

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 225 OF 88

NAME OF THE PARTIES Hanuman Prasad

.....Applicant

Versus

Union of India Respondent

Part A, B & C

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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 27-12-2011

Counter Signed.....

Section Officer In charge

Signature of the
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

C.A. 225 &c. (1)
Cause Title C.A. of 199Name of the parties Himayat Hussain Applicant.

Versus

Union of IndiaRespondents

Part A.B.C.

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27/5/92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
SIXTY EIGHTTH COURT NO.

O.A./T.A. No. 225

1988(1)

Manuwar Purohit

versus

Applicant(s)

Union of India

Respondent(s)

Sl. No.	Date	Orders
	<u>27-1-89</u>	No sitting, Adjourned to 20/2/89 for Admission.
	<u>20-2-89</u>	No sitting, Adjourned to 8-3-89
	<u>8/3/89</u>	<p>Ram 27/1 for admission.</p> <p>25/2.</p> <p>Hon. Justice Kamleshwar Nath, V.C. Hon. Ajay Dalmi, A.M.</p> <p>Sir A.R. Deshpande for the applicant.</p> <p>Sir V.K. Chaudhary takes notice on behalf of opposite parties and requests for two weeks time to file Counter affidavit. He may serve a copy of the Counter affidavit to the learned counsel for the applicant out of Court and list the case for order on 29-3-89 on which date the applicant may file rejoinder affidavit if he so likes. The case is likely to be disposed of finally on the date fixed.</p> <p>AB</p> <p>AB</p> <p>AB</p> <p>AB</p>

No reply have been filed by the
learned counsel for the respondent as directed
by the court's order dt. 8/3/89.

Submitted for order.

AB
20/3/89

Hon' Mr. D.S. Mishra, A.M.
Hon' Mr. D.K. Agarwal, J.M.

29/3/89

Shri A.R. Dwivedi learned counsel for the applicant is present. Shri V. K. Chaudhary learned counsel for the respondents requests for one week time to file reply. He is allowed to do so within a week, after supplying a copy to the learned counsel for the applicant. The applicant may file rejoinder, if any, within a week thereafter. List for final hearing on 24/4/89.

J.M.

A.M.

(sns)

OR

Time granted for filing reply has expired but no reply has so far been filed on behalf of respondents.

Submitted for orders

21/4

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

24/4/89

Shri V.K. Chaudhary, learned counsel for the respondents informs that he will be filing reply during the course of ~~the~~ day. He may do so, after supplying a copy of the same to the learned counsel for the applicant. The applicant may file rejoinder, if any, within two weeks thereafter. List this case for final hearing on 27-6-89. This order will also govern to O.A. No. 226/88.

J.M.

A.M.

(sns)

OR Counsel for the respondents has filed reply duly served on the applicant. And also filed reply in O.A. No 226/88(L). No rejoinder filed submitted for hearing.

OR Counsel for the respondents has filed reply duly served on the applicant. And also filed reply in O.A. No 226/88(L). No rejoinder filed submitted for hearing.

6/10

16.8.91

Hon. Mr. Justice K. Nath - V.C.
Hon. Mr. K. Chatterjee - P.M.

None present for both the parties
due to strike of U.P. Bar Council
case is adjourned to 22.10.91
for hearing.


K. Nath
V.C.

22-10-91

None present for the Applicant.
Mr. VK Chaudhary - Counsel for the
respondents.

An application has been
received from the learned counsel
for the applicant praying for
adjournment ~~that~~ ^{as} he is not well
today.

May be listed for hearing
on 31/10/91.


(S.N. Prasad)
Member (Jndl.)


(Kaushal Kumar)
Vice Chairman.

31.10.91

No. 81/91
29.2 - 52

2

OA 225108L

26/2

24.2.92

No Sighting of P.B. adp 2011-9-9

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Case is greatly
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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

(1) O.A. No. 225/88

Hanuman Prasad

Applicant.

versus

Union of India & others

Respondents.

(2) O.A. No. 226/88

R.K. Dixit

Applicant.

versus

Union of India & others

Respondents.

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

Hon. Mr.A.B.Gorthi, Acm. Member.

(Hon.Mr. Justice U.C. Srivastava, V.C.)

The applicant No. 1 was working as a Postman at Chowk Post office, Lucknow. Shri K.C.Srivastava, Senior Post Master, ^{Chowk} post of ice, issued a chargesheet ^b against the applicant vide letter dated 11.4.86 ⁴ alleging therein that the applicant alongwith other Postman Staff had gheraoed him on 5.4.1986, protesting against the posting of a particular group 'D' staff in delivery branch and dislocated the office work and thereby violated the provisions of Govt.of India decision No. 3 below Rule 7 of the C.C.S.(C.C.A.) Rules, 1964. The applicant submitted his reply refuting the said allegations. The said Senior Post Master, without on the basis of making enquiry into the matter, chargesheet, himself passed the punishment order against the applicant on 12.5.86, stopping his increments for three years, against the same the applicant filed representation. In the representation, applicant stated that he himself gave his finding and became judge in his own cause

The applicant filed appeal which was rejected vide order dated 7.3.87. The applicant, then submitted petition before the Postal Services Board which was also rejected vide order dated 15.4.88 whereafer, he approached the Tribunal.

2. It was the case of penalty where enquiry was not made. The applicant challenged the order on the ground that the order has not been passed by the appointing authority. The prosecutor became judge in his own cause. So far as the appointing authority is concerned, the Deputy Post Master was the appointing authority of the applicant. The second ground is that the entire incident took place with Senior Post Master, Chowk, Lucknow. As a matter of fact the punishment was awarded by him. The prosecutor became judge in his own cause. He should not have done the enquiry himself but by some other officer, as such the enquiry has rightly been contended to be biased. The application deserves to be allowed and the same is allowed. The punishment order dated 12.5.86, order dated 7.3.87 and the order dated 15.4.88 are quashed. However, it will be open for the appointing authority, whosoever it may be, to hold enquiry into the matter in accordance with law. With these observations, the application is disposed of finally.

3. In the other case, i.e. O.A.No. 226/88, the punishment was given by the same officer. The said application is also allowed as the enquiry in that case is also vitiated. The orders dated 12.5.86, 7.3.87 and 15.4.88 are quashed. However it will be open for the appointing authority to hold enquiry into the matter in accordance with law. O.A. 226/88 is also disposed of with the above directions/observations.

transcribed
A.M.

V.C.
V.C.

Shakeel/

Lucknow: Dated: 13.4.92

APPLICATION UNDER SECTION 19 OF THE FIFTY-FIVE MILITARY ACT, 1985.

O.A. No. 8 1988.

Plaintiff Filled

Applicant

Versus

Union of India and others

Respondents

ITEM D B X

Sl. No.	Description of documents	Date no.
1.	Application	1-10
2.	Annexure no. A-1 A true copy of Charge-sheets dated 11.4.1986.	11-12
3.	Annexure no. A-2 A true copy of the Charge-sheets reality dated 21.4.1986.	13-16
4.	Annexure no. A-3 A true copy of the punishment order dated 12.5.1986.	17-21
5.	Annexure no. A-4 A true copy of the reply of 1986 dated 26.4.86 on 5.5.1986.	22-23
6.	Annexure no. A-5 A true copy of the order dated 7.6.1987.	24-27
7.	Annexure no. A-6 A true copy of the order dated 15.1.1988.	28-31

Date of filing 19-12-88

Handy
Signature of the applicant

4/10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH

BETWEEN

Hanuman Prasad son of Late Sri Ganga Prasad. . . .Applicant.

A N D

1. Union of India through Secretary, Ministry of Communication, Government of India, Department of Post, Dak Bhawan Sansad Marg, New-Delhi.
2. The Member (Personnel), Postal Services Board, Department of Posts, Government of India, Dak Bhawan Sansad Marg, New-Delhi.
3. Director Postal Services, Lucknow Region, Lucknow.
4. Senior Post Master, Chowk Head Post Office, Lucknow.

• • • Respondents.

DETAILS OF APPLICATION:

1. Particulars of the applicant:

(i) Name of the applicant: Hanuman Prasad.

(ii) Name of Father : Late Sri Ganga Prasad.

(iii) Age of the applicant : About 39 years

(iv) Designation and particulars of office (name and station) in which employed or was last employed before ceasing to be in service.

(v) Office address : Postman, Head Post Office Chowk, Lucknow.

(vi) Address for service : 450/114, Sunarwali gali, Muftiganj, Lucknow.

Hanum

(2)

2) Particulars of the respondents:

(i) Name of the respondents: 1. Union of India through Secretary, Ministry of Communication, Government of India, Department of Post, Dak Bhawan Sansad Marg, New-Delhi.

2. The Member(Personnel), Postal Services Board, Department of Posts, Government of India, Dak Bhawan Sansad Marg, New-Delhi.

3. Director Postal Services Lucknow Region, Lucknow.

4. Senior Post Master, Chowk Head Post Office, Lucknow.

(ii) Name of the Father : Not applicable.

(iii) Age of the respondents : Not applicable.

(iv) Designation & Particulars of Office (name and station) in which employed.

1. The Secretary, Ministry of Communication, Deptt. of Post, Dak Bhawan Sansad Marg, New Delhi.

2. The Member(Personnel), Postal Services Board, Department of Posts, Dak Bhawan Sansad Marg, New-Delhi.

3. Director, Postal Services, Lucknow Region, Lucknow.

4. Senior Post Master, Chowk Head Post Office, Chowk Lucknow.

(v) Office address

: 1. The Secretary, Ministry of Communication, Govt.

(4)

(iv) Subject in brief : Petition for, getting the impugned punishment order dated 12.5.1986 contained in annexure no.3 to this petition, quashed by which 3 years annual increments of the applicant has been stopped. And for getting the orders in appeal quashed.

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 Tribunals Act, 1985.

6) Facts of the case :

The facts of the case are given below :

A) That the applicant is a postman who has been posted at Chowk Post Office, Lucknow/since last 7 years In the year 1983, one Sri K.C.Srivastava was posted as Senior Post Master, Lucknow Chowk Post Office.

B, That said Sri K.C.Srivastava, Senior Post Master issued a charge-sheet against the applicant vide letter no. P.M./Cor/83 dated 11.4.1986 alleging therein that the applicant alongwith other Postman staff had作弊 him on 5.11.1986 at his ser.

(5)

protesting against the posting of a particular staff in delivery branch and dislocated office work and thereby violated the provisions of Government of India's decision no.3 below Rule 7 of the C.C.B. (C.C.A.) Rules, 1964. A true copy of the chargesheet alongwith alleged statement of imputations of Mis-conduct framed against the applicant is filed herewith as Annexure no.1 to this application.

Annexure no.1

C) That the applicant submitted his reply/stating therein inter-alia his discursive behaviour and non-cooperating attitude with the subordinate staff, members and office bearers of the Union "N U P" by said Shri K.C. Srivastava. A true copy of the said reply dated 21.4.1986 is being filed herewith as Annexure no.2 to this application.

Annexure no.2

D) That the aforesaid Sri K.C.Srivastava, Senior Post Master, without making any enquiry into the matter on the basis of the charge-sheet and enclosed statement thereof and reply given by the applicant, himself passed the punishment order against the applicant/ viae memo no. P.M./707/86 dated 12.5.1986 in which VI his increments for three years have been stopped. A true copy of the said punishment order is being filed herewith as Annexure no.4-3 to this application.

Annexure no.
A-3

H.S.Y.

self became the Judge of his own cause,
self alleged that the applicant with other
persons Gheroued him and shouted the allegations of
castism, favouritism and nepotism against him. kindly
see 1984(2) LCD 229 (Ajinchay Vira of India) in regard.

F) That it has been written in the impugned punishment
order by Shri ^{K.C. Srivastava} ~~Shri~~ Senior Post Master in the
impugned punishment order that the applicant failed
to submit any further representation in reply to
office memo dated 25.4.1986 but infact the applicant
alongwith the other members of the Union had given
a reply of letter dated 25.4.1986 on 5.5.1986 which
was duly received by the office. A true copy of
the first page and the last page of the said reply
dated 5.5.1986 is being filed herewith as Annexure
no. A-4 to this application. And as such there is
no question of consideration of the reply given by
the applicant. Therefore the punishment order has
been passed without considering of the material.

G) That beside this the Senior Post Master Chowk P.C.
is not the appointing authority of the applicant.

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(7)

In fact the appointing authority of applicant was Post Master (M.S.G-1) while Shri K.C.Srivastava was holding the post of Post Master, ~~Grade~~ ^{Senior} (Grade ~~Grade~~) which is a ~~lower~~ ^{Higher} post than the former but subsequently the position was changed and when the impugned order of punishment was passed, the appointing authority of the petitioner was Deputy Post Master, Lucknow ~~Chawki~~ Chowki Post Office and the appellate authority was gazetted Post Master (Grade-E) thus the impugned impugned order of punishment was passed without jurisdiction.

b) That in fact the whole story/allegations made in the charge-sheet are a ~~mix~~ Cock and Bull story which was framed, by the Shri K.C.Srivastava, Post Master due to his discursive behaviour and harassing attitude towards his subordinate staff.

I) That the applicant preferred an appeal against the impugned punishment order to the Director Postal Services but the same has been rejected by his via his order dated 7.3.1987. A true copy of the said order dated 7.3.1987 is being filed herewith as

Annexure no.
A-5

Annexure no. A-5 to this application.

J) That thereafter the applicant submitted a petition before the Postal services Board which was rejected.

H.S.Y.

(3)

by him with his standard dated 17.8.1987 xx:xx:xx copy
of the said order dated 17.8.1987 is being filed herewith
with Annexure no. 4-6 to the member (Personnel) Postal
Services Board, Department of Posts Government of
India vide order dated 15.4.1988. A true copy of
the said order dated 15.4.1988 is being filed here-
with as Annexure no. 4-6 to this application.

Annexure no. A-5 with as Annexure no. A-6 to this application.

7) Details of the remedies exhausted:

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

S) Matters 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 any such application, writ petition or suit is pending before any of them.

3) relief(s) sought:

In view of the facts mentioned in paragraph 6 above the applicant prays for the following relief (s) :-

(i) That the impugned punishment order dated 12.5.62

F/6

(9)

contained in annexure no. A-3 and the orders
passed in appeals) contained in Annexure nos.

^{Dated 12-5-1986, 15-4-1986,}
A-5 and A-6) to this application be quashed.

(ii) That the opposite party no. 4 be directed to
release the stopped increment of the applicant
and to pay him the arrears of his salary.

(iii) such other relief may be awarded to the
petitioner to which he may be deemed entitled.

(iv) costs of the application be awarded to the
petitioner against the opposite party.

10) Interim order, if any prayed for :

Pending final decision ~~follow~~ on the application, the
applicant seeks issue of the following interim order :-

That the punishment awarded in the impugned punishment
^{Dated 12-5-1986 Contained in Annexure No. A-3}
order) may not be considered or taken into account of
service of the applicant for using the same against them
in making promotions or restraining him from appearing
departmental examination due to the said punishment
during the pendency of the case.

11) In the event of application being sent by registered
post, it may be stated whether the applicant desires to
have oral hearing at the admission stage and if so, he
shall attach a self-addressed Post Card/Intimation Card.

H.S.Y

(10)

at which intimation regarding the date of hearing could be sent to him.

12) Particulars of Bank Draft/Postal Order in respect of the application Fee:

1. Name of the Bank on which drawn :
2. Demand Draft No.:

Cr

1. Number of Indian Postal Order(s) DD 065 921
5
2. Name of the issuing Post Office. *High Court Bench Lucknow*
Post office Lucknow
3. Date of Issue of Postal Order(s) 1-12-86
4. Post Office at which payable.

13. List of enclosures:

1. Annexure nos. A-1 to A-6 are enclosed as mentioned in the Index.
2. Postal order of Rs. 50/-
- 3.
- 4.

VERIFICATION

I, ~~AK~~ Hanuman Prasad (son of late Shri Ganga Prasad aged about 39 years working as Postman in the office of Head Post Office, Chowk Lucknow, resident of 150/111, Sunawali gali, Mufti ganj, Lucknow, do hereby verify that the contents of paragraphs 1 to 13 are true to my personal knowledge and para ~~10~~ are believed to be true on ~~legal~~ advice and that I have not suppressed any material fact.

Date: 1-12-86

Place

Annexure No.

HSP
Signature of the applicant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH.

Versus

Union of India and others

Respondents.

ANNEXURE NO. A-1

DEPARTMENT OF POSTS
GOVERNMENT OF INDIA

SR. POSTMASTER CHOWK, HEAD P.O., LUCKNOW-226003.

Memo no. PM/Con/86 Dated at Lw-226003-, 11-4-1986.

Shri Hanuman Prasad (Designation) Postman
office in which working) Lucknow Chowk HO is hereby informed that it is proposed to take action against him under Rule 16 of CCS (CCA) Rules 1965, A statement of the imputations of misconduct or misbehaviour in which action is proposed to be taken as mentioned above, is enclosed.

2. Shri Hanuman Prasad is hereby given an opportunity to make such representation as he may wish to make against the proposal.

3. If Sri Hanuman Prasad fails to submit his representation within 10(Ten) days of the receipt of this Memorandum, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri Hanuman Prasad ex parte.

4. The receipt off this Memorandum should be

Altered
A.R. Drivest
1-12-82

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(2)

acknowledged by Sri Hanuman Prasad.

Sd. Illegible.

Sr. Postmaster

Chowk, Head P.C.,
LUCKNOW-226003.

REGISTERED A? D? to:-

1. Sri Hanuman Prasad, Postman, Lucknow Chowk H.O.
2. Vigilance statement.

Statement of imputations of Misconduct framed
against Shri Hanuman Prasad Postman Lucknow Chowk HPO.

On 5-4-86 at about 10.30 A.M. S/Shri Hanuman Prasad Verma Rishi Kumar and R.A.Farooqui, led other Postmen staff gheraoed the chair of the undersigned protesting against posting of Shri Gaya Prasad Dubey, Group 'D' in the delivery Branch on the ground that (Shri Gaya Prasad Dubey) happened to be a member of different service Union. On being informed that the posting of the official cannot be made on the consideration of affiliation with the service Union they (S/Shri Hanuman Pd. Rishi Kumar and R.A.Farooqui got annoyed and shouted upon the undersigned hurled baseless allegations of castism, favouritism and nepotism against the undersigned and caused dislocation in the office for about half an hour.

By doing so Shri Hanuman Prasad is alleged to have contravened provisions of Govt. of India decision No.3 below Rule 7 of the C.C.S.(C.C.A.) Rules 1964 and thereby acted in a manner unbecoming of Government servant violating provisions of Rule 3(i) (iii) of the C.C.S. (Conduct) Rules 1964.

Sd. Illegible.

Senior Postmaster,
Chowk Head P.C.,
Lucknow-226003.

Altered
A.R. Dinesh

H.S.Y.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,

Hanuman Prasad

Applicant.

versus

Union of India and others

Respondents.

ANNEXURE NO. A-2

To,

The Postmaster,
Lucknow Chowk HO.

I am in receipt of your memo No. PM/Corr/86 dated 11.4.1986 containing statement of imputations of misconduct against Shri R.K. Dixit Postman Lucknow Chowk H.O. and others Under Rule 16 CCS(CCA) Rules 1965. The perusal of this statement shows that a cock and Bull story has been frame out by a Gazetted Postmaster just to discourage to the Union members of NUPF duly elected officer bearers of NUPE Postman and Class II Br. Union of Lucknow Chowk HO viz. S/Shri Keshi Kumar Dixit Br. Secretary, Hanuman Prasad Divl. Secry. of Lucknow Div., R.A. Farzee active Union member etc.. On upgradation of Lucknow Chowk HO the post of HSG Postmaster was upgraded to P.M. HSG (Gazetted) which made Lucknow Chowk HO an independent unit for exercise of Admn. power over Postman and Class IV cadre within his jurisdiction in the office. Our appointing authority after recruitment made by SSPO Iw. Dn. Lucknow ~~was~~ was the P.M. (HSG I) Lucknow Chowk HO and appellate authority was SSPOs Lucknow Dn. Now the position has changed appointing authority is D.T.N.

*Notified
A.P. Dated*

H.S.Y.

(2)

Lucknow Chowk HO and appellate authority is Gazetted Postmaster (Gr.B) - Perhaps you are either not aware of the charges or shows your egnorance about rules. It is learnt from your behaviour with the office bearers of our Union NUPB Postman and Class IV Post under you that either your are not aware with instruction of Directorate about curtious behaviour with office bearers of Service Unions posted under you and keep liasen with them for smooth running of administration and a efficient service to the public. observing economee and avoiding extra against with their cooperation.

Cause of grivance has erision and which has made you baised and prizjudced on the seat of our union letter from our Br. Secy. registered addressed to you dated before 5.4.86 bringing your attention notice to the groce favourtism in dealing with officials matters keeping in view of their status and position namely on sligetlate attendance and petty matter postman and Class IV of Union member by issuing of charge sheet under Rule 16 CCS (CCA) Rules 1965 and by ignoring gross negligence of Shri K.C.Srivastava and others who used to come late beyond permission limit of late attendent and leaving office early before closing office and giving him and other finanical benifit viz. O.FA. Convence etc. without obtaining full day day time out turn.

So far incident of 5.4.86 is converned you are well awares that under amenity granted by the Central Govt. to office bearers and recognised unions. We simply sought interviewed with you to discuss local problems peacefully to solved that locally without

*Attended
A.R. Dinesh*

HSY

2/2

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bringing them to Shri D.S.Sakalkale P.M.G. U.P. Circle Lucknow. At that time your honour with folder hange not to do so and you will henceforth deal with member of all unions equally and partially without showing any under favour. Having faith in your promise we came back and performed our full day duty according to rule.

Charged levelled in this memo are totally denied. As their illegal irregular and motivated. However in the meantime in orders to give honour to the authority, you are holding now burden of proof and responsibility ~~you are making new burden on you and responsibility~~ by levelling of this charge solly lies on you by observing rules on the subject without misuse of the power vested in you by the President of India. You are requested to furnished a list of witness, list of documents to proof the documentry evidence.

You are ant, Hindi Officers as knowing issued this charge sheet in the English language to the Postman and Class IV. Copy of Govt. Disc. No.3 below Rule 3 CCS(CCA) Rules 1964 should also be supplied to me. Under perview whose provisions you are adamant to punish us.

Further it is pointed the charged levelled against therein are identical and same nature and are nothing but a dialog between you and us which can only be proffed if the had been Tap Recorder by you because version the dialoge stated by you from our side is denied, you are advised to institure common proceeding in the case because you are part to the case and you are also governed by the Conduct Rules on equal footing.

*Alleged
A. D. B. A.*

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(4)

Our detail representation will follow.

Our Union in comperision to A.I.P.E.U. etc.
and we had never observed Gherve and observing
Strick without issuing proper notice and seeking
permission.

Seal

21/4/86

Sd. Hanuman Prasad

POSIMAN.

Lucknow Chowk HO, Lucknow.

*Sealed
A.R. Dinesh
1-12-86*

17
A/24

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH), K

Hanuman Prasad

Applicant.

Versus

Union of India and others

Respondents.

ANNEXURE NO. A-3

GOVERNMENT OF INDIA, DEPARTMENT OF POSTS.

Office of the Senior Postmaster, Chowk Head P.O.

Lucknow-226003.

Memo. No. P.M/Con/86 Dated at Lucknow-226003, the
Disc. VI

12-5-1986

Shri Hanuman Prasad Verma, Postman Chowk H.O. was informed vide this office Memo. of even no. dated 11.4.86 that it was proposed to take action against him on the basis of the statement of imputations of misconduct or misbehaviour reproduced below: -

On 5.4.1986 at about 10.30 A.M. S/Shri Hanuman Pd. Verma, Rishi Kumar and A.A. Farooqui led other Postmen staff, gheraoed the chair of the undersigned protesting against posting of Shri Gaya Prasad Dubey Group 'D' in the Delivery Branch on the ground that Shri Gaya Prasad Dubey happened to be a member of different Service Union. On being informed that the posting of the official cannot be made on the consideration of affiliation with the Service Union they (S/Shri Hanuman Prasad Verma, Shri Rishi Kumar and Shri A.A. Farooqui got annoyed and shouted upon the

*Aug 16
A.R. Bhand
1-12-86*

H.S.U.

(2)

undersigned hurled baseless allegations of castism, favouratism and nepotism against the undersigned and caused dislocation in the office for about half an hour.

By doing so Shri Hanuman Prasad is alleged to have contravened provisions of Govt. of India decision No.3 below Rule 7 of the C.S.S.(Conduct) Rules 1964 and thereby acted in a manner unbecoming of Government servant violating provisions of Rule 3(i) (iii) of the C.S.S(Conduct) Rules 1964.

2. Shri Hanuman Pd. Verma was given an opportunity to submit his representation within ten days of receipt of the Memorandum and that would be taken into consideration before final orders are passed in the case. Shri Hanuman Pd. Verma submitted his representation dated 21.4.86.

3. In his representation Shri Hanuman Prasad has inter-alia stated that a cock and bull story has been framed out just to discourage Union members of N U P E

that the Dy.P.M. (H.S.G.-II) is his appointing authority and the undersigned is not aware of its that the behaviour of the undersigned with the office bearers of the Union is not in conformity with the instructions issued by the Directorate and the undersigned was not maintaining liaison with them; that the undersigned was biased and prejudiced and showed gross favouratism in dealing with the official matters; that he simply sought for an interview with the undersigned on 5.4.86 to discuss local problems under amnesty granted by the Central Government to the

Attached
AR-Brind
1-12-86

HMSL

(3)

office bearers of (of) the recognised Unions; that the charge-sheet has been issued in English and copy of Government of India Decision No.3 referred to in the charge-sheet had not been supplied and that the charge-sheet had not been supplied and that the charges levelled are denied and the common proceedings be instituted.

4) The official in his representation demanded a copy of the Govt. of India Decision No.3 referred to in the charge-sheet; He has mentioned therein that a detailed representation would follow. A copy of the aforesaid decision along with a Hindi version of the charge-sheet was furnished to the official vide this office Memo. of even No. dated 25.4.86 and he was asked to submit his further representation, if any within a week of its receipt. The official however failed to submit any further representation:

5) I have carefully gone through the representation of the official. It is couched in most disrespectful and intemperate language casting aspersions on the undersigned. The official instead of refuting the charge he has alleged that a cock and bull story has been framed out only to discourage Union activity and the behaviour of the undersigned with the office bearers of the Union was not in conformity with the instructions issued by the Directorate and that he is simply sought for an interview with the undersigned on 5.4.86 to discuss local problems. This is not correct "Gherao" etc. does not come within the purview of the Union activity and is subversive of discipline as per instructions contained in Govt. of India Decision

*Answered
A.R. Saini
11.2.86*

HSY

(4)

no.3 below rule 7 of the C.C.W.(Conduct) Rules 1964. In case the local Union had any local problems they should have given a formal notice for the meeting and one or two representatives of the Union could have easily discussed any problem and in case they felt aggrieved by the decision of the undersigned they were at liberty to have taken up the matter with higher authorities. There was hardly any point in leading the entire postmen staff to Gherao the chair of the undersigned and disrupting the office work. As regards the allegation of favouritism etc., levelled against the undersigned, the official is at liberty to take up the issue with higher authorities either individually or through the Union but this is not relevant with present case. The official is responsible for his own acts of omissions and commissions and has to account for the same. The lapses on the part of others, if any, cannot absolve him from his own faults. The charges levelled against the official thus stand fully proved. The official in guise of Union activity disturbed entire atmosphere of the office and his activities are highly subversive of discipline. In order to have a curb on such activities, in future the official deserves severe punishment. The official, is therefore let off with the punishment noted below:-

The next increment of the official is stopped for 3 years from the date it falls due. It will however not affect the future increments.

Sd. Illegeble
 Senior Postmaster,
 Chowk Head P.C.
 Lucknow-226003.

Hsy

Audit
 A.R. Bhand
 10/12/80

1/8

(5)

Copy to:-

1. Shri Hanuman Prasad Verma, Postman
Chowk Head P.O. Lucknow-226003.
2. C.I. File of the official.
3. Punishment Register.
4. Vigilance Statt.
5. P/F of the official.
6. Office copy.

HOY
Attested
A.R. Bawali
AO
1-12-88

Senior Postmaster,
Chowk Head P.O.,
Lucknow-226003.

इन दि सेन्टरल ऐरमिनिस्ट्रेटिव दिव्यनल, लखनऊ

द्वान्नमान प्रसाद

एपलीकान्ट

बनाम

द्वन्ननियन आफ इन्डिया आर्द्ध

अपौ० पाटी०

संलग्नक स०० ए-१

राष्ट्रीय डाक कम्हारी संघ पौ० मैन एवं चतुर्थ ब्रेणी प्रखण्ड

लखनऊ-३

पत्रक स००

दिनांक

कार्यालय चौक

डी०पी० पाण्डे

अध्यक्ष

सेवा मे,

श्री केसी० श्रीवास्तव

प्रवर डाप्पाल चौक

लखनऊ-३

दिनांक: - आपके पत्र संख्या पी०४८/कान/४४ लखनऊ
दिनांक २५/४/८६ के संदर्भ मे।

द्वान्नमान प्रसाद वर्मा
प्रखण्डीय मन्त्री

हम तधि के पदाधिकारों द्वारा द्वान्नियम पौ० आपका ध्यान
आकर्षित करते हैं जो कि राष्ट्रीय डाक कम्हारी संघ
पौ०स्टमैन एवं चतुर्थ ब्रेणी के निर्वाचित पदाधिकारी हैं।

जगदीश प्रसाद श्रीवास्तव

कोशाध्यक्ष

।- यह कि हम लोगों के प्रति आप इतने ज्याहा
इज्याबू हो गये हैं जिसके कारण आपको और सबको
सर्वांदिनि है कि न तो आप विभागीय नियमों के

सन्तोष कुमार क्रेबक्कत्त्व अन्तर्गत काम करना चाहते हैं और न ही पालन

करना चाहते हैं बल्कि बस बातें पर तुले हुए हैं कि

हमारो द्वन्ननियम के सदस्यों को दण्डित व प्रतार्हित ऐसा

किया जाय ताकि आपको वहीती द्वन्ननियम के सदस्य

बन जाये प्रमाणस्वरूप आपके पत्रोंके उपरोक्त दिनांक

२५/४/८६ के साथ संलग्न पत्र दो पन्ने इतनो कठिन

Alfred
K. S. M. S.

५२

पृष्ठ ४

प्रतिलिपि: -

4/30

१२४

- १- श्री द्वार मोहम्मद द्वार प्रान्तीय मन्त्री एन.पी.ई. क्षेत्रा वह प्रान्तीय सर्वेश्वरीय अस्तर पर अधिकारियों से सम्पर्क स्थापित कर हम सदस्यगणों के उत्पीड़न व शोषण बन्द कराएं।
- २- श्री वीपी० सिंह, निवेशक डाक सेवाये लखनऊ द्वेष सूचनार्थी सर्व उपकरण कार्य वाही हेतु
- ३- श्रीगान छठ० सस० सकल कालो डाक महाधक्ष मू०पी० क्षेत्रा डाके दाल दौक द्वारा व उत्पीड़न कार्यवाही बन्द कराएं तथा हम निम्न कर्मचारियों के विरों को रक्षा करें।

सील

5-5-1986

*Armed
AR. Domic
AO*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW.

Versus

Respondents.

ANNEXURE NO. A-5

DEPARTMENT OF POSTS. INDIA

OFFICE OF THE DIRECTOR POSTAL SERVICES,
LUCKNOW REGION LUCKNOW.

Memo No. RDL/APP-66/86/13 dated at LW: Mar. 7, 1987.

This is the appeal dated the 23.06.1986 from Shri Hanuman Prasad Verma, Postman, Lucknow Chowk HO against the orders of withholding of increment for 3 years from the date it falls due vide Senior PM Chowk Lucknow Memo No. PM/Con/56 dated the 12.5.1986. Appeal is not time barred.

2. The appellant was charge sheeted under Rule 16 of CCS (CCA) Rules 1965 by the Senior PM Chowk Lucknow under his memo No. PM/Con/86 dated 12.5.86 as on 5.4.86 the appellant alongwith his other postmen staff had gheraoed the Sr.P.M. Chowk Lucknow at his seat protesting against the posting of a particular group D staff in delivery branch of the office on the plea that the aforesaid particular group D official belonged to different service union. In course of the said demonstration i.e. Gherao Shri Hanuman prasad the appellant, alongwith others had shown his annoyance shouting to the Sr. PM Chowk Lucknow and had also hurled baseless remarks on him. The demonstration and Gherao done by the appellant had caused dislocation in the office

Altered
Sp. Dmnd
As

Mr. Guise A

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for about half an hour. Thus the appellant was charged to have contravened provisions of Government of India decision No.3 below Rule 7 of the CCS (Conduct) Rules 1964 + also to have acted in a manner unbecoming of government servant violating provision of Rule 3 (i) (iii) of the CCS (Conduct) Rules, 1964.

3. The appellant in his appeal argued that:

- (i) he was not aware whether any preliminary investigation was made by the Sr.P.M. Chowk Lucknow regarding alleged "gherao" on 5.4.86,
- (ii) If any enquiry would have been made, the Sr PM Chowk Lucknow would have recorded the statement of persons/officials of his fold showing against interest of the appellant,
- (iii) He sent his statement of defence on 21.4.86 in reply to the memo of charges served on him vide No. PM/Com/86 dated 11.4.86 of the Sr PM Chowk Lucknow. He had also sent a letter dated 5.5.86 in the capacity of Divisional Secretary of the Union to Sr PM Chowk Lucknow in reply to his reference dated 25.4.86 relating to grievances of the members of the union.
- The appellant further argued that the Sr PM Chowk Lucknow had perhaps not considered the representation dated 5.5.86 appropriately and had taken it into account in a wrong sense in the disposal of disciplinary case against him.
- (iv) he alleged high handedness on the part of

*Alleged
AP.Druid
P.D*

H.S.

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(4)

the Sr. PM Chowk Lucknow saying that the appellant being Divl Secretary of the Union had to write to the Sr. PM Chowk Lucknow frequently about the grievances of the members of the Union. The Sr. PM instead of paying heed to the grievances put forward by the appellant felt annoyed and inflicted penalty not only on him but on other members of his union also in disciplinary cases.

(v) He also denied the charges levelled against him in the charge sheet.

4. I have carefully through the appeal and other relevant records. I find that :

(i) the appeal does not contain anything against the main charge and is full of references of counter allegations against the disciplinary authority for this or that failure to set right the grievances of the officials of Chowk n.c. brought to the notice of the disciplinary authority by him in his capacity as the Divl. Secretary.

(ii) The appellant has not elaborated what those grievances are to which the disciplinary authority had turned a blind eye and what was their connection with the disciplinary action.

(iii) The appellant has not countered the point of charge-sheet which has a reference to the agitation, through a gheero of the office head

Attested
A.R. Durgapal

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on the 5.4.86, by the appellant and his colleagues. The very ignoring of this fact of mis-behaviour which caused issue of charge-sheet is proof of the misbehaviour and misconduct on the given date. whatever minor lapses can be tolerated in an organisation, indiscipline cannot be looked tolerance. The appellant has no arguments to justify his Gherao if it was a fact nor anything to prove that it was not a fact as alleged.

5. (iv) since the appellant has repeatedly put forth the fact that he being a union worker has to put forth a number of grievances etc of the staff before the office head and others, I am inclined to recognise this fact. However, this does not justify any misconduct, through provides greater opportunities and forums to put forth the grievances with greater responsibility and a conduct which could be emulated by others.

In view of the above discussion, I find no ground of reason to interfere in the order already passed.

5. In view of the above, I, therefore, reject the appeal and confirm the penalty imposed on the appellant via memo No. PM/Con/86 dated 12.5.86 referred to above.

sd. B.P. Singh
(B.P. Singh)

Director Postal Services
Lucknow region, Lucknow.

Copy to:-
1. The official concerned c/o Sr.PM Lucknow Chowk.
2-4: Sr.PM Lucknow Chowk for onward disposal.
5-6: Office copy.

Attested
for Division
PV
ALG

4/54

28

IN THE GENERAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW DIVISION, LUCKNOW.

Manuman Prasad

Applicant.

versus

Union of India and others

Opp. Party.

ANNEXURE NO. A-6

No. 3/187/88-Vig.III, Government of India,

Department of Posts.

Delhi Bhawan
Sanson Marg
New Delhi-110 001

O h D P A

15 APR 1988

Shri Manuman Prasad, Postman, Lucknow Chowk Post Office, Lucknow, has submitted a petition dated 25.6.87, forwarded to the Directorate on 17.8.88, against the penalty of withholding of one increment for three years without cumulative effect, which has been upheld by the appellate authority vide its order dated 7.3.87.

2. Minor penalty proceedings were initiated on 11.4.88 on the charge that on 5.4.88 at about 1030 hrs. Shri Manuman Prasad Verma with his colleagues S/Shri Rishi Kumar and R.A. Farooqui led the Postmen staff and gheraoed the chair of Shri Dr. Postmaster. This was done by them as a protest against the posting of Shri Gaya Prasad Dubey, a group 'D' official in the Delivery Branch on the ground that Shri Dubey happened to be a member of different service union. The petitioner is also stated to have hurled baseless allegations of castism, favouritism and nepotism against the Dr. Postmaster and caused disturbance

Attested
Approved
As

H.S.

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of office work for about half an hour. The petitioner submitted his defence statement on 21.4.86 wherein he asserted that action was being taken against him to discourage the union members of NJPE of which he was the Divisional Secretary. The charges of bias and prejudice were also levelled in the defence statement against the disciplinary authority. Instead of refuting the charges, the petitioner stressed on his rights as an office bearer of the union. The language used by him is very offensive and disrespectful. The disciplinary authority after considering his defence statement, imposed the penalty of withholding of one increment for three years.

3. The petitioner submitted an appeal to the appellate authority on 28.6.86 wherein he raised the issue of not holding of preliminary inquiry, non-consideration of a letter dated 5.5.86 sent by him as a Divisional Secretary, high-handedness on the part of Sr.PM in punishing members of the union in disciplinary cases and denied the charges levelled against him in the chargesheet. The appellate authority after considering the appeal, rejected the same and confirmed the penalty imposed by the disciplinary authority, vide its order dated 7.8.87.

4. The petitioner has submitted that the punishment order is illegal and bad in the eye of law on the ground that the Sr.PM was not competent to issue the chargesheet and impose the penalty because of his being personally connected with the charges. The contention of the petitioner is not correct as the Sr.PM was not to appear as a material witness in support of

Attested
A.R.David
P.V.

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(3)

the charges. Moreover, no inquiry was held. The punishment order was based on the conduct of the petitioner and the disciplinary authority has rightly exercised its statutory powers. Government of India Decision No.3 (MIN.OM No.25/(S)/11/C7/Ents(A) dated 18.4.67 below Rule 7 of the CCS (Conduct) Rules, 1964 prohibit any Government servant in engaging or participating in 'Gheraoes'. The above cited PM explains that of gheraoes involves both demonstration and wrongful and forcible confinement of public servants within office premises. Thus, gheraoe is far more serious than simple demonstrations, since not only the participant stay away from duty, the whole office comes to a standstill as the supervisory officers are work. Certain privileges have been granted to the office bearers of the union by virtue of their being Government servants. First they have to behave like a Government servant and then discharge their duties as office bearers of the union. Being an office bearer of the union, does not confer on him the right to act in any manner the likes with the head of the office.

5. After carefully going through the petition and records of the proceedings, it is felt that there are no justifiable grounds to intercede on behalf of the petitioner and the petitioner deserves to be rejected.

*Altered
A.P. Dwyer*

HSY

6. In the light of foregoing discussions and in exercise of the powers conferred under Rule 20 of the CCS (CCA) Rules, 1965, I hereby reject the petition.

Su. Kailash Piplash
(Kailash Piplash)
Member (Personnel)
Postal Services Board

8/8

(4)

Shri Narayan Prasad

Postman, Lucknow Chowk P.O.

Lucknow.

(Through DFS, Lucknow Region, Lucknow-226007)

Copy to I.P.S., Lucknow with reference to his
letter No.I.DL/P-06/87/-S dated 17.3.88. Two spare
copies of the order are sent herewith for onward
transmission to the petitioner & the disc. authority.

Sd. Jiwan Dass
13.4.88

(Jiwan Dass)
Desk Officer (Wig.III)

Attested
A.R.Dass

ब्राह्मदालत श्रीमान Central Administrative Tribunal

Wednesday 12th

महोदय

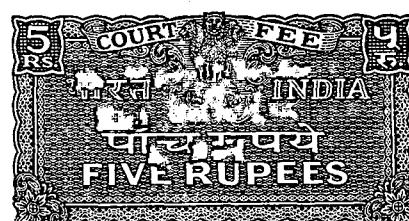
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वकालतनामा

Manuman prasad



and, Union of India

वादी (मुद्दे)

नाम

प्रतिवादी (मुदालेह)

A.R. - Dated: 1st

एडवोकेट

महोदय

वकील

Awadh Bar Association, Lucknow

को अपना वकील नियुक्त करके (इकरार) करता हूँ और लिखे देता हूँ इस मुकदमा 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 ढिगरी जारी करावें और रूपया बसूल करें या सुलहनामा या इकबाल दाबा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (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 सर्विकार है और होगी। मैं यह भी रुपीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूँगा। अगर मुकदमा अद्यतन पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिखा दिया कि ब्राह्मण रहे और समय बर काम आने।

हस्ताक्षर: *Abdul Aziz*

साक्षी (गवाह)..... साक्षी (गवाह).....

दिनांक.....

महीना.....

नाम अदालत
नं. मुकदमा फैसला
नं.

Accepted
for Dated
A.R.
1/2/1982



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A No.225 of 1988(L)

Hanuman Prasad .. Applicant

-vs-

Union of India and others .. Opp parties.

APPLICATION FOR CONDONATION OF DELAY FOR
FILING COUNTER AFFIDAVIT.

....

The opposite parties most respectfully begs
to submit as under:-

*Brief on
record.*
04/5/89

1. That due to oversight the counter affidavit could not be filed before this Hon'ble Tribunal but the copy of the same has already been given to the Counsel of the applicant.
2. That it is expedient in the interest of justice that the accompanying counter affidavit may kindly be taken on record and the delay for filing this counter affidavit may kindly be condoned.

P R A Y E R.

WHEREFORE it is most respectfully prayed that the accompanying counter affidavit may kindly be taken on record and the delay may kindly be condoned.

(VK CHAUDHARI)

Addl. Standing Counsel for the Central Govt.

Counsel for the opp. parties.

Lucknow?:

Date x:

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A. NO. 225 of 1988(L)

1/1

Hanuman Prasad ,,, Applicant

Versus

Union of India & others v/s Opp. parties

COUNTER AFFIDAVIT ON BEHALF OF OPP. PARTIES.

I, P.N. Misra, aged about 49 years,
son of Shri Kuber Nath Misra at present posted as
Senior Postmaster, Chowk, Head Post Office,
Lucknow do hereby solemnly affirm and state as under:-

1. That the deponent is the Respondent no.4 in the
above noted application and is well conversant
with the facts of the case.

2. That the deponent has read and understood
the contents of the application filed by the applicant
as well as the facts deposed herein under in reply
thereof.

2/1
P.N. Misra

3. That the contents of para 1 to 5 of the application are formal and need no comments.

4. That the contents of para 6(a) of the application are not disputed.

5. That the contents of para 6(B) of the Application are not disputed.

6. That the contents of para 6(C) of the application are incorrect as stated and in reply it is submitted that the general reply dated 21.4.86 as contained in this para was received from the applicant.

7. That in reply to the contents of para 6(D) of the application it is submitted that as per charge framed against the applicant no preliminary enquiry was needed by the then ^{the} Sr. Post Master Shri KC Srivastava as ^{he} himself noticed misconduct of the applicant against him.

Rest part of para in respect of punishment memo is admitted.

24/4/86

8. That the contents of para 6(E) of the application are incorrect as stated and in reply it is

submitted that Shri Hanuman Prasad Verma - ~~with the~~ [✓] with Shri Rishi Kumar Dixit ~~✓~~ applicant and R.A. Farooque (all Postmen) led other postman staff on 5.4.86 at about 10.20 A.M ~~gathered~~ gheroed to the ^M chair of Sr. Postmaster, Chowk Shri KC Srivastava.

~~As per~~ Govt of India's decision No.3(MBA O.M. No.25(3) /17

67/Estts.(A) dated 13.4.67 below rule 7 of the CCS(Conduct(Rules 1964 prohibited any Govt servant in suggesting or agitating and participating in ~~hostile~~ gheroes and gheroes ^{more} is for ~~were~~ serious than simple demonstration of the because said action of the applicant and others

there was a dislocation in the smooth functioning of the office for half an hour and applicant ^{had} obstructed as others also ~~delineated~~ themselves from their duty during ^{the} said period. In this case the punishment of withholding of next increment for a period of 3 years without cumulative effect was imposed by the

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24/11/86
24/11/86

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Senior Postmaster as he had contravened the said procedure and acted in a manner unbecoming of a Government Servant of which notice was taken by his superior (Sr. Postmaster) who incidentally was his disciplinary authority. The punishment order of disciplinary authority does not suffer from any infirmity as no preliminary enquiry was made or called for in this case. The CCS(CCA)
1965 G
Rules also provides that no preliminary enquiry *N* is required compulsorily.

9. That in reply to the contents of para 6(F) of the application are incorrect, hence denied and in reply it is submitted that the further father of the applicant representation as stated by him in his representation dated 21.4.86 was not received from the applicant. The receipt of his reply dated 5.5.86 to the letter dated 25.4.86 is also denied as per available office records of the deponent.

~~Although~~ a copy of Government of India

decision No.3 referred in charge ~~sheet~~
along with Hindi version of chargesheet as
demanded by the applicant therein was furnished
to him vide office Memo No. PM/Con/ 86 dated
25.4.86. The representation dated 21.4.86
of the applicant was in general as Union member/
office bearer and was also full of blames to
Sr. Postmaster Shri KC Srivastava in un-

parliamentary language and in such circumstances

his representation dated 21.4.86 was considered

in deciding the case and punishment orders ~~are out~~

found him guilty was issued to him ~~with the view~~

office Memo No. PM/Con/86 Part.III dated

12.5.86.

10. That the contents of para 6(G) of the

application are incorrect as stated and in

reply it is submitted that the Senior Postmaster

Chowk, who is the appointing authority as

well as disciplinary authority in respect of

Postman cadre and as such the punishment orders

issued by him in this case ~~were~~ ^{were} ~~without~~ within

jurisdiction. The applicant also preferred

his appeal against the punishment orders to the

D.P.S. Lucknow Region in this respect

and the same was rejected by D.P.S Lucknow Region.

11. That the contents of para 6(H) of the application are incorrect, hence denied.

12. That in reply to the contents of para 6(I) of the application it is submitted that the appeal preferred against the orders No. PN/Con/86 Pt. III dated 12.5.86 by the applicant was rejected by D.P.S. Lucknow Region vide his orders dated 7.3.87.

13. That the contents of para 6(J) of the application are not disputed.

14. That in reply to the contents of para 7 of the application it is submitted that the applicant has preferred an appeal against the punishment orders lastly to Director General, Post Services

New Delhi and the same was rejected by him

15. That in reply to the contents of

para 8 of the application it is submitted that nothing has been heard in this case from any Court of Law (as per available ~~before~~ ^{in view of} this Hon'ble court CAT case No. OA No. 226 of 1988(L)).

16. That in reply to the contents of para 9(i) of the application it is submitted that the orders dated 12.5.86 and orders of appeal as contained in this para are not disputed and as such it is prayed that these orders may not be allowed to be quashed.

17. That in reply to the contents of para 9(ii) of the application it is submitted that the question of releasing the stopped increment to the applicant does not arise.

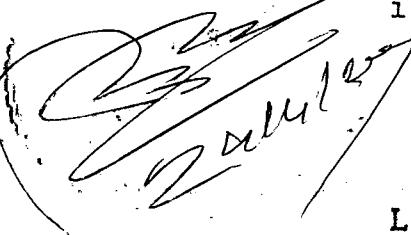
18. That in reply to the contents of para 9(iii) & (iv) of the application in which the reliefs sought by the applicant are not maintainable in the eyes of Law.

19. That in reply to the contents of para 10(i) of the application it is submitted that the

applicant is not entitled for any award ^{stated} in this para during currency period of punishment and as such he may not be passed any interim order to this effect. It is ^{also} ~~further~~ stated that the applicant has been provisionally permitted to appear for the promotional Exam (L.G.O. Examination to be scheduled in Jul 89 under office letter No.B/LGO Exam/July/89 dated 13.4.89.

20. That the contents of para 10(ii) of the application need no comments.

21. That in view of the facts and circumstances stated above, the application filed by the applicant is liable to be dismissed with costs.


Deponent.

Lucknow,

Dated: 24th April 89.


Verification.

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 2 are true to my personal knowledge, and those of para 3 to 17 & 20 are believed to be true on the basis of perusal of

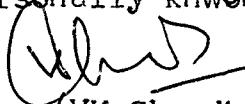
office records as well as information gathered
and those of paras 18, 19 to 21 are
believed to be true on the basis of legal advice.
Nothing material fact has been concealed and no
part of it is false.


Deponent.

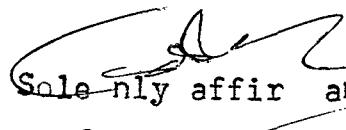
Lucknow,

Dated: 24/4/89.

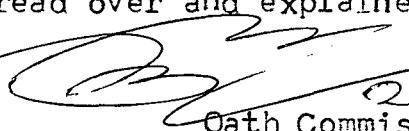

I identify the deponent who has
signed before me and is personally known to me.


(VK Chaudhari)

Addl Standing Counsel for the Central Govt
Counsel for the Opp parties.


Solely affirm and before me on 24/4/89
at 6:30 am/pm by the deponent by Shri VK Chaudhari,
Advocate, High Court, Lucknow.

I have satisfied myself by examining the
deponent that he understands the contents of the
affidavit which were read over and explained to him
by me.


Oath Commissioner.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,
CIRCUIT BENCH LUCKNOW.

O.A. No. 225, of 1988 (L)

1989

AFFIDAVIT

60 M

DISMISSED

DATE

Filed Today

Hanuman Prasad

Applicant.

Versus

Union of India and others

Opp. Parties.

APPLICATION FOR CONDONATION OF DELAY ~~in~~ FILING REJOINDER
AFFIDAVIT

The abovenamed applicant begs to state that due to some unavoidable circumstances the rejoinder affidavit could not be ~~prepared~~ appear and filed within time. Now the same has been prepared and is being filed the delay is not deliberately one ~~and is liable to be condoned~~.

It is therefore prayed that the delay in filing rejoinder affidavit may be condoned and the same may be kept on record in the interest of justice and for fair disposal of the case.

Lucknow; dated:

August 11th., 1989.

A. R. Dubey
Advocate.
Counsel for the applicant.

55

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
CIRCUIT BENCH, LUCKNOW.

O. A. No. 225 of 1988 (L)

Hanuman Prasad

Applicant.

Versus

Union of India and others

Respondents.

REJOINDER AFFIDAVIT

I, Hanuman Prasad, aged about 39 years, son of Late Sri Ganga Prasad, resident of 450/114, Sunarwali Gali, Muftigang, Lucknow, do hereby solemnly affirm and state on oath as under:-

1) That the deponent is the applicant in the abovenoted case and as such he is fully conversant with the facts of the case deposed hereinafter.

2) That the deponent has read over the contents of the Counter affidavit filed on behalf of opposite parties and has fully understood the contents thereof.

3) That the contents of paragraphs 1 to 5 of the Counter Affidavit need no reply.

4) That the contents of paragraph 6 of the Counter

*✓ Leary
W. J. M. 1/2*

Affidavit are contrary to paragraph 6 (c) of the application hence denied and those of paragraph 6 (c) of the application are reiterated. A true photostat copy of the said reply dated 21.4.1986 which was duly received by the office is being filed here-with as ANNEXURE NO.R-A-1 to this affidavit.

5) That in reply to the contents of paragraph 7 of the Counter affidavit, it is submitted that the assertion of the opposite parties that as the punishing authority himself was the witness in the matter and he himself noticed alleged misconduct therefore no preliminary enquiry was needed is totally wrong. It is emphatically stated that the then Senior Post Master Shri K.C.Srivastava should not had become the enquiry officer of disciplinary authority in the matter in question. He should have reported the matter to the Postal Directorate with full detail to get appointment for an adhoc disciplinary authority as provided in para 51 of the Postal Manual Volume III which is reproduce as under:

✓ Ad-hoc - Disciplinary authority
 "51 where the Prescribed Appointing or disciplinary authority is unable to function as the disciplinary authority in respect of an official on account of his being personally concern with the charges or being a material witness in support of the charges, the matter should be reported to the Postal Dte. with full details for appointment of an adhoc disciplinary authority by the President."

In view mention above the then Sri K.C.Srivastava Senior Post Master had no jurisdiction to make enquiry or punished the applicant (without enquiry) on the basis of his own statement of knowledge of the incident. In view of the doctrine of bais and principle of

(3)

natural justice, that no man can be judge of his own cause as reported by Hon'ble Supreme Court in number of decision. ^{in view of this} Para 6 (d) of the application are reiterated.

6) That the contents of paragraph 8 of the Counter Affidavit, it is submitted that as the allegation made in this para are wrong hence denied and it is further submitted that nothing wrong has been done by the deponent but he has not been given any chance to prove him innocent. These are the matter of enquiry which should not have been done by the then Shri K.C.Srivastava Senior Post Master, Chowk Lucknow who was himself witness in the aforesaid matter and personally involved in the case. In view of this the contents of paragraph 8 of the counter affidavit are not admitted and those of paragraph 6 (e) of the application are reiterated and the reply given in foregoing paragraph may be perused. In reply to this paragraph also.

7) That in reply to the contents of paragraph 9 of the counter affidavit, it is submitted that the averment made in para 9 of the counter affidavit are wrong, false hence denied. The deponent alongwith the other members of the Union and given a reply of letter dated 25.4.1986 on 5.5.1986 which was duly received by the office. A true photostat copy of the first page and the last page of the said reply dated 5.5.1986 is being filed herewith as ANNEXURE NO. R-A-2 to this

Shy
11/5/86

(4)

affidavit and the photostat copy of reply dated 21.4. 1986 given by the deponent has already been annexed as annexure no. R-A-1 which may kindly be perused to reply to this para also. But without considering the punishment order was passed with ~~malafide~~ intention.

8) That the contents of paragraph 10 of the Counter Affidavit are contrary to the contents of paragraph 6 (g) of the application hence denied and the contents of paragraph 6 (g) of the application are reiterated and it is further submitted that in the aforesaid matter the Senior Post Master was himself witness in the disciplinary proceedings. As such the provision of paragraph 51 of the Postal Manual Volume III which has already been reproduced in paragraph 5 of this affidavit shall apply and in view of this it was the duty of the Senior Post Master to report the matter with a full detail to Postal Directorate to get appointment for an adhoc disciplinary authority in the matter in question. As such the Senior Post Master, Appointing/punishing authority who was himself witness in the matter and personally involve in the case had no jurisdiction to make enquiry or punished the applicant (without enquiry) on the basis of his own statement ^{and was incompetent authority} of knowledge of the ~~incident~~. In view of the doctrine basis and principle of natural justice that no man can be judge of his own cause as reported in number of decision by Hon'ble Supreme Court. It is further submitted that the appeal of the deponent was wrongly been rejected by the Director Postal Services Lucknow.

Exly
11/11/11

9) That the contents of paragraph 11 of the Counter Affidavit contrary to paragraph 6 (h) of the application hence denied and those of paragraph 6 (h) of the application are reiterated.

10) That the contents of paragraph 12 of the Counter Affidavit need no reply.

11) That the contents of paragraph 13 of the Counter Affidavit need no comments.

12) That the averments made in paragraph 14 of the Counter affidavit, it is submitted that the applicant preferred an appeal against the punishment order lastly to Director General Postal Services, New Delhi but the same was wrongly been rejected.

13) That the contents of paragraph 15 of the Counter Affidavit need no comments.

14) That the contents of paragraph 16 of the Counter affidavit, it is submitted that the order dated 12.5.1986 and order passed on appeal dated 7.3.1987 and 15.4.1988 contained in annexure no. A-3, A-5 and A-6 respectively to the application are liable to be quashed.

15) That in reply to the contents of paragraph 17 of the counter affidavit are denied and it is further submitted that the opposite party no.4 be directed to release the stopped increment of the applicant and to pay him the arrear of his salary.

A/c

16) That the contents of paragraph 18 of the Counter Affidavit are not admitted, ~~the relief prayed by defendant~~ and those of paragraph 9 (iii) and (iv) of the application are maintainable in the ~~xxxm~~ eye of law.

17) That the contents of paragraph 19 of the Counter Affidavit, it is submitted that the case alongwith the Interim Relief application was filed in the year 1988 but the matter came for admission before this Hon'ble Tribunal in the year 1989 but when this case was taken up for admission, as a very shot point was involved, the opposite parties were required to file short counter affidavit for disposal of the case finally at admission stage but the counter affidavit was not filed within time. And in the meantime the opposite parties have allowed to applicant to appear in the departmental examination hence the applicant do not think necessary to get the interim order from this Tribunal and thus this application is still pending.

18) That the contents of paragraph 20 of the Counter Affidavit need no comments.

19) That in reply to the contents of paragraph 21 of the counter affidavit, it is submitted that application deserves to be allowed with costs.

Lucknow, dated;

August 11, 1989.

DEPONENT.

(7)

VERIFICATION

I, the abovenamed deponent do hereby verify that the contents of paragraph 1 to 19 of the Rejoinder Affidavit are true to my personal knowledge and legal advice. No part of this affidavit is wrong and nothing material has been concealed. So help me God.

Lucknow; dated:

August 11, 1989.

Haider DEPONENT.

I identify the deponent who has signed before me.

A. R. Dabir
ADVOCATE.

11-15th Hanuman Chowk
Gorakhpur
MUSHIR ALI PAROU
Civil

Annex R-A-1

To,

The Postmaster,
Lucknow Chowk HO.

Re: ref.
I am in received of your memo No. PM/Corr/86 dated 11.4.86 containing statement of Imputations of misconduct against Shri Hanuman I&I. Postman Lucknow Chowk HO. Under Rule 46 CCA(CCA) Rules 1965. The perusals of this statement shows that a cock and Bull Story storage has been ~~been~~ ^{been} doubt by a ~~sett~~ ^{sett} Postmaster, just to discurrage to the Union members of ~~NUPE~~ ^{NUPE} duly elected officer berers of NUPE Postman and Class IV Br. Union of Lucknow Chowk HO viz. S/Shri Reshi Kumar Dixit Br. Secretary. Hanuman Prasad Divl. Secyy of Lucknow Div., R.A. Faraque active Union member etc.. On upgradation of Lucknow Chowk HO the post of HSG Postmast was upgraded to P.M. HSG (Gazettea) which made Lucknow Chowk HO ~~an~~ ^{an} independent unit for excercise of Admn. power of over Postman and Class IV cadre within his jurisdiction in the office. Our appointing authority ~~is~~ afterrecruitment made by SSPO Lw. Dn. Lucknow was the P.M. (HSG I) Lucknow Chowk HO and appellate authority was SSPOs Luckn w Dn. Now the position has changed appointing authority is Dy. P.M. Lucknow Chowk HO and appellate authority is Gazett Postmaster (Gr. B). Perhaps you are either ~~not~~ ^{not} aware of the charges or shows your egnorance about rules. It is learnt from your behaviour with the office berear of our Union NUPE Postmen and Class IV post under you that either your are not aware with instruction of Directorate about curtious behaviur with office berears of Service Unions posted under you and keep liasen with them for smooth running of administration and efficient ~~serve~~ ^{serve} to the public. observing economee and avoiding extra ~~adains~~ ^{adains} with their cooperation.

Ref
Cause of grivance has arision and which has made you baised and prizjudiced on the ~~seat~~ ^{Ref} of our unions letter from our Br. Secy. ^{letter} addressed to you dated before 5.4.86 bringing your attention notice to the groce favourtism in dealing with officials matters keeping in view of their ~~sub~~ ^{sub} and position namely on slige late attendence and ~~party~~ ^{party} matter postman and

4/8

- Class IV Union member by remain on duty sheet under Rule 16 C.R.C.C.A. Rules 1964 and by ignoring gross negligence of Sri K.C. Srivastava and others who used to come late beyond permission limit of late attendance and leaving office early before closing office and giving him all other financial benefit viz. C.I.A. Convene etc. without obtaining full day duty time out turn.

So far incident of 5.4.86 is concerned you are well aware that under a grant, granted by the Central Govt. to office bearers and recognised unions. We simply brought interview with you to discuss local problems peacefully to solved that locally without bringing them to A.O.C.C. Shri D.S. Salkale P.M.C. U.P. Circle Lucknow at that time your honour with folded hands not to do do and you will henceforth deal with member of all unions equally and partially without showing any undue favour. Having faith in your promise we came back and performed our full day duty according to rule.

Charged levelled in this memo are totally denied as their illegal irregular and motivated. However in the meantime in orders to give honour to the authority, you are holding ^{you} burden of proof and responsibility by levelling of this charge ably lies on you by observing rules on the subject without misuse of the power vested in you by the President of India. You are requested to furnished a list of witness, list of documents to proof the documentary evidence.

You are additional Officers as knowing imposed this charge sheet in the English language to the Peon and Class IV. Copy of Govt. Disc No. 3 below Rule 37 C.R.C.C.A. Rules 1964 should also be supplied to me. Under porview ^{of} whose provisions you are adament to penish ^{to} us.

Further it is pointed the charged levelled against therewith are identical and same nature and are nothing but a dialog between you and us which can only be proved if it had been Tap Recorded by you because when the dialog stated by you from our side is denied, you are advised to institute ^{to} common proceeding in the case because you are part to the case and you are also governed by the Conduct Rules on equal footing.

Our detail representation will follow.

desiplined

Our Union in comperation to A.I.P.E.U. etc. and we
had never observed Gherve ~~abuse~~ and observing Strick without
issuing proper notice and seeking permission.

well discipline

H. L. V.
28

Postmaster

Lucknow Chowk HO, Lucknow

SL

*J
11/11/86*

गार्घट्टोव डाक्क कर्मचारी संघ पो० मैन स्तम चतुर्थ श्रेणी प्रखण्ड
लखनऊ-३

पत्रांक सं०

दिनांक

कार्यालय चौक

डी० पी० पाण्डे

श्री कै० स० श्रीवास्तव

पवर डिक्ट्योनियोल

લરવન્ઝ - 3

हनूमान प्रसाद वर्मा प्रखण्डीय मन्त्री

प्रधान। - आपके पड़ा संचया पी० एम./कानू० / ४६ लखनू०
प्रिन्ट क २५/४/४६ के संदर्भ में।

जगदीश प्रसाद श्रीवास्तव
कोपाध्यक्ष

उभ संघ के पदाधिकारी (प्राधिकारी) आपका ध्यान आकर्षित करते हैं जो कि राष्ट्रपति के नियार्थी संघ प्रत्यक्ष एवं दूरध्यक्षों के निवार्यत पदाधिकारी हैं।

सन्तोष कुमार शर्मा सहायक प्रखण्डीय मन्त्री

1- भृत्य के हालों के प्रति आप हृत्यज्ञादा
हृत्यालू बोग्ये हैं जिसके बारे आपको आप
दर्शका सर्वविद्यत है कि न तो आपविभागीय
नियमों के अन्तर्गत बोग्यवर्ता चाहते हैं
आपने ही पाकन करना चाहते हैं जिसका
इस बात पर तुम हुए हैं कि हारी युनियन
के उदासों का दृष्टित व प्रताड़ित ऐसा
किया जाय ताकि आपकी चहाती युनियन
के उदास लोगों प्रभावित वरपर आपका
प्रतास उपरोक्त
लाभ सभा पर दो पहली इतनी कठिन-

‘राष्ट्रीय डाक कर्मचारी संघ पो० मैने सत्त्वम् चतुर्थ श्रेणी प्रखण्ड
लखनऊ-३

प्रांक सं०

(८)

दिनांक

कार्यालय चौक

डी० पी० पाण्डे
अध्यक्ष

हनुमान प्रसाद वर्मा
प्रखण्डीय मन्त्री

जगदीश प्रसाद श्रीवास्तव
कोषाध्यक्ष

सन्तोष कुमार शर्मा
सहायक प्रखण्डीय मन्त्री

प्राइलेप

1. श्री शर्मेश्वरलाल प्राप्तीपुरी
N.U.P.E, कृष्णपा वड प्राप्तीपुरी
झीलीपुर उत्तर प्रदेश काशीपुरी छोड़
हुमपक्ष चापियांकर हम सेइसपाठी
के उत्पीड़न व शोषण वड प्राप्ती
2. श्री बी० दी० बिंदु, नेपाली डॉ
लेवार्ड नरवाला छोड़ उच्चारीपुरी
उचित लाप्त वर्त हुए
3. श्रीमान् डी० एम. सल्ला लाल डॉ
नेपाली प्र० पी० श्रीक द्वारा
कृष्णपा डॉक वाल शोक द्वारा
उत्पीड़न कावे लाई बन्द रखा हुए
हम नेपाल लेपियापी के लिए
की रक्षा की



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH
LUCKNOW

D.A. No. 225 of 88(L)

Hanuman Prasad

... Applicant

Versus

Union of India and others

... Respondents

FF 7-12-96

SUPPLEMENTARY REJOINDER AFFIDAVIT

I, Hanuman Prasad, aged about 41 years, s/o Late Shri Ganga Prasad, Postman Head Post Office, Chowk, Lucknow, r/o 450/114 Sunarwali Gali, Muftiganj, Lucknow, do hereby state on oath as under :-

1. That the deponent is the applicant in the above noted case and he is fully conversant with the facts deposed to in this supplementary rejoinder affidavit. The deponent has been read out the supplementary counter affidavit, explained its contents in Hindi which he has fully understood and is replying to the same.
2. That the contents of paras 1 and 2 of the supplementary counter affidavit need no reply.
3. That in reply to the contents of para 3, it is stated that there was hardly any necessity of filing a supplementary counter affidavit which has been done with malicious intentions to confuse and prolong the case. However, the various points raised in the supplementary counter affidavit are hereinafter replied.
 - a) That the respondents have not filed the order appointing the deponent to his present post

Filed today
9/7/90
Replied today
for victim
C. L. P.

22/7/90

X/2

of Postman which would indicate the appointing and disciplinary authority of the deponent. It is denied that the Senior Postmaster Chowk is the appropriate disciplinary authority and he acted as such in accordance with rules. Para 60 of Post Manual III, reproduced ~~below~~ by the respondents has been misconstrued and wrongly quoted by them. Rule 60 reads as under :

"WHILE dealing with the case of an employee deemed incompetent, his immediate superior must afford to him an opportunity to offer an explanation, and his explanation, or a statement to the effect that having been called upon, he has failed to give one, must be submitted to the competent authority with the report where he himself is not competent to deal with the case."

Rule 50 of the P.M. Manual Vol. III, which appears to have been intended however, clearly lay down that the authority concerned can function as disciplinary authority only when he has not given out its findings about the guilt of the accused officials. In the instant case Shri K.C. Srivastava, the then Chief Postmaster Chowk, Head Post Office, Lucknow is the complainant, he is also the witness of the alleged offence and in view of that he cannot be the disciplinary authority to punish the deponent which would amount to violation of natural justice as a complainant or a witness cannot be the judge of his own case.

The charge sheet issued by Shri K.C. Srivastava, the then Chief Postmaster, Chowk, Head Post Office, Lucknow and the punishment awarded by him were, therefore, malicious, motivated, prejudicial, irregular, arbitrary and illegal and cannot be sustained. It is wrong to say that the function of the then Chief Postmaster Shri K.C. Srivastava was in the interest of

Egnis Hm

Government work and office decorum and also in official capacity. Even if there was any complaint, the matter should have been entrusted to an independent uninterested, impartial and unbiased authority for the sake of justice and fair play.

b) That the contents of para 3(b) of the supplementary counter affidavit are irrelevant as they have no concern with the charges levelled against the deponent in the charge sheet dated 11.4.1986 (Annexure A-1). They, however, indicate activation of Shri K.C.Srivastava, the then Chief Postmaster, Chowk, Head Post Office in punishing the deponent on extra-pecuniary matters prejudicially and illegally. The contents of para 3(b) aforesaid is a matter of record and a matter of arguments. The deponent has not hidden anything and a true copy of his representation dated 21.4.86 was filed by him as Annexure A-2 to the application, which was very well in the knowledge of the respondents at the time of filing their counter affidavit. It may be further pointed out that the counter affidavit was filed by Shri P.N.Misra as Senior Postmaster, Chowk, Head Post Office, Lucknow, for all the respondents without any authority from others. It may further be stated that the matter in dispute was fully covered under Rule 51 of the Postal Manual Vol. III, which has been reproduced in para 5 of the rejoinder affidavit and in view of the said rule Shri K.C.Srivastava, the then Sr. Postmaster, Chowk, Head Post Office, who himself noticed the alleged misconduct against the deponent as stated and admitted in para 7 of the counter affidavit could not function as disciplinary authority, being personally concerned with the charges. All action taken by him is therefore, wrong, vitiated and null & void.

Engg's Wk

c) That the contents of para 3(c) of the supplementary counter affidavit are denied as stated and the contents of para 6(G) of the application and para 8 of the rejoinder affidavit are re-asserted. Besides it has already been stated in para 5 of the rejoinder affidavit in which para 51 of the Postal Manual Vol. III was produced that where a disciplinary authority is personally concerned with the charges or is a material witness in support of the charges, he cannot function as disciplinary authority and he should take appropriate action for appointment of an adhoc disciplinary authority in terms of the said rule. The action of Shri K.C.Srivastava, the then Chief Postmaster, Head Post Office, Chowk, who was the complainant as well as a witness of the alleged offence, could not function himself as disciplinary authority against the said rule and in violation of natural justice. The action initiated by him and the punishment awarded by him were/are wrong, unjust and illegal. It is denied that the Senior Postmaster is the appointing and disciplinary authority in respect of the deponent. The rest of the contents are wrong, misconceived and misconstrued. Para 60 of the Postal Vol. III is not relevant as wrongly alleged. The appropriate para applicable in the deponent's case is para 51 ibid as already stated and the respondent no. 4 acted malafidely in violation of the said rule in a prejudicial manner to harass and cause injury to the deponent.

4. That the contents of para 4 are denied as stated. In the facts and circumstances detailed in application, rejoinder affidavit and also above the

Engg. W.H.M

applicant has a cogent and bonafide case and his application is liable to be allowed with cost.

LUCKNOW

Subin YHM

Dated 5.7.90

Deponent

VERIFICATION

I, the abovenamed deponent, do hereby ~~specifically~~ verify that the contents of paras 1 to 3 are true to his knowledge and those of para 4 are believed by me to be true. Nothing material has been suppressed or concealed. So help me GOD.

Verified this 5th day of July, 1990,
at Court's Compound, Lucknow.

LUCKNOW

Subin YHM

Dated 5.7.90

Deponent

I identify the deponent
who has signed before me.

M. Dubey
(M. Dubey)
Advocate