

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH: LUCKNOW

INDEX SHEET

Cause No. 39/92 TA
 of 1991
 M. No. 254/88
 Name of the parties Baitul Maith Dhusia Applicants.

Versus

Union of India and others Respondents.

Part B.C.

S.I.No.	File No.	Description of documents	Page
(1)	Chit		A1-A2
(2)	Books Shd		A3-A5
(3)	Judgement		A6-A8
(4)	Bill		A9-A22
(5)	Annexure		A23-A26
(6)	Power		A27
(7)	RA		A28
(8)	Power		A29-A33
(9)	Motu		A34
(10)	RA		A35
(11)	RA		A36-A53
(12)	Annexure		A54-A60
	File B		A61-A74
			B75-B140
	File C		C111-C144

12/4/88
Compulsory retirement. (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 254 of 1988

APPLICANT (s) Brij Nath Jharia

RESPONDENT(s) U.O.I. through Secretary, Ministry of Finance

New Delhi & another

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

Particulars to be ExaminedEndorsement as to result of Examination

(c) Are the documents referred to in (a) above neatly typed in double space ? Yes

8. Has the index of documents been filed and paging done properly ? Yes

9. Have the chronological details of representation made and the outcome of such representations been indicated in the application ? No

10. Is the matter raised in the application pending before any Court of law or any other Bench of Tribunal ? No

11. Are the application/duplicate copy/spare copies signed ? Only 1st Copy Signed

12. Are extra copies of the application with Annexures filed ? Yes

(a) Identical with the original ? Yes

(b) Defective ? -

(c) Wanting in Annexures -

Nos...../Pages Nos. ?

13. Have file size envelopes bearing full addresses of the respondents been filed ? No

14. Are the given addresses, the registered addresses ? Yes

15. Do the names of the parties stated in the copies tally with those indicated in the application ? Yes

16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? N.A.

17. Are the facts of the case mentioned in item No. 6 of the application ?

(a) Concise ? Yes

(b) Under distinct heads ? Yes

(c) Numbered consecutively ? Yes

(d) Typed in double space on one side of the paper ? Yes

18. Have the particulars for interim order prayed for indicated with reasons ? No

19. Whether all the remedies have been exhausted.

If approved, the case may be listed
on 12-4-88

7/3/88

The applicant declares that no deport-
mental remedy is available

Submitted by
Usha
21/3/88

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

..... No. 254 of 198 A

.....Vs.....

Sl.No. of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
(1)	12.5.00	<u>ok</u> On the request of resp'ts counsel, counter may be fixed by 3.6.00	<u>ok</u> <u>ok</u>
(2)	3.6.00	<u>ok</u> Counter may be fixed by 22.7.00	<u>ok</u> <u>ok</u>
(3)	22.7.00	<u>ok</u> Counter may be fixed by 19.8.00	<u>ok</u> <u>ok</u>
(4)	19.8.00	<u>ok</u> Let the counter be fixed by 27.10.00	<u>ok</u> <u>ok</u>
(5)	27.10.00	<u>ok</u> On request of resp'ts counsel, counter may be fixed by 12.1.01 No further time shall be granted	<u>ok</u> <u>ok</u>

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

CAT /J/11

O.A./T.A. No. 254 1988

Applicant(s)

Versus

Respondent(s)

Sr. No.	Date	Orders
(10)	13.9.89	Wrongly listed for admission. It is admitted Case. List this Case before DR (3) ^{on 21.11.89} for fixing a date for hearing. <i>DRW</i>
(11)	21.11.89	<u>DR</u> Counsel for the applicant Sri Rakesh Verma present let this case be put up before this court for hearing on 17.1.90 <i>DR</i>
(12)	17.1.90	The case is adj to 20.4.90 before DR(5) fixing a date for hearing <i>DR</i>
(13)	20.4.90	<u>DR</u> Adjusted to 9.8.90 before DR(7) for fixing a date for hearing <i>DR(7)</i>

5
ORDER SHEET
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD.

No. 19 OF 19

Vs.

Sl. No.

Date

Office Report

Order

3

4

62

Misc. Appln. (Amendment)

No. 958/90 and Transfer

Appln. for Lucknow

are put up before Hon'ble

Vice Chairman for

orders. Parties have
been informed accordingly.

62

25/1/91

Hon'ble Justice S. V. Srivastava, Mr
Hon'ble Mr. A. B. Gorai, Am

~~The above~~

No. 958/90's allowed. Let amendment
be incorporated within a week.

The transfer application is

allowed. The case is
transferred to Lucknow Bench.
Parties may be informed also.

A.M.

V.C.

10/3/92

D. R.

Reuled the file. List on
28.3.92 for the disposal of
Misc. Application 958/90.

R

27.3.92 Misc application no.

P.T.O.

958/90 has already been
disposed off. Hence Pub-
ly, on 28.3.92, & trivial means

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (ALLAHABAD BENCH), ALLAHABAD .

D.A.NO.
T.NO. 254/88

OF 199

Date of decision : _____

....B.N.Dhuria.....Petitioner

.....Advocate for the Petitioner.

Versus

...Union of India and another..Respondent

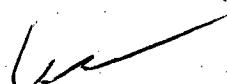
.....Advocate for the Respondent (s).

CORAM:-

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

The Hon'ble Mr. I.A. Obayya A.M.

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


Signature

A6

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

Registration O.A. No. 254 of 1982

B.N. Dhusia Applicant.

Versus

Union of India
and another Respondent.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

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

The applicant who had died during the pendency of this case, now represented by the legal representative, had challenged the order dated 1.4.1987 retiring him compulsorily from service in the purported exercise of powers under rule 48(1) (b) of CCS (Pension) Rule, 1972. The case of the applicant was considered by the screening committee and thereafter by the review committee and thereafter a decision was taken to retire him and that is why he was compulsorily retired from service. The applicant filed a representation against the same which was also rejected on 12.12.1985.

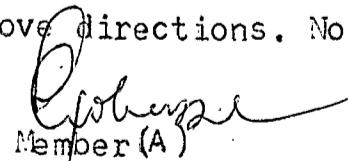
The applicant has challenged the compulsorily retirement order on the ground that no opportunity was given to him and his retirement was ~~unfair~~ against the Articles 14 and 16 of the constitution of India. The respondents have also not afforded opportunity as is provided under the guidelines to the applicant as to whether the applicant is willing to work on the lower post or not.

2. The respondents have opposed the application of the applicant and have stated that he had never been a good worker as it is evident from the Character Rolls right

from 1954-55 to 1985-86. All through he was either been rated as 'Average' or 'Good' and even in the year 1961, 62 and 1984-85 'adverse Remarks'. The respondents have pointed out that after taking over all assessment, a decision was taken to retire him compulsorily from service. The copy of the report of the screening committee as well as reviewing committee has been produced before us. The review committee was of the view that the screening committee has brought on record material which shows that not only the official is ineffective and inefficient but is also of doubtful integrity and particularly unreliable. He is guilty of serious lapses even of verifying admissibility of leave to himself when it was not due. The screening committee also recommended his retirement in public interest but the review committee had left the matter for final decision to be taken by this meeting. The Hon. Supreme Court in the case of Baikuntha Nath Das and another Vs. Chief District Medical officer Paripada and another, A.I.R. 1992 SC page 1020, 1992-1993 has been observed, "The order of compulsory retirement has to be passed by the government on forming the opinion that it is in the public interest to retire a government servant compulsorily. The order is passed on the subjective satisfaction of the Government. The Government or the Review Committee shall have to consider the entire record of service before taking a decision in the matter of course attaching more importance to record of and performance during the later years. The record to be so considered would naturally include the entries in the confidential records/character rolls, both favourable and adverse. If a government servant is promoted to a higher post notwithstanding the adverse remarks, such remarks lose their sting, more so, if the promotion is based upon merit (selection) and not upon seniority.

- 3 -

As such the Government has taken the over all assessment and it is not possible to interfere in the same, and in this ground the application deserves to be dismissed. So far as the guidelines are concerned, on which the applicant has placed reliance, before compulsorily retiring him, an offer should have been given to him as to whether he would like to go back to the reverted post and in case he was willing, he should have been reverted to the lower post. But, as the applicant is no longer alive, as such, it is no longer possible to say whether he would have accepted the same or not, but because he would have taken this particular ground which indicates that he was prepared to accept the same and accordingly, it will be open to the heir and legal ^{heir} of the applicant to approach the Government in case, their case is covered by the guidelines, the same may be considered by the Government taking into consideration that the applicant is prepared to accept the same and in case the Government agrees to it, the benefit of the same may be given to the applicant. The application is dismissed with the above directions. No order as to the costs.


Member (A)


Vice-Chairman

Dated: 18.9.1992
(n.u.)

A/C

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL
BENCH AT ALLAHABAD.

REGISTRATION NO. 254 OF 1988

(Application Under Section 19 of the Administrative
Tribunals Act, 1985.

BAIJ NATH DHUSIA Applicant

VERSUS

Union of India & Other Respondents.

I N D E X

S/No.	Description of papers relied upon	Page
1.	Application	1 - 11
2.	Annexure - I Communication of adverse entry dated 30.8.85	12 - 12
3.	Annexure - II Representation dated 25.10.1985	13 - 13
4.	Annexure - III Rejection order of the representation dated 11.12.85	14 - 14
5.	Annexure - IV Order dated 1.4.1987 retiring the applicant under rule 48(1)(b) of C.C.S.(Pension) Rule, 1972.	15 - 15

12/4
Filed for Adm
for Adm

Q Adm

AM

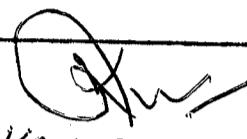
- 2 -

S/No. Description of papers relied upon Page

6. Demand Draft as detailed in paragraph
12 of this application

7. Vakalatnama

16-16.


A. KUMAR
(~~RAJESH KUMAR~~) Advocate
COUNSEL FOR THE APPLICANT

2/3/88

For Use in Tribunal Office

Date of filing

or

Date of Receipt by post

Registration No.

Signature
for Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL
BENCH, ALLAHABAD.

REGISTRATION NO. 254 OF 1988

BETWEEN

SHRI BAIJ NATH DHUSIA Applicant

AND

1. Union of India,
2. Chief Commissioner (Adm.) U.P.
& Commissioner of Income Tax

..... Respondents.

DETAILS OF APPLICATION

1. Particulars of the applicant:

- i. Name of the applicant : Baij Nath Dhusia
- ii. Name of father/ husband : Late Shri Nand Lal Dhusia
- iii. Age of the applicant : years
- iv. Designation of the applicant : Head Clerk
- v. Office address : C/o Sr. A.R., ITAT, Allahabad.
- vi. Address for service of notices : 50/24, Jai Narain Road, Husainganj, Lucknow.

2. Particulars of respondents:

Respondent No. 1

- i. Name of respondent : Union of India, Through Secretary, Ministry of Finance, New Delhi.
- ii. Name of the father/ husband : N.A.
- iii. Age of the respondent : N.A.

Parthasarathy

iv. Designation and particulars of office (name and station) in which employed : Secretary, Ministry of Finance, New Delhi.

v. Office Address : Ministry of Finance, New Delhi.

vi. Address for service of notices : -do-

Respondent No. 2

i. Name of the respondent : Chief Commissioner (Admn.) U.P. and Commissioner of Income Tax, Lucknow.

ii. Name of the father/ husband : N.A.

iii. Age of the respondent : N.A.

iv. Designation and particulars of office (name and station) in which employed : Chief Commissioner (Admn.) U.P. and Commissioner of Income Tax, Lucknow.

v. Office address : -do-

vi. Address for service of notices : -do-

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

The application is against the following order :-

i. Order No. with reference to Annexure : P. No. Con/47-274/86-87 Annexure - IV.

ii. Date : 1.4.1987

iii. Passed by : Chief Commissioner (Admn.) U.P. and Commissioner of Income Tax, Lucknow.

iv. Subject in brief : Retiring the petitioner in the purported exercise of powers conferred by clause (b) of sub-rule (1) of rule 48 of C.C.S.(Pension) Rule, 1972.

D. D. N. S.

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 :-

- (i) That the petitioner was appointed as Clerk in the Department of Income Tax on 15.2.1954.
- (ii) That the petitioner had been awarded prizes for good work and conduct in the year 1974, 1975 and 1976 continuously by the Head of the Department i.e., Commissioner of Income Tax, Lucknow.
- (iii) That in view of meritorious performance and excellent career of the petitioner, he was selected by the Departmental Promotion Committee and was promoted to the post of Head Clerk on 22.8.1983.
- (iv) That the petitioner had an excellent service record which can be verified from the Service Book entries and the character roll entries of 10 years or more.



(v) That the petitioner completed 30 years of service as Clerk in the Income Tax Deptt. on 14.2.1984 and was allowed to continue onwards and no decision to retire him compulsorily was taken by the respondents.

(vi) That it is pertinent to mention here that upto 31.3.1985 no adverse entry had been communicated to the petitioner.

(vii) That through an order dated 30.8.1985 which was received by the petitioner on 25.9.1985 the Commissioner of Income Tax communicated adverse entry to the petitioner with the remarks that his noting, drafting, timely submission of statement and promptness in disposal were inadequate. A copy of the order dated 30.8.1985 passed by the Commissioner of Income Tax, Allahabad through which adverse entries had been communicated to the petitioner, is annexed herewith as ANNEXURE-I to this petition.

(viii) That it would not be out of place to mention here that the said adverse entries had been recorded in Confidential Roll of the petitioner without giving him any opportunity to show cause and the Respondent No. 2 communicated the said entries after recording the same in the Confidential Roll.

(ix) That as a matter of principle these entries could should have been recorded in the Confidential Roll of

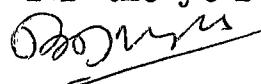
Dabir

the petitioner only after giving an opportunity to make representation against these entries ~~before~~ ^{and only after} dispsing off the same but here in the instant case, as stated above, the adverse entires have been communicated to the petitioner after recording the same in the Confidential Roll and as such the Respondent No. 2 violated the principle of natural justice and thus the said entries have no legal existence in the eye of law.

(x) That however the petitioner submitted his representation to the Respondent No. 2 on 25.10.1985 which was rejected on 11.12.1985 arbitrarily. Certified copy of the representations dated 25.10.85 and rejection order dated 11.12.85 are annexed herewith as ANNEXURE-II and III to this petition.

(xi) That a perusal of the said rejection order dated 11.12.85 - Annexure - III, would show that the representation against the adverse entires of the petitioner has been rejected arbitrarily without applying mind and without discussing the reasons as to why the Respondent No. 2 ~~ex~~ has justified the said remarks and as such the said entires have no legal existence in the eye of law and have no validity.

(xii) That the petitioner has not been communicated any adverse entry through out his service career in the Income Tax Department except the entry for the year



1984-85 which was recorded in Confidential Roll of the petitioner in utter violation of the principle of natural justice. The confidential roll of the petitioner is otherwise blotless.

(xiii) That the petitioner has been arbitrarily retired in the purported exercise of power conferred by clause (b) of sub-rule (1) of Rule 48 of Central Civil Services (Pension) Rules 1972 by order dated 1.4.87 by the Respondent No. 2. A true copy of the order dated 1.4.87 is annexed herewith as ANNEXURE-IV to this petition.

(xiv) That from the service record of the petitioner no reasonable person can come to the conclusion that the petitioner should be retired in the purported exercise of power conferred by clause (b) of sub-rule (1) of Rule 48 of the C.C.S. (Pension) Rules, 1972.

(xv) That the petitioner has been discriminated action of the respondents and hit by Articles 14 and 16 of the Constitution of India.

(xvi) That the respondents have also not afforded opportunity as is provided under the guidelines to the petitioner as to whether the petitioner is willing to work on the lower post or not of the Department of the petitioner will be provided job. If the impugned order is not set aside, it will be to harsh for the petitioner and his family.



(xvii) That according to the guidelines as contained in the Govt. of India, Ministry of Home Affairs (O.M) No. 25013/14/77 Estt.(A) dated 5.1.1978 a Committee has been constituted for the purpose of reviewing the case of such employee who has completed 30 years of qualifying service for arriving at the conclusion as to whether any such employee should be retired from the service in public interest or whether he should be retained in the service. The Office Memorandum dated 5.1.1978 shall be produced for the perusal of this Hon'ble Court at the time of hearing of this application.

(xviii) That in the case of petitioner from the facts and circumstances stated above, it is absolutely clear that the purported exercise of power under rule 48(1)(b) is nothing but arbitrary.

(xix) That the order dated 1.4.87 is hit by Articles 14 and 16 of Constitution of India.

(xx) That the guidelines prescribed by the Govt. of India, Ministry of Home Affairs, has not been complied in arriving at the conclusion to retire the petitioner in the purported exercise of power under Rule 48(1)(b) of the C.C.S.(Pension) Rule, 1972.

(xxi) That the Respondent No. 2 failed to make correct assessment of overall performance of the petitioner and the order of compulsorily retirement

6/2
Bom

dated 1.4.87 has been passed mechanically and thus is a nullity in the eye of law.

(xxii) That from the facts and circumstances stated above, it is absolutely clear that the decision to retire the petitioner in the purported exercise of power under ~~xx~~ rule 48 sub-rule (1) clause (b) is nothing but arbitrary, capricious and is thereby hit by Article 14 of the Constitution of India.

7. Details of the remedies exhausted:

The applicant declares that against an order passed in the purported exercise of powers under rule 48(1)(b) of the C.C.S. (Pension) Rule, 1972 no Departmental remedy is available.

8. 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.

9. ~~xx~~ Relief(s) Sought

In view of the facts mentioned in para 6 above

P

Babu

the applicant prays for the following reliefs :-

- (1) That a suitable order or direction be issued quashing the order dated 1.4.87 retiring the applicant compulsorily in the purported exercise of powers under rule 48(1)(b) of C.C.S. (Pension) Rule, 1972.
- (2) That to issue an order or direction to the respondents to reinstate the applicant in service with continuity of service and all other consequential benefits.
- (3) Any other suitable order which this Hon'ble Court may deem fit in the facts and circumstances of the case.

10. Interim order, if any prayed for:

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

NIL.

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-

✓

B. D. D.

addressed post card/Inland Letter, 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.

Or

(1) Number of Indian
Postal Orders

DD 8/3784
3

(2) Name of the issuing
Post Office

AZD A.H.G. Cont
Post Office

(3) Date of Issue of
Postal Order(s)

30-6-87

(4) Post Office at which
payable

Removed

AZD
8/3784

✓

Dodhre

13. List of enclosures:

Please see Index on the top of the application.

VERIFICATION

I, Baij Nath Dhusia s/o late Shri Nand Lal
Dhusia aged years r/o 50/24, Jai Narain Road,
Husainganj, Lucknow do hereby verify that the contents
of paras 1 to 13 are true to my personal knowledge
and paras _____ to _____ believed to be true on legal
advice and that I have not suppressed any material
facts.

Signature of the Applicant.

Date: 2/3/88

Baij Nath

Place: ACO,

2/3/88

To:

The Registrar,
Central Administrative Tribunal,
Allahabad.

R

Baij Nath

Annexure-I.

Office of the
Commissioner of Income-Tax,
Allahabad.

D.O.P.No. 47-/Con/Adv./B.N.D.

Dt. 30-8-85

My Dear,

Sub:- Adverse Remarks - Communication of -
Entry for the year 1984-85-Regarding-
.....

I am directed to reproduce below for your information,
extract of the adverse remarks recorded in your confidential
report for the year 1984-85.

Part II Col. 12

Quality of

(i) Noting and drafting; Inadequate
part II Col, 3

Timely submission of statement; Inadequate
Part II Col; 14

Promptness in disposal; Inadequate

2. The object in communication of these adverse remarks
to you is that you should know the directions in which your
work and or conduct has been found unsatisfactory so that you
may endeavour to exert your best to eradicate the defects.

3. I may add that if you wish to offer any explanation
concerning these comments please do so within a month of the
receipt of this letter.

Sd/- Illegible
(A.J. Khan)
Incometax Officer(HQ)Admin. for
Commissioner of Incometax,
Allahabad.

Shri B.N. Dhusia, H.C.
ITAT, Allahabad.

Attn: B.N. Dhusia

B.N.

(23) R.M.

Annexure-II.

To,

The Commissioner of Incometax,
Allahabad.

Sir,

Sub. Adverse remarks - communication of -
B.N. Dhusia H.C. O/o Sr. A.R., ITAT, Allahabad.
Entry for the year 84-85-Explanation Seg.

Kindly refer to your D.O. P.No. 47/Con/Adverse/BND
dated 30-3-85, My submission is as under :-

1. Noting & drafting inadequate. Sr. A.R. had never commented on my noting & drafting except one regarding repairing of cooler which reflect self interest duly solicited by the Sr. A.R. and I have been put in nick-same only being an obstacle in performance of his self interest whatsoever he wants. In support relevant papers are enclosed.
2. Timely submission of statement inadequate. There is hardly one or two statements in this office which is sent in time.
3. Promptness in disposal inadequate. Since the date of joining I always discharged my duties promptly and nothing is adverse on record.

Keeping in view the above once again I request to go through the adverse remarks incorporated against me and still your honour see that I am liable for adverse remarks then nothing to say otherwise I invite your kind attention to see the actual position under which I have been put under such crucial service carrier which march against ruthlessness and exploitation of future service carrier.

Dt. 25-10-1985.

Yours faithfully,
Sd/- X X X
(B.N. Dhusia)
H.C. O/o Sr. A.R., ITAT. Alld.

*Attended
R.D.S. Adm.*

DM

पत्र सं० का०न००/सौ०८०आ०८०/८५

कायलिय

वरिष्ठ प्राधिकृत प्रतिनिधि,
आयकर अपीलीय अधिकरण
इलाहाबाद ।

दिनांक :- ११-१२-१९८५

श्री बी०एन० धूसिया
प्रधान लिपिक,
कायलिय वरिष्ठ प्राधिकृत प्रतिनिधि,
आयकर अपीलीय अधिकरण, इलाहाबाद ।

विष्य:- चरित्र पंजिका वर्ष ८४-८५
में प्रतिकूल प्रविष्टि-

आपके प्रतिवेदन दिनांक २५-१०-८५ के सम्बन्ध में सूचित किया जाता है कि आयकर आयुक्त इलाहाबाद में आपकी चरित्र पंजिका में साल ८४-८५ के सम्बन्ध में की गई प्रतिकूल प्रविष्टियों को पुष्ट कर दी है ।

हस्ताक्षर अपठनीय
जी०एन० श्रीवास्तव०
वरिष्ठ प्राधिकृत प्रतिनिधि,
आयकर अपीलीय अधिकरण,
इलाहाबाद ।

प्रतिलिपि- श्री ए० ज० खान आयकर अधिकारी मु०
प्रसाशन को पत्र सं० का०न००/बी०एन०डी०/एडवर्स०/८५ दिनांक १०-१२-८५
के संदर्भ में ।

जी०एन० श्रीवास्तव०
वरिष्ठ प्राधिकृत प्रतिनिधि,
आयकर अपीलीय अधिकरण,
इलाहाबाद ।

Am

After
R.D.M.A.W.

Annexure-IV

P.No. Con/47-274/86-87.

Government of India,
Ministry of Finance
(Department of Revenue)

Office of the Chief Commissioner(Admn.)U.P. and
Commissioner of Income-Tax, Lucknow.

Lucknow, the 1st April, 1987.

O R D E R

WHEREAS the Chief Commissioner(Admn.)U.P. and
Commissioner of Income Tax, Lucknow is of the opinion that it
is in the public interest to do so,

NOW THEREFORE, in exercise of powers conferred by
clause(b) of sub rule(1) of Rule 48 of Central Civil Services
(Pension) Rules, 1972, the Chief Commissioner(Admn.)U.P. and
Commissioner of Income Tax, Lucknow hereby retire
Shri B.N. Dhusia, Head Clerk with immediate effect, he having
already completed 30 years of qualifying service on the 16th
February, 1984. Shri B.N. Dhusia shall be paid a sum equi-
valent to the amount of his pay plus allowances for a period
of three months calculated at the same rate at which he was
drawing them immediately before his retirement.

Sd/- X X X
(D.C. Shukla)

Chief Commissioner(Admn.)U.P. &
Commissioner of Income-Tax, Lucknow.

To,

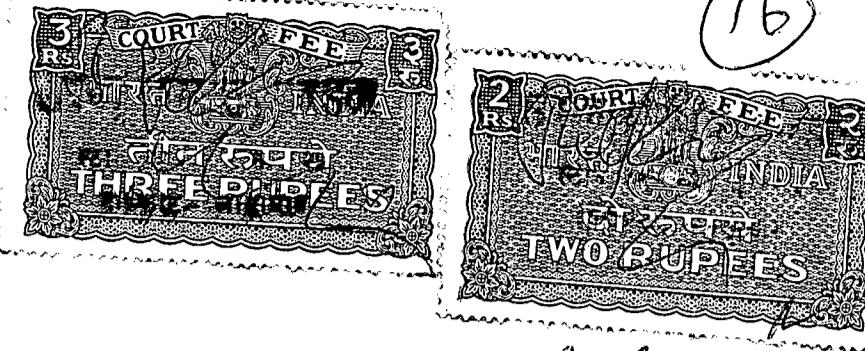
Shri B.N. Dhusia,
Head Clerk,
Lakhimpur Kheri, U.P.

Through

The Inspecting Asstt. Commissioner of Incometax,
Lucknow.

*Attached
R.D.P.A.W.*

BM



16

127

C. A. T. Adm.

अभिभाषक पत्र (वकालतनामा)

हाईकोर्ट आफ जूडीकेवर सेट इलाहाबाद

Regn नं०

सन् १९४४

B. N. Dhasia

वादी प्रतिवादी
अपीलान्ट

बनाम
रामेश & Ida & offer.

वादी प्रतिवादी
रेस्पान्डेन्ट

मैं कि B. N. Dhasia S/o S/o Late N. C.
रामेश R/o 54/24 Jai Nagar Rd.

Mussoorie 46

उपरोक्त प्रकरण में मैं अपनो ओर के पक्ष समर्थन के हेतु
हम

श्री ए० कुमार वि० २१वरा जमी

एडवोकेट हाईकोर्ट

१३, जवाहर लाल नेहरू रोड, इलाहाबाद

को कानूनी शुल्क (मेहनताना) नियत करके अपना अभिभाषक वकील (वकील) नियुक्त करता है
निश्चित

और (यह स्वीकार) करता है कि उक्त सज्जन हमारी ओर से वाद-पत्र (अर्जीदावा) प्रतिवाद-पत्र
(बयान तहरीरी), वाद स्वीकार पत्र, विवाद पत्र पुनरावलोकन एवं पुनर्निर्णय प्रार्थना पत्र दरखास्त),
शापथियक कथन (हलफनामा) प्रवर्तन पत्र (दरखास्त इजराय), मूजवात अपील, निगरानी इत्यादि
हर प्रकार के अन्य प्रार्थना पत्रादि एवं लेखादि की प्रतिलिपियां अपने हस्ताक्षर करके न्यायालय में
प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथियक पुष्टीकरण करें और आवश्यक सवाल
जबाब करें और लेखादि की प्रतिलिपियां एवं हमारे प्राप्यधन को अपने हस्ताक्षरी पावती देकर प्राप्त
करें हमारी ओर से किसी को मध्य पत्र तथा साक्षी (गवाह माने और उससे सम्बन्धित प्रार्थना पत्र
प्रस्तुत करें तथा उसका समर्थन करें, तथा तसदीक करें वाद-पत्र उठावें छोड़ें अथवा समझौता करें
तथा सुलहनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना पत्र दाखिल कर के उसका समर्थन करें,
अर्थात प्रकरण से सम्बन्ध रखने वाली कुल कार्यवाही डिग्री के भर पाई होने के समय एक स्वतः या
संयुक्त करें आवश्यकता होने पर किसी अन्य वकील महोदय को वकील करें।

उक्त सभी कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भाँति हमको
मैं कानूनी शुल्क तथा विशेष शुल्क आखिरी बहसके वक्त उक्त सज्जन को
सर्वथा स्वीकार होगी अगर हमने कानूनी शुल्क तथा विशेष शुल्क आखिरी बहसके वक्त उक्त सज्जन को
न दूँ/दें तो उनको अधिकार होगा कि वह हमारी ओर से मुकदमे की पैरवी न करें। उपरोक्त दशा में
सज्जन का कोई उत्तरदात्त्व न रहेगा। अतएव यह अभिभाषक पत्र लिख दिया कि मात्र रूपसे समय
पर काम आये।

ज्ञानोदय
कानूनी विधि

मात्र सेवा
स्वीकृत है

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH
AT ALLAHABAD

Misc. Application No. 958 of 1990

On behalf of

1. Smt. Jeevan Lata widow of Sri Baij Nath Dhusia
2. Km. Sangeeta Dhusia aged about 30 years daughter of Sri Baij Nath Dhusia
3. Km. Sandhya Dhusia aged about 17 years, daughter of Sri Baij Nath Dhusia
4. Satish Kumar Dhusia aged about 27 years son of Sri Baij Nath Dhusia
5. Sanjeev Dhusia aged about 26 years son of Sri Baij Nath Dhusia
6. Sumit Kumar Dhusia aged about 9 years son of Sri Baij Nath Dhusia

All residents of 50/20, Jai Narain Lane, Husainganj,
Lucknow Applicants.

IN

Registration No. 254 of 1988

District: Lucknow.

|| Versus ||

1. Union of India
2. Chief Commissioner (Adm.) U.P. &
Commissioner of Income Tax, Lucknow Respondents.

To,

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

The humble petition of the applicants,
above-named, Most Respectfully Showeth as
under :--

- 1/ That, Baij Nath Dhusia aforesaid had filed the aforesaid petition before this Hon'ble Tribunal who died on 4.5.90. A photo stat copy of the death certificate is annexed to this application and marked as Annexure No.1.
- 2/ That, the applicants are widow, daughters and sons of late Baij Nath Dhusia and are filing the present application for impleadment in place of aforesaid Baij Nath Dhusia.
- 3/ That, it is expedient in the interest of justice that the name of Baij Nath Dhusia since deceased be deleted from the array of the petitioner and in its place the names of the applicants may be substituted.

P_r_a_y_e_r

It is, therefore, most respectfully prayed that the name of Baij Nath Dhusia since deceased be deleted from the array of the petitioner and in its place the names of the applicants may be substituted and thus justice be done.

(A. Kumar)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH
AT ALLAHABAD.

AFFIDAVIT

IN

Misc. Application No. of 1990

On behalf of

Smt. Jeevan Lata widow of Sri Baij Nath Dhusia and
others Applicants.

IN

Registration No. 254 of 1988

District: Lucknow.

Baij Nath Dhusia Applicant.

// Versus //

Union of India and another Respondents.

Affidavit of Smt. Jeevan Lata
aged about 50 years, widow of Baij Nath
Dhusia, resident of 50/20, Jai Narain Lane
Husainganj, Lucknow.

... deponent.

I, the deponent, above named, do hereby
take oath and state as under :-

1/

That, the deponent is applicant no. 1 and

Jeevan Lata

mother of applicants no.2 to 6 and as such is fully acquainted with the facts deposed to below:-

2/ That, Baij Nath Dhusia aforesaid had filed the aforesaid petition before this Hon'ble Tribunal who died on 4.5.90.

3/ That, the applicants are widow, daughters and sons of late Baij Nath Dhusia and are filing the affidavit in support of the present application for impleadment in place of aforesaid Baij Nath Dhusia.

4/ That, it is expedient in the interest of justice that the name of Baij Nath Dhusia since deceased be deleted from the array of the petitioner and in its place the names of the applicants may be substituted.



I, the deponent, above named, do hereby take oath and state that the contents of paras no. 1 to 4 of the affidavit are true to my personal knowledge; those of paras _____ of the affidavit are based on perusal of papers and those of paras _____ of the application are based on legal advise which all I believe to be true. Nothing material has been concealed in it nor anything is false in it. So, help me God.

Jagat

Jagat
Deponent

A32

- : 3 :-

I, T.P. Shukla clerk to Sri A. Kumar, Advocate, High Court, Allahabad do hereby declare that the deponent making this affidavit and alleging herself to be Smt. Jeevan Lata is known to me from the perusal of papers.



RTI of the deponent.


Clerk.

Solemnly affirmed before me on this 30th day of May, 1990 at 9.30 A.M./P.M. by the deponent who is identified by the clerk aforesaid.

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

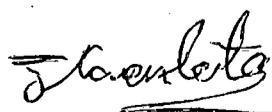
Oath Commissioner.





COMMISSIONER O.H.C. RT. A. LALLABAD SI. NO. 30/497 Date 30. 5. 96
--





THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL JUDGE

AT DELHI-HABID

ANNUAL No. 1

IN

Misc. Application No. of 1990

IN

RECEIVED ON 10.5.1990

RECEIVED ON 10.5.1990

RECEIVED//

Union of India and another v. अपनी वार्ता

छावनी परिषद, लखनऊ

मृत्यु प्रमाण-पत्र

प्रपत्र संख्या १०

(नियम हैं देखिये)

जन्म और मृत्यु

रजिस्ट्रेशन अधिनियम, १९६८ की धारा १२ के अधीन जारी किया गया/धारा १७ के अधीन जारी किया गया।

छावनी परिषद के रजिस्टर में है।

नाम—लक्ष्मी दुर्दाला (स्थानीय धंत्र)

लिंग—महिला राज्यपता—गोपनीय दिलीप दास

मृत्यु का दिनांक—२४-५-९० स्थाई पता—५०/२४ लक्ष्मी दुर्दाला

मृत्यु का स्थान—२२/२४ लक्ष्मी दुर्दाला रजिस्ट्रीकरण संख्या—५४३७

पिता/सुभाता का नाम—हस्ताक्षर लेखक रजिस्ट्रीकरण का दिनांक—१०-५-९०

हस्ताक्षर लेखक—लक्ष्मी दुर्दाला प्रमाण पत्र एक सप्त रुपीकरण—१५,००८

दिनांक—२२-५-९० रुपीकरण का दिनांक—१०-५-९०

नकल किये गये पांचों की संख्या—५४३७

टिप्पणी—मृत्यु की दसा में मृत्यु के कारण के सम्बन्ध में विशिष्टियों जैसा कि रजिस्टर में प्रविष्ट है, प्रकट नहीं की जाएगी।

उपधारा १७ (१) का प्रतिवर्त्यात्मक सब

Hansh

छावनीपरिषद्याप्त अधिकारी, लखनऊ

मुख्यमन्त्री Executive Officer

LUCKNOW

COMMISSIONER

AT. R.T. LAHABAD

1. N. 307497

Date 30. 5. 90

बअदालत श्रीमान [वादी] अपीलान्ट

प्रतिवादी [रेस्पान्डेन्ट]

नं॑ मुकदमा सन All *for* *for*
उपर लिखे मुकदमा में अपनी ओर से श्री

२०८ दिसं

वकील

महोदय

एडवोकेट

ना। प्र अद्वैत
प्रकृतमा नै नाम
परीक्षित ।

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोच्चर करें या कोई कोगज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करे या सुलहनामा व इकबालदावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तमदीक करे या मुकदमा उठावे या कोई रुपया जमा करे या हमारी या चिपक्षी (फरीकासनी) को दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवे या पंचनियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमस्तो सर्वदा स्वीकार हैं और होगी मैं यह भी स्वीकृत करता हूँ कि हर पेशी पर स्वयं या अपने किसी पैरोकार को भेजता रहूँगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसीलिये यह वकालत नामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर

Stenuria
Oluria

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक -

महीना

सन् १९

၁၁၁

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

AB5

NOTICE OF MOTION

Misc Petition 958 of 1990
in O.A./T.A. 254 of 1988

B.N. Dholia Applicant/appellant.

Varsus

Union of India Respondents/Defendant

filed today
Take notice that the court will be moved by the order
signed on 19th the day of July 1990
at 10.30 O'clock in the forenoon or so soon thereafter
the noticed on their occasion can be heard.

the object of the motion is hereby indicated by

A copy of the Application is enclosed herewith. The further
notice that meanwhile this court has been pleased to pass
that following orders

Dated this the 30th day of May 1990

Signature A Kumar

Advocate of petitioner
Applicant/Appellant

or

Petition/Defendant in net

To

Advocate on record for the opposite party

Respondent/Defendant.

Sett)

SOL(J)
Put up this appln.
before court for orders
on 19-7-90 as prayed.

Re
30/7
DR(J)

(2) 4

(A)

I copy

Regd No 251/pt 1988

B. N. Dhusia

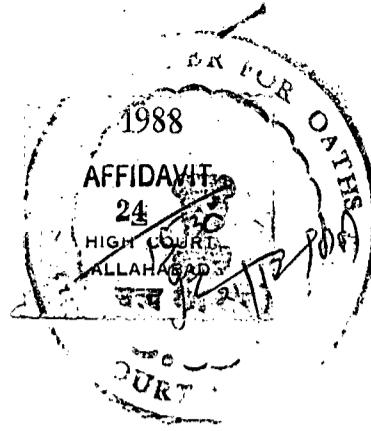
VS

Wife of Inder & other

counsel for the applicant

(i) SRI A. KUMAR
ADVOCATE

(ii) SRI RAKESH VARMA
ADVOCATE



Page

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD

COUNTER AFFIDAVIT

IN

REGISTRATION NO. 254 of 1988

B.N.Dhusiya

- - - - - Petitioner

Versus

1. Union of India through

Ministry of Finance, New Delhi.

2. Chief Commissioner (Administration),

U.P. and Commissioner of Income-tax

Lucknow.

- - - - - Respondents

Counter affidavit of Sri I.C.Chatterji

aged about 5 1/2 years son of late(Deo) H.P.

Chatterji, Income-tax Officer (Vig.)

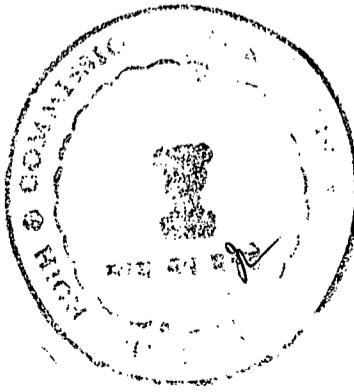
Office of Commissioner of Income-tax,

Lucknow.

I, the deponent above named do hereby solemnly

affirm, make oath and state as under :

Deo Chatterji

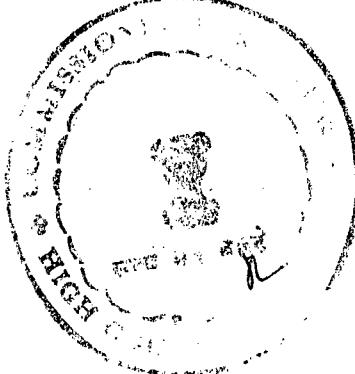


-2-

1. That the deponent is the Income Tax Officer (Vig.) Office of Commissioner of Income-tax Lucknow and as such is fully acquainted with the facts deposed to hereunder and he has been authorised to file the counter affidavit.
2. That the petition filed by Sri B.N.Dhusia has been read by me and I have fully understood the contents thereof and am in a position to reply the same.
3. That before giving parawise reply to the present petition it is necessary to give brief facts for understanding the controversy raised by means of the present petition.
4. That Sri B.N.Dhusia, the petitioner joined the Income-tax Department on 15.2.1954 as L.D.C. He was promoted as U.D.C. on 17.6.1977 and then as Head Clerk on 22.8.1983.

---- contd.

Jachauhan



5. That Shri Dhusia had never been a 'Very good' worker which is amply evident from his Character Rolls right from 1954-55 to 1985-86.

6. That all through he has either been rated by the Reviewing Officers as 'Average' or 'good',
except in 1979-80 He was never rated as 'Very Good'. Besides, he was awarded a minor penalty of Stoppage of two increments, without cumulative effect by the then Inspecting Assistant Commissioner of Income-tax Bareilly vide his order P.No. 45-(Con)/11/71-72 dated 25.10.1971 under Rule 16(1) of CCS (CCA) Rules, 1965, as he had failed to maintain devotion to duty and had conducted himself in a manner which is unbecoming of a Government servant.

7. That he was also awarded adverse remarks in 1961-62 and 1984-85. He was also awarded Adverse remarks in the year 1959-60 and 1974-75 and but on his *these were* Representation it was "expunged" and treated as "Advisory" respectively. Not only this, while working at I.T.A.T.



Declarant

Allahabad and also at Lakhimpur-Kheri, ~~he~~ had wrongly availed leave not due to him, on his earned leave and certified ~~an~~ application and calculated ~~by~~ himself as due although it ^{was} ~~was~~ actually not due to him. This is ^{verifiable} maintained ~~in~~ from ~~an~~ in the leave account maintained in the department.

8. That his integrity was also under cloud.

Had he not been prematurely retired, he would have been charge-sheeted for major penalty. A true copy of the Minutes of Screening Committee and Review Committee is filed herewith as Annexure C.A.I to this affidavit.

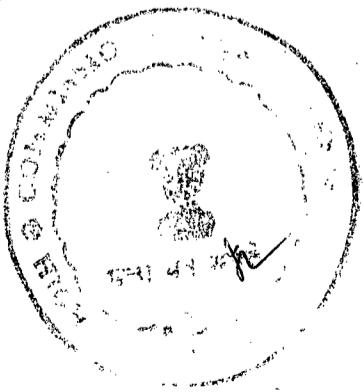
9. ^{mind} That keeping in ~~fixxx~~ the above facts,

his C.C.Rs, past records, Minutes of the Screening Committee/Review Committee, the Chief Commissioner (Admn.) U.P. and CIT, Lucknow by his order F.No.Con/47-274/86-87 dated 1.4.1987 under clause(b) of sub Rule (1) of Rule 48, 1972 retired him from service.

10. That the contents of para 6(i) of the petition are matters of record and as such are admitted.

-5-

11. That the contents of para 6(ii) of the petition are not admitted as stated therein. It is submitted that the then Income-tax Officer, Shahjahanpur was awarded first prize in the charge for best collection work at Shahjahanpur continuously for the years 1974-75 and 1976 by the Department. Not only Income-tax Officer, Shahjahanpur but the staff attached to the Circle was ^{also} awarded one month salary as per rules prescribed by the Government of India (Central Board of Direct Taxes). Since Shri Dhusia in those years was working as L.D.C. ^{at Shahjahanpur} he also got the prize. There was, thus, nothing special with him. The prize was thus given to every official including the peon, ^{in those years} posted in Shahjahanpur circle. Shri Dhusia as stated above was working then as Lower Division Clerk and an Lower Division Clerk is not supposed to play any role ⁱⁿ at all in the collection work. The fact is that the prize was given to the Income-tax Officer due to whose efforts the circle could get the honour of achieving the target of best

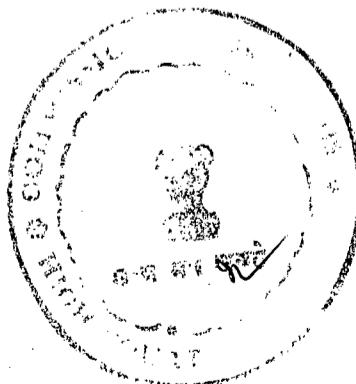


Deekha

collection. The contention that the applicant was awarded prizes for good work and conduct in those years is not true. Shri B.N.Dhusia joined the Income-tax Department on 15.2.1954 as Lower Division Clerk he was promoted as Upper Division Clerk on 17.6.1977 and then Head Clerk on 22.8.1983. He had never been a good worker as it is evident from the Character Rolls right from 1954-55 to 1985-86. All through he has either been rated as 'AVERAGE' or 'GOOD' ⁱⁿ and even _{in} 1961-62 and 1984-85 'ADVERSE REMARKS' communicated to him were confirmed on representation.

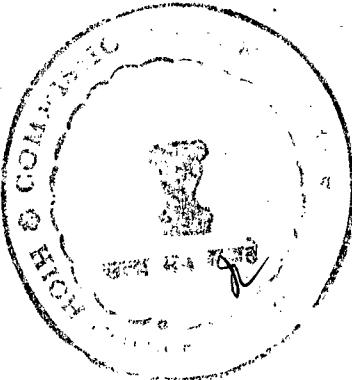
Shri Dhusia was awarded a penalty of stoppage of two increments, without cumulative effect by the then Inspecting Assistant Commissioner of Income-tax, Bareilly vide his order P.No. 45-(con) 111/71-72 dated 25.10.1981 under rule 16(1) of C.C.S.(CCA) Rules, 1965. The penalty was awarded by the I.A.C. While he was functioning as Lower Division Clerk in the office of the Income Tax Office, Shahjahanpur, he failed to

Dechowdh



maintain devotion to duty and conducted himself in a manner which is unbecoming of a Government servant contravening rules 3(1)(iii) and 3(1)(iii) of CCS (Conduct) Rules, 1964. The increments withheld ^{increments due to him on 8/} where for the period from 1.3.1972 and 1.3.1973.

12. That the contents of para 6(iii) of the petition are not admitted. It is submitted that he was promoted as Upper Division Clerk in his turn w.e.f. 17.6.1977 after passing the Departmental Examination for Ministerial Staff w.e.f. 31.7.1974. Thereafter he was promoted as Head Clerk w.e.f. 22.8.1983 (Forenoon) and was posted at Allahabad. Promotion to the post of Head Clerk is made on seniority -cum-fitness basis. In case no Disciplinary Proceeding is either contemplated or pending and that there is no adverse remarks in any of the last five years, promotion is made subject to vacancy position. It is, therefore, not correct to say that he was promoted due to so called meritorious



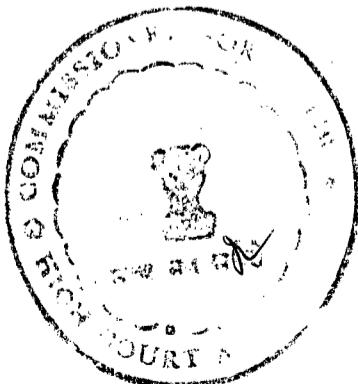
Deekha/
X

performance and excellant career of the petitioner.

It is worth mentioning here that he was awarded adverse remarks in the year 1961-62 and 1984-85 and these remarks were confirmed. Besides the adverse remarks for 1974-75 was treated as advisory on appeal.

13. That the contents of para 6(iv) of the Petition are wrong and emphatically denied. The averment made therein are misleading. It is submitted that ~~absolutely incorrect and misleading~~ in the Financial year 1984-85, he was awarded adverse remarks and the remarks were also confirmed by the Commissioner of Income-tax Allahabad. He was penalised under CCS(CCA) Rules 1965 by withholding two increments vide order of Inspecting Assistant Commissioner of Income-tax, Bareilly dated 25.10.1971 under rule 16(1) of CCS(CCA) Rules, 1965.

14. That in reply to the contents of para



Declarant

-9-

6(v) of the petition it is stated that this has nothing to do with his premature retirement which was effected under rule 48(i)(b) of CCS (Pension) Rules after his completing 30 years of service and not before completing 30 years service. As such the rules/procedure have been carefully implemented and there is no illegality in the same.

15. That in reply to the contents of para 6(vi) of the petition are wrong hence emphatically denied. It is submitted that the petitioner was awarded adverse remarks for the year 1984-85 by the Reporting Officer which was communicated to him vide Income-tax Officer, (Admn.) C.I.T. Office, Allahabad D.O.P. No. 47-Con/Adv./BND dated 30.8.1985 and was confirmed by the C.I.T. Allahabad ^{being Appellate Authority} on 9.12.1985 and was communicated to the petitioner by the Senior A.R. ITAT, Allahabad vide his letter F.No. CAR/85 dated 11.12.1985.

----- contd.

Deekshay



-10-

16. That in reply to the contents of para 6(vii) of the petition it is submitted that the same are matters of record and requires no reply by means of this affidavit. However it is submitted that adverse remarks for the 1984-85 were communicated to him by the Income Tax Officer (Hq.) (Admn.) C.I.T. office Allahabad vide D.O.P. No. 47-Con/Adv/BND dated 30.8.85 and confirmed as mentioned in ^{in reply to} para 6(vi) above of this counter affidavit.

17. That the contents of para 6(viii) of the petition are not admitted. It may however be clarified that for awarding annual entries in the C.C.R. No rule relating to affording an opportunity of being heard exists. He had been given an opportunity to represent against the adverse remarks to the next higher authority viz. Commissioner of Income-tax Allahabad with ⁱⁿ a month of receipt of the communication of adverse remarks dated 30.8.1985. Shri Dhusia made a representation dated 25.10.1985 against the adverse

debaran X

--- contd.

-11-

remarks awarded by Senior Departmental Representative
of Income Tax Appellate Tribunal, Allahabad.

18. That in reply to the contents of para 6(ix) of the petition it is submitted that the averment made therein are mis-leading and are repetition
Reply to
what has been stated in para 6(viii). It is submitted that the petitioner made a representation on 25.10.1985 to the Commissioner of Income-tax Allahabad which was rejected after due consideration of relevant records and comments of the Reporting Officer.

19. That the contents of para 6(x) of the petition are not admitted. It is stated that the representation of the petitioner was rejected after carefully considering the submission made therein and the materials on records. There was no arbitrary decision taken by the C.I.T. Allahabad as alleged.

20. That the contents of para 6(xi) of the petition require no separate reply as correct facts

decided --- contd.

-12-

have already been mentioned in reply to para 6(x) above. However it is submitted that the matter of awarding adverse remarks in the Character roll for 1984-85 and rejection by the Reviewing authority on 9.12.1985 is more than one year old and legally the petitioner cannot agitate this point now after 2½ years approx. However the decision on the representation was taken after due consideration as is evident from the remarks of Commissioner of Income-tax, Allahabad dated 9.12.1985 in the adverse remarks file, which is reproduced below : -

"I have carefully considered the representation of Sri B.N.Dhusia and the comments made by the Senior A.R. I find that the adverse remarks given are justified and the same are supported by memos given during the year. They are confirmed."

21. That the contents of para 6 (xii) of the petition are wrong hence denied. It is submitted

--- contd.

Declarant 

-13-

that the petitioner was communicated adverse

remarks in the year 1959-60, 1961-62 and 1974-75

(Advisory) and was awarded minor penalty of Stoppage

of two increments without cumulative effect by the

the Inspecting Assistant Commissioner of Income-tax

Bareilly vide his order P.No. 45-(con)111/71-72

dated 25.10.1981 under rule 16(1) of CCS (CCA) Rules,

1965.

22. That the contents of para 6(xiii) of the petition are not admitted. It is submitted that the decision to retire the petitioner prematurely was taken after due deliberation by the appointing authority, namely, Chief Commissioner and Commissioner of Income-tax, Lucknow. The Minutes of Screening Committee and the Review Committee held in February 1986 and finally on 4.3.1987 will speak for itself and the same will be produced at the time of hearing.

23. That the contents of para 6(xiv) of the petition are not admitted being baseless and against

--- contd.

-14-

facts. It is submitted that in 1984-85 the petitioner was awarded adverse remarks and these remarks were also confirmed as mentioned above.

Otherwise also he was awarded adverse remarks and also minor penalty as mentioned above.

24. That the contents of para 6(xv) of the petition are not admitted. It is submitted that the premature retirement of a government servant is not a punishment. It is neither punitive nor stigmatory and hence natural justice of Article 211(2) of the Constitution are not applicable. Nor there is breach of Articles 14 and 16 of the Constitution.

The concept of the pre-mature retirement does not fall within the scope of Article 311 as no stigma of misbehaviour is intended and punishment is not the objective.

25. That the contents of para 6(xvi) of the petition requires no reply by means of this affidavit. However, it is submitted that the petitioner

has already put in service of 30 years and therefore, to offer him a lower post was not found advisable looking to the in-efficiency, ignorance of law and office procedure and reluctance and disobedience in Government work. The records and the Minutes of Screening and Review Committees will speak of themselves.

26. That the contents of para 6(xvii) of the petition are matters of record and requires no reply by means of this affidavit.

27. That the contents of para 6(xviii) of the petition are not admitted. It is submitted that the ^{Alm} ~~efficiency~~ of the petitioner in noting, drafting, submission of statements, disposal ^{is} ~~are~~ amply and adequately sub-stantiated. While working in ITAT Office Allahabad and also at Lakhimpur he himself had certified wrongly the leave due to him on his earned leave application when actually no leave was due to him. His integrity ^{thus} ~~was~~ also under cloud.

--- contd.

Had he not been prematurely retired, he would have been charge-sheeted for major penalty for wrong certification for leave being due to him which clearly indicated his malafide intention.

28. That the contents of para 6(xix) of the petition are not admitted. It is stated that the correct facts have already been stated above.

29. That the contents of para 6(xx) of the petition are not admitted. It is submitted that the guidelines prescribed by the Government had been fully and carefully observed and complied within their true spirit.

30. That the contents of para 6(21) of the petition are not admitted. It is submitted that as stated above it is after due deliberation and after consideration of the minutes of the Screening Committee and Review Committee, records viz. CCR, Service Book, personal files, adverse remarks

Debarati

file etc. of Sri B.N.Dhusia, the Appointing Authority had come to the conclusion to retire him from service prematurely.

31. That the contents of para 6(xxii) of the petition are not admitted as already stated in the previous paragraphs.

32. That the contents of para 7 of the petition are not admitted. It is submitted that the petitioner has not availed the opportunity of sending a representation to the Central Board of Directo Taxes, New Delhi within 21 days of the receipt of order of Premature retirement and hence his contention that no remedy is available, is absolutely untrue and on this very ground alone, the petition may be rejected.

33. That the contents of para 8 requires no reply.

34. That in reply to the contents of para 9 under the head relief sought it is stated that in



Deekha

view of the facts and circumstances disclosed

by means of the present affidavit it is submitted

that the petitioner does not deserve any relief

(1),(2),(3) as mentioned in the para under reply and

the petition is liable to be rejected.

35. That the contents of paragraphs nos.

10,11 and 12 of the petition requires no reply by
means of the affidavit.

36. That it is stated that in view of the

facts and circumstances stated in the present counter
affidavit the petition under section 19 of the
Administrative Tribunal Act is liable to be rejected
with costs.

37. That I solemnly swear and declare that

the contents of paragraphs nos. 1 and 2 — g

g are true to my personal knowledge and

that those of paragraphs nos. 3 to 36 g

g are based on perusal of records

Declarer

and that those of paragraphs nos. 9

are based on legal advice and that
no part of it is false and nothing material has
been concealed. So help me God.

Deekhaur

DEPONENT

R.C.-yadav Clerk to Sri
I, Ashok Mohiley, Advocate, High Court,
Allahabad do hereby declare that the person making
this affidavit and alleging himself to be Sri
I.C.Chatterji is personally known to me and that he
is the same person.

R. C. yadav
21-12-88

CLERK

Solemnly affirmed before me this 21st day
of December, 1988 at 4:30^{PM} by the deponent who
has been identified by Sri Ashok Mohiley, Advocate,
High Court, Allahabad.

Deekhaur

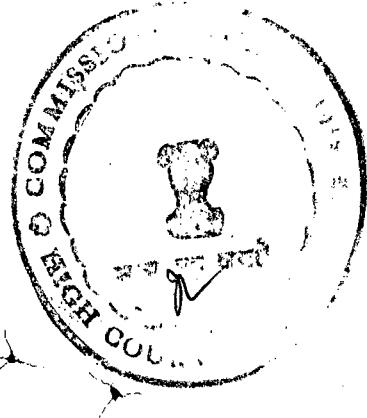
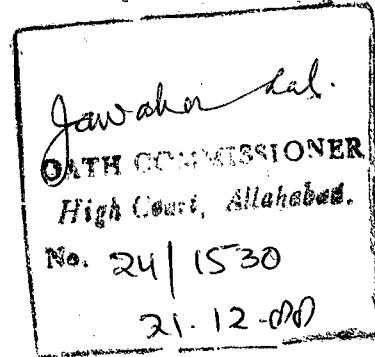


A53

-20-

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

Jawahar Lal
OATH COMMISSIONER.



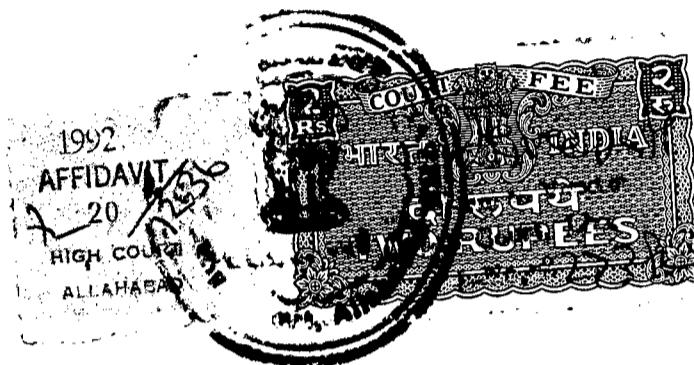
ASY

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL AT
A L L A H A B A D
CIRCUIT BENCH, LUCKNOW.

Rejoinder Affidavit

In re:

Registration No. 254 of 1988.
now Transferred Registration No. 39/92



Smt. Jeevan Lata & others Applicants.

In re:

Baij Nath Dhusia Applicant.

Versus

Union of India & others Respondents.

REJOINDER AFFIDAVIT

1/20/5
I, Jeevan Lata aged about 50 years wife of late Sri Baij Nath Dhusia, resident of 50/20, Jai Narayan Lane, Hussainganj, Lucknow City, Lucknow, the deponent, do hereby solemnly affirm and state on oath as under:-



1. That the deponent is the wife of the deceased - Baij Nath Dhusia and is the mother of the rest applicants and authorised by them to do pairvi of this case on their behalf.

2. That the deponent has read and understood the contents of the counter affidavit filed by the opposite parties and their reply deposed

Dinkar

herein.

3. That the contents of paragraphs 1, 2, 3 and 4 of the counter affidavit need no reply.

4. That the contents of paragraph 5 of the counter affidavit under reply are not admitted as stated therein.

5. That the contents of paragraph 6 of the counter affidavit under reply are not admitted as stated as the said contents are not substantial matter for this case and as the previous conduct of the deceased applicant has not been correctly described by the answering opposite parties.

6. That the contents of paragraph 7 of the counter affidavit under reply are not admitted as stated therein. It is further submitted that when the adverse remarks for the year 1959-60 and 1974-75 have already been expunged by the competent authority, they can not be treated as adverse remarks in this case.



7. That the contents of paragraph 8 of the counter affidavit under reply are not correctly stated, hence denied. Further it is admitted that the applicant was retired premature on the basis of wrong facts by the Screening Committee.

8. That the contents of paragraph 9 of the counter affidavit under reply are not admitted

Jindal

as stated. It is further submitted that the Screening Committee/Reviewing Committee has wrongly retired the applicant from the services.

9. That the contents of paragraph 10 of the counter affidavit under reply are not disputed.

10. That the contents of paragraph 11 of the counter affidavit under reply are not admitted as stated and whatever has been said in paragraph 6(ii) of the petition-application are re-affirmed.

11. That the contents of paragraph 12 of the counter affidavit under reply are not admitted as stated. It is further submitted that the applicant was promoted on 22.8.1983 as Head Clerk by the Departmental Selection/Promotion Committee, hence it is very clear that previous to his promotion ^{no adverse} nothing has been found against him (applicant) by the Departmental Selection/Promotion Committee.

12. That the contents of paragraph 13 of the counter affidavit are not admitted as stated therein and whatever has been said in paragraph 6(iv) of the claim petition are re-affirmed. It is further submitted that it is a well-settled principle that for compulsory retirement only 10 years entries of the character roll shall be considered.



13. That in reply to the contents of

J. K. S.

paragraph 14 of the counter affidavit, it is submitted that the applicant's case was not duly considered, hence he was compulsorily retired from their services in a very arbitrary manner.

14. That the contents of paragraph 15 of the counter affidavit are not admitted as stated therein and whatever has been said in paragraph 6(vi) of the petition are re-affirmed.

15. That the contents of paragraph 16 of the counter affidavit under reply needs no reply and whatever has been said in paragraph 6(vii) of the petition are re-affirmed as true.

16. That the contents of paragraph 17 of the counter affidavit under reply are not admitted as stated and whatever has been said in paragraph 6(viii) of the petition are re-affirmed.

17. That the contents of paragraph 18 of the counter affidavit are not admitted as stated therein. It is further submitted that the representation of the applicant dated 25.10.1985 was not duly considered ~~and mis-spelled~~ by the Commissioner, Income Tax Department, Allahabad and wrongly rejected the same and further whatever has been said in paragraph 6(ix) of the petition are again re-affirmed as true.



Jindal 18. That the contents of paragraph 19 of the counter affidavit under reply are mis-

conceived; hence denied and whatever has been said in paragraph 6(x) of the petition are again re-affirmed.

19. That the contents of paragraph 20 of the counter affidavit are based on record; hence need no reply, but whatever has been said in paragraph 6(xi) of the petition are re-affirmed.

20. That the contents of paragraph 21 of the counter affidavit under reply are mis-conceived; hence denied and whatever ~~six~~ has been said in paragraph 6(xii) of the petition are re-affirmed.

21. That the contents of paragraph 22 of the counter affidavit are based on record; hence need no reply and whatever has been said in paragraph 6(xiii) of the petition are re-affirmed.

22. That the contents of paragraph 23 of the counter affidavit under reply are mis-conceived; hence denied and whatever has been said in paragraph 6(xiv) of the petition are again re-affirmed.

23. That the contents of paragraph 24 of the counter affidavit under reply are not correctly stated; hence denied. It is further submitted that the answering opposite parties has not properly considered the case of the applicant and in a very arbitrarily manner and without applying his mind



Jinal H

compulsorily retired the applicant, which amounts to a punishment; hence the order of retirement of the applicant is bad in law.

24. That the contents of paragraph 25 of the counter affidavit are mis-conceived; hence denied and whatever has been said in paragraph 6(xvi) of the petition are again re-affirmed.

25. That the contents of paragraph 26 of the counter affidavit under reply need no reply.

26. That the contents of paragraphs 27, 28, 29, 30, 31 and 32 of the counter affidavit under reply are mis-conceived; hence denied.

27. That the contents of paragraph 33 of the counter affidavit need no reply.

28. That the contents of paragraph 34 of the counter affidavit are not admitted as stated therein; hence denied. Further the applicant is fully entitle for all the reliefs claimed in the claim petition-application.

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

30. That the contents of paragraph 36 of the counter affidavit under reply are false and mis-conceived; hence denied and the petition of the



Jain

Abc

171

applicant deserves to be allowed with cost.

Lucknow:Dated:

March 27 1992.

J. Yadava
Deponent.

Verification

I, the deponent, named above, do hereby verify that the contents of paragraphs 1 to 5, 7, 9 to 12, 14 to 20, 22, 24 to 28 of this affidavit are true to my personal knowledge and those of paragraphs 21 to 24 are based on record and paragraphs 6, 8, 13, 23 to 26, which are based on legal advise, are also believed to be true by me. No part of it is false and nothing material has been concealed, so help me God.

Lucknow:Dated:

March 27, 1992.

J. Yadava
Deponent.

I personally know and identify the deponent who has signed before me.

S. C. Yadava,
(S. C. Yadava)
Advocate.

Solemnly affirmed before me on 27.3.92
at 10 a.m./p.m. by ~~Sri~~ ~~Smt~~ ~~J. Yadava~~ 207
the deponent, who is identified by
Sri S. C. ~~Yadava~~ Advocate, High Court at
Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been readout and explained to him by me.

J. Yadava
S. C. ~~Yadava~~
JUDICIAL SERVICE
JUDICIAL COMMISSIONER
High Court, Allahabad
Lucknow Bench
No. 201236
25.3.92

Annexure CA I
AGF

DEPARTMENTAL
SECRET

EXTRADT OF MINUTES OF REVIEW COMMITTEE
MEETING FOR GR 'C' and 'D' STAFF OF LUCKNOW /
ALLAHABAD CHARGES HELD ON 19.4.1986
AT FAIZABAD - SHRI B.N.DHUSIA.

PRESENT :

S/Sri 1. Dharni Dhar,

C.C.(Admn.) U.P. & C.I.T.

Chairman

Lucknow.

F-1

210/g

2. Kedar Nath,

C.I.T., Allahabad

Member

The Review Committee have been constituted
in accordance with para 12 of the circular F.No.16
(122)/Vig/85/2794 dated 8.11.1985 issued by the
D.I.(Vig.) New Delhi and took up the items on the
Agenda of the Meeting.

The Committee decided to take up first,
the cases of Gr. 'C' and 'D' staff of both the
charges in whose cases the Screening Committee which
met from 11.2.86 to 13.2.86 at Allahabad, found the

--- contd.

employees falling within the ambit of F.R. 56(j)
and recommended for compulsory retirement.

The Review Committee, accordingly considered
the 6 cases of Lucknow and Allahabad charges and
arrived at the following decisions after due
deliberations : -

(I) Lucknow Charge.

(1) -----

(2) Shri B.N.Dhusia, Head Clerk :

The Committee has carefully considered
the case of Shri Dhusia which has been recommended
for action u/s 56(j) of F.R. by the Screening
Committee vide their report dated 13.2.86. The
Screening Committee reported that the C.R. column
contains details of leave as follows : -

(a) 79-80 E.L. 39 days

(b) 80-81 E.L. one year and C.L. 12 days

(c) 81-82 E.L. 14 days and C.L. 12 days

(d) 82-83 E.L. 29-9-82 to 30.9.82,
6-10-82 to 7-10-82, 18-10-82 to
19-10-82 and 3.11.82 to 4.11.82.

(e) 83-84 E.L. 101 days and

(f) 84-85 E.L. 117 days.

The Review Committee found lacuna in the above report inasmuch as how Shri Dhusia could avail E.L. for one complete year as well as 12 days of casual leave in 1980-81. Moreover, the Screening Committee's report is silent whether excess salary was drawn and paid to the official. The Review Committee, therefore feels that proper enquiry should be made by the official to verify the leave taken by the official and the leave salary drawn and thereafter the matter may be put up before the next Review Committee meeting.

Annexure C A 11
86

MINUTES OF REVIEW COMMITTEE MEETING FOR
GR. 'C' & 'D' STAFF OF LUCKNOW/ALLAHABAD
CHARGES HELD ON 25TH JULY 86 AT LUCKNOW -
EXTRACT RELATING TO SHRI B.N.DHUSIA -

PRESENT :

S/Sri

1. Dhari Dhar,

Chief Commissioner (Admn.) U.P. and

Commissioner of Income-tax,

CHAIRMAN

Lucknow.

2. Kedar Nath,

Commissioner of Income-tax,

Allahabad.

MEMBER

The Review Committee have been constituted in
accordance with para 12 of the circular F.No. 16(122)/
Vig/85/2794 dated 8.11.85 issued by the D.I.(Vig.)

New Delhi and took up the items on the Agenda of
Meeting.

2. The Committee reviewed the progress made
in the six cases, considered in the previous meeting
held on 19.4.86 at Faizabad and after the due deli-
beration arrived at the following decisions : -

-2-

(I) LUCKNOW CHARGE :

1. Sri D.K.Jothri, Supervisor ----

2. Sri B.N.Dhusia, Head Clerk : -

The committee carefully considered the case of Sri B.N.Dhusia. On perusal of the official's service book and leave account it clearly appears that excess leave was taken by the official. It also appears that excess salary was paid to the official. On this point, final report is awaited from the ITO and IAC concerned. The Committee, therefore, feels that on receipt of the final report from the authorities below, final decision will be taken in the next meeting.

ANNEXURE NO. CA 3

MINUTES OF THE SCREENING COMMITTEE MEETING FOR
GR. 'C' STAFF OF LUCKNOW CHARGE HELD ON @.%.' & AT
LUCKNOW- EXTRACT RELATING TO SHRI B.N.DHUSIA.

PRESENT

S/Shri

1.	S.C.GROVER	CHAIRMAN
2.	N.C.TEWARI	MEMBER
3.	AJAY SINGH	MEMBER
4.	H.P.SINGH	MEMBER

.....

The Screening Committee meeting met on 4.3.87 to consider the cases of officials within the consideration zone for the purpose of screening under F.R. 56(J)/Rule 48 of CCS (Pension Rules). The cases of following officials of Lucknow Charge whose cases had been considered by the Screening Committee /Review Committee meeting that met on 13.2.86/ 19.4.86 and 25.7.86 and who had been kept on watch list were again considered by this Committee:-

S/Shri

1. S.K.Johri,ITI
2. B.N. Dhusia, H.C.
3. J.K.Rastogi,T.A.
4. K.K.Saxena,Supervisor,Gr.II
5. S.R. Asthana,UDC

7. S.K.Kapoor, ITI
8. Krishna Nand, N.S.

Shri B.N.Dhusia, H.C.

Date of birth	6.7.34
Date of joining the service	15.2.54
Date of superanuation	31.7.92

From the A.C.R. folder of this official, it is seen that the official had in the past earned adverse entries in the years 54-55, 55-56, 59-60, 61-62 and 74-75 on grounds of inefficiency.

Though the above A.C.Rs are not being considered for the purposes of recommendations of this committee, they do form a background in which the performance of the official can be appraised over the last 5 years for the purpose of review in Rule 48, of CCS (Pension) Rules.

It is seen that over the last 5 years the official had earned the following ratings:-

80-81	Very good
81-82	Good
82-83	Average
83-84	Good
84-85	Adverse
85-86	Good

It is seen from the above that the official's performance was rated as 'Very Good' in the year 80-81.

However, there has been a general decline in the performance

of the official in the subsequent years when he has earned an average entry for 82-83 and an adverse entry for 84-85. In fact in the year 84-85 his Reporting officer found the official's technical ability in terms of knowledge of laws and knowledge of procedures as inadequate. He also found the official's quality of work in terms of noting and drafting as inadequate. Even the official's punctuality in submission of statement and promptness in disposal were found inadequate. These adverse entries were represented against by the official. However, the representation was turned down and the entries stand confirmed by the C.I.T., Allahabad.

Above shows that the official's overall performance had been that of an indifferent worker. Even after his promotion as Head Clerk, the official concerned has failed to rise to greater responsibility expected out of him and has failed to take up the work, or to apply himself in any meaningful manner to the duties assigned to him. His Reporting officer found him lacking in his technical work as well as in his promptness and devotion to duty.

There are also some closed complaint files in the case of the official where some allegations have been made pertaining to demand of illegal gratification and harrasment.

It is seen that on 25.10.71, I.A.C., Bareilly passed an order under Rule 16 of the CCS (CCA) Rules imposing a

absence of duty on flimsy reasons. However, the penalty does not seem to have brought about any improvement in Sri Dhusia. The subsequent record shows that the official continued to remain on leave for long periods for one reason or the other and his period of absence from duty are particularly listed as per recasted leave a/c. received from ITO as under:-

1978-79	25 days
1979-80	10 days
1980-81	54 days
1981-82	95 days
1982-83	10 days
1983-84	85 days
1984-85	74 days
1985-86	49 days
1986-87	22 days

From the above, it is seen that the official has been neglecting his official duties for long period. In fact it is seen that the official has been taking leave when no leave was available to his credit and the recasted position of leave available from the Service Books/Leave Account shows following position:-

From	to	DUTY Leave earned ed in days	Total earned leave at credit	Leave Taken From	To	No. of days	Balance at credit of official on return from leave (4-8)
1	2	3	4	5	6	7	8
1) 1.7.84	31-12.84	15	24	16-7-84	16-8-84	32	(-8)

1	2	3	4	5	6	7	8
2) 1-1-85	20-6-85	15	(-)8	20-5-85 10-5-85	9	(-)17	
				20-5-85 23-6-85	4	(-)21	
3) 1-7-85	31-12-85	15	(-)6	15-7-85 29-7-85	15	(-)21	
				14-10-85 22-10-85	9	(-) 30	
				13-11-85 15-11-85	3	(-) 33	
				2-12-85 5-11-85	4	(-)37	
4) 1-1-86	30-6-85	15	(-)27	10-6-86 30-6-85	21	(-)48	
5) 1-7-86	31-12-86	15	(-)	1-7-86 -	1	(-) 34	
6) 1-1-87	30-6-87	15	(-)19				

It is also seen that the official during the period as Head Clerk had himself verified admissibility of leave on his leave applications and has availed of the leave which was not even due to him and his earned leave account has been rising over a long period in minus figures. This in fact means that the official has hoodwinked his Controlling Officer and recorded false certificates in the leave application in order to avail of leave. This reflects on the official's integrity. The official holds the post of Head Clerk which calls for a great deal of responsibility as his nature of duty is largely supervisory. If he himself behaves in this manner, it is unlikely that he would be able to instill any sense of discipline on his office. Moreover, the fact that the official has been on leave for long periods shows that he has a very little interest in his work and has been totally indifferent to his responsibility with the Department. The Committee is of the considered view that the official has ceased to be effective. In view of the above facts and that he is ineffective

A71

-6-

performance of his duties, the committee accordingly
recommends his retirement in public interest under Rule
48 of CCS (CCA) Rules.

A72

Annexure A/ C A IV

MINUTES OF THE REVIEW COMMITTEE MEETING FOR
GR. 'C' & 'D' STAFF OF LUCKNOW/ALLAHABAD CHARGE
HELD ON 11TH MARCH 1987 - EXTRACT RELATING TO
SHRI B.N.DHUSIA -

PRESENT :

S/Sri

1. D.C.Shukla,

Chief Commissioner (Admn.) U.P.

and Commissioner of Income-tax,

CHAIRMAN

Lucknow.

2. G.C.Agarwal, Commissioner of

Income-tax, Kanpur.

MEMBER

3. A.K.Misra, Dy. Director of

Inspection (Vigilance),

MEMBER

New Delhi.

The Committee considered the recommendations
of the Screening Committee dated 3.3.87 and 4.3.87
and also the report of the previous Review Committee
dated 19.4.86 and 25.7.86 and after due deliberations
arrived at the following decision : -

Allahabad Charge -- -----

Lucknow Charge

(1) Shri B.N.Dhusia, H.C. : -

In its report dated 3/4.3.87, the Screening Committee, after considering the material relating to this official, has recommended his retirement in public interest under Rule 48 of CCS (Pension) Rules.

2. The Committee is of the view that the Screening Committee has brought on record material which shows that not only the official is ineffective and inefficient but is also of doubtful integrity and particularly unreliable. He is guilty of serious lapses even of verifying admissibility of leave to himself when it was not due. He is on duty of Head Clerk where such lapse becomes all the more serious.

3. Incidentally it may also be mentioned that the Screening Committee which met on 11.2.86 had also recommended the official's retirement in public interest but the Review Committee had left

-3-

the matter for final decision to be taken by this
meeting.

4. Considering the material and the report
of the Screening Committee, the Committee is of the
opinion that the official deserves to be retired
in public interest under rule 48 of CCS (Pension)
Rules.

2nd copy.

375

Regn No 254 of 1988

B. N. Dhole

VS

Union of India & other

B76

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL
BENCH AT ALLAHABAD.

REGISTRATION NO. 754 OF 1988

(Application Under Section 19 of the Administrative
Tribunals Act, 1985.)

BAIJ NATH DHUSIA Applicant

VERSUS

Union of India & Other Respondents.

I N D E X

S/No.	Description of papers relied upon	Page
1.	Application	1 - 11
2.	<u>Annexure - I</u> Communication of adverse entry dated 30.8.85	12-12
3.	<u>Annexure - II</u> Representation dated 25.10.1985	13-13
4.	<u>Annexure - III</u> Rejection order of the representation dated 11.12.85	14-14
5.	<u>Annexure - IV</u> Order dated 1.4.1987 retiring the applicant under rule 48(1)(b) of C.C.S.(Pension) Rule, 1972.	15-15

S/No.	Description of papers relied upon	Page
6.	Demand Draft as detailed in paragraph 12 of this application	—
7.	Vakalatnama	—

A. Kumar
(~~RAJESH VARMA~~) Advocate
COUNSEL FOR THE APPLICANT

For Use in Tribunal Office

Date of filing

or

Date of Receipt by post

Registration No.

Signature
for Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL
BENCH, ALLAHABAD.

REGISTRATION NO. 254 OF 1988

BETWEEN

SHRI BAIJ NATH DHUSIA

..... Applicant

AND

1. Union of India,
2. Chief Commissioner (Adm.) U.P.
& Commissioner of Income Tax

..... Respondents.

DETAILS OF APPLICATION

1. Particulars of the applicant:

- i. Name of the applicant : Baij Nath Dhusia
- ii. Name of father/ husband : Late Shri Nand Lal Dhusia
- iii. Age of the applicant : years
- iv. Designation of the applicant : Head Clerk
- v. Office address : C/o Sr. A.R., ITAT,
Allahabad.
- vi. Address for service of notices : 50/24, Jai Narain Road,
Husainganj,
Lucknow.

2. Particulars of respondents:

Respondent No. 1

- i. Name of respondent : Union of India,
Through Secretary,
Ministry of Finance,
New Delhi.
- ii. Name of the father/ husband : N.A.
- iii. Age of the respondent : N.A.

iv. Designation and particulars of office (name and station) in which employed : Secretary, Ministry of Finance, New Delhi.

v. Office Address : Ministry of Finance, New Delhi.

vi. Address for service of notices : -do-

Respondent No. 2

i. Name of the respondent : Chief Commissioner (Admn.) U.P. and Commissioner of Income Tax, Lucknow.

ii. Name of the father/ husband : N.A.

iii. Age of the respondent : N.A.

iv. Designation and particulars of office (name and station) in which employed : Chief Commissioner (Admn.) U.P. and Commissioner of Income Tax, Lucknow.

v. Office address : -do-

vi. Address for service of notices : -do-

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

The application is against the following order :-

i. Order No. with reference to Annexure : P. No. Con/47-274/86-87 Annexure - IV.

ii. Date : 1.4.1987

iii. Passed by : Chief Commissioner (Admn.) U.P. and Commissioner of Income Tax, Lucknow.

iv. Subject in brief : Retiring the petitioner in the purported exercise of powers conferred by clause (b) of sub-rule (1) of rule 48 of C.C.S.(Pension) Rule, 1972.

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 :-

- (i) That the petitioner was appointed as Clerk in the Department of Income Tax on 15.2.1954.
- (ii) That the petitioner had been awarded prizes for good work and conduct in the year 1974, 1975 and 1976 continuously by the Head of the Department i.e. Commissioner of Income Tax, Lucknow.
- (iii) That in view of meritorious performance and excellent career of the petitioner, he was selected by the Departmental Promotion Committee and was promoted to the post of Head Clerk on 22.8.1983.
- (iv) That the petitioner had an excellent service record which can be verified from the Service Book entries and the character roll entries of 10 years or more.

(v) That the petitioner completed 30 years of service as Clerk in the Income Tax Deptt. on 14.2.1984 and was allowed to continue onwards and no decision to retire him compulsorily was taken by the respondents.

(vi) That it is pertinent to mention here that upto 31.3.1985 no adverse entry had been communicated to the petitioner.

(vii) That through an order dated 30.8.1985 which was received by the petitioner on 25.9.1985 the Commissioner of Income Tax communicated adverse entry to the petitioner with the remarks that his noting, drafting, timely submission of statement and promptness in disposal were inadequate. A copy of the order dated 30.8.1985 passed by the Commissioner of Income Tax, Allahabad through which adverse entries had been communicated to the petitioner, is annexed herewith as ANNEXURE-I to this petition.

(viii) That it would not be out of place to mention here that the said adverse entries had been recorded in Confidential Roll of the petitioner without giving him any opportunity to show cause and the Respondent No. 2 communicated the said entries after recording the same in the Confidential Roll.

(ix) That as a matter of principle these entries should have been recorded in the Confidential Roll of

the petitioner only after giving an opportunity to make representation against these entries before dispensing off the same but here in the instant case, as stated above, the adverse entries have been communicated to the petitioner after recording the same in the Confidential Roll and as such the Respondent No. 2 violated the principle of natural justice and thus the said entries have no legal existence in the eye of law.

(x) That however the petitioner submitted his representation to the Respondent No. 2 on 25.10.1985 which was rejected on 11.12.1985 arbitrarily. Certified copy of the representation dated 25.10.85 and rejection order dated 11.12.85 are annexed herewith as ANNEXURE-II and III to this petition.

(xi) That a perusal of the said rejection order dated 11.12.85 - Annexure - III, would show that the representation against the adverse entries of the petitioner has been rejected arbitrarily without applying mind and without discussing the reasons as to why the Respondent No. 2 ~~as~~ has justified the said remarks and as such the said entries have no legal existence in the eye of law and have no validity.

(xii) That the petitioner has not been communicated any adverse entry through out his service career in the Income Tax Department except the entry for the year

1984-85 which was recorded in Confidential Roll of the petitioner in utter violation of the principle of natural justice. The confidential roll of the petitioner is otherwise blotless.

(xiii) That the petitioner has been arbitrarily retired in the purported exercise of power conferred by clause (b) of sub-rule (1) of Rule 48 of Central Civil Services (Pension) Rules 1972 by order dated 1.4.87 by the Respondent No. 2. A true copy of the order dated 1.4.87 is annexed herewith as ANNEXURE-IV to this petition.

(xiv) That from the service record of the petitioner no reasonable person can come to the conclusion that the petitioner should be retired in the purported exercise of power conferred by clause (b) of sub-rule (1) of Rule 48 of the C.C.S. (Pension) Rules, 1972.

(xv) That the petitioner has been discriminated action of the respondents and hit by Articles 14 and 16 of the Constitution of India.

(xvi) That the respondents have also not afforded opportunity as is provided under the guidelines to the petitioner as to whether the petitioner is willing to work on the lower post or not of the Department of the petitioner will be provided job. If the impugned order is not set aside, it will be to harsh for the petitioner and his family.

(xvii) That according to the guidelines as contained in the Govt. of India, Ministry of Home Affairs (O.M) No. 25013/14/77 Estt.(A) dated 5.1.1978 a Committee has been constituted for the purpose of reviewing the case of such employee who has completed 30 years of qualifying service for arriving at the conclusion as to whether any such employee should be retired from the service in public interest or whether he should be retained in the service. The Office Memorandum dated 5.1.1978 shall be produced for the perusal of this Hon'ble Court at the time of hearing of this application.

(xviii) That in the case of petitioner from the facts and circumstances stated above, it is absolutely clear that the purported exercise of power under rule 48(1)(b) is nothing but arbitrary.

(xix) That the order dated 1.4.87 is hit by Articles 14 and 16 of Constitution of India.

(xx) That the guidelines prescribed by the Govt. of India, Ministry of Home Affairs, has not been complied in arriving at the conclusion to retire the petitioner in the purported exercise of power under Rule 48(1)(b) of the C.C.S.(Pension) Rule, 1972.

(xxi) That the Respondent No. 2 failed to make correct assessment of overall performance of the petitioner and the order of compulsorily retirement

dated 1.4.87 has been passed mechanically and thus is a nullity in the eye of law.

(xxii) That from the facts and circumstances stated above, it is absolutely clear that the decision to retire the petitioner in the purported exercise of power under ~~the~~ rule 48 sub-rule (1) clause (b) is nothing but arbitrary, capricious and is thereby hit by Article 14 of the Constitution of India.

7. Details of the remedies exhausted:

The applicant declares that against an order passed in the purported exercise of powers under rule 48(1)(b) of the C.C.S. (Pension) Rule, 1972 no Departmental remedy is available.

8. 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.

9. Relief(s) Sought

In view of the facts mentioned in para 6 above

the applicant prays for the following reliefs :-

- (1) That a suitable order or direction be issued quashing the order dated 1.4.87 retiring the applicant compulsorily in the purported exercise of powers under rule 48(1)(b) of C.G.S. (Pension) Rule, 1972.
- (2) That to issue an order or direction to the respondents to reinstate the applicant in service with continuity of service and all other consequential benefits.
- (3) Any other suitable order which this Hon'ble Court may deem fit in the facts and circumstances of the case.

10. Interim order, if any prayed for:

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

NIL.

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/Inland Letter, 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.

Or

(1) Number of Indian
Postal Order(s)

(2) Name of the issuing
Post Office

(3) Date of Issue of
Postal Order(s)

(4) Post Office at which
payable

B6C1

- 11 -

13. List of enclosures:

Please see Index on the top of the application.

VERIFICATION

I, Baij Nath Dhusia s/o late Shri Nand Lal
Dhusia aged years r/o 50/24, Jai Narain Road,
Husainganj, Lucknow do hereby verify that the contents
of paras / to 13 are true to my personal knowledge
and paras to believed to be true on legal
~~advice~~ and that I have not suppressed any material
facts.

Signature of the Applicant.

Date:

Place:

To:

The Registrar,
Central Administrative Tribunal,
Allahabad.

R. D. Singh

Annexure-I.

Office of the
Commissioner of Income-Tax,
Allahabad.

D.O.P. No. 47-/Con/Adv./B.N.D.

Dt. 30-8-85

My Dear,

Sub:- Adverse Remarks - Communication of -
Entry for the year 1984-85-Regarding-

.....

I am directed to reproduce below for your information, extract of the adverse remarks recorded in your confidential report for the year 1984-85.

Part II Col. 12

Quality of

(i) Noting and drafting; Inadequate
part II Col, 3

Timely submission of statement; Inadequate
Part II Col; 14

Promptness in disposal; Inadequate

2. The object in communication of these adverse remarks to you is that you should know the directions in which your work and or conduct has been found unsatisfactory so that you may endeavour to exert your best to eradicate the defects.

3. I may add that if you wish to offer any explanation concerning these comments please do so within a month of the receipt of this letter.

Sd/- Illegible
(A.J. Khan)

Incometax Officer(HQ)Admin. for
Commissioner of Incometax,
Allahabad.

Shri B.N. Dhusia, H.C.
ITAT, Allahabad.

*Accepted by
R. D. Adhikari*

(15) 10/10

Annexure-II.

To,

The Commissioner of Incometax,
Allahabad.

Sir,

Sub. Adverse remarks - communication of -
B.N. Dhusia H.C. O/o Sr. A.R., ITAT, Allahabad.
Entry for the year 84-85-Explanation Seg.

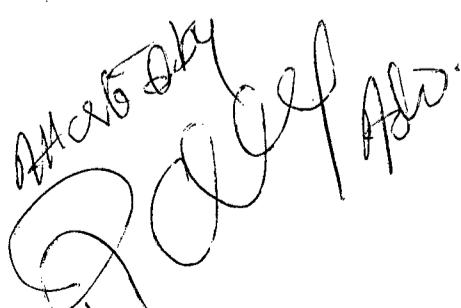
Kindly refer to your D.O. P.No. 47/Con/Adverse/BND
dated 30-3-85, My submission is as under :-

1. Noting & drafting inadequate. Sr. A.R. had never commented on my noting & drafting except one regarding repairing of cooler which reflect self interest duly solicited by the Sr. A.R. and I have been put in nick-same only being an obstacle in performance of his self interest whatsoever he wants. In support relevant papers are enclosed.
2. Timely submission of statement inadequate. There is hardly one or two statements in this office which is sent in time.
3. Promptness in disposal inadequate. Since the date of joining I always discharged my duties promptly and nothing is adverse on record.

Keeping in view the above once again I request to go through the adverse remarks incorporated against me and still your honour see that I am liable for adverse remarks then nothing to say otherwise I invite your kind attention to see the actual position under which I have been put under such crucial service carrier which march against ruthlessness and exploitation of future service carrier.

Dt. 25-10-1985.

Yours faithfully,
Sd/- X X X
(B.N. Dhusia)
H.C. O/o Sr. A.R., ITAT, Alld.



पत्र सं० का०न०/ती०ए०आ०/85

कायलिय

वरिष्ठ प्राधिकृत प्रतिनिधि,
आयकर अमीलीय अधिकरण
इलाहाबाद।

दिनांक :- 11-12-1985

श्री बी०ए० धूसिया
प्रधान लिपि,
कायलिय वरिष्ठ प्राधिकृत प्रतिनिधि,
आयकर अमीलीय अधिकरण, इलाहाबाद।

विषय:- चरित्र परिका वर्ष 84-85
में प्रतिकूल प्रविष्टि-

आपके प्रतिवेदन दिनांक 25-10-85 के सम्बन्ध में सुचित किया
जाता है कि आयकर आयुक्त इलाहाबाद में आपकी चरित्र परिका में साल
84-85 के सम्बन्ध में की गई प्रतिकूल प्रविष्टियों की पुष्टि कर दी है।

हस्ताक्षर अपठनीय
जी०ए० श्रीवास्तव
वरिष्ठ प्राधिकृत प्रतिनिधि,
आयकर अमीलीय अधिकरण,
इलाहाबाद।

प्रतिलिपि- श्री ए० ज० खान आयकर अधिकारी मु०
प्रसाशन को पत्र सं० का०न०/बी०ए०डी०/एडव्स०/85 दिनांक 10-12-85
के संदर्भ में।

जी०ए० श्रीवास्तव
वरिष्ठ प्राधिकृत प्रतिनिधि,
आयकर अमीलीय अधिकरण,
इलाहाबाद।

Q. M. A. W.

15

B.C.P

Annexure-IV

P.No. Con/47-274/86-87.

Government of India,
Ministry of Finance
(Department of Revenue)

Office of the Chief Commissioner(Admn.)U.P. and
Commissioner of Income-Tax, Lucknow.

Lucknow, the 1st April, 1987.

O R D E R

WHEREAS the Chief Commissioner(Admn.)U.P. and
Commissioner of Income Tax, Lucknow is of the opinion that it
is in the public interest to do so,

NOW THEREFORE, in exercise of powers conferred by
clause(b) of sub rule(1) of Rule 48 of Central Civil Services
(Pension) Rules, 1972, the Chief Commissioner(Admn.)U.P. and
Commissioner of Income Tax, Lucknow hereby retire
Shri B.N. Dhusia, Head Clerk with immediate effect, he having
already completed 30 years of qualifying service on the 16th
February, 1984. Shri B.N. Dhusia shall be paid a sum equi-
valent to the amount of his pay plus allowances for a period
of three months calculated at the same rate at which he was
drawing them immediately before his retirement.

Sd/- X X X
(D.C. Shukla)
Chief Commissioner(Admn.)U.P. &
Commissioner of Income-Tax, Lucknow.

To,

Shri B.N. Dhusia,
Head Clerk,
Lakhimpur Kheri, U.P.

Through

The Inspecting Asstt. Commissioner of Incometax,
Lucknow.

Q. D. D. A.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH
AT ALLAHABAD

Misc. Application No. 958 of 1990

On behalf of

1. Smt. Jeevan Lata widow of Sri Baij Nath Dhusia
2. Km. Sangeeta Dhusia aged about 30 years daughter of Sri Baij Nath Dhusia
3. Km. Sandhya Dhusia aged about 17 years, daughter of Sri Baij Nath Dhusia
4. Satish Kumar Dhusia aged about 27 years son of Sri Baij Nath Dhusia
5. Sanjeev Dhusia aged about 26 years son of Sri Baij Nath Dhusia
6. Sumit Kumar Dhusia aged about 9 years son of Sri Baij Nath Dhusia

All residents of 50/20, Jai Narain Lane, Husainganj,
Lucknow Applicants.

7

Registration No. 254 of 1988

District: Lucknow.

// Versus //

1. Union of India
2. Chief Commissioner (Adm.) U.P. & Commissioner of Income Tax, Lucknow Respondents.

845

- 2 -

To,

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

The humble petition of the applicants,
above-named, Most Respectfully Showeth as
under :--

- 1/ That, Baij Nath Dhusia aforesaid had filed the aforesaid petition before this Hon'ble Tribunal who died on 4.5.90. A photo stat copy of the death certificate is annexed to this application and marked as Annexure No.1.
- 2/ That, the applicants are widow, daughters and sons of late Baij Nath Dhusia and are filing the present application for impleadment in place of aforesaid Baij Nath Dhusia.
- 3/ That, it is expedient in the interest of justice that the name of Baij Nath Dhusia since deceased be deleted from the array of the petitioner and in its place the names of the applicants may be substituted.

P_x_a_y_e_r

It is, therefore, most respectfully prayed that the name of Baij Nath Dhusia since deceased be deleted from the array of the petitioner and in its place the names of the applicants may be substituted and thus justice be done.

dt. 29.5.90.

(A.Kumar)
Counsel for the applicants.

69c

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH
AT ALLAHABAD.

AFFIDAVIT

IN

Misc. Application No. of 1990

On behalf of

Smt. Jeevan Lata widow of Sri Baij Nath Dhusia and
others Applicants.

IN

Registration No. 254 of 1988

District: Lucknow.

Baij Nath Dhusia Applicant.

// Versus //

Union of India and another Respondents.

Affidavit of Smt. Jeevan Lata
aged about 50 years, widow of Baij Nath
Dhusia, resident of 50/20, Jai Narain Lane
Husainganj, Lucknow.

... deponent.

I, the deponent, above named, do hereby
take oath and state as under :-

1/ That, the deponent is applicant no. 1 and

- 32 -

mother of applicants no.2 to 6 and as such is fully acquainted with the facts deposed to below:-

2/ That, Baij Nath Dhusia aforesaid had filed the aforesaid petition before this Hon'ble Tribunal who died on 4.5.90.

3/ That, the applicants are widow, daughters and sons of late Baij Nath Dhusia and are filing the affidavit in support of the present application for impleadment in place of aforesaid Baij Nath Dhusia.

4/ That, it is expedient in the interest of justice that the name of Baij Nath Dhusia since deceased be deleted from the array of the petitioner and in its place the names of the applicants may be substituted.

I, the deponent, above named, do hereby take oath and state that the contents of paras no. 1 to 4 of the affidavit are true to my personal knowledge; those of paras _____ of the affidavit are based on perusal of papers and those of paras _____ of the application are based on legal advise which all I believe to be true. Nothing material has been concealed in it nor anything is false in it. So, help me God.

- 13 -

I, T.P.Shukla clerk to Sri A.Kumar, Advocate, High Court, Allahabad do hereby declare that the deponent making this affidavit and alleging herself to be Smt. Jeevan Lata is known to me from the perusal of papers.

RTI of the deponent.

Clerk.

Solemnly affirmed before me on this day of May, 1990 at A.M./P.M. by the deponent who is identified by the clerk aforesaid.

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

Oath Commissioner.

BAA

TO THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH
AT ALLAHABAD
ANNEXURE No. 1

Re: Application No. 204 of 1968

Plaintiff Intitutor.

Baij Nath Dhusia

Applicant.

//Versus//

Union of India and another . . .

Respondents.

छावनी परिषद, लखनऊ

मृत्यु प्रभाण-पत्र

प्राप्त संख्या १०

(नियम ६ अधिये)

प्रमाणित किया जाता है कि निम्नलिखित सूचना मृत्यु के मूल अभिलेख से ली गई है जो उत्तर प्रदेश राज्य के लखनऊ जिले के

नाम बाई चूपीली (स्थानीय क्षेत्र)

लिंग महिला

मृत्यु का दिनांक ०५-५-६०

मृत्यु का स्थान २२/२४ चौकरी लखनऊ

पिता/भ्रता का नाम बाई चूपीली

हस्ताक्षर लेखक बाई चूपीली

हस्ताक्षर जीवं वसी २२-५-६०

प्रभाण पत्र अनुसार मृत्युकी दिनांक २२-५-६०

दिनांक २२-५-६० मृत्युकी दिनांक २२-५-६०

नकल किये गये पात्रों की संख्या १

टिप्पणी—मृत्यु की दशा में मृत्यु के कारण के सम्बंधमें विचारितोंने जीता कि रजिस्टर में प्रविष्ट है, प्रकट तरीं की जांच की जा रही है।

उपधारा १७ (१) का प्रतिवर्त्यात्मक सत्र

—Hansh

छावनीप्रभाणियांगी संस्कारित, लखनऊ

प्रभाणियांगी Executive Office

LUCKNOW

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD

COUNTER AFFIDAVIT

IN

REGISTRATION NO. 254 of 1988

B.N.Dhu&iyा

- - - - - Petitioner

Versus

1. Union of India through
Ministry of Finance, New Delhi.
2. Chief Commissioner (Administration),
U.P. and Commissioner of Income-tax
Lucknow.

- - - - - Respondents

Counter affidavit of Sri I.C.Chatterji

aged about 51 ¹/₂ years son of Sakl.(2s) H.P.

Challenge, Income-tax Officer (Vig.)

Office of Commissioner of Income-tax,

Lucknow.

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

1. That the deponent is the Income Tax Officer (Vig.) Office of Commissioner of Income-tax Lucknow and as such is fully acquainted with the facts deposed to hereunder and he has been authorised to file the counter affidavit.
2. That the petition filed by Sri B.N.Dhusia has been read by me and I have fully understood the contents thereof and am in a position to reply the same.
3. That before giving parawise reply to the present petition it is necessary to give brief facts for understanding the controversy raised by means of the present petition.
4. That Sri B.N.Dhusia, the petitioner joined the Income-tax Department on 15.2.1954 as L.D.C. He was promoted as U.D.C. on 17.6.1977 and then as Head Clerk on 22.8.1983.

5. That Shri Dhusia had never been a 'Very good' worker which is amply evident from his Character Rolls right from 1954-55 to 1985-86.

6. That all through he has either been rated by the Reviewing Officers as 'Average' or 'good', except in 1979-80. He was never rated as 'Very Good'. Besides, he was awarded a minor penalty of Stoppage of two increments, without cumulative effect by the then Inspecting Assistant Commissioner of Income-tax Bareilly vide his order P.No. 45-(Con)/11/71-72 dated 25.10.1971 under Rule 16(1) of CCS (CCA) Rules, 1965, as he had failed to maintain devotion to duty and had conducted himself in a manner which is unbecoming of a Government servant.

7. That he was also awarded adverse remarks in 1961-62 and 1984-85. He was also awarded Adverse remarks in the year 1959-60 and 1974-75 and but on his representation ^{these were} it was "expunged" and treated as "Advisory" respectively. Not only this, while working at I.T.A.T.

Allahabad and also at Lakhimpur-kheri, he had wrongly availed leave not due to him, on his earned leave and certified application and calculated by himself as due although it ^{was} ~~was~~ actually not due to him. This is ^{verifiable} maintained from ~~in~~ the leave account maintained in the department.

8. That his integrity was also under cloud.

Had he not been prematurely retired, he would have been charge-sheeted for major penalty. A true copy of the Minutes of Screening Committee and Review Committee is filed herewith as Annexure C.A.I to this affidavit.

9. ^{mind} That keeping in ~~mind~~ the above facts, his C.C.Rs, past records, Minutes of the Screening Committee/Review Committee, the Chief Commissioner (Admn.) U.P. and CIT, Lucknow by his order F.No.Con/47-274/86-87 dated 1.4.1987 under clause (b) of sub Rule (1) of Rule 48, 1972 retired him from service.

10. That the contents of para 6(i) of the petition are matters of record and as such are admitted.

11. That the contents of para 6(ii) of the petition are not admitted as stated therein. It is submitted that the then Income-tax Officer, Shahjahanpur was awarded first prize in the charge for best collection work at Shahjahanpur continuously for the years 1974-75 and 1976 by the Department. Not only Income-tax Officer, Shahjahanpur but the staff attached to the Circle was ^{also} awarded one month salary as per rules prescribed by the Government of India (Central Board of Direct Taxes). Since Shri Dhusia in those years was working as L.D.C., he also got the prize. There was, thus, nothing special with him. The prize was thus given to every official including the peon, ^{in these years} posted in Shahjahanpur circle. Shri Dhusia as stated above was working then as Lower Division Clerk and an Lower Division Clerk is not supposed to play any role at all in the collection work. The fact is that the prize was given to the Income-tax Officer due to whose efforts the circle could get the honour of achieving the target of best

collection. The contention that the applicant was awarded prizes for good work and conduct in those years is not true. Shri B.N.Dhusia joined the Income-tax Department on 15.2.1954 as Lower Division Clerk he was promoted as Upper Division Clerk on 17.6.1977 and then Head Clerk on 22.8.1983. He had never been a good worker as it is evident from the Character Rolls right from 1954-55 to 1985-86. All through he has either been rated as 'AVERAGE' or 'GOOD' and even ⁱⁿ 1961-62 and 1984-85 'ADVERSE REMARKS' communicated to him were confirmed on representation.

Shri Dhusia was awarded a penalty of stoppage of two increments, without cumulative effect by the then Inspecting Assistant Commissioner of Income-tax, Bareilly vide his order P.No. 45-(con) 111/71-72 dated 25.10.19~~71~~ under rule 16(1) of C.C.S.(CCA) Rules, 1965. The penalty was awarded by the I.A.C. while he was functioning as Lower Division Clerk in the office of ^{then} ~~then~~ the Income Tax Office, Shahjahanpur, he failed to

maintain devotion to duty and conducted himself in a manner which is unbecoming of a Government servant contravening rules 3(1)(iii) and 3(1)(iii) of CCS (Conduct) Rules, 1964. The increments withheld ~~Government, due to him on~~ where for the period from 1.3.1972 and 1.3.1973.

12. That the contents of para 6(iii) of the petition are not admitted. It is submitted that he was promoted as Upper Division Clerk in his turn w.e.f. 17.6.1977 after passing the Departmental Examination for Ministerial Staff w.e.f. 31.7.1974. Thereafter he was promoted as Head Clerk w.e.f. 22.8.1983 (Forenoon) and was posted at Allahabad. Promotion to the post of Head Clerk is made on seniority -cum-fitness basis. In case no Disciplinary Proceeding is either contemplated or pending and that there is no adverse remarks in any of the last five years, promotion is made subject to vacancy position. It is, therefore, not correct to say that he was promoted due to so called meritorious

performance and excellant career of the petitioner.

It is worth mentioning here that he was awarded adverse remarks in the year 1961-62 and 1984-85 and these remarks were confirmed. Besides the adverse remarks for 1974-75 was treated as advisory on appeal.

13. That the contents of para 6(iv) of the petition are wrong and emphatically denied. The averment made therein are misleading. It is submitted that ~~absolutely incorrect and misleading~~ in the Financial year 1984-85, he was awarded adverse remarks and the remarks were also confirmed by the Commissioner of Income-tax Allahabad. He was penalised under CCS(CCA) Rules 1965 by withholding two increments vide order of Inspecting Assistant Commissioner of Income-tax, Bareilly dated 25.10.1971 under rule 16(1) of CCS(CCA) Rules, 1966.

14. That in reply to the contents of para

6(v) of the petition it is stated that this has nothing to do with his premature retirement which was effected under rule 48(i)(b) of CCS (Pension) Rules after his completing 30 years of service and not before completing 30 years service. As such the rules/procedure have been carefully implemented and there is no illegality in the same.

15. That in reply to the contents of para 6(vi) of the petition are wrong hence emphatically denied. It is submitted that the petitioner was awarded adverse remarks for the year 1984-85 by the Reporting Officer which was communicated to him vide Income-tax Officer, (Admn.) C.I.T. Office, Allahabad D.O.P. No. 47-Con/Adv./BND dated 30.8.1985 and was confirmed by the C.I.T. Allahabad on 9.12.1985 and was being Appellate Authority communicated to the petitioner by the Senior A.R. ITAT, Allahabad vide his letter F.No. CAR/85 dated 11.12.1985.

16. That in reply to the contents of para 6(vii) of the petition it is submitted that the same are matters of record and requires no reply by means of this affidavit. However it is submitted that adverse remarks for the 1984-85 were communicated to him by the Income Tax Officer (Hq.) (Admn.) C.I.T. office Allahabad vide D.O.P. No. 47-Con/Adv/BND dated 30.8.85 and confirmed as mentioned in ^{replies to} para 6(vi) above of this counter affidavit.

17. That the contents of para 6(viii) of the petition are not admitted. It may however be clarified that for awarding annual entries in the C.C.R. No rule relating to affording an opportunity of being heard exists. He had been given an opportunity to represent against the adverse remarks to the next higher authority viz. Commissioner of Income-tax Allahabad with ⁱⁿ a month of receipt of the communication of adverse remarks dated 30.8.1985. Shri Dhusia made a representation dated 25.10.1985 against the adverse

remarks awarded by Senior Departmental Representative
of Income Tax Appellate Tribunal, Allahabad.

18. That in reply to the contents of para 6(ix) of the petition it is submitted that the averment made therein are mis-leading and are repetition
Reply to
what has been stated in para 6(viii). It is submitted that the petitioner made a representation on 25.10.1985 to the Commissioner of Income-tax Allahabad which was rejected after due consideration of relevant records and comments of the Reporting Officer.

19. That the contents of para 6(x) of the petition are not admitted. It is stated that the representation of the petitioner was rejected after carefully considering the submission made therein and the materials on records. There was no arbitrary decision taken by the C.I.T. Allahabad as alleged.

20. That the contents of para 6(xi) of the petition require no separate reply as correct facts

have already been mentioned in reply to para 6(x) above. However it is submitted that the matter of awarding adverse remarks in the Character roll for 1984-85 and rejection by the Reviewing authority on 9.12.1985 is more than one year old and legally the petitioner cannot agitate this point now after 2½ years approx. However the decision on the representation was taken after due consideration as is evident from the remarks of Commissioner of Income-tax, Allahabad dated 9.12.1985 in the adverse remarks file, which is reproduced below : -

"I have carefully considered the representation of Sri B.N.Dhusia and the comments made by the Senior A.R. I find that the adverse remarks given are justified and the same are supported by memos given during the year. They are confirmed."

21. That the contents of para 6 (xii) of the petition are wrong hence denied. It is submitted

--- contd.

that the petitioner was communicated adverse remarks in the year 1959-60, 1961-62 and 1974-75 (Advisory) and was awarded minor penalty of Stoppage of two increments without cumulative effect by the the Inspecting Assistant Commissioner of Income-tax Bareilly vide his order P.No. 45-(con)111/71-72 dated 25.10.1981 under rule 16(1) of CCS (CCA) Rules, 1965.

22. That the contents of para 6(xiii) of the petition are not admitted. It is submitted that the decision to retire the petitioner prematurely was taken after due deliberation by the appointing authority, namely, Chief Commissioner and Commissioner of Income-tax, Lucknow. The Minutes of Screening Committee and the Review Committee held in February and 11.3.87 1986 and finally on 4.3.1987 will speak for itself and the same will be produced at the time of hearing.

23. That the contents of para 6(xiv) of the Petition are not admitted being baseless and against

facts. It is submitted that in 1984-85 the petitioner was awarded adverse remarks and these remarks were also confirmed as mentioned above.

Otherwise also he was awarded adverse remarks and also minor penalty as mentioned above.

24. That the contents of para 6(xv) of the petition are not admitted. It is submitted that the premature retirement of a government servant is not a punishment. It is neither punitive nor stigmatory and hence natural justice of Article 211(2) of the Constitution are not applicable. Nor there is breach of Articles 14 and 16 of the Constitution. The concept of the pre-mature retirement does not fall within the scope of Article 311 as no stigma of misbehaviour is intended and punishment is not the objective.

25. That the contents of para 6(xvi) of the petition requires no reply by means of this affidavit. However, it is submitted that the petitioner

has already put in service of 30 years and therefore, to offer him a lower post was not found advisable looking to the in-efficiency, ignorance of law and office procedure and reluctance and disobedience in Government work. The records and the Minutes of Screening and Review Committees will speak of themselves.

26. That the contents of para 6(xvii) of the petition are matters of record and requires no reply by means of this affidavit.

27. That the contents of para 6(xviii) of the petition are not admitted. It is submitted that the ⁱⁿ⁻efficiency of the petitioner in noting, drafting, submission of statements, disposal ^{is} ~~are~~ amply and adequately sub-stantiated. While working in ITAT Office Allahabad and also at Lakhimpur ^{Khan} he himself had certified wrongly the leave due to him on his earned leave application when actually no leave was due to him. His integrity ^{thus} was also under cloud.

Had he not been prematurely retired, he would have been charge-sheeted for major penalty for wrong certification for leave being due to him which clearly indicated his malafida intention.

28. That the contents of para 6(xix) of the petition are not admitted. It is stated that the correct facts have already been stated above.

29. That the contents of para 6(xx) of the petition are not admitted. It is submitted that the guidelines prescribed by the Government had been fully and carefully observed and complied within their true spirit.

30. That the contents of para 6(21) of (xx) the petition are not admitted. It is submitted that as stated above it is after due deliberation and after consideration of the minutes of the Screening Committee and Review Committee, records viz. CCR, Service Book, personal files, adverse remarks

file etc. of Sri B.N.Dhusia, the Appointing Authority had come to the conclusion to retire him from service prematurely.

31. That the contents of para 6(xxii) of the petition are not admitted as already stated in the previous paragraphs.

32. That the contents of para 7 of the petition are not admitted. It is submitted that the petitioner has not availed the opportunity of sending representation to the Central Board of Directo Taxes, New Delhi within 21 days of the receipt of order of Premature retirement and hence his contention that no remedy is available, is absolutely untrue and on this very ground alone, the petition may be rejected.

33. That the contents of para 8 requires no reply.

34. That in reply to the contents of para 9 under the head relief sought it is stated that in

view of the facts and circumstances disclosed

by means of the present affidavit it is submitted

that the petitioner does not deserve any relief

(1)(2)(3) as mentioned in the para under reply and
the petition is liable to be rejected.

35. That the contents of paragraphs nos.
10, 11 and 12 of the petition requires no reply by
means of the affidavit.

36. That it is stated that in view of the
facts and circumstances stated in the present counter
affidavit the petition under section 19 of the
Administrative Tribunal Act is liable to be rejected
with costs.

37. That I solemnly swear and declare that
the contents of paragraphs nos. 1 and 2 —
are true to my personal knowledge and
that those of paragraphs nos. 3 to 36
are based on perusal of records

and that those of paragraphs nos.

are based on legal advice and that no part of it is false and nothing material has been concealed. So help me God.

DEPONENT

R.C.Yadav Clerk to Sri
I, Ashok Mohiley, Advocate, High Court,

Allahabad do hereby declare that the person making this affidavit and alleging himself to be Sri

I.C.Chatterji is personally known to me and that he is the same person.

R.C.Yadav 21-12-88

CLERK

Solemnly affirmed before me this 21st day
of August, 1988 at 4-35 P.M.
by the deponent who
has been identified by Sri Ashok Mohiley, Advocate,
High Court, Allahabad.

6119
-20-

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

OATH COMMISSIONER.

120

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL AT
A L L A H A B A D
CIRCUIT BENCH, LUCKNOW.

Rejoinder Affidavit

In re:

Registration No. 254 of 1988.
now Transfered Registration No. 39/92.

Smt. Jeevan Lata & others Applicants.

In re:

Baij Nath Dhusia Applicant.

Versus

Union of India & others Respondents.

REJOINDER AFFIDAVIT

I, Jeevan Lata aged about 50 years wife of late Sri Baij Nath Dhusia, resident of 50/20, Jai Narayan Lane, Hussainganj, Lucknow City, Lucknow, the deponent, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the wife of the deceased - Baij Nath Dhusia and is the mother of the rest applicants and authorised by them to do pairvi of this case on their behalf.

2. That the deponent has read and understood the contents of the counter affidavit filed by the opposite parties and their reply deposed

herein.

3. That the contents of paragraphs 1, 2, 3 and 4 of the counter affidavit need no reply.

4. That the contents of paragraph 5 of the counter affidavit under reply are not admitted as stated therein.

5. That the contents of paragraph 6 of the counter affidavit under reply are not admitted as stated as the said contents are not substantial matter for this case and as the previous conduct of the deceased applicant has not been correctly described by the answering opposite parties.

6. That the contents of paragraph 7 of the counter affidavit under reply are not admitted as stated therein. It is further submitted that when the adverse remarks for the year 1959-60 and 1974-75 have already been expunged by the competent authority, they can not be treated as adverse remarks in this case.

7. That the contents of paragraph 8 of the counter affidavit under reply are not correctly stated, hence denied. Further it is admitted that the applicant was retired premature on the basis of wrong facts by the Screening Committee.

8. That the contents of paragraph 9 of the counter affidavit under reply are not admitted

as stated. It is further submitted that the Screening Committee/Reviewing Committee has wrongly retired the applicant from the services.

9. That the contents of paragraph 10 of the counter affidavit under reply are not disputed.

10. That the contents of paragraph 11 of the counter affidavit under reply are not admitted as stated and whatever has been said in paragraph 6(ii) of the petition-application are re-affirmed.

11. That the contents of paragraph 12 of the counter affidavit under reply are not admitted as stated. It is further submitted that the applicant was promoted on 22.8.1983 as Head Clerk by the Departmental Selection/Promotion Committee, hence it is very clear that previous to his promotion ^{adverse} nothing has been found against him (applicant) by the Departmental Selection/Promotion Committee.

12. That the contents of paragraph 13 of the counter affidavit are not admitted as stated therein and whatever has been said in paragraph 6(iv) of the claim petition are re-affirmed. It is further submitted that it is a well-settled principle that for compulsory retirement only 10 years entries of the character roll shall be considered.

13. That in reply to the contents of

paragraph 14 of the counter affidavit, it is submitted that the applicant's case was not duly considered, hence he was compulsorily retired from their services in a very arbitrary manner.

14. That the contents of paragraph 15 of the counter affidavit are not admitted as stated therein and whatever has been said in paragraph 6(vi) of the petition are re-affirmed.

15. That the contents of paragraph 16 of the counter affidavit under reply needs no reply and whatever has been said in paragraph 6(vii) of the petition are re-affirmed as true.

16. That the contents of paragraph 17 of the counter affidavit under reply are not admitted as stated and whatever has been said in paragraph 6, (viii) of the petition are re-affirmed.

17. That the contents of paragraph 18 of the counter affidavit are not admitted as stated therein. It is further submitted that the representation of the applicant dated 25.10.1985 was not duly considered ~~and expressed~~ by the Commissioner, Income Tax Department, Allahabad and wrongly rejected the same and further whatever has been said in paragraph 6(ix) of the petition are again re-affirmed as true.

18. That the contents of paragraph 19 of the counter affidavit under reply are mis-

92

conceived; hence denied and whatever has been said in paragraph 6(x) of the petition are again re-affirmed.

19. That the contents of paragraph 20 of the counter affidavit are based on record; hence need no reply, but whatever has been said in paragraph 6(xi) of the petition are re-affirmed.

20. That the contents of paragraph 21 of the counter affidavit under reply are misconceived; hence denied and whatever has been said in paragraph 6(xii) of the petition are re-affirmed.

21. That the contents of paragraph 22 of the counter affidavit are based on record; hence need no reply and whatever has been said in paragraph 6(xiii) of the petition are re-affirmed.

22. That the contents of paragraph 23 of the counter affidavit under reply are misconceived; hence denied and whatever has been said in paragraph 6(xiv) of the petition are again re-affirmed.

23. That the contents of paragraph 24 of the counter affidavit under reply are not correctly stated; hence denied. It is further submitted that the answering opposite parties has not properly considered the case of the applicant and in a very arbitrarily manner and without applying his mind

compulsorily retired the applicant, which amounts to a punishment; hence the order of retirement of the applicant is bad in law.

24. That the contents of paragraph 25 of the counter affidavit are mis-conceived; hence denied and whatever has been said in paragraph 6(xvi) of the petition are again re-affirmed.

25. That the contents of paragraph 26 of the counter affidavit under reply need no reply.

26. That the contents of paragraphs 27, 28, 29, 30, 31 and 32 of the counter affidavit under reply are misconceived; hence denied.

27. That the contents of paragraph 33 of the counter affidavit need no reply.

28. That the contents of paragraph 34 of the counter affidavit are not admitted as stated therein; hence denied. Further the applicant is fully entitle for all the reliefs claimed in the claim application-petition.

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

30. That the contents of paragraph 36 of the counter affidavit under reply are false and mis-conceived; hence denied and the petition of the

J

1101 6/25

applicant deserves to be allowed with cost.

Lucknow:Dated:

Deponent.

March , 1992.

Verification

I, the deponent, named above, do hereby verify that the contents of paragraphs 1 to 5, 7, 9, 12, 14 to 20, 22, 24th of this affidavit are true to my personal knowledge and those of paragraphs 21st are based on record and paragraphs 6, 8, 13, 16-23rd, which are based on legal advise, are also believed to be true by me. No part of it is false and nothing material has been concealed, so help me God.

Lucknow:Dated:

Deponent.

March , 1992.

I personally know and identify the deponent who has signed before me.

(S. C. Yadava)
Advocate.

Solemnly affirmed before me on
at a.m./p.m. by Sri
the deponent, who is identified by
Sri Advocate, High Court at
Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been readout and explained to him by me.

Annexure C A-1

B127

DEPARTMENTAL
SECRET

**EXTRACT OF MINUTES OF REVIEW COMMITTEE
MEETING FOR GR 'C' AND 'D' STAFF OF LUCKNOW /
ALLAHABAD CHARGES HELD ON 19.4.1986
AT FAIZABAD - SHRI B.N.DHUSIA.**

PRESENT :

S/Sri 1. Dharni Dhar,

C.C. (Admn.) U.P. & C.I.T.

Chairman

Lucknow.

2. Kedar Nath,

C.I.T., Allahabad

Member

The Review Committee have been constituted in accordance with para 12 of the circular F.No.16 (122)/Vig/85/2794 dated 8.11.1985 issued by the D.I.(Vig.) New Delhi and took up the items on the Agenda of the Meeting.

The Committee decided to take up first, the cases of Gr. 'C' and 'D' staff of both the charges in whose cases the Screening Committee which met from 11.2.86 to 13.2.86 at Allahabad, found the

--- contd.

-2-

employees falling within the ambit of F.R. 56(j)
and recommended for compulsory retirement.

The Review Committee, accordingly considered
the 6 cases of Lucknow and Allahabad charges and
arrived at the following decisions after due
deliberations : -

(I) Lucknow Charge.

(1) -----

(2) Shri B.N.Dhusia, Head Clerk :

The Committee has carefully considered
the case of Shri Dhusia which has been recommended
for action u/s 56(j) of F.R. by the Screening
Committee wide their report dated 13.2.86. The
Screening Committee reported that the C.R. column
contains details of leave as follows : -

(a) 79-80 E.L. 39 days

(b) 80-81 E.L. one year and C.L. 12 days

(c) 81-82 E.L. 14 days and C.L. 12 days

-3-

(d) 82-83 E.L. 29-9-82 to 30.9.82,

6-10-82 to 7-10-82, 18-10-82 to

19-10-82 and 3.11.82 to 4.11.82.

(e) 83-84 E.L. 101 days and

(f) 84-85 E.L. 117 days.

The Review Committee found lacuna in the above report inasmuch as how Shri Dhusia could avail E.L. for one complete year as well as 12 days of casual leave in 1980-81. Moreover, the Screening Committee's report is silent whether excess salary was drawn and paid to the official. The Review Committee, therefore feels that proper enquiry should be made by the official to verify the leave taken by the official and the leave salary drawn and thereafter the matter may be put up before the next Review Committee meeting.

XIV
B130

An-nexure C A 2

MINUTES OF REVIEW COMMITTEE MEETING FOR

GR. 'C' & 'D' STAFF OF LUCKNOW/ALLAHABAD

CHARGES HELD ON 25TH JULY 86 AT LUCKNOW -

EXTRACT RELATING TO SHRI B.N.DHUSIA -

PRESENT :

S/Sri

1. Dhami Dhar,

Chief Commissioner (Admn.) U.P., and

Commissioner of Income-tax,

CHAIRMAN

Lucknow.

2. Kedar Nath,

Commissioner of Income-tax,

Allahabad.

MEMBER

The Review Committee have been constituted in accordance with para 12 of the circular F.No. 16(122)/ Vig/85/2794 dated 8.11.85 issued by the D. I. (Vig.)

New Delhi and took up the items on the Agenda of Meeting.

2. The Committee reviewed the progress made

in the six cases, considered in the previous meeting held on 19.4.86 at Faizabad and after the due deliberation arrived at the following decisions : -

1005
B 131

-2-

(I) LUCKNOW CHARGE :-

1. Sri D.K. Joshi, Supervisor :-

2. Sri G.N.Dhusia, Head Clerk :-

The committee carefully considered the case of Sri G.N.Dhusia. On perusal of the official's service book and leave account it clearly appears that excess leave was taken by the official. It also appears that excess salary was paid to the official. On this point, final report is awaited from the ITO and IAC concerned. The Committee, therefore, feels that on receipt of the final report from the authorities below, final decision will be taken in the next meeting.

ANNEXURE NO. C A 3

MINUTES OF THE SCREENING COMMITTEE MEETING FOR
 GR. 'C' STAFF OF LUCKNOW CHARGE HELD ON 0.5.87 AT
LUCKNOW- EXTRACT RELATING TO SHRI B.N. DHUSIA.

PRESENT

S/Shri

1.	S.C. GROVER	CHAIRMAN
2.	N.C. TEWARI	MEMBER
3.	AJAY SINGH	MEMBER
4.	H.P. SINGH	MEMBER

The Screening Committee meeting met on 4.3.87 to consider the cases of officials within the consideration zone for the purpose of screening under F.R. 56(J)/Rule 43 of CCS (Pension Rules). The cases of following officials of Lucknow Charge whose cases had been considered by the Screening Committee /Review Committee meeting that met on 13.2.86/ 19.4.86 and 25.7.86 and who had been kept on watch list were again considered by this Committee : -

S/Shri

1. S.K. Johri, ITI
2. B.N. Dhusia, H.C.
3. J.K. Rastogi, T.A.
4. K.K. Saxena, Supervisor, Gr. II
5. S.R. Asthana, UDC

-2-

7. S.K.Kapoor, ITI

8. Krishna Nand, N.S.

Shri B.N.Dhusia, H.C.

Date of birth	6.7.34
Date of joining the service	15.2.54
Date of superanuation	31.7.92

From the A.C.R. folder of this official, it is seen that the official had in the past earned adverse entries in the year 54-55, 55-56, 59-60, 61-62 and 74-75 on grounds of inefficiency.

Though the above A.C.Rs are not being considered for the purposes of recommendations of this committee, they do form a background in which the performance of the official can be appraised over the last 5 years for the purpose of review in Rule 43, of COS (Pension) Rules.

It is seen that over the last 5 years the official had earned the following ratings:-

80-81	Very good
81-82	Good
82-83	Average
83-84	Good
84-85	Adverse
85-86	Good

It is seen from the above that the official's performance was rated as 'Very Good' in the year 80-81.

B1034

of the official in the subsequent years when he has earned an average entry for 82-83 and an adverse entry for 84-85. In fact in the year 84-85 his Reporting officer found the official's technical ability in terms of knowledge of laws and knowledge of procedures as inadequate. He also found the official's quality of work in terms of noting and drafting as inadequate. Even the official's punctuality in submission of statement and promptness in disposal were found inadequate. These adverse entries were represented against by the official. However, the representation was turned down and the entries stand confirmed by the C.I.T., Allahabad.

Above shows that the official's overall performance had been that of an indifferent worker. Even after his promotion as Head Clerk, the official concerned has failed to rise to greater responsibility expected out of him and has failed to take up the work, or to apply himself in any meaningful manner to the duties assigned to him. His Reporting officer found him lacking in his technical work as well as in his promptness and devotion to duty.

There are also some closed complaint files in the case of the official where some allegations have been made pertaining to demand of illegal gratification and harrasment.

It is seen that on 25.10.71, I.A.C., Bareilly passed an order under Rule 16 of the CCS (CCA) Rules imposing a

-4-

absence of duty on flimsy reasons. However, the penalty does not seem to have brought about any improvement in Sh. Dhusia. The subsequent record shows that the official continued to remain on leave for long periods for one reason or the other and his period of absence from duty are particularly listed as per recasted leave a/c. received from ITO as under:-

1978-79	25 days
1979-80	10 days
1980-81	54 days
1981-82	95 days
1982-83	10 days
1983-84	85 days
1984-85	74 days
1985-86	49 days
1986-87	22 days

From the above, it is seen that the official has been neglecting his official duties for long period. In fact it is seen that the official has been taking leave when no leave was available to his credit and the recasted position of leave available from the Service Books/Leave Account shows following position:-

From	To	<u>DUTY</u> Leave earn- ed in days	Total earned leave at credit	Leave Taken From	To	No. of days	Balance at credit of official or- return from leave (4-8)
1	2	3	4	5	6	7	8
1) 1.7.84	31-12.84	15	24	16-7-84	16-3-84	32	(-8)
				15	16	24	10

-5-

1	2	3	4	5	6	7	8
2) 1-1-85	20-6-85	15	(-)8	20-6-85 10-5-85 20-6-85 23-6-85	9 4	(-)17 (-)21	
3) 1-7-85	31-12-85	15	(-)6	15-7-86 29-7-85 14-10-85 22-10-85 13-11-85 15-11-85 2-12-85 5-11-85	15 9 3 4	(-)21 (-)30 (-)33 (-)37	
4) 1-1-86	30-6-85	15	(-)27	10-6-86 30-6-85	21	(-)48	
5) 1-7-86	31-12-86	15	(-)	1-7-86	-	1	(-) 34
6) 1-1-87	30-6-87	15	(-)19				

It is also seen that the official during the period as Head Clerk had himself verified admissibility of leave on his leave applications and has availed of the leave which was not even due to him and his earned leave account has been rising over a long period in minus figures. This in fact means that the official has hoodwinked his Controlling Officer and recorded false certificates in the leave application in order to avail of leave. This reflects on the official's integrity. The official holds the post of Head Clerk which calls for a great deal of responsibility as his nature of duty is largely supervisory. If he himself behaves in this manner, it is unlikely that he would be able to instill any sense of discipline on his office. Moreover, the fact that the official has been on leave for long periods shows that he has a very little interest in his work and has been totally indifferent to his responsibility with the Department. The Committee is of the considered view that the official has ceased to be effective. In

-6-

pefformance of his duties, the committee accordingly

recommends his retirement in public interest under Rule

48 of CCS (CCA) Rules.

Annexure C A IV

MINUTES OF THE REVIEW COMMITTEE MEETING FOR
 GR. 'C' & 'D' STAFF OF LUCKNOW/ALLAHABAD CHARGE
 HELD ON 11TH MARCH 1987 - EXTRACT RELATING TO
 SHRI B.N.DHUSIA -

PRESENT :-

S/Sri

1. D.C.Shukla,

Chief Commissioner (Admn.) U.P.

and Commissioner of Income-tax,

CHAIRMAN

Lucknow.

2. G.C.Agarwal, Commissioner of

Income-tax, Kanpur.

MEMBER

3. A.K.Misra, Dy. Director of

Inspection (Vigilance),

MEMBER

New Delhi.

The Committee considered the recommendations of the Screening Committee dated 3.3.87 and 4.3.87 and also the report of the previous Review Committee dated 19.4.86 and 25.7.86 and after due deliberations arrived at the following decision : -

Allahabad Charge -- -----

Lucknow Charge

-2-

(1) Shri B.N.Dhusia, H.C. :-

In its report dated 3/4.3.87, the Screening Committee, after considering the material relating to this official, has recommended his retirement in public interest under Rule 48 of CCS (Pension) Rules.

2. The Committee is of the view that the Screening Committee has brought on record material which shows that not only the official is ineffective and inefficient but is also of doubtful integrity and particularly unreliable. He is guilty of serious lapses even of verifying admissibility of leave to himself when it was not due. He is on duty of Head Clerk where such lapse becomes all the more serious.

3. Incidentally it may also be mentioned that the Screening Committee which met on 11.2.86 had also recommended the official's retirement in public interest but the Review Committee had left

-3-

the matter for final decision to be taken by this
meeting.

4. Considering the material and the report
of the Screening Committee, the Committee is of the
opinion that the official deserves to be retired
in public interest under rule 48 of CCS (Pension)
Rules.

8875 S.O.(2)

CHU

नेमि

13.9.89 के दिन सार्वजनिक

254 of 88 नाम 20.5.89 का नाम

जाति द्वितीय (प्रथम) के बीच

वही दल नं. (O.A. No) लिखिए तो

वही पर 254 के 284 वें 15 वें

ग्रन्ति निर्देश (प्रथम) के

दूसरे दरवाजे के नाम निर्देश

के अवधार द्वारा दिए गए

नामों के

नाम: 3119243 अन्धारा

के द्वितीय 38

Pl. amend

the no. as

254

correct no. 254

20.5.89

मा

CIV
S.O. D)

सुना मे

पर्वत में मृदग

प्रशान्ति प्राप्ति
रुलांगांग

Put up with file
on 30.10.91

810

D
F.G.D)

30.10.91

on 25th of 1980

मृदग Baijnath Dhusia ~vs~ U.O. &c

Alang Rihot दे न करना आश्वासन

जिन्होंने 1988 में रुलांगांग में एक वानी
दायर किया और उसी विद्यारम्भ दोनों को बढ़ावा
1988 में जानकर रुलांगांग प्राप्ति द्वारा आश्वासन

पुलांग द्वारा जिस ने आश्वासन किया है

उसके द्वारा उन्होंने सांस्कृतिक विवरण किया है

मृदग द्वारा बताया गया विवरण में दूरी 150-200

वे लोगों के रुलांगांग जाने के दूर दूर जाते हैं

मृदग ने उन्हें दिया है कि वे वहां जाने के लिए

एक बड़ा गांव द्वारा रुलांगांग जाने का विवरण दिया गया है

जो गांव द्वारा रुलांगांग जाने का विवरण दिया गया है

जो गांव द्वारा रुलांगांग जाने का विवरण दिया गया है

मृदग ने उन्हें दिया है कि वे वहां जाने का विवरण

यहां तक कि वे वहां जाने का विवरण दिया गया है

सुनाना

1. Subba

(ग्राम पालक परिषद
वो श्री विकास बिल्ली

1195 राजा

विकास बिल्ली

मुद्रा 23-10-91

In the High Court of Judicature at Allahabad

Register No. 254 of 1988

Petitioner/s. Shri B.N. Dhere
Plaintiff/s. etc (Pla.)
Decree Holders. Complainant/s.

Vs.

Respondent/s Opp. Parties.
Defendant/s
Judgment Debtor/s Accused.

I/We : The Commissioner of Income Tax, Lucknow
Nos. _____

In the above matter hereby appoint and retain

ASHOK MOHILEY ADVOCATE HIGH COURT

to appear, act and plead for me/us in the above matter and to conduct/prosecute and defend the same in all interlocutory or miscellaneous proceedings connected with the same or with any decree or orders passed therein, appeals and or other proceedings therefrom and also in proceedings for review of judgment and for leave to appeal to Supreme Court and to obtain return of any documents filed therein, or receive any money which may be payable to me/us.

2. I/We further authorise him to appoint and instruct any other legal practitioner authorising him to exercise the powers and authorities hereby conferred upon the Advocate whenever he may think fit to do so.

3. I/We hereby authorise him/them on my/our behalf to enter into a compromise in the above matter, to execute any decree/order therein, to appeal from any decree/order therein and to appeal, to act and to plead in such appeal or in any appeal preferred by any other party from any decree /order therein.

4. I/we agree that if/we fail to pay the fees agreed upon or to give due instructions at all stages he/they is/are at liberty to retire from the case and recover all amounts due to him/them and retain all my/our monies till such dues are paid.

5. And I/We, the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my own acts, as if done by me/us to all intents and purposes.

Executed by me/us this 11th day of April 1988 at Lucknow

X Shri ASHOK MOHILEY

Executant/s are personally known to me he has / they have / signed before me
Satisfied as to the identity of executant/s signature/s.

(where the executant/s is/are illiterate blind or unacquainted with the language of
vakalat)

Certified that the contents were explained to the executant/s in my presence
in.....the language known to him/them who appear/s perfectly to understand
the same and has/have signed in my presence.

Accepted

Accepted

ASHOK MOHILEY
Flat No. 3, Block No. 7
Nagar Mahapalika Flats
Hastings Road
(Nyaya Marg) Allahabad. 211001
Phone : 3046

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow

Registration No. 254/88.

Ex-CluS

Baij Nath Dhusia.

— applicant —

vs.

Union of India.

— respondent —

Application for fixing date.

The counsel for applicant begs to submit as under:

1. That applicant is filing his Vakalatnama on behalf of newly involved parties as applicants.
2. That the aforesaid has been transferred from Allahabad to Lucknow and no date has been fixed till date wherefore it is most respectfully prayed that in the aforesaid case any suitable date may kindly be fixed for ~~admission~~ hearing.

Umo
Dated, 10.3.92

L.C.P. das
Adv.

Consel for applicant

Put up file
with file
7/1 10.3.92

Perused ~~see~~
file list on
20.3.92 & 21
158/posal 2
and 958/90

बाधालत श्रीमान

महोदय

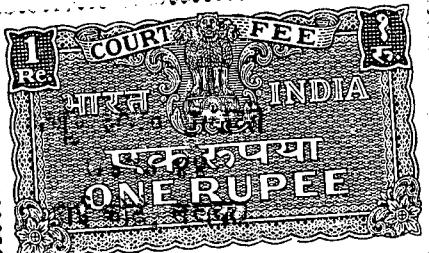
Registration No. 254/88-CAT

वादी (मुद्दई)

का

वकालतनामा

मुद्दई (मुद्दालेह)



Banu Path Durgia

बनाम

Union of India

न० मुकद्दमा

सन् पेशी की ता०

प्रतिवादी रेस्पान्डेन्ट

Respondent

१९ ई०

ऊपरे लिखे मुकद्दमा में अपनी ओर से श्री

वकील

M. A. Farid Advocate

महोदय

एडवोकेट

को अपना वकील नियुक्त करके (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरबी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया बसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा 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 स्वीकार है और होगी। मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने परोकार को भेजता रहूँगा। अगर मुकद्दमा अदम पैरबी 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।

Acc. to
S.C. Yachan
Adv.

5. Bumti Dherai
5. Bumti Dherai

1. M. A. Farid
2. S. C. Yachan
3. D. K. Patel

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

10. 3. 92

दिनांक

महीना

सन् १९ ई०