

# CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW

## INDEX SHEET

CAUSE TITLE T.A. 1074/87 .....of 19

Name of the parties S.P. Sharma .....Applicant.

Versus.

Minister of India .....Respondents

## PART A

### Description of documents

- |         |  |                   |
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| 1.....  | <u>Index sheet</u>                           | <u>A1 to A2</u>   |
| 2.....  | <u>High Court order sheet</u>                | <u>A3 to A12</u>  |
| 3.....  | <u>CAT order sheet dtd 19-9-91</u>           | <u>A13 to A15</u> |
| 4.....  | <u>General Index sheet</u>                   | <u>A16</u>        |
| 5.....  | <u>Petition with annexure High Court</u>     | <u>A17 to A56</u> |
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| 10..... | <u>Notices / order dt 22-10-91 copy</u>      |                   |

## CERTIFICATE

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

Date :

Countersigned

Section officer/Court officer.

Signature of the  
Dealing Assistant.

\*\*\*\*\*

X  
CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

S.P. Sharma

- vs -

V O J Jay.

FORM OF INDEX


~~B.A./T.A./R.A./C.C.P./~~ No.

1074/87  
19

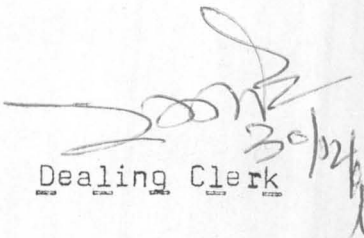
PART - I

WP No 3921/82

1.	Index Papers	:-	1	
2.	Order Sheet	:-	02	+ 20
3.	Any other orders	:-	NIL	
4.	Judgement	:-	21	
5.	S.L.P.	:-	NIL	

  
DY. Registrar

  
Supervising Officer

  
Dealing Clerk

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

NIL

  
Dealing Clerk

V.K. Mishra

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW.

.....

INDEX SHEET

T.A. 1074/87

CAUSE TITLE

~~CAE 868/1991~~ of 199

Name of the parties

S.P. Sharma

Applicant.

Versus.

U.O. India

Respondents.

Part A.B.C.

Sl No.	Description of documents	Page
	<u>A. file</u>	
1-	High Court order sheets.	A1 - A12
2-	CAT. order sheet.	A13 - A15
3-	High Court writ Petition with power.	A16 - A62
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27/3/91

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 3921

of 198 2

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
18-8-82	<p>Mr R.C.D.S.</p> <p>Mr SS Ahmad</p> <p>Issue notice to show cause why the petition be not admitted.</p> <p>Fix on 3-9-82 for orders as regards admission.</p> <p>Sd/- R.C.D.S.</p> <p>Sd/- SS Ahmad</p> <p>18-8-82</p>	
3/9/82	<p>fixed for order 3-9-82</p> <p>Honble Gopal</p> <p>Honble R.C.D.S.</p> <p><u>Gopal</u></p> <p>for</p> <p>3/9/82</p>	
9-9-82	<p>Hon. K. S. V. J.</p> <p>Hon. S. S. A. J.</p> <p><u>Sri B.M.N. Kacher states that copies of this petition have been served on the learned Standing Counsel for Union of India and the learned counsel</u></p>	



Date	Note of progress of proceedings and routine orders	Dated which case is adjourned	
1	2	3	
	<p>for the Income Tax Department separately. The opposite parties may file a counter affidavit within two weeks. If a counter affidavit is filed the petitioner may file a rejoinder affidavit within one week.</p> <p>List this petition for orders and hearing thereafter.</p>		
8/9/82	9.9.1982		
8/10/82	<p>D. 10-10-82</p> <p>Hoble Gopal Nath</p> <p>Hoble L. M. M. J.</p>		
	<p>On the request of the learned Standing Counsel for the Union of India stand out today.</p> <p>8.10.82</p>		
14/10/82	<p>Hoble R. P. S.</p> <p>Hoble S. A.</p>		

20/10/82

Hoble ~~S. A.~~ S. A.

Hoble S. C. M.

Hoble S. A.

AIR

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

3921

Writ Petition No. of 1982.

S.P. Sharma aged about 54 years, son of  
Late Sri Baldeo Prasad, resident of  
47, Nehru Nagar, Lucknow, posted as  
Income Tax Officer, B-Ward, Lucknow.

--- Petitioner.

Versus

1. Union of India through the Secretary,  
Central Board of Direct Taxes,  
Ministry of Finance, North Block,  
New Delhi,
2. Board of Direct Taxes, Ministry of  
Finance, North Block, New Delhi,
3. Commissioner of <sup>Income tax</sup> ~~Finance~~, Lucknow.

--- Opp. Parties.

Writ Petition under Article 226  
of the Constitution of India.

To

the Hon'ble the Chief Justice and his  
other companion Judges of the aforesaid Court.

The petitioner abovenamed begs to state as follows:-



## - No.

of 198

-vs.

2  $\frac{11}{82}$  Frankford Pa.  
 Horse Sense B  
 How Does 2  
Stand out  
Boyle  
2/11/00

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P.

No.

3921

of 1982.

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
26-11-1982	Hon. G.N., J. Hon. K.M. Misra, J.  It is stated that Sh. B.M.N. Kachar, Chief Standing Counsel, has not come to court on account of illness. Pass over as prayed. SST }  3-12-82 Wm for ors. Sh. Mehmood J. Sh. Shrivastava J. Ld. 23/12 9-12-82 R.C.  Hon. S. Chatterjee J. Hon. S.S. Ahluwalia J. Hon. M.P. Mehrotra J. Hon. P.S. Verma J. SST } 9-12-82	
15-12-82	Wm for ors. Hable Bann Hable S.A. Stand out	

Dated of which case is adjourned

Date

Note of progress of proceedings and routine orders

1

2

3

26-11-1982

Hon. G.N., J.  
Hon. K.M. Misra, J.

It is stated that Sh. B.M.N. Kachar, Chief Standing Counsel, has not come to court on account of illness. Pass over as prayed.  
SST }

3-12-82

Wm for ors.  
Sh. Mehmood J.  
Sh. Shrivastava J.  
Ld. 23/12

9-12-82

R.C.

Hon. S. Chatterjee J.  
Hon. S.S. Ahluwalia J.  
Hon. M.P. Mehrotra J.  
Hon. P.S. Verma J.

15-12-82

Wm for ors.  
Hable Bann  
Hable S.A.  
Stand out

15-12-82

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8

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
21.12.82	<p>Bank on 21.12.82</p> <p>House C 17/12/82</p> <p>27/12/82</p>	
21.12.82	<p>Accept for order</p> <p>Hon. K. N. G. J.</p> <p>Hon. K. N. G. J.</p>	
	<p>On B.M.10 Kacher is ill and is not likely to recover for some time. List this petition for hearing after four weeks.</p>	
	<p>Ken Ks</p> <p>3-1-1983</p>	
6-4-83	<p>Ken K. N. G. J.</p> <p>Mr. Sharma</p>	<p>4.2.83</p>
	<p>List after a month as prayed by the petitioner's counsel.</p>	
1.5.83	<p>Ken</p> <p>6-4-1983</p> <p>Hon. K. N. G. J.</p> <p>Hon. K. N. G. J.</p>	

List on 5th August 83.

1-12-83

B



# ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 2921 of 1983

15.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
5.8.83	Writ for orders Hon. D. M. Jha J. Hon. K. S. V. J. Respondents counsel prays for three weeks time to file counter affidavit. The prayer is allowed. No further time will be allowed for filing counter affidavit. In case counter affidavit is filed Copy shall be served outside the Court on learned counsel for the petitioner who may, if he so chooses, file rejoinder affidavit within three days. This case shall be listed for orders on 30.8.1983 Ks Jha 5.8.1983. H	
30.8.83	30.8.83 Hon D M Jha Hon K S V	30

Hon D M Jha  
Hon K S V

Prd

A8

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned	
1	2	3	
	<p> <i>Hons Mr. Jha, J.</i>  <i>Hons K. S. Sharma, J.</i>  <i>Learned counsel for the</i>  <i>Income Tax Department has prayed</i>  <i>for grant of further three months</i>  <i>time to enable him to file counter</i>  <i>affidavit as some matter is pending</i>  <i>decision before the Board. We</i>  <i>think the request to be unreasonable</i>  <i>in view of the fact that <sup>time</sup> had already</i>  <i>been granted earlier. We, however,</i>  <i>reduce the request for time for three</i>  <i>months to two months with an</i>  <i>explicit direction that in case</i>  <i>no counter affidavit is filed within</i>  <i>that period the case shall be</i>  <i>heard in the absence of the</i>  <i>counter affidavit.</i> </p>		
	<p> <i>Rs. Jha.</i>  <i>30.8.1983,</i>  <i>En</i>  <i>Ro B - a</i> </p>		

12  
A65  
11/1  
Cmna 6231/2/84  
In the Hon'ble High Court of Judicature at Allahabad  
Sitting at Lucknow.

Writ Petition No. 3921 of 1982

7724  
S.P. Sharma

... Petitioner


Vs.

Union of India

... Opp. Party.

Application for dismissal of the  
writ petition.

That in view of the facts and  
circumstances stated in the accompanying  
affidavit it is most respectfully prayed that  
the above noted writ petition may be dismissed  
as having become infructuous.

  
(S.C. Misra)  
Advocate,

Counsel for the opp. Parties.

Lucknow.

May 25, 1984

30 - 13 -  
A9

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

Case No. 3921 of 1982

25.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
31-5-84	C.M. On No. 6231(0)/84 for dismissal of W.D. Jhon. K.N.H.E. fast before a bench of which I am not a member alongwith the record in the 2 <sup>nd</sup> week of August, 1984. Sd/- K.N. Moh 31-5-84	
<del>7/6/84</del> <del>13/8/84</del>	B. & G.L. P.O. Fixed fresh B H.N. Sethi K.N. Moh Stand out Bocho MHS/- 13-8-84	<del>13/8</del> K.N. Moh
18-9-84	Writ for order for H.N. Sethi H.N. Sethi 5	

A10

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned	
1	2	3	
24.9.84	Fixed for order HON K.N.G. HON B.K.G.		
	Stand over the request made on behalf of the... HON B.K.G.		
28.9.84	Fixed for order 24.9.84 HON K.N.G. HON B.K.G.		
11.10.84	HON K.N.G. HON B.K.G.		
17.10.84	HON K.N.G. HON B.K.G.		
23.10.84	HON K.N.G. HON B.K.G.		
	Ho		
	B		



A72 5/1

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

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10/11/84  
9111/84

16055

C.M. Appln. No. 11,501 (w) of 1984.

Inre:

Writ Petition No. 3921 of 1982.

S.P. Sharma.

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Petitioner.

Versus

Applicant.

Union of India and others.

Opp. Parties.

The petitioner respectfully begs to state as  
under:-

That for the facts stated and reasons  
disclosed in the accompanying affidavit, it is  
respectfully prayed that the opposite parties be  
directed to pay the increment due and the dues  
to the petitioner as is admissible on his crossing  
the efficiency bar w.e.f. 1.4.1976 along with interest.

16055

Lucknow dated

Nov. 7/ 1984.

Counsel for the petitioner-  
applicant.

12/

76 -

6

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD  
W.P. No. 3971 of 1984  
25.

All

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
	C.M. No. 11501/80 By - For	
9-11-84	Sen K.N.G. Sen B.K. Put up with the record Ed K.N.G. Ed B.K. 9-11-84.	
15-11-85	Fixed with the C.M. No. 11501/84 for order HOSB HOSB K.N.G. SO 15-11-85	
22-11-85 29-11-85 15-12-85 1-1-86	Fixed with C.M. No. 11501/84 for order HOSB HOSB K.N.G. As prayed for by the learned counsel for the petitioner, list after two weeks. 11-2-85 12-2-85	

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Date	Note of progress of proceedings and routine orders	Date to which case is adjourned	
1	2	3	
13/3/85	13.3.85 Hollis Hobart		
20385	Wait for order Hans SA 5 Hans BK 5		
5485	Wait for Hans SA 5 Hans BK 5 SD Rise 574/85		

applicant & counsel

Order Sh  
TA no 1074 of 87 / 18-13  
SP Sharma vs WOS

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
20.3.1990	<p>Hon. Mr. D.K. Agrawal, J.M., Hon. Mr. K. Obayya, A.M.</p> <p>The applicant has not been issued notice. The counsel representing the respondents has expired. Therefore, let notice be issued to the applicant and Shri. D.S. Randhawa, Senior Standing counsel. Govt. of India. The counter affidavit, may be filed within 6 weeks, here of and rejoinder affidavit, if any, may be filed within 2 weeks, thereafter.</p> <p>List it for <u>hearing on 23.7.1990.</u></p> <p>A.M. <i>[Signature]</i> Dec J.M.</p> <p>sd.</p>	<p><i>[Signature]</i> This W/O no 392/82 received a transfer from Lucknow High Court along with other W/Os. On the date of transfer the case was not admitted. Transfer notices issued by A.M. (not received) but neither any reply nor any undelivered cover received back submitted for orders 4/11/89</p>
23.7.90	<p>Honble Mr. Justice R. Nath J.C. " " K. Obayya A.M.</p> <p>Case called out. None appeared for the applicant. Notice issued to the applicant is presumed to be served. Shri. D.S. Randhawa is present for the respondents. Respondents' Counsel requests for and is allowed three weeks time to file Counter Affidavit. List before Dy. Registrar on 10.9.90 for fixing a date.</p> <p>(A.M.) <i>[Signature]</i> (V.C.) <i>[Signature]</i></p>	<p>OR Notice issued on 20.2.90 Notice of applicant's Counsel has been return back with postal return "not sent" etc. etc. B. F. O. 19/3/90 23/3/90</p>
0.90	<p>No setting Adj to 7.11.90 10.9.90 DR</p> <p>Both the parties are absent. Counter has not been filed.</p> <p><i>[Signature]</i></p>	<p>OR Notice was issued to the applicant on 23.3.90. No answer received. Counter has been return back. On A.O. closed. Brief holder of D.S. Randhawa who received notice. No CA filed S.F.H. 17/7/90</p>
Dinesh	<p>Put up before him Honble Bench for orders on 8.10.90 OR 10.9.90 PR</p>	<p>No CA filed S.F.O 17/7/90</p>



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19-

7.12.90

Hon. Mr. M. V. Bhalkar AM

Hon. M. V. D. K. Agrawal JM

Due to resolution of Bar  
Association case is Adj to

6.12.90

6.12.90

No sitting Adj to 11.1.91. @  
B.O.C.

Q

11.1.91

No sitting Adj to 25.2.91.

Q

25.2.91

No sitting Adj to 27.3.91.

Q

27.3.91

No sitting Adj to 29.4.91  
Q

29.4.91

No sitting Adj to 24.5.91  
Q

25.4.91

No sitting Adj to 9.7.91  
Q

9.7.91

No sitting Adj to 7.8.91  
Q

7.8.91

No sitting Adj to 23.8.91  
Q



19/9/91

Hon. Mr. Justice U.C. Srinivasan, VC  
Hon. Mr. A.B. Goshal, J.

None appears for  
the applicant. It appears  
that the applicant is  
not interested in  
pursuing the matter.  
Even the notice had  
been issued to the  
applicant. The  
application is dismissed  
for default of the  
applicant.

Am.

VC.

A20

2.

1. That the petitioner is Income Tax Officer. He had been posted at Lucknow in various capacities since 4.6.73 to 14.4.76. He has worked as Public Relation Officer, Lucknow, then in A-Ward Salary ~~Salary~~ <sup>Circle, Lucknow</sup> as Income Tax Officer, E-Ward, Circle I, C-Ward Circle II. On 15.4.76 he was transferred to Bara Banki where he worked till 2.5.77.

2. That the petitioner was due to cross the Efficiency Bar with effect from 1st April, 1976 at the stage of Rs.810/- in the scale of Rs.650-4200.

3. That a decision regarding the petitioner's crossing the Efficiency Bar (hereinafter referred to as the E.B.) had to be taken prior to the date when the Bar had to be crossed. According to the general instructions in practice this decision should have been taken normally three months before the due date.

4. That instructions regarding crossing of E.B. are contained in Financial HandBook F.R. 24 and 25. In the same paragraphs procedure for consideration of cases for avoidance of delay in the matter of decision regarding E.B. the Department of Personnel and Administrative Reforms, Government of India, issued an order true copy of which is evidenced by Annexure 1 to this writ petition, laying down inter alia that in case the E.B. falls due in April, decision had to be taken in April itself, if not between January and March.

5. That there is to be some objective material, specific reasons relating to work and conduct before

A16

SIDE  
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case W.P. 3921-82  
 Name of parties S.P. Sharma vs. Union of India  
 Date of institution 1.8.82 Date of decision.....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee/		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
	1	W.P. 3921 with Memorandum.	43	—	102.00			
	2	Power	1	—	5.00			
	3	C.M.A. (w) 888	2	—	5.00			
	4	C.M.A. 6231 (w) 888	7	—	7.00			
	5	C.M.A. 11501 (w) 888	4	—	7.00			
	6	Power	1	—	5.00			
	7	order sheet	6	—	—			
	8	Back Copy	1	—	—			

I have this day of 198 , examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court-fee stamps of the aggregate value of Rs. that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Date .....

Munsarim

Clerk

Group 13(K)

A/17

6491

A17

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

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3921

Writ Petition No. of 1982.

S.P. Sharma. --- Petitioner.  
Versus  
Union of India and others --- Opp. Parties.  
(Income Tax Department.)

I N D E X

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3.	Annexure 2. CS(CCA)Rule 55-A.	14.
4.	Annex. 3 O.M.dated 15.11.75	15-16
5.	Annex. 4 Letter No.44/76/77/78 dated 22-8-77	17-18
6.	Annex. 5 Claim dt. 27.12.76	19
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12.	Annex. 11 Impugned order dt. 11.5.82	40-41
13.	Affidavit.	42-43
14.	Vakalatnama. ---	44.

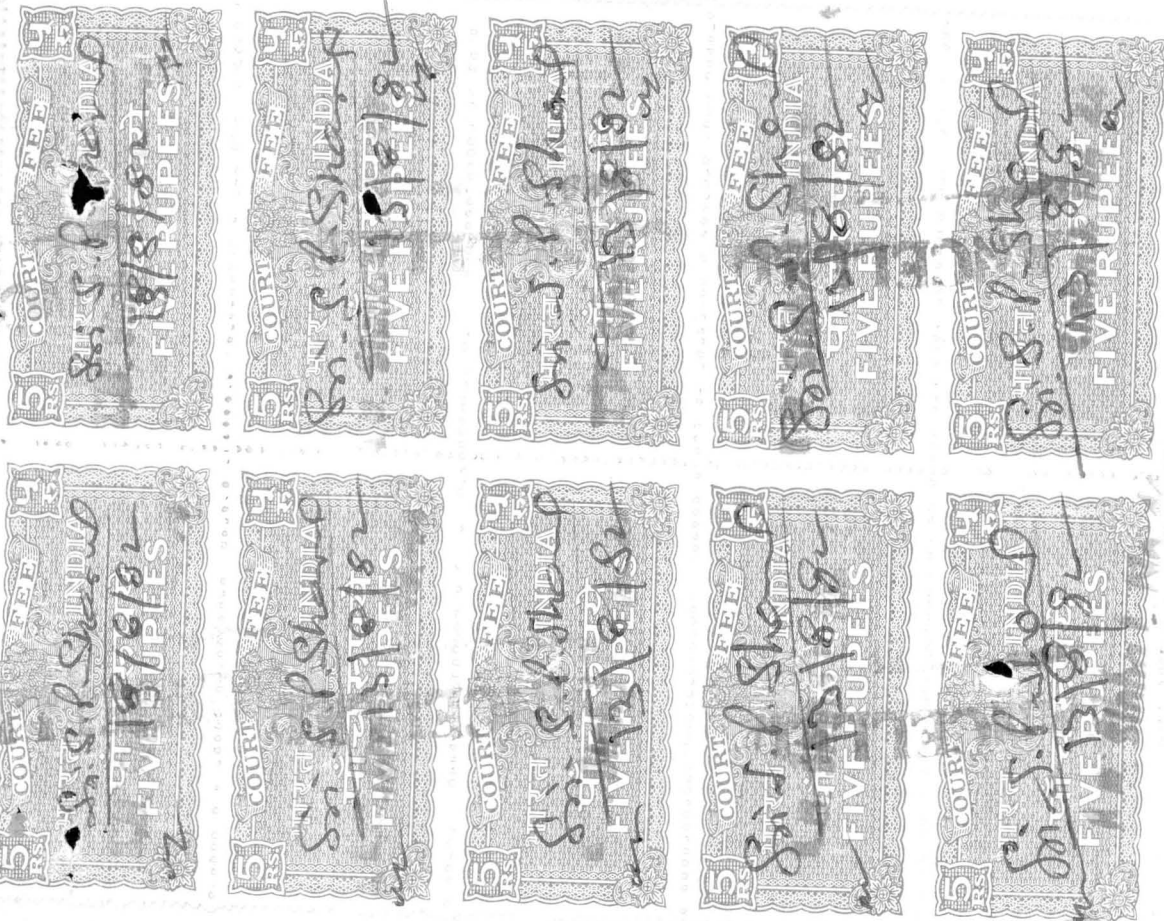
*B. Anand*

Counsel for the petitioner.



# INDIA COURT FEE

50 Rs.



one Imp p.R. 50.  
10 C.F. Rs. 50.  
Total Rs. 100



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

Lucknow Bench, Lucknow.

Writ Petition No. 3921 of 1982.

S.P. Sharma.

Petitioner.

Versus

Union of India and others.

Op. Parties.

Sherma



A  
19

A21

3.

a person could be stopped at the E.B.

6. That there was nothing adverse in the work and conduct of the petitioner who was before 1.4.76 holding charge of Income Tax Officer in a responsible circle. Extract from the Office Manual regarding the procedure laid down in C.S.(C.C.A.) Rule 55-A etc. is filed herewith as Annexure 2 to this petition.

7. That on the recommendations of the Third Central Pay Commission the recommendations in regard to crossing of E.B. as adopted by the Government vide Department of Personnel and Administrative Reforms Office Memo No. 29014/II/75 dated 15.11.75 inter-alia laying down that cases of Government servants for crossing of E.B. had to be considered on the basis of records of performance upto the date of the crossing of E.B. A true copy of the said Office Memo dt. 15.11.75 is filed herewith as Annexure 3 to this petition.

8. That insistence of adherence to the time schedule fixed by Government in the Personnel and Administrative Reforms Department should be strictly followed and that the delay will not be easily overlooked as laid down in further G.O. No. ESTB/E.Bar C.No.44/76/77/78 dated 22.8.1977. the Government of India again emphasised for consideration of the question of E.B. atleast one or two months in advance of the date on which the E.B. of an officer falls due. A true copy of the G.O. dated 22.8.1977 is filed herewith as Annexure 4 to this writ petition. Reference is invited to G.O. dated 27.6.77 (~~Annexure~~ if page 2 of annexure 4).



it was due i.e., at any time prior to 1st April, 1976.

10. That as a matter of fact, a report on the basis of work and conduct before the due date of 1.4.1976 ought to have been placed before the Appropriate Authority in such due time that the decision on the crossing of E.B. could have been taken before 1.4.76.

11. That, as already stated above, there was nothing adverse in the work and conduct of the petitioner which could have prevented his crossing the E.B. at the stage when it fell due and from the date when it had to be crossed.

12. That a D.P.C. for considering the cases of all officers who were due to cross the E.B., was held on 7.6.1976. Even in that D.P.C. the petitioner's case ~~was~~ for crossing the E.B. was not taken up nor placed by the opposite party no.3 for relevant consideration. When this fact came to the petitioner's notice, he put in his claim for clearance with effect from 1.4.76 a true copy of which is filed herewith as Annexure 5 (dated 27.12.76) to this writ petition.

13. That in reply nothing by way of reasons on which the petitioner was excluded from consideration were given out.

14. That vide order No. nil dated 28.9.77 received by the petitioner on 11.10.77, it was mentioned that the petitioner had not been found fit to cross the E.B. This was done when the cases of persons, who were due to cross the E.B. from 1.2.77 to 1.4.77, were being considered. The




*S. Sharma*

8/21  
A23

5.

The petitioner submits that thi was not in persuance of the procedure prescribed by the Department of Personnel and Administrative Reforms in its office Memo mentioned in the preceding paragraph.

15. That the Board of Direct Taxes in persuance of the authority of the Government of India had been repeatedly stressing that only functions and facts upto the date on which the concerned officer is due to cross the E.B. had to be taken into account for assessing his suitability or otherwise to cross the E.B. This being so, there was factually no impediment in the petitioner's crossing the E.B. and there was no justification for the order dated 28.9.77 received by the petitioner on 11.10.77 a true copy of which is being filed herewith as annexure 6 to this petition.



16. That the petitioner made a representation against this order on 16.11.77 a true copy of which is filed herewith as Annexure 7 to this petition, contents of which are tendered in evidence and verified as correct.

17. That the opposite party no.3, however, did not communicate as to what action has been taken by the Government of India on the petitioner's representation. Suffice to say that the opposite party no.3 did not take up the matter at all till the then incumbent of the office of the opposite party held his charge.

18. That the petitioner continued to remind the opposite party no.3 of the delay in the petitioner's crossing the E.B. A true copy of his reminder dated 16.7.81 is filed herewith as annexure 8 to this petition.

19. That the law required that the matter had to be reviewed annually if there was sufficient material and justification for the refusal of the crossing of the E.B. from the due date. In the petitioner's case, however, <sup>it</sup> was ignored, omitted from consideration, refused to be taken into consideration, Instead of its being a case of withholding of E.B. at the time it became due. As submitted by the petitioner in his representation, there was no reason or basis of the refusal for consideration except for rendering him down there was no reason for considering him for not crossing the E.B. along with the cases of persons who were due to cross the E.B. about one year or more after his due date and refusal mentioned and circulated to all other Income Tax Officers.

20. That in a similar case relating to Sri Kashi Nath Srivastava of the establishment of the Income Tax Officer, opposite party no.3 after deliberations and considerations of the relevant facts decided that the decision on the question of E.B. had to be taken only with respect to facts and functions on the date of the crossing of the E.B. and not the events subsequent to the date. A true copy of the decision in the case of Sri Kashi Nath Srivastava is filed herewith as annexure 9 to this writ petition. Similar view was taken in the case of <sup>of</sup> Sri R.C. Saxena, Upper Division <sup>Clerk</sup> Assistant at Kanpur vide No. 106/11/71-Ad.IX dated 21 Jan. 1971 a copy of which is filed herewith as annexure 10 to this petition.

21. That the deponent is informed and has no reasons to disbelieve the information that the <sup>Central</sup> Government Board of Direct Taxes <sup>Personnel</sup> of India in the Department of Finance and Administrative Reforms has written to opposite party no.3 that the

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petitioner's case should have been taken up by the Commissioner with effect from the due <sup>date</sup> ~~day~~ in accordance with the rules and necessary orders should have been passed by the Commissioner and intimated to the <sup>Board</sup> ~~Government of India~~. No action, however, at the said letter had been taken at all and no information of such communication being received by the opposite party no.3, was given to the petitioner at any stage although he was submitting reminders after reminders to the Government of India through the opposite party no.3 as official channel.

22. That ultimately the petitioner received on 20.5.82 order dated 11.5.82 informing the petitioner that he has been permitted to cross the E.B. w.e.f. 1.11.81 which was without any basis, justification or reasons being at any stage spelt to the petitioner or affording the petitioner any opportunity of hearing and showing cause or knowing the objective material on the basis of which the consideration was postponed from 1.4.76 and how arbitrarily the date such as 1.11.81 could be put in place of the due date, i.e. 1.4.76. The <sup>photostat copy of the order dated 11/5/82 is being</sup> ~~annexed hereto and marked as ANNEXURE No.11 to the~~ <sup>with petition</sup> 23. That in any case, in view of the factual position stated in para of the Government orders in response to the petitioner's representation and the general practice, procedure and requirement of law this order was arbitrary, discriminatory, unreasonable and penal. This order takes away five valuable years of the petitioner's service without increments and this too without any opportunity of meeting any case, knowing any reasons and making any effective representation.

Shenue  
24. That the petitioner has only about four and a



half years of service left and being advised that he has no other equally adequate, effective, efficacious and alternative remedy except to prefer this writ petition amongst other on the following grounds:-

*Alshew*

GROUNDS

- i) Because it is misreading of the rule as well as <sup>as</sup> ~~travest~~<sup>to</sup>ing of justice, arbitrarily <sup>e</sup>postponing the consideration of the case of crossing of the E.B. of the petitioner without any rhyme or reason.
- ii) Because it is arbitrary, capricious and malice in law to take up the matter of crossing of the E.B. one year afterwards and without mentioning or communicating any reason therefor stopping him at the E.B. and then despite orders of higher authority on his representation refused to reopen the matter of crossing of the E.B.
- iii) Because crossing of the E.B. being excluded from consideration is punishment and it was being inflicted against the petitioner without any opportunity of hearing or showing cause.
- iv) Because what to say of opportunity of hearing or explanation, even reasons for withholding were never given out.
- v) Because the subsequent conduct of sitting over the decision of the Government of India and not communicating the same to the petitioner was an instance of malafides and atleast malice in law.



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vi) Because the impugned action was in colourable <sup>exercise</sup> ~~exercise~~ of powers.

vii) Because in any case the subsequent conduct could not be taken into account for stopping of E.B. when it fell due from an earlier date.

viii) Because in view of the / circumstances set out in the writ petition itself, action was totally arbitrary, unreasonable, discriminatory and prejudicial.

ix) Because the action of the opposite party no.3 if not set aside, will go a long with to affect the petitioner's career and future chances of employment prospects.

x) Because the impugned actions are against the settled law, public policy, procedure established by law and are per-se illegal.

PRAYER

WHEREFORE, the petitioner respectfully prays that this Hon'ble Court may be pleased -

- (a) to issue a writ, order or direction in the nature of certiorari and quash the order evidenced by annexure 6, dated 28.9.77 and produce in this Hon'ble court the order of the opposite party no.2 passed on the representation of the petitioner against the said order dated 28.9.77,
- (b) to issue a writ, order or direction in the nature of mandamus commanding the opposite party no.3 to set aside the annexure No.6 dt. 28/9/77 in pursuance of the directions of the G.O. and quash the

*Handwritten signature*

the order of the opposite party no.3 evidenced by annexure 11 dated 11/5/1982.

- (c) to issue a writ, order or direction in the nature of mandamus commanding the opposite parties to permit the petitioner to cross the E.B. w.e.f. 1.4.76 and to grant such restitutions, pecuniary relating to consequential benefits as may legally be found in consequence of the crossing of the E.B., and,
- (d) to allow costs of the petition.

Lucknow Dated  
August 18, 1982.

*P. M. B. B. B.*  
Counsel for the petitioner.

Certified that there is no defect in this  
Petition.

*P. M. B. B. B.*  
Counsel for the petitioner.

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

Sri S.P.Sharma ... .. Petitioner  
Versus

Commissioner of Income tax and others.

A copy of the Department of Personnel & Administrative Reforms O.M. No. 29014/1/76-Estt(A) dated 18.10.1976 received from Government of India, Department of Revenue and Banking, (Revenue Win), New Delhi under endorsement F.No.A-29012 /2/76 -Coord dated 28 the October, 1976 forwarded to all Heads of Department and Offices.

-----  
Sub. Efficiency Bar-Procedure for consideration cases  
need for avoiding delay.  
-----

The undersigned is directed to refer to the Department of Personnel & A.R. O.M. No. 29014/2/75-Est.(A) dated 15th November, 1975, communicating the decision of the Government that in order ~~xx~~ to have effective application of the efficiency bar, the cases of government servants eligible for crossing efficiency bar, should be considered by a Departmental Promotion committee on the basis of records of performance up to date available at the time of such consideration. With a view to minimise the delay it was also decided that the DPC need not sit in a meeting to consider such cases but may consider such cases by circulation of papers.

2. It has been brought to the notice of the Government that there have been a number of administrative delays in the clearance of efficiency Bar cases. Even though in all such cases the government servant concerned, where the delay is not attributable to the inefficiency of the government servant, can be given the benefit of higher pay with retrospective effect, still the need for clearance of such cases promptly cannot be over-emphasised. With a view to avoiding procedural delays and also with a view to reducing

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S. Sharma

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occasions on which files are circulated to the members of the DPC, it has been decided that the following time schedule may be adopted for the screening of efficiency bar cases:

Month in which EB cases should be considered by the DPC.

Months during which the date of crossing the EB falls.

January  
April  
July  
October

January to March  
April to July  
August to October  
November and December

3. According to the existing procedure the Annual confidential Reports are written in the Secretariat according to the calendar year and in other offices according to the financial year. It would be seen from the time schedule prescribed ~~to~~ above that efficiency bar cases falling during the months of January to March are cleared in January and cases falling during the months of April to July in the month of April. It would be necessary to get the confidential Reports in respect of these persons written on priority basis during the first fortnight of January/April itself so that the consideration of these cases are not delayed beyond the months of January and April. In respect of cases of efficiency bar becoming due during the months of August to December, it would not be necessary to obtain special reports as a matter of course for the incomplete portion of the year which regular confidential reports are not yet due.

4. The Ministry of Finance etc. are requested to bring the above changed procedure to the notice of all officers concerned both in the Secretariat as well as in Attached and Subordinate offices.

*Signature*



Government of India  
Office of the Commissioner of Income-tax  
Lucknow.

Estab.E.B./C No.405-37E/46 Dated , Lucknow the 25th Nov.1976,

Copy with a copy of Hindi version forwarded to all the Asstt. Commissioners of Income -tax, Charge ITOs, TROs, A.C.E.D. valuation officer and Accounts Officer in all pay Units in Lucknow charge in continuation to this office endorsement C.No.405/36E/46(Estt.) dated 5.2.1976 for compliance. IAC/AAC may please submit list of persons (Class III & IV) whose E.B. falls due during the period Jan. to March, 1977 in the prescribed proforma.

copy also forwarded to the Dy. Director, RTI, Lucknow for information.

(A.K.Srivastava)ITO(HQ)Admn.  
for Commissioner of Income-tax,  
Lucknow.

INTERNAL DISTRIBUTION

As usual.

Inspector Com and Supt. CIT's office will please please see that the C.C.roll of officials whose E.B? case are due may be written on priority basis.

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Annexure 2

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

Sri S.P.Sharma

.....Petitioner

Versus

Commissioner of Income Tax and others

Extract taken from office Manual Chapter X(a), para 3

Note 4:- Stoppage at efficiency bar-(i) It is necessary to follow the procedure laid down in C.S. (C.C.A) R.55-A (para 5) of rule 6 of the Subordinate Services Appeal and Discipline Rules (para 27) as the case may be, before an order stopping a Govt. servant at the efficiency bar, is passed. The officer concerned should be furnished with copies of adverse reports, if any, recorded in the confidential reports over a number of years and some recent instance of bad or indifferent work should be cited and he should be asked whether he has anything to say in his defence and against the proposal to stop him at the efficiency bar. The competent authority can then record an order stopping the officer at the efficiency bar if he is satisfied that the imposition of this penalty is justified.

(ii) In case of stoppage at an efficiency bar, the period of stoppage cannot be specified in advance and the stage in the time-scale at which the official should be placed in the even of his being allowed to pass the bar at any time future cannot be fixed by the punishing authority at the time of ordering the stoppage at the efficiency bar. Such stage in the time-scale should be determined later by the authority declaring the bar removed.

(iii) Cases of all officers held up at the efficiency bar should be reviewed annually with a view to determine whether the quality of the work has improved and, generally, whether the defects for which they were stopped at the bar have been remedied to an extent sufficient to warrant the removal of the bar.



*Signature*

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

Sri S.P.Sharma ... .. Petitioner

Versus

Commissioner of Income Tax and others.

A copy of the Department of Personnel and Administrative Reforms O.M. No. 29014/2/75-Estt (A) dated 15-11-1975 received from Government of India, Ministry of Finance (Department of Revenue & Insurance) New Delhi vide their letter F.No. 29012/1/7 Coord dated 26th December 1975 forwarded to all Heads of Department and offices as in list No. 1

Subject: Efficiency Bar- Effective applications of -Recommendation of the third central Pay Commission.

....

The Third Central Pay Commission have made the following recommendation in regard to crossing of Efficiency Bar by Government Servants vide recommendation No. 37 of their Report:-

" There should be a more effective application of efficiency bars then has done hither to . He assures should be taken to ensure that crossing the efficiency bar is no longer a routine matter and that those who do not pull their weight are denied further increments".

Governments have since accepted the above recommendation of the Third Central Pay Commission.

2. In order to ensure effective implementation of the aforesaid recommendation, the Third Central Pay Commission have indicated certain further steps in para 17 of Chapter 8 of their Report (Vol.I). These have been accepted by Government and the following decessions have taken:-

- (1) Cases of Government servants for crossing the Efficiency Bar in a time scale of pay shall be considered by a Committee which shall be the same as the Departmental Promotion Committee constituted for the purpose of considering cases or confirmation of the Government servants concerned. Where however, in a D.P. C. constituted for considering case of confirmation, a member of the Union Public Service Commission is associated, it shall not be necessary to associate the member of the commission in the Committee for considering cases of Government servants for crossing of the Efficiency Bar.

*Sharma*

(2)

It is not essential for the committee considering cases of Government servants for crossing the E.B. to sit in a meeting to consider such cases, but it may consider such cases by circulation of papers. The committee shall make its recommendation to the authority competent to pass an order under FR 25 and the decision will be that of the competent authority.

(3)

Cases of Government servants for crossing the E.B. should be considered on the basis of records of performance upto date available at the time of such consideration. Wherever such reports of performance are not prescribed for any category of Government servants on account of the nature of their work, the administrative Ministry/ Department may consider the instruction of written tests and/ or trade test for the purpose.

(4)

Where a Government servant who has been held up at the efficiency bar stage on the due date on account of unfitness to cross the Efficiency Bar is allowed to cross the E.B. at a later date as a result of subsequent review which should ~~also~~ also be done in accordance with the procedure mentioned in para 2(1) above, the increment next above the E.B. shall be allowed to him from the date of such order to cross the E.B. where it is proposed to fix his pay at a higher stage, taking into account the length of service from due date for crossing the E.B. the case should be referred to the next higher authority for a decision.

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Annexure 4

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

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Sri. S.P.Sharma . . . . . Petitioner

Versus

Commissioner of Income Tax and others.

Government of India  
Office of the Commissioner of Income-tax  
Lucknow.

Estab./E.Bar  
C.No.44/76/77/78  
To

Dated, Lucknow, the 22nd Aug. 1977

All Assistant Commissioners of Income tax  
Charge I.T.Os, T.R.Os Asstt Controller of  
Estate Duty and Valuation Officer, in Lucknow  
Charge.

Sub. Efficiency Bar-Procedure for consideration  
of cases -Need for avoiding delay.

. . .

Enclosed herewith please find a copy of the Board  
Circular letter F.No. A.29011/31/77-Ag VI dated 27-6-1977.

The Board desires that the time schedule laid down in the  
Department of Personnel & Administrative Reforms Office  
Memorandum No. 29014/1/76 -Eatt (A) dated 18.10.76, endorsed  
vide this office No. Estab/ E.B. C.No. 405-37E/46 dated 25.11.76  
should be strictly followed and in case where the proposals  
are not sent in time, reasons for delay should be given in  
the letter forwarding the proposal.

sd(I.C.Chatterjee) ITO(HQ)  
Adm.  
for Commissioner of Income tax.  
Lucknow.

Even no. of date

Copy with copy of enclosure forwarded to the  
Commissioner of Income-tax .5 Ashok Road, Allahabad for information  
and necessary action.

( E.C. Chatterjee) ITO(HQ)  
Adm.  
for Commissioner of Income tax  
Lucknow.

Internal Distribution

1. As usual
2. R.K. 5 copies
3. Section Incharge /SGs.
4. E.C. II & V
5. H.C. Establishment Section

*Signature*

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F.No.A-29011/31/77-Ad.VI  
Government of India  
Central Board of Direct Taxes.

New Delhi, the 27th June 1977

All Commissioners of Income-tax /  
Directors of Inspection/Director of Training.  
IRS(DE) Staff College, Nagpur/Director  
O & M Services (Income-tax) New Delhi/  
O.S.D. (Competant Authority), Delhi/Bombay/  
Calcutta/ Madras.

Sub.: Efficiency Bar.Procedure for consideration  
of cases -Need for avoiding delay.

Sir,

I am directed to say that in the Department of personnel & A.R.O.M. No.29014/1/76-Estt(A) dated the 18th October, 1976 a copy of which was sent to you (vide, Department of Revenue & Banking (Revenue Wing)'s endorsement No. A-29012/2/76 -Coord. dated 28.10.1976). a time schedule for submission of cases to the committee constituted for deciding the efficiency bar cases., has been laid down. According to the time schedule, the efficiency bar cases are to be considered one or two months in advance of the date on which efficiency bar of an officer falls due. It is, however, noticed that the instructions laid down in the office memorandum under reference are sometimes ~~not~~ not being followed by the Heads of the Departments under the Board and in some cases proposals for crossing of efficiency bar have been sent 1-3 years after the due date for crossing of the bar. The Board desire that the time schedule laid down in the Department of personnel & A.Rs aforesaid office memorandum dated 18.10.1976 should be strictly followed and in cases where the proposals are not sent in time, reasons for the delay should be given in the letter forwarding the proposal.

Yours faithfully,

sd. A.C.Chowdhary under  
sec.  
Central Board of Direct Taxes.

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

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Annexure No. 5

Writ Petition No. of 1982. S.P.Sharma Vrs. Union of India and others.

ESTABLISHMENT - GAZETTED - CENTRAL SERVICES  
EFFICIENCY BAR - CROSSING OF - CASES FOR  
CONSIDERATION - FORWARDING OF -

Sl.No.	Name and designation of of the Gazetted Officer.	Date of Birth.	Scale of Pay	Stage at which E.B. is due to be crossed.	Due Date for crossing E.B.	Whether to be con- sidered for the 1st time or subsequent review.
1	2	3	4	5	6	7
1.	S.P. Sharma Income Tax Officer, Bara Banki	15.3.1929	Rs.650-30-740-35- 810-EB-35-880-40 1000-EB-50-1200.	Rs.810/-	1.4.1976	For the first time.

F.No.10(a)/76

Dated Barabanki: 27.12.1976

Submitted to the Commissioner of Incometax, Lucknow, in compliance with his Estab/E.Bar/C-  
No. 44/76/76-77 dated 10.12.76.

Sd. S.P.Sharma  
Income Tax Officer,  
Barabanki.

Copy for information submitted to the Inspecting Asstt.Commissioner of Incometax.

*Sd. Sharma*



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Annexure 6

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In the Hon'ble High court of Judicature at Allahabad  
sitting at Lucknow, Lucknow.

Sri S.P.Sharma

... .Petitioner

Versus

Commissioner of Income Tax and others

ANNEXURE 6A

Government of India  
Office of the Commissioner of Incometax,  
Lucknow.

ORDER

Dated 28.9.77

Establishment-Central Services-Gazetted  
I.T.O. Class II-Efficiency bar-Crossing of  
Permission regarding.

...

No. ... 95 on the recommendation of the Committee constituted  
in pursuance of Department of Personnel and Administrative  
Reforms O.M.No. 2901402075/Estt.(A) dated 15.11.75 the under  
mentioned I.T.Os Class II are hereby allowed to cross the  
Efficiency Bar at the stage and with effect from the dates  
mentioned agaisnt each.

Sl. Name of the Officer with Pay Scale Stage Date from which  
No. place of posting allowed

1	2	3	4	5
	S/Shri			
1.	R.R.Singh, I.T.O. Spl. Audit, Lucknow	650-1200	810/-	1.2.1977
2.	S.N.Saxena I.T.O. 'A' Ward, Najibabad	"	"	"
3.	AR.Singh I.T.O. Chandausi	"	"	"
4.	A.S.Kaushik, I.T.O. 'C' Ward, Moradabad	"	"	1.3.77
5.	S.M.Saxena I.T.O. 'B' Ward Bareilly.	"	"	1.2.77
6.	J.S.Verma, I.T.O. 'E' Ward Circle I, Lucknow.	"	"	1.7.77
7.	M.L.Agarwal, I.T.O. 'C' Ward salary circle, Lucknow	"	"	1.4.77
8.	Jaipal Singh, I.T.O. Hardoi	"	"	1.1.74

2. Shri S.P. Sharma, Tax Recovery Officer, I, Lucknow has  
not been found fit to cross the Efficiency Bar.

*[Signature]*

sd(S.K.Lall)  
Commissioner of IncomeTax,  
Lucknow.

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- 2 -

Estab<sup>4</sup>EB

C.No.44/76/77-78

Dated Lucknow , the 28th Sept.1977.

Copy forwarded to for information and necessary action:-

1. The Zonal Accounts Officer (CBDT) 57-Ramtirath Marg,Lucknow.
2. All I.A.CS. in Lucknow Charges
3. The Income tax Officers concerned (By name)
4. Head Clerk Establishment/Accounts Section, C.I.T's office, Lucknow.
5. The Commissioner of Income Tax , Pay Unit , Lucknow/  
Field Pay Units Bareilly/ Moradabad.
6. R.K. 10 copies for personal files.

*Signature*

sd. ( IC. Chatterjee)  
I.T.O. (HQ) TECh.

for Commissioner of Income -  
Tax . Lucknow.



AYD 22

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

Writ Petition No.                      of 1982.

S.P. Sharma                      .---                      ---                      - Petitioner.

Versus

Union of India and others.                      ---                      Opp.Parties.

Annexure No. 7.

To

The Secretary,  
Central Board of Direct Taxes,  
Department of Revenue,  
Ministry of Finance,  
NEW DELHI.

Through      Proper channel.

Sir,

Efficiency Bar- Stoppage of increment-  
Income Tax Officer Class II,  
Representation against  
...

With reference to the above subject I have to submit that the Commissioner of Income tax, Lucknow, by his order dated 28.9.77( copy enclosed at Annexure A) has stopped the increment of this applicant at the first efficiency bar on the ground that the applicant has not been found fit to cross the efficiency bar. The Commissioner of Income tax has also considered it proper to give wide publicity to the stoppage of the increment on the ground that the applicant has not been found fit to cross the efficiency bar.

*Signature*



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2.

2. The applicant submits that the Board may please be moved to give its sympathetic consideration to this application and having regard to the reasons herein explained regarding the propriety and legality of the order of the Commissioner dated 28.9.77, cancel the said order and direct the Commissioner to pass the order allowing the petitioner to cross the efficiency bar.

3. That in the first place the action of the learned C.I.T. in giving wide publicity to his order is highly improper. Adverse entries in the Confidential reports are confidential and anything adverse has to be communicated confidentially through a demi official letter. It, therefore, follows that stoppage of increment at the efficiency bar owing to an adverse entry should be treated as equally confidential. Moreover, there is no need to communicate to others the order stopping increment at the efficiency bar, as it serves no purpose so far as various officers, clerks, and officers are concerned. The Board may, therefore, be moved to consider and ~~explain~~ examine the object of the learned C.I.T. in giving such wide publicity. It is my respectful submission that the action of the learned C.I.T. has humiliated and demoralised me completely and the action of the Commissioner could not possibly have been with any other object. It is for the Board to consider whether such attempts by senior officers to demolish and humiliate Junior officers is in interest of administration and the traditions of the service. Necessary instructions in this regard may kindly be issued to all the Administrative Authorities.

4. So far as the merits of the Commissioner's order stopping the increment at the efficiency bar is concerned it is even more unfair, unjust, illegal and in clear violation of established procedures and principles of natural justice as will be clear from the succeeding paragraphs. I can not help but feel that the action of the

*Lesne*

learned C.I.T. in transferring me again and again illegally depriving me of house rent allowance, making adverse entries for the first time in my entire service career and stopping the increment at the efficiency bar are all calculated to harass me and I will once again request the Board to give a personal hearing to clarify my position.

5. For allowing a person to cross the efficiency bar the instructions provide the following conditions:-

- (a) The officer concerned should have passed the Departmental Examination by the Prescribed standard.
- (b) He should be fit to hold independent charge of a salary, refund or an ordinary Mufasil Circle, and
- (c) He has performed the duties and responsibility assigned to him efficiently.

It has been further provided in Board's letter No. 106/11/71-Ad.IX dated the 21st January 1971 (Annexure B) that only events upto the date on which the official concerned is due to cross the efficiency bar are to be taken into account for assessing his suitability or otherwise to cross the efficiency Bar. The rationale of the Board's instructions is clear. F.R. 25 provides for the crossing of the efficiency bar with effect from a particular date. In this very nature of the things events subsequent to that date would be irrelevant because F.R. 25 envisages the consideration of the record on the crucial date and on that crucial date only prior records and events can provide a basis for determining the suitability for crossing the efficiency bar. The Board's instructions quoted above and E.R. 25 clearly indicate the relevant material and irrelevant material. A decision arrived at by taking into consideration irrelevant material would be vitiated in law.

*Alshame*

6. In the Department of Personnel and Administrative Reforms O.M. no. 29014/2/75-Estt(A) dated 15.11.75 read with the said Department's O.M. NO. 29014/1/76 dated 16.10.76 it has been provided that the question of considering the suitability for crossing the efficiency bar should be considered before the date on which the efficiency bar is due to be crossed and time has been fixed for consideration of the question before the crucial date. In view of the fact that earlier instructions provided for facts and events upto the date on which efficiency bar was to be crossed and the latest instructions fixes the time of consideration earlier to the date of crossing the efficiency bar. The said instructions provide that facts and events upto the date fixed for consideration which is always a date prior to the date of the efficiency bar, should be considered. These instructions do not and cannot be interpreted to convey that if the consideration of question wittingly or unwittingly, has been delayed even beyond the crucial date of crossing the efficiency bar facts and events which have taken place after the date of crossing the efficiency bar should be taken into consideration. On a proper construction of F.R. 25 and instructions contained in Board's letter dated 21.1.1971 mentioned in the preceding paragraph which have not been withdrawn all events subsequent to the date of crossing the efficiency bar would be irrelevant.

7. It maybe further pointed out that in the Income-tax Office Manual Chapter X(a) para 3, page 224 it is provided that before an order stopping a Govt servant at the efficiency bar is passed the officer concerned should

*Sharma*

be furnished with copies of adverse reports recorded in the confidential report ever a number of years and some recent instance of bad or inefficient work should be cited and he should be asked whether he has anything to say in his defence and it is only thereafter that the Competent Authority may record an order stopping the efficiency bar.

8. I crave the Board's indulgence for citing at some length the instructions and procedures and taking their valuable time but I most respectfully submit that in my opinion it has become necessary to go into these detailed instructions as each and every instruction of the Board and the Department of Personnel has been violated by the learned Commissioner of Income tax, Lucknow, to humiliate harass and harm the applicant.

9. The facts pertaining to the applicant's case are now placed in the light of the instructions and procedures. The applicant joined Govt service with effect from 1.3.1949 and he was due to cross the 1st efficiency bar at Rs.810/- with effect from 1.4.1976 in the grade of Income Tax Officer Class II, the scale being Rs.650-30-740-35-810-EB-880-40-1000-EB-40-1200. During these 28 years of service he was never given an adverse entry. On the contrary the applicant feels confident that if his entire service record is examined his Confidential Reports would be found to be consistently good or very good. The applicant passed the Departmental examination for Income tax officers in the year 1962. He has held important charges. He was posted as I.T.O. 'D' ward, Moradabad Public Reports Officer in the Office of the Commissioner of Income Tax, I.O.O. 'A' Ward, Salary Circle, Lucknow dealing with highly paid Govt Servants, I.T.O. 'E' Ward, Circle I, Lucknow, 'C' Ward, Circle II, Lucknow, and I.T.O. Barabanki. The applicant's confidential record

*[Signature]*

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upto 1.4.1976 will show that the applicant performed his duties efficiently. The applicant, therefore, fully satisfied the three conditions laid down for crossing the efficiency bar and there was absolutely no justification for stopping the increment.

10. According to the instructions of the Department of Personnel since I was due to cross the efficiency bar with effect from 1.4.1976 the question of my suitability for crossing the efficiency bar should have been considered in April 1976. The instructions further provide that thereafter the Departmental Promotion Committee should have met in July 1976, October 1976, January 1977 and April 1977. The question of my suitability for crossing the efficiency bar continued to be ignored till the aforesaid occasions. Was this delay designed to enable the learned C.I.T. to have time to give me an adverse entry and make that entry a reason for depriving me of the increment or was the delay designed to enable some other officers with otherwise doubtful record to get some good report or the delay was just due to negligence is a matter best known to the learned C.I.T. The fact remains that the question of allowing me to cross the efficiency bar was delayed by more than a year and some time between April 1977 and August 1977 adverse remarks were made in my confidential report for the financial year 1976-77. These adverse remarks were communicated to me in August 1977 and a representation against the said remark was made to the Board. I am not aware whether the said representation has been sent by the learned C.I.T. to the Board as I have not received any acknowledgement from the Board so far though I had requested the Board to give a personal hearing to me so that I may be able to explain my position. Further it is not clear when the departmental Promotion

*Sharma*



Committee considered the question of my crossing the efficiency bar. It could not have been considered till April 1977 because the adverse report did ~~not~~ exist till that month and the increment would not have been stopped in the absence of the report, it means the question has been considered sometime between May 1977 and September 1977, i.e. immediately after an adverse entry was made. It further appears that the matter was considered either before the adverse entry was communicated or it might have been considered after communicating the adverse entry but without taking into account my reply and in any case it has been considered even before the Board could consider my representation.

11. I have mentioned the instructions and procedures in paragraphs 5, 6 and 7 and some of the facts in

paragraph 10. Having regard to the law and facts it is submitted that the order stopping my increment at the efficiency bar is unfair, unjust, illegal and in violation of principles of natural justice for the reasons mentioned below:-

(a) That all the conditions laid down under the existing instructions having been fulfilled an order should have been passed in April 1976 allowing me to cross the efficiency bar.

(b) The delay in not passing the order in April 1976 and thereafter in July 1976, October 1976, January 1977 and April 1977 in violation of the instructions of the Board and the Department of Personnel notwithstanding that I had sent necessary particulars on 27.12.76 (Annexure C) when posted as I.T.O. Barabanki in compliance with the C.I.T.'s letter dated 10.12.76 to pass the order allowing me to cross the efficiency bar. The order stopping me to cross

*Alshew*

the efficiency bar, stands vitiated because of the inordinate and deliberate delay in passing the order.

(c) The order stands vitiated in law in so far as the confidential report written in the middle of 1977 i.e. more than a year after the crucial date 1.4.1976 i.e. the date on which the efficiency bar was due to be crossed has been taken into consideration. Since facts and events subsequent to 1.4.1976 were irrelevant material for deciding whether the applicant was fit to cross the efficiency bar by 1.4.1976, the order arrived at after considering irrelevant material can not but be perverse in law.

(d) Assuming for the sake of arguments, without in any way admitting that the report written in the middle of 1977 was relevant material it is respectfully submitted that a single adverse report can not be made the basis of an order stopping the increment. As pointed out in paragraph 7 supra it is only a series of adverse reports which can justify the order stopping the increment at the efficiency bar.

(e) Further assuming for the sake of argument that a single adverse entry would be adequate justification for an order stopping the increment it is respectfully submitted that it is only an adverse entry which has been communicated to me, the representation against the same has been considered and rejected may be some justification for stopping the increment but an entry which may be expunged and the correctness and propriety of which has not been considered by the Competent Authority can not be any material and an order passed on such flimsy material can not but be considered as perverse in law.

(f) In any case the adverse entry in the Confidential report for the financial year 1976-77 apart from being

*Alshew*

irrelevant for the purpose of deciding the suitability of crossing the efficiency bar on 1.4.1976 is not an objective assessment of the efficiency and ability of the applicant but an opinion based on no material made without any prior intimation of any fault demanding an effort at correction and is due to personal animus against the applicant. I have already made a representation to the Board against the said entry. The entry being incorrect factually, legally untenable & in law and prompted by animus is absolutely no justification for stopping the increment at the efficiency bar.

10. The applicant most respectfully submits to the Board that he is the victim of a calculated && attempt to humiliate, harass and harm him. He craves the protection of the Board from such attempts and prays that the order passed against the applicant to cross the efficiency bar may kindly be ordered to be cancelled and he may be allowed to cross the efficiency bar && with effect from the due date i.e. 1.4.1976.

Thanking you,

Yours faithfully,

Dated Lucknow:  
the 16th November 1977.

(S.P.Sharma)  
Tax Recovery Officer,  
Income Tax Department (on  
Leave)  
47 Nehru Nagar, Lucknow.

EnclsL As mentioned in the  
petition.

Advance copy forwarded to the Secretary Central Board of Direct Taxes, North Block, New Delhi for favour of necessary action at a very early date.

*S. Sharma*

(S.P.Sharma)  
Tax Recovery Officer,  
Income Tax Department (on  
Leave)  
47, Nehru Nagar, Lucknow.

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

Sri S.P.Sharma ... .. Petitioner

Versus

Commissioner of Income Tax and others.

To

The Commissioner of Income-Tax  
Lucknow.

Through: The Inspecting Asstt. Commissioner of Income-tax  
Bareilly.

Sir,

Sub: Efficiency Bar-Stoppage of Increments-Income-Tax  
Officer, Class II-Representation against-

....

With reference to the above subject I have to submit that I was entitled to cross the first Efficiency Bar at Rs.810/- in the scale of Rs.650-30-740-35-810-EB-35-880-40-1000-EB-1200 with effect from 1.4.1976 but it was stopped by the then Commissioner of Income-tax, Lucknow Shri S.K.Lall, vide his order dated 28.9.77 on the ground that I was not found fit to cross the efficiency bar. I have already submitted my representation dated 16.11.88 to the Central Board of Direct Taxes, New Delhi but it could not be decided so far inspite of the reminders sent on 27.5.78 and 5.7.78. The petitioner, therefore, submits the following few lines for your kind honours consideration and necessary orders:-

1. That now I have been given to understand that in respect of class II officers all powers with regard to efficiency bar and confirmation vest with the Commissioner of Income-tax and it is on account of this reason that the Board have not decided my representation dated 16.11.77.
2. That in view of the Board's letter No. 106/11/71-Ad-IX dated 21.1.71 the copy of which has already been enclosed to the said representation only the events

*Sharma*

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till the date on which the official concerned is due to cross the efficiency bar are to be taken into account and so in my case events till 31.3.76 only should have been considered and not beyond that date

3. That in the Department of Personnel and Administrative Reforms O.M.No. 29014/2/75-Estt (A) dated 15.11.75 read with the said Department's O.M.No. 29044/1/76 dated 16.10.76 it is provided that the question of considering the suitability for crossing the efficiency bar should be considered before the date on which the efficiency bar is due to be crossed. In my case the matter should have been decided before 1.4.76.
4. That the then Commissioner Shri S.K.Lall for reasons not far to seek kept it pending for more than a year, displayed an animus by several prejudicial actions against the applicant in the year 1977 and thereby put him into financial loss and marred his future career.
5. That the stoppage of the efficiency bar in the year 1977 which was due on 1.4.76 is quite arbitrary, unjust and against the rules framed by the Government's on the subject as submitted in paras 2 and 3 above. It also vitiates the principles of natural justice.
6. That on the basis of instructions contained in the above mentioned circular the said commissioner Sri S.K.Lall allowed Shri Kashi Nath Srivastava (now promoted as Inspector) to cross the efficiency bar

*Answer*





in the identical circumstances as in his case the events after the date of efficiency bar were ignored . A reference to the file will reveal the truth.

7. That the existing instructions on the subject should be applied in the cases of all the concerned officials irrespective of cadre and position and there should be no violation of rules.

In the circumstances submitted above I most humbly request your honour and have no doubt your honour will consider the applicant's case in a dispassionate, objective and impartial manner and allow the efficiency bar w.e.f. 1.4.76 so that he may be saved from the financial loss. For this act of kindness I shall ever remain grateful.

Thanking you.

Yours faithfully,

( S.P.Sharma )  
Income-tax Officer,  
E. Ward Bareilly

Dated 16th July 1981.



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- 3 -

(4) 8 At regular intervals, which may be prescribed by the administrative Ministry/Department concerned, each administrative Ministry/Department should review the position obtaining in that Ministry/Department regarding sanction of increments above the E.B. stage in order to see whether the authorities concerned are being objective and not either too lenient or too strict in enforcing the Efficiency Bar.

(5) The Department of Personnel and Administrative Reforms may undertake every three years or so a method study to see the working of the system of considering Government servant's suitability for crossing the E.B. and suggest improvements therein.

3. Ministry of Finance, etc. are requested to bring these instructions to the notice of all concerned for information and implementation.

.....

Circular No. 240  
Government of India  
Office of the Commissioner of Income-tax  
Lucknow I, Lucknow.

C.No.405-36 E/46 (Estt.)

Dated Lucknow the 5th Feb.1976.

Copy with a copy of Hindi version forwarded to all Asstt. Commissioners of Income-tax Charge ITOs, TROs, Assistant Controllers of Estate Duty Circles in Lucknow I & II charges, valuation officers Lucknow / Allahabad and A.R. ITAT A&B Benches Allahabad for information. All the cases of E.B. may be referred to this office alongwith service records for consideration.

(H.S. Seth) Supervisor  
for Commissioner of Income  
tax. Lucknow-I, Lucknow.

Internal Distribution

- As usual.
- 2. R.K.
- 3. Confidential Section
- 4. Head Clerk Accounts section ,  
CIT's office, Lucknow.

*[Signature]*

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Annexure 9 35  
A53

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

Sri S.P.Sharma . . . . . Petitioner

Versus

Commissioner of Income Tax and others.

Government of India  
Office of the Commissioner of Income Tax  
Lucknow-II Lucknow

P.No.47-498

To

The Inspecting Asstt. Commissioner  
of Income tax, Allahabad.

Subject:-Efficiency Bar-Crossing of Instructions-Regarding-  
...

Please refer to your letter DQ.F.No.10(c)/74/6283 dated  
19.2.1975.

2. In terms of Department of Personnel O.M. No.40/1/73-Estt(A)  
dated 31.12.1973 circulated under this office endorsement  
C.No.405-34 E/46 dated 23.2.1974 the fitness of Government  
servant to cross the E.B. is to be judged at the appropriate  
time when the E.B. is due and in case the decision is  
to enforce the bar against the Government servant he should  
be informed about the decision. Thus it is clear that  
only events upto the date on which the official were due to  
cross the E.B. are to be taken into account for assessing  
his suitability or otherwise to cross the E.B.

3. It appears that the clarification circulated by the  
CIT Kanpur as referred to by you in your letter, was  
received by them from the Board in some particular case and  
the same is not available in this office records, the  
general position as indicated above, however, provides  
necessary guide line.



*[Handwritten Signature]*

Sd/R.K.Singh/ITO (HQ)Adm.  
for Commissioner of Incometax  
Lucknow-II, Lucknow.

Sri Kashi Nath Srivastava presently working as Upper Division Clerk in the office of the Income tax Officer, Salary Circle, Lucknow was drawing a pay of Rs.192/- w.e.f. 12.1.1973 in the old scale (130-5-160-8-200 EB-256-EB-8-280-10-300). consequent upon the passing of the Departmental Examination for Inspectors he was allowed two advance increments and his pay was raised to Rs.208/- w.e.f. 23.7.72, vide order dated 31.8.1973 of CIT, Lucknow. The same order read in para 2 thereof that Shri K.N.Srivastava could be allowed his next increment only after he is declared fit by the competent authority to cross the stage of efficiency bar. Shri Kashi Nath Srivastava, vide his application dated 14.11.1973 addressed to the IAC, Lucknow applied for orders for crossing the efficiency bar in the UDC scale. The order allowing him to cross the efficiency bar was not passed by the competent authority and the IAC, Lucknow as per his letter P.No. K/74 dated the 6th June, 1974 informed the officer under whom Shri Kashi Nath Srivastava was working saying " The official concerned ~~may~~ may please be informed on his application for crossing of the E.B. cannot be considered in view of the adverse-remarks already communicated to him confidentially. He must improve before he is allowed to cross the E.B."

2. Shri Kashi Nath Srivastava there upon made a further petition dated 29.1.1975 addressed to the IAC, Allahabad (By then the IAC, Allahabad had assumed the administrative control over the I.T. Officer, Salary Circle, Lucknow) stating that since the efficiency Bar operated as on 3.2.1973 it is only the CCR for and upto 72-73 that could be taken into consideration .

*[Signature]*

As the advance entry related to the year 73-74 that could not be the reason for stopping the E.B. due to him as on 3.2.1973 as only the events upto the stage of crossing the E.B. that can be considered. The CIT has also supported this view vide his letter) No.47-498 dated the 4th March, 1975 addressing to the IAC, Allahabad on a reference made to him by this office.

3. Thereafter the CIT has intimated that the adverse remarks for 73-74 have been expunged. The ITO (Hqrs) also wrote same-

" I am directed to request you to review the matter of his crossing efficiency bar and informs his office immediately".

4. I have perused the confidential record of Shri Kashi Nath Srivastava. The record for the years upto 72-73 does not contain any material which could justify non-allowing him to cross the efficiency bar w.e.f. 3.2.1973. Infact, he has also shown considerable improvement in the post 3.2.1973 period. Sri Kashi Nath Srivastava is accordingly allowed to cross the efficiency bar w.e.f. 3.2.1973 as per the regular order separately made.

*[Signature]*

sd/-B.K.Srivastava  
Inspecting Asstt. Commissioner  
of Income tax, Allahabad.



X/SM      AS6      38

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

Writ Petition No.                      of 1982.

S.P. Sharma.                      ---                      ---                      ---                      Petitioner.

Versus

Union of India and others.                      --                      Opp.Parties.

Annexure No. 10.

Government of India  
Central Board of Direct Taxes  
New Delhi.

No.106/11/71-Ad.IX

Dated New Delhi the 21st Jan.1971.

From

The Under Secretary,  
C.B.D.T., New Delhi.

To

The Commissioner of Income tax,  
Kanpur.

Sir,

Sub: E.B. Crossing of representation  
regarding Shri R.C. Saxena, U.D.C.

With reference to your P.No.45-64/20391 dated 5.1.71, on the above subject, I am directed to say that only events upto the date on which the official concerned is due to cross the E.B. are to be taken into account for assessing his suitability or otherwise to cross the Bar. As Shri R.C.Saxena was due to cross the E.B. from 21.9.60 consequent on the refixation of his pay andas there was nothing against him upto that date, he should be allowed to cross the E.B. from that date raising his pay to

*[Signature]*

4/5 A57 39  
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Rs.208/-p.m and arrear may also be allowed.

2. It may be pointed out that Government servants are not required to put in application for allowing them to cross the E.B. The case should be taken up by the administrative authority automatically well in time so that decision in regard to their suitability or otherwise to cross the E.B. is taken by the due date.

*Sharma*

Sd/- Under Secretary,



भारत सरकार  
कार्यालय आयकर आयुक्त, लखनऊ ।

आदेश

दिनांक 11-5-82

आपना केन्द्रीय सेवाएँ-आयकर अधिकारियों वर्ग "ख"-  
दस्तावेज पार करने के बारे में आदेश ---

संख्या --56 कार्मिक एवं प्रशासनिक गणेश विभाग के कार्यालय आपन 20  
29014/2/75/स्थोपना ॥३॥ दिनांक 15-11-75 तथा बोर्ड के पत्र फा 0106-  
29011/28/78-प्रशा-6 दिनांक 7-10-1978 के अनुसरण में गठित समिति  
की सिफारिशों के आधार पर निम्नलिखित आयकर अधिकारियों ॥वर्ग "ख"॥  
और हिन्दी अधिकारी को रु 650-30-740-35-810-दरौ 0 35-880-  
40-1000 दरौ 0-40 1200 के वेतनमान में प्रत्येक के सामने लिखी गयी तारीख  
से दस्तावेज के गोपान को पार करने की अनुमति दी जाती है ।

क्रमसं०	आयकर अधिकारी का नाम	किस तारीख से दस्तावेज पार करने की अनुमति दी गयी ।	रु 650-1200 के वेतनमान में निम सोपान पर दस्ता वेज पार करना है ।
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सर्वश्री

- 1- पी०एन० श्रीवास्तव,  
आयकर अधिकारी,  
वृत्त-11, पुरादाबाद । 1-2-1981 रु 1000/-
- 2- मोहन सिंह, आयकर अधिकारी, 1-8-1981 रु 1000/-  
"बी" वार्ड, बरेली ।
- 3- श्यामता प्रसाद शर्मा, 1-10-1981 रु 810/-  
आयकर अधिकारी "बी" वार्ड  
लखनऊ वृत्त, लखनऊ ।
- 4- शम्भुनाथ सक्सेना, आयकर अधिकारी, 1-2-1982 01000 =  
॥तकनीकी॥ लखनऊ ।
- 5- ए० एम० कौशिक, 1-3-1982 रु 1000/-  
आयकर अधिकारी, "बी" वार्ड  
नजीबाबाद ।
- 6- एस० पी० सक्सेना, 1-5-1982 रु 810/-  
आयकर अधिकारी, बिजनौर
- 7- डी० एन० झा, 1-9-1982 रु 810/-  
आयकर अधिकारी, काशीपुर

Signature प्रशा: 100002/

1	2	3	4
	<u>गर्वश्री</u>		
8-	बी.के. पाण्डे, आयकर अधिकारी, "डी" वार्ड, बरेली ।	1-6-81	₹ 810/-
9-	आर०सी० नाल श्रीवास्तवा, हिन्दी अधिकारी, लखनऊ ।	1-7-1981	₹ 810/-

₹ ०० धरनी धर ॥

आयकर आयुक्त, लखनऊ ।

स्थापना/सी०म० 44/76

दिनांक लखनऊ 17-5-82

प्रतिलिपि सूचना एवं आवश्यक कार्यवाही हेतु प्रेषित :-

- 1- निरीक्षीय सहायक आयकर आयुक्त, बरेली/लखनऊ/मुरादाबाद,
- निरीक्षीय सहायक आयकर आयुक्त निर्धारण/मुरादाबाद ।
- 2- आर्चीविक लेखा अधिकारी, 57 रामतीर्थ मार्ग, लखनऊ ।
- 3- संबंधित अधिकारी गण ॥ नाम से ॥
- 4- वेतन एकक, लखनऊ/बरेली/मुरादाबाद ।
- 5- गोपनीय शाखा, कार्यालय आयकर आयुक्त, लखनऊ ।
- 6- अभिलेखमाले को 10 प्रतियाँ ।

क३११

॥ एम०के० जौहरी ॥

आयकर अधिकारी ॥ मुख्या ॥ प्रशा ॥

कृते आयकर आयुक्त, लखनऊ ।

सतीश

*[Signature]*

सो नकर/



In the Hon'ble High Court, Lucknow,  
Bench, Lko.

w.f. No.

of 1982

Sri. S.P. Sharma - - - Petitioner  
VLS

Union of India vs  
- opp. parties



Affidavit

48  
A60 42

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


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Writ Petition No. \_\_\_\_\_ of 1982.

S. P. Sharma. --- --- Petitioner.  
Versus  
Union of India and others. -- Opp. Parties.

A F F I D A V I T.



I, S.P. Sharma, aged about 54 years, son  
of Late Sri Baldeo Prasad, resident of 47 Nehru  
Nagar, Lucknow, posted as Income Tax Officer, B-Ward,  
Lucknow, do hereby solemnly affirm and state as under:

1. That the deponent is the petitioner in the  
above noted writ petition and as such he is fully  
conversant with the facts deposed to hereunder:-

2. That the contents of paragraphs 1 & 2  
of the accompanying writ  
petition are true to my own knowledge.

3. That annexures 1 to 11 are true copies.

Lucknow Dated  
Aug. 18, 1982.

  
Deponent.



A/59

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A61

2.

Verification.

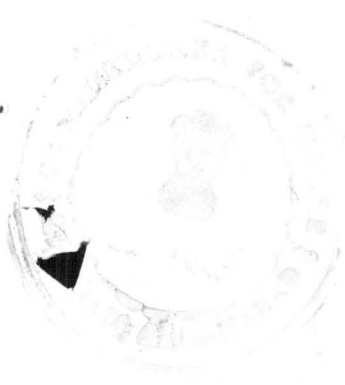
I, the abovenamed deponent, do hereby ~~solemnly~~ verify that the contents of paragraphs 1, 2 and 3 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed, so help me God.

Lucknow Dated  
Aug. 18, 1982.

*S. P. Sharma*  
Deponent.

I identify the deponent who has signed before me.

*Rajiv Sharma*  
Advocate. 18/8/82



Solemnly affirmed before me on 18/8/82  
at 1.10 a.m./p.m. by S. P. Sharma  
the deponent who is identified by Rajiv Sharma  
Advocate, High Court, Lucknow.

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

*[Signature]*

JATH COMMISSIONER  
High Court, Allahabad  
Lucknow Bench.

279037 R  
18/8/82

In the High Court of Judicature at Allahabad 44  
Sitting at Lucknow, Lucknow

ब अदालत श्रीमान

महोदय

A62

वादी (मुद्दई)

Writ Petition No. 1582

प्रतिवादी

(महाअलेह)

का

वकालतनामा



10 F.R.S. 5.00  
18/8

Sr. S.P. Sharma

वादी (मुद्दई)

बनाम

Union of India and others

प्रतिवादी (मुद्दालेह)

नं० मुकद्दमा सन् १६ पेशी की ता० १६ ई०  
उपर लिखे मुकद्दमा में अपनी ओर से श्री

एडवोकेट

B. M. N. KACHER

महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुनहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी [फरीकसानी] का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त [दस्तखती] रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी । इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

१६ ई०

Accepted  
B. M. N. KACHER  
18/8/82

A/61  
Ab3 3/1

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

C.M. Application No: (w) of 1983

In re:

Writ-Petition No: 3921 of 1982



S.P.Sharma

---Petitioner/Applicant

V/s.

The Union of India & others ---- Opp-Parties

Application for early hearing of the  
Writ-Petition No: 3921 of 1982.

The above-named applicant most respectfully submits  
as under :-

1. That the applicant filed the above writ-petition on 18.12.1982 for seeking effective and efficacious remedy against the order of the opp-party no.3 - The Commissioner of Incometax, Lucknow.
2. That the above writ-petition came up for admission on 9/9/82 when the Court was pleased to issue notice and direct the Standing Counsel for the Income Tax Department to file counter affidavit within two weeks and re-joinder thereafter within one week to be filed by the applicant.

....p/2

S.P.Sharma

Per applicant

26/7/83

Report

On 6.4.83 The Hon'ble Court was pleased to pass an order to list the case after a month. Counsel for the petitioner requests to list the petition at an early date. It is approved the case be listed on 1.8.83

honor  
26/7/83

yes  
27/7

62  
A64 3/5  
:: 2 ::

3. That the opp-party has neither filed any counter-affidavit nor shought<sup>t</sup> instructions so far.

4. That the applicant is suffering considerable loss and mental agony on account of the attitude of the opp-parties.

-: P r a y e r :-

WHEREFORE, it is most respectfully prayed that the writ petition may kindly be listed at an early date and the opp-parties be directed to comply with the orders of this Hon'ble High Court.

Lucknow dated,  
26th July, 1983.

  
(R.A. SHANKHAR)

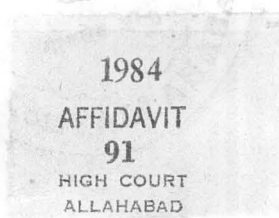
Advocate,  
Counsel for the Applicant  
/ Petitioner.

\*\*\*\*\*

4/37  
Abb  
u/h  
2.

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

Writ Petition No. 3921 of 1982



S.P.Sharma


... Petitioner

vs.

Union of India

... Opp. party.

Affidavit



I, the deponent Sri B.K.Verma,  
aged about 37 years, s/o Sri Guru Dayal  
Srivastava, Tax Assistant, Confidential Branch  
Office of the C.I.T., Lucknow do hereby  
solemnly affirm and state on oath as under:

1. That the deponent is working as Tax Assistant in the Confidential Branch in the office of the C.I.T., Lucknow and as such he is fully conversant with the facts and circumstances of the case.

2. That the above noted writ petition

B. K. Verma

3.

had been filed by the petitioner praying therein that the opposite-parties may permit ~~xxxxxxxx~~ the petitioner to cross the efficiency Bar with effect from 1st April, 1976.

3. That the petitioner has under the order dated 26.10.83 ~~xxxx~~ passed by the C.I.T., Lucknow permitted to cross his efficiency bar with effect from 1st April, 1976 at the stage of Rs. 810/- A true copy of the said order dated 26th October, 1983 is being annexed herewith as annexure no. S-1 to this affidavit.

4. That in the above circumstances the relief claimed by the petitioner

B. K. Verma



4,

already being given to him, this writ petition has become infructuous and as such it deserves to be dismissed as infructuous.

Dated Lucknow.

May 28, 1984

B.K. Verma  
Deponent.

I, the above-named deponent do hereby verify that the contents of paras 1 to 4<sup>2</sup> of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So help me God.

Dated Lucknow.

Deponent.

May 28, 1984.

B.K. Verma

I identify the deponent above named who has signed the affidavit before me

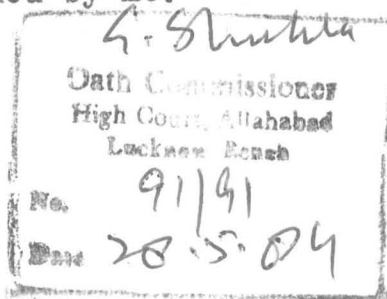
B.S. Nanda

Clerk.



*A/66* *A69* *4/5*  
5.

Solemnly affirmed before me on *28.5.04*  
at *9.30* am/pm by the deponent Sri B.K. Verma  
who is identified by Sri Brij Nandan  
Srivastava, Clerk to Sri S.C.Misra, Advocate,  
High Court, Lucknow Bench, Lucknow. I have  
satisfied myself by examining the deponent  
that he understands the contents of the  
affidavit which have been read over and  
explained by me.



B. K. Verma

467 A70 5/6  
इन दि आनरेबुल हाई कोर्ट आफ जूडीकेवररैट इलाहाबाद,

लखनऊ बेन्च, लखनऊ ।

.....

रिट पिटीशन नं०

आफ 1984ई०

एस.पी. शर्मा.

.....

..... पिटीशनर ।

बनाम

यूनियन आफ इण्डिया तथा अन्य.

..... अपो. पाटीज ।

अर्नेजर नम्बर-एस-1

=====

भारत सरकार  
कार्यालय आयकर आयुक्त,  
लखनऊ ।

"- आ देश "-

दिनांक 26-10-83

स्थापना - केन्द्रीय सेवाये- सरकार अधिकारी वर्ग "ख"-

-----  
दक्षतारोक पार करने के बारे में आदेश -इत्यादि -  
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संख्या 137 इस कार्यालय के आदेश संख्या नं० 56 दिनांक 11-5-82  
जो इस कार्यालय के पृष्ठांकन संख्या स्थापना/सी० नं० 44/76 दिनांक  
17-5-82 के द्वारा परिवर्तित किया गया, तथा जहाँ तक इसका  
सम्बन्ध श्री श्यामता प्रसादशर्मा, आयकर अधिकारी, बी-वार्ड, लखनऊ  
वृत्त, लखनऊ के दक्षतारोक, पार करने से है उसमें आर्थिक सशोधन  
करते हुये दि त्के 29-9-83 को हुई समिति की बैठक के निर्णय के आधार  
पर अब उन्हें 1-4-76 से रू० 810/- के सोपान पर रू० 650-30-740-  
35-810-द० रौ० 0-35-880-40-1000-द० रौ० 0 -40-1200 के वेतनमान  
में दक्षतारोक पार करने की अनुमति दी जाती है ।

B.K. Verma

ह०- धरनी धर  
आयकर आयुक्त,  
लखनऊ ।

स्थापना/द० र०/सी० नं० 44/76-11

दिनांक-लखनऊ 26-10-83

प्रतिलिपि प्रेषितः

1. निरीक्षी सहायक आयकर आयुक्त, लखनऊ 2 बरेली ।
2. आचलिक जेठा अधिकारी प्रत्यक्षकर 57-राम तीर्थ मार्ग, लखनऊ
3. आयकर अधिकारी को नाम से
4. आयकर आयुक्त, वेंतन एकक, लखनऊ ।
5. गोपनीय अनुभाग, कार्यालय, आयकर आयुक्त, लखनऊ ।
6. अभिलेखपाल 5 प्रतियां ।

ह०- अस्पष्ट

॥ म० क० जोहरी ॥

आयकर अधिकारी मु० प्रशासन

कृते आयकर आयुक्त, लखनऊ

सत्य प्रतिलिपिB.K. Verma

A/3 5/2

In the Hon'ble High Court of Judicature at Allahabad,  
Lucknow Bench, Lucknow.  
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C.M. Appln. No.

(w) of 1984.

Inre:

Writ Petition No. 3921 of 1982.

S.P. Sharma.

Petitioner-  
applicant.

Versus

Union of India and others.

Opposite  
Parties.

AFFIDAVIT.

I, S.P. Sharma, aged about 56 years, son of Late Sri Baldeo Prasad, resident of 47 Nehru Nagar, Lucknow, posted as Income Tax Officer, B-ward Lucknow, do hereby solemnly affirm and state as under:-

1. That the deponent is petitioner in the above noted writ petition and is fully conversant with the facts deposed to hereunder :-

2. That by means of the aforesaid writ petition the deponent has challenged the order stopping him from crossing the efficiency bar w.e.f. 1.4.1976 which is pending decision in this Hon'ble Court.

3. That the opposite parties have filed a



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2.

a counter affidavit mentioning therein that the petitioner has been allowed to cross the efficiency bar w.e.f. 1.4.76 vide order dated 26.10.1983 passed by the Commissioner, Income Tax, Lucknow. The opposite parties have also applied for dismissal of the writ petition on the ground that the relief sought for in the writ petition has been granted by the department as such the writ petition has become infructuous.

4. That the deponent submits that although he has been allowed to cross the efficiency bar by order dated 26.10.83 but he is still not being paid his resultant dues on account of crossing the efficiency bar, which amounts in thousands.

5. That it is expedient in the interest of justice that the opposite parties be directed to pay the dues <sup>✓</sup>to the petitioner forthwith. <sub>increments etc., ✓</sub>

Lucknow dated  
November 7<sup>✓</sup> 1984.

*[Signature]*  
Deponent.

Verification.

I, the abovenamed deponent, do hereby verify that the contents of paragraphs 1, 2, 3 and 4 of this affidavit are true to my own knowledge and





3.

those of para 5 are based on legal advice. No part of it is false and nothing material has been concealed, so help me God.

Lucknow Dated  
Nov. 7<sup>th</sup> 1984.

*S. P. Sharma*  
Deponent.

I identify the deponent who has signed before me.

*Madhus Malouige*  
Advocate.

Solemnly affirmed before me on 7-11-84  
at 11.20 a.m./p.m. by S. P. Sharma  
the deponent who is identified by Madhus Malouige  
Advocate, High Court, Lucknow.

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



*Surendra*  
Advocate General  
High Court  
No. 38/94  
Allahabad

A/74

C-7

Central Administrative Tribunal  
Circuit Bench Lucknow

T.A.No.1074/87(T)

S.P.Sharma

.....

Applicant.

Vs

Union Of India (Finance).....

Respondents.

19.9.91

Hon. Mr. Justice U.C.Srivastava V.C.

Hon. Mr. A.B.Gorthi A.M.

None appears for the applicant.

It appears that the applicant is not interested in pursuing the matter. Even the notice had been issued to the applicant.

The application is dismissed for default of the applicant.

Sd/  
A.M.

Sd/  
V.C.

// True Copy //

*AKG*

Section Officer  
Central Administrative Tribunal  
Circuit Bench  
LUCKNOW

Vkm

*checked*  
*synB*  
*22/10/91*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Circuit Bench, Lucknow.

No. CAT/AKO/Jud/

4119

date the 27.3.90

T.A.No. 1074/87.....of 1990 (T)

S. P. Sharma.....Applicants.

Varsus.

Union of India.....Respondents.

To Shri D. S. Randhawa Senior  
standing counsel govt of India  
High Court Lucknow

Whereas the marginally noted cases has been transferred  
by .....under the provision of the Admini-  
strative Tribunal Act 13 of 1985 and registered in this Tri-  
bunal as above.

Writ petition No 3921/82  
of 19.....  
of the Court of .....  
.....arising out of  
of order dated.....  
passed by .....in  
.....

The Tribunal has fixed date  
of 23.7.90.....1990. The  
hearing of the matter.

if no appearance is made  
on your behalf by our some one  
duly authorised to Act and Plead  
on your behalf.

The matter will be heard and decided in your  
absence. Given under my hand seal of the Tribunal this 22.  
.....day of 3.....1990.

DEPUTY REGISTRAR

Recd  
D. S. Randhawa  
Sri D. S. Randhawa  
Bhartiya  
23/3/90

11

S.P. Sharma S/o Late Sen. Baldeo Prasad  
Resident, 47, Nehru Nagar Lucknow  
Posted as Income Tax Officer - Office  
B. - Ward Lucknow

A  
18 CT9 0/0-

IN CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH  
Gandhinagar, Opp. Residency, Lucknow

TIA 1074/87

No. CAT/All India/ 349570

Dated the 29/2/90

S. P. Sharma

3496

APPLICANT'S

VERS

Union of India

RESPONDENT'S

① S. P. Sharma S/o Late Shri Baldeo Prasad  
To 710 Lit Nehru Nagar Lko

② B. M. N. Kachar Adv High Court Lko

Whereas the marginally noted cases has been transferred  
by H. E. Lko under the provision of the Administrative  
Tribunal Act XIII of 1985 and registered in this Tribunal as above.

Writ Petition No. 3921/92 The Tribunal has fixed date of  
of 1990. of the Court of 20.3.90 1990. The hearing  
H. E. Lko of the matter.

arising out of order dated If no appearance is made on your  
passed by behalf by your some one duly authorized  
in to Act and plead on your behalf.

The matter will be heard and decided in your absence.  
given under my hand seal of the Tribunal this 13  
day of 2 1990.

dinesh/

DEPUTY REGISTRAR