dated 28-1-82 (Ann-CA vii) secondly movement order dated 11-10-82 (Ann-I) and thirdly order of S.O.S and are not prepared to listen the applicant or to reply his representation, Submitted, observing the correct channel of correspondence from October, 1982 to 30-12-86. Under such circumstances, if the applicant approaches to higher authorities through a Member of Parliament or through newspapers, it can not be termed as applicants exerted any pressure from other sources, and in the above state of affairs, when said order are patently erroneous illegal, ultra vires and without jurisdiction, the question of reporting to duty station does not arise. By not issuing the movement order to the applicant, the

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respondants themselves were abstaining the applicant from joining the duty, therefore the question of absenting from duty on the part of the applicant does not arise. The applicant has a valid contention that case of transfer of applivant could be decided by the respondants maximum by holding an enauiry and punishing thenapplicant, but their intention was not fair, therefore, they prolonged the case to inflict severe penalty so that the applicant may suffer intolerable or irrepairable loss and without any jurisdiction withheld the pay and allowances giving good bye to the fact that applicant has right to the post by virtue of holding substaintaively permanent post of Superintendent, B/H.Gr.II and the bonafides of hispost can not be questioned while he is entitled to say that mere fact that he ^{is} abstained to join duty did not dis-entitle him to claim the salary or emoluments which were promised at his permanent appointment. The applicant has suffered huge losses mentioned in amendment application are only due to the issuance of patently erroneous, illegal, ultra voires and beyond jurisdiction orders, sp (i) posting order dated 28-1-82(Ann-CA vii) (ii) movement order dated 11-10-82 (Anne-1) and finally ~~SOS~~ SOS orders therefore he can not be blamed for it, as respondants themselves are squarely responsible for it.

16. That the contents of para 15 of counter affidavit in amendment application are not,admitted and whereas the contents of paragraph 1(n) , 1(o) and 1(p) of the amendment application are reaffirmed. It is also humbly stated that by inserting the relief vide para 1(n) , 1(o) and 1(~~P~~) of amendmet application, neither the nature of the suit will be altered nor any valuable rights of limitation accrued

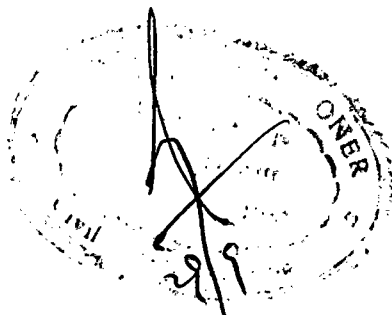
A/92

-10-

to the respondents will be taken away. Therefore, the relief sought for deserves to be allowed for the following among other reasons :

- (a) Posting order/movement order are patently erroneous, illegal and beyond jurisdiction and were issued in flagrant violation of rules.
- (b) respondents, have been, willfully and un-authorisedly abstaining the applicant from joining the duty since 14-10-82 till date by not issuing the proper movement order based on posting order from competent authority in strict compliance of ^{the} Engineer-In-Chief's transfer policy and instructions of Ministry of Defence. As this is a serious offence/wrong done or misconduct on their part and by such act, they have made themselves liable for stringent action under rules.
- (c) such situation was once more created in the month of July and August, 1982 that the then respondent maliciously had made the applicant S.O.S for ~~REASON~~ G.E Babina from 12-6-82 and arbitrarily stopped the pay and allowances but the applicant, as at present, then continued to attend the office as usual and signed the attendance register which now respondents are not allowing to sign the attendance register. That time they had to pay the salary for the month of June/July and August. At this occasion also the applicant is attending the duty and performing the same duty as he was doing prior to the issuance of movement order dated 11-10-82. Therefore the applicant is entitled to his all pay and allowances as he did not remain absent. Moreover, when a Government servant, such as the applicant is appointed substantively to a permanent post in Govt.

✓ With out issuance of movement order



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service, he acquired the right to hold the post until, under the rules, he attains the age of superannuation. He can not be abstained from joining the duty, by not issuing proper movement order, unless post itself is abolished or appropriate proceedings are taken under service rules read with Article 311(2) of the Constitution of India. Such abstention caused due to non issuance of proper movement order to such employees, so appointed must per se ~~XXXXXXXXXX~~ be a punishment, for it operates as a forfeiture of Government servant's rights and brings about a premature end of his employment. Therefore, protection u/a 311(2) will be available and pay and allowances without observing the statutory rules of CCS(CC & A) Rules, 1965 can not be denied.

17. That the contents of para 16 of the counter affidavit in amendment application are not admitted and it is most humbly submitted that the application had to be filed based on the documents, then available and relief accordingly was sought. But in the light of the annexures attached to the counter affidavit by respondents, which disclosed helpful facts and important documentary evidence, which were not made available to the applicant at the time of filing the application. As such it has not become necessary to amend the application and incorporate those facts and documentary evidences which are essential for adjudication of the real controversy between the parties.

18. That the contents of para 17 of the counter affidavit in amendment application are not admitted, and it is most humbly submitted that the plea of malafide has been inserted solely by way of additional approach to the same set of facts of transfer case and by inserting the same, no prejudice is

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-12-

caused to the respondents and no valuable right of limitation accrued to the respondents will be snatched. And respondent No. 3 and 4 by their conduct, nature of dealing and manner are apparently impleaded as relevant officers. The amendment application deserves to be accepted on the following grounds too :

G R O U N D S :

1. Because most of the amendments are due to typing error. ~~XX~~
2. No injustice is caused to the respondents.
3. No irreparable loss is caused to the respondents.
4. No nature of suit shall be altered.
5. No valuable right of limitation accrued to the respondents will be taken away.
6. Does not constitute any addition of a new cause of action.
7. Does not raise a new case.
8. It shall be necessary for determining the real question in controversy between the parties.
9. Amendment requested for, amounts to nothing more than additional approach to the same set of facts of transfer case.
10. The respondents have admitted in para 5 of their counter affidavit that policy of transfer will remain the same even after the amendment requested, by the applicant.
11. The respondent in para 6 of their counter affidavit have admitted that amendment has no adverse effect.
12. The respondents have admitted in para 8 of the counter affidavit that their counter affidavit remains the same, even after amendment.
13. The respondents have admitted in para 13 of C.A that the amendment does not have any effect on their counter affidavit.

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That in the light of above grounds and ^{being hopeful in} ~~the~~ the basic principles that the object of the Hon'ble court while dealing amendment application is to decide the right of the parties and not to punish them for their mistakes they commit in conduct of theirs. The hon'ble Tribunal, therefore, is requested to allow the amendment application which has merit and is necessary in the interest of justice and fair play.

Lucknow:

Dated :


DEPONENT

Verification

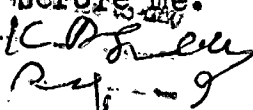
I, K.A. Siddiqi, the deponent do hereby verify ~~that~~ and declare that the contents of paragraphs Nos. 1 to 2 of this affidavit are true to my personl knowledge and those of paras 3 to 18 are bellieved by me to be true to ~~fact~~ which i believe that no part of this affidavit is false and nothing material has been concealed. So help me GOD.

Lucknow:

Dated :


DEPONENT.

I identify the deponent, who has signed before me.

by 
Advocate.

Advocate.

examining the contents of the affidavit and read out and

KHAN
Advocate
Lucknow

ATTN: Please inform me of any changes to the above information.

Very truly yours,

DATE: 10/10/85
 BY: [Signature]

OF THE [Signature]
 IN THE [Signature]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
 DATE 10/10/85 BY [Signature]

1. [Signature]
 2. [Signature]
 3. [Signature]
 4. [Signature]
 5. [Signature]
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 7. [Signature]
 8. [Signature]
 9. [Signature]
 10. [Signature]

11. [Signature]

(A)

ENNEXURE NO (I) RA,

Mil: 746

Office of the Chief Engineer
Northern Zone
Lucknow - 226002

122905/2B /157/EIO

30 Jun 82.

MES 440082

Shri Mohd Zaki Ahmed, Supdt B/R Gde II(QPT)

Through E-2(Wks)/E5

POSTING TRANSFERS-SUPDT B/R GRADE II

1. You are hereby permanently transferred to GE, Babina being a volunteer at state expense.
Authy:- CE CC Lucknow letter No 910127/6/195/BIC/(I dated 28 May 81.
2. You will be relieved of your duties on 15 Jul 82(AN) and report to the new formation after availing of usual joining time.
3. TA/DA and pay advance can be had on application .
4. You will submit the requisite no demand certificate duly completed in accordance with this office order No 47 dated 17 Aug 74 to your section together with the following:-
(a) Identity Card (b) Command Special Entry Pass
(c) GGHS Card.
5. Your pay and allowances for the month of Aug 82 and onwards will be claimed by the new formation after your reporting there for duty.

(GVR Subramanyan)
AE/SO 3(pers)
For Chief Engineer.

(Signature)

A. 100

(15)

I, PremNarain Pandey, Clerk to Sri G. D. Mukerji, Advocate, High Court, Allahabad do hereby declare that the person making this affidavit and aleging himself to be the same person is known to me through the papers produced by him in this case.

P. N. Pandey

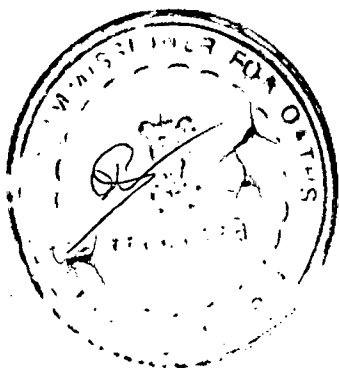
CLERK.

Solemnly affirmed before me on this 22nd th, day of February, 1988, at 9.10 a.m./p.m. by the deponent, who has been identified by the aforesaid person.

&I have satisfied myself by examining the deponent that he under-stands the contents of this affidavit.

Oath Commissioner.

(S. C. S. (P. A.)
OATH COMMISSIONER
Dated. 27/77/289
22/2/88



15/5

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(14)

35. That the contents of paragraph 34 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(19) of the application are reiterated and reaffirmed.

36. That the contents of paragraph 35 of the counter affidavit need no reply.

That the contents of paragraphs 1, 2, 3, 12, 14 to 20
22 to 36.
of this affidavit are based on my personal

knowledge; and those of paragraphs 4 (Partly) 5 (Partly)

6 to 11, 13, 21 (Partly) of this affidavit are based on

records; and those of paragraphs 4 (Partly) 5 (Partly)

21 (Partly) of this affidavit

are based on legal advice; which all I believe

to be true that no part of it is false and

nothing material has been concealed.

So help me God.

[Signature]

DEPONENT.

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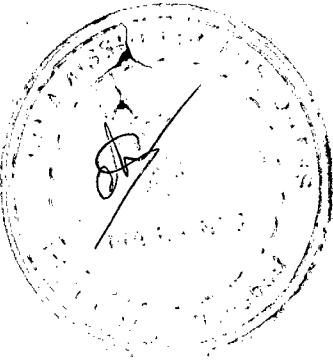
(13)

those of paragraph 6(13) of the application are reiterated and re-affirmed .

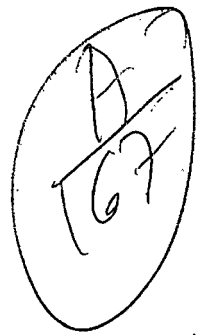
32. That the contents of paragraph 31 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(14) of the application are reiterated and reaffirmed .

33. That the contents of paragraph 32 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(15) of the application are reiterated and reaffirmed .

34. That the contents of paragraph 33 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraphs 6(16), 6(17) and 6(18) of the application are reiterated and reaffirmed .



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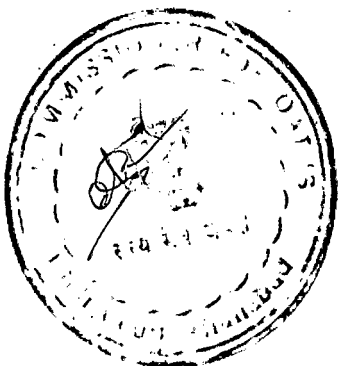


(12)

29. That the contents of paragraph 28 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(11) of the application are reiterated and reaffirmed .

30. That the contents of paragraph 29 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(12) of the application are reiterated and reaffirmed. It may respectfully be submitted at this state that the movement order, of which the applicant has made endorsements was never handed over back to him. As such the applicant could not leave to report to the Office of Garrison Engineer, Babina .

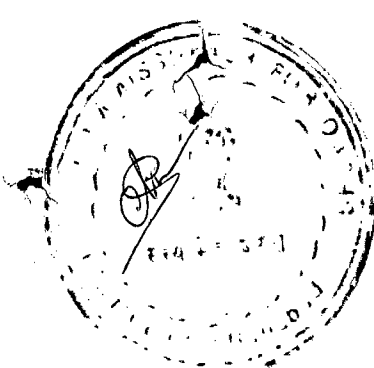
31. That the contents of paragraph 30 of the counter affidavit are not correct as stated and hence emphatically denied, whereas



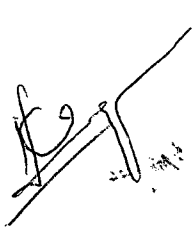
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(11)

stated and hence emphatically denied, whereas those of paragraph 6(7) of the application are reiterated and re-affirmed. It may respectfully be submitted that as per the seniority list of the Volunteers and long stayees at Lucknow, the applicant could not be transferred in view of several persons have already above to him.



27. That the contents of paragraph 26 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(8) and 6(9) of the application are reiterated and reaffirmed. All allegations to the contrary are denied.

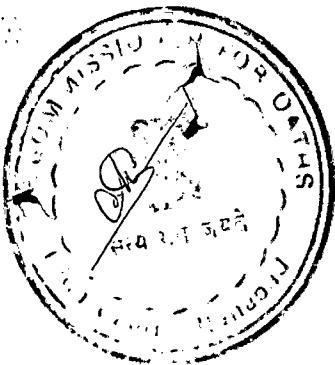


28. That the contents of paragraph 27 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(10) of the application are reiterated and reaffirmed.

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(10)

stated and hence emphatically denied. The applicant was never asked to give an undertaking that after one year he may be transferred to any place. Even though the applicant was transferred to Memaura, but no movement order has been given to him. All allegations to the contrary are hereby denied .



24. That the contents of paragraph 23 of the counter affidavit need no reply.

25. That the contents of paragraph 24 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(6) of the application are reiterated and reaffirmed. As regards contents of the annexure CA-XVI, the applicant has no knowledge , nor was he ever shown the same.

26. That the contents of paragraph 25 of the counter affidavit are not correct as

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(9)

20. That the contents of paragraph 19 of the counter affidavit need no reply.

21. That the contents of paragraph 20 of the counter affidavit are mis-leading and hence denied, whereas those of paragraph 5 of the application are reiterated and reaffirmed. It may respectfully be submitted that it was vide letter dated 24th March, 1987, the Garrison Engineer, Lucknow has intimated the applicant that the applicant's stand transferred to Babina copy of which has already been annexed as annexure-6 to the application. As such the application of the applicant is within the limitation .



22. That the contents of paragraph 21 of the counter affidavit are not disputed .

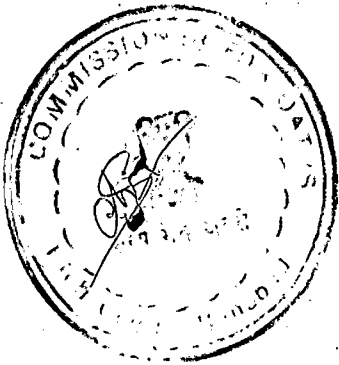
23. That the contents of paragraph 22 of the counter affidavit are not correct as

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(8)

submitted that the applicant has not received any movement order till date.

17. That the contents of paragraph 16 of the counter affidavit can not be replied, as the applicant has not received any movement order through Post .



18. That the contents of paragraph 17 of the counter affidavit are matters of record and need no reply by the deponent.

19. That the contents of paragraph 18 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that the applicant has not been served with any movement order till date .

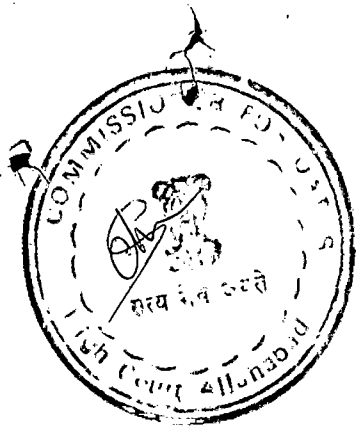
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(7)

14. That the contents of paragraph 13 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that the applicant never refused to accept the movement order, which will be abundantly clear from annexure-CA-XIII of the counter affidavit .

15. That the contents of paragraph 14 of the counter affidavit are matters of record and need no reply by the deponent.



16. That the contents of paragraph 15 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that the applicant never refused to accept the movement order. But he had made certain remarks on the same movement order, asking for an interview with the Chief Engineer, It is absolutely wrong to allege that the applicant refused to accept the movement order. It may categorically be

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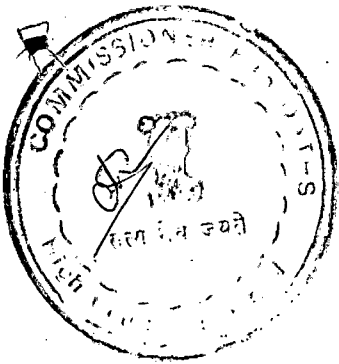
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(6)

sent to Gorakhpur and Two of them were to go to Babina, and as per the list of the longest stayee/Volunteer, the applicant's name never featured, but because of the manipulation made by the respondent Nos. 3 and 4, the applicant's name featured at Sl. No. 5, as per annexure-CA-IV and finally, the applicant was neither a volunteer nor the senior most stayee at Lucknow, was illegally sent to Babina, vide annexure-CA-VII. It is wholly incorrect.

12. That the contents of paragraph 11 of the counter affidavit are not disputed.

13. That the contents of paragraph 12 of the counter affidavit are matters of record. However, it is stated that as regards Annexures CA-XI and CA-XII, i.e. letters dated 13th Sept. 1982 and 6th October, 1982, respectively, the applicant categorically states that he has no knowledge of the same. Further more, no undertaking was asked from the applicant by any of the respondents.



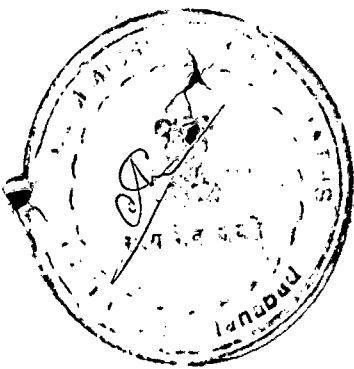
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(5)

such the annexure-CA-V is absolutely wrong and against the established policy .

10. That the contents of paragraph 9 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that according to policy of transfer, if any person has volunteered for a particular station, then that vacancy should be filled-up by the person who has volunteered, and by none else. The movement order in respect of Mohd. Zaqi shown at Sl.No. 2. A copy of the movement order in respect of Mohd. Zaqi is enclosed herewith and marked as ANNEXURE-RA-I to this affidavit .



11. That the contents of paragraph 10 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that in accordance with the letter dated 28th May, 1981, five Supdt. B/R Grade-II were to be transferred from Lucknow, Two of them were to be sent to Faizabad, One of them was

P/2

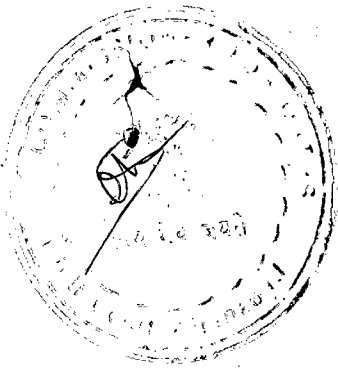
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(4)

The names contained in annexure-CA-IV are not at all comprehensive and the seniority list in respect of long stayee should be prepared by the Chief Engineer, Central Command, Lucknow, herein after referred to as respondent No.2, and this is as per the policy also.

8. That the contents of paragraph 7 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that the list of the long stayees of Supdt. B/R, serving at Lucknow were left out for example, Sri Altaf Hussain, Supdt. B/R, Grade-II, who was a long stayee

9. That the contents of paragraph 8 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that the persons whose ~~NAMES~~ termed has come for posting in the normal course for peace station can not be year marked posting to tenure station. As



12/7

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(3)

6. That the contents of paragraph 5 of the counter affidavit are not correct as stated and a deliberate attempt has been made to mis-lead this Hon'ble Tribunal, and hence emphatically denied. Annexure-CA-III deals with the names of the candidates, out of which only two Volunteer/ long stayees were to be picked up by the respondent no.3, in which the applicant's name featured at Sl. No. 5, vide annexure-CA-IV of the counter affidavit.



7. That the contents of paragraph 6 of the counter affidavit are not disputed as such. But the respondent no. 3 had no business to ask for the names of long-stayees at Lucknow station from the office of the Commander Works Engineer, as such annexure-CA-IV is not a comprehensive list of the long stayees, and the Superintendent B/R, Grade-II working in the office of the Central Command, and Chief Engineer, Bakshi Ka Talab have been left out.

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(2)

2. That the deponent has read the contents of the counter affidavit and its annexures, filed ~~by~~ on behalf of the respondents and has under-stood the contents of the same.

3. That the contents of paragraphs 1 and 2 of the counter affidavit need no reply.

4. That the contents of paragraph 3 of the counter affidavit are irrelevant for the purposes of this case. The applicant's case stands on a different footing, and the applicant's transfer order from Garrison Engineer(West) Lucknow to Garrison Engineer, Babina is not covered by annexure-C.A.-I to the counter affidavit .

5. That the contents of paragraph 4 of the counter affidavit are irrelevant for the purposes of this case, and the applicants has got no concerned whatsoever, as far as annexure-CA-II is concerned .



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1988
AFFIDAVIT
77
HIGH COURT
ALLAHABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
ALLAHABAD.

REJOINDER AFFIDAVIT

IN

REGISTRATION NO. 778 OF 1987.

Received
By
20/4/88

Ar

K. A. Siddiqui.

Applicant.

Versus

Union of India & others, Respondents.

Affidavit of K. A. Siddiqui

aged about 52 years, son of

Late Khalil Ahmad Siddiqui

Resident of 191/13 Bagh Sh

Jung, Lucknow.

(Deponent)

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

1. That the deponent is the sole applicant
in the abovenoted case and as such
acquainted with

A/172

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

ALLAHABAD.

R E S O I N D E R A F F I D A V I T

IN

REGISTRATION NO. 778 OF 1987.

K. A. Siddiqui. - - - - - Applicant.

Versus

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

Affidavit of K. A. Siddiqui,
aged about 52 years, son of
Late Khalil Ahmad Siddiqui,
Resident of 191/13 Bagh Shar-
Jung, Lucknow.

(Deponent)

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

1. That the deponent is the sole applicant
in the abovenoted case and as such he is well
acquainted with the facts of the case deposed
to below.

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(2)

2. That the deponent has read the contents of the counter affidavit and its annexures, filed ~~by~~ on behalf of the respondents and has under-stood the contents of the same.

3. That the contents of paragraphs 1 and 2 of the counter affidavit need no reply.

4. That the contents of paragraph 3 of the counter affidavit are irrelevant for the purposes of this case. The applicant's case stands on a different footing, and the applicant's transfer order from Garrison Engineer(West) Lucknow to Garrison Engineer, Babina is not covered by annexure-C.A.-I to the counter affidavit .

5. That the contents of paragraph 4 of the counter affidavit are irrelevant for the purposes of this case, and the applicants has got no concerned whatsoever, as far as annexure-CA-II is concerned .

A
174

(3)

6. That the contents of paragraph 5 of the counter affidavit are not correct as stated and a deliberate attempt has been made to mis-lead this Hon'ble Tribunal, and hence emphatically denied. Annexure-CA-III deals with the names of the candidates, out of which only two Volunteer/ long stayees were to be picked up by the respondent no.3, in which the applicant's name figured at Sl. No. 5, vide annexure-CA-IV of the counter affidavit.

7. That the contents of paragraph 6 of the counter affidavit are not disputed as such. But the respondent no. 3 had no business to ask for the names of long-stayees at Lucknow station from the office of the Commander Works Engineer, as such annexure-CA-IV is not a comprehensive list of the long stayees, and the Superintendent B/R, Grade-II working in the office of the Central Command, and Chief Engineer, Bakshi Ka Talab have been left out.

and AGE

(4)

The names contained in annexure-CA-IV are not at all comprehensive and the seniority list in respect of long stayee should be prepared by the Chief Engineer, Central Command, Lucknow, herein after referred to as respondent No.2, and this is as per the policy also.

8. That the contents of paragraph 7 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that the list of the long stayees of Supdt. B/R, serving at Lucknow were left out for example, Sri Altaf Hussain, Supdt. B/R, Grade-II, who was a long stayee

9. That the contents of paragraph 8 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that the persons whose ~~names~~ termed has come for posting in the normal course for peace station can not be gear marked posting to tenure station. As

A76

(5)

such the annexure-CA-V is absolutely wrong and against the established policy .

10. That the contents of paragraph 9 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that according to policy of transfer, if any person has volunteered for a particular station, then that vacancy should be filled-up by the person who has volunteered, and by none else. The movement order in respect of Mohd. Zaqi shown at Sl.No. 2. A copy of the movement order in respect of Mohd. Zaqi is enclosed herewith and marked as ANNEXURE-RA-I to this affidavit .

11. That the contents of paragraph 10 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that in accordance with the letter dated 28th May, 1981, five Supdt. B/R Grade-II were to be transferred from Lucknow, Two of them were to be sent to Faizabad, One of them was

(A/177)

(6)

sent to Gorakhpur and Two of them were to go to Babina, and as per the list of the longest stayee/Volunteer, the applicant's name never featured, but because of the manipulation made by the respondent Nos. 3 and 4, the applicant's name featured at Sl. No. 5, as per annexure-CA-IV and finally, the applicant was neither a volunteer nor the senior most stayee at Lucknow, was illegally sent to Babina, vide annexure-CA-VII. It is wholly incorrect.

12. That the contents of paragraph 11 of the counter affidavit are not disputed.

13. That the contents of paragraph 12 of the counter affidavit are matters of record. However, it is stated that as regards Annexures CA-XI and CA-XII, i.e. letters dated 13th Sept. 1982 and 6th October, 1982, respectively, the applicant categorically states that he has no knowledge of the same. Further more, no undertaking was asked from the applicant by any of the respondents.

A
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(7)

14. That the contents of paragraph 13 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that the applicant never refused to accept the movement order, which will be abundantly clear from annexure-CA-XIII of the counter affidavit .

15. That the contentse of paragraph 14 of the counter affidavit are matters of record and need no reply by the deponent.

16. That the contents of paragraph 15 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that the applicant never refused to accept the movement order. But he had made certain remarks on the same movement order, asking for an interview with the Chief Engineer, It is absolutely wrong to allege that the applicant refused to accept the movement order. It may categorically be

A
180

(8)

submitted that the applicant has not received any movement order till date.

17. That the contents of paragraph 16 of the counter affidavit can not be replied, as the applicant has not received any movement order through Post .

18. That the contents of paragraph 17 of the counter affidavit are matters of record and need no reply by the deponent.

19. That the contents of paragraph 18 of the counter affidavit are not correct as stated and hence emphatically denied. It may respectfully be submitted that the applicant has not been served with any movement order till date .

A
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(9)

20. That the contents of paragraph 19 of the counter affidavit need no reply.

21. That the contents of paragraph 20 of the counter affidavit are mis-leading and hence denied, whereas those of paragraph 5 of the application are reiterated and reaffirmed. It may respectfully be submitted that it was vide letter dated 24th March, 1987, the Garrison Engineer, Lucknow has intimated the applicant that the applicant's stand transferred to Babina copy of which has already been annexed as annexure-6 to the application. As such the application of the applicant is within the limitation .

4
182

(10)

stated and hence emphatically denied. The applicant was never asked to give an undertaking that after one year he may be transferred to any place. Even though the applicant was transferred to Memaura, but no movement order has been given to him. All allegations to the contrary are hereby denied .

24. That the contents of paragraph 23 of the counter affidavit need no reply.

25. That the contents of paragraph 24 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(6) of the application are reiterated and reaffirmed. As regards contents of the annexure CA-XVI, the applicant has no knowledge , nor was he ever shown the same.

26. That the contents of paragraph 25 of the counter affidavit are not correct as

A/183

(11)

stated and hence emphatically denied, whereas those of paragraph 6(7) of the application are reiterated and re-affirmed. It may respectfully be submitted that as per the seniority list of the Volunteers and long stayees at Lucknow, the applicant could not be transferred in view of several persons have already above to him.

27. That the contents of paragraph 26 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(8) and 6(9) of the application are reiterated and reaffirmed. All allegations to the contrary are denied.

28. That the contents of paragraph 27 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(10) of the application are reiterated and reaffirmed .

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(12)

29. That the contents of paragraph 28 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(11) of the application are reiterated and reaffirmed .

30. That the contents of paragraph 29 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(12) of the application are reiterated and reaffirmed. It may respectfully be submitted at this state that the movement order, of which the applicant has made endorsements was never handed over back to him. As such the applicant could not leave to report to the Office of Garrison Engineer, Babina .

31. That the contents of paragraph 30 of the counter affidavit are not correct as stated and hence emphatically denied, whereas

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(13)

those of paragraph 6(13) of the application are reiterated and re-affirmed .

32. That the contents of paragraph 31 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(14) of the application are reiterated and reaffirmed .

33. That the contents of paragraph 32 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(15) of the application are reiterated and reaffirmed .

34. That the contents of paragraph 33 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraphs 6(16), 6(17) and 6(18) of the application are reiterated and reaffirmed .

A
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(14)

35. That the contents of paragraph 34 of the counter affidavit are not correct as stated and hence emphatically denied, whereas those of paragraph 6(19) of the application are reiterated and reaffirmed.

36. That the contents of paragraph 35 of the counter affidavit need no reply.

That the contents of paragraphs 1, 2, 3, 12, 14 to 20
22 to 36, of this affidavit are based on my personal

knowledge; and those of paragraphs 4 (Partly) 5 (Partly) 6 to 13, 21 (Partly) of this affidavit are based on records; and those of paragraphs 4 (Partly) 5 (Partly) 21 (Partly) of this affidavit are based on legal advice; which all I believe to be true that no part of it is false and nothing material has been concealed.

So help me God.

DEONENT.

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(15)

I, PremNarain Pandey, Clerk to Sri G. D. Mukerji, Advocate, High Court, Allahabad do hereby declare that the person making this affidavit and aleging himself to be the same person is known to me through the papers produced by him in this case.

CLERK.

Solemnly affirmed before me on this 22th day of February, 1988, at 9.10 a.m./p.m. by the deponent, who has been identified by the aforesaid person.

&I have satisfied myself by examining the deponent that he under-stands the contents of this affidavit.

Oath Commissioner.

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ENNEXURE NO (I) RA.

Mil: 746

Office of the Chief Engineer
Northern Zone
Lucknow - 226002

122905/2P /157/EIO

30 Jun 82.

MES 440082
Shri Mohd Zaki Ahmed, Supdt B/R Gde II(QPT)

Through E-2(Wks)/E5

POSTING TRANSFERS-SUPDT B/R GRADE II

1. You are hereby permanently transferred to GE, Babina being a volunteer at state expense.
Authy:- GE CC Lucknow letter No 910127/6/195/EIC/ dated 28 May 81.
2. You will be relieved of your duties on 15 Jul 82(AN) and report to the new formation after availing of usual joining time.
3. TA/DA and pay advance can be had on application .
4. You will submit the requisite no demand certificate duly completed in accordance with this office order No 47 dated 17 Aug 74 to your section together with the following:
(a) Identity Card (b) Command Special Entry Pass
(c) GGHs Card.
5. Your pay and allowances for the month of Aug 82 are will be claimed by the new formation after your reporting there for duty.

(GVR Subram
AE/SO 3(per
For Chief E

A/189

-2-

Copy to :-

1. CE CC Lucknow
2. GE, Nabina
3. Area Accounts Office Jul 82 has been claimed at the following rates:-
(CDA CO) Lucknow
4. CDA CO, Meerut
5. Pay Group
6. Record Group
7. EIC(I)

	Pay	DA	ADA	CCA	HRA
	Rs 660.00	178.20	399.30	19.70	99.00

Deductions

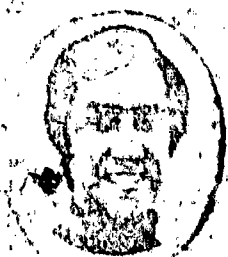
GPF SUBS 50.00 P.M. (A/C NO 160482)
GGHS Rs 20.00 P.M.
GGHS Rs 2.50 P.M.
PLI Rs 49.50 (No 20199-M)

Date of next increment
01 Jan 83

Last increment granted
vide OBNZ PTO NO 2/24/82

Date of birth -01 Aug 38

He has availed one day CL and
Nil days RH upto 15 Jul 82.



Founder President :
LATE SHRI LALIT MAKEN

National Confederation

of

Central Govt. Employees & Workers

(Central Region : U.P., A. Bihar, Orissa, Defence Vlog)

14, Hazarat Mahal Marg, Dilkusha, Post Office, Lucknow Cantt (U.P.)

Patron :
OM PRAKASH MAKEN

President :
P. RANGARAJAN KUMARAMANGLAM
B.Sc. (Hons.), LL.B. Member Parliament

Secretary :
R. K. SHARMA
M.A. LL.B.

Central Region

President :
S. D. Porwal

Vice Presidents :
L. N. Shukla

Secretary :
F. C. Sharma

Joint Secretaries :
Munshi Ram
H. K. Pathak

Auditor :
S. B. Dubey

Cashier :
Smt. Bhambhani

Executive Members :
G. S. Shukla
R. D. Kori
I. B. Singh
L. D. Pant
K. N. Kesharwani
Upender Singh
S. N. Singh
H. G. Srivastava

Ref. No. NC/FC/Sec/001

Date 14/12/53

Dear Mr. Dikshit,

I am enclosing herewith a copy of the letter written by our worthy President P. R. Kumaramanglam, MP of National Confederation regarding your case.

The reply received from the Honorable Minister of State for Defence is also enclosed for your information and record.

Keen watch over the progress of the case shall be my motive. Now I hope for an early solution of the long awaited case of yours with regards.

Yours Sincerely,
(Signature)

(F. C. Sharma)

Pro

(Xal)
(Amex-11)



No.465/REM(A)/B6/VIP
श्री मंत्री
रक्षा मंत्रालय, भारत
MINISTER OF STATE
MINISTRY OF DEFENCE, INDIA
NEW DELHI

27th February 1986

Dear Sir,
I have your letter of 24th February 1986, regarding non-payment of salary to Shri K.A. Siddiqui, Supdt B/R Cde. II of MES, Lucknow. I am having the matter looked into.

With best wishes
Yours sincerely,

ARUN SINGH
(ARUN SINGH)

Shri P.R. Kumaramangalam, MP,
C-15, Bhai Vir Singh Marg,
Gole Market,
NEW DELHI-110001.



(193)
(Annex — 12)

TELE No. : 632

Office of the Chief Engineer
Lucknow Zone : Lucknow

26 Apr 86

120545/ 3652 /EIC(1)

Shri AK Kumar

Adm Offr II

POSTING/TRANSFER : SHRI KASIDDIQUL SUPDT B/R II OF GE(W) LK

You are hereby detailed to the office of GE(W) Lucknow to investigate the factual position in connection with posting/transfer in respect of Shri KA Siddiqui, Supdt B/R G de II of GE (W) Lucknow vide CE LZ Lucknow posting order No.120545/3213/EIC(1) dated 28 Jan 82. Please also pinpoint the responsibility of officer/subordinate concerned in case of if there is any irregularity in this regard. This investigation report is required by CE CC Lucknow vide their No.910127/6/17/EIC(1) dated 14 Apr 86.

2. While going through the case the following aspects must be looked into specially.

a) To prove that movement order to Memaura served on him after cancellation of movement order to Babina.

b) Circumstances under which posting order to Memaura was cancelled & re-posted to Babina.

c) ~~Circumstances under which posting~~

Number of representations given by the individual to GE/CWE/CE Lucknow Zone during the period of Nov 82 to Nov-Dec 85 and action taken on those representations.

3. Connected file in this case may be have from EIC(I) section for study the case if desired by you. A copy of self contained statement of case in respect of Shri KA Siddiqui, Supdt B/R Gde II recently under received under CWE(P) Lucknow letter No.11083/6165/EIC(1) dated 18 Apr 86 is also enclosed for perusal.

4. Investigation report should be submitted to AO I of this office by 30 Apr 86.

5. This has the approval of Addl CE.

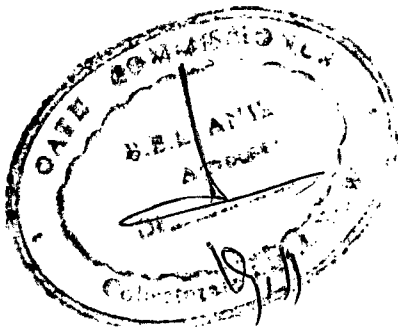
(AK Gangopadhyay)
Adm Officer I

Copy to:-

CWE (P) Lko)

) for info and n.a.

GE(W) Lucknow)



NORTHERN INDIA PATRIKA

12 MAY 1987 (Annex-13)

INDIA PATRIKA
12 MAY 1987

VISION: Re-cha
the pinning and
rationalisation
be held on May 20 at
Vidyan Hindu Inter
College.

CLOSED: The state museum,
Banarashigh, will remain closed on
May 13 for visitors on account of
Buddha Purnima.

ELECTED: The following have
been elected the office-bearers of
the Central Bank of India.
Harraj Singh branch President M K
Majumdar V President S C Nigam
R K Seth Hira Lal R K Gupta
Secretary V P Srivastava, B N
Nigam Treasurer R K Bopai.

MEETING: The state employ-
ment of Lucknow district today
organised a meeting at the Ganga
Prasad Memorial Hall, Aminabad
on the call of the State Employees
Joint Council, UP. They appealed
to the central leadership of the
council to declare a programme of
direct action to force the
government and the pay
committee to revise the pay scales,
allowances etc. at par with central
employees within six months, i.e.
June 30 as decided in the
agreement between the govern-
ment and the joint council in
November.

AGITATION: In the second
phase of the agitation programme
launched by the Civil Diploma
Engineers Association, IDUP, the
members observed mass casual
leave today. The information
regarding the mass casual leave by
almost all the members from
Lucknow, Faizabad, Gorakhpur,
Varanasi, Meerut and Gherwal
mandals were received.

TELEVISION

Morning Transmission

7.30 a.m. Vande matram,
Samachar, Kirti, The news.

Evening Transmission (Lucknow)

6.00 pm Yuddhishan 6.30 pm
Chaitanyal Matya Palan, Krishna
Karyakram-Pranamik Beek
Kaise Len, Kavita Path,
7.00 p.m. Vidyay jagat
Parjeyon Ko Manav Jeevan Par
Prabhat 7.30 p.m. Samachar 7.40
p.m. Kal ke karyakram 7.45 p.m.
Aapka swasthya 8.05 p.m.
Chitrahar.

Evening Transmission (Delhi)

6.00 Opening announcement,
followed by nanhi dunya-mithay
hol 6.15 p.m. Angant wadi; 6.35
Regional language programme
6.55 Programme highlights,
messages regarding missing persons
and other announcements 7.00
Krishi darshan 7.30 Buddhism in
Central Asia 7.45 Aap aur hum
8.00 Chitrahar.

National Programme

8.40 Samachar 9.00 Rail
chakra; 9.30 The news 9.50 /
source to life: programme on
environment Abhyas Haridwa
Ganga ki safai 10.20 Adhuni
sainik gurukul a documentary on
Sainik School 10.35 Buddhan
sharnam gachhami spl. pro
gramme of Lumbini and Sarnath

CITY DIARY

ROTARY Club Trans Gion
weekly meeting, Hotel Clari
Avadh, 7 p.m.

YAGYA Havan and Veda
Sesh, Shrimad Dayanand &
Sesh, Mohi Nagar 4 p.m.

SEMINAR on yoga
naturopathy, Ramlal nura
home near Kshatri cinema, 11 a.m.

FREE nature cure treatment
in day and night, Kshatri nura
home, 6 p.m.

SEMINAR on "Emplyavus
GOC-in-C", Central Command, for boys and girls
will preside over the two-day preparatory culture, 3 Meece
conference, 6 p.m.

Left in the lurch

By A Staff Reporter
LUCKNOW, May 12: An
officer in the Military Engineering
Service branch of the Central
Command, Lucknow, is being
hassled for the last 34 months
without any valid reason. During
this period he has not been given
any posting order nor has he been
paid his salary and other
allowances.

The officer, Mr K A Siddiqui,
was recruited as superintendent,
buildings and roads in 1961 at
Lucknow. In 1982 an order was
issued transferring him from
Lucknow to the garrison
engineer's office at Babina in
Madhya Pradesh.

Mr Siddiqui, then preferred an
appeal on April 3, 1982. He
pointed out that under the transfer
policy rules framed by the
engineer-in-chief, Army
Headquarters, an officer who had
the longest stay at a particular
station shall be transferred first.
He also stated in the appeal that
there were other officers in the
same grade who had spent more
time at Lucknow and their transfer
orders should have preceded his
transfer order.

The appeal was subsequently
accepted and the transfer order
directing him to join duties at
Babina was cancelled by the chief
engineer, Central Command,
Lucknow. The CECC, Lucknow,
issued a fresh order transferring
him to the office of the garrison
engineer (road construction

project) at Meenaura and cancelled
the earlier transfer order vide letter
number 10-10: HR/1625/F1.
However, for reasons best known
to him the assistant garrison
engineer (I), Lucknow Captain M
Sen did not issue the movement
order (MO). Without the MO the
garrison engineer (Road
Construction Project) Meenaura,
refused to take him on duty.

Under the Army rules no
information can allow any personnel
to join duty at any station without
a proper (MO).

On the other hand an SOS
(struck off strength) order was
issued at Lucknow and his name
was subsequently struck off from
the rolls.

The officer is in dire straights.
He has been running from pillar to
post for the last 34 months but all
his appeals have so far fallen on
deaf ears. Till date he has made 35
representations in writing. He
has even urged his superiors to
punish him if he had committed
any mistake. Some time back a
member of Parliament, Mr
Kupatramanglam wrote a letter in
this regard to the minister of state
for defence, Mr Arun Singh. The
minister gave an assurance to this
effect, vide letter number
465/KRM(A)86, but the
authorities concerned remained
immobile till April 27, 1987.

Surprisingly, after a gap of 34
months a letter was issued on April
28, 1987 by the chief-engineer,
Lucknow zone, directing him to
join the office of the garrison
engineer at Babina. This was done
despite the fact that the chief
engineer, Central Command, who
is superior in rank to the chief
engineer, Lucknow zone, had
cancelled the Babina order earlier.
A subordinate officer has no right
to cancel the orders of his
superiors. Furthermore, it is the
chief engineer, Central
Command, who is the competent
officer for issuing transfer and
posting orders of superintendents
(building and road construction)
operative. Any order issued by
CE-17 in this regard is not valid
and operation. Moreover
the Meenaura order has
not been cancelled and
therefore, it stands as a valid order.
Significantly, prior to the issue
of transfer order in Mr Siddiqui's
case, four other persons were
transferred to Babina.

Superintendent Kartar Singh
was issued a movement order for
Babina but he did not move to that
station. When one Mr Novel
objected to the layout shown to
Mr Kartar Singh he was posted to
the station of his choice, Dehra
Dun. One Mr Muhammad Zaki
volunteered to join the Babina
station. He was issued movement
order but not the SOS order. In
other words his name has not been
struck off the rolls at Lucknow. He
is drawing his pay and allowances
here. Another superintendent, Mr
Altal Hussain who had spent the
longest time at Lucknow was also
not transferred to Babina as is
required under the rules. All these
persons were being paid their
salaries and allowances.

Civil-military meet on May 14

LUCKNOW, May 12: (UNI)
Mr B B Singh, the chief minister of
UP, will inaugurate the annual
civil-military liaison conference of
headquarters Central Command,
here, on Thursday.

11 Com, S & Sd Sd PASM,
GOC-in-C, Central Command, for boys and girls
will preside over the two-day preparatory culture, 3 Meece
conference, 6 p.m.

don on may 12
government is
agreement made on 12
1986

The general secretary of the
confederation, Mr Jagdishwar
Prasad, lashed out at the
government for its failure to
honour its commitment to
implement the recommendation of
the Fourth Central Pay
Commission's report within six
months of the signing of the
accord. As such the employees
have been moved to start a
movement again.

Dr NC Mathur new VC of Roorkee Varsity

By Our Special Correspondent
LUCKNOW, May 12: The
governor, Mr Mohd. Usman Azmi,
has appointed Dr N C Mathur as
the vice-chancellor of the
University of Roorkee.

Mr Mathur, who assumed
charge of his office yesterday,
earned his Ph.D degree from the
University of Illinois (United
States) in 1964. He comes to
Roorkee University from Kanpur
where he was professor in electrical
engineering in the Indian Institute
of Technology.

He was earlier managing
director of Educational
Consultants India Ltd., New
Delhi. He was also a visiting
professor in electrical and
computer engineering in different
universities in the U.S.A. Prior to
that he had taught at the Roorkee
University for six years.

Indian Telephone Industries Ltd.

A Government of India Undertaking
PROJECT, MANKAPUR UNIT

DIST. GONDA

DI, 13.4.87

TENDER NOTICE TRANSPORT CONTRACT-CARRIAGE OF CEMENT

Sealed tenders are invited from the contractors who are
registered with CPWD, State PWD, M.S., Railway, Govt.
undertaking and those working in any unit of Indian Telephone
Industries Limited for the under mentioned carriage work at
Indian Telephone Industries Limited.

Sl. No.	Name of work	Tender No.	Amount money tender	Cost of document
1.	Carriage of cement by Road BSEF C-4, to 111 more at Mankapur from Ayodhya, Faizabad, Mankapur railway station and cement factory, bke Ballah, Kymore, Satna, Chunar etc.	67-88	10,000/- Rs 200/-	

1. Tender documents for the above work can be obtained from the under signed w.e.f. 14.6.1987 to 17.6.87 on any working day after making payment of the cost mentioned above against each tender document, which should be remitted by crossed postal order or bank draft in favour of M/S. Indian Telephone Industries Limited, Mankapur payable at State Bank of India (111 township branch) and/or money order will not be accepted.

2. While applying for tender documents list of similar works executed with their value and period and completion certificate showing which the same were carried out should in variable be given. Tender documents will be issued to eligible parties who have executed individual works costing Rs. 5.00 lacs or more each and of above.

3. The tenderer should submit the character antecedents from the employer, Collector of all partners/proprietor and income tax clearance certificate with tender requisition application.

4. Tender will be received in the office of Chief Manager (Civil), Indian Telephone Industries Limited, Mankapur up to 14.00 hrs on 17.6.87 and will be opened on the same day at 14.30 hrs in the presence of intending tenderers.

H.K. KANHA
CHIEF MANAGER (CIVIL)

1988

Before the Hon'ble Central Administrative Tribunal Allahabad
Circuite Bench, Lucknow.

Misc.Appn. No. of 88.

In the application No. 779 of 1987.

K.A. Siddiqui

.... Applicant.

Versus

Union of India and others

... Respondents.

Affidavit.

in support of application for amendment.

I, K.A. Siddiqui, aged about 53 years, son of Late

Khalil Ahmad Siddiqui,, r/o 191/13 Bagh Sher Jung, Lucknow,
do hereby solemnly affirm and state as under:-

1. That the deponent is the ~~work~~ petitioner/applicant in the abovenoted case as such he is fully conversant with the facts of the case deposed to in this affidavit.
2. That the contents of paras 1 and 2 of the accompanying application are true to my personal knowledge and those of Para 3 are believed by me to be true based on legal advice.
3. That the annexures 2a, 3c, 11, 12, ^{and} 13, ^{or} 14 and 15 are true copies of their respective originals which have been compared by me.

Lucknow

dated 18 -11-88.

Deponent.
-Applicant.

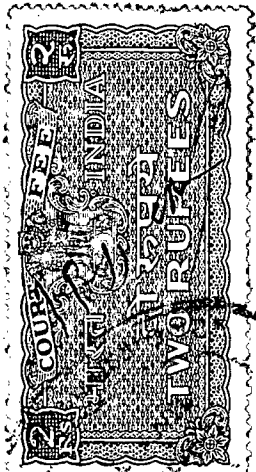
Verification.

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

Verified and signed this 19 day of Nov.1988 in Court Compound, Lucknow.

Dated 19 -11-88-

Deponent.



9 identity of deponent
who has signed before me
19.11.88

002617 K.A. Siddiqui

11.11.88

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TELEPHONE 372337

No. 79040/E1C(1)

To

The Chief Engineer

ARMY HEADQUARTERS
ENGINEER-IN-CHIEF'S BRANCH
DHQ PQ NEW DELHI
17 Oct 74

POLICY REGARDING TRANSFER OF CIVILIAN SUBORDINATE PERSONNEL IN THE MES

1. INTRODUCTION

Orders/instructions laying down the broad principles according to which transfers of civilian subordinate personnel in the MES are carried out have been issued from time to time in various policy letters since Jun 66. To facilitate easy reference and ensure better uniformity an attempt has been made to incorporate all relevant instructions in this policy letter. The broad principles under which transfers of Class III and IV civilian subordinate personnel should be carried out are contained in Min of Def OM No. 13(1)/70/D(Appts) dated 29 Nov 72 circulated under this HQ letter No. 79040/E1C(1) dt. 8 Jan 73. As laid down therein Class IV personnel should not be normally be transferred from one station to another except in very special circumstances like adjustment of surpluses/deficiencies, promotion or exigencies of services. This should be kept in view and their transfers reduced to the absolute minimum. As regards Class III personnel routine transfer should be avoided and postings restricted to meet the following contingencies:-

- (a) Adjustment of surpluses/deficiencies
- (b) Promotion
- (c) Compassionate grounds/Mutual basis
- (d) Exigencies of service or administrative requirements.

2. TURN OVER FROM NON-TENURE STATION

No compulsory turn over from non-tenure stations will be made after completion of any period of service except to cater for turn over from tenure stations or to meet job requirements,

- (X) Vtd. Para 3 (ii) (c) of E-10-C AHC (Ld) 79040/E1C(1) dt 24 July 75
3. POSTINGS ON ADMINISTRATIVE GROUNDS

No individual will be posted to tenure stations or other normal stations on administrative grounds. If the Chief Engineer considered such a step absolutely essential prior approval of the E1nC will be obtained.

4. LIABILITY FOR ALL INDIA SERVICE

Non-Industrial personnel are Command based and industrial personnel are Area based. Normally their postings should be restricted to the Command/Area respectively. If due to surpluses a situation arises for posting out of Command/Area then the junior most who would otherwise have been retrenched/reverted will be posted out.

(X) The other basic guide line for transfer of class III & IV employees will be that as far as possible employees should not be transferred Contd. 2... involving distances, and a third should be made to accommodate them near their choice station to the extent possible. This however is subject to the exigencies of service, the necessity of service being paramount.

1. In the case of industrial personnel rendered surplus by reduction in the authorities strength and if they are not moved within the C. C. 13 Area becomes necessary, the person in the grade will be posted out.

2. In the case of surplus personnel in the same Command, the longest stayee will be moved.

5. ENBLOC MOVE OF OFFICE/WORKS UNIT (b) (2) - 2a)

In the exigencies of service situations may arise when officers/Works Unit are asked to move enbloc to other locations. In such cases the personnel to be moved should be selected based on their length of service in the station i.e. the longest stayee (excluding tenure expired in tenure stations) should move making local adjustments.

6. LONGEST STAYEE

When transfers are inevitable, volunteers will be given preference provided they have served in the station for 2 years. In the absence of volunteers, the longest stayee will be moved. When promotion is involved it is the promotee who should move in the absence of volunteers. In determining the longest stayee in a station all MES units including GE's office located in that station and adjacent localities will be taken into consideration. The seniority in that station will be decided by the Chief Engineer. Grouping of various units in a station including adjacent localities will be decided by the CE Command.

7. ADJUSTMENT OF SURPLUSES WITHIN AREA/COMMAND/INTER COMMAND

In all cases where civilian personnel are rendered surplus by reduction in the authorities strength and their adjustment within the MES in the same Command becomes necessary, the longest stayee in the station will be posted out in the case of non-industrial personnel. In the case of posting involving inter command transfers in the MES the junior most person will be declared surplus.

Normal Transfer within the Area
In the case of industrial personnel when transfers are involved within the Area, the longest stayee will be posted out. For posting outside the C. C. 13 Area, the junior most in the grade will be selected.

Ver. Para 3 (b) of B. M. C. H. C. Order No. 7944/2/10 dated 24.12.78
In a; the above cases volunteers will be given preference,

8. TIMING OF TRANSFERS

Care will be taken to ensure that transfers are avoided as far as possible during the middle of the academic year and any exception should only be to meet a really emergent requirement in the exigencies of service. Sufficient warning should be given to the individuals who are earmarked for transfer to enable them to make their personal arrangements for such moves.

9. AGE FACTOR

(a) Persons reaching the age of 55 years or over should not be transferred except their request and to stations of their choice provided clear vacancies are available.

(b) Circumstances may arise where postings issued are not implemented for quite sometime due to appeals and other reasons and the personnel affected then seek for protection under the age factor on the plea that they have since crossed the age limit. In such cases the competent authority may move such personnel with the provision that the normal stay in the tenure station is 2 years before attaining the age of 53 years.

10. COMPASSIONATE POSTINGS

Post experience has shown that it is not possible to accommodate compassionate cases in the desired stations for want of vacancies and too many request for posting to popular stations. The following guidelines are, however, issued:-

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(Annex-2a)

- 3 -

- (a) Individuals should themselves apply for compassionate posting. Application from relatives should be rejected and attempts to bring outside pressure should be discouraged.
- (b) Applications on domestic grounds should be verified in consultations with civil authorities, if the CO is not satisfied of the genuinences of the grounds.
- (c) Applications on medical grounds should be accompanied by appropriate medicate certificates from Registered Medical Practitioner/Authorised Medical Attendant indicating the nature of illness and justification for transfer of the individual.
- (d) CEs should screen all applications as hitherto by a properly constituted Board to select extreme deserving cases.
- (e) Compassionate posting shall only be effected against clear vacancies falling which against volunteers. All compassionate transfers will be ordered at the expense of the individual only.

11 MUTUAL TRANSFERS

Applications for mutual transfers may be considered by the Chief Engineers for reasons other than compassionate grounds also. No TA's, however, admissible in the case of mutual transfers. AG's Branch letter No 70538/243/Org 4(Civ) (b) dated 17 Jul 74, copy forwarded under this office No 79040/P/E1C(I) dated 8 Aug 74 refers.

12 FEMAL EMPLOYEES

Female employees should not be posted to Field Service/Concessional Areas and non-family stations. They may, however, be posted to a station where normal living facilities are available on the basis of their seniority of stay.

(*) *Vide Para 3 (1)(b) of E-M-C HQ Delhi letter No 79040/P/E1C(I) dt 24 July 75*

13 CONCLUSION

Any supplementary instructions to implement the above policy as considered necessary may be issued by CEs Commands but these should not be variance with the general principles laid down in this letter.

All previous instructions on the subject issued by the HQ are hereby cancelled.

14 With regard to posting of civilians subordinates to and from Tenure stations, the instructions issued under this HQ Letter No 79040/E1C(1) dated 21 Sep 74 will be followed.

(*) *where the spouse of the employee of the Central Govt, request for posting will be favourably considered and if accepted, will be treated at par with the requests for the compassionate postings. If however, the problem will be placed in the waiting list for compassionate posting.*

SA/XXX
(PM BHATIA)
Brig
D Pers
ENGINEER-IN-CHIEF

As far as possible, women should not be posted to tenure stations except on their own requests.

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(Annex-2a)

Copy of Govt of India Min of Def OM No. 32(4)/73/5(Appts) dated 21 May 75.

Subject : EMPLOYEES OF CLASS III AND CLASS IV
OF THE DEFENCE INSTALLATIONS
GUIDE LINES FOR

The undersigned is directed to refer to this Ministry's Office Memorandum No.13 (1)/70/D(Appts) dated 29th Nov 72 on the above subject and to say that the policy of the Govt regarding transfers of Class III and IV Employees of the Defence Installations has been further examined in consultation with the representatives of the employees and it is reiterated that it is the intension of the Government to reduce postings and transfers of these employees to the absolute minimum keeping in view the administrative requirements and the needs of manning the posts at various places and stations. While it has been accepted by all concerned that transfers are often inescapable, it has been decided that in order to minimise resultant/dislocation, an attempt should be made to ask for volunteers for postings or transfers and, as far as, possible, to post the people who are willing to move to those stations. Even in case of postings to hard/tenure stations, if volunteers are available for posting, they should be given preference.

2. The other basic guidelines for transfers for class III and IV employees will be that as far as possible employees should not be transferred over long distances, and efforts should be made to accommodate them near their choice stations to the extent possible. This, however, is subject to exigencies of service, the requirements of service being paramount.

3. Class IV employees should not normally be transferred from one station to another except in very special circumstances like adjustment of surpluses and deficiencies, promotions, exigencies of service or as an administrative requirement, mutual transfers will also be allowed.

4. Class III personnel should not be transferred except in the followings :-

(i) Adjustment of surpluses and deficiencies of Personnel borne on common rosters.

(ii) Promotions.

(iii) Compassionate grounds/Mutual basis.

(iv) Exigencies of service or administrative requirements.

5. The following further guidelines will be observed while making postings/transfers of class III employees. :-

(a) No compulsory turnover from non-tenure stations will be made after completion of any period of service except to cater for turnover from hard/tenure stations or to meet job requirements.

(b) There will be a maximum of 3 years of tenure to a hard station. Request for stay for longer period will be considered on merits.

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(d) Compassionate posting in the desired stations shall normally be effected only against clear vacancies failing which against volunteers.

6. Every efforts will be made to accommodate a person at any desired station after he has completed a tenure at a hard station. If, however, it is found that there are too many requests of posting to a station, the concerned Branch/Dte may, with the approval of this Ministry, laid down a period of service which an employees may be required to render outside that station before his requests for posting to the station can be considered.

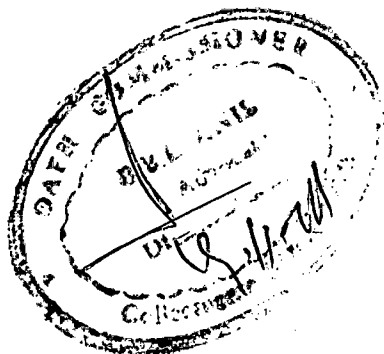
7. Requests are frequently received from Defence Employees for posting to a station because the wife/husband of the employees is working at that station. Where the spouse of the Defence Employees is an employee of the Central Government, such request will be favourable considered had, if accepted, will be treated as par with request of compassionate posting and if approved the person will be placed on the waiting list for compassionate posting.

8. Every effort will be made to effect compassionate postings within a period of one year of the date on which the request is accepted. On expiry of this period all these requests even if not implemented, would be treated as lapsed and fresh request would be made by the employees. However, where the same compassionate grounds continue to exist, the person concerned will retain his original seniority for compassionate posting which will not be disturbed. There will also be no fresh verification of the grounds for compassionate postings.

9. It has also been decided that, to the extent possible, women employees should not be posted to hard/tenure stations except at their own request.

Sd/- XXXX (AS BEDI)

Under Secretary to the Government of
INDIA



(A/291)

Annex-3(C)

To,

The Chief Engineer
Hqs Central Command
LUCKNOW - 2

(Through Proper Channel)

POSTINGS/TRANSFERS SUBORDINATES: SUPDT B/R GDS II

Sir,

Considering your honour the custodian of Subordinates welfare, trustee of their rights and the moulders of their destiny, the applicant is emboldened to approach your honour through the representation as under and hope it will receive your kind consideration.

That the applicant has learnt from the office of the AGE (P) (I) LUCKNOW that his posting order dated 28th Jan '82 has come which calls upon the applicant to move to BABINA forthwith permanently in the interest of State under authority Chief Engineer, Central Command Lucknow letter No. 940127/6/196/E10(I) dated 28th May '81.

That in violation of E-in-C's Br transfer policy No. 79040/E10(I) dated 17.10.74 no sufficient warning has been given to the applicant nor was earmarked for transfer, such transfer to BABINA could have been avoided as it is in the mid of Academic year, secondly involved change of entire syllabus which may effect the study of applicant's children who unfortunately is reading in Class IX in Govt. Jublee Inter College, Lucknow. It will be impossible for the applicant to take his son to BABINA unless she appears in High School Examination because admission and study of other Syllabus of other than U.P. Board Education at this juncture is impossible.

That the applicant remained away from LUCKNOW continuously for 16 years and faced several transfers orders though they were violative of transfer policy too on this count (i) Applicant was not given Lucknow Choice Station from Hard Tenure Station of NEFA Area. (ii) Longest stayee were present at the time of transfers from one peace station to another peace station, but the applicant did not complaint against such transfers. Even in that sixteen years absence from LUCKNOW he suffered a loss of Rs. 65,000/- in consequence of sale of tailoring shop named Best Tailors in NAZIRABAD which was fraudulently sold by his uncle (the attorney holder) the suite for which has been initiated and is continuing if the applicant is transferred to BABINA the absence from LUCKNOW will effect adversely and he will not be able to get back the Tailoring Shop.

Contd...P/2.

That the applicant's wet ancestral property during 16 years absence from LUCKNOW was distributed among his two uncles and four sisters of his father and when the applicant reached at LUCKNOW on transfer from BAREILLY to LUCKNOW on compassionate ground for getting best treatment he could not get even a room to stay and was compelled to live else where. The applicant compelled by the circumstances purchased a house No. 191/13 located at BAGH SHER KUNG LUCKNOW in the month of Aug 77 for residential purposes of his family.

That since the purchase of house No. 191/13 in the year 1977 his families own lot in life is no longer happy one as it was before, because the tenant's son in law named (ABDUL HAKEEM) is trying to adopt such tactics and methods which may compel the applicant to leave the house under duress or the opposite party may succeed to put the applicant behind the bar in connivance with Local Police Authority or the opposite party may succeed to get the applicant transferred by approaching the Departmental authorities and telling them untruth, unreal and fabricated stories against the applicant.

That ABDUL HAKEEM (Opposite Party) is a strong resourceful man and has group of several Gundas Mischief Mongers under his control and with the help of them he is creating various types of harassments for the applicant, so much so that applicant may be forced to go on transfer and he may thus succeeds to win over the cases seven in numbers filed against the applicant in different courts as under:-

- (i) Execution Case No. 10 of 1981 in the Court of IIIrd Additional Munsif Lucknow
- (ii) Criminal Case in the court of Special Judicial Magistrate Shri Pratap Narain in the name of Mohd Wasim Vs Maggan filed on 13.12.79 (applicant is accused in this case).
- (iii) Allotment case no. 108/ADM (R) filed on 25.10.79 in the name of ISHAFIAQ AHMED Vs. KALIM AHMED SIDDIQUE.
- (iv) Repair case no. 108 of 1981 in the court of Civil Judge, Mohan Lal Ganj, Lucknow filed on 5.10.81.
- (v) Rent case no. 152/81 filed on 17.8.81 in the court of IIIrd Additional Munsif.
- (vi) Eviction/Ejectment suit under section 21(i) of UP Act XIII in the court of prescribed authority in case of house no. 191/13.
- (vii) Eviction suit against No. 326/81 dated 10 Sep 81 in the court of Munsif North, Lucknow against Tailoring shop at Nazirabad, Lucknow.

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Annex - 3(c)

- 3 -

That ABDUL HAKKEM member of opposite party is professional litigant and on 8.4.78 while applicant was on duty in your office, he brought several Gundas to molest the wife and children of the applicant forcibly, the report to the effect on reaching home was lodged in Police Station, Wazirganj, Lucknow and later on S.P. City was approached through Registered Post No. 201 dated 12.4.78. The documents can be shown on desire.

EXECUTION CASE No. 10 of 1981

That in this case opposite party has prayed to enforce decree dated 25.2.81 u/o 21, rule 32 CPC by attachment of applicant's property kept in the outer room possessed by the applicant, and also prayed to enforce decree by detention of the applicant in civil prison etc etc. If the applicant is transferred to BABINA he will not be able to defend the case properly and save himself from Civil Prison and save his property for which opposite party is bent upon to defeat. That your honour can imagine and understand the disastrous consequences which may arise due to the transfer of the applicant, therefore in the attendant circumstances applicant ventured to ask your indulgence not to transfer him from LUCKNOW so that he may save himself and his property too, as both are in danger. The connected documents can be shown on desire.

ORIGINAL CASE

That this case has actually been filed by Abdul Hakeem where in applicant has been principally accused. Therefore on every hearing applicant's presence is essential. If the case is not defended properly and obeying the orders of transfer reported to BABINA applicant may be awarded punishment and such punishment no doubt will result in loss of service. The applicant understands from Counsel that for defending the case applicant's presence at Lucknow is unavoidably necessary which is only possible when your honour considering the gravity of the case cancel the transfer order to BABINA and save his service which will be a boon for the applicant. The connected documents can be shown on desire.

ALLOTMENT CASE NO. 108/ATM (E)/81

This case actually was filed on 25.10.79 for the allotment of an outer room in which applicant is residing with his family. The opposite party being much resourceful is approaching to ATM (E) Lucknow to get the same room allotted in the name of HAKEM. ASKED if applicant is transferred at this stage the outer room of house no. 191/13 will finally go in clutches and occupation of Opposite party and applicant will not be able to get the house back. Therefore you are requested not to allow the opposite party to reap the harvest of their wrongful act by cancelling the transfer order. The connected documents can be shown on desire.

Contd...P/4.

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Annex-3(c)

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EVICTON/EJECTMENT SUITE OF HOUSE NO. 191/13

The eviction/ejectment suite of house no. 191/13 wherein the applicant is residing in its outer room is in process and the transfer order of the applicant will certainly give opportunity to opposite party to establish the need of the applicant as non bonafide, and non genuine as he stands transferred from LUCKNOW and as such the whole purpose and aim of the suite will be defeated and house can not be got vacated. The connected documents can be shown on desire.

Now the same house is costing above Rs. 80,000/- and if the applicant loses the possession of it he will have to suffer the loss of Rs. 80,000/- for which applicant firmly believes that your honour will not allow the applicant to suffer such loss and by show of mercy cancel the transfer order for BABINA.

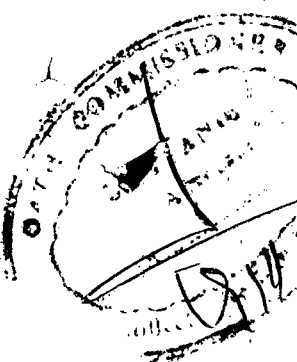
EVICTON SUITE/EJECTMENT SUITE NO. 326/81 DATED 10 SEP '81 FOR TAILORING SHOP AT NAZIBABAD LUCKNOW

This shop was purchased by the applicant prior to entrance in the service and through Power of Attorney nominated the real uncle to work on his behalf but his uncle taking advantage of long absence of 16 years from LUCKNOW fraudulently sold the shop for Rs. 65,000/-. If the transfer order to BABINA is cancelled the applicant may get back the shop in question. The documents can be shown on desire.

KIDNAPPING OF YOUNGER SON (DANISH NADIM SIDDIQUE)

That on 23rd Dec '73 the opposite party just to quench the thirst of their vanity very cleverly managed to kidnap the younger son of the applicant while he was on duty on receipt of telephonic report applicant went home and lodged the report telegraphically as the opposite party had grossed the palm of Police thoroughly. Your honour can imagine that while in presence of applicant the opposite party dared to kidnap the son attacked the applicant by Pistol on 18.3.79 by taking the law in their hands. What will happen when applicant will go on transfer to BABINA. Authorities will not be able to save the life and property of my family and children. Therefore it will be human if the transfer order of the applicant is cancelled. The report can be shown on desire.

That the applicant is beset by troubles and is exceedingly perplexed and find himself unable to move from LUCKNOW because of the danger of invasion upon the life and property of the applicant and the sword of danger of life will remain hanging on the head of his family and children too is so very imminent that non cancellation of transfer is likely to plunge into such irreparable loss and injury for which even the monetary compensation will not be adequate.



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Annex - 3(c)

That E-in-C's Br Transfer Policy is worded in a distinct and definite terms and the power of transfer, stages of transfer, conditions of transfer, timing of transfers are not hedged in by any technical hurdle. This over riding and exceptional power importing decision on transfer has been vested in O.R. CC LUCKNOW and to be exercise sparingly only in furtherance the cause of justice and stop injustice to be done, or already done to the subordinates. *(calves with your honour)*

That the applicant reserved the right of submitting other appeal if it decided otherwise containing penal or evil consequences or subversive to the applicants interest.

That the applicant has rendered unblemished and unblemished service of more than 22 years and intend to go on retirement after completion of 25 years service. By virtue of such long service he charished the right of remaining in home town much before the retirement age date. Hence you are requested to keep the applicant in Lucknow Station in view of above facts.

That the form of posting order of the applicant without complying the applicable E-in-C's Br transfer policy or without observing the drill is neither a decision nor a perfect order. The order of Posting is made for collateral purpose, with oblique motive and in making this order authorities at the helm of the chair and actuated by malice resulting in unnecessary harassment and penal consequences as stated in foregoing paras. The applicant is neither longest stayee in terms of definition envisaged in E-in-C's Br transfer policy nor is junior most. The names of longest stayee who must move irrespective of reasons behind them from Lucknow are as under only then applicant turn comes for move :-

1. Shri A.K. GERROLA, Supdt B/R Gde II
2. Shri R.D. MISRA, -do-
3. Shri KARTAR SINGH, -do-
4. Shri ZAKI AHMED, -do-
5. Shri Altaf Hussain, -do-
6. Shri Sushil Noyal, -do-
7. Shri S.N. Srivastava, -do-

The applicant feels it a shame that departmental authorities at the helm of chair surrendering and kneeling before erring act of the strong influential persons have saved Shri Kartar Singh, Supdt B/R Gde II by including his name unfairly in the list of volunteer due for posting to Hard Tenure Station which is apparent on records. Shri Kartar Singh, was ordered to move to BABINA vide OMR LUCKNOW letter No. 120545/SI 30/EIO(1) dated 7.7.81 and later on it was cancelled. Shri Sushil Noyal, Supdt B/R Gde II was then sacrificed who also represented the case against such order, finally his name too was deleted from posting order to BABINA. Now unfortunate applicant has been selected for harassment and discrimination, therefore your honour is requested to examine the impugned order to see that oblique motive, harassment etc is either a mere motive or the very foundation of transfer order, then applicant must be saved from being subjected to such injustice as such because this order visits the applicant with penal and evil consequences.

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Annex-3(c)

That under such circumstances when applicant is in need of departmental help to save his life and property as well as the life of his family members too which are in grave danger. It will be human if transfer order is cancelled, otherwise such saboteur opposite party will certainly not let the family of the applicant live peacefully and it is manifestly clear that applicant too in such circumstances will not be able to perform his duties at transferred place and unnecessarily his work and vigour, love and loyalty to the department will be injured by the impact of such transfer.

Verne

In view of above circumstances the applicant however hopes that due to show of mercy, human feeling of your honour and slight positive efforts the applicant will be saved from transfer and will be extended opportunity to defend the Civil and Criminal Cases at Lucknow to save his life and remove the danger of life of his family members and get his own house vacated from Opposite Party and simultaneously get back the Tailoring Shop from his Uncle.

Thanking You,

Yours faithfully,

Dated 03 Apr 82.

(K.A. SHODIQUE)
Suodt B/Be Gdp II
MES/430886
AGE (P) (INDEF) LUCKNOW

9/c

Recd
Sif

Trujum 342



Received on 5/4/82
S.B. Chakravarty (Maj)