

Central Administrative Tribunal
Lucknow - Bench - Lucknow

C.A. 316 of 1988 (4)

Muneebun N Yader - Plaintiff

Vehicle

Union of India - Respondent

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Part - A

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by

SO(5)

25/3

Termination

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

(A)

Registration No. 316, of 1988

APPLICANT (s) Muneshwar Yadav

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

New Delhi + 3 others

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

13.12.38

3/6/80

Registers

Registration
No one appeared on behalf of
applicant. Sri A.B. Singh is present for the
respondents. He requests time for filing
of the time proposed for is allowed.
L.H.-This case for filing ca m 24-1-89.

Registration

26.1.89 69

Bryozoans may be found by 173.08

17.3.19

John

Our request, my sister, may
be met by 12.5.09

12/5/89 DR

DR Rejoinder filed today, list this case before court for final hearing on 28/7/83 as prayed by applicant's counsel.

OK (D)

OR Can be seen recd. from Ald.

on 15-May 89. for Lear

Canis ready for
Submitted for Exam.
in
7715

28.7.89.

No Sitting. Adj to 20/11/89
for hearing

Dec 28/7

ol

Case is submitted
for hearing. L.

2218

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

OR

REGISTRATION NO. 316 of 1988

(P.T.)

APPELLANT
APPLICANT

VERSUS

DEFENDANT
RESPONDENT

| Serial number of order and date | Brief Order, Mentioning Reference if necessary | How compli with and date of compli |
|--|--|--|
| 25/9/89 | <p>Hon. Justice K. Rathi, V.C. Hon. K. Obayya, A.M.</p> <p>The learned counsel for the applicants says that during the pendency of the case, the opposite parties have restored a number of posts along with their terminated incumbents and that the Director General had issued a circular dated 19-4-88 whereby directions were made to restore all the abolished posts along with their incumbents. The learned counsel for the applicant requests for and is allowed two weeks time to file a supplementary affidavit along with those papers. He will also cause copies of the supplementary affidavit to be given to the learned counsel for the opposite parties and the case be listed for final hearing on 25-10-89.</p> | |
| 25-10-89 | <p>No sitting of D/B. adj. to 3.1.90 Counsel for applicant to present</p> | <p>OR No supplementary affidavit has been submitted to</p> |
| 5.1. | <p>Case not reached. Adj. to 0.3.90</p> | <p>B.O.C.</p> |

B.O.C.

h
4/11/94

26.9.90

Due to sad demise of Hon'ble
Chief Justice of India Mr. S. S. Mukherji,
the Case is adjourned to

23.11.90

23.11.90

Hon'ble Mr Justice K. N. Venkata Rao

Hon'ble Mr. A. M. Singh, O.P.

Delay in filing
counter is condoned.
Counter taken on
record. Rejoinder
may be filed within
2 weeks hereof.
List for final hearing
on 25.1.91

M. H. Sr. *g*
O.P. *g*

25.1.91No sitting adj. to 26.2.91*g*26.2.91

No sitting adj. to 19.4.91

*g*19.4.91

No sitting adj. to 7.8.91

*g*7.8.91

No sitting adj. to 1.10.91

*g*1.10.91

No sitting adj. to 25.11.91

*g*25.11.91

No sitting adj. to 20.1.92

g

OR
Supplementary affidavit
filed by the 4th for the
applicant.

No Supplementary CA
filed. a Supplementary
Affidavit
S. P. H.

g
2/11*g*
2/11*g*

AO

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW CIRCUIT BENCH.

...

O.A. No. 316 of 1988

Muneshwar Yadav Applicant.

Versus

Union of India and others Respondents.

AND

O.A. No. 317 of 1988

Brij Bhushan Dubey Applicant.

Versus

Union of India and others Respondents.

AND

O.A. No. 392 of 1988

Bhagauti Singh Applicant.

Versus

Union of India and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member (A)

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

In these three applications, as the common question of facts and law ^{are} involved that is why the same are being disposed off by a common judgement.

2. The applicants in these petitions were working as Chaukidars at Khajurahat Sub Post Office in Faizabad District and worked for few years. In the year 1988, the services of some of the Chaukidars working in the Districts were terminated. Now the ground which has been given for terminating the services of these 22 persons out of 62 posts is that the posts have been abolished and that is

why their services have been terminated. Allegedly, these chaukidars have been paid from the Contingency Funds, and have stated that in District of Faizabad in post offices, National Savings Certificate, Indira Vikas Patras, Money Orders, Insured Letters, Parcels, registered letter and each are handled and the case is kept in the chest of the Sub Post Offices and the Chaukidars are posted, with the result, the services of the Chaukidars are very necessary. After failing to get any reliefs from the department, some of these applicants have approached the Tribunal. It has been further stated that out of 22 Chaukidars, 13 have approached this Tribunal and others remaining 9 have been taken back in service and their posts have been revived, which shows that the department has ~~entered into compromise~~ ^{reconciled} and ~~they~~ have again ~~been~~ taken back ^{now} in service and only 7 such Chaukidars remained who have not been taken back in service and this is how they are being victimised for approaching the Tribunal.

3. The respondents have disputed the claim of the applicants stating that as the applicants were being paid from the Contingency Funds and it was not a regular post and because of the shortage of funds, various posts had to be abolished. But later on, under the orders of the Director General, some posts were revived and that is why the appointments had been made. But it was not been clearly stated ~~as to~~ whether the appointments have been made ^{on} with the principles of 'Last Come First Go'. The appointments, as made, indicate that the said principle has not been followed. Those who did not approach the Tribunal were given priority and preference and out of

13, four have been selected ~~for the purposes of compromise.~~ ^{without justification.}

Obviously, the action of the respondents in this behalf is discriminatory as they have adopted the policy of 'Pick and Choose' and their action has given a colour of victimisation, if not, ~~but~~ favouritism. As the services of the applicants have been terminated for no fault of ~~of~~ the applicant, may be, because the posts of Chaukidars were not needed and others have been absorbed, there appears to be no reason why the letter of the Director General Post Offices, who had not only recommended but directed for revival of these posts will not be adhered to.

4. We accordingly, direct that whenever in the ~~009202~~ District, any post is revived or any appointment is made, these applicants will be first appointed. It is only after their refusal, anybody else can be appointed, and there appears to be no reason that in view of safety and security of the money and the various property belonging to the post offices, why these posts will not be revived. The applications are disposed of with the above observations. Parties to bear their own costs.

transcript
Member (A)

AS
Vice-Chairman

Dated: 28.1.1992
(n.u.)

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Application No. 316 of 1988

Application Under Section 19 of Administrative Tribunal
Act 1985

Muneshwar Yadav Applicant/Petitioner

Versus

Union of India & Others Respondents.

| S.No. | Description of Documents relied upon | Page No. |
|-------|---|----------|
| 1. | Application | 1-9 |
| 2. | Annexure A-1 copy of the appointment letter dated 3.9.83 | 10 |
| 3. | Annexure A-2 Copy of the relieving certificate dt. 18.2.88. | 11 |
| 4. | Annexure A-3 Copy of the Circular Directing sanction of equal pay & D.A. etc. to casual employees as that of regular employees. | 12 |
| 5. | Annexure A-4 Copy of Sr. Supdt. of Post offices Faizabad creating 62 posts of Chaukidars. | 13 |
| 6. | Annexure A-5 Copy of the circular abatesting 22 posts of Chaukidars. | 14 |
| 7. | Annexure A-6 Copy of the representation against discharge | 15 |
| 8. | Vakalatnama | 16 |

Dated: March/5, 1988

Place: Allahabad.

Recd
(M.C. Sinha)

Counsel for the petitioner.

23/3/88

AO

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Application No. of 1988

Muneshwar Yadav
aged about 33 years
S/o Sri Mahabir Yadav
village Bhadesar
P.O. Khajurahat.

Central Admin. Trib. Allahabad. Distr. Faizabad. Applicant

Additional Bench 15/3/88 25/3/88 3/88

Recd. 25/3/88 Versus

1. Union of India through the
Secretary to the Govt. of India
Ministry of Communication
Sanchar Bhawan, New Delhi.

2. Director of Postal Services U.P.
Lucknow.

3. Sr. Supdt. of Post Offices,
Faizabad.

4. Inspector of Post Officer Faizabad
(West) Division Faizabad

Respondents.

Details of Application

1. Particulars of the applicant .

(i) Name of the applicant : Muneshwar Yadav

(ii) Name of Father : Mahabir Yadav

(iii) Aged of the applicant : nearly 33 years.

(iv) Designation and particulars
of Office (Name and station) : Chaukidar (Casual)
in which employed or was last : Khajurahat ^{Sub} Post
last employed before ceasing : Office, Faizabad
to be in service , : (U.P.)

(v) Office address :- Muneshwar Yadav

Vill. Bhadesar

P.O. Khajurahat

Distt. Faizabad.

Contd.....2/-

23/3/88

(AII)

(vi) Address for service of Notice : Muneshwar Yadav
Vill. Bhadesar
P.O. Khajurahat
Distt. Faizabad.

2. Particulars of the respondents

(i) Union of India through the Secretary to the Govt. of India
Ministry of Communication
Sanchar Bhawan, New Delhi.

(ii) Director of Postal Services,
U.P. Lucknow.

(iii) Senior Superintendent of Post Offices,
Faizabad.

(iv) Inspector of Post Offices
Faizabad (West) Sub Division
Faizabad.

3. Particulars of the order agaisnt which application is made :-

The application is against the following orders :-

(i) Order No. with reference to Annexure Memo

No. A-1/16/Corr
Annexure No. A-2

(ii) dated 17.2.1988

(iii) passed by : Sr. Supdt. of Post Office
Faizabad.

(iv) Subject in brief :- Sr. Supdt. of Post offices
Faizabad.

(iv) Subject in brief :- Termination of the services
of the applicant.

4. Jurisdiction of the Tribunal

The applicant declare that the subject matter of the orders against which, he wants redressal is within the jurisdiction of the Tribunal.

Contd.....3/-

23/2/88

(A12)

5. Limitation

The applicant further declares that the application is within the limitation presented in sec. 21 of Administrative Tribunal Act 1985.

6. Facts of the case

The facts of the case are given below :-

- (i) That the petitioner was working as a C.P. Chaukidar at Khajurahat Sub Post Office in Faizabad District and held a "Civil Post" under the Union of India and his salary on the date of discharge was Rs. 848/- per month inclusive of D.A. etc.
- (ii) That the petitioner is a young man of 33 years and was appointed ~~as Chaukidar~~ as a chaukidar on 3.9.83 the Inspector of Post offices Faizabad (West) Sub Division Faizabad vide his memo No. A/Khajurahat dt. 5.11.83. (A true attested copy of the aforesaid appointment letters is annexed herewith as Annexure A-1)
- (iii) That the petitioner was posted as Chaukidar at Khanurahat Sub Post Office , Faizabad on 3.9.83 and since then he was working there continuously uninterruptedly till 18.2.88 when he was relieved from since all of a sudden without any termination order or notice and without any rhyme and reasons. (A true attested copy of the relieving certificate is annexed herewith as Annexure A-2)
- (iv) That before relieving the petitioner from his post of Chaukidar on 18.2.88 , no order of termination is from his appointing authority who happens to be the Inspector of Post offices nor from any other senior

Contd.....4/-

H. S. Patel

(xix) That the discharge of the petitioner from service has been effected with malafide intention and ulterior motive and is without jurisdiction.

(xx) That the discharge of the petitioner is illegal unjust and unconstitutional and against the principle of natural justice.

7. details of remedies exhausted:-

(i) That on being relieved from service ,the petitioner met the Inspector of Post Offices Fd. (West) Sub.Division, and have him a representation on 18.2.88 but he expressed his inability to reinstate him.

(ii) That the petitioner met the Sr. Supdt. of Post offices,Faizabad on 19.2.88 ad presented him a memorandum urging him to reinstate the the petitioner ,but the Sr. Supdt. of Post Offices too refused to consider the demand.

(iii) That on 9.3.88 when the Director of Postal services, U.P. visisted Faizabad Head Post Office on his official tour, the petitioner met him also and submitted before him to reinstate the petitioner on his post but the Director of Postal Services turned down the appeal.

(A true copy attested of the aforesaid representation is annexed herewith as Annexure A-6)

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

Contd.....8/-

23/2/88

5. Limitation

The applicant further declares that the application is within the limitation presented in sec. 21 of Administrative Tribunal Act 1985.

6. Facts of the case

The facts of the case are given below :-

- (i) That the petitioner was working as a C.P. Chaukidar at Khajurahat Sub Post Office in Faizabad District and held a "Civil Post" under the Union of India and his salary on the date of discharge was Rs. 848/- per month inclusive of D.A. etc.
- (ii) That the petitioner is a young man of 33 years and was appointed ~~as a post office~~ as a chaukidar on 3.9.83 the Inspector of Post offices Faizabad (West) Sub Division Faizabad vide his memo No. A/Khajurahat dt. 5.11.83. (A true attested copy of the aforesaid appointment letters is annexed herewith as Annexure A-1)
- (iii) That the petitioner was posted as Chaukidar at Khanurahat Sub Post Office , Faizabad on 3.9.83 and since then he was working there continuously uninterruptedly till 18.2.88 when he was relieved from since all of a sudden without any termination order or notice and without any rhyme and reasons. (A true attested copy of the relieving certificate is annexed herewith as Annexure A-2)
- (iv) That before relieving the petitioner from his post of Chaukidar on 18.2.88 ,no order of termination either from his appointing authority who happens to be the Inspector of Post offices nor from any other senior

Officer was ever given .Neither any such termination order has been issued at all by the appointing authority or any other authority.

(v) That the work and conduct of the petitioner throughout his career of service has been all along satisfactory to all concerned and he discharged his duties diligently and with complete devotion & sincerity.

(vi) That the petitioner was appointed as a Casual employee and was doing his duties for 16 Hrs. daily from 5 Pm. to 9 A.M. next.

(vii) That although the petitioner was appointed as a casual employee but his pay and other allowances war at present with the regular employees. The basic pay of the petitioner Rs. 750/- pm. plus D.A. Rs. 98/- The total emolument of the petitioner was Rs. 848/- at the time when he was relieved illegally.

(viii) That the pay and other allowances and duties of a casual Chukidar is the same as that a regular and permanent Chaukidar. The above contention is supported by a circular dated 12.2.1988 issued from the Director staff Deptt. of Post New Delhi addressed to the Post Master General U.P. Lucknow & others in compliance with the decision of the Hon'ble Supreme court (A true attested copy of the aforesaid circular is annexed herewith as Annexure A-3)

Contd.....5/-

25/1/92

All

(ix) That the petitioner put in more than 5 years of continuous and uninterrupted service as Chaukidar and he was relieved without any termination order any any prior notice or pay in lieu of notice as required under the law as a condition precedent for termination.

(x) That because of more than 5 years of continuous and uninterrupted service the petitioner acquired the status of a regular employee as such he could not have been relieved without giving him a termination order and notice of termination assigning reason and compensation.

(xi) That altogether of posts of Chaukidar for each 62 Sub. Post offices exist in Faizabad District which is evident from a circular of the Sr. Supdt. of Post offices, Faizabad vide his memo No. A-1/16/Corr dated 26.6.1986 (A true attested copy of the aforesaid circular is annexed herewith as Annexure A-5)

(xii) That out of aforesaid ⁶² posts of Chaukidars each attached with one Sub. Post Office, 22 Posts have been abolished without any jurisdiction and without laying down criteria of Principle by law the Senior Supdt. of Post Offices, Faizabad vide his memo No. A-1/16/Corr dt. 17.2.1988 (A true attested copy of the aforesaid circular is annexed herewith as Annexure A-5)

(xiii) That in each the aforesaid 62 Sub. Post Offices in Faizabad District National Savings Certificate Indira Vikas Patras, Money Orders, Insured Letters Parcels, registered letter and each are handled and the cash is kept in the chest of the Sub. Post Offices and the Chaukidars are posted.

espacially for the security of the post offices, The abolition of 22 Posts involves with ot great security risk for the concerned Sub-Post Offices.

(xiv) That it is the practice of posting Chaukidars at Sub.Post Offices all over India and there is no justification whatsoever to abolish the posts of 22 Chaukidars while retaining rest 40 Chaukidars nor any criteria for the abolition of the aforesaid posts were formulated. As a matter of fact only pick and choose method was adopted in the abolition of posts.

(xv) That there was no necessity nor any reason whatsoever warranted to abolish the 22 Posts of Chaukidars.

(xvi) That the abolition of 22 posts of Chaukidars has not been effected in good faith as a Policy dicision in the interest of administrative efficiency is a matter of fact the act of abolition of posts aforesaid is a clock for dispensing with services of the petitioner and other imoluments. It is invoilater of the provision of All 14 Act 19(i)(g) and 311(2) of the constitution.

(xvii) That while relieving the services of 22 Chaukidars the junior among the 62 chaukidars have been retained whereas the senior have been terminated.

(xviii) That releiving the petitioner without giving or issuing any termination order amounts to punishment as such it is in contravention of the constitution

Contd.....7/-

2/1/2012

(xix) That the discharge of the petitioner from service has been effected with malafide intention and ulterior motive and is without jurisdiction.

(xx) That the discharge of the petitioner is illegal unjust and unconstitutional and against the principle of natural justice.

7. details of remedies exhausted:-

(i) That on being relieved from service ,the petitioner met the Inspector of Post Offices Fd. (West) Sub.Division, and have him a representation on 18.2.88 but he expressed his inability to reinstate him.

(ii) That the petitioner met the Sr. Supdt. of Post offices,Faizabad on 19.2.88 ad presented him a memorandum urging him to reinstate the the petitioner ,but the Sr. Supdt. of Post Offices too refused to consider the demand.

(iii) That on 9.3.88 when the Director of Postal services, U.P. visisted Faizabad Head Post Office on his official tour, the petitioner met him also and submitted before him to reinstate the petitioner on his post but the Director of Postal Services turned down the appeal.

(A true copy attested of the aforesaid representation is annexed herewith as Annexure A-6)

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

Contd.....8/-

23/1/92

this application has been made before any court of law or any other authority or any Bench of the Tribunal and /nor any such application ,writ petition or suit is pending before any of them.

9. Reliefs Sought

In view of the facts mentioned in para 6 above the applicant prays for the following reliefs :-

- (i) to direct the respondents to reinstate the petitioner with continuity of service and back wages.
- (ii) To struck down the relieving /charge certificate (Annexure A-2).
- (iii) to quash the impugned order of the senior Supdt. of Post offices, Faizabad (Annexure A-5)
- (iv) to declare the petitioner as a regularly appointed chaukidar.
- (v) to pass any other order in the interest of justice as this Hon'ble court may deem fit.
- (vi) to award cost.

10. Interim order if any prayed for :-

Pending final decision on the application the applicant seeks of the following term order :-

- (i) to stay the operation of relieving /charge certificate (Annexure A-2)
- (ii) To stay the operation of the order of the Sr. Supdt. of Pst offices Faizabad Annexure A-5)

11. XX X X X X

Contd.....9/-

23/01/942

RTO

12. Particulars of Postal Order in respect of the application fee.

1. Number of Indian Post order :- Q 35655
2. Name of issuing Post Office - Faizabad.
3. Date of issue of Postal order - 12.3.88
4. post office at which payable. Allahabad.

13. List of enclosure :-

- (i) Annexure A-1: Copy of the appointment letter dt. 5.11.83.
- (ii) Annexure A-2: Copy of the relieving certificate dt. 18.2.88.
- (iii) Annexure A-3: Copy of circular from Director (Staff) Deptt. of Posts New Delhi. directing to pay equal pay & allowances to casual employees as that of regular employees.
- (iv) Annexure A-4: Circular of Sr. Supdt. of Post Offices creating 62 post of Chaukidars in Faizabad.
- (v) Annexure A-5: Copy of the circular of the Sr. Supdt. of Post offices abolishing 22 posts of Chaukidars.
- (vi) Annexure A-6: Copy of the representation against discharge.
- (vi) Postal order for Rs. 50/-

Verification

I, Muneshwar Yadav S/o Sri Mahabir Yadav aged about 33 years formerly working as C.P. Chaukidar Khajurahat Sub-Post Office Faizabad resident of village Bhadesar P.O. Khajurahat Distt. Faizabad do hereby verify that the contents of paras 1,3,6,7,8 12 and 13 are true to my personal knowledge and paras 2,4,5,9,10 and 11 believed to true on legal advice and that I have not suppressed any material fact.

Dated: March 15, 1988

Place :- Allahabad.

30/3/88
(Muneshwar Yadav)

Signature of the applicant

To,
The Registrar,

Central Administrative Tribunal
Allahabad Bench Allahabad.

JTO
A19

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BECNCHE ALLAHAD

Application No. of 1988

Muneshwar Yadav Petitioner

Versus

Union of India & Others Respondents.

ANNEXURE A-1

O/O Nireekshak Das Ghar
Faizabad (D.O) Upmandal
Faizabad 224001.

A/ Khajurahat. Dated 5.11.83

Sri Muneshwar Yadav S/o Sri Mahabir Yadav r/o vill.
Bhadeshar P.O. Kahjurahat P.S. Bikapur, Faizabad is hereby
appointed as C.P. Chaukidar Khajurahat vice Sri Birjoo
spared on account of attaining the age of 65 years in
terms and conditions of Rules governed by C.P. Rules.

Charge report should be submitted all concerned..

Sd/-

Seal.

Copy to:-

1. Sri Muneshwar Yadav S/o Mahabir Yadav village Bhadesar
P.O. Khajurahat P.S./Tah. Bikapur Distt. Faizabad.
2. The S.P.M. Khajurahata Faizabad.
3. The P.M. Fyd.
4. Lice Is. Chaura Bazar, Faizabad.
5. O/C.

True copy attested.

23/11/83

11
A20

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Application No. of 1988

Muneshwar Yadav Petitioner

Versus

Union of India & Others ~~Opp~~ Respondents.

ANNEXURE A-2

Charge report

Certified that the Charge of the C.P.M. Chaukidarship of Khajurahat S.O. was made over by Muneshwar to post abolished at Khajurahat on 28.2.88 fore noon vide SPO Faizabad memo No. A-1/16/Corr/dated/Faizabad 17.2.88.

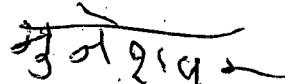
Sd/- Muneshwar

18.2.88

(Seal)

Relieved Officer

True attested copy.



15
A21

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

APPLICATION No. of 1988

Muneshwar Yadav Petitioner
Versus

Union of India & Others Respondents.

Annexure A-3

Copy of Comm.letter No. 45/25/87 SP.B.I. dt. 10 Feb.1988
from S.Chadha Director (Staff) Department of Posts Dak
Bhawan New Delhi-110001 addressed to Sri S.P. Rai Post
Master General U.P.Circle, Lucknow & Others.

Sub:- Absorption of Casual Labourers in the light of
Supreme Court Judgement.

Sir,

In compliance to Hon'ble Supreme court of India
decision 27th Oct. 1987 in writ petition No. 373 of 1986
regarding payment of wages of Casual labourers at the
Minimum of pay in the pay scale of the regularly employed
workers in the corresponding cadre ,but without any
increments with effect from 5th Feb. 86 the Directorate of
Posts has decided that :

(i) All the casual labourers engaged on casual basic
are to be paid wages workers out on the basis of th
minimum pay in the pay scale of regularly employed
workers in the corresponding cadre without any
increment with effect from 5th Feb.86, but casual
labour will also be entitled to DA and ADA if any
on the minimum of the pay scale. No other allowance
are to be paid.

(ii) The word casual labourers would cover full time
casual labour part-time casual labour and workers
engaged on contingency basis. Part time workers
casual or contingency paid will be paid on pro-rate
basis. For the purpose of payment no distinction
should be made whether the casual labourers and
contingency paid staff are being paid wages or from
office contingencies.

(iii) The arrears at the enhances rate are to be paid
before 25.2.88 positively.

2. For the allotment of funds you are requested to contact
the Budget section of the Directorate. You are requested
to take further necessary action in the matter regarding
showing the payment made to each worker to sent before
1.3.88.

3. The receipt of this letter may kindly be acknowledge
to Sri S.S. Mehta section officer (SPB.I.) before 12.2.88.

4. This issue with the approval of Finance Admn) U.O.
No. 548/FAP/88 dated 5.2.88.

Yours faithfully,

Sd/-
(S.Chadha)
Director staff.

True copy attested.

21/2/88

13
A22
BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

APPLICATION No. of 1988

Muneshwar Yadav Petitioner
Versus
Union of India & Others Respondents.

ANNEXURE A-4

C/O The Sr. Supdt. of post offices Faizabad Division,
Memo No. A-1/16/Corr/ Dt. at Faizabad the 26.6.86

In accordance with instructions contained in D.G.
P&T New Delhi letter No. 21-30/74 AP dated 13.8.75 communica-
ted under letter No. ACA/E-558/-ChII dt. 20.6.86 section
of the Sr. Supdt. of Post Offices Faizabad Division Faizabad
is hereby accorded to the revision of Distt. Charge on account
of fixation of wages & below mentioned contingent paid
Chaukidar of the Division from Rs. 274.15 to 342.90 per
month w.e.f. 1.1.1956.

The expenditure is debitale under the head wages of
contingent paid.

| | |
|-------------------|---------------------|
| 1. Amaniganj. | 43. Rampur Bhagan. |
| 2. Achhora | 44. Rasulabad. |
| 3. Ayodhya | 45. Reunahi |
| 4. Ayodhya S.S. | 46. Ramkot. |
| 5. Bandipur | 47. Shahganj |
| 6. Bariyawan | 48. Saidahi |
| 7. Barun | 49. Surapur |
| 8. Baragoan | 50. Sikanderpur |
| 9. Baskhari | 51. Sohawal |
| 10. Bharatkund. | 52. Tarun Bazar |
| 11. Bikapur | 53. Tikari |
| 12. Bhti | 54. Rajesultapur |
| 13. Chaure Bazar. | 55. Shahzadpur |
| 14. Dabha Semer | 56. Khaspur |
| 15. Darshan Nagar | 57. Maya |
| 16. Deorai | 58. S.P.S.S. Mills. |
| 17. Deoraha | 59. D.O. Faizabad. |
| 18. Dulahupur | 60. Faizabad City |
| 19. Haringtonganj | 61. Tanda |
| 20. Hanswar | 62. Janaura. |
| 21. Iltifatganj | |
| 22. Inayatnagar | |
| 23. Jafarganj | |
| 24. Jahangirganj | |
| 25. Jalalpur | |
| 26. Khajurahat | |
| 27. Kichhauchha. | |
| 28. Kuchera | |
| 29. Rakiapur | |
| 30. Khandasa | |
| 31. Kedarnagar | |
| 32. Kumarganh | |
| 33. Malipur | 34. Mainuddinpur |
| 35. Mijhaura | 36. Milkipur |
| 37. Mittupur | 38. Motinagar |
| 39. Ahauragola | 40. Mahboobganj |
| 41. Pahitipur | 42. Ram Nagar. |

Sd/-

Sr. Supdt. of Post Offices
Faizabad Divn. Faizabad.

Copy issue for information and n/a to the Post Master
Khajurahat/Sr.P.M. Faizabad.

25/2/1986

14
AP23

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Application No. of 1988

Muneshwar Yadav Petitioner
Versus

Union of India & Others Respondents

ANNEXURE A-5

DEPARTMENT OF POSTS INDIA

OFFICE OF THE SR.SUPDT. OF POST OFFICES FAIZABAD DN. FAIZABAD
Memo No. A/1/16/Corr/Dated at Faizabad the 17.2.1988.

The undermentioned Posts of C.P. Chaukidars, which were not found justified for further retention, are hereby ordered to be abolished with immediate effect.

| | |
|------------------|-------------------|
| 1. Achhora | 12. Majruddinpur |
| 2. Ajodhya R.S. | 13. Maharuwagola. |
| 3. Deoria | 14. Maya |
| 4. Hakimpur | 15. Pahitipur |
| 5. Iltifatganj | 16. Rasulabad. |
| 6. Inayatnagar | 17. Ramkot |
| 7. Jahanagirganj | 18. Shahganj |
| 8. Khajurahat | 19. Shahzadpur |
| 9. Kuchera | 20. Terhi Bazar |
| 10. Khandasa | 21. Tikari |
| 11. Kedarnagar | 22. U.P.SS.Mills. |

The incumbent working against the above mentioned posts of C.P. Chaukidars, should be relieved immediately on receipt of this memo and charge reports should be submitted to all the concerned.

Sr.Supdt. of Post Offices
Faizabad Division
Faizabad-224001

Copy to the :-

1-22) Official concerned.

23-24) The S.P.Ms. Concerned. They should relieve the C.P.

Chaukidars immediately & submit compliance report to Shri R.P. Verma Office Supervisor O/O SSPOS, Faizabad at once.

45-66) The relevant Estt.Files.

67-68) The Sr.P.M. Faizabad/P.M. Akbarpur(Faizabad)

69-75) The ASPOS (West) Akbarpur Faizabad/All the SDIS(P) in the Division for causing compliance.

76) The Director Postal Services (Vig) Lucknow for information w.r. to C.O.D.O. No. DV/Misc./87 dt.5.1.87

77) The D.P.S. Lucknow Region Lucknow W.e. to R.O. file No. RDL/Estt/X-3 dated 31.8.87 for information.

78-79) A-1/16/Corr & A-1/12 Retrenched file

80-100) Spares.

True copy Attested.

21/2/1988

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विफोर दि आनरेटुल सेन्ट्रल ऐडमिस्ट्रेटिव ट्रिबुनल
इलाहाबाद वैन्य इलाहाबाद
प्रार्थना पत्र संख्या तन 1988

मुनेश्वर यादव

पेटिशनर

वरसेज

युनियन आफ इण्डिया एण्ड अदर्फ

रेस्पान्डेन्ट्स

अनेकजर नं० स-६

सेवा मे,

श्री मान निरीक्षक डाक सेवाये उत्तर प्रदेश
कैम्प फैजाबाद ।

महोदय,

निवेदन है कि प्रार्थी दिनांक ३-९-८३ से उप डाकघर छाजुरहट जिला फैजाबाद मे लगातार सी० पी० चौकीदार के पद पर कार्य करता चला आ रहा था कि दिनांक १०-२-८८ को उसे सेवा से अलग कर दिया गया है भैने ५ व्हार्ड तक लगातार विभाग की सेवा पूरी निष्ठा के साथ की है । मेरे विरुद्ध कभी कोई शिकायत नहीं प्रगम्पत हुई है परन्तु आकरण मेरी सेवाये समाप्त कर दी गई है जिससे प्रमार्थी बेरोजगार हो गया है उसकी उम्र ३३ वर्ष हो जाने के कारण इस बेरोजगारी मे कोई नौकरी नहीं मिल सकती बेरोजगार हो जाने के फलस्वरूप प्रार्थी के बच्चे व परवार भूखार मरने की कगार पर आ गये है । ज्ञात हुआ है कि विभाग मे अभी अनेक चौकीदार के पद रिक्त है तथा मेरे पद को छोड़कर तोड़ने का कोई औचित्य भी नजर नहीं आता ।

अतः श्री मान जी से निवेदन है कि कृपया प्रार्थी को चौकीदार के पद पर वहाल या पुनर्नियुक्त करने की कृपा करे । जिसके लिये प्रार्थी आजन्म श्री मान जी का आभारी रहेगा ।

प्रार्थी :-

मुनेश्वर यादव

ग्राम भदेसर

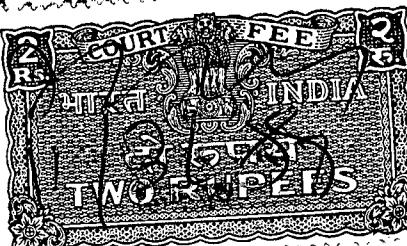
पौ० छाजुरहट

जनपद फैजाबाद

दिनांक ९-३-१९८८ ई०

सत्य प्रतिलिपि प्रमाणित ।

मुनेश्वर
१९८८



16
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Hon'ble the Central Administrative Tribunal, Allahabad
न्यायालय श्रीमान

Manohar Yadav बादी/अपीलान्ट/प्रार्थी/अभियुक्त

विरुद्ध

Court of Justice विवरण प्रतिवादी/रिस्पोन्डेंट/विपक्षी/अभियुक्त

व्यवहार विवरण

उपरोक्त व्यवहार में/मैं/हम M. C. Singh Advocate प्रतिज्ञ

वकील, एडवोकेट

को इस वकालतनामा द्वारा वकील नियुक्त करके अधिकार देता हूँ/देते हैं कि उपरोक्त अधिवक्ता, वकील, उपरोक्त बाद में मूल न्यायालय से लेकर अपील या निगरानी न्यायालय तक तथा विष्पादन कार्यवाही में उपस्थित होवें, कार्य करें और अधोहस्ताक्षरी को तरफ से आवश्यकता पड़ने पर न्यायालय में उपस्थित होवें, कार्य करें और अधोहस्ताक्षरी का पक्ष प्रस्तुत करें, न्यायालय द्वारा अधोहस्ताक्षरी के नाम आदेशिका जारी होने पर उसे प्राप्त करें, और आवश्यकता पड़ने पर अपने हस्ताक्षर से कोई दूसरा अधिवक्ता नियुक्त करें। अधिवक्ता को उपरोक्त मामलों में अधोहस्ताक्षरी की तरफ से न्यायालय में प्रार्थनापत्र याचिका या अभिवचन प्रस्तुत करने का न्यायालय में प्रपत्र प्रस्तुत करने का उसे बापस लेने का सन्धिपत्र प्रस्तुत करने का किसी मामले को पंच निर्णय के लिए प्रस्तुत करने का न्यायालय में जमा किसी राशि को निकालने या उसका चेक प्राप्त करने अथवा आवश्यकता पड़ने पर संपर्या जमा करने का किसी डिक्री को निष्पादित करने की कार्यवाही करने का तथा अधोहस्ताक्षरी को प्राप्त हुई राशियों का प्रमाणपत्र देने का अधिकार अधोहस्ताक्षर की तरफ से होगा।

उपरोक्त वकील, अधिवक्ता द्वारा उपरोक्त मामलों में किया गया कोई भी कार्य अधोहस्ताक्षरी द्वारा किया गया माना जायेगा तथा अधोहस्ताक्षरी उन कार्यों से वाध्य होगा।

अतः वकालतनामा लिख दिया कि समय पर काम आवे।

तिथि 13

मास March सन् १९८८

चिन्ह या हस्ताक्षर प्रतिज्ञ

साक्षी

साक्षी

मुद्रा १९८८

स्वीकृत
एडवोकेट, प्लोडर

बार एसोसियेशन, फैजाबाद

(21)

(27)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

CIVIL MISC. APPLICATION NO. _____ OF 1988.

On behalf of
Union of India.....Applicant.

IN
REGISTRATION NO 396 OF 1988.

(DISTRICT: FAIZABAD)

Muneshwar YadavApplicant.
Versus

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

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

The humble application of the above-named
application most respectfully Showeth:

1. That for the facts and circumstances
stated in the accompanying counter affidavit
it is expedient in the interest of justice
that the prayer for the relief claimed by
the applicant may be rejected.

(Signature)
-2-

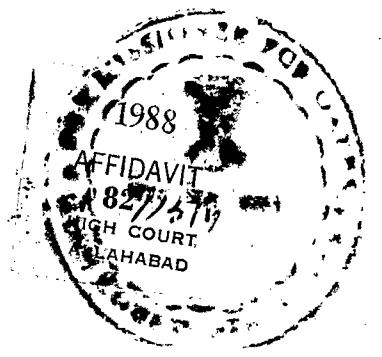
PRAYER

It is, therefore, most respectfully
prayed that this Hon'ble Tribunal may graciously
be pleased to reject the prayer for the relief
claimed by the applicant in the aforesaid
application.

Dated 24-1-1980.

NBS
(N.B.SINGH)

SENIOR STANDING COURSE
CENTRAL GOVERNMENT.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

COUNTER AFFIDA VIT

IN

REGISTRATION NO 316 OF 1988.

(DISTRICT: FAIZABAD)

Muneshwar Yadav.....Petitioner

Versus

Union of India & others.....Res-pondents.

Affidavit of Shri RamKaram
Musra aged about 55 — son of
Shri Thakur Prasad Musra —
at present posted as Sr Subdt
of POS Faizabad on Faizabad

71/2/88
Sh. Subdt of Post Office
Faizabad Division
FAIZABAD - 224001

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

-2-

1. That the deponent is the Sr. Supdt. of Post Offices Faizabad, and has been authorised to file this counter affidavit on behalf of respondent in the aforesaid case and as such he is well acquainted with the facts of the case deposed to below.
2. That the deponent has read the application of Sri Muneshwar Yadav and others filed in the Hon'ble Tribunal and has understood their contents.
3. That before giving parawise reply of the application it is necessary to bring the certain facts before this Hon'ble Tribunal which is essential for the just and proper disposal of the aforesaid case.
4. That to curtail the expenditure

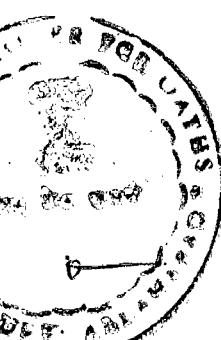
21/1/2001
Sr. Supdt. of Post Offices
Faizabad Division
FAIZABAD - 224001

-3-

incurred upon Contingent Paid employees, the them Director Postal Services, Smt. Neelam Srivastava issued directions during inspection of the office of Sr. Supdt. of Post Officer, Faizabad 5.8.1985 & 6.8.1985. The directions given in para 18 reads:

5. That as regards expenditure under the Head wages, it was stated that there are 155 Contingency Paid employees in the Division and a sum of Rs 22,000/- per month approximately. is paid as allowances to them. The S.S.P.O.s is, however, required to exercise control over the expenditure under the Head 'wagee'

6. That while reviewing the above Inspection Report of the D.P.S. Lucknow



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-4-

Region, the then PMOG U.P. CIRCLE, Lucknow, Shri D. S. Shakalkale, made the following observations on the para 18 of the said I.R. vide his no INV/IR/38/DPS/85/304/28.11.85.

7. That the number of Contingency paid employees also appear to be very large. payment of Pay and allowances to the C.P. employees causes heavy expenditure. Divisional Superintendents are not competent to sanction creation of the posts of Contingency Paid employees. It is noticed that they sanctioned a large number of the posts of Contingency Paid employees. It is noticed that they sanctioned a large number of the posts of C.P. Chowkidars without any authority. The review of justification of each of the C.P. employees is required to be carried out to find out whether they been sanctioned according to forms and by the competent

- 21232
Supt. of Post Office
Fazabad division
FAIZABAD - 224001

(A33)

-5-

authority. After the review is carried out abolition of unjustified posts will have to be considered.

8. That to comply with the above direction, all the Sub-Divisional Incharges were asked vide this office letter No A-1/16/Corr dated 27.6.86 to review and submit the informations regarding justification of the C.P. employees and were subsequently remained on 4.2.87 and 27.3.87. Mean while the Director Postal Services (Vig) Lucknow Circle ordered vide his Deo. Letter No Dy./Misc/87 dated 5.8.87 that:

" In order to avoid such wasteful expenditure, I went to know from you that details of each Chowkidar i.e. Departmental Contingency Paid/ Extra-Departmental, Kept in each P.O./Offices and

Sh. Subdt. of Post Offices
Faizabad Division
FAIZABAD. 224001

A34

-6-

its Justification. Concerned departmental heads should justify or otherwise the continuance of such posts."

9. That the Director Postal Services Lucknow Region vide his endst. no RDL/EST/X 31-dated 23.7.87 also directed to send a reply directed to the P.N.G.s Office.

10. That in compliance of the above orders, the Sub-Divisional Inchargees were again reminded on 9.9.87, 27.8.87 29.9.87 and 12.1.88 to submit the informations in the prescribed proforma in respect of all C.P. Chowkidars for review of the justification of the post of C.P. Chowkidars. The informations

Mr. Supdt. of Post Offices
Faizabad Division
FAIZABAD. 224001

no collected were reviewed and justification for retention of 22 posts of C.P. Chowkidars out of 61 posts was not found at all and as such these 22 posts of C.P. Chowkidars were abolished with immediate effect on 17.2.88. The criteria to abolish the posts of C.P. Chowkidars was that where the cash is retained upto maximum over night and on this basis where the Sub-Divisional Incharges recommended the non Justification of C.P. Chowkidars, were only abolished. The chart showing the details of cash kept overnight and other particulars of 11 the offices along with proforma filled in by the Sub-Divisional Inspectors in respect of the 22 abolished for ready information. The names of the abolished posts of C.P. Chowkidars are as under:-

Sr. Supdt. of Post Office
Faizabad Division
FAIZABAD-224001



(A37)

-8-

NAMES OF THE OFFICES WHERE THE POSTS
OF C.P. CHOWRIDARS WERE ABOLISHED:

1. Achhora
2. Ayodhya A.S.
3. Datoria
4. Hukimpur
5. IItifatganj
6. Inayatnagar
7. Jahagirganj
8. Khajurahat
9. Kuchera
10. Khandasa
11. Kajruddinpur
12. Kedarnagar
13. Maharuagola
14. Maya
15. Pahitipur
16. Rasulabad
17. Ramkot
18. Shahganj
19. Shahzadpur
20. Terhi Bazar
21. Tikari
22. UP.RS? S.Mills Akbarpur)

21
S. Supdt. of Post Office
Fazabad Division
FAZABAD - 224601



(A30)

-9-

11. That the abolition of 22 posts of C.P. Chowkidars was reported to the Directors Postal Services, Lucknow Region vide this office letter No 4-1/16/Forr dated 19.2.88 seeking guidance whether the 22 C.P. chowkidars displaced due to obolition of their posts, be appointed against the vacant A-D.Posts in this division. This proposal was approved by the D.P.S. Lucknow Region vide R.O. No RPB /ES T/ EX-31/RZD dated 18.3.88. The action to absorb the displaced C.P. Chowkidars was postponed on the telephonic order of the D.P.S. Lucknow Region on 24.3.88 . Mean while, the displaced Chowkidars have filed cases against the department in C.A.T. at Allahabad.

Mr. Rupali of Post Office
Agra-Bird Division
Agra, U.P. 224001

12. That it is worth while to mention

that none of the posts of C.P. Chowkidars has been abolished subsequent to the date of receipt of D.G.s letter No 45/93/87 /SPB.I dated 10.2.88. The aforesaid letter was received in this office on 18.2.88 where in the instructions regarding absorption to casual labours in the light of Supreme Court's Judgment and payment of arrears to them was received on the revised rates, while the posts were ordered to be abolished earlier than 18.2.88. vide this office Memo. No A-1/16/Conr dated 17.2.1988.

13. That in reply to the contents of paragraph 6(i) of the application it is submitted that the petitioner was working as C.P.Chowkidar at Kuchera Sub Post Office. This post is not a Civil Post.

[Signature]
Suptl. of Post Offices
Faizabad Division
FAIZABAD-224001



AM

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on 18.2.1988 in the forenoon. The allegation of the petitioner that the order of termination was not delivered is not admitted as there is no provision in the department regarding the same. It is submitted that the order for the abolition of the posts were communicated to the Sub-Postmaster of concerned Post Office and the same was directed to relieve the incumbents engaged on the posts, immediately.

17. That the contents of paragraph 6(v) of the application need no comments.

18. That the contents of paragraph 6(vi) of the application are admitted.

19. That the contents of paragraph 6(vii) of the application are denied. It is submitted that the order of fixation of allowances at per to the regular Group 'D' employees, was received after the abolition of the post of C.P. Chowkidar Kudhera.

Sh. Supdt. of Post Office
Faisalabad Division
FAIZABAD. 22400

ANV

-13-

20. That the contents of paragraph 6(viii) of the application are admitted to the extent that the decision of the Hon'ble Supreme Court, circulated by the Director (Staff), Department of Posts, New Delhi was received on 18.2.1988 through the P.M.G.U.P. Circle, Lucknow letter dated 15.2.1988, where as the post of the C.P. Ghobkider has already been abolished on 17.2.1988, prior to the receive of the order of the Hon'ble Supreme Court.

21. That the contents of paragraph 6(ix) of the application are not admitted as stated. It is stated that the engagement of the petitioner was discontinued on 6.10.1986 fore noon due to unsatisfactory performance. It is submitted that there is no provision of prior notice to the contingent paid employees at the time of when the applicant was relieved from the

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Supt. of Post Office
Fazlbad Division
R. Z. KAD. 22/6/91

AUG

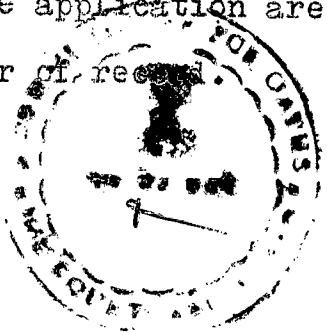
-14-

service due to abolition of the post. The length of the service put by the applicant has no relevance with the present controversy of the case since the post has already been abolished and as such it is not possible to absorb the applicant in absence of the post.

22. That the contents of paragraph 6(x) of the application are denied. It is submitted that the applicant has put in un-interruption continuous service. The petitioner's service was dispensed with on 6.10.1986 due to negligence in duties. Mere putting in 13 years service does not entitle the petitioner to be a regular employee as there is no such provisions in the rules in respect of contingent paid employees.

23. That the contents of paragraph 6(xi) of the application are admitted as being matter of record.

Sp. Supdt. of Post Office
Fatizabad Division
FAIZABAD-224001



(P.W.D)

-15-

24. That the contents of paragraph 6(xii) of the application are denied as stated. It is stated that after carrying proper review and on the recommendation of the concerned Sub-Divisional Inspector of Post Offices, the 22 posts of C.P. Chowkidars were ordered to be abolished on 17.2.1988. It is wrong to say that the abolished of 22 posts by the authorities are without any jurisdiction.

25. That in reply to the contents of paragraph 6(xiii) of the application it is submitted that the National Savings Certificates, Indira Mikas Patras, Money Orders, Insured letters, Parcels, Registered letters and cash are handled but the overnight retention of the above mentioned articles and cash in 22 Sub Offices where the posts of C.P. Chowkidar, were abolished, were not found in such a quantity which could justify the post of C.P. Chowkidar.

The 22 posts of C.P. Chowkidars were abolished

Ans

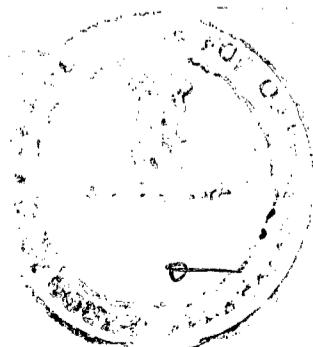
-16-

duly considering the safety and security
of the affected Sub Post Offices..

26. That the contents of paragraph
6(xiv) of the application are denied as
stated. It is stated that the post of C.P.
Chowkidars were abolished after examining
and considering the various factors. The
criteria for the abolition was that where
there minimum prescribed retention of cash
was found, only post of such offices were
abolished.

27. That the contents of paragraph
6(xv) of the application are denied. The
reasons for the abolition of the 22 posts
of C.P.Chowkidar has already been stated
in foregoing paragraphs.

Sr. Supdt. of Post Offices
Fatizabad Division
FAIZABAD - 224001



PL6

-17-

28. That the contents of para-graph 6(xvi) of the application are denied as ~~xxenix~~ stated. It is stated that the orders for the abolition of the posts were issued in compliance of the direction of the departmental authorities and the same has been issued in good faith in the interest of the department.

29. That the contents of paragraph 6(xvii) of the application are denied. It is submitted that there is no provision to maintain and prepare seniority list of Contingent paid employees. The seniority of Contingent paid employee does not entitle for ~~mayx~~ extra and special benefits over to junior employees. There is no bar to abolish the post even on which the senior most incumbents are engaged.

2
Sr. Supdt. of Post Offices
Faisalabad Division
FAIZABAD, 224001

30. That the contents of paragraph 6(xviii) of the application are not admitted

Buz

-18-

and as such are denied. There is no such rules of the department which provide such facility and necessity to issue termination orders. The orders for abolition of the posts were issued consequently Sub-Postmasters of the 22 abolished posts were ordered to relieve the incumbents of the CP. Chowkidar posts immediately.

31. That the contents of paragraphs 6(xix) and (xxiv) of the application are denied.

32. That the contents of paragraph 7(i), 7(ii) and 7(iii) of the application are not admitted as stated. It is stated that there is nothing on record in the office of the answering respondent as well as in the office of the Sub-Divisions Inspectors of Post Offices. The applicant has also not produced the copy of the representation purported to have been given to the Sub-Divisional Inspector.

More over the applicant was under the juri-

240

-19-

dition of S.D.I.(P) South Sub Dn. Faizabad. He did not meet the S.S.P.O.s on 20.2.88. On the dates 20.2.88 and 21.3.88, there was holiday and the office was closed. The memorandum stated to have been given to the S.S.P.O.s on 20.2.88 is also an after thought. The applicant has not enclosed its copy as annexure. There is no record regarding meeting with the Director Postal Services kept in the Office of the answering respondent. There is no proof of the petitioner's meeting and submission to the Director Postal Services.



21
Sh. Subdi of Post Office
Faizabad Division
P.U.C. 240. 22.03.88

33. That the applicant has failed to make out any case for interference by this Hon'ble Tribunal Jurisdiction and as such the present petition is liable to be dismissed. It is, however, relevant to mention here that the order for the abolition of the 22 posts was challenged

A49

-20-

in this Hon'ble Tribunal by some of the applicants which has been rejected by the Hon'ble Tribunal at the State of admission.

I, the abovenamed deponent do hereby declare that the contents of paragraphs 1 2

1
6

Of this affida vit are true to my personal knowledge; those of paragraphs X

Of this affidavit are based on perusal of record and those of paragraphs 3 5 3 3 6

Of this affida-vit are based on legal advice which all I believe to be true, no

21
Supt. of Post Office
Fatizabad Division
FAIZABAD, 224001

(64)

-21-

part of it is false and nothin material
has been concealed.

SO HELP ME GOD.

31/3/88
S/o Supt. of Post Office,
DEPONENT, Faizabad Division
FAIZABAD-224001

I, V.P.Tripathi, Clerk to Sri N.B.Singh
Senior Standing Counsel, Central Government
High Court Allahabad do hereby declare
that the person making this affidavit
and alleging himself to be the same person
who is known to me from the perusal of
record which was produced before me by
the deponent.

V.P.Tripathi
Clerk.

Solemnly affirmed before me
on this 13th day of Dec 1988
at 10.15 a.m./p.m. by the deponent
who has been identified by the aforesaid
person.

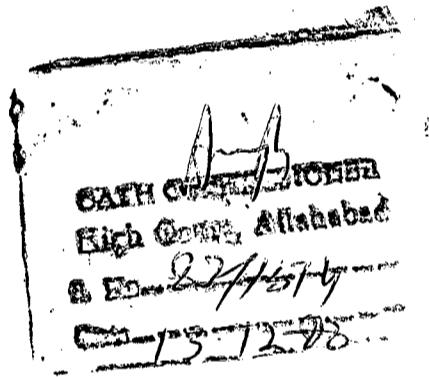


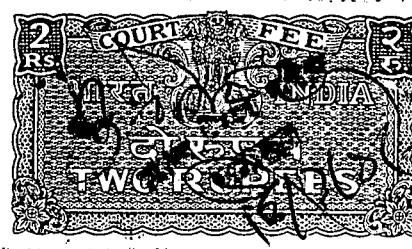
(PSI)

-22-

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

OATH COMMISSIONER.





BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

0. Application No. 316 of 1988

Muneshwar Yadav Applicant

Versus

Union of India & Others Respondents.

Rejoinder affidavit on behalf of
the petitioner in reply to the
counter affidavit on behalf of
respondent no. 3

I, Muneshwar Yadav aged about 33 years S/o Late Sri
Mahabir r/o village Bhadesar ,P.O. Khajurahat ,District
Faizabad do hereby solemnly affirm and state on oath
as under :-

1. That the contents of paras 1 , 2 and 3 of the counter Affidavit needs no comments.
2. That the reason for termination given in para 4 of the counter affidavit is irrelevant, However the direction purported to have been given by Smt. Neelam Srivastava, the then Director of Postal services, as mentioned in para 4 has not bee given in the counter Affidavit.
3. That the averments made in para 5 of the C.A. is irrelevant for the purpose of this case.

Received copy
R. P. Srivastava
R. P. Srivastava
12/5/89

23 of 24

Contd.....2/

4. That in reply to the averment made in para 6 of the Counter Affidavit it is stated that the observations purported to have been made by the then P.M.G. has not been mentioned.
5. That in Reply to the averments made in para 7 of the Counter Affidavit, it is submitted that there was no effect or irregularly and the plea that the then Supdt. of Post Offices, Faizabad, who had sanctioned the appointment of the petitioner on 27.5.75 had no authority, such plea has no jurisdiction or validity.
6. That the averments made in para 8 of the Counter Affidavit, however, without prejudice to the claim of the petitioner on the other grounds, it is submitted that at every Post Office, there is a Post of Chaukidar is necessary because, Cash Money, Order, Postal Orders, Indira Vikas Patra, National Savings Certificates, Insurance letters, Parcels & Kishan Vikas Patras are kept in the Sub. Post Offices.
7. That the averment made in para 9 of the Counter Affidavit need no comment.
8. That in reply to the contents made in para 10, it is submitted that there was no jurisdiction or necessity whatsoever to abolish 22 posts of Chowkidars on the one hand and at the same time retaining 39 such posts of Chowkidars in the similar circumstances, The criteria shown in the Counter Affidavit for abolishing 22 posts

23/1/19

(AS)

of Chowkidars, is wrong ill founded & misleading, the respondent has claimed that no cash was retained over night at the Sub, Post Offices where the posts of Chowkidars have been abolished but such claim is false & baseless, Cash, Money Orders, Indian Postal Orders, Postal Orders, Indira Vikas Patras, Insured Parcels & registered letter etc. were kept over night and the Sub. Post Office where the petitioner was deputed as Chowkidar in the iron chest. ✓

9. That the position of keeping cash etc. for over night at all the 62 Sub. Post Offices or the Division in the same but the post of 39 Chowkidars have been retained whereas the posts of 22 Chowkidars have been abolished. Whereas both classes of Chowkidars-Viz-those who have been terminated were similarly circumstances. ✓
- 10; That even after the abolition of 22 posts of Chowkidars 9 displaced chowkidars have been taken back, but the petitioner had been denied this opportunity of taking in back service. ✓
11. That contentions made in para 11 of the Counter Affidavit clearly shown the vengeance on the part of the respondent no.3 who has admitted that the petitioner had not been taken in the service for the simple reason that the petitioner had approached this Hon'ble Tribunal for justice. ✓

23/2/2014

Contd.....4/-

16
A 7

-4-

12. That in reply to the averments made in para 12, it is submitted that even on the directions issued by the Director General (Posts) Govt. of India, New Delhi vide his order dated 10.2.88 to reinstate the displaced Chowkidars, the respondent no. 3 has deliberately refused to take them back in service maliciously and with an attitude of ~~venom~~ vengeance for moving this Tribunal.

13. The contention made in para 13 of Counter affidavit that the post of Chowkidar is not a "Civil" Post" is denied.

14. The contention of para 14 needs no comment.

15. That the contention of para 15 are totally denied. It is wrong to say that the petitioner worked at Kuchera Sub. Post Office. As a matter of fact the petitioner worked at Khajurahat Sub. Post Office in Faizabad District. It is submitted that recurring loss of the Kuchera Sub. Post Officer could not be taken as ground for the post of Chowkidar, However without prejudice to the claim of the petitioner, it is submitted that even if the abolition of the post could be justified as any ground for the termination of the petitioner is illegal, and without jurisdiction, no notice nor pay in lieu of notice and compensation has been given to the petitioner before or after the termination of the petitioners service.

20/2/88

contd....5/-

16. That the contents of para 16 of the Counter Affidavit are denied.
17. That the contents of para 17, 18 and 19 needs no comments.
18. That the contents of para 20 are irrelevant.
19. That the contents of para 21 of the Counter Affidavit are totally false. The service of the petitioner was never discontinued on 6.10.1986 as claimed was ever given to the petitioner. No explanation for the "alleged unsatisfactory work" was ever called for from the petitioner nor any chargesheet was made nor any oral or written warning was even given. The story of unsatisfactory work is a concocted one in order to justify the illegal acts of the respondent no. 3.
20. That the contents of para 22 are denied. The petitioner had put in continuous and uninterrupted service for 5 years with clean and unblemished record.
21. That the contents of para 24 are denied. The so-called recommendation of the concerned Sub. Divisional Inspector of Post Offices for the abolition of the posts of Chowkidars could by no stretch of logic, be taken as a ground for the illegal termination of the petitioner.
23. That the contents of para 25 are totally denied. In support of the averments made by the petitioner in para 6 (XIII) of his application, the account registeres, stock registers, for N.S.Cs, I.P.Os, Indira Vikas Patras, Insured Parcels, Registered letters and Money Orders

-7-

I, know the deponent, identify him, who has
signed before me. ②

M.C.Sinha
(M.C.Sinha)

Faizabad.

Advocate

March 16, 1989.

Solemnly affirmed before me on this 16 th day of

March 1989 at 1:40 am./pm by the above named

deponent who has been identified Sri M.C.Sinha ,

Advocate, High Court ,Lucknow Bench, Lucknow.

I have satisfied ,myself, by examining the deponent, that he fully understand the contents of this affidavit, which has been readout and explained by me.

OATH COMMISSIONER.

MR 71 1

PR 11
Muneshwar Reddy,
M. P. in the Ad
16/3/1979 at 1.40
before his in the office followed
and called for a visit and
persuaded the man to return only
Signature

B. John

registered and the Sub. Post Master of the Khajurahat Sub. Post Office may be examined. The Department has also provided iron chest at the Sub. Post Office to keep the aforesaid valuable.

24. That the contents of para 26 are denied. The petitioner stands by what he had said in his application in para 6 (XIV). No rational criteria for the abolition of the Post was adopted, It is also false to say that at Khajurahat Sub. Post Office there was minimum retention of cash.

25. That the contents of para 27 are 28 are denied.

26. that the contents of para 29, 30, 31 and 32 are denied.

27. That it is denied that this Hon'ble ~~xxx~~ Tribunal has no justification as stated in para 33 of the Counter Affidavit.

28. That the petition is full of merit and liable to be allowed with cost.

Allahabad

5/19
(Muneshwar Yadav)
Deponent.

Dated: March/6 , 1989.

V E R I F I C A T I O N

I, the above named deponent do hereby verify that the contents of paragraphs No. 1 to 28 of this Affidavit are true to the best of my knowledge, Nothing in it is wrong and nothing materials has been concealed.

So help me God.

Faizabad.

5/19
(Muneshwar Yadav)
Deponent.

March 16 , 1989.

(A6)

In the Central Administrative Tribunal at Allahabad,
Circuit Bench, Lucknow.

SUPPLEMENTARY COUNTER REPLY ON BEHALF OF RESPONDENT No. 3.

Misc. Appl. No. 375/90(L)
In

Case No. O. A. 316 of 1988

Muneshwar Yadav

.....

.....

Applicant

Versus.

Union of India & Others

.....

.....

Respondents.

I, R. K. Mishra, aged about 56 years, son of Shri Thakur Prasad Mishra, Sr. Supdt. of Post Offices, Faizabad, do hereby solemnly affirm and state as under :-

1. That the official above named has read over the Supplementary affidavit filed by the petitioner & has understood the contents thereof. He is well conversant with the facts of the case indicated hereinafter.
2. That the contents of para 1 to 3 of Supplementary Affidavit need no comments.
3. That the contents of para 4 are admitted.

4. That in reply to paras 5 and 6 it is submitted that the post of 22 C.P. Chowkidars were terminated on account of abolition of the post of Chaukidars in all the 22 post offices of Faizabad Dn. Later on 9 post of C.P. Chaukidars were

11/3/2002

14.5.90

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

Misc. Application No. 375 of 1990. (L)

By Sr. Supdt. of Post Offices,
Faizabad,
Applicant
(Respondent No. 3)

In re. :

Case No. O. A. 316 of 1988.

Muneshwar Yadav Applicant.

Versus.

Union of India & others Respondents.

To,

The Hon'ble Chairman and His Other Companion

Members of This Hon'ble Tribunal.

The humble applicant named above most respectfully sheweth as under

1. That for the reasons deposed in the accompanying Supplementary Counter reply it is necessary in the interest of justice that the accompanying supplementary counter reply may be brought on record, otherwise the respondent would suffer grave and irreparable loss.

P R A Y E R

Wherefore, on the ~~xxx~~ facts stated above in the accompanying supplementary Counter reply, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to ~~brought~~ on record the accompanying supplementary counter reply to meet the ends of justice.

Lucknow ;

Dated : 16-5-90

(Dr. Dinesh Chandra)
Advocate,

Counsel for the Respondent No. 3.

Filed today
29/5/90

reviewed on 6.6.88 in respect of the Sub Post Offices where substantial amount of cash & valuables were kept overnight.

In those Sub Post offices where the amount of Cash and valuables kept overnight was very meagre, it was not considered worthwhile to revive the post of Chaukidar. A copy of the policy decision in this regard is being filed as

Annexure R - J .

5. That in reply to para 7 of the Supplementary affidavit it is stated that another four posts of contingent paid Chaukidars were revived on 26.5.1989 in the following Sub Post Offices, in addition to 9 posts already revived :-

- 1) Acchhore
- 2) Inayatnagar.
- 3) Majrudedpur
- 4) Shahjandpur.

6. That with reference to para 8 of the affidavit it is denied that only these posts were revived where Chaukidar had not approached the Hon'ble Tribunal for relief. Inspite of the fact that the Chaukidars of the above four post offices had moved the Hon'ble Tribunal for relief and their petitions were dismissed by the Hon'ble Tribunal, these posts were revived and they were given appointment vide SSPs Fd. Memo No. A-1/16/Corr. dated 26.5.1989 (Annexure RA-II of the application). It is also denied that the said posts were revived on account of an

210512/3

14.5.90

A67

Contingent paid Chaukidars. Thus ab-initio their appointment were void as the same was done without approval of the competent authority. There is no vacant post of Contingent paid Chaukidars at present.

Lucknow ; Lucknow

Dated : 14.5.90

21/5/2023

Respondent.

Verification

I, the above named Respondent do hereby verify that the contents of paras of this Supplementary Counter reply are true to the best of my personal knowledge and those of paras are believed by me to be true based on records and as per legal advice. That nothing material fact has been suppressed.

Lucknow ;

Dated : 14.5.90

21/5/2023

Respondent.

assurance given by the Senior Standing Counsel. On the other hand the above four posts were revived as a result of the representations submitted by the affected Chaukidars.

7. That the contents of para 9 of the petition are admitted to the extent that the Circular dated 19.4.88 was issued by the Director Postal Services, Lucknow, but while it was desired that the posts of Chaukidars may be revived on humanitarian grounds, it was also desired that a report regarding the post offices where the posts of Chaukidars were abolished, and reasons thereof, may be sent to him for further direction. In reply to the above circular it was indicated vide letter dated 25.4.88 that the posts of 22 Chaukidars had already been terminated before receipt of the Circular. A copy of the letter A-1/16/Corr. dated 25.4.1988 is being filed as Annexure R-2. Letter on 13 posts (9 + 4) were revived.

8. That in reply to para 10 & 11 of the Supplementary affidavit it is stated that the Industrial Dispute Act 1947 is not applicable to the contingent paid staff of the Postal department. The contingent paid Chaukider of Postal Departments is not a "Workman" within the meaning of Section 2 (s) of the said Act.

It will be worthwhile to mention that the Divisional Superintendent who had made the appointments of applicant was not competent to sanction or to create the post of

213723

14.5.90

ANNEXURE - R-I

Case No. 316/88
Sri Muneshwar Yadav vs. U.O. 1

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS

OFFICE OF THE POSTMASTER-GENERAL, U.P. CIRCLE
LUCKNOW- 226001.

To,

1. Shri B.P. Singh,
D.P.S., Lucknow.
2. Smt. Neelam Srivastava,
D.P.S., Kanpur.
3. Smt. Suneeta Trivedi,
D.P.S., Dehradun.
4. Smt. Neelam Srivastava,
D.P.S., Allahabad.

Ext
302
128/1e
(A65)

No. Est-A/M-1-111/88/6 Dated at Lw. the 2-8-88

Kindly find enclosed a copy of the D.O. letter
No. 2-17/88-PE-I dated 10-6-88 from Shri P.S. Ragavachari,
Secretary (Dept of Posts) New Delhi addressed to me P.M.G.U.P
regarding employment of chowkidars including C.P. chowkidars
in different offices in Postal & R.M.S. wing on heavy
avoidable financial expenses despite clear instructions on
the subject to observe economy measure.

Points raised in this letter may kindly be gone
through carefully personally by you and the desired
exercise at the regional level should be got done early in
each case office-wise. Your detailed report may be sent
within a period of 15 days.

The receipt of this letter may kindly be
acknowledged.

D.A. As above.

Recd 6/8/88
S.D. Verma
(S.P. Rai)

*Pls. desuees and
presently
by 31/8/88.
Pls. desuees and
presently
by 31/8/88.*

*AO
DA*

Copy of D.O. No. 2-17/88-PE.I dated 10-6-88 from P.S. Ragavachari
Secretary, Govt. of India, Ministry of Communications, Department
of Posts Dak Bhawan, Sansad Marg, New Delhi, addressed to
Shri S.P. Rai, P.M.G., U.P. Circle, Lucknow.

1271 (pcc)
Dear Shri S.P. Rai,

I find that in a very large number of cases Chowkidars/ Watchmen are employed for fairly long spells of time daily in post offices, RMS offices and administrative offices, including Circle offices. The purpose for employment of such a large numbers of this category of staff is not always clear. They do not contribute directly to operational efficiency. Especially in non-operative offices like the Circle office or Divisional office, the purpose for employment of Chowkidars/Watchmen is rather debatable. Even in post offices an unarmed chowkidar/watchman is sometimes more of a liability than otherwise. Instructions are already there that in post offices where large amounts of cash are kept over night inner locking safes should invariably be supplied. These safes are practically burglary-proof (cash/stamps, etc.) kept in them. In administrative offices, including Record offices, divisional offices and Circle offices, the need for a chowkidar/watchman will have to be very specifically established. These posts are however filled up more as a routine than as a result of a conscientious examination of the need. Since the cost of establishment of such chowkidars is met from contingencies, some units are rather liberal in creating such posts.

2. When the same person is employed continuously as a chowkidar/watchman over a period of years, he expects also (and this is a legitimate expectation) that he should be absorbed in the Department as a regular chowkidar/watchman. Again, there is also the question of 'weekly off' to this category of staff. Assuming the employment of a chowkidar/watchman is dispensed with on a postal holiday or a Sunday, this fact will be well known to one and all and the mischief monger can well choose that very day for his evil purpose. This, in turn, nullifies the employment of a chowkidar/watchman.

3. Another very important point is that employment of such persons imposes a big financial liability, especially in the light of Supreme Court's judgement concerning casual labour regarding paying pro rata wages applicable to a departmental employee. The cost of employing a chowkidar with reference to the valuables (if there are any) kept in the post offices has also to be kept in mind while determining the need for a chowkidar.

4. I will request you to kindly go through all these points carefully and have a thorough review made with a view to effecting as much economy as possible.

With regards,

Yours sincerely

sds-
(P.S.Ragavachari)

ANNEXURE - R II

Case No. 316/88

Sri Muneshwar Yadav vs U.O. [1041/167]

केंद्रीय मिश्र
आईपीओएस०

अोश्यो पत्रक - ए-१/१६/कार

पुल अधीक्षक डाकाधार
पैजाबाद मन्डल पैजाबाद

25.04.88

श्रद्धापूर्वक श्रामन् ,

श्रद्धापूर्वक श्रामन् ,
सेवाय कायतिय के व्यापन उम्मा निडाल/स्टेट/एक्स-३। दिनांक 19.04.88 के
पुस्तक पर निम्नलिखित आव्याय आगे अवलोकनश्य प्रस्तुत है -

१. इस डाक मन्डल मे कौन्तेसी पेटु कर्मचारियों का कोई भी पद उनकी मतला
बृद्धि के डाक महानिदेशालय के आदेश के प्राप्ति के बाद नहीं समाप्त किया गया है।
यहाँ यह उत्तीर्ण करना आवश्यक प्रतीत होता है कि इस डाक मन्डल मे 22 स००००
बौद्धिकारों के पाद, उन मतला बृद्धि के आदेश के प्राप्ति के पूर्व ही समाप्त किये
जा सके थे मिन्हे पैकेटमार्टर जनरल के बारा प्राप्ति निर्देशों के अनुसार ही समाप्त
किया गया। दिनांक 5.08.85 तथा 6.08.85 को तस्कातीन निदेशक डाक सेवार
के बारा किए गए इस कायतिय के निरीक्षण आव्याय के पैरा १८ पर तस्कातीन
पैकेटमार्टर जनरल श्री डॉ०एस० सकतकी के आव्याय (INV/IR-38/DPS/85/3
दिनांक 28.11.85) मे यह निर्देश दिया गया था -

" The number of CP Employees also appears to be very large. Payment of pay and allowances to the CP employees causes heavy expenditure. Divisional Superintendents are not competent to sanction creation of posts of C.P. employees. It is noticed that they sanction a large number of posts of C.P. Chaukidars without any authority. A review of justification of the C.P. employees is required to be carried out to find out whether they have been sanctioned according to norms and by the competent authority. After the review is carried out, abolition of unjustified posts will have to be considered.

उपरोक्त निर्देश के अनुसार मे इस कायतिय के सभी संभव पक्ष दिनांक
27.06.86 के बारा समस्त उपमन्डलीय प्रभारियों से निर्दारित प्राप्ति ने स०००००
कर्मचारियों के जीपिल के पुनर्गठन के लिए चुननाए एकत्र करने के लिए लिखा गया।
मुन्ह: 4.2.87, 27.3.87, की अनुस्मारक भी भेजे गए। इसी बोध निदेशक
(सत्रका) के अोश्यो पत्रक डॉको/पिस/87 दिनांक 5.6.87 के बारा यह निर्देश
प्राप्त हुआ -

ACB

" In order to avoid such wasteful expenditure, I want to know from you that details of each office and its justification. Concerned Departmental Heads should justify or otherwise the continuance of such posts."

निदेशक (सतर्कता) का उपरोक्त पत्र द्वितीय कायलिय के पत्रिक आरडीएल/इस्ट०/एस-3। दिनांक 23.7.87 के बारा/प्राप्त हुआ जिसमें सीधे परिमङ्गलीय कायलिय को उत्तर प्रेषित करने का निर्देश दिया गया है। अतः उपमङ्गलीय प्रभारियों से 9.9.87, 27.9.87, 29.9.87 तथा 12.1.88 के अनुस्मारकों के माध्यम से समस्त सी०पी० चौकीदारों के औचित्य के पुनरावृण के सम्बन्ध में निरापरित प्राप्ति में सूचना एकत्र की गई। समस्त एकत्र सूचनाओं को समेकित करके दिनांक 17.2.88 को 22 सी०पी० चौकीदारों के पदों को बरकरार रखने का औचित्य न पाये जाने के कारण इवरित अंत्रिया से समाप्त कर दिया गया। शेष 38 सी०पी० चौकीदारों के पदों को बरकरार करने की लम्हुति के साथ इस कायलिय के समर्त्यक पत्र दिनांक 24.2.88/15.3.88 के माध्यम से अग्रसरित किया जा चुका है। समाप्त किए गए सी०पी० चौकीदार के पदों पर कार्यात् कर्मचारियों को छठनी गुदा कर्मचारी मानकर रिक्त ई०डी० पदों पर नियुक्त करने हेतु अ०स्थ० पत्र समर्त्यक दिनांक 19.2.88 के बारा त्रीने आपसे अनुरोध भी किया था तथा इस सम्बन्ध में आपके कायलिय से पत्रिक आरडीएल/इस्ट०/एस-3।/५० दिनांक 18.3.88 बारा निकाते गए सी०पी० कर्मचारियों को रिक्त ई०डी० पदों पर लगाने हेतु अनुमोदन भी प्राप्त हो गया था। किन्तु दूरभाष पर आपसे हुई वार्ता के आधार पर आपके अग्रिम आदेश तक उक्त पत्र पर कोई कार्यवाही नहीं की गई। इस बीच इस कायलिय ४ केस के द्वीय न्यायिक प्राधिकरण इलाहाबाद में दायर हो चुके हैं।

इस सम्बन्ध में 27.6.86 का पत्र तथा बाद में जारी अनुस्मारकों, समाप्ति फॉटोप्रिति प्राप्तिवर के अवलोकनाटी सत्रम है।

2. महानिदेशालय के पत्र संख्या 45/95/87/एसपीक०। दिनांक 10.2.88 के प्राप्ति के बाद कोई भी सी०पी० (कॉटन-जेन्सी) पद समाप्त नहीं किया गया है।

3. इस छाक मन्डत में 22 सी०पी० चौकीदारों के पदों, जिन्हें बरकरार रखने का औचित्य नहीं पाया गया, को पैरा-। मेरि और टमास्टर जनरल के निर्देशों के आधार पर समाप्त करने का आदेश इस कायलिय के द्वापन समर्त्यक दिनांक 17.2.88 के बारा जारी किया गया है। (द्वापन का प्रति संलग्न है)।

संपूर्ण मापला आपके अवलोकनाटी इस आशय से प्रहृत किया जारहा है कि इस सम्बन्ध में अग्रिम कार्यवाही हेतु इस कायलिय को आदेश देने की कृपा करें तथा अपने अमूल्यमार्ग दर्शन से हमें कृतार्थ करें।

राजदर द्वावं स्वरूप्यमान भवदीय

माननीय श्री बी०पी०सी०
आ०पी०एस०

(के० सी० मिश्र)

निदेशक छाक सेवाए
लखनऊ फैब्र - लखनऊ - 226007

BEFORE THE ~~GENXXX~~ HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW

Misc. Application No. of 1989

of

Muneshwar Yadav Applicant

In Re:

O.A. No. 316/1988

(District Faizabad)

Muneshwar Yadav Applicant

Versus

Union of India & Others Respondents.

To,

The Hon'ble the Chairman and his other companion

Members of this Hon'ble Tribunal

The humble applicant named above MOST RESPECTFULLY
showeth as under :-

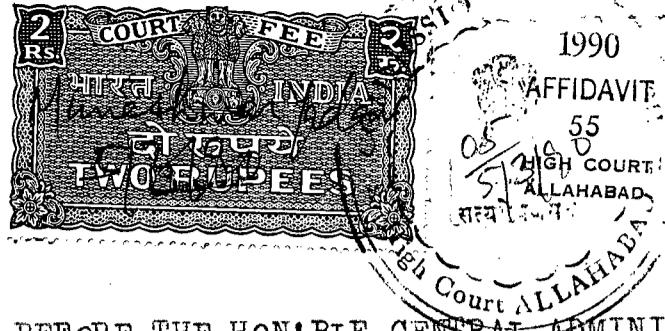
1. That ~~xx~~ for the reasons disclosed in the accompanying
supplimentary affidavit it is necessary in the interest of justice that the accompanying suppli-
mentary affidavit may be brought on record,
otherwise the petitioner would suffer grave and
irreparable loss.

PRAYER

Wherefore, on the facts stated above and in the
accompanying supplementary affidavit, it is MOST REPECT-
FULLY PRAYED that this Hon'ble Tribunal may be pleased to
bring on record accompanying supplementary affidavit to meet the ends of
justice between the parties.

Lucknow. S. 5th March 1990
Dated: Oct. 1989.

M. C. Sinha
Advocate
Counsel for the petitioner.



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

O.A. No. 316/1988

Muneshwar Yadav Applicant

Versus

Union of India & Others Respondents.

Supplimentary Affidavit on behalf
of the petitioner

I, Muneshwar Yadav, aged about 34 years s/o Late Sri Mahabir r/o village Bhadesar P.O. Khajurahat, Distt. Faizabad do hereby solemnly affirm and state on oath as Under :-

1. That the deponent is the petitioner in the above noted petition and such he is acquainted with full facts of the case deposed to below.
2. That the petitioner was filed in the Allahabad Bench on 15.3.88 and after the creation of Circuit Bench at Lucknow, it has been transferred to this Bench.
3. That certain facts which were not in the knowledge of the petitioner and certain development regarding this case that took place subsequent to the date of filing of this petition as such the supplimentary affidavit is being filed herewith. So that justice may be done in the petitioner's case.
4. That altogether 22 posts of contingency paid



Handwritten signature

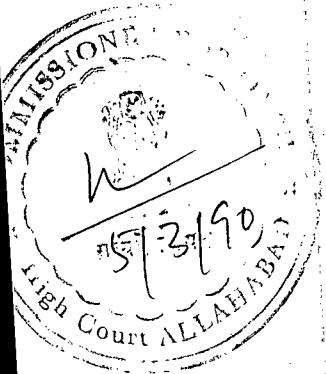
Chowkidars were abolished vide Senior Supd. of Post Offices, Faizabad order No. Memo-A-1/16/Corr/dt. 17.2.1988 (Annexure A-5 to be petition).

5. That in pursuance to the aforesaid abolition of 22 posts, the services of 22 C.P. Chowkidars were terminated without giving any written order of termination or any notice whatsoever.

6. That out of 22 terminated Chowkidars, altogether 13 Chowkidars moved this Hon'ble Tribunal for seeking justice whereas 9 Chowkidars did not prefer the case. After the cases were filed in this Tribunal and it was admitted, the opposite ^{parties} negotiated the matter with these 9 chowkidars who did not prefer to contest and on 6.6.1988 (about 3 months after filing of the case) the respondent no.3 vide his office order No. A-1/16/Corr/dt. 6.6.1988 revived the ^{nine} posts and the original incumbents i.e. these 9 terminated chowkidars were ordered to be reinstated. The posts revived were at the following post offices :

1. Ayodhya R.S.
2. Deoria
3. Hakimpur
4. Khandasa
5. Kedar Nagar
6. Ram Kot
7. Shahganj
8. Terhi Bazar
9. Tikari.

Y 0' d ICP 2



ANNEXURE RA-I

(A true copy of the aforesaid order is being
filed herewith as Annexure RA-I).

7. That out of 13 Chuakidars who moved to his Hon'ble
Tribunal for seeking justice, the details of 7
applicants are available ,but regarding rest 6
applicants no details could be available. The
details of 7 applicants are as follows :-

| <u>O.A.No.</u> | <u>Name of the petitioner</u> | <u>Place of Posting</u> |
|----------------|-------------------------------|-------------------------|
| 1. 312/88 | Ram Anuj | Achhora. |
| 2. 313/88 | Ram Das | Inayat Nagar. |
| 3. 314/88 | Ram Chandra | Majruddinpur. |
| 4. 315/88 | Rajendra Prasad | Shahzadpur. |
| 5. 316/88 | Muneshwar Yadav | Khajurahat. |
| 6. 317/88 | B.B.Dubey | Rasulabad. |
| 7. 392/88 | Bhagauti Singh | Kuchera. |

8. That the aforesaid cases were filed on 15.3.88
and the O.A. No. 392/88 (Bhagauti Singh Vs. Union of
India) was admitted on 15.4.88 whereas O.A. No.
316/88 (Muneshwar Yadav Vs. Union of India) and
317/88 (B.B.Dubey Vs. Union of India) were admitted
on 27.6.88 and when the cases of O.A. No. 312/88
(Ram Anuj Vs. Union of India)and 313/88 Ram Das Vs.
Union of India and 314/88(Ram Chandra Vs. Union of
India) and 315/88 (Rajendra Prasad Vs. Union of
India) were taken up on 11.8.88 the Senior Standing
Counsel for the Respondent assured this Hon'ble
Tribunal that action were being taken to reinstate



Holding

them and consequently they were reinstated vide respondent No. 3 office order No. A-1/Corr dt. 26.9.89 reviving the four posts at the following post offices and the original incumbents were orders to be reinstated.

1. Shahzadpur.
2. Achhora.
3. Majruddinpur.
4. Inayat Nagar.

ANNEXURE RA-II

(A true copy of the aforesaid order dt. 26.5.89 is being filed herewith as Annexure RA-II).

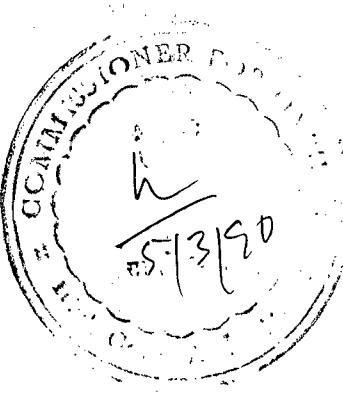
9. That after the present petition was filed (date of filing is 15.3.88) the respondent no. 2 (Director of Postal Services, U.P. Lucknow) issued a circular on 19.4.88 to all Senior Supdt. of Post Offices in U.P. ^{is} not to abolish the posts of C.P. Chaukidars and if such Chaukidars were terminated then they must be reinstated immediately. In pursuance thereof the respondent no. 3 reinstated 13 C.P. Chaukidars but refused to reinstate the petitioner and other retrenched Chaukidars who had sought the protection of this Hon'ble Court. The respondent no. 3 bluntly told that when the petitioner has gone to the court then they get the remedy from the court.

ANNEXURE RA-III

(A true copy of the aforesaid circular dt. 19.4.88 is being filed as Annexure RA-III).

10. That the action of abolition of posts thereby effecting termination of services of the petitioner without either giving any written order of termination or without giving any notice of termination or pay in lieu of notice and without affording any opportunity of hearing before abolishing the post ^{inter alia} is violative of Sec. 25-N of the Industrial Disputes Act 1947, since the Postal Deptt. is an "Industry" within the meaning of sec. 2(j) and the petitioner is a "workman" within the meaning of sec. 2(s) and the wrongful termination or abolition of posts amounts to "Industrial Disputes" within the meaning of sec. 2 (k) of the Industrial Disputes Act 1947 hence the impugned order is liable to be struck down.

11. That mandatory conditions precedent to retrenchment as envisaged in Sec. 25-N of the Industrial Disputes Act 1947 have not been followed as such the wrongful termination in the impugned order is illegal, null and void ab initio.


Lucknow.

Dated: 5th March, 1990.

30/3/92
(Muneshwar Yadav)

Deponent,

VERIFICATION

I, the above named deponent do hereby verify that the contents of paragraphs no. 1 and 3 of this affidavit are true to the best of my knowledge and those of paras 2, 3, 4, 5, 6, 7, 8 and 9

of this affidavit are true on the basis of records and those of paras 10 and 11 are true to the legal advice, nothing in its wrong and nothing material has been concealed.

So help me God.

Lucknow.

the ^{5th} March
Oct., 1969.

13 of 214 -
(Muneshwar Yadav)

Deponent.

I, know the deponent, identify him, who has signed before me.

Lucknow.

the ^{5th} March
Oct., 1969.

M.S.
(M.C.Sinha)

Advocate

High Court, Lucknow.

Solemnly affirmed before me on this 5th March day of Oct., 1969 at 11.00 am/pm by the above named deponent who has identified Sri M.C.Sinha, Advocate High Court Lucknow, Bench. Lucknow.

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

N Singh Oath Commissioner.
NARENDRA PRATAP SINGH
OATH COMMISSIONER
High Court Allahabad.
Lucknow Bench.
No. 05/55
Date 5/3/90



(76)

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A. No. 543/88

Muneshwar Yadav Applicant

Versus

Union of India & others Respondents.

Annexure R.A.-I

DEPARTMENT OF POSTS INDIA

O/O the Sr. Supdt. of Post Offices, Faizabad Dn. Faizabad.
Memo No. A-1/16/Corr dated at Faizabad the 06.06.1988.

....

In pursuance of the Director Postal Services, Lucknow Region, Lucknow letter No. नियाल/ एपर्य/ ३४-३। फैजाबाद दिन 31.5.1988 the post of contingency paid chaukidars of the following offices which were abolished vide this office memo no. even dated 17.2.88 are hereby revoked with immediate effects:-

1. Ayodhya R.S.
2. Deoria.
3. Hakimpur.
4. Khandasa
5. Kedar Nagar.
6. Ram Kot.
7. Shahganj.
8. Terhi Bazar.
9. Tikari.

This original incumbents, who were working against the above mentioned posts of C.P. Chaukidars, on or before 18.2.88 are hereby orders to be reengaged immediately on receipt of this memo, and charge reports should be submitted to all concerned.

Sd/-
Sh. Supdt. of Post Offices
Faizabad Division
Faizabad- 224001.

R.K.3

-8-

APR

Regd.

Copy to the :

1-9) The officials concerned (Ex-C.P.Chaukidars).

10-18) The S.P.Ms. concerned .They should reengaged the original incumbent who were previously engaged as C.P.Chaukidars before the abolition of the said posts any complaint in this regard will be viewed seriously.

19.27) The Relevent Estt. filed.

28-29) The Sr.P.M. Faizabad HO/Postmaster Akbarpur HO/Faizab

30.36) the ASPOs(w) Akbarpur/All the SDIs(P) in the division for causing compliance.

37) the D.P.S. Lucknow region Lucknow 226007 w/r/to R.O. No. ४८८/१८८/८०१-५/ फायदापूर ३१-५-०८.

38-40) O/C and spare.

2501 819 ←

SP390

(A70)

-9-

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW

O.A. No. 316/88

Muneshwar Yadav Applicant

Versus

Union of India & Others Respondents.

Annexure R.A. II

O/O THE SR. SUPDT. OF POST OFFICES FAIZABAD DIVISION-224001.

Memo. No. A-1/16/Corr dated at Faizabad, the 26.5.1989.

In pursuance of the Director Postal Services, Lucknow Region Lucknow letter No. (नियंत्रित व्यापार) RDL-3 (फैजाबाद) dated 31.5.88 and as per instructions contained in para 5 of the letter No. RDL/STA/SN-1/88/3 dated 05.5.89 the posts of contingency paid Chaukidars of the following Sub.Offices which were abolished vide this office Memo No. even, dated 17.2.88, are hereby ordered to be restored with immediate effects:

1. Shahzadpur.
2. Achhora.
3. Majrudinpur.
4. Inayatnagar.

The original incumbents, who were working as C.P. Chaukidars in the above mentioned Sub.Offices on or before 17.2.88 are hereby ordered to be re-engaged immediately.

Charge reports should be submitted to all concerned.

Sd/- Illegible.
Sr. Supdt. of Post Offices,
Faizabad Division.

Sd/- Illegible 26/5

Regd.

Copy issued to :

- 1-4) The officials concerned (Ex-C.P. Chaukidars).
- 5-8) The SPMs concerned. They are directed to re-engaged the original incumbents who were previously engaged as C.P. Chaukidars or on before the abolition of the said posts.
- 9-12) The relevant Estt. filed.
- 13-16) Sr. S.M. Faizabad/P.M. Akbarpur H.O. Faizabad.
15 } The D.P.S. Lucknow Region, Lucknow-226007 w/r/to R.O.
No. RDL/STA/SN-1/88/3 dated 5.5.89.
- 16-1-8) The SDI Faizabad West/South/Akbarpur North, Faizabad.
- 19-20) O/C & Spare.

(879)

विफोर दि आनरेपुल सेन्ट्रल ऐडमिनिस्ट्रेटिव ट्रिब्युनल
सरकिट बैन्य लहानऊ ।
ओ. स. नं० ३२२५४३ ३१६/१९८८

मुनेश्वर यादव
बरसेज
सूनिधन आफ इण्डिया एण्ड अर्ट्स
अनेकजर नं० आर स-३

पिटीशानर
रेस्पान्डेन्ट

भारतीय डाक विभाग
कार्यालय निदेशाल डाक लेवाये, लहानऊ होत्र
लहानऊ-226087

उपन लंड्या निडाल/स्टेट/एक्स-३।

दिनांक अप्रैल १९८८

देता देहाने मै आया है कि जबते कन्टीनेन्सी कर्मचारी यो के स्लाउन्ट बुद्धि का आदेश महानिदेशालय ते प्राप्त हुआ है तबते कुछ मण्डलो के प्रबर अधीक्षक/अधीक्षक विना किसी तामान्य आदेश या परिमण्डल कार्यालय अनुमोदन के हे कोई ती.पी. चौकीदार के पदो को तामाप्त करने का आदेश दे दिया जितके पास्पर्वत्य उन पदो पर लभी अवधि ते कार्यरत कर्मचारी हटा दिये गये इस प्रकार का निष्प्रवाय मानवीय इष्टिकोण तथा नेतिक न्याय के तिदान्त के बिल्द लगता है और हटाये गये कर्मचारी उतके पर्व वार को प्रत्यक्षित: रेता दण्ड ता लगता है जो किसी भी प्रकार अपेहित नही है इन पदो को तब तक तमाप्त करने का विचार करना जबतक कि उन्हे उतके तमक्षा किसी अन्य पद पर नियुक्त नही कर जिया जाता है न्यायोचित नही है तथा विभागीय निर्देशाल के अन्तर्गत निहित दिदान्त के प्रतिकूल है।

२- जत: निदेशाल डाक लेवा बहापूर ने आदेश दिया है कि कोई भी ती.पी. या अन्य ती.पी. कन्टीनेन्सी पद पर विना इत कार्यालय या परिमण्डल कार्यालय निदेशाल के आदेश को तमाप्त नही किया जाता तथा जो पद महानिदेशालय के पत्र तंड्या ४५/९५/८७ सत.पी.पी. दिनांक १०-२-८८ के प्राप्ति के बाद तमाप्त किये गये हो उन्हे तत्काल प्रभाव ते पुनर्जीवित रेस्टोरे किया जाए तथा इत कार्यालय को तूचित किया जाय।

३- जिन मण्डलो मै कुछ पद तमाप्त किये जा चुके है उपरोक्त निर्देशालुतार अनुपालन तुरन्त किया जाव पहले ही तोडे गये पदो का पूरा विवरण सर्व तोडे जाने के औचित्य के बारे मै पूरी आँखा भी इत कार्यालय को भेजे जितते बदि आकर्षकता है तो इत निर्देशाल के बारे मै पुनर्विचार किया जा सके।

कृते निदेशाल डाक लेवाये
लहानऊ होत्र लहानऊ

226007

क्रतिलिपि

- १- प्रबर अधीक्षक/अधीक्षक डाकधर फैजाबाद लहानऊ गोण्डा बहराइया।
- २- तीतापुर, छारी, बाराबंकी, गाढ़बांधुर तथा हरदोई।
- ३- मुख्य डाकधर लहानऊ बरिष्ट डाकधर फैजाबाद तथा लहानऊ चाके डाक महाअध्यक्ष ३० प० २० लहानऊ 226007 को लघनार्थ सर्व बादि उचित तमझा जाव तो बरिमण्डलीय स्तर पर भी रेता निर्देश करने हेतु।

5/3/90

ASPE

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

Miscellaneous Application No. /1990

M. P. No. 521/90 (C.F.F. 26th Sept '90)

In re:

O.A. No. 316/1988

Muneshwar Yadav Applicant

Versus

Union of India & Others Respondents.

Application for condonation of
delay in filing Supplementary
affidavit.

The humble applicant MOST HUMBLY AND RESPECTFULLY begs to state that this petition was heard on 26.7.90 by the Bench comprising His Lordship Hon'ble Mr. Justice K.Nath, Vice-Chairman and Hon'ble Mr.K.Obayya, A.M. and the applicant was directed to file a supplementary affidavit within two weeks, but since the applicant was out of the station from 9.8.90 to 20.8.90 to attend some urgent domestic problems, hence he could not file the supplementary affidavit in time. The due date was 10.8.90, but it is being filed today.

P R A Y E R

It is, therefore, MOST HUMBLY & RESPECTFULLY prayed that this Hon'ble Tribunal may graciously be pleased to condone to delay and order to bring on record the accompanying Supplementary affidavit to meet the ends of Justice.

Lucknow.

(MANIK SINHA)

Dated: Aug. 24th, 1990.

Advocate,

Council for the Petition

f.T.R
MSW
27/8

AS

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

Misc. Application No. of 1990

of

Muneshwar Yadav Applicant

In re:

O.A. No. 316/1988

District-Faizabad.

Muneshwar Yadav Applicant

Versus

Union of India & Others Respondents.

To,

The Hon'ble the Vice Chairman and his other
companion members of this Hon'ble Tribunal

The humble applicant named above MOST HUMBLY AND
RESPECTFULLY begs to sheweth as under :-

1. That the above named petitioner was heard on 26.7.90
by the bench comprising ~~and~~ of the Hon'ble Mr. Justice
K.Nath Vice Chairman and Hon'ble Mr. K.Oboyya A.M.
2. That during the course of hearing, some questions
of law were raised by the applicant, for which the
applicant was directed by the Hon'ble Bench to file
a fresh supplementary affidavit narrating full facts
in support of the legal question raised.

3. That the applicant was directed to file the aforesaid counter affidavit within 2 weak.
4. That as per the direction of the Hon'ble Bench the petitioner is filing herewith an supplementary affidavit as required.

PRAYER

It is, therefore, MOST HUMBLY AND RESPECTFULLY PRayed that the accompanying supplementary affidavit may graciously be pleased to bring on record to meet the ends of justice.

NeSule

Lucknow.

(Manik Sinha)

Dated: Aug. 23, 1990.

Advocate,

Chamber No.3

High Court, Lucknow.

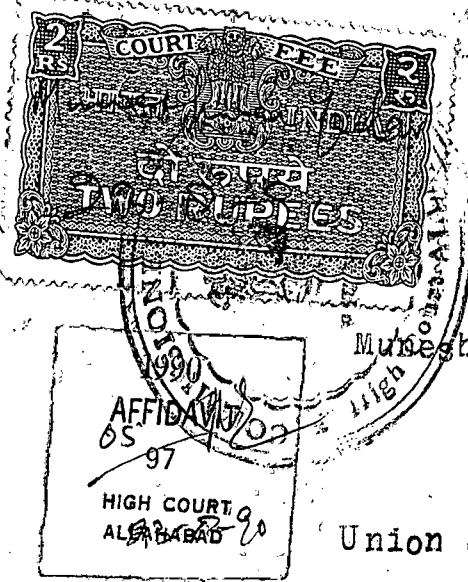
AS3

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

Supplementary Affidavit on behalf of the petitioner

In re:

O.A. No. 316/1988



Muneshwar Yadav Applicant

Versus

Union of India & Others Respondents.

I, Muneshwar Yadav aged about 34 years S/o Sri Mahabir
Yadav r/o village Bhadeshar P.O. Khajurahat, Distt.
Faizabad, do hereby solemnly affirm and state on oath
as under :-

1. That the deponent above named in the applicant in the aforesaid petition as such is fully conversent with the facts and circumstances of the case.
2. That the above noted case was listed & heard on 26.7.90 by the Bench comprising of Hon'ble Mr. Justice K. Nath Vice Chairman and Hon'ble Mr. K. Oboyya Administrative Member.
That during the course of hearing on 26.7.90 the learned counsel for the petitioner raised some substantial question of law, upon which

Contd.....2/-

J. D. Q. (d)



this Hon'ble Tribunal directed the learned counsel for the petitioner to file a fresh supplementary affidavit narrating the facts and circumstances of the case in support of the pleas and raised on 16.7.90.

4. That the "Postal Deptt." of the Govt. of India is "Industry" within the meaning of Sec. 2(J) of the Industrial Disputes Act 1947, since the postal service is not the Sovereign function of the state. The Hon'ble Supreme in Des Raj etc. Vs. State of Punjab & Others (1988 II LLJ 149), while holding "Irrigation Deptt." of the Govt. of Punjab as "Industry" held that only the "Sovereign Function" of the State are exempted from the definition of "Industry" within a meaning of Sec.2(J) of the Act. The Hon'ble Supreme Court also laid down the dominant nature test as under :-

(a) Where a complex of activities some of which qualify for exemption, other involves employees in the total undertaking, some of whom are not "workmen" as in the University of Delhi vs. Ram Nath(1964)2 SCR 703) or some departments are not productive of goods and services if isolated , even then, the predominant nature of services and the integrated nature of the



30/10/2022

Contd....3/-

departments as explained in the Corporation of Nagpur (Supra) will be the true test. The whole undertaking will be "Industry" although those who are not workmen by definition may not benefit by the status.

(b) Notwithstanding the previous clauses, Sovereign function, strictly understood, alone qualify for exemption, not the welfare activities or economic adventures undertaken by Government or statutory bodies.

(c) Even in departments discharging Sovereign function, if there are units which are industries and they are substantially severable then they can be considered to come within section 2 (J).

(d) Constitutional and Competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise may be covered thereby.

That the Postal services is not a sovereign function of the states, because it could be undertaken by the private organizations also and in fact private enterprizes are also involved in the business of postal services, like curioir services, hence the Department of post falls within the definition of "Industry".

P.S.B.

-4-

6. That since the "Postal Department" is an "Industry" hence the provisions of the Industrial Disputes Act are applicable in the instant case. As such the termination of the petitioner amounts to retrenchment, consequently the petitioner being a "Workmen" within the meaning of Sec. 2(S) of the Act, is entitled for the protection of Sec. 25-N of the Industrial Disputes Act-1947. Since the Mandatory provisions of Sec. 25-N of the Act have been violated as such the impugned termination is null & void ab initio and deserves reinstatement with back wages & continuity of service.

7. That without prejudice to the claims made above, even if the department of post is not deemed to be an "Industry", even then the petitioner's termination is null & void, because one month prior notice of termination as contemplated in Rule 5 of Central Civil Services (Temporary Service) Rules 1965 has not been given.

8. That although altogether 22 posts were abolished but subsequently 13 posts were revived-9 posts on 6.6.88 and 4 posts on 26.9.89, but the same was not done in respect of 9 Chaukidars for the simple reason that the none Chaukidars moved to this Hon'ble Tribunal for redressal. The 13 Chaukidars were reinstated on their original posts after reviving their

31/19

Contd....5/-

posts because they did not move the court of law but the posts of the petitioners were not revived. The respondent no.3 became prejudiced against the nine Chaukidars including the petitioner because the none Chaukidars challenged the action of the respondent no. 3 in this Hon'ble Court.

9. That on the one hand reviving the 13 posts and on the other hand refusing to revive further 9 posts of Chaukidars by the respondent no.3 for simple reason that the 9 chaukidars moved this Hon'ble Tribunal is prejudicial, malafide, malice in law and is colourable exercise of powers on the part of respondent no.3.

10. That without prejudice to the claims made above even if it is assumed that the respondent have power to abolish the post, there is no automatic termination. In such case notice has to be given to the incumbent and the principle of "last came first go" has to be followed.

11. That since the abolition of the post of the petitioner was not genuine and in good faith, and since the abolition of post was made as a cloak to dispense with the services of the petitioner, hence the impugned action is subject to judicial review.

ABD

-6-

12. That the abolition of post is violative of Article 311(2) of the Constitution and the Rights guaranteed under Article 14 of the Constitution of India & the principles of natural justice.

Lucknow.

30/8/90
(Muneshwar Yadav)

Dated: Aug. 23, 1990.

Deponent,

VERIFICATION

I, the above named deponent Muneshwar Yadav do hereby verify on oath that the contents of paras 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 are true to the best of my knowledge and belief, no part of it is false.

So help me God.

Lucknow.

30/8/90
(Muneshwar Yadav)

Dated: Aug. 23, 1990.

Deponent.

I, know the deponent ~~Muneshwar~~ Muneshwar Yadav identify him, who has signed before me.

MS
(Manik Sinha)
Advocate

High Court, Lucknow.

Solemnly affirmed before me on this 23 th day of Aug. 1990 at 10 am. /pm/ by the above named deponent who has identified by Sri Manik Sinha, Advocate, High Court LKO.

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

30/8/90 — NARENDRA PRATAP SINGH
OATH COMMISSIONER /Oath Commissioner.
High Court Allahabad.
Lucknow Bench.

No.

वकालतनामा

(c)

Central Admn. Bldg., Tatyasaheb Chhatrapati Bhav. - 2nd flr.
न्यायालय श्रीमान् - Date. 31/6/1980.
- - - - १५. फ्लर - - - - वादी/अपीलान्ट/प्रार्थी/अभियुक्त

विषद्

Central Admn. Bldg., Tatyasaheb Chhatrapati Bhav. - 2nd flr.
Date. 31/6/1980.

व्यवहार विवरण

उपयुक्त व्यवहार में/मैं/हम -) विषद् केस्ट, - - - - - प्रतिज्ञा
Admn. Bldg., Standing Counsel, वकील, एडवोकेट

को इस वकालतनामा द्वारा वकील नियुक्त करके अधिकार देता हूँ/देते हैं कि उपरोक्त अधिवक्ता, वकील उपरोक्त वाद में मूल न्यायालय से लेकर अपील या निगरानी न्यायालय तथा निष्पादन कार्यालय में उपस्थित होवे, कार्य करें और अधोहस्ताक्षरी को तरफ से आवश्यकता पड़ने पर न्यायालय में उपस्थित होवे, कार्य करें और अधोहस्ताक्षरी का पक्ष प्रस्तुत करें न्यायालय द्वारा अधोहस्ताक्षरी के नाम आदेशिका जारी होने पर उसे प्राप्त करें और आवश्यकता पड़ने पर अपने हस्ताक्षर से दूसरा अधिवक्ता नियुक्त करें। अधिवक्ता को उपरोक्त मामलों में अधोहस्ताक्षरी की तरफ से न्यायालय में प्रार्थना पत्र याचिका या अभिवचन प्रस्तुत करने का उसे वापस लेने का, सन्धि पत्र प्रस्तुत करने का किसी मामले का पंच निर्णय के लिये प्रस्तुत करने का न्यायालय में जमा किसी राशि को निष्पादित करने की कार्यालय करने का तथा अधोहस्ताक्षरी को प्राप्त हुई राशियों का प्रमाण पत्र देने का अधिकार अधोहस्ताक्षरी की तरफ से होगा।

उपरोक्त वकील अधिवक्ता द्वारा उपरोक्त मामलों में किया गया कोई भा कार्य अधाहस्ताक्षरी द्वारा किया गया माना जायेगा तथा अधोहस्ताक्षरी उन कार्यों से बाध्य होगा।

अतः यह वकालतनामा लिख दिया कि समय पर काम आवे।

तिथि

मास

सन् १९

विन्ह या हस्ताक्षर प्रतिज्ञा

साक्षी

श्वर श्वेता डाकघर
साक्षी कैजारीला पांडुली
स्वीकृत कैजारी 224001

), (१५/५/१९८०,
एडवोकेट प्लीडर

Adm.

न्यायालय श्रीमान् - Central Admnistrative Tribunal, Civil Bench, Lucknow
 Case No. 392 of 1989
 - - - - - नि. ५२८ - - - - - वादी/अपीलान्ट/प्रार्थी/अभियुक्त

विषय

— विषय विवरण — प्रतिवादी/रिस्पाडेन्ट/विपक्षी/अभियुक्त
 Case No. 392 of 1989
 व्यवहार विवरण

उपयुक्त व्यवहार में/मैं/हम - विषय विवरण - - - - - प्रतिज्ञा
 Addl. Cst. Smt. S. K. Ganguly - वकील, एडवोकेट

को इस वकालतनामा द्वारा वकील नियुक्त करके अधिकार देता हूँ/देते हैं कि उपरोक्त अधिवक्ता, वकील उपरोक्त वाद में मूल न्यायालय से लेकर अपील या निगरानी न्यायालय तथा निष्पादन कार्यालय में उपस्थित होवे, कार्य करें और अधोहस्ताक्षरी की तरफ से आवश्यकता पड़ने पर न्यायालय में उपस्थित होवे, कार्य करें और अधोहस्ताक्षरी का पक्ष प्रस्तुत करें न्यायालय द्वारा अधोहस्ताक्षरी के नाम आदेशिका जारी होने पर उसे प्राप्त करें और आवश्यकता पड़ने पर अपने हस्ताक्षर से दूसरा अधिवक्ता नियुक्त करें। अधिवक्ता को उपरोक्त मामलों में अधोहस्ताक्षरी की तरफ से न्यायालय में प्रार्थना पत्र याचिका या अभिवचन प्रस्तुत करने का उसे वापस लेने का, सन्धि पत्र प्रस्तुत करने का किसी मामले का पंच निर्णय के लिये प्रस्तुत करने का न्यायालय में जमा किसी राशि को निकालने या उसका चेक प्राप्त करने अथवा आवश्यकता पड़ने पर उपरोक्त मामलों में किया गया कोई भी कायं अधोहस्ताक्षरी द्वारा किया गया माना जायेगा तथा अधोहस्ताक्षरी उन कार्यों से बाध्य होगा।

उपरोक्त वकील अधिवक्ता द्वारा उपरोक्त मामलों में किया गया कोई भी कायं अधोहस्ताक्षरी द्वारा किया गया माना जायेगा तथा अधोहस्ताक्षरी उन कार्यों से बाध्य होगा।

अतः यह वकालतनामा लिख दिया कि समय पर काम आवे।

तिथि

मास

सन् १९

चिन्ह या हस्ताक्षर प्रतिज्ञ

साक्षी

प्रबर अधीक्षक डाकघर

साक्षी फैजाबाद मण्डल
 स्वीकृत फैजाबाद 224001

J. (L) 25/5/89
 एडवोकेट प्रीदर

(31)

27/6/88

अभिभाषक पत्र (वकालतनामा)

सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्युनल, एडिशनल बेंच, इलाहाबाद

मुकदमा नं० 316 सन् १९८८

Muneshwar Yadav

वरीलान्ट

बनाम

Union of India & others रेस्पान्डेन्ट

मैं कि
हम

उपरोक्त प्रकरण (मुकदमा) में $\frac{हम}{हम}$ अपना पत्र समर्थन हेतु

श्री सन० बी० सिंह

सीनियर स्टेंडिंग कौसिल

४, छिड़िल रोड, जाज टाउन, इलाहाबाद

को कानूनी निश्चित शुल्क (मेहवताना) नियत करके अपना/हमारा अभिभाषक (वकील) नियुक्त करता हूँ और यह स्वीकार करता हूँ कि उक्त सज्जन हमारी ओर से वाद-पत्र (अर्जीदावा), प्रतिवाद-पत्र (बयान तहरीरी), वाद स्वीकार करते हैं कि उक्त सज्जन हमारी ओर से वाद-पत्र (अर्जीदावा), प्रतिवाद-पत्र (बयान तहरीरी), वाद स्वीकार, विवाद पत्र, पुनरवलोकन एवं पुर्वनिर्णय प्रार्थना-पत्र (दरखास्त), शापथिक कथन (हलफनामा), प्रवर्तन-पत्र (दरखास्त इजराय), मुजबात अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना पत्रादि एवं लेखादि की प्रतिलिपियाँ अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथिक पुष्टीकरण करें और आवश्यक सवाल जबाब करें और लेखादि की प्रतिलिपियाँ एवं हमारे प्राप्य धन को अपने हस्ताक्षरी पावती देकर प्राप्त करें, हमारी ओर से किसी को मध्यस्थ तथा साक्षी (गवाह) मानें 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 करके उनका समर्थन करें अर्थात् प्रकरण से सम्बन्ध रखने वाली कुन कार्यवाही डिग्री के भर पाई होने के समय तक 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 $\frac{हम को}{मुझ को}$ सर्वथा स्वीकार होंगी। अगर $\frac{मैं कानूनी}{हम निश्चित}$ शुल्क तथा विशेष शुल्क आखिरी वहस के बक्त उक्त सज्जन को न दूँ/दें तो उनको अधिकार होगा कि वह हमारी ओर से मुकदमा की पैरवी न करें। उपरोक्त दशा में उक्त सज्जन का कोई उत्तरदायित्व न रहेगा।

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

तिथि

माह

सं०

Central Administrative Tribunal
Section 20 - Rule - 10

CA

317

of 1988

Mr. Brij Bhusan Applicant

11/1/88

Union of India Respondent

Adv. No.

Sl. No.

Part - A

1. Check List A1 - A2
2. Order Sheet A3 - A4
3. Petition A5 - A16
4. Annexures A15 - A20
5. Power A21
6. Supplementary Counter A22 - A32
7. Supplementary Counter A33 - A42
8. Counter Affidavit A3 - A44
9. Rejoinder A65 - A72
10. Supplementary Affidavit A73 - A82 A91

11.

Part - B

B1 - B76

Part - C

C1 - C2

B/C needed cut/destroyed

by SOL on 10/1/88

Termination

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 317 of 1988

APPLICANT (s) Brij Bhushan Dubey

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

Communication New Delhi & 3 others.

| Particulars to be examined | Endorsement as to result of Examination |
|---|---|
| 1. Is the appeal competent ? | Ys |
| 2. (a) Is the application in the prescribed form ? | Ys |
| (b) Is the application in paper book form ? | Ys |
| (c) Have six complete sets of the application been filed ? | Ys, 6 sets filed |
| 3. (a) Is the appeal in time ? | Ys |
| (b) If not, by how many days it is beyond time ? | — |
| (c) Has sufficient cause for not making the application in time, been filed ? | — |
| 4. Has the document of authorisation/Vakalat-nama been filed ? | Ys |
| 5. Is the application accompanied by B.D./Postal-Order for Rs. 50/- | Ys |
| 6. Has the certified copy/copies of the order (s) against which the application is made been filed ? | ^{(i) Annexure No.2 is not the same as mentioned in Index} ^{(ii) Annexure No.5 filed} (Certified by applicant) |
| 7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? | Ys |
| (b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? | Attested by applicant |

Ordt sheet

DA - 31/88

(AB)

25/3/88

Hon. D.S. Misra - Am.
Hon. A.S. Sharma - I.M.

None is present
for the applicant. The
case is adjourned to
27/6/88 for admission.

Adv.

l. J.M.

(2)

27/6/88

Hon. D.S. Misra, Am.

Hon. A.S. Sharma, I.M.

De - c - id.

Oral - 1.00 pm

(3)

27.7.88

Or

Case may be held by

11.8.88

Adv.

Or

Mr. M. B. G. A. S. I. M. 1.30 pm
on 22.8.88

(4)

11.8.88

Adv.

Case may be held

by 30.8.88

Adv.

(5)

30.8.88

Or

as one appears for
replies. Case may be
held by 13.12.88

Adv.

DA 317/88

AM

Health Mr. P.C. Jain A.M

Health Mr. J.P. Sharma J.M

On the request of Mr. Learned
Counsel of Mr. appeared the hearing
of O.L.C. AGS is adjourned to 20.7.90.

AM

J.M

(A5)

BEFORE THE HON'BLE CENTRAL ~~EXTRAJUDICIAL~~ ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Application No. 317 of 1988

Brij Bhushan Duvey Applicant/Petitioner
Versus

Union of India & Others Respondents.

S.No. Description of the documents relied upn Page No.

| | | |
|----|--|------|
| 1. | Application | 1-9 |
| 2. | Annexure A-1 copy of the appointment letter dated 26.5.75. | 10 |
| 3. | Annexure A-2 Copy of the relieving certificate dt. 19.2.88. | 11 |
| 4. | Annexure A-3 Copy of circular directing sanction of equal pay & D.A. Etc. to casual employees as that of regular employee. | 12 |
| 5. | Annexure A-4 Copy of the Sr. Supdt. of Post Offices Faizabad creating 62 Posts of Chaukidars. | 13 |
| 6. | Annexure A-5 Copy of the circular abatesting 22 Posts of Chaukidars. | 15/4 |
| 6. | Annexure A-6 Copy of the representation against discharge. | 16/5 |
| 7. | Vakalatnama | 17/6 |

Dated : March 15, 1988

Place : Allahabad.

M.C.Sinha
(M.C.Sinha)

Counsel for the applicant.

महेश्वर

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Application No. 317 of 1988

Brij Bhushan Dubey
aged about 38 years
S/o Late Sri Ram Lakhan Dubey
Village- Rasulabad
P.O.- Rasulabad
Distt.- Faizabad Applicant
Central Administrative Tribunal

Additional Bench At Allahabad
Date of Filing..... 15/3/88

Versus

Fr. 25/3/88
Date of Recd. 1. Union of India through the
Secretary to the Govt. of India
Ministry of Communication
Sanchar Bhawan, New Delhi.

2. Director of Postal Services U.P.

Lucknow.

3. Sr. Supdt. of Post Offices

Faizabad.

4. Inspector of Post Offices Faizabad (East)

Division Faizabad Respondents.

Details of application

1. Particulars of the applicant :

(i) Name of the applicant : Brij Bhushan Dubey

(ii) Name of father : Late Sri Ram Lakhan Dubey

(iii) Age of the applicant: nearly 38 years

(iv) Designation and particulars :

of office (Name and station) : Chaukidar (Casual)

in which the employed or was : Rasulabad Sub-

last employed before ceasing : (Post Office)

to be in service : Faizabad.

(v) Office address :- Brij Bhushan Dubey

Vill. Rasulabad

P.O.- Rasulabad

Distt.- Faizabad.

Contd.....2/-

(vi) Address for service of Notice : Brij Bhushan Dubey
Vill. Rasoolabad
P.O.- Rasoolabad
Distt.- Faizabad.

2. Particulars of the respondents

- (i) Union of India through the Secretary to the Govt. of India, Ministry of Communication, San char Bhawan, New Delhi.
- (ii) Director of Postal Services U.P. Lucknow.
- (iii) Senior Superintendent of Post Offices Faizabad.
- (iv) Inspector of Post Offices Faizabad (East) Sub. Division Faizabad.

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

The application is against the following orders :-

- (i) Order No. with reference to Annexure Memo No. A-1/16/Corr.
Annexure No. A-2.
- (ii) dated 17.21988.
- (iii) Passed by :- Sr. Supdt. of Post Offices Faizabad.
- (iv) Subject in brief :- Termination of the service of the applicant.

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.

Contd....3/-

27/4/88

5. Limitation

The applicant further declares that the application is within the limitation presented in sec. 21 of Administrative Tribunal Act 1985.

6. Facts of the case

The facts of the case are given below :-

- (i) That the petitioner was working as a C.P. Chaukidar at Rasoolabad Sub. Post Office in Faizabad District and held a "Civil Post" under the Union of India and his salary on the date of discharge was Rs. 848/- per month inclusive of D.A. etc.
- (ii) That the petitioner is a young man of 38 years and was appointed as a Chaukidar on 27.5.75 by the Inspector of Post offices Faizabad East Sub Divn. Faizabad vide his memo No. A/Rasoolabad dt. 20.5.75 (A true attested copy of the aforesaid appointment letter is annexed herewith as Annexure A-1)
- (iii) That the petitioner was posted as Chaukidar at Rasoolabad Sub Post Office Faizabad on 27.5.75 and since then he was working there continuously uninterruptedly till 19.2.88 when he was relieved from since all of a sudden without any termination order or notice and without any rhyme and reason (A true attested Copy of the relieving certificate is annexed herewith as Annexure A-2)
- (iv) That before relieving the petitioner from his Post of Chaukidar on 19.2.88 no order of termination either from his appointing authority who happens to be the Inspector of Post offices

Contd.....4/-

27/2/88
S. S. S. S. S.

nor from any other Senior Officer was ever given. Neither any such termination order has been issued at all by the appointing Authority or any other authority.

(v) That the work and conduct of the petitioner throughout his career of service and had been all along satisfactory to all concerned and he discharged his duties diligently and with complete devotion & sincerity.

(vi) That the petitioner was appointed as a Casual employee and was doing his duties for 16 Hrs. daily from 5 P.M. to 9 A.M. next.

(vii) That although the petitioner was appointed as a casual employee but his pay and other allowances was at per month with the regular employee. The basic pay of the petitioner Rs. 750/- pm. plus D.A. Rs. 98/-. The total emolument of the petitioner was Rs. 848/- at the time when he was relieved illegally.

(viii) That the pay and other allowances and duties of a casual Chaukidar is the same as that a regular and permanent Chaukidar. The above contention is supported by a circular dated 12.2.1988 issued from the Director (Staff) Deptt. of Posts ,New Delhi addressed to the Post Master General U.P. Lucknow & Others in compliance with the decision of the Hon'ble Supreme Court (A True copy attested the aforesaid circular is annexed herewith as Annexure A-3)

27/2/89

Contd.....5/-

(ix) That the petitioner put in more than 13 years of continuous and uninterrupted service as Chaukidar and he was relieved without any termination order and any prior notice or pay in lieu of notice as required under the law as a condition precedent for termination.

(x) That because of more than 13 years of continuous and uninterrupted service, the petitioner acquired the status of a regular employee as such he could not have been relieved without giving him a termination order and notice of termination assigning reason and compensation.

(xi) That altogether 62 posts of Chaukidar for each 62 sub. Post Office exist in Faizabad District which is evident from a circular of the Sr. Supdt. of Post Offices, Faizabad vide his memo No. A-1/16/Corr dated 26.6.1986 (A true attested copy of the aforesaid circulars is annexed herewith as Annexure A-4)

(xii) That out of the aforesaid 62 posts of Chaukidars each attached with one sub- Post office ,22 posts have been abolished without any jurisdiction and without laying down criteria or principle by the Senior Supdt. of Post Offices, Faizabad vide his memo No. A-1/16/Corr dt. 17.2.1988(A true attested copy of the aforesaid circulars is annexed herewith as Annexure A-5)

(xiii) That in each of the aforesaid 62 Sub Post Offices in Faizabad District ,National Savings Certificate India, Vikas Patras, Money orders, Insured letters Parcels, Registered letters and other cash are handled at the cash is kept in the chest of the Sub. Post offices and the Chaukidars are posted

27/2/86

Contd..... 6/-

(xix) That the discharge of the petitioner from service has been effected with malafide intention and ulterior motive and is without jurisdiction.

(xx) That the discharge of the petitioner is illegal unjust, and unconstitutional and against the principles of natural justice.

7. Details of the remedies exhausted:

(i) That on being relieved from service, the petitioner met the Inspector of Post Offices Rasoolabad (East) Faizabad and gave him a representation on 20.2.88 but he expressed his inability to reinstate him.

(ii) That the petitioner met the Senior Supdt. of Post Offices Faizabad on 22.2.88 and presented him a memorandum urging him to reinstate the petitioner, but the Sr. Supdt. of Post Offices too refused to consider the demand.

(iii) That on 9.3.88 when the Director of Postal Services U.P. visited Faizabad Head Post office on his official tour, the petitioner met him also and submitted before him to reinstate the petitioner on his post, but the Director of Postal services turned down the appeal.

(A true attested copy of the aforesaid representation is annexed herewith As annexure A-6

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 Bench of the Tribunal and nor any such application , writ petition or suit is pending before any of them.

9. Reliefs sought

In view of the facts mentioned in para 6 above the applicant prays for the following reliefs :-

- (i) To direct the respondents to reinstate the petitioner with continuity of service and back wages.
- (ii) To struck down the relieving/charge certificate (Annexure A-2)
- (iii) To quash the impugned order of the Sr. Supdt. of Post offices, Faizabad (Annexure A-5)
- (iv) To declare the petitioner as a regularly appointed chaukidar.
- (v) To pass any other in the interest of justice as this Hon'ble court may deem fit.

10. Interim order, if any prayed for :-

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

- (i) to stay the operation of the relieving/charge certificate (Annexure A-2)
- (ii) To stay the operation of the order of the Sr. Supdt. of Post Offices Faizabad (Annexure A-5) .

11. x.x.x x x x x

Contd.....9/-

2-7-2013
S. K. B. M. S. E. I.

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12. Particulars of Postal Order in respect of the application fee.

1. Number of India Postal Order 835652
2. Name of issuing Post Office : Faizabad.
3. Date of issue of Postal order: 12.3.88.
4. Post office at which payable : Allahabad.

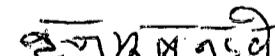
13. List of enclosures :

- (i) Annexure A-1 : Copy of the appointment letter dt. 26.5.75
- (ii) Annexure A-2 : Copy of the relieving certificate dt. 18.2.88
- (iii) Annexure A-3 : Copy of the circular from Director (Staff) Deptt. of Posts, New Delhi directing to pay equal pay and allowances to casual employees.
- (iv) Annexure A-4: Circular of Sr. Supdt. of Post Offices creating 62 posts of Chaukidars. in Faizabad.
- (v) Annexure A-5 : Copy of the Circular of the Sr. Supdt. of Post offices abolishing 22 posts of chaukidars.
- (vi) Annexure A-6: Copy of the representation against discharge.
- (vii) ~~Yakainatnam~~ Postal order for Rs. 50/-

VERIFICATION

I, Brij Bhushan Dubey S/o Late Sri Ram Lakhan Dubey aged about 38 years formerly working as C.P. Chaukidar, Rasoolabad Sub. Post Office Faizabad resident of village and Post Rasoolabad District Faizabad do hereby verify that the contents of paras 1,3,6,7,8,12 and 13 are true to my personal knowledge and paras 2,4,5,9,10 and 11 believed to be true on legal advice and that I have not suppressed any material fact.

Dated: March 15, 1988


(Brij Bhushan Dubey)

Place : Allahabad.

Signature of the applicant.

To,

The Registrar

Central Administrative Tribunal

Allahabad Bench Allahabad.

10
AIS

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Application No. of 1988

Brij Bhushan Dubey Applicant

Versus

Union of India & Others Respondents

Annexure A-1

Inspector of post offices
Faizabad East Sub. Division
224001.

To,
The SPM.

Rasulabad, Faizabad.

No.A/Rasulabad Dásst. Faizabad the 26.5.76.

Sub:- Creation of one post of C.P. Chaukidar
at Rasoolabad.

The SPOs. Faizabad has been pleased to sanction
one post of C.P. Chaukidar for your office at the rate
of Rs. 80/- p.m. inclusive of all allowances.

Therefore please engage any local suitable person
previously and intimate date of creation of the post.
You have only to make tempy. arrangement and the regular
arrangement will be made by the u/s letter & later on
after absorbing neej formalities.

suitability of S/S Mahadeo Prasad Dubey & Sheo
Kumar Dubey will. and Post Rasoolabad may also be judged
while engaging any person as they have applied for the
post.

Sd/-

Inspector of Post offices

Faizabad East Sub. Divn.

224001.

True attested Copy.

Brij Bhushan Dubey

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Application No. of 1988

Brij Bhushan Petitioner

Versus
Union of India & Others Respondents.

ANNEXURE A-2

CHARGE REPORT

Certified that the Charge of the Office of C.P. Chaukidar was received by Brij Bhushan Dubey with Fore noon of 27.5.75 in accordance with IPOS Faizabad (East) Order No. A/Rasulabad dt. 26.5.75.

Signature of Receiving
Officer

Copy forwarded to :-

The S.P.M. Faizabad.

True copy attested.

मुमुक्षु

12
AP

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Application No. of 1988

Brij Bhushan Dubey Petitioner

Versus

Union of India & Others Respondents.

Annexure A-3

Copy of Comm. letter No. 42/25/87 SP.B.I. dt. 10 Feb. 1988 from S.Chadha Director (Staff) Department of Posts Dak Bhawan New Delhi-110001 addressed to Sri S.P. Rai Post Master General U.P.Circle, Lucknow & Others.

Sub:- Absorption of Casual Labourers in the light of Supreme court judgement.

Sir,

In compliance to Hon'ble Supreme court of India decision 27th Oct. 1987 in Writ Petition No. 373 of 1986 regarding payment of wages of Casual labourers at the Minimum of pay in the pay scale of the regulary employed workers in the corresponding cadre without any increments with effect from 5th Feb. 86 the Directorate of Posts has decided that :-

- (i) All the casual labourers engaged on casual basic are to be paid wages workers out on the basis of the minimum pay in the pay scale of regularly employed workers in the corresponding cadre without any increment with effect from 5th Feb. 86 but casual labour will also be entitled to DA and ADA if any on the minimum of the pay scale, No other allowance are to be paid.
- (ii) The word casual labourers would cover full time casual labour part-Time casual labour and workers engaged on contingency basis. Part the workers casual or contingency paid will be paid on pro-rate basis. For the purpose of payment no distinction should be made whether the casual labourers and contingency paid staff are being paid wages or from office contingencies.
- (iii) The arrears at the enhanced rate are to be paid before 25.2.88 positively.

2. For the allotment of funds you are requested to contact the DBudget section of the Directorate. You are requested to take further necessary action in the matter regarding showing the payment made to each worker to sent before 1.3.88.

3. The receipt of this letter may kindly be acknosleged to Sri S.S. Mebha section Officer(SPB.I.) before 12.2.88

4. This issyue with the approval of Finance (Amn) U.P. No. 548/-FAP/88 dated 5.2.88.

Sd/-

(S.Chadha)
Director (Staff)

True copy attested.

27/2/88

13
(AO)

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Application No. of 1988

Brij Bhushan Dubey Petitioner
Versus
Union of India & Others Respondents.

Annexure A-4

C/O the Sr. Supdt. of Post Offices Faizabad Division
Memo No. A-1/Corr/Dt. at Faizabad the 26.6.86

In accordance with instructions contained in D.G. P & T New Delhi letter No. 21-30 /74 AP dated 13.8.75 communicated under letter No. ACA/E-858/ChII dt. 20.6.86 section of the Sr. Supdt. of Post Offices Faizabad Division Faizabad is hereby accorded to the revision of District charge on account of fixation of wages of below mentioned contained paid chaukidar of the Division Rs. 274-15 to 342.90 per month w.e.f from 1.1.1956.

The expenditure is debit able under the head wages of contingent paid.

| | |
|--------------------|---------------------|
| 1. Amaniganj | 43. Rampur Bhagan |
| 2. Achhora | 44. Rasulabad |
| 3. Ayodhya | 45. Raunahi |
| 4. Ayodhya S.S. | 46. Ramkot |
| 5. Bandipur | 47. Shahganj |
| 6. Bariyawan | 48. Saidahi |
| 7. Barun | 49. Surapur |
| 8. Baragoan | 50. Sikanderpur |
| 9. Baskhari | 51. Sohawal |
| 10. Bharatkund | 52. Tarun Bazar. |
| 11. Bikapur | 53. Tikari |
| 12. Bhti | 54. Rajesultanpur |
| 13. Chaurey Bazar. | 55. Shahzadpur |
| 14. Dabhasemer | 56. Khaspur |
| 15. Darshnanagar | 57. Maya |
| 16. Deorai | 58. S.P.S.S. Mills. |
| 17. Deoraha | 59. D.O. Faizabad. |
| 18. Dulahupur | 60. Faizabad City |
| 19. Haringtonganj | 61. Tanda |
| 20. Hanswar | 62. Janaura. |
| 21. Iltifatganj | |
| 22. Inayatnagar | |
| 23. Jafarganj | |
| 24. Jahagirganj | |
| 25. Jalalpur | |
| 26. Khajurahat | |
| 27. Kichhauchha | |
| 28. Kuchera. | |
| 29. Rakiapur | |
| 30. Khandasa | |
| 31. Kedarnagar | |
| 32. Kumarganj | |
| 33. Malipur | 34. Mainuddinpur |
| 35. Mijaura | 36. Milkipur |
| 37. Mittupur | 38. Motinagar |
| 39. Maharuwa gola | 40. Mahboobganj |
| 41. Pahitipur | 42. Ram Nagar. |

Sd/-

Sr. Supdt. of Post Offices
Faizabad Divn. Faizabad.
Copy issue for information and n/a to the Post Master
Rasulabad /Sr.P.M. Faizabad. 2724753

1/4
ALG
BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Application No. of 1988

Brij Bhushan Dubey Petitioner
Versus
Union of India & Others Respondents.

Annexure A-5

DEPARTMENT OF POST INDIA
OFFICE OF THE SR. SUPDT. OF POST OFFICES FAIZABAD DN. FAIZABAD.
Memo No. A-1/16/Corr/Dated at Faizabad the 17.2.1988.

The undermentioned posts of C.P. Chaukidars which were not found justified for further retention are hereby ordered to be abolished with immediate effect.

| | |
|------------------|---------------------|
| 1. Achhora | 12. Majruddinpur |
| 2. Ayodhya R.S. | 13. Maharuwa gola . |
| 3. Deoria | 14. Maya |
| 4. Hakimpur | 15. Pahitipur |
| 5. Iltifatganj | 16. Rasulabad |
| 6. Inayatnagar | 17. Ramkot |
| 7. Jahanagirganj | 18. Shahganj |
| 8. Khajurahat | 19. Shahzadpur |
| 9. Kuchera | 20. Terhi Bazar |
| 10. Khandasa | 21. Tikari |
| 11. Kedarnagar | 22. U.P.S.S.Mills. |

The incumbent working against the above mentioned posts of C.P. Chaukidars, should be relieved immediately on receipt of this memo and charge reports should be submitted to all the concerned.

Sr. Supdt. of Post Offices
Faizabad Division
Faizabad -224001.

Copy to the :-

- 1-22) Official concerned.
- 23-24) The S.P. Ms. concerned. They should relieve the C.P. Chaukidars immediately & submit compliance report to Sri R.P. Verma Office Supervisor O/O SSPOS Faizabad once.
- 45-66) The relevant Estt. Files.
- 67-68) The Sr.P.M. Faizabad./P.M. Faizabad (Rasulabad)
- 69-75) The ASPOS (East) Rasulabad Faizabad/All the SDIS(P) in the Division for causing compliance.
- 76) The Director Postal services (Vig) Lucknow for information w.r.t. to C.O.D.O. No. DV/Misc./87 dt. 5.1.
- 77) The D.P.S. Lucknow Region Lucknow W.E. to R.O. file No. RDL/Estt/X-3 dated 31.8.87 for information.
- 78-79) A-1/16/Corr & A-1/12 Retrenched file
- 80.100) Spares.

True copy attested.

3-7-24-1988

15
A20

विफोर दि आनरेवुल तेन्ट्रल रेलव्हुब्रेंग इंमितिस्ट्रेटिव ट्रिवुनल
इलाहाबाद बैन्च इलाहाबाद ।

प्रार्थना पत्र संख्या _____ तन 1088

वृज भूषण द्वौवे

पेटिशनर

बरसेज

युनियन आफ इण्डिया आदि

रेस्पान्डेन्ट

अनेकजर स-6

सेवा मे,

श्री मान निदेशक, डाक सेवाये उत्तर प्रदेश
कैम्प- फैजाबाद ।

महोदय,

निवेदन है कि प्रार्थी दिनांक 27-5-75 से उप डाकधर रसूलाबाद किला फैजाबाद मे सी० पी० चौकीदार के पद पर कार्य करता चला आ रहा था । कि दिनांक 19-2-88 को सेवा से अलग कर दिया गया है । मैने 13 वर्षों तक लगातार विभाग की सेवा पूरी निष्टा के साथ की है मेरे विरुद्ध कभी कोई शिकायत नहीं प्राप्त हुई है परन्तु अकारण मेरी सेवाये समाप्त कर दी गई । जिससे प्रार्थी बेरोजगार हो गया है जिसकी उम्र 38 वर्ष हो जाने के कारण अब बेरोजगारी मे कोई नौकरी भी नहीं मिल सकती । बेरोजगार हो जाने के फलस्वरूप प्रार्थी के बच्चे व परिवार भूखो मर जाने के कगार पा ज्ञा गये है । ज्ञात हुआ है कि विभाग मे अभी अनेक चौकीदार के पद रिंपैट है । तथा मेरे पद को तोड़ने का कोई औचित्य भी नजरे नहीं आता ।

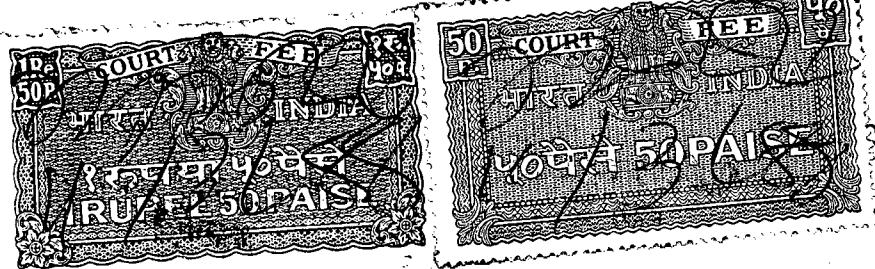
अतः श्री मान जी से निवेदन है कि कृपया प्रार्थी को चौकीदार के पद पर बहाल या पुनर्नियुक्त करने की कृपा करे । जिसके लिये प्रार्थी आजम्म श्री मान ज का आभारी रहेगा ।

आपका आज्ञाकारी सेवक,

वृज भूषण द्वौवे
ग्राम व पो० रसूलाबाद
जिला- फैजाबाद ।

सत्य प्रतिलिपि प्रमाणित

वृज भूषण द्वौवे



1/6 (20)

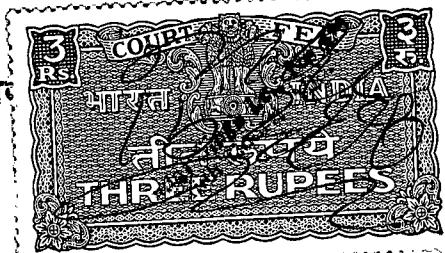
न्यायालय श्रीमान्

Hon'ble Central Administrative Tribunal, Allahabad

Br. Bhusan Dulay

वा.

विश्व



Union of India

प्रतिवादी/रिस्पाडेंट/विपक्षी/अभियुक्त

व्यवहार विवरण

उपर्युक्त व्यवहार में/मैं/हम

M. C. Singh Advocate

वकील, एडवोकेट

को इस वकालतनामा द्वारा वकील नियुक्त करके अधिकार देता है/देते हैं कि उपरोक्त अधिवक्ता, वकील उपरोक्त बाद में मूल न्यायालय से लेकर अपील या निगरानी न्यायालय तक तथा निष्पादन कार्यवाही में उपस्थित होवें, कार्य करें और अधोहस्ताक्षरी को तरफ से आवश्यकता पड़ने पर न्यायालय में उपस्थित होवें, कार्य करें और अधोहस्ताक्षरी का पक्ष प्रस्तुत करें, न्यायालय द्वारा अधोहस्ताक्षरी के नाम आदेशिका जारी होने पर उसे प्राप्त करें, और आवश्यकता पड़ने पर अपने हस्ताक्षर से काई दूसरा अधिवक्ता नियुक्त करें। अधिवक्ता को उपरोक्त मामलों में अधोहस्ताक्षरी की तरफ से न्यायालय में प्रार्थनापत्र याचिका या अभिवचन प्रस्तुत करने का न्यायालय में प्रपत्र प्रस्तुत करने का उसे बापस लेने का सन्धिपत्र प्रस्तुत करने का किसी मामले को पंच निर्णय के लिए प्रस्तुत करने का न्यायालय में जमा किसी राशि को निकालने या उसका चेक प्राप्त करने अथवा आवश्यकता पड़ने पर रुपया जमा करने का किसी डिक्री को निष्पादित करने की कार्यवाही करने का तथा अधोहस्ताक्षरी को प्राप्त हुई राशियों का प्रमाणापत्र देने का अधिकार अधोहस्ताक्षर की तरफ से होगा।

उपरोक्त वकील, अधिवक्ता द्वारा उपरोक्त मामलों में किया गया कोई भी कार्य अधोहस्ताक्षरी द्वारा किया गया माना जायेगा तथा अधोहस्ताक्षरों उन कार्यों से वाध्य होगा।

अतः वकालतनामा लिख दिया कि समय पर काम आवे।

तिथि

March मास 16

सन् १९६८

चिन्ह या हस्ताक्षर प्रतिज्ञ

March साक्षी 14

साक्षी

इंजीनियर

बार एसोसियेशन, फैजाबाद

स्वीकृत

Wesel
एडवोकेट, प्लीडर

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

Misc. Application No. 376 of 1990 (1)

By Sr. Supdt. of Post Offices,

Faizabad.

(Applicant
Respondent No. 3)

Application for Filing Supplementary Counter reply
In re.

O. A Case No. 317 of 1968

Brij Bhushan Dubey Applicant

Versus.

Union of India & Others Respondents.

To,

The Hon'ble ~~the~~ Chairman and His other Companion
Members of this Hon'ble Tribunal.

The humble applicant named above Most Respectfully showeth as under :-

1. That for the reasons disposed in the accompanying supplementary counter reply it is necessary in the interest of justice that the accompanying supplementary Counter reply may be brought on record, otherwise the Respondent would suffer grave and irreparable loss.

P R A Y E R

Wherefore, on the facts stated above and in the accompanying supplementary Counter reply, it is Most Respectfully prayed that this Hon'ble Tribunal may be pleased to bring on record the supplementary Counter reply to meet the ends of justice.

Lucknow ;

Dated : 20/7/90

(Dr. Dinesh Chandra)
Advocate,

Counsel for the Respondent No. 3.

(RB)

In the Central Administrative Tribunal at Allahabad,
Circuit Bench, Lucknow.

SUPPLEMENTARY COUNTER REPLY ON BEHALF OF RESPONDENT NO. 3.

Misc. Appl. No. 376/90(L)
In

Case No. O.A. 317 of 1988.

Brij Bhushan Dubey Applicant

Versus.

Union of India & Others Respondents.

I, R.G. Mishra, aged about 56 years, son of Shri Thakur

Prasad Mishra, Sr. Supdt. of Post Offices, Faizabad, do hereby
solemnly affirm and state as under :-

1. That the official above named has read over the Supplementary Affidavit filed by the petitioner & has understood the contents thereof. He is well conversant with the facts of the case indicated hereinafter.
2. That the contents of Para 1 to 3 of Supplementary Affidavit need no comments.
3. That the contents of para 4 are admitted.
4. That ~~the~~ in reply to paras 5 and 6 it is submitted that the post of 22 C.P. Chowkidars were terminated on account of abolition of the post of Chaukidars in all the 22 post offices of Faizabad Dn. Later on 9 post of C.P. Chaukidars were

(APR)

reviewed on 6.6.88 in respect of the Sub Post Offices where substantial amount of cash & valuables were kept overnight.

In those Sub Post Offices where the amount of Cash and valuables kept overnight was very meagre, it was not considered worthwhile to revive the post of Chaukidar. A copy of the policy decision in this regard is being filed as

Ex

Annexure R- I

5. That in reply to para 7 of the Supplementary affidavit it is stated that another four posts of contingent paid Chaukidars were revived on 26.5.1989 in the following Sub Post Offices, in addition to 9 Posts already revived :-

- 1) Acchhore
- 2) Inayatnagar,
- 3) Majruddinpur
- 4) Shohjandpur.

6. That with reference to para 8 of the affidavit it is ~~stated~~ denied that only those posts were revived where Chaukidars had not approached the Hon'ble Tribunal for relief. Inspite of the fact that the Chaukidars of the above four post offices had moved the Hon'ble Tribunal for relief and their petitions were dismissed by the Hon'ble Tribunal, their posts were revived and they were given appointment vide SSPs FD. Memo No. A-1/16/Corr. dated 26.5.1989 (Annexure R-A-II of the application). It is also denied that the said ~~above~~ posts were revived on account of an

(103) b2

14.5.90

assurance given by the Senior Standing Counsel. On the other hand the above four posts were revived as a result of the representations submitted by the affected Chaukidars.

7. That the contents of para 9 of the petition are admitted to the extent that the Circular dated 19.4.88 was issued by the Director Postal Services, Lucknow, but while it was desired that the posts of Chaukidars may be revived on humanitarian grounds, it was also desired that a report regarding the post offices where the posts of Chaukidars were abolished, and reasons thereof, may be sent to him for further direction. In reply to the above circular it was indicated vide letter dated 25.4.88 that the posts of 22 Chaukidars had already been terminated before receipt of the Circular. A copy of the letter A-1/16/Corr. dated 25.4.1988 is being filed as Annexure R-2. Later on 13 posts (9 + 4) were revived.

8. That in reply to para 10 & 11 of the Supplementary affidavit it is stated that the Industrial dispute Act, 1947 is not applicable to the contingent paid staff of the Postal department. The contingent paid Chaukidar of Postal Departments is not a "workman" within the meaning of Section 2 (s) of the said Act.

Hence, It will be worthwhile to mention that the Divisional Superintendent who had made the appointments of applicant was not competent to sanction or to create the post of

P20

Contingent paid Chaukidars. Thus ab-initio their appointments were void as the same was done without approval of the competent authority. There is no vacant post of Contingent paid Chaukidars at present.

Lucknow ;

Dated : 14-5-90

x 213723

Respondents

Verification

I, the above named Respondent do hereby verify that the contents of paras of this Supplementary Counter reply are true to the best of my personal knowledge and those of paras are believed by me to be true based on records and as per legal advice. That nothing material fact has been suppressed.

Lucknow ;

Dated : 14-5-90

v 213723

Respondent.

ANNEXURE. R.I

Case No. 317/88

Sri Brig Bhupan Dubey VS U.O.G. & A.R.

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS

OFFICE OF THE POSTMASTER-GENERAL, U.P. CIRCLE
LUCKNOW- 226001.

Est

30/2

12/1/e

(ATX)

To,

- ✓ 1. Shri B.P. Singh,
D.P.S., Lucknow.
2. Smt. Neelam Srivastava,
D.P.S., Kanpur.
3. Smt. Suneeta Trivedi,
D.P.S., Dehradun.
4. Smt. Neelam Srivastava,
D.P.S., Allahabad.

No. Est-A/M-1-111/88/6 Dated at Lw. the

2-8-88

8 - 1988.

Kindly find enclosed a copy of the D.O. letter
No. 2-17/88-PE-I dated 10-6-88 from Shri P.S. Ragavachari,
Secretary (Dept of Posts) New Delhi addressed to ~~the P.M.G. UP~~
regarding employment of chowkidars including C.P. chaukidars
in different offices in Postal & R.M.S. wing on heavy
avoidable financial expenses despite clear instructions on
the subject to observe economy measure.

Points raised in this letter may kindly be gone
through carefully personally by you and the desired
exercise at the regional level should be got done early in
each case office-wise. Your detailed report may be sent
within a period of 15 days.

The receipt of this letter may kindly be
acknowledged.

D.A. As above.

See 010880
S.D. Verma
(S.P. Rai)

Pls discuss and
put up by 31/88 pre-early
31/88
31/88

AO
D.A.

Copy of D.O. No. 2-17/88-PE.I dated 10-6-88 from P.S. Ragavachari
Secretary, Govt. of India, Ministry of Communications, Department
of Posts Dak Bhawan, Sansad Marg, New Delhi, addressed to
Shri S.P. Rai, P.M.G., U.P. Circle, Lucknow.

1271/C (A2)
Dear Shri S.P. Rai,

I find that in a very large number of cases Chowkidars/ Watchmen are employed for fairly long spells of time daily in post offices, RMS offices and administrative offices, including Circle offices. The purpose for employment of such a large numbers of this category of staff is not always clear. They do not contribute directly to operational efficiency. Especially in non-operative offices like the Circle office or Divisional office, the purpose for employment of Chowkidars/Watchmen is rather debatable. Even in post offices an unarmed chowkidar/ watchman is sometimes more of a liability than otherwise. Instructions are already there that in post offices where large amounts of cash are kept over night inner locking safes should invariably be supplied. These safes are practically burglary-proof and afford more or less complete protection to the valuables ~~xxx~~ (cash/stamps, etc.) kept in them. In administrative offices, including Record offices, divisional offices and Circle offices, the need for a chowkidar/ watchman will have to be very specifically established. These posts are however filled up more as a routine than as a result of a conscientious examination of the need. Since the cost of establishment of such chowkidars is met from Contingencies, some units are rather liberal in creating such posts.

2. When the same person is employed continuously as a chowkidar/ watchman over a period of years, he expects also (and this is a legitimate expectation) that he should be absorbed in the Department as a regular chowkidar/Watchman. Again, there is also the question of weekly off to this category of staff. Assuming the employment of a chowkidar/watchman is dispensed with on a postal holiday or a Sunday, this fact will be well known to one and all and the mischief monger can well choose that very day for his evil purpose. This, in turn, nullifies the employment of a chowkidar/ watchman.

3. Another very important point is that employment of such persons imposes a big financial liability, especially in the light of Supreme Court's judgement concerning casual labour regarding paying pro rata wages applicable to a departmental employee. The cost of employing a chowkidar with reference to the valuables (if there are any) ~~xxx~~ kept in the post offices has also to be kept in mind while determining the need for a chowkidar.

4. I will request you to kindly go through all these points carefully and have a ~~xxx~~ thorough review made with a view to effecting as much economy as possible.

With regards,

Yours sincerely

sds-
(P.S.Ragavachari)

Case No. 317/88

Sri Anandlalwar Laddu vs U.O.G.I. C
Brij Bhushan Dubeyके ०३०० प्रिं
आई०पा०ए०पुराना अधीक्षक डाक्टर
पैजाबाद मन्डल पैजाबाद

अ०शा० पत्रांक - ए-१/१६/कार

25.4.88

श्रद्धालु

सेवीय कायतिय के ब्रापन समा निडाल/स्टेट/एक्ल०३। दिनांक 19.4.88 के प्रत्येक किंवदु पर निम्नलिखित आव्या आगके अवतोकनाट प्रस्तुत है—

१. इस डाक्टर मन्डल मे किंतु निम्नलिखित कोई भी पद उनकी डाक्टर वृद्धि के डाक्टर मन्डल के अवैश के प्राप्ति के बाद नहीं समाप्त किया गया है। यहाँ यह उत्तेज करना आवश्यक प्रतीत होता है कि इस डाक्टर मन्डल मे 22 सौ०पी० चौकिदारों के पंद, उस डाक्टर वृद्धि के अवैश के प्राप्ति के पूर्व ही समाप्त किये जा चुके थे जिन्हे पैक्टमार्टर जनरल के बारा प्राप्ति निर्देशों के अनुसार ही समाप्त किया गया। दिनांक 5.8.85 तथा 6.8.85 को तत्कालीन निर्देशक डाक्टर सेवार के बारा किए गए इस कायतिय के निरीक्षण आव्या के पैरा १८ पर तत्कालीन पैक्टमार्टर जनरल श्री डॉ०ए० सकलको के आज्ञावेशन (INV/IR-38/DPS/85/3 दिनांक 28.11.85) मे यह निर्देश दिया गया था।

" The number of CP Employees also appears to be very large. Payment of pay and allowances to the CP employees causes heavy expenditure. Divisional Superintendents are not competent to sanction creation of posts of C.P. employees. It is noticed that they sanction a large number of posts of C.P. Chaukidars without any authority. A review of justification of the C.P. employees is required to be carried out to find out whether they have been sanctioned according to norms and by the competent authority. After the review is carried out, abolition of unjustified posts will have to be considered.

उपरोक्त निर्देश के अनुसार मे इस कायतिय के उम संघर्षक पत्र दिनांक 27.6.86 के बारा समस्त उपकरणीय प्रभारीयों से निर्धारित प्राप्ति मे सौ०पी० कर्मचारीयों के औपचार्य के पुनरीकारण के लिए सुधारण एकत्र करने के लिए लिखा गया। पुनः 4.2.87, 27.3.87, की अनुस्मारक भी भेजे गए। इसी बोध निर्देशक (सतर्गी) के अ०शा० पत्रांक डी०वी/प्रिंस/८७ दिनांक 5.6.87 के बारा यह निर्देश प्राप्त हुआ।

" In order to avoid such wasteful expenditure, I want to know from you that details of each office and its justification. Concerned Departmental Heads should justify or otherwise the continuance of such posts."

निदेशक (सतर्कता) का उपरोक्त पत्र द्वितीय कायलिय के पत्रिक आरडीएल/इट०/एस-३। दिनांक २३.७.८७ के ब्वारा प्राप्त हुआ जिसमें सीधे परिमळतीय कायलिय को उत्तर प्रेषित करने का निर्देश दिया गया है। अतः उपर्युक्त प्रधारियों से ९.९.८७, २७.९.८७, २९.९.८७ तथा १२.१.८८ के अनुस्मारकों के माध्यम से समस्त सी०पी० चौकीदारों के औद्धिक्य के पुनरावृण के सड़कन्डा में निर्धारित प्राप्ति में सूचना एकत्र की गई। समस्त एकत्र सूचनाओं को समेकित करके दिनांक १७.२.८८ को २२ सी०पी० चौकीदारों के पदों को बरकरार रखने का औद्धिक्य न पाये जाने के कारण इवरित आदेश से समाप्त कर दिया गया। शेष ३८ सी०पी० चौकीदारों के पदों को बरकरार करने की अस्तुति के साथ इस कायलिय के समर्थक पत्र दिनांक २४.२.८८/१५.३.८८ के माध्यम से अग्रसारित किया जा सुका है। समाप्त किए गए सी०पी० चौकीदार के पदों पर कार्यार्थ कर्मचारियों को छटनी हुदा कर्मचारी मानकर रिक्त इ०डी० पदों पर नियुक्त करने हेतु अ०श्य० पत्र समर्थक दिनांक १९.२.८८ के ब्वारा हीने आपसे अनुरोध भी किया था तथा इस सड़कन्डा में आपके कायलिय से पत्रिक आरडीएल/इपस्टो/एस-३।/५० दिनांक १८.३.८८ ब्वारा निकाले गए सी०पी० कर्मचारियों को रिक्त इ०डी० पदों पर लगाने हेतु अनुमोदन भी प्राप्त हो गया था। किन्तु दूरभाष पर आपसे हुई वार्ता के आधार पर आपके अग्रिम आदेश तक उक्त पत्र पर कोई कार्यवाही नहीं की गई। इस बीच इस कायलिय ब्वारा सी०पी० चौकीदारों के पदों के समाप्त करने के उपरोक्त आदेश के विरुद्धता कुल ४ केस के द्वितीय न्यायिक प्राप्तिकरण इलाहाबाद में दायर हो चुके हैं।

इस सम्बन्ध में २७.६.८६ का पत्र तथा बाद में जारी अनुस्मारकों, समाप्त किए गए सी०पी० कर्मचारियों के सम्बन्ध में प्राप्ति पर एकत्रित सूचनाएं तथा चार्ट की प्रोटोप्रूति मन्त्रिवर के अवलोकनाटी संलग्न हैं।

२. मठानिदेशालय के पत्र संख्या ४५/९५/८७/एसपीबी-। दिनांक १०.२.८८ के प्राप्ति के बाद कोई भी सी०पी० (कॉट्टनेसी) पद समाप्त नहीं किया गया है।

३. इस हाक मन्डल में २२ सी०पी० चौकीदारों के पदों, जिन हें बरकरार रखने का औद्धिक्य नहीं पाया गया, को पैरा-। में लिखे पीस्टमास्टर जनरल के निर्देशों के आधार पर समाप्त करने का आदेश इस कायलिय के द्वापन समर्थक दिनांक १७.२.८८ के ब्वारा जारी किया गया है। (द्वापन का उत्तर संलग्न है)।

सम्पूर्ण मामला आपके अवलोकनाटी इस आशय से प्राप्तुत किया जारहा है कि इस सम्बन्ध में अग्रिम कार्यवाही हेतु इस कायलिय को आदेश देने की कृपा करें तथा अपने अमूल्य मार्ग दर्शन से हमें कृतार्थ करें।

सचिव संघ सचिव मध्यवीय

माननीय श्री बी०पी०सी०
आ०पी०एस०

(के० स० मिश्र)

निदेशक हाक सेवाएं
लखनऊ होम - लखनऊ - २२६००७

(83)

न्यायालय श्रीमान् - Central Admnistrative Tribunal, Central Bench, Lucknow
 गोम 317 घट्टा
 - - - डि. बी. एस. बैचन्ड्री, - - - बादी/अपीलान्ट/प्रार्थी/अभियुक्त
 विरुद्ध

- प्रतिवादी/रिस्पाडन्ट/विपक्षी/अभियुक्त

व्यवहार विवरण

उपयुक्त व्यवहार में/मैं/हम Dr. B. S. Bachendri, Central Bench, Lucknow - - - प्रतिज्ञा
 Adm. C. S. S. Central Bench, Lucknow, एडवोकेट

को इस वकालतनामा द्वारा वकील नियुक्त करके अधिकार देता हूँ/देते हैं कि उपरोक्त अधिवक्ता, वकील उपरोक्त बाद में मूल न्यायालय से लेकर अपील या निगरानी न्यायालय तथा निष्पादन कार्यालय में उपस्थित होवे, कार्य करें और अधोहस्ताक्षरी की तरफ से आवश्यकता पड़ने पर न्यायालय में उपस्थित होवे, कार्य करें और अधोहस्ताक्षरी का पक्ष प्रस्तुत करें न्यायालय द्वारा अधोहस्ताक्षरी के नाम आदेशिका जारी होने पर उसे प्राप्त करें और आवश्यकता पड़ने पर अपने हस्ताक्षर से दूसरा अधिवक्ता नियुक्त करें। अधिवक्ता को उपरोक्त मामलों में अधोहस्ताक्षरी की तरफ से न्यायालय में प्रार्थना एवं याचिका या अभिवचन प्रस्तुत करने का उसे वापस लेने का, सन्धि पत्र प्रस्तुत करने का किसी मामले का पंच निर्णय के लिये प्रस्तुत करने का न्यायालय में जमा किसी राशि को निकालने या उसका चेक प्राप्त करने अथवा आवश्यकता पड़ने पर खपया जमा करने का किसी डिग्री को निष्पादित करने की कार्यालयी करने का तथा अधोहस्ताक्षरी को प्राप्त हुई राशियों का प्रमाण पत्र देने का अधिकार अधोहस्ताक्षरी की तरफ से होगा।

उपरोक्त वकील अधिवक्ता द्वारा उपरोक्त मामलों में किया गया कोई भी काय अधोहस्ताक्षरी द्वारा किया गया माना जायेगा तथा अधोहस्ताक्षरी उन कार्यों से बाध्य होगा।

अतः यह वकालतनामा लिख दिया कि समय पर काम आवे।

तिथि

मास

सन् १९

चिन्ह या हस्ताक्षर प्रतिज्ञ

साक्षी

साक्षी

ग्रावर अधीक्षक डाकघर

कैज़ाबाद मण्डल

कैज़ाबाद 224001

स्वीकृत

११/१/०५

एडवोकेट प्लीडर

११/१/०५

(A52)

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

Misc. Application No. 377 of 1990. (L)

By Sr. Supdt. of Post Offices,

Faizabad.

Applicant
(Respondent No. 3).

In re. :

D. A. No. 392 of 1988.

Bhagauti Singh Applicant.

Versus.

Union of India & Others Respondents.

To,

The Hon'ble Chairman and His Other Companion

Members of This Hon'ble Tribunal.

The humble applicant named above most respectfully sheweth as under :-

*Filed today
Self
29/5/90*

1. That for the reasons desposed in the accompanying Supplementary Counter reply it is necessary in the interest of justice that the accompanying supplementary counter reply may be brought on record, otherwise the Respondent would suffer grave and irreparable loss.

P R A Y E R

Wherefore, on the facts stated above and in the accompanying supplementary Counter reply, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to ~~brought~~ on record the accompanying supplementary counter reply to meet the ends of justice.

Lucknow ;

Dated : 2/7/90

(Dr. Dinesh Chandra)
Advocate,

Counsel for the Respondent No. 3

(RJ3)

In the Central Administrative Tribunal at Allahabad,
Circuit Bench, Lucknow.

SUPPLEMENTARY COUNTER REPLY ON BEHALF OF RESPONDENT NO. 3

Misc. Appl. No. 377/90(1)
In

Case No. C.A. 392 of 1988

Bhagauti Singh Applicant.

Versus.

Union of India & Others Respondents.

I, R. S. Mishra, aged about 56 years, son of Shri Thakur Prasad Mishra, Sr. Supdt. of Post Offices, Faizabad, do hereby solemnly affirm and state as under :-

1. That the official above named has read over the Supplementary affidavit filed by the petitioner & has understood the contents thereof. He is well conversant with the facts of the case indicated hereinafter.
2. That the contents of Para 1 to 3 of Supplementary Affidavit need no comments.
3. That the contents of para 4 are admitted.
4. That in reply to paras 5 and 6 it is submitted that the post of 22 C.P. Chaukidars were terminated on account of abolition of the post of Chaukidars in all the 22 Post Offices of Faizabad Dn. Later on 9 post of C. P. Chaukidars were

21/3/2025
14.5.90

~~Reviewed~~ reviewed on 6.6.88 in respect of the Sub Post Offices where substantial amount of cash & valuables were kept overnight.

In those Sub Post Offices where the amount of cash and valuables kept overnight was very meagre, it was not considered worthwhile to revive the post of Chaukidars. A copy of the policy decision in this regard is being filed as

Annexure R - i.

5. That in reply to para 7 of the Supplementary affidavit it is stated that another four posts of contingent paid Chaukidars were revived on 26.5.1989 in the following Sub Post Offices, in addition to 9 posts already revived :-

- 1) Acchhare
- 2) Inayatnagar,
- 3) Majruddenpur
- 4) Sohjanpur.

6. That with reference to para 8 of the affidavit it is denied that only those posts were revived where Chaukidar had not approached the Hon'ble Tribunal for relief. Inspite of the fact that the Chaukidars of the above four post offices had moved the Hon'ble Tribunal for relief and their petitions were dismissed by the Hon'ble Tribunal, these posts were revived and they were given appointment vide SSPs Fd. Memo No. A-1/16/Corr. dated 26.5.1989 (Annexure Ra-II of the application). It is also denied that the said posts were revived on account of an

2/25/23

14.5.90

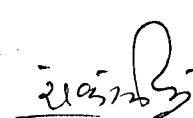
436

- 4 -

contingent paid Chaukidars. Thus ab-initio their appointment were void as the same was done without approval of the competent authority. There is no vacant post of Contingent paid Chaukidars at present.

Lucknow ;

Dated : 14.5.90

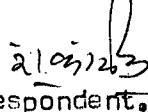

Respondent.

Verification

I, the above named Respondent do hereby verify that the contents of paras of this Supplementary Counter reply are true to the best of my personal knowledge and those of paras are believed by me to be true based on records and as per legal advice. That nothing material fact has been suppressed.

Lucknow ;

Dated : 14.5.90


Respondent.

ANNEXURE-R.I

Case No 392/88

Smt Bhagwati Singh vs. U.O.O

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS
OFFICE OF THE POSTMASTER-GENERAL, U.P. CIRCLE
LUCKNOW- 226001.

Est
30/2
12/88
RBT

To,

- ✓ 1. Shri B.P. Singh,
D.P.S., Lucknow.
2. Smt. Neelam Srivastava,
D.P.S., Kanpur.
3. Smt. Suneeta Trivedi,
D.P.S., Dehradun.
4. Smt. Neelam Srivastava,
D.P.S., Allahabad.

2-8-88

No. Est-A/M-1-111/88/6 Dated at Lw. the 26-8-1988.

Kindly find enclosed a copy of the D.O. letter
No. 2-17/88-PE-I dated 10-6-88 from Shri P.S. Ragavachari,
Secretary (Dept of Posts) New Delhi addressed to ~~the P.M.G. U.P.~~
regarding employment of chowkidars including C.P. chawkidars
in different offices in Postal & R.M.S. wing on heavy
avoidable financial expenses despite clear instructions on
the subject to observe economy measure.

Points raised in this letter may kindly be gone
through carefully personally by you and the desired
exercise at the regional level should be get done early in
each case office-wise. Your detailed report may be sent
within a period of 15 days.

The receipt of this letter may kindly be
acknowledged.

✓ D.A. As above.

2002-010805
S.D. Verma
(S.P. Rai)

For discussion and
implementation by 31/8/88
by 31/8/88

AO
D.A.

Copy of D.O. No. 2-17/88-PE.I dated 10-6-88 from P.S. Ragavachari
Secretary, Govt. of India, Ministry of Communications, Department
of Posts Dak Bhawan, Sansad Marg, New Delhi, addressed to
Shri S.R. Rai, P.M.G., U.P. Circle, Lucknow.

1271 C (A5)
Dear Shri S.P. Rai,

I find that in a very large number of cases Chowkidars/ Watchmen are employed for fairly long spells of time daily in post offices, RMS offices and administrative offices, including Circle offices. The purpose for employment of such a large numbers of this category of staff is not always clear. They do not contribute directly to operational efficiency. Especially in non-operative offices like the Circle office or Divisional office, the purpose for employment of Chowkidars/Watchmen is rather debatable. Even in post offices an unarmed chowkidar/ watchman is sometimes more of a liability than otherwise. Instructions are already there that in post offices where large amounts of cash are kept over night inner locking safes should invariably be supplied. These safes are practically burglary-proof and afford more or less complete protection to the valuables (cash/stamps, etc.) kept in them. In administrative offices, including Record offices, divisional offices and Circle offices, the need for a chowkidar/ watchman will have to be very specifically established. These posts are however filled up more as a routine than as a result of a conscientious examination of the need. Since the cost of establishment of such chowkidars is met from Contingencies, some units are rather liberal in creating such posts.

2. When the same person is employed continuously as a chowkidar/ watchman over a period of years, he expects also (and this is a legitimate expectation) that he should be absorbed by the Department as a regular chowkidar/Watchman. Again, there is also the question of weekly off to this category of staff. Assuming the employment of a chowkidar/watchman is dispensed with on a postal holiday or a Sunday, this fact will be well known to one and all and the mischief monger can well choose that very day for his evil purpose. This, in turn, nullifies the employment of a chowkidar/ watchman.

3. Another very important point is that employment of such persons imposes a big financial liability, especially in the light of Supreme Court's judgement concerning casual labour regarding paying pro rata wages applicable to a departmental employee. The cost of employing a chowkidar with reference to the valuables (if there are any) kept in the post offices has also to be kept in mind while determining the need for a chowkidar.

4. I will request you to kindly go through all these points carefully and have a ~~thorough~~ thorough review made with a view to effecting as much economy as possible.

With regards,

Yours sincerely

sd/-
(P.S.Ragavachari)

ANNEXURE - RII

Case No. 392/88

Sri Bhagwati Singh vs. U.O.D.S.

ASQ

के०सी० मिश्र
आई०पा०एस०

पुलर अधीक्षक डाक्टर
पैजाबाद मन्डल पैजाबाद

अ०शा० पत्रोक - ए०/१६/कार

25.4.88

श्रद्धाये श्रामन् ,

सेवीय कायतिय के वरपन द्वारा निहात/स्टेट/एक्स०३। दिनांक 19.4.88 के पुस्तक पर निम्नलिखित आव्या आगके अवतोकनात् प्रस्तुत है -

१. इस डाक मन्डल मे कमिट्टेन्सी पेट्र कर्मचारियो का कोहै भी पद उनकी मात्रा बृद्धि के डाक महानिदेशालय के आदेश के प्राप्ति के बाद नेहो समाप्त किया गया है। यह यह उत्तैष करना आवश्यक प्रतीत होता है कि इस डाक मन्डल मे 22 सौ०पी० बौद्धिको के पंद, उक्त मात्रा बृद्धि के आदेश के प्राप्ति के पूर्व ही समाप्त किये जा चुके थे जिन्हे पैसे टमार्टर जनरल के बारा प्राप्त निर्देशो के अनुसार ही समाप्त किया गया। दिनांक 5.8.85 तथा 6.8.85 को उत्कालीन निर्देशक डाक सेवार के बारा किए गए इस कायतिय के निरीक्षण आव्या के पेरा १८ पर उत्कालीन पैसे टमार्टर जनरल भी डॉ०एस० सकतको के आज्ञवेशन (INV/IR-३८/DPS/85/3 दिनांक 28.11.85) मे यह निर्देश दिया गया था -

" The number of CP Employees also appears to be very large. Payment of pay and allowances to the CP employees causes heavy expenditure. Divisional Superintendents are not competent to sanction creation of posts of C.P. employees. It is noticed that they sanction a large number of posts of C.P. Chaukidars without any authority. A review of justification of the C.P. employees is required to be carried out to find out whether they have been sanctioned according to norms and by the competent authority. After the review is carried out, abolition of unjustified posts will have to be considered.

उपरोक्त निर्देश के अनुसार मे इस कायतिय के सम संघर्षक पत्र दिनांक 27.6.86 के बारा उमस्त उपकालीय कर्मचारियो से निर्दारित प्राप्ति मे सौ०पी० कर्मचारियो के गोप्यत के पुनर्गोप्य के लिए सुचनाए एकत्र करने के लिए लिखा गया। पुणः ४.२.८७, २७.३.८७, भी बनुस्मारक भी भेजे गए। इसी गोप्य निर्देशक इतन दुष्टा -

" In order to avoid such wasteful expenditure, I want to know from you that details of each office and its justification. Concerned Departmental Heads should justify or otherwise the continuance of such posts. "

निदेशक (सतर्कता) का उपरोक्त पत्र द्वारा कायतिय के पत्रिक आरडीएल/इट०/एस-३। दिनांक २३.७.८७ के ब्दारा/प्राप्त हुआ जिसमें सोधे परिमल्लीय कायतिय को उत्तर प्रेषित करने का निर्देश दिया गया है। अतः उपमल्लीय प्रधारियों से ९.९.८७, २७.९.८७, २९.९.८७ तथा १२.१.८८ के अनुस्मारकों के माध्यम से समस्त सो०पा० चौकीदारों के औचित्य के पुनरावृण के सम्बन्ध में निर्धारित प्राप्त में सूचना एकत्र की गई। समस्त एकत्र सूचनाओं को समीक्षित करके दिनांक १७.२.८८ को २२ सो०पा० चौकीदारों के पदों को बरकरार रखने का औचित्य न पाये जाने के कारण त्वरित आदेश से समाप्त कर दिया गया। शेष ३८ सो०पा० चौकीदारों के पदों को बरकरार करने की असुन्तुष्टि के सम्बन्ध में अनुसारित किया जा चुका है। समाप्त किए गए सो०पा० चौकीदार के पदों पर कार्यात् कर्मचारियों को छठनी शुदा कर्मचारी यानकर रिक्त ई०डी० पदों पर नियुक्त करने हेतु अ०स्ट० पत्र समर्स्यक दिनांक १९.२.८८ के ब्दारा हीने आपसे अनुरोद भी किया था तथा इस सम्बन्ध में आपके कायतिय से पत्रिक आरडीएल/इस्टी/एस-३।/५० दिनांक १८.३.८८ ब्दारा निकाले गए सो०पा० कर्मचारियों को रिक्त ई०डी० पदों पर लगाने हेतु अनुमोदन भी प्राप्त हो गया था। किन्तु दूरभाष पर आपसे हुई बातों के आधार पर आपके अग्रिम आदेश तक उक्त पत्र पर कोई कार्यवाही नहीं की गई। इस बीच इस कायतिय ब्दारा सो०पा० चौकीदारों के पदों के समाप्त करने के उपरोक्त आदेश के विवरण कुल ४ के द्वारा कायतियक प्राधिकरण इताहायाद में दायर हो चुके हैं।

इस सम्बन्ध में २७.६.८६ का पत्र तथा बाद में जारी अनुस मार्को, समाप्त किए गए सो०पा० कर्मचारियों के सम्बन्ध में प्राप्त पर एकत्रित सूचनाएं तथा चार्ट की घोटोप्रति ग्रन्थिवर के अवलोकनाद संलग्न हैं।

२. मठानिदेशात्य के पत्र संख्या ४५/९५/८७/एसपीबी-। दिनांक १०.२.८८ के प्राप्त के बाद कोई भी सो०पा० (कॉट-जेन्सी) पद समाप्त नहीं किया गया है।

३. इस छाक महल में २२ सो०पा० चौकीदारों के पदों, जिन्हें बरकरार रखने का औचित्य नहीं पाया गया, को पैरा-। में जिखे पौर्णट्यास्टर जनरल के निर्देशों के अधार पर समाप्त करने का आदेश इस कायतिय के द्वापन समर्स्यक दिनांक १७.२.८८ के ब्दारा जारी किया गया है। (द्वापन का प्रति संलग्न है)।

संपूर्ण मायता आपके अवलोकनाद इस आशय से प्रत्युत किया जारहा है कि इस सम्बन्ध में अग्रिम कार्यवाही हेतु इस कायतिय को आदेश देने की कृपा करे तथा अपने अमूल्य मार्ग दर्शन से हमें कृतार्थ करे।

लक्ष्मण राव लक्ष्मण भवदीय

माननीय श्री बी०पा०सिंह
आ०पा०स०

(के० सो० मिश्र)

निदेशक डॉ. सेवार
लखनऊ ईवि - लखनऊ - २२६००७

22

ADM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

CIVIL MISC. APPLICATION NO. OF 1988

On behalf of Union of India..... Applicant.

IN

REGISTRATION NO. 317 OF 1988.

(DISTRICT: FAIZABAD)

Brij Bhsan Dubey..... Applicant.

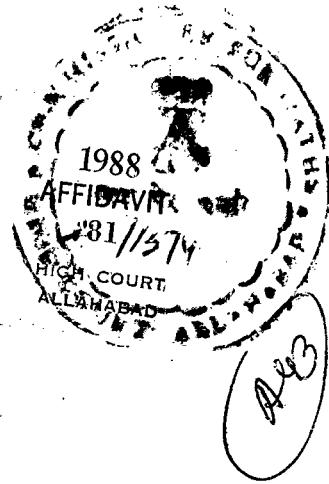
Versus

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

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

The humble application o-f the abovenamed
application most respectfully Showeth:

1. That for the facts and circumstances
states in the accompanying counter affidavit
it is expedient in the interest of justice
that the prayer for the relief claimed by the
applicant may be rejected.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

COUNTER AFFIDAVIT

IN

REGISTRATION NO. 317 OF 1988.

(DISTRICT: FAIZABAD)

Brij Bhushan Dubey.....Petitioner

Versus

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

Affidavit of Shri RamKaram Misra,
aged about 55 yrs son of
Shri Thakur Prasad Misra,
at present posted as Sr Subd Officer
Faizabad Dist Faizabad

21/3/88
DEPT. OF POST OFFICE
Faizabad Division
FAIZABAD 224001

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

Page

-2-

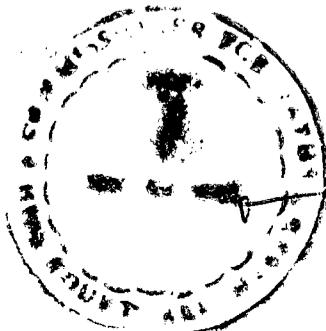
1. That the deponent is the ^{Sr. Supdt} of Post Offices Faizabad.

and has been authorised to file this counter affidavit on behalf of respondent in the aforesaid case and as such he is well acquainted with the facts of the case deposed to below.

2. That the deponent has read the application of Sri Brij Bhushan Dubey and others filed in the Hon'ble Tribunal and has understood their contents.

3. That before giving parawise reply of the application it is necessary to bring the certain facts before this Hon'ble Tribunal which is essential for the just and proper disposal of the aforesaid case.

Sr. Supdt. of Post Offices
Faizabad Division
FAIZABAD-224001



4. That to curtail the expenditure incurred upon Contingent Paid employees, the then Director Postal Services. Smt. Neelam Srivastava issued directions during inspection of the office of Sr. Supdt. of Post Offices, Faizabad 5.8.1985 & 6.8.1985. The directions given in para 18 reads:..

5. That as regards expenditure under the Head Wages, it was stated that there are 155 Contingency Paid employees in the division and a sum of Rs. 22,000/- per month approximately, is paid as allowances to them. The S.S.P.O. is, however, required to exercise control over the expenditure under the Head 'ages.'

6. That while reviewing the above Inspection Report of the D.P.S.

Sr. Supdt. of Post Offices
Faizabad division
BUDGET 1985-86



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4044-

Lucknow Region, the them PMOY U.P.
Circle, Lucknow, Shri D.S.Sakalkale,
made the following observations on the
para 18 of the said I.R. vide his No.
INV/IR/38/DPS/85/304-28-11-85- •

7. That the number of Contingency
paid employees also appear to be very
large. Payment of Pay and allowances
to the C.P. employees causes heavy
expenditure. Divisional Superintend-
ents are not competent to sanction,
creation of the posts of Contingency
Paid employees. It is noticed that
they sanctioned a large number of
the posts of Contingency Paid employees.
It is noticed that they sanctioned
a large number of the posts of C.P.
Chowkidars without any authority. The
review of justification of each of the

Mr. Supdt. of Post Office
Fazabad Division
BAIZABAD, 224001

"In order to avoid such wasteful expenditure, I went to know from you that details of each Chowkidar i.e. Departmental/Contingency Paid/Extra-Departmental, Kept in each P.O./Offices and its Justification. Concerned departmental heads should justify or otherwise the continuance of such posts -".

9. That the Director Postal Services Lucknow Region vide his endst.no RDL/EST/X-31 dated 23.7.87 also directed to send a reply directed to the P.N.G.s Office.

10. That in compliance of the above orders, the Sub-Divisional Incharges were again reminded on 9.9.87, 27.8.87, and 12.1.88 submit the informations in

Sr. Supdt. of Post Office,
Fatehabad Division
RAJASTHAN 224001

information. The names of the abolished posts of C.P. Chowkidars are as under:-

NAME OF THE OFFICES WHERE THE POSTS
OF C.P. CHOWRIDARS WERE ABOLISHED:

1. Achhora
2. Ayodhya A.S.
3. Deoria
4. Hukimpur
5. IItifatganj
6. Inayatnagar
7. Jahagirganj
8. Khajurahat
9. Kuchera
10. Mandasa
11. Kedarnagar
12. Kajruddinpur
13. Maharuagola
14. Maya
15. Pahitipur
16. Rasulabad
17. Ramkot
18. Shahganj
19. Shahzadpur
20. Terhi Bazar
21. Tikari
22. U.P.S.S. Mills Akbarpur)

AST

-9-

11. That the abolition of 22 posts of C.P. Chowkidars was reported to the Directors Postal Services, Lucknow Region vide this office letter No A-1/16/Forr dated 19.2.88 seeking guidance whether the 22 C.P. Chowkidars displaced due to abolition of their posts, be appointed against the vacant E-D Posts in this division. This proposal was approved by the D.P.S. Lucknow Region vide R.O. NO RDE/EST/ZX-31/FZD dated 18.3.88. The action to absorb the displaced C.P. Chowkidars was postponed on the telephonic order of the D.P.S. Lucknow Region on 24.3.88. Mean while, the displaced Chowkidars have filed cases against the department in C.A.T. at Allahabad.

27
Suptl. of Post Offices
Farrukhabad
27/3/88

12. That it is wroth while to mention

that none of the post of C.P. Chowkidars has been abolished subsequent to the date of receipt of D.G.s. letter No 45/95/87/SPB I dated 10.2.88. The aforesaid letter was received in this office on 18.2.88 where in the instructions regarding absorption to casual labours in the light of Supreme Court's Judgment and payment of arrears to them was received on the revised rates, while the posts were ordered to be abolished earlier then 18.2.88. vide this office Memo. No. A-1 /16/Conr dated 17.2.1988- .

13. That in reply to the contents of paragraph 6(1) of the application it is submitted that the petitioner was working as C.P.Chowkidar at Kuchera Sub Post Office. This post is not a Civil Post.

(AS3)

-11-

14. That the contents of paragraph 6(ii) of the application need no comments.

15. That the contents of paragraph 6(iii) of the application are admitted to the extent that the petitioner worked as C.P. Chowkidar from 1.4.1975 to 18.2.1988. The order for the abolition of the post was issued on justified grounds. Since further continuances of the post of C.P. Chowkidar of Kuchera was found a recurring loss to the exchequer and as such on the ground of non justification, and the reasons mentioned in the foregoing paragraphs it was desired to abolish the post. However, there was no provision to issue notice to the Contingent employees.

16. That the contents of paragraph 6(iv) of the application are denied. It is submitted that the petitioner was relieved on 18.2.1988 in the forenoon.

Sh. Supdt. of Post Offices
Faizabad Division
FAIZABAD 224001

PSU

-12-

The allegation of the petitioner that the order of termination was not delivered is not admitted as there is no provision in the department regarding the same.

It is submitted that the order ~~xxxix~~ for the of the posts were communicated to the Sub-Postmaster of concerned Post Office and the same was directed to relieve the incumbents engaged on the posts, immediately.

17. That the contents of paragraph 6(v) of the application need no comments.

18. That the contents of paragraph 6(vi) of the application are admitted.

19. That the contents of paragraph 6(vii) of the application are denied. It is submitted that the order of fixation of allowances at per to the regular Group 'D' employees, was received after the abolition of the post of C.P. Chowkidar Kudhera-.

20. That the contents of paragraph 6(viii) of the application are admitted to the extent that the decision of the Hon'ble Supreme Court, circulated by ~~the Hon'ble Supreme Court~~ Director (Staff), Department of Posts, New Delhi was received on 18.2.1988 through the P.M.G.U.P. Circle, Lucknow letter dated 15.2.1988, where as the post of the C.P.Chokidar has already been abolished on 17.2.1988 , prior to the receive of the order of the Hon'ble Supreme Court.

21. That the contents of paragraph 6(ix) of the application are not admitted as stated. It is stated tha t the engage-
ment of the petitioner was discontinued on 6.10.1986 forenoon due to unsatisfactory performance. It is submitted that there is no provision of prior notice to the

Contingent paid employees at the time of when the applicant was relieved from the service due to abolition of the post. The length of the service put by the applicant has no relevance with the present controversy of the case since the post has already been abolished and as such it is not possible to absorb the applicant in absence of the post.

22. That the contents of para 6(x) of the application are denied. It is submitted that the applicant has put in un-interruption continuous services. The petitioner's service was dispensed with on 6.10.1986 due to negligence in duties. More putting in 13 years service does not entitle the petitioner to be a regular employee as there is no such provisions in the rules in respect of Contingent paid employees.

(AST)

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23. That the contents of paragraph 6(xi) of the application are admitted as being matter of record.

24. That the contents of paragraph 6(xii) of the application are denied as stated. It is stated that after carrying proper review and on the recommendation of the concerned Sub-Divisional Inspector of Post Offices, the 22 posts of C.P. Chowkidars were ordered to be abolished on 17.2.1988. It is wrong to say that the abolished of 22 posts by the authorities are without any jurisdiction.

25. That in reply to the contents of paragraph 6(xiii) of the application it is submitted that the National Savings Certificates, Indira Vikas Patras, Money Orders, Insured letters, Parcels, Registered letters and cash are handled but

Sh. Supdt. of Post Office
Patna Sub-Division
P.M.D. (2000)

the overnight retention of the above mentioned articles and cash in 22 Sub Offices where the posts of C.P. Chowkidar, were abolished, were not found in such a quantity which could justify the post of C.P. Chowkidar. The 22 posts of C.P. Chowkidars were abolished duly considering the safety and security of the affected Sub Post Offices.

26. That the contents of paragraph 6(xiv) of the application are denied as stated. It is stated that the post of C.P. Chowkidars were abolished after examining and considering the various factors. The criteria for the abolition was that where there minimum prescribed retention of cash was found, only post of such offices were abolished.

Sr. Suptt. of Post Offices
Faizabad Division
FAIZABAD 221001

ASG

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27. That the contents of paragraph 6(xv) of the application are denied. The reasons for the abolition of the 22 posts of C.P. Chowkidar has already been stated in foregoing paragraphs.

28. That the contents of paragraph 6(xvi) of the application are denied as stated. It is stated that the order ~~xxix~~ for the abolition of the posts were issued in compliance of the direction of the departmental authorities and the same has been issued in good faith in the interest of the department.

29. That the contents of paragraph 6(xvii) of the application are denied. It is submitted that there is no provision to maintain and prepare seniority list of Contingent paid employees. The seniority of Contingent paid employee does not entitle

Sr. Supdt. of Post Offices
Faizabad Division
FAIZABAD, 224001

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for any extra and special benefits over to junior employees. There is no bar to abolish the post even on which the senior most incumbents are engaged.

30. That the contents of paragraph 6(xviii) of the application are not admitted and as such are denied. There is no such rules of the department which provide such facility and necessity to issue termination orders. The orders for abolition of the posts were issued consequently Sub-Postmasters of the 22 abolished posts were ordered to relieve the incumbents of the C.P. Chowkidar posts immediately.

31. That the contents of paragraphs 6(xix) and 6(xx) of the application are denied.

32. That the contents of para-graph 7(i), 7(ii) and 7(iii) of the application

are not admitted as stated. It is stated that there is nothing on record in the office of the answering respondent as well as in the office of the Sub-Divisional Inspectors of Post Offices. The applicant has also not produced the copy of the representation purported to have been given to the Sub-Divisional Inspector. More over the applicant was under the jurisdiction of S.D.I(P.) South Sub Dn. Faizabad. He did not meet the S.S.P.O.s on 20.2.88. On the dates 20.2.88 and 21.3.88, there was holiday and the office was closed. The memorandum stated to have been given to the S.S.P.O.s on 20.2.88 is also an after thought. The applicant has not enclosed its copy as annexure. There is no record regarding meeting with the Director Postal Services kept in the office of the answering respondent. There is no proof of the petitioner's meeting and submission to the Director Postal Services.

Sr. Supdt. of Post Office
Faizabad Division
PAID P.M.D. PZ 6/1

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26. That the applicant has failed to make out any case for interference by this Hon'ble Tribunal jurisdiction and as such the present petition is liable to be dismissed. It is, however, relevant to mention here that the order for the abolition of the 22 posts was challenged in this Hon'ble Tribunal by some of the applicants which has been rejected by the Hon'ble Tribunal at the state of admission.

I, the abovenamed deponent do hereby declare that the contents of paragraphs

1, 2, 3

OF THIS affida vit are true to my personal Knowledge; those of paragraphs 4 to 32

Of this affidavit are based on perusal of record and those of paragraphs 33

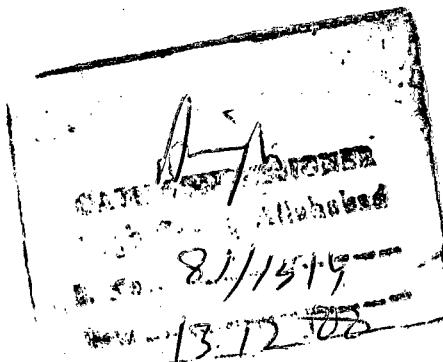
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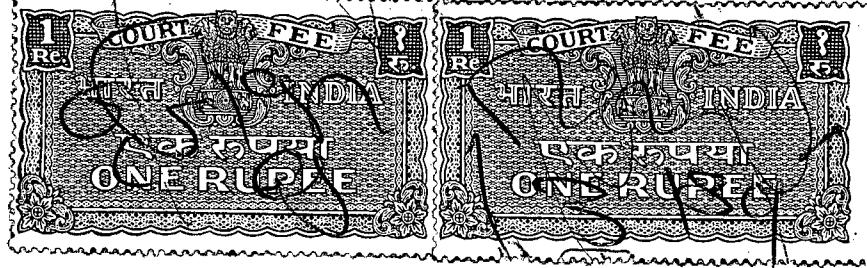
-22-

Solemnly affirmed before me on
this 13th day of Dec 1988 at
10.10 a.m./p.m. by the deponent who has
been identified by the aforesaid person.

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

OATH COMMISSIONER.





165

T989
AFFIDAVIT
30
HIGH COURT
ALLAHABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BRANCH, ALLAHABAD

Registration No. 317/1988

DISTRICT FAIZABAD

Ch. Joseph
12/5/89
dated today
12/5/89
12/5/89

Brij Bhushan Dubey Petitioner

Versus

Union of India & Others Respondents.

Rejoinder affidavit on behalf of
the petitioner in reply to the
counter affidavit on behalf of
respondent no.3.

I, Brij Bhushan Dubey aged about 39 years S/o
Sri Ram Lakhman Dubey, the petitioner above named do
hereby state on oath as under : -

1. That the contents of paras 1, 2 and 3 of the Counter Affidavit needs no comments.
2. That the reason for termination given in para 4 of the Counter Affidavit is irrelevant, However the direction purported to have been given by Smt. Neelam Srivastava, the then Director of Postal services, as mentioned in para 4 has not been given in the Counter Affidavit.
3. That the averments made in para 5 of the C.A. is irrelevant for the purpose of this case.
4. That in reply to the averment made in para 6 of the

Contd.....2/-

ived off
P.S. 11
N.B.S.I.
S.C.
5/89

25/12/89

Counter Affidavit it is stated that the observations purported to have been made by the then P.M.G. has not been mentioned. ✓

5. In reply to the averments made in para 7 of the Counter Affidavit, it is submitted that there was no effect or irregularly and the plea that the then Supdt. of Post Offices, Faizabad, who had sanctioned the appointment of the petitioner on 27.5.75 had no authority, such plea has no jurisdiction or validity. ✓

6. That the averments made in para 8 of the Counter Affidavit, However, without prejudice to the claim of the petitioner on the other grounds, it is submitted that at every Sub. Post Office, there is a Post of Chowkidar is necessary because, Cash, Money Order, Postal Orders, Indira Vikas Patra, National Savings Certificates, Insures letters, Parcels & Kisan Vikas Patras are kept in the Sub. Post Offices. ✓

7. That the averment made in para 9 of the Counter Affidavit need no comment. ✓

8. That in reply to the contents made in para 10, it is submitted that there was no justification or necessity whatsoever to abolish 22 Posts of Chowkidars on the one hand and at the same time retaining 39 such posts of Chowkidars in the similar circumstances. The criteria shown in the Counter Affidavit for abolishing 22 posts ✓

of Chowkidars, is wrong ill founded & misleading, The respondent has claimed that no cash was retained over night at the Sub. Post Offices where the Posts of Chowkidars have been abolished but such claim is false & baseless, Cash , Money Orders, Indian Postal Orders, Postal Orders, Indira Vikas Patras, Insured Parcels & registered letter etc. were kept over night and the Sub. Post Office where the petitioner was deputed as Chowkidar in the iron chest.

9. That the position of keeping cash etc. for over night at all the 61 Sub. Post Offices or the Division in the same but the post of 39 Chowkidars have been retained whereas the posts of 22 Chowkidars have been abolished. Whereas both classes of Chowkidars-Viz-those who have been terminated were similarly circumstances.

10. That even after the abolition of 22 Posts of Chowkidars, 9 displaced Chowkidars have been taken back, but the petitioner had been denied this opportunity of taking back in service.

11. That contentions made in para 11 of the Counter Affidavit clearly shown the vengeance on the post of the respondent no. 3 who has admitted that the petitioner had not been taken back in the service for the simple reason that the petitioner had approached this Hon'ble Tribunal for justice.

27/2/1951

Contd.....4/-

12. That in reply to the averments made in para 12, it is submitted that even ~~non~~ on the directions issued by the Director General (Posts) Govt. of India, New Delhi vide his order dated 10.2.88 to reinstate the displaced Chowkidars, the respondent no. 3 has deliberately refused to take them back in service maliciously and with an attitude of vengeance for moving this ~~Paymen~~ Tribunal.

13. The contention made in para 13 of Counter Affidavit that the post of Chowkidar is not a "Civil" Post" is denied.

14. The contention of paras 14 needs no comment.

15. That the contention of para 15 are totally denied. It is wrong to say that the petitioner worked at ~~Kazakabad~~ Kuchera Sub. Post Office .As a matter of fact the petitioner worked at Khajirahat ce in Faizabad District . It is loss of the Kuchera Sub Post n as ground for the post of at prejudice to the claims of the petitioner, it is submitted that even if the abolition of the post could be justified as any ground, the termination of the petitioner is illegal, and without jurisdiction, No notice nor pay in lieu of notice and compensation has been given to the petitioner before or after the termination of the petitioners service.

16. That the contents of para 16 of the Counter Affidavit are denied.

17. That the contents of paras 17,18 and 19 needs no comments.

27/9/89

Contd....5/

18. That the contents of para 20 are irrelevant. ✓

19. That the contents of para 21 of the Counter Affidavit are totally false. The services of the petitioner was never discontinued on 6.10.1986 as claimed. No order of discontinuance of service for 6.10.1986 as claimed was ever given to the petitioner. No explanation for the "alleged unsatisfactory work" was ever called for from the petitioner nor any charge sheet was made nor any oral or written warning was even given. The story of "unsatisfactory work" is a concocted one in order to justify the illegal acts of the respondent no.3. ✓

20. That the contents of para 22 are denied. The petitioner had put in continuous and uninterrupted service for 13 years with clean and unblemished record. ✓

21. That the contents of para 23 needs no comment. ✓

22. That the contents of para 24 are denied. The so-called recommendation of the concerned Sub.Divisional Inspector of Post Offices for the abolition of the posts of Chowkidars could by no stretch of logic, be taken as a ground for the illegal termination of the petitioner. ✓

23. That the contents of para 25 are totally denied. In support of the averments made by the petitioner in para 6 (XIII) of his application, the account registers, stock registers, for N.S.Cs, I.P.Os, Indira Vikas Patras, Insured Parcels, Registered letters and Money Order registered and the Sub. Pos. ✓

27/4/95

Khajurahat

APP

Sub. Post Office may be examined. The Department has also provided iron chest at the Sub. Post Office to keep the aforesaid valuably. ✓

24. That the contents of para 26 are denied. The petitioner stands by what he had said in his application in para 6 (XIV). No rational criteria for the abolition of the post was adopted. It is also false to say that at Rasoolabad Sub. Post Office there was minimum retention of cash. ✓

25. That the contents of para 27 and 28 are denied. ✓

26. That the contents of para 29, 30 ~~31~~, and 32 are denied. ✓

27. That it is denied that this Hon'ble Tribunal has no justification as stated in para 33 of the Counter Affidavit. ✓

28. That the petition is full of merit and liable to be allowed with cost. ✓

Allahabad

ब्रिज भुशन दुबे
(Brij Bhushan Dubey)

Dated: March 9, 1989.

Deponent.

VERIFICATION

I, the above named deponent do hereby verify that the contents of paragraphs No. 1 to 28 of this affidavit are true to the best of own knowledge, Nothing in it is wrong and nothing material has been concealed.

So help me God.

✓ 13/3/89
Faizabad.

March 9, 1989.

ब्रिज भुशन दुबे
(Brij Bhushan Dubey)

Deponent.

(A71)

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I, know the deponent, identify him, who has
singed before me. ✓

Faizabad.

M.C.S.
(M.C.Sinha)
Advocate

*March 9,
Feb. 1989,* ✓

Solemnly affirmed before me on this 9th day of
March 1989 at 2.00 am./pm. by the above named deponent
who has been identified Sri M.C.Sinha, Advocate,
High Court Lucknow Bench, Lucknow.

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

*Rakesh Varma
9/3/89*
OATH COMMISSIONER.

(APV)

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW

Misc. Application No. of 1989.

of

Brij Bhushan Dubey Applicant

Inre: XXXXX

O.A. No. 317/88

(District- Faizabad)

Brij Bhushan Dubey Applicant

Versus

Union of India & Others Respondents.

To,

The Hon'ble the chairman and his other companion

Members of this Hon'ble Tribunal

The humble applicant named above MOST RESPECTFULLY
showeth as under :-

1. That for the reasons disclosed in the accompanying supplementary affidavit it is necessary in the interest of justice that the accompanying supplementary affidavit may be brought on record, otherwise the petitioner would suffer grave and irreparable loss.

PRAYER

Wherefore, on the facts stated above and in the accompanying supplementary affidavit, it is MOST RESPECTFULLY PRAYED that this Hon'ble Tribunal may be pleased to bring on record the accompanying supplementary affidavit to meet the ends of justice between the parties.

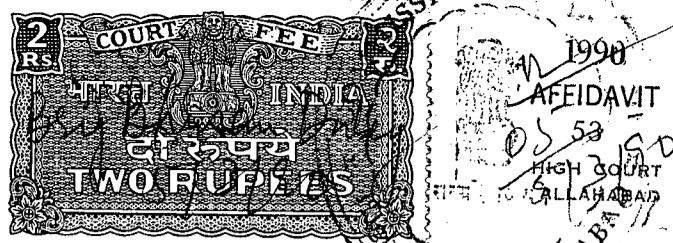

(M.C. Sinha)
Advocate

Lucknow.

5th March 1989

Counsel for the petitioner.

Dated: Oct., 1989.



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

O.A. No. 317/88

Brij Bhushan Dubey Applicant

Versus

Union of India & Others Respondents.

Supplimentary Affidavit on behalf
of the petitioner

I, Brij Bhushan Dubey aged about 38 years S/o Late Sri Ram Lakhan Dubey r/o village Rasulabad P.O. Rasulabad District Faizabad do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner in the above noted petition and such he is acquainted with full facts of the case deposed to below.
2. That the petitioner was filed the Allahabad Bench on 15.3.88 and after the creation of Circuit Bench at Lucknow, it has been transferred to this Bench.
3. That certain facts which were not in the knowledge of the petitioner and certain development regarding this case that took place subsequent to the date of filing of this petition as such the supplementary affidavit is being filed herewith. So that justice may be done in the Petitioner's case.
4. That altogether 22 posts of contingency paid



Chaukidars were abolished vide Senior Supdt. of Post Offices, Faizabad order No. Memo-A-1/Corr/dt. 17.2.1988 (Annexure A-5 to be petition).

5. That in pursuance to the aforesaid abolition of 22 posts, the services of 22 C.P. Chaukidars were terminated without giving any written order of termination or any notice whatsoever.
6. That out of 22 terminated Chaukidars, altogether 13 chaukidars moved this Hon'ble Tribunal for seeking justice whereas 9 Chaukidars did not prefer the case. After the cases were filed in this Tribunal and it was admitted, the opposite negotiated the matter with these 9 chaukidars who did not prefer to contest and on 6.6.1988 (about 3 months after filing of the case) the respondent no.3 vide his office order No. A-1/16/Corr/dt. 6.6.1988 revived the posts and the Original incumbents i.e. these 9 terminated chaukidars were ordered to be terminated. The posts revived were at the following post offices :-

1. Ayodhya R.S.
2. Deoria
3. Hakimpur.
4. Khandasa.
5. Kedar Nagar.
6. Ram Kot.
7. Shahganj.
8. Terhi Bazar
9. Tikari.

ANNEXURE RA-I

A true copy of the aforesaid order is being
filed herewith as Annexure RA-I).

7. That out of 13 Chaukidars who moved to this Hon'ble
Tribunal for seeking justice, the details of 7
applicant are available, but regarding rest 6
applicants no details could be available, The
details of 7 applicants are as follows :-

| <u>O.A.No.</u> | <u>Name of the petitioner</u> | <u>Place of posting</u> |
|----------------|-------------------------------|-------------------------|
| 1. 312/88 | Ram Anuj | Achhora. |
| 2. 313/88 | Ram Das | Inayat Nagar. |
| 3. 314/88 | Ram Chandra | Majruddinpur. |
| 4. 315/88 | Rajendra Prasad | Shahzadpur. |
| 5. 316/88 | Muneshwar Yadav | Khajurahat |
| 6. 317/88 | B.B.Dubey | Rasulabad. |
| 7. 392/88 | Bhagauti Singh | Kuchera. |

8. That the aforesaid cases were filed on 15.3.88
and the O.A. No. 392/88 (Bhagauti Singh Vs. Union of
India) was admitted on 15.4.88 whereas O.A. No.
316/88 (Muneshwar Yadav Vs. Union of India) and
317/88 (B.B.Dubey vs. Union Of India) were admitted
on 27.6.88 and when the cases of O.A. No. 312/88
(Ram Anuj Vs. Union of India) and 313/88 (Ram Das vs.
Union of India) and 314/88 (Ram Chandra vs. Union of
India) and 315/88 (Rajendra Prasad Vs. Union of
India) were taken up on 11.8.88 the Senior Standing
Counsel for the Respondent assured this Hon'ble
Tribunal that action were being taken to reinstate

them and consequently they are reinstate vide respondent no.3 office order No. A-1/98XX/18/Corr dt. 26.9.89 reviving the four posts at the following posts offices and the original incumbents were orders to be reinstated.

1. Shahzadpur.
2. Achhora.
3. Majruddinpur.
4. Inayat Nagar.

ANNEXURE RA-II (A true copy of the aforesaid dt. 26.5.89 is being filed herewith as Annexure RA-II).

9. That after the present petition was filed (date of filing is 15.3.88) the respondent no. 2 (Director of postal services ,U.P. Lucknow) issued is circular on 19.4.88 to all Senior Supdt. of Post Offices in U.P. is not to abolish the posts of C.P. Chaukidars and is such Chaukidars were terminated then they must be reinstated immediately. In persuance there of respondent no. 3 reinstated 13 C.P. Chaukidars but refused to reinstate the petitioner and other retrenched Chaukidars who has sought the protection of this Hon'ble Court, The respondent no. 3 bluntly told that when the petitioner has gone to the court then they get the remedy from the court.

ANNEXURE RA-III (A true copy of the aforesaid circular dt. 19.4.88 is being filed as Annexure RA-III).

10. That the action of abolition of posts thereby effecting termination of services of the petitioner without either giving any written order of termination or without giving any notice of termination or pay in lieu of notice and without affording any opportunity of hearing before abolishing the post in violative of Sec. 25-N of the Industrial Disputes Act 1947, since the Postal Deptt. is an "Industry" within the meaning of Sec. 2(j) and the petitioner is a "workman" within the meaning of section 2(s) and the wrongful termination of abolition of posts amounts to "Industrial Disputes" within the meaning of sec. 2(k) of the Industrial Disputes Act 1947 hence the impugned order is liable to be struck down.

11. That mandatory conditions precedent to retrenchment as envisaged in Sec. 25-N of the Industrial Disputes Act 1947 have not been followed as such the wrongful termination in the impugned order is illegal, null and void ab initio.

Lucknow

Dated: 5th March 1990
Ques. 1989

०५ मार्च १९९० द्वारा
(Brij Bhushan Dubey)

Deponent.

VERIFICATION

I, the above named deponent do hereby verify that the contents of paragraphs no. 1 and 3 of this affidavit are true to the best of my personal knowledge and those of paras 2, 4, 5, 6, 7, 8, and 9

of this affidavit are true on the basis of records and those of paras 10 and 11 are true to the legal advice, nothing in its wrong and nothing material has been concealed.

So help me God.

Lucknow

A. March
the 5 Oct., 1980.

5/3/90
(Brij Bhushan Dubey)

Deponent,

I ~~know~~, Know the deponent, identify him, who has signed before me.

M. C. Sinha
(M. C. Sinha)

Lucknow.

5th March
the 5 Oct., 1980.

Advocate

High Court, Lucknow.

Solemnly affirmed before me on this 5th
March
day of Oct., 1980 at 1.00 am/pm. by the above
named deponent who has identified by Sri M. C. Sinha
Advocate, High Court Lucknow, Bench, Lucknow.

5/3/90
I have satisfied, myself, by examining the
deponent that he fully understands the contents of
this affidavit, which has been readout and explained
by me.

N. Singh Oath Commissioner.
NARENDRA PRATAP SINGH
OATH COMMISSIONER
High Court Allahabad.
Law Bench
No. OS/53
Date 5/3/90

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW

O.A. No. 317/88

Brij Bhushan Dubey Applicant

Versus

Union of India & Others Respondents.

Annexure R.A.I

DEPARTMENT OF POSTS INDIA

O/O the Sr. Supdt. of Post Offices, Faizabad Dn. Faizabad.

Memo No. A-1/16/Corr. dated at Faizabad the 06.06.1988.

....

In pursuance of the Director Postal Services, Lucknow Region, Lucknow letter No. 1/STC/Enq/1/Post-3/4/1988 dated 31.5.1988 the post of contingency paid Chaukidars of the following offices which were abolished vide this office memo no. even dated 17.2.88 are hereby revoked with immediate effects :-

1. Ayodhya R.S.
2. Deoria.
3. Hakimpur.
4. Khandasa.
5. Kedar Nagar.
6. Ram Kot
7. Shahganj
8. Terhi Bazar.
9. Tikari.

This original incumbents, who were working against the above mentioned posts of C.P. Chaukidars, on or before 18.2.88 are hereby orderes to be reengaged immediately on receipt of this memo, and charge reports should be submitted to all concerned.

Sd/-
Sh. Supdt. of Post Offices
Faizabad Division,
Faizabad- 224001.

R.K.3

Regd. Copy to the :

1-9) The official concerned (Ex.C.P. Chaukidars).

10-18) The S.P.M.s concerned. They should reengaged the original incumbent who were previously engaged as C.P. Chaukidars before the abolition of the said posts any complaint in this regard will be viewed seriously.

19-27) The Relevant Estt. files.

28-29) The Sr.P.M. Faizabad. H.O/Postmaster Akbarpur H.O./ Faizabad.

30-36) the ASPs(w) Akbarpur/All the SDIs(P) in the Division for causing compliance.

37) the D.P.S. Lucknow region Lucknow 226007/w/r/to R.O. No. २१८१/२०४१/८०८ - २५ अगस्त १९७५ ३१-८-०८

38-40) O/C and spare.

OUT 22/8/75
57390

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW

O.A. No. 317/88

Brij Bhushan Dubey Applicant

Versus

Union of India & Others Respondents.

ANNEXURE K~~Y~~ R.A.-II

O/O THE SR. SUPDT. OF POST OFFICES FAIZABAD DIVISION-224001.

Memo No. A-1/16/Corr dated at Faizabad, the 25.5.1989.

In pursuance of the Director Postal Services, Lucknow Region Lucknow letter No. ~~नियंत्रण/स्थापना/संचय-31/प्रतिक्रिया/प्राप्ति~~ dated 31.5.88 and as per instructions contained in para 5 of the letter No. RDL/STA/SN-i/88/3 dated 05.5.89 the posts of contingency paid Chaukidars of the following Sub.Offices which were abolished vide this office Memo No. even, dated 17.2.88, are hereby ordered to be restored with immediate effects.

1. Shahzadpur.
2. Achhora.
3. Majruddinpur.
4. Inayat Nagar.

The original incumbents, who were working as C.P. Chaukidars in the above mentioned Sub.Offices on or before 17.2.88 are hereby ordered to be re-engaged immediately.

Charge reports should be submitted to all concerned.

Sd/- Illegible
Sr. Supdt. of Post Offices,
Faizabad Division.
Sd/- Illegible 26/5.

Regd.

Copy issue to :-

1-4) The officials concerned (Ex-C.P. Chaukidars).
5-8) The SpMs concerned. They are directed to re-engaged the original incumbents who were previously engaged as C.P. Chaukidars or on or before the abolition of the said posts.
9-12) The relevant Estt. files.
13-16) Sr. S.M. Faizabad/P.M. Akbarpur H.O. Faizabad.
15) The D.P.S. Lucknow Region, Lucknow-226007 w/r/to R.O. No. RDL/STA/SN-1/88/3 dated 5.5.89.
176-1-8) The SDI Faizabad West/South/Akbarpur North, Faizabad.
19.20) O/C and spare.

-10-

विफोर दि आनरेबुल तेन्टल ऐडमिनिटट्रेटिव ट्रिबुनल
तरकिट बैनच, लडानऊ

ओ.स. नं 317/88

दूष फूला दूषे

पिटीशनर

परतेज

पूनियन आफ इण्डिया एण्ड अर्द्द

रेस्वान्डेन्ट

अनेक्षर नं ० आर.स. -३

भारतीय डाक विभाग

कार्यालय निदेशाक डाक लेवाये, लडानऊ क्षेत्र

जापन तंब्या निडाल/स्टेट/सक्स-3। दिनांक अप्रैल 19, 1988
सेता देखाने में आया है कि जबते कन्टीनेन्टी कर्मचारियों के स्लाउन्ट हृदि का
आदेश महानिदेशाक ते प्राप्त हुआ है तबते कुछ मण्डली के पुष्ट अधीक्षक
/अधीक्षक विना किसी तामान्य आदेश या परिमण्डल कार्यालय/क्षेत्रीय
कार्यालय अनुमोदन के ही कई ती.पी. बौकीदार के पदों को तमाप्त करने का
आदेश दे दिया जिसके कलाप्य स्वरूप उन पदों पर लम्बी अवधि ते कार्य रत कर्मचारी
हटा दिये गये इत प्रकार का निर्णय मानवीयहृदृष्टिकोण तथा नैतिक न्याय
के अन्तिमान्त के विरुद्ध लगता है और हटाये गये कर्मचारी उतके परिवार को
प्रत्यक्षतः सेता बन्ड ता लगता है जो किसी भी प्रकार अधिक्षित नहीं है इन
पदों को तब तक तमाप्त करने का विचार करना जबतक कि उन्हे उनके तमक्ष
किसी अन्य पद पर नियुक्त नहीं कर लिया जाता है न्यायोधित नहीं है तथा
विभागीय निर्देशाके अन्तर्गत तिद्वान्त के प्रतिकूल है।

2- अतः निदेशाक डाक लेवा लडानऊ ने आदेश दिया है कि कोई भी ती.पी.
या अन्य ती.पी. कन्टीनेन्टी पद पर विना इत कार्यालय या परिमण्डल
कार्यालय या निदेशालय के आदेश को तमाप्त नहीं किया जाता तथा जो
पद महानिदेशाकलय के पत्र तंब्या 45/95/87 एल.पी.पी. दिनांक 10-2-88 के
प्राप्ति के बाद तमाप्त किये गये हो उन्हे तत्काल प्रभाव ते पुनर्वाचित रेस्टोर
किया जाव तथा इत कार्यालय को तूचित किया जाय।

3- जिन मण्डलों मे कुछ पद तमाप्त किये जा चुके हैं उपरोक्त निर्देशानुतार
अनुपालन तुरन्त किया जाव पहले ही तोडे गये पदों का पूरा विवरण एवं
तोडे जाने के औचित्य के बारे मे पूरी आव्याय भी इत कार्यालय को भेजे जिससे
यदि आवश्यकता है जो इत निर्देश के बारे मे पुनर्विचार किया जा सके।

कृते निदेशाक डाक लेवाये
लडानऊ क्षेत्र लडानऊ

226007

प्रतिलिपि

- पुष्ट अधीक्षक/अधीक्षक डाकधर फैजाबाद लडानऊ, गोण्डा, बहराइय।
तीतापुर, भीरी, बाराबंकी, शाहजहांपुर तथा हरदोई।
- मुख्य डाकपाल लडानऊ बिछिट डाकपाल फैजाबाद तथा लडानऊ भीक
- डाक महाअधिकारी 30 प्र० लडानऊ 226007 को तूचनार्थ एवं यदि उचित
तमझा जाव तो परिमण्डलीय तर भी सेता निर्देश करने हेतु।

बृहु अमृज द्वे

1.

(P.S.)

BEFORE THE HON'BLE ^{CENTRAL} ADMINISTRATIVE TRIBUNAL.

CIRCUIT BENCH, LUCKNOW

Miscellaneous Application No. /1990

M. P. No. 522/90 F : 26th Sept 90

In re:

O.A.No.317/1988

Brij Bhushan Dubey Applicant

Versus

Union of India & Others Respondents.

Application for condonation of
delay in filing Supplementary
affidavit.

The humble applicant MOST HUMBLY AND RESPECTFULLY begs to state that this petition was heard on 26.7.90 by the Bench comprising His Lordship Hon'ble Mr.Justice K.Nath, Vice-Chairman and Hon'ble Mr. K. Obayya, A.M. and the applicant was directed to file a supplementary affidavit within two weeks, but since the applicant was out of the station from 9.8.90 to 20.8.90 to attend some urgent domestic problems, hence he could not file the supplementary affidavit in time. The due date was 10.8.90, but it is being filed today.

P R A Y E R

*filed today
Aug 24/8*

It is, therefore, MOST HUMBLY & RESPECTFULLY prayed that this Hon'ble Tribunal may graciously be pleased to condone to delay and order to bring on record the accompanying Supplementary affidavit to meet the ends of Justice.

Lucknow

(MANIK SINHA)

Dated: Aug. 24th, 1990.

Advocate,

Council for the Petitioner

Before the Hon'ble Central Administrative Tribunal

Allahabad, Circuit Bench, Lucknow

Misc. Application No. of 1990

of

Brij Bhushan Dubey Applicant

In re:

O.A. No. 317/88

District Faizabad.

Brij Bhushan Dubey Applicant

Versus

Union of India & Others Respondents.

To,

The Hon'ble the Vice Chairman and his other

Companion members of this Hon'ble Tribunal

The humble applicant named above MOST HUMBLY AND
RESPECTFULLY begs to sheweth as under :-

1. That the above named petitioner was heard on 26.7.90 by the bench comprising of the Hon'ble Mr. Justice K. Nath Vice Chairman and Hon'ble Mr. K. Obeyya A.M.
2. That during the course of hearing, some questions of law were raised by the applicant, for which the applicant was directed by the Hon'ble Bench to file a fresh supplementary affidavit narrating full facts in support of the legal question raised.

Contd....2/-

3. That the applicant was directed to file the aforesaid counter affidavit within 2 weeks.
4. That as per the direction of the Hon'ble Bench, the petitioner is filing herewith an supplementary affidavit as required.

PRAYER

It is, therefore, MOST HUMBLE AND RESPECT^E
FULLY prayed that the accompanying supplementary
affidavit may graciously be pleased to bring on
record to meet the ends of justice.

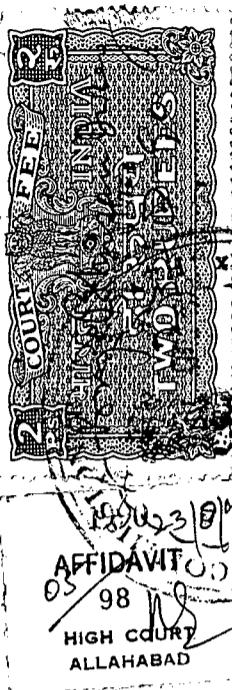
Lucknow.

Dated: Aug. 25, 1990.

Manik
(Manik Sinha)

Advocate

Chamber No.3.
High Court, Lucknow.



In the Hon'ble Central Administrative Tribunal Allahabad

Circuit Bench, Lucknow.

Supplementary Affidavit on behalf of the petitioner

In re:

O.A. No. 317/1988

Brij Bhushan Dubey Applicant
Versus
Union of India & Others Respondents.

I, Brij Bhushan Dubey aged about 39 years S/o Sri Ram Lakhan Dubey resident of village and Post Rasoolabad District Faizabad do hereby solemnly affirm and state on oath as under :-

1. That the deponent above named in the applicant in the aforesaid petition as such is fully convergent with the facts and circumstances of the case.
2. That the above noted case was listed & heard on 26.7.90 by the Bench comprising of Hon'ble Mr. Justice K. Nath Vice Chairman and Hon'ble Mr. K. Oboyya Administrative Member.
3. That during the course of hearing on 26.7.90 the learned counsel for the petitioner raised some substantial question of law, upon which

Contd....2/-

23-8-98

23-8-98

(RB)

this Hon'ble Tribunal cirected the learned counsel for the petitioner to file a fresh supplementary affidavit narrating the facts and circumstances of the case in support of the please and raised on 16.7.90.

4. That the "Postal Deptt." of the Govt. of India is "Industry" within the meaning of Sec. 2(J) of the Industrial Disputes Act, 1947, since the postal service is not the Sovereign function of the state. The Hon'ble Supreme in Des Raj etc. Vs. State of Punjab & others (1988 II LLJ 149) ,while holding "Irrigation Deptt." of the Govt. of Punjab as "Industry" held that only the "Sovereign Function" of the State are exempted from the definition of "Industry" within a meaning of Sec. 2(J) of the Act. The Hon'ble Supreme Court also laid down the dominant nature test as under :-

(a) Where a complex of activities some of which qualify for exemption ,other not,involved employees in the total undertaking, some of whom are not" workmen" as in the University of Delhi Vs. Ram Nath(1964)2 SCR 703) or some departments are not productive of goods and services if insolated, even then, the predominant nature of services and the integrated nature of the



G. H. G. 1000

ASG

departments as explained in the Corporation of Nagpur, (Supra) will be the true test. The whole undertaking will be "Industry" although those who are not workmen by definition may not benefit by the status.

(b) Notwithstanding the previous clauses, Sovereign function, strictly understood, alone qualify for exemption, not the welfare activities or economic adventures undertaken by Government or statutory bodies.

(c) Even in departments discharging Sovereign function, if there are units which are industries and they are substantially severable then they can be considered to come within Section 2 (J).

(d) Constitutional and Competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise may be covered thereby".

5. That the Postal services is not a Sovereign function of the states, because it could be undertaken by the private organizations also and in fact private enterprizes are also involved in the business of postal services, like currioir services, hence the Department of Post falls within the definition of "Industry".

Contd....4/-



27/10/90

ASR

6. That since the "Postal Department" is an "Industry" hence the provisions of the Industrial Disputes Act are applicable in the instant case. As such the termination of the petitioner amounts to retrenchment, consequently the petitioner being a "Workman" within the meaning of Sec. 2(S) of the Act, is entitled for the protection of Sec. 25-N of the Industrial Disputes Act, 1947. Since the Mandatory provisions of Sec. 25-N of the Act have been violated as such the impugned termination is null & void ab initio and deserves reinstatement with back wages & continuity of service.

7. That without prejudice to the claims made above, even if the department of post is not deemed to be an "Industry", even then the petitioner's termination is null & void, because one month prior notice of termination as contemplated in Rule 5 of Central Civil Services(Temporary Service) Rules 1965 has not been given.

8. That although altogether 22 posts ~~were~~ were abolished but subsequently 13 posts were revived-9 posts on 6.6.88 and 4 posts on 26.9.89, but the same was not done in respect of 9 Chaukidars for the simple reason that the nine chaukidars moved to this Hon'ble Tribunal for redressal. The 13 Chaukidars were reinstated on their original posts after reviving their posts because they did not move the court of law



of 21/11/89

but the posts of the petitioners were not revived. The respondent no.3 became prejudiced against the nine Chaukidars including the petitioner because the nine chaukidars challenged the action of the respondent no.3 in this Hon'ble court.

9. That on the one hand reviving the 13 posts and on the other hand refusing to revive further 9 posts of Chaukidars by the respondent no. 3 for simple reason that the 9 chaukidars moved this Hon'ble Tribunal is prejudicial, malafide, malice in law and is colourable exercise of powers on the part of respondent no.3.
10. That without prejudice to the claims made above even if it is assumed that the respondent have power to abolish the post, there is no automatic termination. In such case notice has to be given to the incumbent and the principle of "last came first go" has to be followed.
11. That since the abolition of the post of the petitioner was not genuine and in good faith , and since the abolition of post was made as a cloak to dispense with the services of the petitioner, hence the impugned action is subject to judicial review.

Contd.....6/-



21 07 1980

(20)

12. That the abolition of post is violative of Article 311 (2) of the Constitution and the Rights guaranteed under Article 14 of the constitution of India & the principles of natural justice.

Lucknow

(Brij Bhushan)

Dated: Aug. 23, 1990.

०१-८-१९९०

(Deponent)

VERIFICATION

I, the above named deponent Brij Bhushan Dubey do hereby verify on oath that the contents of paras 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 are true to the best of my knowledge and belief, no part of it is false, So Help me God.

Lucknow.

Deponent,

Dated: Aug. 23, 1990.

०१-८-१९९०
(Brij Bhushan)

I, know the deponent Brij Bhushan Dubey, identify him, who has signed before me.

(Manik Sinha)

Advocate,
High Court, Lucknow.

Solemnly affirmed before me on this th day of

Aug. 23, 1990 at 10.30 am./pm. by the above named deponent who has identified Sri Manik Sinha, Advocate, High Court LKO.

NARENDRA PRATAP SINGH I have satisfied, myself by examining the deponent OATH COMMISSIONER that he fully understands the contents of this affidavit, High Court Allahabad.

Lucknow Bench.

No. 05790

Date - 23-8-90

Oath Commissioner.

| Sl.No. of order | Date of order | ORDER WITH SIGNATURE | Office notes as to action (if any) taken on order |
|-----------------|---------------|---|---|
| | 11.8.88 | <p><u>Dear</u></p> <p>Counter may be held by 30.9.88</p> <p><u>DR</u></p> <p>On the request of resp'ts. counter may be held by 13.12.88</p> | |
| | 13.12.88 | <p><u>Registration</u></p> <p>counter may be filed by 24.1.89, Sri N.B. Singh is present for the respondents.</p> <p><u>DR</u></p> | |
| | 26.1.89 | <p><u>DR</u></p> <p>counter has been held today.</p> <p>Counter may be filed by 17.3.89</p> | |
| | 17.3.89 | <p><u>DR</u></p> <p>On request, counter may be held by 12.5.89</p> | |
| | 12/5/89 | <p><u>DR</u></p> | |

15/4

Terminal

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

(R)

Registration No. 392 of 1988

APPLICANT (s) Bhagwati Singh

RESPONDENT(s) G.O.I. through Secretary, Ministry of Communications

New Delhi & 3 others

| Particulars to be examined | Endorsement as to result of Examination |
|---|---|
| 1. Is the appeal competent ? | Y |
| 2. (a) Is the application in the prescribed form ? | Y |
| (b) Is the application in paper book form ? | Y |
| (c) Have six complete sets of the application been filed ? | Y, 7 sets filed. |
| 3. (a) Is the appeal in time ? | Y |
| (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 ? | Y |
| 5. Is the application accompanied by B.D./Postal-Order for Rs. 50/- | Y |
| 6. Has the certified copy/copies of the order (s) against which the application is made been filed ? | Y |
| 7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? | Y |
| (b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? | Y |

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

Application No. - - - - - of 19

Transfer application No. - - - - - of 19

Old Writ petition No. - - - - - of 19

C E R T I F I C A T E

Certified that no further action is required to
take and that the case is fit for consignment in the
ward room.

(Inside)

dated.

Signature of the
Dealing

Sub. Officer/Court Officer.

Order Sheet
OA 392/88

(R) (W)

12/5/89 DR

Rejoinder filed today, list this case
for final hearing before court on 28/7/89
as prayed by Counsel for applicant.

DR (S)

DR

OK Case has been rec'd from
Adv. in the month of May 1988
Case is ready for hearing
submitted for hearing
27/7/89

28/7/89

No sitting. Adjourned to
25/9/89 for hearing.

DR
Boc

25/9/89

Hon. Justice K. Nooth, VC.
Hon. K. Obayya, AM

OK Case is ready for hearing
25/9/89

For orders see our orders
of date passed in O.T. No. 316/88.

P
Am

DR
VC.

Mo

1.G. 90

Dr. J. M. P. E. Jam. AM

Adv. Mr. J. P. Sharma J. M.

On the rejoinder of the case.

On the applic. of the hearing of 23rd of Aug.
adjourned to 26.7.90

S

AM

JM

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Application No. of 1988

Application Under sec. 19 of Administrative Tribunal

Act 1985

Bhagauti Singh Applicant/Petitioner

Versus

Union of India & Others Respondents.

S.No. Description of the documents replied upon Page No.

| | | |
|----|---|---------|
| 1. | Application. | 1-9 |
| 2. | Annexure A-1 Copy of the appointment letter dated 1.4.75. | 10 |
| 3. | Annexure A-2 copy of the relieving Certificate dt. 18.2.88 | 11 |
| 4. | Annexure A-5 Copy of the circular directing sanction of equal pay & D.A. etc. to casual employee as that of regular employees. | 12 |
| 5. | Annexure A-4 Copy of Sr. Supdt. of Post offices Faizabad creating 62 Post of chaukidars. | 13 |
| 6. | Annexure A-5 Copy of the Circular abatesting 22 Posts of Chaukidars. | 14 |
| 7. | Annexure A-6 Copy of representation against discharge | 15 |
| 8. | Annexure A-7 Affidavit. | 16 - 18 |
| 9. | Vakalatnama. | 19 |

Dated: March 25, 1988

Place: Allahabad.

M. C. Sinha
(M. C. Sinha)
Counsel for the petitioner.

T. S. Chaturvedi (TSC)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Reg. No. 392 of 1988
Central Administrative Tribunal

Application No. of 1988

Additional Bench At Allahabad

Date of Filing... 25/3/88

Date of Receipt
by Post

File off 15/4/88

Registra

25/3/88

Bhagauti Singh aged about 36 years

S/o Late Sri Raj Karan Singh

Village- Razaupur

P.O.- Barun

Distt. Faizabad

..... Applicant

Versus

1. Union of India through the
Secretary to the Govt. of India
Ministry of communication
Sanchar Bhawan, New Delhi.

2. Director of Postal services, U.P.
Lucknow.

3. Sr. Supdt. of Post Offices,
Faizabad.

4. Inspector of Post Offices,
West Sub. Division,
Faizabad.

Respondents.

Details of application

1. Particulars of the applicant.

(i) Name of the applicant : Bhagauti Singh
(ii) Name of Father : Raj Karan Singh
(iii) Age of the applicant : Nearly 36 years.
(iv) Designation ~~and~~ particulars of office (Name & Station) : Chaukidar (Casual)
in which employed or was last : Kutchera Sub. Post
employed before ceasing to be : office Faizabad (U.P.)
in service :
(v) Office Address : Bhagauti Singh
Vill. Razaupur
P.O. Barun
Distt. Faizabad.

Contd..... 2/-

(A2)

(vi) Address for service of Notice: Bhagauti Singh
Vill. Razaupur
P.O. Barun
Distt.- Faizabad.

2. Particulars of the respondents

(i) Union of India through the Secretary to the Govt. of India, Ministry of Communication, Sanchar Bhawan, New Delhi.

(ii) Director of Postal services, Faizabad. U.P. Lucknow.

(iv) Senior Superintendent of Post Offices Faizabad.

(iv) Inspector of Post Offices, West Sub. Division, Faizabad.

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

The application is against the following orders :-

(i) Order No. with reference to Annexure Memo No. A-1/16/Corr.
Annexure A-2

(ii) dated 17.2.1988.

(iii) Passed by : Sr. Supdt. of Post Offices Faizabad.

(iv) Subject in brief:- Termination of the services of the applicant.

4. Jurisdiction of the Tribunal

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

Contd.....3/-

M.J.A.C. (H.E.)

(AO)

5. Limitation

The applicant further declares that the application is within the limitation presented in sec.21 of Administrative Tribunal Act 1985.

6. Facts of the case

The facts of the case are given below :-

(i) That the petitioner was working as a C.P.Chaukidar at Kutchera Sub.Post Office in Faizabad District and held a "Civil Post" under the Union of India and his salary on the date of discharge was Rs. 848/- per month inclusive of D.A. etc.

(ii) That the petitioner is a young man of 36 years and was appointed as a Chaukidar on 1.4.75 by the Inspector of the Post Offices West Sub.Division. Faizabad vide his memo No. A/Kutchera dt 1.4.75
(A true attested copy of the aforesaid appointment letter is annexed herewith as Annexure A-1).

(iii) That the petitioner was posted as Chaukidar at ~~Kut~~ Kutchera , Faizabad on 1.4.75 and since then he was working there continuously uninterruptedly till 18.2.88 when he was relieved from since all of a sudden without any termination order or notice and without any rhyme and reason.
(A true attested copy of the relieving certificate is annexed herewith as Annexure A-2).

(iv) That before relieving the petitioner from his Post of Chaukidar on 18.2.88 ,no order of termination either from his appointing authority who happens to the Inspector of Post Offices from any

Contd.....4/-



HJD/PT

other senior officer was ever given neither any such termination order has been issued at all by the appointing Authority or any other authority.

(v) That the work and conduct of the petitioner throughout his career of service has been all along satisfactory to all concerned and he discharged his duties diligently and with complete devotion a sincerity.

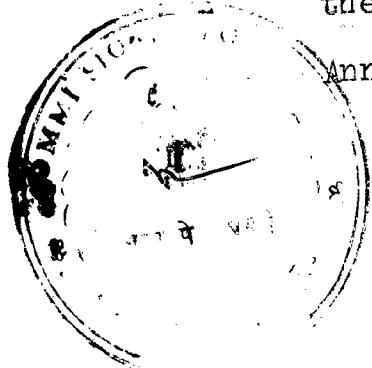
(vi) That the petitioner was appointed as a casual employee and was doing his duties for 16 Hrs. ^{4.30} _{0.30} daily from 2 p.m. to 9 a.m. next.

(vii) That although the petitioner was appointed as a casual employee but his pay and other allowances was at par with the regular employee. The basic pay of the petitioner Rs. 750/- p.m. The D.A. Rs. 96/- .The total emolument of the petitioner was Rs. 848/- at the time when he was relieved illegally.

(viii) That the pay and other allowances and duties of a casual Chaukidar is the same as that a regular and permanent Chaukidar. The above contention is supported by a circular dated 12.2.1988 issued from the Director (Staff) Deptt. of Posts ,New Delhi addressed to the Post Master General ,U.P. Lucknow & Others in compliance with the decision of the Hon'ble Supreme Court (A true copy attested the aforesaid circular is annexed herewith as Annexure A-3) .

Contd.....5/-

Y. S. T. O. C. C. T. E.



Alo

(ix) That the petitioner put in nearly 13 years of continuous and uninterrupted service as Chaukidar and he was relieved without any termination order and any prior notice or pay in lieu of notice as required under the law as a condition precedent for termination.

(x) That because of about 13 years of continuous and uninterrupted service the petitioner acquired the status of a regular employee as such he could not have been relieved without giving him a termination order and notice of termination assigning reason and compensation.

(xi) That altogether 62 posts of Chaukidars for such 62 Sub. Post Offices exist in Faizabad District which is evident from a circular of the Sr. Supdt. of Post offices, Faizabad vide his memo No. A-1/16/Corr dated 26.6.1986 (A true attested copy of the aforesaid circular is annexed herewith as Annexure A-4).

(xii) That out of the aforesaid 62 posts of Chaukidars each attached with One Sub-Post Office, 22 posts have been abolished without any jurisdiction and without laying down criteria or principle by the Senior Supdt. of Post Offices, Faizabad vide his Memo No. A-1/16/Corr Dt. 17.2.1988 (A true attested copy of the aforesaid circular is annexed herewith as Annexure A-5).

(xiii) That in each of the aforesaid 62 posts Sub-Post Offices in Faizabad District, National Savings Certificate, Indian Vikas Patras, Money Orders, Insurance letter, Parcels, Registered letters and other cash are handled and the cash is kept in the chest of the Sub. Post offices and the Chaukidars are posted.

21/10/87 (A.E)

AM

espacially for the secuirty of the post offices the abolition of 22 Posts involves with it great sec urity risk for the concerned Sub.Post Offices.

(xiv) That it is the practice of posting Chaukidars at Sub.Post offices all over India and there is no jurisdiction whatsoever to abolish the posts of Chaukidars while retaining rest 40 Chaukidars nor any criteria for the abolition of the aforesaid posts were formulated. As a matter of fact only pick and choose method was adopted in the abolition of posts.

(xv) That there was no neccessity nor any reason whatsoever warranted to abolish the 22 Posts of Chaukidars

(xvi) That the abolition of 22 Posts of Chaukidars has not been effected in good faith as a policy decision in the interest of administrative efficiency. As a matter of fact the act of abolition of posts aforesaid is a clock for dispansing with the services of the petitioner and other incumbants. It is invoilater of the provision of All.14 Act 19(i) (g) and 311(2) of the constitution.

(xvii) That while relieving the services of 22 Chaukidars the junior among the 62 paosts Chaukidars have been retained whereas the seniors have been terminated.

(xviii) That relieving the petitioner without giving or issuing any termination order amounts to punishment as such it is in contravention of the guarantee provided in Article 311(2) of the consitution.

Contd..... 7/-



- 11011 (17)

AI2

-7-

(xix) That the discharge of the petitioner from service has been effected with malafide intention and ulterior motive is without jurisdiction.

(xx) That the discharge of the petitioner is illegal, unjust and unconstitutional and against the principles of natural justice.

7. Details of the remedies exhausted:-

(i) That on being relieved from service, the petitioner met the Inspector of Post Offices West Sub. Division and gave him a representation on 19.2.88 but he expressed his inability to reinstate him.

(ii) That the petitioner met the Sr. Supdt. of Post offices, Faizabad on 20.2.88 and presented him memorandum urging him to reinstate the petitioner, but the Sr. Supdt. of Post Offices too refused to consider the demands.

(iii) That on 9.3.88 when the Inspector of Postal services U.P. visited Faizabad Head Post Office on his official tour, the petitioner met him also and submitted before him to reinstate the petitioner of his spot, but the Director of Postal services turned down the appeal.

(A true attested copy of the aforesaid representation is annexed herewith as Annexure A-6)

8. Matters not previously filed or pending with any other court.

The applicant further declares that he has not previously filed any application, Writ petition or suit regarding the matter in respect of which.

Contd..... 8/-

14
M.T.O. (A.S.)



PLS

-8-

this application has been made before any court of law or any other authority or any Bench of the Tribunal and nor any such application, Writ petition or suit is pending before any of them.

9. Relief Sought

In view of the facts mentioned in para 6 above the applicant prays for the following reliefs :-

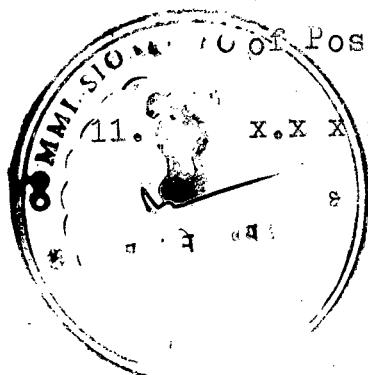
- (i) to direct the respondents to reinstate the petitioner with continuosly of service and back wages.
- (ii) to struck down the relieving/charge certificate (Annexure A-3)
- (iii) to quash the impugned order of the Senior Supdt. of Post offices, Faizabad (Annexure A-5)
- (iv) to declare the petitioner as a regularly appointed Chaukidar.
- (v) to pass any other order in the interest of justice as this Hon'ble court may deem fit.
- (v) to award cost.

10. Interim order, if any prayed for :-

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

- (i) to stay the operation of the ~~xxdxxxfxxkxx~~ relieving/charge certificate (Annexure A-2)
- (ii) to stay the operation of the order of the Sr. Supdt.

of Post offices Faizabad (Annexure A-5) .



11. x.x x x x x x .

Contd.....9/-

W.M.A. 17/2

(AU)

12. Particulars of postal order in respect of the application fee.

1. Number of the Indian Postal order 835666
2. Name of issuing post office Faizabad.
3. Dte of issue of postal order : 22.3.88
4. Post office at which payable.: Allahabad.

13. List of enclosures :-

(i) Annexure A-1: Copy of the appointment letter dt. 1.4.85.
(ii) Annexure A-2: Copy of the relieving Certfi. dt. 18.2.88
(iii) Annexure A-3: Copy of circular from Director (staff) Deptt. of Posts, New Delhi directing to pay equal pay and allowances to casual employee as that of regular employees.
(iv) Annexure A-4: Circular of Sr. Supdt. of Post Offices creating 62 posts of Chaukidars in Faizabad.
(v) Annexure A-6: Copy of the circular of the Sr. Supdt. of Post offices abolishing 22 posts of the Chaukidars.
(vi) Annexure Postal order for Rs. 50/-
(vii) Affidavit showing that he has exhausted all the departmental remedies available.

I, Bhagauti Singh S/o Sri Raj Karan Singh aged about 36 Yrs formerly working as C.P. Chaukidar Kutchera Sub. Post Office Faizabad residence of village Razaupur P.O. Barun Distt. Faizabad do hereby verify that the contents of paras 1, 3, 4, 7, 8, 12 and 13 are true to my personal knowledge and paras 2, 4, 5, 9 and 11 believed to be true on legal advice and that I have not suppressed any material facts.

Dated: March 25, 1988.

(Bhagauti Singh)

Place : Allahabad

Signature of the applicant.

To,

The Registrar,

Central Administrative Tribunal
Allahabad Bench, Allahabad.



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Application No. of 1988

Bhagauti Singh Applicant/Petitioner

Versus

Union of India & Others Respondents.

Annexure A-1

To,

The SPM.

Kutchera

Faizabad.

No. A/Kutchera Dated Faizabad the 1.4.1975

Sri Bhagauti Singh S/o Sri Raj Karan Singh
village Rajaupur P.O. Mehmauna Distt. Faizabad is
hereby allowed to work as C.P. Chaukidar Kutchera
w.e.f. 1.4.75 till further orders.

Sd/-

Copy to the concerned.

POS, Faizabad.

True copy attested.

B. LAL



A. LAL
Advocate

Date 10/3/84
High Court Allahab
St. No. 25-B-23
Date

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD.

Application No. of 1988.

Bhagauti Singh Petitioner

Versus

Union of India & Others Respondents.

Annexure A-2

Copy to Sri Bhagauti Singh

Charge Report

Certified that the charge of the office of C.P. Chaukidarship was relinquished by Sri Bhagauti Singh to office at Kutchera S.O. dt. 18.2.88 forenoon. On accordance with the memo No. A-1/16/Corr dt. 17.2.88 from A.S.P.O's Faizabad

Relieved officer

Relieved officer

Attested

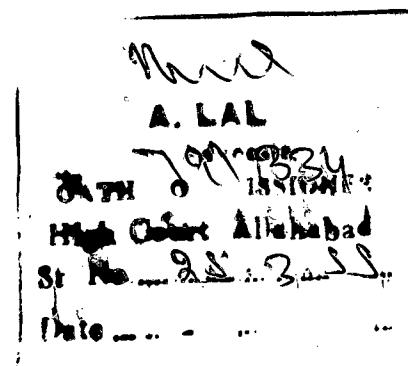
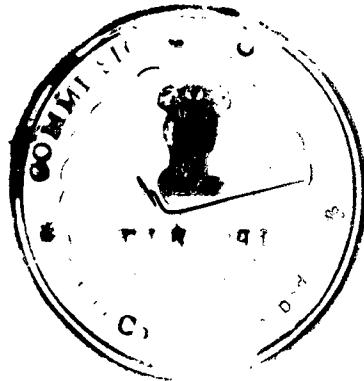
Sd/-

18.2.88

Seal.

True copy attested

22/2/88 (A16)



ATX

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Application No. of 1988

Bhagauti Singh Petitioner

Versus

Union of India and others Respondents.

Annexure A-3

Copy of Comm.letter No. 45/25/87-SP B.I. Dt. 10 Feb.1988 from S.Chadha Director (staff) Department of Posts Dak Bhawan New Delhi-110001 addressed to Sri S.P. Rai Post Master Central U.P.Circle,Lucknow & Others.

Sub:- Absorption of Casual labourers in the light of Supreme Court judgement.

Sir,

In compliance to Hon'ble Supreme Court of India decision dated 27th Oct. 1987 in writ petition No. 273 of 1986 regarding payment of wages of Casual labourers at the minimum of pat in the pay scale of the regularly employed workers in the corresponding cadre, but without increments with effect from 5th Feb. 86 the Directorate of Posts has decided that :

- (i) All the casual labourers engaged on casual basis are to be paid wages workers out on the basis of the minimum pay in the pay scale of regularly employed workers in the corresponding cadre without any increment with effect from 5th Feb. 86, but casual labour will also entitled to DA and ADA ,if any on the minimum of the pay scale. No other allowance to be paid.
- (ii) the word casual labourers would cover full time casual labour part-time casual labour and workers engaged on contingency basis. Part time workers casual or contingency paid will be paid on Pro-rate basis. For the purpose of payment no distinction should be made whether the casual labourers and contingency paid staff are being paid wages or from office contingencies.
- (iii) The arrears at the enhanced rate are to be paid before 25.2.88 positively.

2. For the allotment of funds you are requested to contact the Budget section of the Directorate. You are requested to take further necessary action in the matter regarding showing the payment made to each worker be sent before 1.3.88.

3. The receipt of this letter may kindly be acknowledged to Sri S.S.Mebha Section Officer (SPB I.) before 12.2.88.

4. This issue with the approval of Pinance' Amnd) U.O. No. 548/FAP/88 dated 5.2.88.

Yours faithfully,

Sd/-

(S CHADHA)
DIRECTOR (STAFF)

Advocate

DATE (9/1/88)

High Court Allahabad

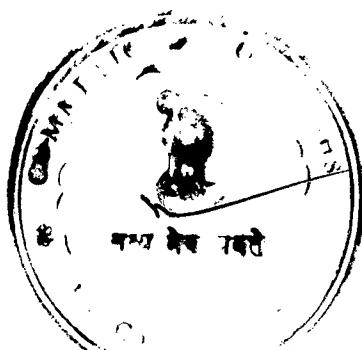
Sr. No. 25-B-33

Date

True copy attested.



Signature



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
 ALLAHABAD BENCH ALLAHABAD
 APPLICATION No. of 1988

Bhagauti Singh Petitioner

Versus

Union of India and others Respondents.

Annexure A-4

C/o The Sr. Supdt. of Post Offices, Faizabad Division.
 Memo No. 4-a/16/Corrp. Dated at Faizabad the 26.6.86

In accordance with the instructions contained in D.G. P&T New Delhiletter No. 21-30/74 AP dated 13.8.75 communicated under letter No. ACA/E-858/ChII dt. 20.6.86 section of the Sr. Supdt. of Post Offices Faizabad Division Faizabad is hereby accorded to the revision of Distt. Charge on account of fixation of wages of below mentioned contingent paid chaukidar's of the Division from Rs. 274.15 to 342.90 per month w.e.f. 1.1.1956.

The expenditure is debitible under the head wages of contingent paid.

| | |
|--------------------|---------------------|
| 1. Amaniganj | 43. Rampur Bhagan |
| 2. Achhora | 44. Rasulabad. |
| 3. Ayodhya | 45. Raunahi |
| 4. Ayodhya R.S. | 46. Ramkot |
| 5. Bandipur | 47. Shahganj |
| 6. Bariyawan | 48. Saidahi |
| 7. Barun | 49. Surapur |
| 8. Baragoan | 50. Sikanderpur. |
| 9. Baskhari | 51. Sohawal |
| 10. Bharatkund | 52. Tarun Bazar. |
| 11. Bikapur | 53. Takari |
| 12. Bhiti | 54. Rajesultapur |
| 13. Chaure Bazar | 55. Shahzadpur |
| 14. Dabha Semer | 56. Khaspur |
| 15. Darshan Nagar | 57. Maya |
| 16. Deorahi | 58. S.P.S.S. Mills. |
| 17. Reoraha | 59. D.O. Faizabad. |
| 18. Dulhoopur | 60. Faizabad City |
| 19. Harringtonganj | 61. Tanda |
| 20. Hanswar | 62. Janaura |
| 21. Iltifatganj | |
| 22. Inayat Nagar | |
| 23. Hafarganj | |
| 24. Jahangirganj | |
| 25. Jalalpur | |
| 26. Khajurahat | |
| 27. Kichchouchha. | |
| 28. Kutchera | |
| 29. Rakiapur | |
| 30. Khandasa | |
| 31. Kedarnagar | |
| 32. Kumarganj | |
| 33. Malipur | 34. Mainuddinpur |
| 35. Mijbaura | 36. Milkipur |
| 37. Mittupur | 38. Motinagar |
| 38. Ahuragola | 40. Mahboobganj |
| 41. Pahitipur | 42. Ram Nagar. |



Sd/-

Sr. Supdt. of Post Offices
 Faizabad Divn. - Faizabad.

26.8.86

Copy issued for information and n/a the post master
 Akbarpur/Sr.P.M. Faizabad.

True copy attested.

Mo/10/1986

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD
APPLICATION NO. of 1988

Bhagauti Singh Petitioner
Versus
Union of India & Others Respondents.

Annexure A-5

DEPARTMENT OF POST INDIA
OFFICE OF THE SR. SUPDT. OF POST OFFICES FAIZABAD DN. FAIZABAD
Memo No. A-1/16/Corr dated at Faizabad the 17.2.1988

The undersigned posts of C.P. Chaukidars which were not found justified for further retention are hereby ordered to be abolished with immediate effect.

| | |
|-----------------|--------------------|
| 1. Achhora. | 12. Majruddinpur |
| 2. Ayodhya R.S. | 13. Maharuwagola |
| 2. Deoria | 14. Maya |
| 4. Hakimpur | 15. Pahitipur |
| 5. Iltifatganj | 16. Rasulabad |
| 6. Inayatnagar | 17. Ramkot |
| 7. Jahangirganj | 18. Shahganj |
| 8. Khajurahat | 19. Shahzadpur |
| 9. Kutchera | 20. Terhi Bazar |
| 10. Khandasa | 21. Tikari |
| 11. Kedarnagar | 22. U.P.SS. Mills. |

The incumbents working against the above mentioned posts of C.P. Chaukidars, should be relieved immediate on receipt of this memo and charge reports should be submitted to all the concerned.

Sr. Supdt. of Post Offices,
Faizabad Division
Faizabad. 224001. Sd/-17/2

Copy to the :-

- 1-22) Official concerned.
- 23-44) the S.P.Ms. concerned. They should relieve the C.P. Chaukidars immediately & submit compliance report to Sri.R.P.Verma officer Supervisor/O/OSSPOS Fd. at once.
- 45-66) The relevant Astt. files.
- 67.68) The Sr.P.N.Faizabad/P.M. Akbarpur/All the SDIs(P) in the Division for ceasing compliance.
- 76) The Director Postal Services (vigg) Lucknow for information w.e. to C.O. D.O. BNo. DV/Misc./87 dated 5.1.8
- 77) The D.P.S. Lucknow Region Lucknow W.r. to R.O. file n ED1/Est/X-3/dated 31.8.87 for information.
- 78,79) A-1/16/Corr & A-1/12/Retrenched file.
- 80-100) Spares.

True copy attested.

M/S

DATE 10.2.1988
High Court Allahabad
Sr. No. 2857334
T.C. 139



विफोर दि आनरेवुल सेन्ट्रल रिहब्लूब्ल ऐडमिनिस्ट्रेटिव ट्रिब्युनल
इलाहाबाद बैन्च इलाहाबाद ।

प्रार्थना पत्र संख्या सन 1988

भगवती सिंह

पेटिशनर

वर्तेज

युनियन आफ इण्डिया इण्ड अर्द्द सेवा रेस्पान्डेन्ट

अनेकजर नं० र-६

सेवा मे,

श्री मान निदेशाक डाक सेवाये उत्तर प्रदेश
कैम्प- फैजाबाद ।

महोदय,

निवेदन है कि प्रार्थी दिनांक २५/१२/१९८५ के १-४-७५ से उप डाकधर कुचेरा जिला फैजाबाद मे लगातार सी० पी० चौकीदार के पद पर कार्यकरता चला आ रहा था कि दिनांक १८-२-८८ को उसे सेवा से अलग कर दिया गया है मैने १३ वर्षों तक लगातार विभाग की सेवा पूरी निष्ठा के साथ की है। मेरे विरुद्ध कभी कोई विवाद नहीं प्राप्त हुई है परन्तु अकारण मेरी सेवाये समाप्त कर दी गई जिससे प्रार्थी बेराजेगार हो गया है उसकी उम्र ३६ वर्ष हो जाने के कारण इस बेराजेगारी मे कोई नौकरी भी नहीं मिल सकती। बेरोजगार हो जाने के फलस्वरूप प्रार्थी के बच्चे व परिवार भूखो मरने की कगार पर आ गये हैं। ज्ञात हुआ है कि विभाग मे अभी चौकीदार के अनेक पद रिक्त हैं। तथा मेरे पद को तोड़ने का कोई औचित्य नजर नहीं आता।

अतः श्री मान जी से निवेदन है कि कृपया प्रार्थीको चौकीदार के पद पर वहाल या पुनर्नियुक्त करने की कृपा करें। जिसके प्रार्थी श्री मान जी का आजन्म आधारी रहेगा।

आपका आङ्गाकारी सेवक,

॥ भगवती सिंह ॥

ग्राम रजमुर

पोस्ट- बारून

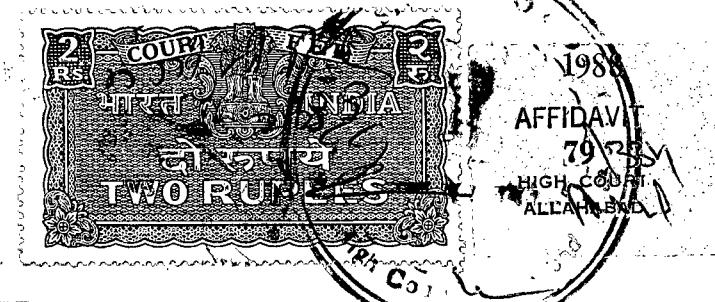
जनपद- फैजाबाद

दिनांक ९-३-१९८८ ई०

सत्य प्रतिशिष्य प्रमाणित ।



4. LAL
1988/334
OATH
High Court
No. 25.3.88



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Application No. of 1988

Bhagauti Singh
XXXXXXXXXXXX

Applicant

Versus

Union of India & Others Respondents.

Affidavit of Sri Bhagauti Singh aged about 36 years S/o Late Sri Raj Karan Singh r/o village Razaupur P.O.

Barun P.S. Inayat Nagar Distt. Faizabad.
(Deponent)

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

1. That I am the petitioner in the above mentioned application, and as such I am fully acquainted with the facts and circumstances of the case.
2. That this affidavit is being sworn in support of the averments made para 7 of the aforesaid application.
3. That after having relieved from service on 18.2.88, the deponent met the Inspector of Post offices Faizabad (South) Sub. Division Faizabad (respondent no. 4) at Faizabad, who happens to be the appointing authority of the deponent, and gave him a representation on 19.2.88 and urged him to reinstate him on the post held by him,

M. M. Singh



VERIFICATION

Verified that the contents of paras 1 to 5 of this affidavit are true to my knowledge ,while those of para 6 are true to the best of my knowledge,belief and infomation and that no part of it is false and nothing material has been concealed.

So help me God.

Dated: Faizabad Allahabad
the 22nd day of March 1988.

-1000/-
(Bhagauti Singh)
Deponent.

I M.C. Sinha, Advocate ,Central Administrative Tribunal Allahabad ,do hereby declare that the person making this affidavit and alleging himself to be Sri Bhagauti Singh is known to me from the perusal of the papers which he has produced in this case on that basis .

I can say that he is the same person.

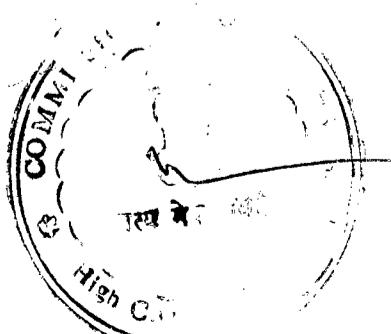
M.C. Sinha
(M.C. Sinha)
Advocate.

25th day of March, 1988
Solemnly affirmed before me today at ...10.30.A.M.

10.30 A.M. by Sri Bhagauti Singh ,the deponent who has been identified by Sri M.C.Sinha, Advocate ,I have satisfied myself by examining the deponent that he is the same person and that he fully understands the contents of this affidavit which have been readover and explained to him by me.

Faizabad Allahabad
22nd day of March, 1988.

Oath Commissioner.



| |
|----------------------|
| <i>A. Lal</i> |
| Advocate |
| DATE 22/3/88 |
| High Court Allahabad |
| St. No. 25-3-32 |
| Date 22/3/88 |

but the Inspector of Post Office rejected his demand.

4. That failing to get any redressal from the aforesaid Inspector of Post Offices, the deponent met the Sr. Supdt. of Post Offices, Faizabad (Respondent No. 3) on 20.2.88 and presented him a memorandum requesting him to reinstate the deponent on the post held by him, but he too refused to interfere into the matter.

5. That when the deponent came to know that the Director of Postal services, U.P. Circle Lucknow (Respondent no. 2) was visiting Faizabad on his official tour on 9.3.88 the deponent alongwith few Chaukidars who were relied in the similar maner presented him seperately their petitions in the Head Post Office Campus, Faizabad as soon as the respondent No. 2 alighted from his jeep and told him his miseries due to the wrongful termination of services and urged the deponent no. 2 to reinstate the deponent, but the respondent no. 2 after having a talk with the Sr. Supdt. of Post Offices (Respondent No. 3) on the spot very categorically refused to do any thing in the matter and rejected the request of the deponent.

6. That after havinh exhausted all the departmental remedies available, the deponent has filed the aforesaid application before this Hon'ble ~~court~~ Tribunal for seeking justice.

Dated: Faizabad Allahabad

the 22nd of March 1988.

Bhagauti Singh
Deponent.

VERIFICATION

Verified that the contents of paras 1 to 5 of this affidavit are true to my knowledge ,while those of para 6 are true to the best of my knowledge,belief and infomation and that no part of it is false and nothing material has been concealed.

So help me God.

Dated: Faizabad Allahabad
the 22nd day of March 1988.

Bhagauti Singh
(Bhagauti Singh)
Deponent.

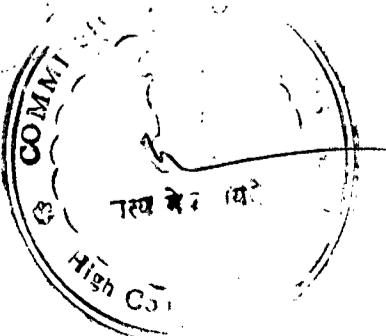
I M.C. Sinha, Advocate ,Central Administrative Tribunal Allahabad ,do hereby declare that the person making this affidavit and alleging himself to be Sri Bhagauti Singh is known to me from the perusal of the papers which he has produced in this case on that basis .

I can say that he is the same person.
M.C. Sinha
(M.C. Sinha)
Advocate.

Solemnly affirmed before me today at ...10:30 A.M.
by Sri Bhagauti Singh ,the deponent who has been identified by Sri M.C.Sinha, Advocate ,I have satisfied myself by examining the deponent that he is the same person and that he fully understands the contents of this affidavit which have been readover and explained to him by me.

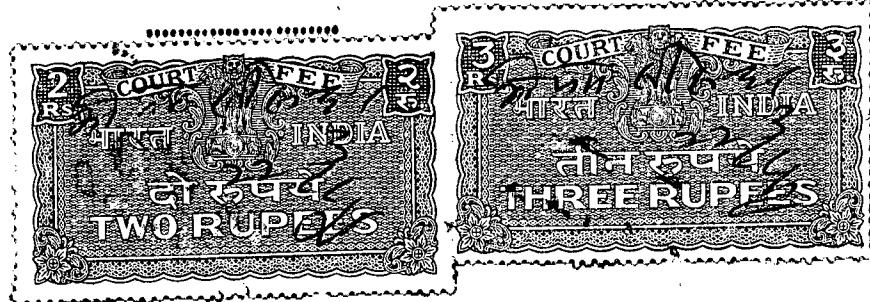
Faizabad Allahabad
22nd day of March,1988.

Oath Commissioner.



A. LAL
Advocate
DATE 22/3/88
High Court Allahabad
Sr. No. 22-3-88
Date

वकालतनामा



224

The Hon'ble Central Administrative Tribunal
न्यायालय, श्रीमान
Allahabad Bench, Allahabad

Bhagwati Singh वादी/अपीलान्ट/प्रार्थी/अभियुक्त

विश्वद

Union of India, Attorney प्रतिवादी / रिस्पोंटेंट / विपक्षी / अभियुक्त

व्यवहार विवरण

उपरोक्त व्यवहार में मैं हम M. C. Srinivas, Advocate प्रतिवक्ता

वकील, एडवोकेट

को वकालत नामा द्वारा वकील नियुक्त करके अधिकार देता है/देते हैं कि उपरोक्त अधिवक्ता, वकील उपरोक्त वाद में मूल न्यायालय से लेकर अपील या निगरानी न्यायालय तक तथा निष्पादन कार्यवाही में उपस्थित होवें, कार्य करें और अधोहस्ताक्षरी की तरफ से आवश्यकता पड़ने पर न्यायालय में उपस्थित होवें कार्य करें और अधोहस्ताक्षरी का पक्ष प्रस्तुत करें न्यायालय द्वारा अधोहस्ताक्षरी के नाम आदेशिका जारी होने पर उसे प्राप्त करें, और आवश्यकता पड़ने पर अपने हस्ताक्षर से कोई दूसरा अधिवक्ता नियुक्त करें। अधिवक्ता को उपरोक्त मामलों में अधोहस्ताक्षरी की तरफ से न्यायालय में प्रार्थनापत्र याचिका या अभिवचन प्रस्तुत करने का न्यायालय में प्रपत्र प्रस्तुत करने का उसे वापस लेने का सन्धिपत्र प्रस्तुत करने का किसी मामले को पंच निर्णय के लिए प्रस्तुत करने का न्यायालय में जमा किसी राशि को निकालने या उसका चेक प्राप्त करने अथवा आवश्यकता पड़ने पर रुपया जमा करने का किसी छिक्री को निष्पादित करने की कार्यवाही करने का अधोहस्ताक्षरी को प्राप्त हुई राशियों का प्रमाणपत्र देने का अधिकार अधोहस्ताक्षर की तरफ से होगा।

उपरोक्त वकील, अधिवक्ता द्वारा उपरोक्त मामलों में किया गया कोई भी कार्य अधोहस्ताक्षरी द्वारा किया गया माना जायेगा तथा अधोहस्ताक्षरी उन कार्यों से बाध्य होगा।

अतः वकालतनामा लिख दिया कि समय पर काम आवे।

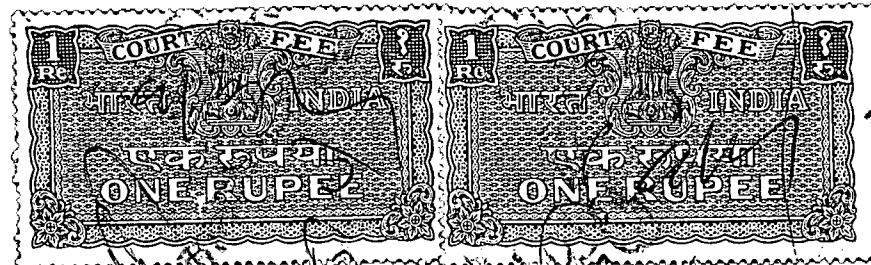
तिथि 15 मास March सन् १९८८

चिन्ह या हस्ताक्षर प्रतिवक्ता साक्षी साक्षी

—गवालती—

स्वीकृत
M/S

एडवोकेट, प्लीटर



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD

Registration No. 392/1988

DISTRICT FAIZABAD

Bhagawati Singh Petitioner

Versus

Union of India & Others Respondents.

Rejoinder affidavit on behalf of
the petitioner in reply to the
Counter Affidavit on behalf of
respondent no. 3

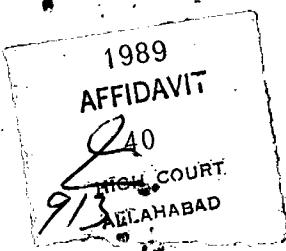
I, Bhagwati Singh aged about 37 years S/o Late
Sri Raj Karan Singh, the petitioner above named do
hereby states on oath as under : -

1. That the contents of paras 1, 2 and 3 of the
Counter Affidavit needs no comments.
2. That the reason for termination given in para 4
of the Counter Affidavit is irrelevant. However the
direction purported to have been given by Smt.

Neelam Srivastava, the then Director of Postal
services, as mentioned in para 4 has not been given
in the Counter Affidavit.

3. That the averments made in para 5 of the C.A. is
irrelevant for the purpose of this case.
4. That in reply to the averments made in para 6 of the

Contd.....2/-



Carry on
Rashmi
9/1/89
J.W. today
12/5/89

Received off
R.P.S.M.A.
Smt N.B.S.
G.S.C
(2/5/89)

Received on

(b2)

Counter Affidavit it is stated that the observations purported to have been made by the then P.M.G. has not been mentioned. *a*

5. In reply to the averments made in para 7 of the Counter Affidavit, it is submitted that there was no defect or irregularity whatsoever in the appointments of the petitioner and the plea that the then Supdt. of Post Offices, Faizabad, who had sanctioned the appointment of the petitioner on 1.4.1975 had no authority, such plea has no justification or validity. *a*

6. That the averments made in para 8 of the Counter Affidavit *are irrelevant.* However, without prejudice to the claim of the petitioner on the other grounds, it is submitted that at every Sub. Post Office, there is a post of Chaukidar *who has to watch the Post office. The post of Chowkidar* is necessary because, Cash, Money Order, Postal Orders, Indira Vikas Patra, National Savings Certificates, Insured letters, Parcels & Kisan Vikas Patras are kept in the Sub. Post Offices. *a*

7. That the averments made in para 9 of the Counter Affidavit need no comment. *a*

8. That in reply to the contents made in para 10, it is submitted that there was no justification or necessity whatsoever to abolish 22 posts of Chowkidars on the one hand and at the same time retaining 39 such posts of Chowkidars in the similar circumstances. The Criteria shown in the Counter Affidavit for abolishing 22 posts

12. That in reply to the averments made in para 12, it is submitted that even on the directions issued by the Director General (Posts) Govt. of India, New Delhi vide his order dated 10.2.88 to reinstate the displaced Chowkidars, the respondent no. 3 has deliberately refused to take them back in service maliciously and with an attitude of vengeance for moving this Tribunal. ✓

13. The contention made in para 13 of Counter Affidavit that the post of Chowkidar is not ~~in~~ a "Civil Post" is denied.

14. The contents of para 14 needs no comment. ✓

15. In reply to the averments made in para 15 of the Counter Affidavit, it is submitted that recurring loss of the Kuchera Sub. Post Office could not be taken as ground for the post of Chowkidar. However without prejudice to the claims of the petitioner, it is submitted that even if the abolition of the post could be justified on any ground, the termination of the petitioner is illegal and without jurisdiction. No notice nor pay in lieu of notice and no compensation has been given to the petitioner before or after the termination of the petitioners services. ✓

16. That the contents of para 16 of the Counter Affidavit are denied. ✓

17. That the contents of paras 17, 18 and 19 needs no comments. ✓

18. That the contents of para 20 are irrelevant. ✓

N.M.D.L.H.S

6/6
B

19. That the contents of para 21 are denied. It is wrong to assert that the work of the petitioner was unsatisfactory. No order of discontinuance of service for 6.10.1986 as claimed was ever given to the petitioner. No explanation for the "alleged unsatisfactory work" was ever called for from the petitioner nor any chargesheet was made nor any oral or written warning was ever given. The story of "unsatisfactory work" is a concocted one in order to justify the illegal acts of the respondent no. 3.

20. That the contents of para 22 are denied. The petitioner had put in continuous and uninterrupted service for 13 years with clean and unblemished record. ✓

21. That the contents of para 23 needs no comment.

22. That the contents of para 24 are denied. The said recommendation of the concerned Sub. Divisional of Post Offices for the abolition of the posts of Chowkidars could by no stretch of logic, be taken as a ground for the illegal termination of the petition.

23. That the contents of para 25 are totally denied. In support of the averments made by the petitioner in p 6 (XIII) of his application, the account registeres, stock registers for N.S.Cs, I.P.Os, Indira Vikas Par. Insured Parcels, Registered letters and Money Order registers and the Sub. Post Master of the Kuchera S Post Office may be examined. The Department has also provided iron chest at the Sub. Post Office to keep the aforesaid valuable. ✓

24. That the contents of para 26 are denied. The petitioner stands by what he had said in his application in para 6 (XIV). No rational criteria for the abolition of the post was adopted. It is also false to say that at Kuchera Sub. Post Office there was minimum retention of cash. ✓

25. That the contents of para 27 and 28 are denied. ✓

26. That the contents of paras 29, 30, 31, and 32 are denied. ✓

27. That it is denied that this Hon'ble Tribunal has no justification as stated in para 33 of the Counter Affidavit. ✓

28. That the petition is full of ~~xxx~~ merit and liable to be allowed with cost. ✓

Bhagwati Singh

Allahabad

(Bhagwati ~~Singh~~ Singh)

Dated: Feb. , 1989.

Deponent,

VERIFICATION

I, the above named deponent do hereby verify that the contents of paragraphs No. 1 to 28 of this affidavit are true to the best of own knowledge, Nothing in it is wrong and nothing material has been concealed.

So help me God.

Faizabad

Feb. 9, 1989.

Bhagwati Singh

(Bhagwati Singh)

Deponent.

B30

-7-

I , knew the deponent , identify him, who has signed before me.

Faizabad.

M.C.Sinha

Advocate,

March 9,
Feb. 1989.

Solemnly affirmed before me on this 9 th day of
March 1989 at 2.01 am./pm. by the above named deponent
who has been identified Sri M.C.Sinha, Advocate,
High Court Lucknow Bench, Lucknow.

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

Rabihill
Oath Commissioner.

913189

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

Miscellaneous Application No. /1990

In re:

M. P. No. 520/90 C, F. F. of 26/6

O.A. No. 392/1988

1990
Sep

Bhagwati Singh Applicant

Versus

Union of India & others ... Respondents.

Application for condonation of
delay in filing supplementary
affidavit.

The humble applicant most Humbly and Respectfully
begs to state that this petition was heard on 26.7.90
by the Bench comprising His Lordship Hon'ble Mr. Justice
K. Nath, Vice-Chairman and Hon'ble Mr. K. Obayya, A.M.
and the applicant was directed to file a supplementary
affidavit within two weeks, but since the applicant was
out of the station from 9.8.90 to 20.8.90 to attend
some urgent domestic problems, hence he could not file
the supplementary affidavit in time. The due date was
10.8.90, but it is being filed today.

PRAYER

It is, therefore, MOST HUMBLY & RESPECTFULLY
prayed that this Hon'ble Tribunal may graciously be
pleased to condone the delay and order to bring on
record the accompanying Supplementary affidavit to
meet the ends of Justice.

Filed 20 day
27/8
R
Lucknow.

Dated: Aug. 24th, 1990.

(MANIK SINHA)
Advocate,
Council for the Petitioner

B3/2

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

Misc. Application No. of 1990.

of

Bhaguti Singh Applicant

Inre:

O.A. No. /1988

Distt. - Faizabad.

Bhagauti Singh Applicant

Versus

Union of India & Others Respondents.

To,

The Hon'ble the Vice Chairman and his other
Companion members of this Hon'ble Tribunal

The humble applicant named above MOST HUMBLY AND
RESPECTFULLY begs to sheweth as under :-

1. That the above named petition was heard on 26.9.90
by the Bench comprising of the Hon'ble Mr. Justice
K. Nath Vice-Chairman and Hon'ble Mr. K. Obayya, A.M.
2. That during the course of hearing, some questions
of law were raised by the applicant, for which the
applicant was directed by the Hon'ble Bench to file
a fresh supplementary affidavit ^{narrating} ~~mentioning~~ full facts
in support of the legal questions raised.

(B3)

-2-

3. That the applicant was directed to file the aforesaid counter affidavit within 2 week.

4. That as per the direction of the Hon'ble Bench, the petitioner is filing herewith an supplementary affidavit as required.

PRAYER

It is, therefore, MOST HUMBLY AND RESPECTFULLY prayed that the accompanying supplementary affidavit may graciously be pleased to bring on record to meet the ends of justice.

Lucknow.

Dated: Aug. 23, 1990.


(Manik Sinha)

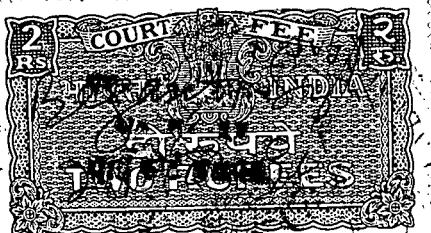
Advocate,
Chamber No. 3,
High Court, Lucknow.

B34

In the Hon'ble Central Administrative Tribunal Allahaba

Circuit Bench, Lucknow

Supplimentary affidavit on behalf of the petitioner



Inre:

O.A. No. 392/1988

Bhagauti Singh Applicant
Versus
Union of India & Others Respondents.

I, Bhagauti Singh aged about 37 years S/o Sri Raj Karan Singh r/o village Rajaupur P.O. Mehnauna Distt. Faizabad do hereby solemnly affirm and state on oath as under :-

1. That the deponent abovenamed is the applicant in the aforesaid petition as such is fully conversant with the facts and circumstances of the case.
2. That the above noted case was listed & heard on 26.7.90 by the Bench comprising of Hon'ble Mr. Justice K. Nath Vice Chairman and Hon'ble Mr. K. Obayya Administrative Member.

That during the course of hearing on 26.7.90, the learned counsel for the petitioner raised some substantial questions of law, upon which



W.M.A. Singh

Contd.....2/-

this Hon'ble Tribunal directed the learned counsel for the petitioner to file a fresh supplementary affidavit narrating the facts and circumstances of the case in support of the pleas and raised on 16.7.90.

4. That the "Postal Deptt." of the Govt. of India is "Industry" within the meaning of Sec. 2 (J) of the Industrial Disputes Act, 1947, since the Postal service is not the Sovereign function of the State. The Hon'ble Supreme in Des Raj etc. Vs. State of Punjab & Others (1988 II LLJ 149), while holding "Irrigation Deptt." of the Govt. of Punjab ^{as} "Industry" held that only the "Sovereign Function" of the state are exempted from the definition of 'Industry' within a meaning of Sec. 2(J) of the Act. The Hon'ble Supreme Court also laid down the dominant nature test as under :

"(a) Where a complex of activities some of which qualify for exemption, other not, involves employees in the total undertaking, some of whom are not "Workmen" as in the University of Delhi v. Ram Nath (1964) 2 SCR 703 or some departments are not productive of goods and services if isolated, even then, the predominant nature of services and the integrated nature of the



B36

-3-

departments as explained in the Corporation of Nagpur, (supra) will be the true test. The whole undertaking will be "Industry" although those who are not workmen by definition may not benefit by the status.

(b) Notwithstanding the previous clauses, Sovereign functions, strictly understood, alone qualify for exemption, not the ^{welfare} ~~metfase~~ activities or economic adventures undertaken by Government ^{or} statutory bodies.

(c) Even in departments discharging Sovereign functions, if there are units which are industries and they are substantially severable then they can be considered to come within Section 2 (J).

(d) Constitutional and Competently enacted legislative provisions may well removes from the scope of the Act categories which otherwise may be covered thereby."

5. That the postal services is not a Sovereign function of the states, because it could be undertaken by the private organizations also and in fact private enterprizes are also involved in the business of postal services, like currior services, hence the Department of Post falls within the definition of "Industry."



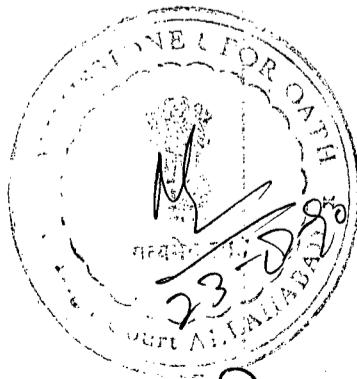
1032

-4-

6. That since the "postal department" is an "Industry" hence the provisions of the Industrial Disputes Act are applicable in the instant case. As Such the termination of the petitioner amounts to retrenchment, consequently the petitioner being a "workman" within the meaning of Sec. 2(S) of the Act, is entitled for the protection of Sec. 25-N of the Industrial Disputes Act, 1947. Since the mandatory provisions of Sec. 25-N of the Act have been violated as such the impugned termination is null & void ab initio and deserves reinstatement with back wages & continuity of service.

7. That without prejudice to the claims made above, even if the department of Post is not deemed to be an "Industry," even then the petitioner's termination is null & void, because one month prior notice of termination as contemplated in Rule 5 of Central Civil Services (Temporary Service) Rules 1965 has not been given.

8. That although altogether 22 posts were abolished but subsequently 13 posts were revived-9 posts on 6.6.88 and 4 posts on 26.9.89, but the same was not done in respect of 9 Chaukidars for the simple reason that the nine Chaukidars moved to this Hon'ble ~~Supreme~~ Tribunal for redressal. The 13 Chaukidars were reinstated on their original posts after reviving their posts because they did not move the court of law



10
23

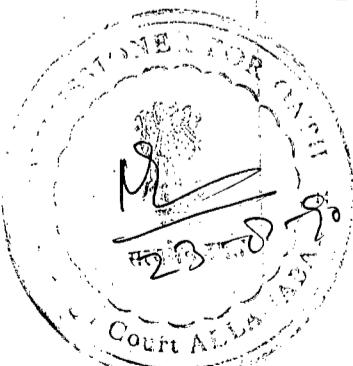
but the posts of the petitioners were not revived.

The respondent no. 3 became prejudiced against the nine Chaukidars including the petitioner because the nine Chaukidars challenged the action of the respondent no. 3 in this Hon'ble Court.

9. That on the one hand reviving the 13 posts and on the other hand refusing to revive further 9 posts of Chaukidars by the respondent no.3 for simple reason that the 9 Chaukidars moved this Hon'ble Tribunal is prejudicial, malafide, malice in law and is colourable exercise of powers on the part of respondent no.3.

10. That without prejudice to the claims made above even if it is assumed that the respondent have power to abolish the post, there is no automatic termination . In such case notice has to be given to the incumbent and the principle of "last came first go" has to be followed .

11. That since the abolition ^{of} ~~was~~ the post of the petitioner was not genuine and/good faith, and since the abolition of post was made as a cloak to dispense with the services of the petitioner, hence the impugned action is subject to judicial review.



7/79/1/8

Contd.....6/-

12. That the abolition of post is violative of Article 311 (2) of the Constitution and the Rights guaranteed under Article 14 of the constitution of India & the principles of natural justice.

Lucknow.

Bhagauti Singh
(Bhagauti Singh)

Dated: Aug. 23, 1990.

Deponent,

VERIFICATION

I, the above named deponent Bhagauti Singh do hereby verify on oath that the contents of paras 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 are true to the best of my knowledge and belief no part of it is false, So help me God. Verified on Aug. , 1990

Lucknow

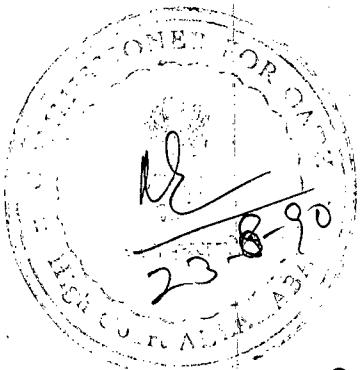
Bhagauti Singh
(Bhagauti Singh)

Dated: Aug. 23, 1990.

Deponent,

I know the deponent Bhagauti Singh, identify him, who has signed before me.

Manik Sinha
(Manik Sinha)
Advocate
High Court, Lucknow.



Solemnly affirmed before me on this th day of Aug. 23, 1990 at 10.45 am./pm by the above named deponent who has identified Sri Manik Sinha, Advocate, High Court LKO.

NARENDRA PRATAP SINGH

OATH COMMISSIONER

High Court Allahabad.

Lucknow Bench.

No. 05799

Date: 23-8-90

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

Oath Commissioner.

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

Misc. Application No. of 1989

B.G.O

Bhagauti Singh Applicant

INRE:

O.A. No. 392/88

(District Faizabad)

Bhagauti Singh Applicant

Versus

Union of India & Others Respondents.

To,

The Hon'ble the Chairman and his other Companion
Members of this Hon'ble Tribunal.

The humble applicant named above most respectfully
showeth as under :-

1. That for the reasons disclosed in the accompanying supplementary affidavit it is necessary in the interest of justice that the accompanying Supplementary Affidavit may be brought on record ,other wise this petitioner would suffer grave and irreparable loss.

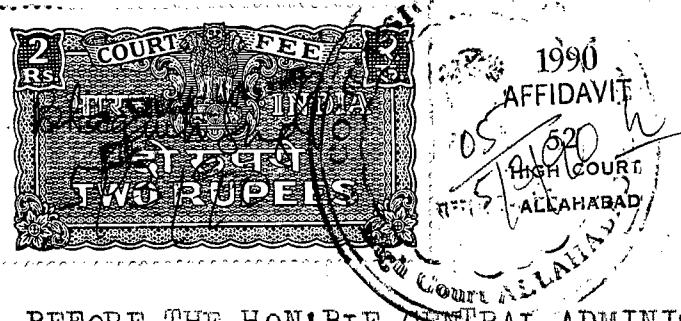
PRAYER

Wherefore, on the facts stated above and in the accompanying Supplementary Affidavit , it is most respectfully prayed that this Hon'ble Tribunal may be pleased to bring on record the accompanying Supplementary affidavit to meet the ends of justice between the parties.

Lucknow - 007, 1989.

5th May 1990

M.C. Singh
Advocate



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW.

O.A. No. 392/88

Bhagauti Singh Applicant

Versus

Union of India & Others Respondents.

Supplimentary Affidavit on behalf
of the petitioner

I, Bhagauti Singh aged about 36 years S/o Late Sri Raj Karan Singh r/o village Razaupur, P.O. Barun Distt. Faizabad do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner in the above noted petition and such he is acquainted with full facts of the case deposed to below.
2. That the petition was filed in Allahabad Bench on 15.3.88 and after the creation of circuit Bench at Lucknow, it has been transferred to this Bench.
3. That certain facts which were not in the knowledge of the petitioner and certain development regarding this case that took place subsequent to the date of filing of this petition, could not be incorporation in the application as such the present supplementary affidavit is being filed



Transcript

.....2/-

herewith .So that justice may be done in the petitioner's case.

4. That altogether 22 posts of contingency paid chaukidars were abolished vide Senior Supdt. of Post Offices, Faizabad order no. memo A-1/16/Corr/dt. 12.2.1988

ANNEXURE A-V (Annexure A-5 to the petition)

5. That in pursuance to the aforesaid abolition of 22 posts , the services of 22 C.P. Chaukidars were terminated without giving any written order of termination or any notice whatsoever.

6. That out of 22 terminated Chaukidars , altogether 13 Chowkidars moved this Hon'ble Tribunal for seeking justice whereas 9 Chowkidars did not prefer to file the case . After the cases were filed in this Tribunal and it were admitted, the respondent no.3 negotiated the matter with these 9 chowkidars who did not prefer to contest and on 6.6.1988 (about three months after filing of the case) the respondent no.3.vide his office order No. A-1/16/Corr/dt. 6.6.1988 revived 9 posts and the original incumbent i.e. those 9 chowkidars were ordered to be reinstated. The posts revived were at the following post offices.

1. Ayodhya R.S.
2. Deoria
3. Hakimpur.
4. Khandasa
5. Kedar Nagar
6. Ram Kot



(AVT)

7. Shahganj.
8. Terhi Bazar.
9. Tikari.

ANNEXURE RA-II

(A true copy of the aforesaid order is neing filed herewith as Annexure RA-II).

7. That out of 13 Chaukidars who moved to this Hon'ble Tribunal for seeking justice, the details of 7 Applicants are available, but regarding rest 6 applicants no details could be available. The details of 7 applicants are as follows :-

| <u>O.A.No.</u> | <u>Name of the petitioner</u> | <u>Place of Posting</u> |
|----------------|-------------------------------|-------------------------|
| 1. 312/88 | Ram Anuj | Achhora. |
| 2. 313/88 | Ram Das | Inayatnagar. |
| 3. 314/88 | Ram Chandra | Majruddinpur. |
| 4. 315/88 | Rajendra Prasad. | Shahdadpur. |
| 5. 316/88 | Muneshwar Yadav | Khajurahat. |
| 6. 317/88 | B.B.Dubey | Rasulabad. |
| 7. 392/88 | Bhagauti Singh | Kuchera. |

8. That the aforesaid cases were filed on 15.3.88 and the O.A. No. 392/88 (Bhagauti Singh Vs. Union of India) was admitted on 15.4.88 whereas O.A. No. 316/88 (Muneshwar Yadav Vs. Union of India) and 317/88 (B.B. Dubey Vs. Union of India) were admitted on 27.6.88 (ExxxMas and when the cases of O.A. No. 312/88 (Ram Anuj Vs. Union of India and 313/88 (Ram Das Vs. Union of India and 314/88 (Ram Chandra Vs. Union of India) and 315/88 (Rajendra Prasad Vs. Union of India) were taken up on 11.8.88 the Senior Standing Counsel for the Respondent assured this Hon'ble Tribunal that action were being taken to reinstate them and

W.M.A. 1/2



AMU

consequently they were reinstated vide respondent No. 3 office order No. A-1/Corr dt. 26.5.89 reviving the four posts at the following posts offices and the original incumbents were ordered to be reinstated.

1. Shahzadpur.
2. Achhora.
3. Mazruddinpur.
4. Inayatnagar.

ANNEXURE RA-II

(A true copy of the aforesaid order dt. 26.5.89 is being filed herewith as Annexure RA-II).

9. That after the present petition was filed (date of filing is 15.3.88) the respondent no.2 (Director of Postal Services, U.P. Lucknow) issued a circular on 19.4.88 to all Senior Suptd. of Post Offices in U.P. not to abolish the posts of C.P. Chawkidars and if such Chawkidars were terminated then they must be reinstated immediately. In pursuance thereof the respondent no.3 reinstated 13 C.P. Chawkidars but refused to reinstate the petitioner and other retrenched chawkidars who had sought the protection of this Hon'ble Court. The respondent no.3 bluntly told that when the petitioner had gone to the court ^{They} ^w then ^{get} ^{be} remedy from the court.

ANNEXURE R.A.III

(A true copy of the aforesaid circular dt. 19.4.88 is being filed as Annexure RA-III).

(AIS)

10. That the action of abolition of post~~so~~ thereby effecting termination of services of the petitioner without either giving any written order of termination or without giving any notice of termination or pay in lieu of notice and without affording any opportunity of hearing before abolishing the post is violative of Sec. 25-N of the Industrial Disputes Act 1947, since the Postal Dep'tt. is an "Industry" within the meaning of Sec. 2(j) and the petitioner is a "workman" within the meaning of Sec. 2(s) and the wrongful termination or abolition of posts amounts to " Industrial dispute" within the meaning of Sec. 2(k) of the Industrial Disputes Act 1947 hence the impugned order is liable to be struck down.

11. That mandatory conditions precedent to retrenchment as envisaged in Sec. 25-N of the Industrial Disputes Act 1947 have not been followed as such the wrongful termination in the impugned order is illegal null and void ab initio.

Lucknow.

5th March 1990
Dated : Oct. 1989.

Bhagauti Singh

Deponent,

V E R I F I C A T I O N

I, the above named deponent do hereby verify that the contents of paragraphs No. 1 and 3 of this affidavit are true to the best of my personal knowledge and those of paras 2, 4, 5, 6, 7, 8 and 9

APG

-6-

of this affidavit are true on the basis of records and those of paras 10 and 11 are true to the legal advice, nothing in its wrong and nothing material has been concealed.

So help me God.

Lucknow.
the March 5th
Oct. , 1980.

M. C. Sinha

(Bhagauti Singh)

Deponent,

I, know the deponent, identify him, who has signed before me.

Lucknow.

the March 5th
Oct. , 1980.

M. C. Sinha

Advocate

High Court, Lucknow.

Solemnly affirmed before me on this 5th th
March
day of Oct. , 1980 at 11.00 am/pm. by the above named
deponent who has identified Sri M.C.Sinha , Advocate
High Court Lucknow, Bench, Lucknow.

I have satisfied ,myself ,by examining the
deponent m that he fully understands the contents of
this affidavit, which has been readout and explained
by me.

N. Singh
Oath Commissioner.

ARRENDRA PRATAK SINGH
OATH COMMISSIONER
High Court Allahabad
No. 05/52
Date - 5/3/90

AUR

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

~~MisexxxAppication~~

O.A. No. 392/88

Bhagauti Singh Petitioner

Versus

Union of India & Others Respondents.

Annexure R.A.-I

DEPARTMENT OF POSTS INDIA

0/0 the Sr. Supdt. of Post Offices, Faizabad Dn. Faizabad.

Memo No. A-1/16/Corr dated at Faizabad the 06.06.1988.

.....

In pursuance of the Director Postal Services, Lucknow Region, Lucknow letter No.

31.5.1988 the post of contingency paid chaukidars of the following offices which were abolished vide this office memo no. even dated 17.2.88 are hereby revoked with immediate effects:-

1. Ayodhya R.A.
2. Deoria.
3. Hakimpur.
4. Khandasa.
5. Kedar Nagar
6. Ram Kot
7. Shahganj.
8. Terhi Bazar.
9. Tikari.

This original incumbants, who were working against the above mentioned posts of C.P. Chaukidars, on or before 17.2.88 are hereby orders to be reengaged immediately on receipt of this memo, and charge reports should be submitted to all concerned.

Writs 165

Sd/-
Sh. Supdt. of Post Offices,
Faizabad Division
Faizabad 224001-

1948

E.K.3

Regd. Copy to the :

1-9) The Officials concerned (Ex.-C.P.Chaukidars).

10_18) The S.P.Ms. Concerned. They should re-engaged ~~xxxExR.~~
the Original incumbant mwho were previously engaged as
C.P.Chaukidars before the abolition of the said posts
Any complaint in this regard will be viewed seriously.

19-27) The Relevent Estt. filed.

28-29) The Sr.P.M.Faizabad HQ/Postmaster Akbarpur HQ(Faizabad)

30-36) the ASPOs(w) Akbarpur/All the SDIS(P) in the division
for causing compliance.

37) The D.P.S. Lucknow region Lucknow 226007 w/r/to R.O.No.
नागर/स्थापना/एक्स-5/काला गाँव 31-S-80

38-40 O/C and spare.

W. H. H. 105

53190

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

~~REMARKABLE~~ CIRCUIT BENCH LUCKNOW

O.A. No. 392/1988

Ref 9

Bhagauti Singh Applicant

Versus

Union of India & Others Respondents.

Annexure-R.A.-II

o/o THE SR. SUPDT. OF POST OFFICES FAIZABAD DIVISION-224001.

Memo. No. A-1/16/Corr dated at Faizabad, the 26.5.1989.

In pursuance of the Director Postal Services, Lucknow Region Lucknow letter No. निगम/स्टेट/टीडी-31/क्रमांक 31.5.88 and as per instructions contained in para 5 of the letter No. RDL/STA/SN-1/88/3 dated 05.5.89, the posts of contingency paid Chaukidars of the following Sub.Offices, which were abolished vide this office Memo No. even, dated 17.2.88, are hereby ordered to be restored with immediate effect:

1. Shahzadpur.
2. Achhora
3. Majruddinpur.
4. Inayat Nagar.

The original incumbents, who were working as C.P. Chaukidars in the above mentioned Sub.Offices, on or before 17.2.88, are hereby ordered to be re-engaged immediately.

Charge reports should be submitted to all concerned.

W
5/3/90
Sd/- Illegible.
Sr. Supdt. of Post Offices,
Faizabad Division.

Sd/- Illegible. 26/5

Regd.

Copy issued to :-

- 1-4) The officials concerned (Ex-C.P. Chaukidars).
- 5-8) The SPMs concerned. They are directed to re-engaged the original incumbents who were previously engaged as C.P. Chaukidars or on before the abolition of the said posts.
- 9-12) The relevant Estt. file.
- 13-16) Sr. P.M. Faizabad / P.M. Akbarpur H.O. Faizabad.
- 15) The D.P.S. Lucknow Region, Lucknow-226007 w/r to R.O. No. RDL/STA/SN-1/88/3 dated 5.5.89
- 16-1-8) The SDI Faizabad West/South/Akbarpur North, Faizabad.
- 19.20) O/C & Spare.

W.M.C. C.R.C.

विफोर दि आनरेवुल सेन्ट्रल ऐडमिटिस्ट्रेटिव दिवुनल
सरकिट बेन्च लखानऊ
ओ० ए० नं० 392/1988

ASO

भगौती सिंह

वरसेज

पिटीइनर

यूनियन आफ इण्डया इण्ड अर्दस

रेस्पान्डेन्ट्स

अनेकजर-आर-ए-३

भारतीय डाक विभाग
कार्यालय निदेशाक डाक सेवासे, लखानऊ ६०६

लखानऊ २२६०८७

दिनांक अप्रैल १८, १९८८

ज्ञापन संख्या निडाल/स्टेट/एस-३। ऐसा देखाने में आया है कि जबसे कन्टीनेन्सी कर्मचारियों के लाउनस वृद्धि का आदेशा महानिदेशालय से प्राप्त हुआ है तभी से कुछ गण्डलों के प्रवर अधीक्ष एक/अधीक्ष एक विना किसी सामान्य आदेशा या परिमण्डल कार्यालय/द्वोत्रीय कार्यालय के अनुमोदन के ही कई सी०पी० चौकीदार के पदों को समाप्त करने का आदेशा दे दिया जिसके प्रभाव उन पदों पर लम्बी अवधि से कार्यरत कर्मचारी हटा दिये गये। इस प्रकार का निर्णय मानवीय दृष्टिकोण तथा नैतिक न्याय के सिद्धान्त के विलम्ब लगता है और हटाये गये कर्मचारी उसके परिवार को प्रत्यक्षतः ऐसा दण्ड सा लगता है जो किसी भी प्रकार अपेक्षित नहीं है। इन पदों को तब तक समाप्त करने का विचार करना जबतक कि उन्हें उसके समक्षा किसी अन्य पद पर नियुक्ति करनी कर लिया जाता है न्यायोंयित नहीं है तथा विभागीय निर्देशाओं के अन्तर्गत निहित सिद्धान्त के प्रतिकूल है।

2- अतः निर्देशाक डाक सेवा लखानऊ ने आदेशा दिया है कि बोर्ड या अन्य सी.पी. कन्टीनेन्सी पद पर विना इस कार्यालय या परिमण्डल कार्यालय के आदेशा के समाप्त नहीं किया जाय तथा जो पद निर्देशालय के पत्र संख्या ४५/९५/८७ एस.पी.वी. दिनांक १०-२-८८ वाद समाप्त किये गये हो उन्हें तत्काल प्रभाव से पुनर्जीवित रिस्टोर तथा इस कार्यालय को सूचित किया जाय।

3- जिन गण्डलों के कुछ पद समाप्त किये जा चुके हैं उपरोक्त अनुपालन तुरन्त किया जाय पहले ही तोड़े गये पदों का पूरा विवर जाने के औचित्य के बारे में पूरी आख्या भी इस कार्यालय का भेजे आवश्यकता है लो इस निर्देशाक के बारे में पुनर्विचार किया जा सके।

4- इस ज्ञापन की पावती उप निदेशाक के नाम से स्वीकार की

कृते निदेशाक डा
लखानऊ ६०६
226007

प्रतिलिपि

- प्रवर अधीक्ष एक/अधीक्ष एक डाकधर फैजाबाद लखानऊ गोणडा बी सी एपुर छारी बाराबंकी, शाहजहांपुर तथा दरदोई
- मुख्य डाकपाल लखानऊ, बरिष्ट डाकपाल फैजाबाद तथा ल
- डाक एहाअध्यक्ष उ० प्र० लखानऊ 226007 को सूचनार्थ स्वं जाय तो परिमण्डलीय स्तर पर भी ऐसा निर्देश दरने हेतु

गोणडा बी

१११०
६३

४५

(C)

अभिभाषक पत्र (वकालतनामा)

सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिबुनल, एडिशनल बेंच, इलाहाबाद

मुकदमा नं० 392 सन् १९६८

Bhagwati Singh

अधीलान्ट

बाप

Union of India

रेस्पान्डेन्ट

मेरी
हम

उपरोक्त प्रकरण (मुकदमा) में मेरी अपना पक्ष समर्थन हेतु

हस्ताक्षर
Sr. Supdt. of Post Office
Faizabad Division
Faizabad 224001

हस्ताक्षर
Sr. Supdt. of Post
Faizabad Division
Faizabad 224001

श्री एन० बी० सिंह

सीनियर स्टेंडिंग कॉर्सिल

४,

स्वीकार

4. R. S. Gavastava

5. M. Yadava v. U.O.I.

6. B. B. Dubey v. U.O.I. (317/88)

7. B. Singh v. U.O.I. (392/88)

It is most humbly and
submitted that the above-named petitions
are of similar and identical nature and
similarly circumstances. Out of seven,
three petitions namely 316/88, 317/88 and
392/88 have been admitted for the Hon'ble
Court No. 2. It is expedient in the
interest of justice that all the above-
named seven petitions ~~may~~ be tagged
together.

PRAYER

It is, therefore, prayed that all
the above-named seven petitions may
be ~~five~~ ^{27.7.88} ~~consequently~~ be tagged together.

~~27.7.88~~

Approved (See 21.7.88)

On 21.7.88.

Applicant
Abul

(M. C. Singh)
Counsel for the Petitioners