

Central Administrative Tribunal  
Lucknow - Bench - Lucknow

CA 316 of 1988 (W)

Munendra Yadav - Applicant

- Versus

Union of India - Respondent

Sl No. Description Page No.

Part - A

- |                                 |               |
|---------------------------------|---------------|
| 1. Check list-                  | A1 - A2       |
| 2. The Order sheet              | A3 - A5       |
| 3. Judgment dt. 28-1-92         | A6 - A9       |
| 4. Petition                     | A9 - A10      |
| 5. Annexures                    | A19 - A25     |
| 6. Power                        | A26           |
| 7. Counter Affidavit-           | A27 - A51     |
| 8. Rejoinder Affidavit          | A52 - A59     |
| 9. Misc. Application 875/90 (W) | A60 -         |
| 10. Supplementing Counter       | A61 - A69     |
| 11. Supplementing Affidavit     | A70 - A81 A79 |
| 12. Supplementing Affidavit     | A82 - A88     |
| 1- Power - A89 to A91           |               |

Part - B

B1 - B76

Part - C

C1 - C3

Part B/C weeded out / destroyed

by  
SOL

25/8

Termination

# CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

AT

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 ?	YS
2. (a) Is the application in the prescribed form ?	YS
(b) Is the application in paper book form ?	YS
(c) Have six complete sets of the application been filed ?	YS. 6 sets filed
3. (a) Is the appeal in time ?	YS
(b) If not, by how many days it is beyond time ?	-
(c) Has sufficient case for not making the application in time, been filed ?	-
4. Has the document of authorisation/Vakalat-nama been filed ?	YS
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-	YS
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	YS, Gt. filed 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

13.12.88

3/16/89

Registrar

No one appeared on behalf of  
applicant. Sir N. B. Singh is present for the  
respondents. He requests time for filing  
CA. One time prayed for is allowed.  
List this case for filing CA on 24.1.89.

Registrar

24.1.89 les

Complains have been filed today.  
Rejoinder may be filed by 17.3.89

les

17.3.89

od

On request, rejoinder may  
be filed by 12.5.89

od

12/5/89

DR

Rejoinder filed today. List this  
case before court for final hearing  
on 28/7/89 as prayed by applicant's  
counsel.

DR (T)

OR Can be heard from Attd  
on 15 May 89.  
Cases ready for hearing  
submitted for hearing  
on 27/7

28.7.89

No Sitting. Adj to 20/7/89  
for hearing

DR  
Boc 28/7

OR  
Case is submitted  
for hearing

L  
28/8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 316 of 1988

(A-1)

APPELLANT  
APPLICANT

VERSUS

DEFENDANT  
RESPONDENT

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
25/7/89	<p>Hon Justice K. Bhat, VC. Hon. K. Odayya, AM.</p> <p>The learned counsel for the applicant says that during the pendency of the case, the opposite parties have restored a number of posts alongwith 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 alongwith their incumbents. The learned counsel for the applicant requests for and is allowed two weeks time to file a supplementary affidavit alongwith 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> <p><i>[Signature]</i> VC</p>	<p>OR No supplementary affidavit has been submitted for</p>
25 x 04	<p>No sitting of D/B. Adj. to 31-90. Counsel for applicant is present.</p>	<p>h 4/1/94</p>
51	<p>Case not reached. Adj. to 03-90</p> <p><i>[Signature]</i> B.O.C</p>	<p>h B.O.C</p>



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 Mr Justice K. Nair, re  
Hon. Mr. M. M. Singh, on  
Delay in filing  
counter is condoned.  
Counter taken on  
record. Responses  
may be filed within  
2 weeks hence.  
List for final hearing  
on 25-1-91

M. H. Lu  
AM

Re.

OR

Supplementary affidavit  
filed by the 4<sup>th</sup> for the  
applicant.

No Supplementary CA  
filed. a Supp. Affidavit.  
S. F. H.

L  
21/11L  
22/1125.1.91

No sitting Adj to 26.2.91

26.2.91

No sitting Adj to 19.4.91.

19.4.91

No sitting Adj to 7.8.91

7.8.91

No sitting Adj to 1.10.91

1.10.91

No sitting Adj to 25.11.91

25.11.91

No sitting Adj to 20.1.92

16

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 <sup>are</sup> ~~is~~ involved that is why the same are being disposed off <sup>by</sup> ~~by~~ a common judgement.

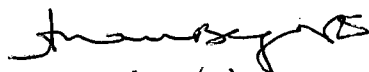
2. The applicants in these petitions were working as Chaukidars at Khajurahat Sub Post Office in Faizabad District and worked for few years. In the year 1988, the services of some of the Chaukidars working in the Districts were terminated. Now the ground which has been given for terminating the services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

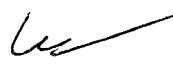
why their services have been terminated. Allegedly, these chaulkidars have been paid from the Contingency Funds, and have stated that in District of Faizabad in post offices, National Savings Certificate, Indira Vikas Patras, Money Orders, Insured Letters, Parcels, registered letter and each are handled and the case is kept in the chest of the Sub Post Offices and the Chaulkidars are posted, with the result, the services of the Chaulkidars 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 Chaulkidars, 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 <sup>reconciled</sup> ~~entered into compromise~~ and they have again ~~been~~ <sup>now</sup> taken back <sup>u</sup> in service and only 7 such Chaulkidars 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 <sup>u</sup> paid <sup>u</sup> 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~~ <sup>u</sup>, under the orders of the Director General, some <sup>u</sup> posts were revived and that is why the appointments had been made. But it was not been clearly stated ~~whether~~ <sup>u</sup> whether the appointments have been made <sup>u</sup> 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 <sup>without justification.</sup> ~~for the purposes of compromise.~~  
 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 applicants, 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 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.

  
 Member (A)

  
 Vice-Chairman

Dated: 28.1.1992  
 (n.u.)

(89)

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 abate testing 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.

(M.C. Sinha )

Counsel for the petitioner.  
-er.

3 of 21/2

(A/c)

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.

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 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 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/-

23/09/88

111

(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 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 17.2.1988
- (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/-

13/2/82

(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 a 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 afiresad 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 contineously uninterruptedly till 18.2.88 when he was relieved from since all of a sudden without any termination order or notice and without any rhym 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 e: from his appointing authority who happens to the Inspector of Post offices nor from any other seni

Contd.....4/-

३३३३३३



A/6

-7-

- (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.Supt. of Post offices, Faizabad on 19.2.88 and presented him a memorandum urging him to reinstate the the petitioner, but the Sr.Supt. 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 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/-

23/2/82

(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 a 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 afiresad 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 contineously uninterruptedly till 18.2.88 when he was relieved from since all of a sudden without any termination order or notice and without any rhym 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 the Inspector of Post offices nor from any other senior

Contd.....4/-

मजिस्ट्रेट

A13

-4-

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/-

22/2/92

Alu

- (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.Supt. 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 <sup>62</sup>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 Supt. 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.

Contd.....6/-

25/9/82

(A/S)

-6-

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 whatso-  
ever 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 is a  
matter of fact the act of abolition of posts  
aforesaid is a cloak for dispensing with services  
of the petitioner and other imoluments. It is  
invoillater 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/-

23/09/12

- (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.Supt. of Post offices, Faizabad on 19.2.88 and presented him a memorandum urging him to reinstate the the petitioner, but the Sr.Supt. 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 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/-

23/2/82

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 of 2142

A18

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 :-

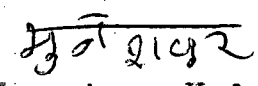
- (i) Annexure A-1: Copy of the appointment letter dt. 5.11.83.
- (ii) Annexure A-2: Copy of the relieving certificate dt. 18.2.88.
- (iii) Annexure A-3: Copy of circular from Director (Staff) Deptt. of Posts New Delhi. directing to pay equal pay & allowances to casual employees as that of regular employees.
- (iv) Annexure A-4: Circular of Sr.Supt. of Post Offices ceating 62 post of Chaukidars in Faizabad.
- (v) Annexure A-5: Copy of the circular of the Sr.Supt. 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 formantly 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 ad 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/5, 1988

Place :- Allahabad.

  
(Muneshwar Yadav)

Signature of the applicant

To,  
The Registrar,  
Central Administrative Tribunal  
Allahabad Bench Allahabad.



10  
(A-19)

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD

Application No.                      of 1988

Muneshwar Yadav                      .....                      Petitioner

Versus

Union of India & Others                      .....                      Respondents.

-----

A NNEXURE A-1\

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

A/ Khajurahat.

Dated 5.11.83

Sri Muneshwar Yadav S/o Sri Mahabir Yadav r/o vill.  
Bhadeshar P.O. Khajurahat 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. Fyā.
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.

30/2/88

12  
A25

Muneshwar Yadav ..... Petitioner  
Versus  
Union of India & Others ..... Respondents.

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.

Sir,

(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 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. Mebha 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.

मृनेश्वर

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.Suptd. 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 sention  
of the Sr.Suptd. 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 debitable 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. Bhiti         | 54. Rajesultanpur   |
| 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. Ittifatganj   |                     |
| 22. Inayatnagar   |                     |
| 23. Jafarganj     |                     |
| 24. Jahangirganj  |                     |
| 25. Jalalpur      |                     |
| 26. Khajurahat    |                     |
| 27. Kichhauchha.  |                     |
| 28. Kuchera       |                     |
| 29. Rakiapur      |                     |
| 30. Khandasa      |                     |
| 31. Kedarnagar    |                     |
| 32. Kumarganj     |                     |
| 33. Malipur       | 34. Mainuddinpur    |
| 35. Mijhaura      | 36. Milkipur        |
| 37. Mittapur      | 38. Motinagar       |
| 39. Ahauragola    | 40. Mahboobganj     |
| 41. Pahitipur     | 42. Ram Nagar.      |

Sd/-

Sr.Suptd. of Post Offices  
Faizabad Divn. Faizabad.

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

22/7/82

14

A23

Muneshwar Yadav ..... Petitioner  
Versus  
Union of India & Others ..... Respondent.

DEPARTMENT OF POSTS INDIA

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. Adodhya R.S.  | 13. Maharuwagola. |
| 3. Deoria        | 14. Maya          |
| 4. Hakimpur      | 15. Pahitipur     |
| 5. Ittifatganj   | 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.

५०१८२

15  
A24

विफोर दि आनरेबल सेन्ट्रल ऐडमिनिस्ट्रेटिव ट्रिब्यूनल  
इलाहाबाद वेन्य इलाहाबाद  
प्रार्थना पत्र संख्या      सन 1988

मुनेश्वर यादव

पेटिशनर

वरसेज

युनियन आफ इण्डिया एण्ड अदर्श

रेस्पान्डेन्टस

अनेकजर नं० ए-6

सेवा मे,

श्री मान निरीक्षक डाक सेवाये उत्तर प्रदेश  
कैम्प फैजाबाद ।

महोदय,

3-9-83  
निवेदन है कि प्रार्थी दिनांक ~~15-11-79~~ से उप डाकघर छाजुरहट जिला फैजाबाद मे लगातार सी० पी० चौकीदार के पद पर कार्य करता चला आ रहा था कि दिनांक 18-2-88 को उसे सेवा से अलग कर दिया गया है मेने 9 वर्षों तक लगातार विभाग की सेवा पूरी निष्ठा के साथ की है । मेरे विरुद्ध कभी कोई शिकायत नहीं प्रगप्त हुई है परन्तु आकरणा मेरी सेवाये समाप्त कर दी गई है जिससे प्रमार्थी बेरोजगार हो गया है उसकी उम्र 33 वर्ष हो जाने के कारण इस बेरोजगारी मे कोई नौकरी नहीं मिल सकती बेरोजगार हो जाने के फलस्वरूप प्रार्थी के बच्चे व परिवार भूखो मरने की कगार पर आ गये है । ज्ञात हुआ है कि विभाग मे अभी अनेक चौकीदार के पद रिक्त है तथा मेरे पद को ~~खाली~~ तोडने 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

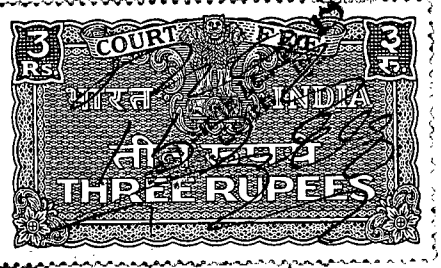
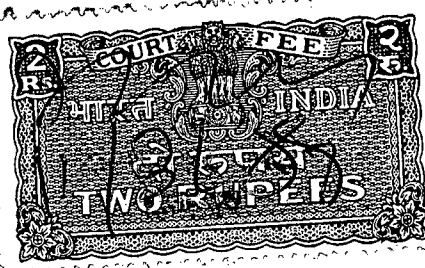
पो० छाजुरहट

जनपद फैजाबाद

दिनांक 9-3-1988 ई०

सत्य प्रतिलिपि प्रमाणित ।

मुनेश्वर



16  
A22

न्यायालय श्रीमान Hon'ble the Central Administrative Tribunal Allahabad

Munishwar Yadave वादो/अपीलान्ट/प्रार्थी/अभियुक्त

विरुद्ध

Union of India प्रतिवादी/रिस्पॉण्डेंट/विपक्षी/अभियुक्त

व्यवहार विवरण

उपर्युक्त व्यवहार में/में/हम In M. C. Suneja Advocaes 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 हों, कार्य करें और अधोहस्ताक्षरी की तरफ से आवश्यकता पड़ने पर न्यायालय में उपस्थित हों, 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 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

M. C. Suneja

स्वीकृत

[Signature]

बार एसोसियेशन, फैजाबाद

एडवोकेट, प्लीडर

(21)

(A27)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD.

\*\*\*\*\*

CIVIL MISJ. APPLICATION NO. \_\_\_\_\_ OF 1988.

On behalf of

Union of India.....Applicant.

IN

REGISTRATION NO 396 OF 1988.

(DISTRICT: FAIZABAD)

Muneshwar Yadav .....Applicant.

Versus

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

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

The humble application of the abovementioned  
applicant 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.



A28

-2-

PRAYER

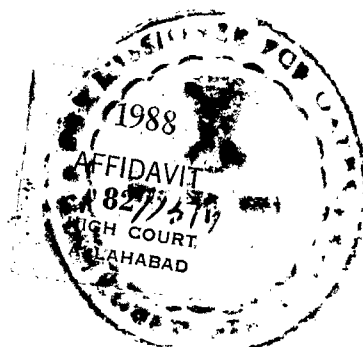
It is, therefore, most respectfully  
prayed that this Hon'ble Tribunal may graciously  
be pleased to reject the prayer for the relief  
claimed by the applicant in the aforesaid  
application.

Da-ted&x 24-1 /1989.

NBS, 1  
(N.B. SINGH)

SENIOR STANDIN-G 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  
Mishra aged about 55 — son of  
Shri Thakur Prasad Mishra  
at present posted as Sr Subd  
of POS Faizabad in Faizabad

21/11/88  
Subd of Post Office  
Faizabad Division  
FAIZABAD.-224001

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



A30

-2-

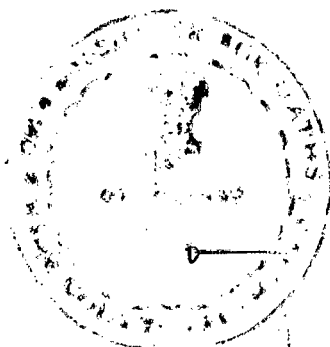
1. That the deponent is the  
*Sr. Supdt. of Post Offices Faizabad.*

and has been authorised to file this  
counter affida-vit 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 applica tion it is necessary to  
bring the c ertain 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



*21/11/13*  
Sr. Supdt. of Post Offices  
Faizabad Division  
FAIZABAD-224001

A31

-3-

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 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 'wages'

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



Post Office  
Division  
AD-224001

232

-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 a  
according to forms and by the competent



31/12/85  
Sr. Supdt. of Post Office  
Faizabad 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 wasterful expenditure, I went to know from you that details of each Chowkidar i.e. Departmental Contingency Paid/ Extra-Departmental, Kept in each P.O./Iffices and



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

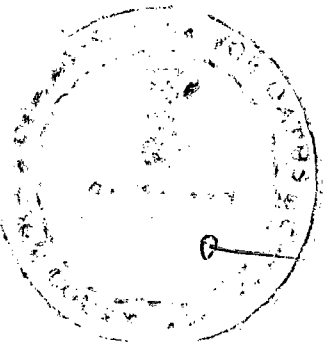
A34

-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 Incharges were again reminded on 9.9.87, 27.8.87 29.9.87 and 12.11.87 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



Sr. 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 detail of cash kept overnight and other particulars of all 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:-

Sd/- Supdt. of Post Office  
Fazabad Division  
FAIZABAD-224001





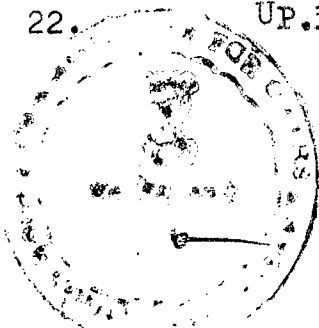
A37

-8-

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

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

21/11/50  
Sr. Supdt. of Post Office  
Faizabad Division  
FAIZABAD-224601



A38

-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 S-D. Posts in this division. This proposal was approved by the D.P.S. Lucknow Region vide R.O. No RPB /35 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.

21  
Sr. Supdt. of Post Office  
Lucknow Division  
J. E. S. A. D. - 22/4/88

12. That it is worth while to mention




A 39

-10-

that none of the posts of C.P. Chowkidars has been abolished subsequent to the date of receipt of D.G.s letter No 45/95/87 /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 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.

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



AM

-12-

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 par to the regular Group 'D' employees, was received after the abolition of the post of C.P. Chowkidar Kudhera.

27  
Sr. Supdt. of Post Office  
Faizabad Division  
FAIZABAD. 22-6-88

Air

-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 as 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 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

21  
Sr. Supdt. of Post Office  
Fazabad Division  
F. ZABAD. 22/01



Au3

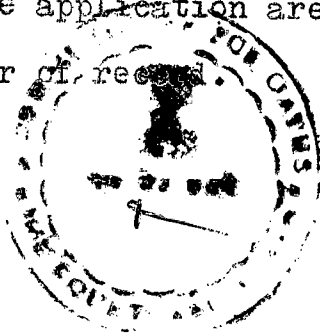
-14-

service due to abolition of the post. The length of the service put by the applicant has no relivance 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.

Supdt. of Post Offices  
Faizabad Division  
FAIZABAD.-224001



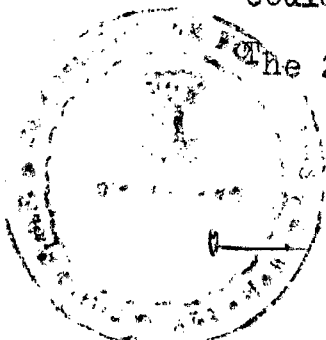
144

-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 Vikas 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



145

-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  
Faizabad Division  
FAIZABAD. 224001





ALG

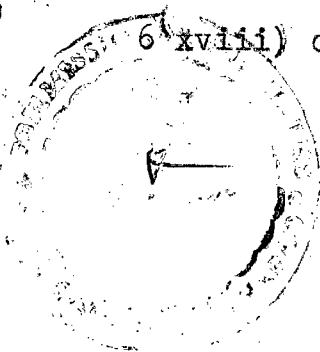
-17-

28. That the contents of para-graph 6(xvi) of the application are denied as ~~xxxxix~~ 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 tha tthere 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.

27  
Sr. Supdt. of Post Offices  
Fatehabad Division  
FAIZABAD. 224001

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



147

-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 ~~6(xix)~~ 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-

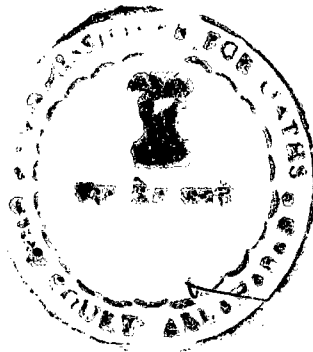


Supdt. of Post Office  
Raizabad Division  
RAIZABAD-224001

148

-19-

diction 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  
Sd/- Supdt of Post Office  
Faizabad Division  
P.O. No. D. 22/108

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

Of this affidavit are true to my personal knowledge; those of paragraphs 3

Of this affidavit are based on perusal of record and those of paragraphs 3 5 33 6

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



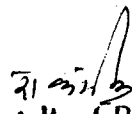
21  
Sr. Supdt. of Post Offices  
Raizabad Division  
RAIZABAD. 224001

ASO

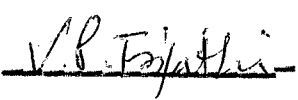
-21-

part of it is false and nothin material  
has been c oncelaed.

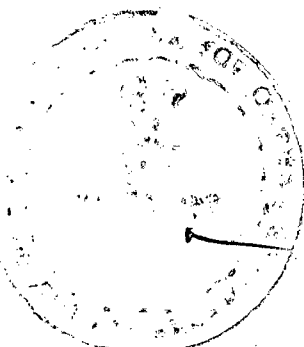
SO HELP ME GOD.

  
~~Sp. Supdt. of Post Offices~~  
DEPONENT, Faizabad Division  
FAIZABAD.-224001

I, V.P.Tripathi, Clerk to Sri N.B.Singh  
Senior Standing Counsel, Central Governmeent  
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.

  
Clerk.

Solemnly affirmed before me  
on this 13/12<sup>th</sup> day of Dec 1988  
at 10.15 a.m./p.m. by the deponent  
who has been identified by the aforesaid  
person.



151

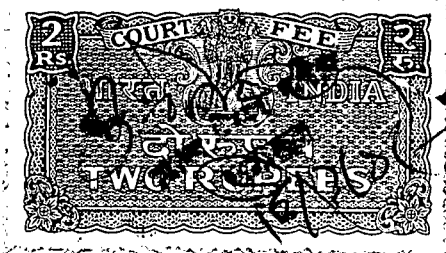
-22-

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

OATH COMMISSIONER.



*[Signature]*  
OATH COMMISSIONER  
High Court, Allahabad  
& No. 27/1574  
C-13-12-78



ASB

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD

O. 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 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. ✓

Contd.....2/-

Common Affidavit

*[Signature]*  
12/5/89

Received by  
R. P. S. / Feb  
12/5/89  
3 of 10

154

-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 irregularity 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 Chowakidars 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

30/10/75



AS

-3-

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. ✓

Contd.....4/-

3/2/2002

A 36

-4-

12. What 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 ~~veneng~~ 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, 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. *✓*

3 d 2142

contd....5/-

(A57)

-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 not 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 registers, stock registers, for N.S.Cs, I.P.Os, Indira Vikas Patras, Insured Parcels, Registered letters and Money Orders

मुनेश्वर

Contd.....6/-

A 59

-7-

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

*M.C. Sinha*

(M.C. Sinha)  
Advocate

Faizabad.

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.

*B. K. Singh*  
16/3/89

MR 71 / 1  
Muneshwar Singh  
M.C. Sinha del  
16/3/89 at 1.40  
before me in the presence of  
the deponent and the deponent and  
explained to him the contents of the affidavit

*B. K. Singh*  
16/3/89

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 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 creteria 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 ~~xxxx~~ 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

Dated: March/6, 1989.

(Muneshwar Yadav)  
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 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.  
March 16, 1989.

(Muneshwar Yadav)  
Deponent.

(A 61)

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. D. 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

11/3/2007

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 Wadav ..... 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 ~~facts~~ 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  
SEP  
29/5/90

AG2

-: 2 :-

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 - 1 .

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) Majruddapur
- 4) Shohjandpur.

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

21/05/90

14.5.90

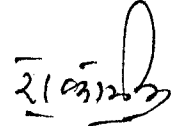


104

-: 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.

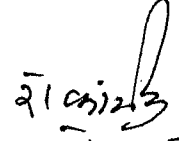
Lucknow ; Lucknow  
Dated : 14.5.90

  
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.

108

-: 3 :-

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. Latter 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.

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

21/5/90

14.5.90

ANNEXURE - R-I

Case No. 316/88

Sri Munishwar Yadav vs. U.O. 9

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.

No. Est-A/M-1-111/88/6 Dated at Lw. the 2-8-88  
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 (Deptt of Posts) New Delhi addressed to ~~me~~ P.M.G, UP regarding employment of chawkidars 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 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.

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

Pl. discuss and  
put up by 9/8/88. pre-finally  
2me  
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.R. Rai, P.M.G., U.P. Circle, Lucknow.

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  
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  
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~~ thorough review made with a  
view to effecting as much economy as possible.

With regards,

Yours sincerely

sd/-

(P.S. Ragavachari)

ANNEXURE - R II

Case No. 316/88

Sri Muneshwar Yadav vs U.O. 104/✓

107

के.सी. मिश्र  
आई.पी.एस.

अ.शा.पत्रिका - ए-1/16/कार

पूर्वर अधीक्षक डाकदार  
पंजाब मण्डल फैजाबाद

25.4.88

श्रद्धेय श्रामन्,

क्षेत्रीय कार्यालय के आपन समा निहाल/स्टेट/एक-31 दिनांक 19.4.88 के प्रत्येक किन्तु पर निम्नलिखित आख्या आपके अवलोकनार्थ प्रस्तुत है -

1. इस डाक मण्डल में कमि टन्नेन्सी पेट कर्मचारियों का कोई भी पद उनकी माता वृद्धा के डाक महानिदेशालय के आदेश की प्राप्ति के बाद नहीं समाप्त किया गया है। यहाँ यह उल्लेख करना आवश्यक प्रतीत होता है कि इस डाक मण्डल में 22 सी.पी.ओ चौकीदारों के पद, उक्त माता वृद्धा के आदेश की प्राप्ति के पूर्व ही समाप्त किये जा चुके थे जिन्हें पोस्टमास्टर जनरल के द्वारा प्राप्त निर्देशों के अनुसार ही समाप्त किया गया। दिनांक 5.8.85 तथा 6.8.85 को तत्कालीन निदेशक डाक सेवाएँ के द्वारा किए गए इस कार्यालय के निरीक्षण आख्या के पैरा 18 पर तत्कालीन पोस्टमास्टर जनरल श्री डा.एस.ओ सकलकले के आबजर्वेशन (INV/IR-38/DPS/85/3 दिनांक 28.11.85) में 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 अनुपालन में इस कार्यालय के जग सचिव पत्र दिनांक 27.6.86 के द्वारा समस्त उपमण्डलीय प्रभारियों से निधारित प्रारूप में सी.पी.ओ कर्मचारियों के औचित्य के पुनरीक्षण के लिए सूचनाएँ एकत्र करने के लिए लिखा गया। पुनः 4.2.87, 27.3.87, को अनुस्मारक भी भेजे गए। इसी बीच निदेशक (सतकला) के अ.शा.पत्रिका डीवी/मिस/87 दिनांक 5.6.87 के द्वारा 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 क्षेत्रीय कार्यालय के पत्रांक आरडीएल/इस्टे/एस-31 दिनांक 23.7.87 के द्वारा प्राप्त हुआ जिसमें सीधे परिमण्डलीय कार्यालय को उत्तर प्रेषित करने का निर्देश दिया गया है। अतः उपमण्डलीय 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 पुनरावलोकन के सम्बन्ध में निम्नलिखित 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 त्वरित अज्ञात से समाप्त कर दिया गया। तब 38 सी०पी० चौकीदारों के पदों को बरकरार करने की संसुति के सहा इस कार्यालय के समसंख्यक पत्र दिनांक 24.2.88/15.3.88 के माध्यम से अप्रसारित किया जा चुका है। समाप्त किए गए सी०पी० चौकीदार के पदों पर कार्यरत कर्मचारियों को छटनी शुदा कर्मचारी मानकर रिक्त ई०डी० पदों पर नियुक्त करने हेतु अज्ञात पत्र समसंख्यक दिनांक 19.2.88 के द्वारा मैंने आपसे अनुरोध भी किया था तथा इस सम्बन्ध में आपके कार्यालय से पत्रांक आरडीएल/इस्टे/एस-31/कै० दिनांक 18.3.88 द्वारा निकाले 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 कार्यालय द्वारा सी०पी० चौकीदारों के पदों के समाप्त करने के उपरोक्त आदेश के विरुद्ध कुल 8 कैस के द्वीय न्यायिक प्राधिकरण इलाहाबाद में दायर हो चुके हैं।

इस सम्बन्ध में 27.6.86 का पत्र तथा बाद में जारी अनुस्मारकों, समाप्त किए गए सी०पी० कर्मचारियों के सम्बन्ध में प्राप्त पर एकत्रित सूचनाएं तथा चार्ट की फोटोप्रति मन्थन के अवलोकनादि संलग्न हैं।

2. महानिदेशालय के पत्र संख्या 45/95/87/एसपीबी-1 दिनांक 10.2.88 के प्राप्ति के बाद कोई भी सी०पी० (कन्टि-जेन्सी) पद समाप्त नहीं किया गया है।

3. इस ड्राफ्ट मण्डल में 22 सी०पी० चौकीदारों के पदों, जिन्हें बरकरार रखने का औचित्य नहीं पाया गया, को पैरान-1 में लिखे पोस्टमास्टर जनरल के निर्देशों के आधार पर समाप्त करने का आदेश इस कार्यालय के बापन समसंख्यक दिनांक 17-2-88 के द्वारा जारी किया गया है। (बापन का प्रति संलग्न है)।

सम्पूर्ण मामला आपके अवलोकनादि इस आशय से प्रस्तुत किया जा रहा है कि इस सम्बन्ध में अग्रिम कार्यवाही हेतु इस कार्यालय को आदेश देने की कृपा करें तथा अपने अमूल्य मार्ग दर्शन से हमें कृतार्थ करें।

सादर एवं सम्मान भवदीय

माननीय श्री सी०पी०एसिड  
आई०पी०एसओ

(कै० सी० मिश्र)

निदेशक ड्राफ्ट सेवाएं  
लखनऊ क्षेत्र - लखनऊ - 226007

(289)

BEFORE THE ~~CENTRAL~~ 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 :-

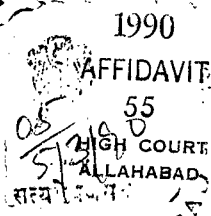
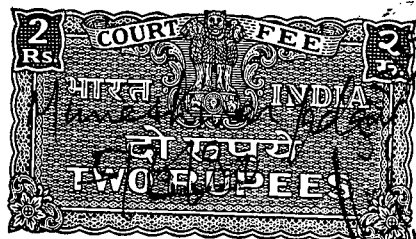
1. That ~~he~~ for the reasons disclosed in the accompanying  
supplimentary affidavit it is necessary in the ~~i~~  
interest of justice that the accompanying suppli-  
mentary affidavit may be brought on record,  
otherwise the petitioner would suffer grave and  
irreparable loss.

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. Sth-Mun* 1989  
Dated: Oct. , 1989.

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



A-70

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 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



3/3/88



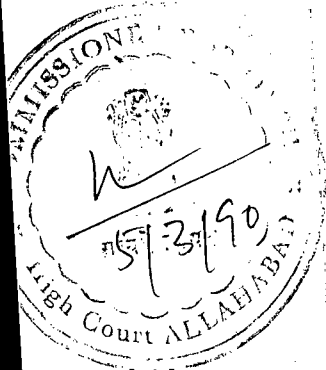
(A7)

Chowkidars were abolished vide Senior Suptd. 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. Chawkidars 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 <sup>parties</sup> 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 <sup>nine</sup> posts and the original incumbents i.e. these 9 terminated chaukidars 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.



50/142

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

173

-4-

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 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 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 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 if such Chaukidars were terminated then they must be reinstated immediately. In persuance 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.



5/3/90

ANNEXURE RA-III

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

.....5/-

1279

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 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 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.

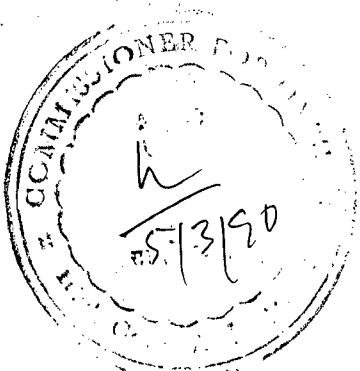
(Muneshwar Yadav)

Dated: 5<sup>th</sup> March  
Oct. , 1960.

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, 4, 5, 6, 7, 8 and 9



5/3/60

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 <sup>5<sup>th</sup> March</sup> Oct., 1969.

(Muneshwar Yadav)

Deponent.

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

Lucknow.

the <sup>5<sup>th</sup> March</sup> Oct., 1969.

(M.C.Sinha)

Advocate

High Court, Lucknow.

Solemnly affirmed before me on this <sup>5<sup>th</sup> March</sup> 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.

Oath Commissioner.

ARENDRA PRATAP SINGH

OATH COMMISSIONER

High Court Allahabad.

Lucknow Bench.

No. 05/55

Date 5/3/90



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH? LUCKNOW

O.A. No. 518/88

Muneshwar Yadav

.....

Applicant

Versus

Union of India & others'

.....

Respondents.

Annexure R.A.-I

DEPARTMENT OF POSTS INDIA

O/O the Sr.Supt. 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. मिडिल/ एचपन/ एम्-31/ फैजाबाद विभाग 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.

ATX

R.K.3

-8-

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/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. नागल / (आपना) / एम्प-5 / फाजिलपुर दिनांक 31-5-00.
- 38-40) O/C and spare.

50 319 -

RECEIVED FOR  
5/3/90

ATA

-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. निडाल/छापना/एकत-3/फैजाबाद/दिनांक 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. Majruddinpur.
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. 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.
- 16-1-8) The SDI Faizabad West/South/Akbarpur North, Faizabad.
- 19-20) O/C & Spare.

होरी



(A79)

विफोर दि आनरेबुल सेन्ट्रल रेडमिनिस्ट्रेटिव ट्रिब्युनल

सरकिट बेन्च लहानऊ ।

ओ. ए. नं० ३२२४/१९८८ ३१६/१९८८

मुनेश्वर यादव

वरसेज

पिटीशनर

यूनियन आफ इण्डिया एण्ड अदर्स

रेस्पान्डेन्ट

अनेक्जर नं० आर ए-३

भारतीय डाक विभाग

कार्यालय निदेशक डाक सेवाये, लहानऊ क्षेत्र

लहानऊ-226087

आपन संख्या निडाल/स्टेट/एक्ज-३।

दिनांक अप्रैल १९, १९८८

ऐसा देहाने मे आया है कि जबसे कन्टीनजेंसी कर्मचारियों के एलाउन्ट वृद्धि का आदेशा महानिदेशालय से प्राप्त हुआ है तबसे कुछ मण्डलों के प्रवर अधीक्षक/अधीक्षक विना कितनी सामान्य आदेशा या परिमण्डल कार्यालय/क्षेत्रीय कार्यालय अनुमोदन के हे कई सी.पी. चौकीदार के पदों को समाप्त करने का आदेशा दे दिया जितके फलस्वरूप उन पदों पर लम्बी अवधि से कार्यरत कर्मचारी हटा दिये गये इस प्रकार का निर्णय मानवीय दृष्टिकोण तथा नैतिक न्याय के सिद्धान्त के विरुद्ध लगता है और हटाये गये कर्मचारी उनके परिवार को प्रत्यक्षतः ऐसा दण्ड ता लगता है जो कितनी भी प्रकार अपेक्षित नहीं है इन पदों को तब तक समाप्त करने का विचार करना जबतक कि उन्हें उनके समक्ष कितनी अन्य पद पर नियुक्त नहीं कर लिया जाता है न्यायोचित नहीं है तथा विभागीय निर्देशों के अन्तर्गत निहित सिद्धान्त के प्रतिकूल है ।

२- अतः निदेशक डाक सेवा महामण्डल ने आदेशा दिया है कि कोई भी सी.पी. या अन्य सी.पी. कन्टीनजेंसी पद पर विना इस कार्यालय या परिमण्डल कार्यालय या निदेशालय के आदेशा को समाप्त नहीं किया जाता तथा जो पद महानिदेशालय के पत्र संख्या ४५/९५/८७ एत.पी.पी. दिनांक १०-२-८८ के प्राप्ति के बाद समाप्त किये गये हो उन्हें तत्काल प्रभाव से पुनर्जीवित रेस्टोर किया जाय तथा इस कार्यालय को सूचित किया जाय ।

३- जिन मण्डलों में कुछ पद समाप्त किये जा चुके हैं उचरोक्त निर्देशानुसार अनुपालन तुरन्त किया जाय पहले ही तोड़े गये पदों का पूरा विवरण एवं तोड़े जाने के औचित्य के बारे में पूरी आख्या भी इस कार्यालय को भेजे जितसे यदि आवश्यकता है तो इस निर्देशा के बारे में पुनर्विचार किया जा सके ।

कृते निदेशक डाक सेवाये  
लहानऊ क्षेत्र लहानऊ

226007

प्रतिलिपि

- १- प्रवर अधीक्षक/अधीक्षक डाकघर फैजाबाद लहानऊ, गोण्डा, बहराइच।
- २- सीतापुर, डीरी, बाराबंकी, शाहजहाँपुर तथा हरदोई ।
- २- मुख्य डाकपाल लहानऊ, बरिष्ठ डाकपाल फैजाबाद तथा लहानऊ चाके
- ३- डाक महाअध्यक्ष उ० प्र० लहानऊ २२६००७ को सूचनाय एवं यदि उचित समझा जाय तो परिमण्डलीय स्तर पर भी ऐसा निर्देश करने हेतु ।

मुनेश्वर यादव

5/3/90

(A80)

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

Miscellaneous Application No.                      /1990

M.P. No. 521/90 (G.F.F. 26<sup>th</sup> 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)

Advocate,

Dated: Aug. 24th, 1990.

Council for the Petition

R  
T.T.P.  
521/90  
27/8

221

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.

Contd.....2/-

(A82)

-2-


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.

Lucknow.

Dated: Aug. 23, 1990.

  
(Manik Sinha)  
Advocate,

Chamber No.3  
High Court, Lucknow.

A83

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

Supplementary Affidavit on behalf of the petitioner

In re:

O.A. No. 3162/1988

Muneshwar Yadav

Applicant

Versus

Union of India & Others Respondents.

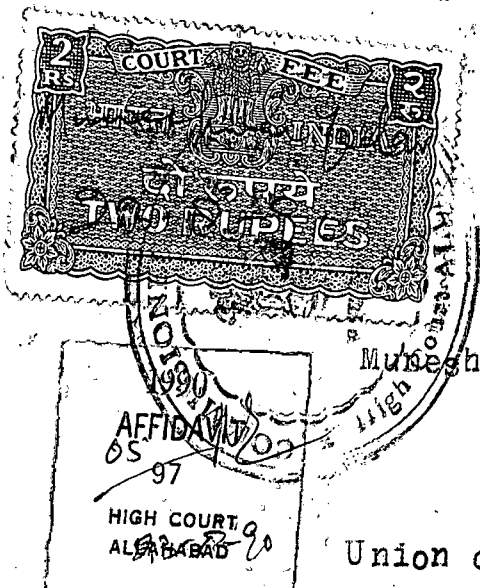
I, Muneshwar Yadav aged about 34 years S/o Sri Mahabir  
Yadav r/o village Bhadeshwar P.O. Khajurahat, Distt.  
Faizabad, do hereby solemnly affirm and state on oath  
as under :-

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/-

*[Handwritten signature]*



REV

-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 "Soreign 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 insolated ,even then, the predominant nature of services and the integrated nature of the



मुनीश्वर २

Contd.....3/-

1025

-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 enterprises are also involved in the business of postal services, like courier services, hence the Department of post falls within the definition of "Industry".

Y. S. D. C. —

Contd. ....4/-

1986

-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 reinstatements 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

मुनेराव

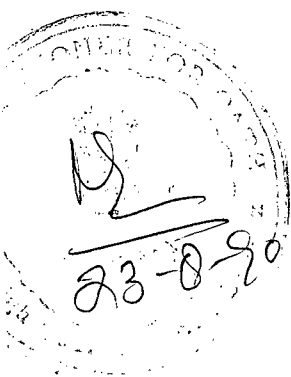
Contd.....5/-



107

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 prejudicials, 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.



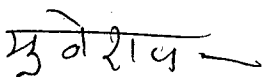
H. S. 214

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 & ther principles of natural justice.

Lucknow.

Dated: Aug. 23, 1990.

  
(Muneshwar Yadav)  
Deponent,

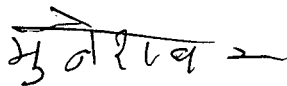
VERIFICATION

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.

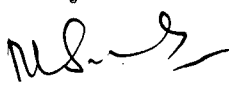
So help me God.

Lucknow.

Dated: Aug. 23, 1990.

  
(Muneshwar Yadav)  
Deponent.

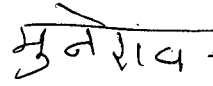
I, know the deponent ~~xxxxxx~~ Muneshwar Yadav identify him, who has signed before me.

  
(Manik Sinha)  
Advocate

High Court, Lucknow.

Solemnly affirmed before me on this      th day of Aug. 23, 1990 at 10<sup>4</sup>am./pm/ by the above named deponent who has identified by Sri Manik Sinha, Advocate, High Court LKO.

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

  
NARENDRA PRATAP SINGH  
OATH COMMISSIONER  
High Court Allahabad.  
Lucknow Bench.

No. \_\_\_\_\_



वकालतनामा

(C)

न्यायालय श्रीमान् Central Adm. Tribunal, Civil Bench, Lucknow  
Case No. 316 of 1988.  
14. 5. 1988 - - - - - वादी/अपीलान्त/प्रार्थी/अभियुक्त

विपक्ष  
14. 5. 1988 - - - - - प्रतिवादी/रिस्पाडेन्ट/विपक्षी/अभियुक्त  
Case No. 316 of 1988.

व्यवहार विवरण  
Dr. J. K. Sharma - - - - - प्रतिज्ञा  
Adv. - Gen. - Court - Standing Counsel - Lucknow  
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 कार्यवाही 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 स्वयं जमा करने का किसी डिग्री को निष्पादित करने की कार्यवाही 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 कार्य 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  
प्रवर स्वीकृत फैजाबाद 224001  
एडवोकेट प्लेडर 3/5/88  
Sharma

विषदु

1. (Chand) 25/9/05  
एडवोकेट पीडार

27/6/88

## अभिभाषक पत्र (वकालतनामा)

सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल, एडिशनल बेंच, इलाहाबाद

मुकदमा नं० 316 सन् १९८८

Muneshwar Yadav

अपीलान्ट

बनाम

Union of India &amp; others

रैस्पान्डेन्ट

मैं  
हम

कि

उपरोक्त प्रकरण (मुकदमा) में मैं अपना पक्ष समर्थन हेतु

श्री सन० बी० सिंह

सीनियर स्टैंडिंग कौंसिल

४, छिडिल रोड, जाल टाउन, इलाहाबाद

को कानूनी 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

पत्र, विवाद पत्र, पुनरवलोकन एवं पुनर्निर्णय प्रार्थना-पत्र (दख्वास्त), शापथिक कथन (हलफनामा), प्रवर्तन-पत्र (दख्वास्त 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 पृष्ठीकरण 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 उठावे 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 कुल 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 भांति हम को सर्वथा स्वीकार होगी। अगर मैं कानूनी शुल्क तथा विशेष शुल्क आखिरी वहस के वक्त उक्त सज्जन को न दूँ/दे 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  
Lucknow - Bench - Lucknow

CA 317 of 1980 (C)

Mr. Ravi Bhashan Applicant

Writs

Union of India Respondent

Sl. No. Description Page 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 - A64      |
| 9. Reply                    | A65 - A72     |
| 10. Supplementary Affidavit | A73 - A82 A91 |

11.

Part - B

B1 - B76

Part - C

C1 - C2

B/C Weeded out / Destroyed

SOLG

on

25/3/88

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 ?	Yes
2. (a) Is the application in the prescribed form ?	Yes
(b) Is the application in paper book form ?	Yes
(c) Have six complete sets of the application been filed ?	Yes, 6 sets filed
3. (a) Is the appeal in time ?	Yes
(b) If not, by how many days it is beyond time ?	-
(c) Has sufficient case for not making the application in time, been filed ?	-
4. Has the document of authorisation/Vakalat-nama been filed ?	Yes
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-	Yes
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. 15 filed. (Certified by applicant)
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Yes
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Attested by applicant

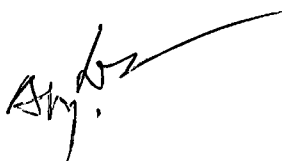
Order Sheet

DA - 317/88

25/3/88

Hon. D.S. Misra - Am.  
Hon. G.S. Sharma - Jm

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

Shy. 





2) 6.88 Hon. D.S. Misra, Am.

Hon. G.S. Sharma, Jm

He is not

present. 10.00.00

22.7.00

or

Counter

11.0.00

may be held by



or

महोदय या सितार नदी/सिद्धि  
महोदय

1

11.0.00

2.00

Counter may be held

by 30.9.00




3

30.9.00

or

no one appears for  
reply. Counter may be  
held by 13.12.00





0A 31/88

AM

Held Mr. P.C. Jain A.M.  
Held Mr. J.P. Sharma J.M.

On the request of the Learned  
Counsel of the applicant, the hearing  
of Mr. J. Agi was postponed to 20.7.90.

2

Am

Jm

(A5)

BEFORE THE HON'BLE CENTRAL ~~TRIBUNAL~~ 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 upon	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 employee s as that of regular employee.	12
----	---	----

5.	Annexure A-4 Copy of the Sr.Supt. of Post Offices Faizabad creating 62 Posts of Chaukidars.	13
----	--	----

6.	Annexure A-5 Copy of the circular abate testing 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)

Counsel for the applicant.

ब्रज भूषण दुवेय

(80)

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

Application No. 317 of 1988

Brij Bhushan Duvey

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

Free for 25.3.88

by Post

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 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.

इ ग न न न न

Contd.....2/-

(A7)

-2-

(vi) Address for service      Brij Bhushan Dubey  
of Notice :                      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 17.2.1988.
- (iii) Passed by :- Sr.Suptd. 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/-

सुजय प्रसाद

AB

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. 26.5.75 (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/-

27/12/88

APV

-4-

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)

सुनील कुमार

Contd.....5/-

(A/10)

-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

हजूरत

Contd..... 6/-

8/12

-7-

- (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

अभिप्रेत

Contd.....8/-



A13

-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. 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.
- (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 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/-

२-१२-७८

ALU

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 :

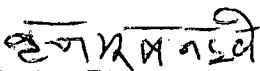
- (i) Annexure A-1 : Copy of the appointment letter dt. 26.5.75
- (ii) Annexure A-2 : Copy of the relieving certificate dt. 18.2.88
- (iii) Annexure A-3 : Copy of the circular from Director (Staff) Deptt. of Posts, New Delhi directing to pay equal pay and allowances to casual employees.
- (iv) Annexure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

VERIFICATION

I, Brij Bhushan Dubey S/o Late Sri Ram Laxhan Dubey aged about 38 years formantly 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

Place : Allahabad.

  
(Brij Bhushan Dubey)

Signature of the applicant.

To,

The Registrar  
Central Administrative Tribunal  
Allahabad Bench Allahabad.

18  
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                      Dsst. Faizabad the 26.5.76.

Sub:- Creation of one post of O.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 vill. 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.

ब्रज भूषण दुबे

11 (A/C)

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 Relieving  
Officer

Copy forwarded to :-

The S.P.M. Faizabad.

True copy attested.

सत्यमेव जयते

12  
AD

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 acknowledged to Sri S.S. Mebha section officer (SPB.I.) before 12.2.88

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

Sd/-

(S. Chadha)  
Director (Staff)

True copy attested.

अनुरोध

13  
(A10)

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.Suptd. 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.Suptd. of Post Offices Faizabad Division  
Faizabad is hereby accorded to the revision of Districty  
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.from 1.1.1956.

The expenditure is debitable 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. Bhiti          | 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. Dulahapur      | 60. Faizabad City   |
| 19. Haringtonganj  | 61. Tanda           |
| 20. Hanswar        | 62. Janaura.        |
| 21. Ittifatganj    |                     |
| 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. Mijhaura       | 36. Milkipur        |
| 37. Mittapur       | 38. Motinagar       |
| 39. Maharua gola   | 40. Mahboobganj     |
| 41. Pahitipur      | 42. Ram Nagar.      |

Sd/-

Sr.Suptd. of Post Offices  
Faizabad Divn. Faizabad.

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

3-7-86

14  
A19

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. Maharawa gola . |
| 3. Deoria        | 14. Maya            |
| 4. Hakimpur      | 15. Pahitipur       |
| 5. Ittifatganj   | 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 stonce.
- 45-66) The relevent 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 casing compliance.
- 76) The Director Postal services (Vig) Lucknow for information w.e. 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.

31/2/88

15 (A20)

विफोर दि आनरेबुल सेन्ट्रल स्ट्रिक्चरल एंड मिनिस्ट्रिटिव ट्रिबुनल  
इलाहाबाद बेन्च इलाहाबाद ।

प्रार्थन पत्र संख्या सन 1988

वृज भूषाण दूवे

पेटिशनर

बरसेज

युनियन आफ इण्डिया आदि

रेस्पान्डेन्टस

अनेकजर ए-6

सेवा मे,

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

महोदय,

निवेदन है कि प्रार्थी दिनांक 27-5-75 से उप डाकघर रसूलाबाद कजला 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 निष्ठा के साथ की है मेरे विरुद्ध कभी कोई शिकायत नही 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 नही मिल सकती । बेरोजगार हो जाने के फलस्वरूप प्रार्थी के बच्चे व परिवार भूखो मर जाने के कगार पर आ गये है । ज्ञात हुआ है कि विभाग मे अभी अनेक चौकीदार के पद रिक्त है । तथा मेरे पद को तोड़ने का कोई औचित्य भी नजरे नही 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 का आभारी रहेगा ।

आपका आज्ञाकारी सेवक,

॥ वृज भूषाण दूवे ॥

ग्राम व पो० रसूलवादा

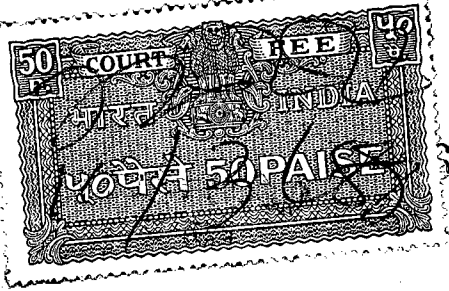
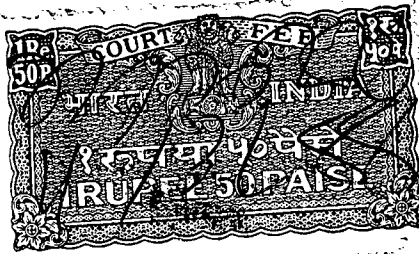
जिला- फैजाबाद ।

दिनांक 9-3-1988 ई०

सत्य प्रतिलिपि प्रमाणित

ॐ नमो भगवते वासुदेवाय

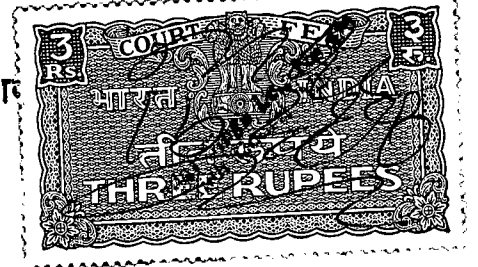




1.6 AZU

न्यायालय श्रीमान Hon'ble Central Administrative Tribunal Allahabad

..... Brij Bhushan Duley वा



विरुद्ध

..... Union of India ..... प्रतिवादी/रिस्पॉण्डेंट/विपक्षी/अभियुक्त

व्यवहार विवरण

उपर्युक्त व्यवहार में/में/हमें ..... M. C. Smith Advocate प्रतिज्ञ

..... बकील, एडवोकेट

को इस वकालतनामा द्वारा बकील नियुक्त करके अधिकार देता हूँ/देते हैं कि उपरोक्त अधिवक्ता, बकील उपरोक्त बाद में मूल न्यायालय से लेकर अपील या निगरानी न्यायालय तक तथा निष्पादन कार्यवाही में उपस्थित हों, कार्य करें और अधोहस्ताक्षरी की तरफ से आवश्यकता पड़ने पर न्यायालय में उपस्थित हों, 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 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 बकील, 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 March मास 14 सन् १९८०

चिन्ह या हस्ताक्षर प्रतिज्ञ March साक्षी 14 साक्षी

शेखर चन्द

बार एसोसियेशन, फैजाबाद

स्वीकृत  
.....  
एडवोकेट, प्लीडर

(A22)

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 1988

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 sheweth 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 : 20/9/90

*J. G. Chandra*  
( Dr. Dinesh Chandra )  
Advocate,

Counsel for the Respondent No. 3.

Filed today  
Sep  
29/9/90

(A23)

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

SUPPLEMENTARY COUNTER REPLY ON BEHALF OF RESPONDENT No. 3.

Mix. 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.C. 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 ~~xxx~~ 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

21/5/90  
14.5.90

APR 11

-: 2 :-

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-1.

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) Majruddenpur
- 4) Shohjandpur.

6. That with reference to para 8 of the affidavit it is ~~xxxxxx~~ denied that only those posts were revived where Chaukidars had not approached the Hon'ble Tribunal for relief. In spite 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, they 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

श्रीकृष्ण

14.5.90

A25

-: 3 :-

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

21/5/88

14.5.90

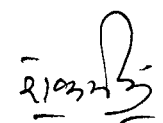
1420

-: 4 :-

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

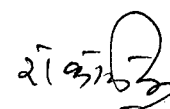
x   
Respondents

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   
Respondent.

ANNEXURE. R.I

Case No. 317/88

Shri Brig Bhushan Dubey VS U.O.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.

No. Est-A/M-1-111/88/6 Dated at Lw. the 2-8-88  
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 (Deptt of Posts) New Delhi addressed to ~~me~~ P.M.S. UP 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 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.

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

Pl. discuss and  
put up by 9/8/88 previously  
20/8/88  
31/8/88.

A.O.

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.

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 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.

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

With regards,

Yours sincerely

sd/-  
(P.S. Ragavachari)



Case No. 317/88

Sri. Maneshawar Laddu vs U. 404/1 ✓  
Brij Bhushan Dubey

(12)

के०सी० मिश्र  
आई०पी०एस०

अ०शा० पत्रिका - ए-1/16/कार

25.4.88

पुवर अधीक्षक डाकदार  
पैजाबाद मण्डल पैजाबाद

श्रद्धेय श्रीमान् ,

क्षेत्रीय कार्यालय के ज्ञापन संज्ञा निहाल/स्टेट/एक-31 दिनांक 19.4.88 के प्रत्येक किन्तु पर निम्नलिखित आख्या आपके अवलोकनार्थ प्रस्तुत है -

1. इस डाक मण्डल में कति दन्तैसी पेट कर्मचारियों का कोई भी पद उनकी माता वृद्धा के डाक महानिदेशालय के आदेश की प्राप्ति के बाद नहीं समाप्त किया गया है। यहाँ यह उल्लेख करना आवश्यक प्रतीत होता है कि इस डाक मण्डल में 22 सी०पी० चौकीदारों के पद, उक्त माता वृद्धा के आदेश की प्राप्ति के पूर्व ही समाप्त किये जा चुके थे जिन्हें पोस्टमस्टर जनरल के द्वारा प्राप्त निर्देशों के अनुसार ही समाप्त किया गया। दिनांक 5.8.85 तथा 6.8.85 को तत्कालीन निदेशक डाक सेवार के द्वारा किए गए इस कार्यालय के निरीक्षण आख्या के पैरा 18 पर तत्कालीन पोस्टमस्टर जनरल श्री डा०एस० सकलकरी के आखिर्देशन (INV/IR-38/DPS/85/3 दिनांक 28.11.85) में 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 अनुपालन में इस कार्यालय के तम संचयक पत्र दिनांक 27.6.86 के द्वारा समस्त उपमण्डलीय प्रभारियों से निर्धारित प्रारम्भ में सी०पी० कर्मचारियों के औचित्य के पुनरीक्षण के लिए सूचनाएं एकत्र करने के लिए लिखा गया। पुनः 4.2.87, 27.3.87, को अनुस्मारक भी भेजे गए। इसी बीच निदेशक (सतर्कता) के अ०शा० पत्रिका डीवी/मिस/87 दिनांक 5.6.87 के द्वारा 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 क्षेत्रीय कार्यालय के पत्रांक आरडीएल/इस्टे/एस-31 दिनांक 23.7.87 के द्वारा प्राप्त हुआ जिसमें सीधे परिमण्डलीय कार्यालय को उत्तर प्रेषित करने का निर्देश दिया गया है। अतः उपमण्डलीय 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 पुनरोद्धार के सम्बन्ध में निर्धारित प्रारूप 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 त्वरित आदेश से समाप्त कर दिया गया। शेष 38 सी०पी० चौकीदारों के पदों को बरकरार करने की प्रस्तुति के सहा इस कार्यालय के समसंख्यक पत्र दिनांक 24.2.88/15.3.88 के माध्यम से अग्रसारित किया जा चुका है। समाप्त किए गए सी०पी० चौकीदार के पदों पर कार्यरत कर्मचारियों को छटनी शुद्ध कर्मचारी मानकर रिक्त इंडी० पदों पर नियुक्त करने हेतु अ०शा० पत्र समसंख्यक दिनांक 19.2.88 के द्वारा मैंने आपसे अनुरोध भी किया था तथा इस सम्बन्ध में आपके कार्यालय से पत्रांक आरडीएल/एसटी/एस-31/पै० दिनांक 18.3.88 द्वारा निकाले गए सी०पी० कर्मचारियों को रिक्त इंडी० 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 कार्यालय द्वारा सी०पी० चौकीदारों के पदों के समाप्त करने के उपरोक्त आदेश के विरुद्ध कुल 8 केस के द्वीय न्यायिक प्राधिकरण इलाहाबाद में दायर हो चुके हैं।

इस सम्बन्ध में 27.6.86 का पत्र तथा बाद में जारी अनुस्मारकों, समाप्त किए गए सी०पी० कर्मचारियों के सम्बन्ध में प्रारूप पर एकत्रित सूचनाएं तथा चार्ट की फोटोप्रति मन्थन के अवलोकनाष्टि सिलन है।

2. महानिदेशालय के पत्र संख्या 45/95/87/एसपीवी-1 दिनांक 10.2.88 के प्राप्ति के बाद कोई भी सी०पी० (कन्स्टि-जेन्सी) पद समाप्त नहीं किया गया है।

3. इस डाक मण्डल में 22 सी०पी० चौकीदारों के पदों, जिन्हें बरकरार रखने का औचित्य नहीं पाया गया, को पैरा-1 में लिखे पोस्टमास्टर जनरल के निर्देशों के आधार पर समाप्त करने का आदेश इस कार्यालय के बापन समसंख्यक दिनांक 17.2.88 के द्वारा जारी किया गया है। (बापन का प्रति सिलन है)।

सम्पूर्ण मामला आपके अवलोकनाष्टि इस आशय से प्रस्तुत किया जा रहा है कि इस सम्बन्ध में अग्रिम कार्यवाही हेतु इस कार्यालय को आदेश देने की कृपा करें तथा अपने अमूल्य मार्ग दर्शन से हमें कृतार्थ करें।

सादर एवं ससम्मान भवदीय

माननीय श्री सी०पी०सीड  
आई०पी०एस०

(के० सी० मिश्र)

निदेशक डाक सेवाएं  
लखनऊ, बि० - लखनऊ - 226007

वकालतनामा

(A3)

न्यायालय श्रीमान् - Learned Advocate Tulsingrao G. B. Deshpande  
Learn 317 of 2008

- - - - - H. B. Deshpande - - - - - बादी/अपीलान्त/प्रार्थी/अभियुक्त

विरुद्ध

- Learned Advocate Tulsingrao G. B. Deshpande - - - - - प्रतिवादी/रिस्पाडेन्ट/विपक्षी/अभियुक्त

व्यवहार विवरण

उपयुक्त व्यवहार में/मैं/हम Dr. D. V. Deshpande - - - - - प्रतिज्ञा

Adv. G. S. Deshpande - - - - - 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 तथा निष्पादन कार्यवाही 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 खपया जमा करने का किसी डिग्री को निष्पादित करने की कार्यवाही 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 प्रतिज्ञा

साक्षी

साक्षी

प्रवर अधीक्षक डाकघर  
फैजाबाद मण्डल  
फैजाबाद 224001

स्वीकृत  
Dr. D. V. Deshpande  
एडवोकेट प्लोडर  
28/9/08

(A32)

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.

*A) 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*  
*SPP*  
*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 <sup>brought</sup> ~~brought~~ on record the accompanying supplementary counter reply to meet the ends of justice.

Lucknow ;

Dated : 2/7/90

*J. Chandra*  
( Dr. Dinesh Chandra )  
Advocate,

Counsel for the Respondent No. 3

(A33)

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. O.A. 392 of 1988

Bhagauti Singh ..... Applicant.

Versus.

Union of India & Others ..... Respondents.

I, R. E. 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

21/5/90  
14.5.90

(A24)

-: 2 :-

~~revised~~  
~~revised~~ 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) Acchhore
- 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, those 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

21/5/90

14.5.90

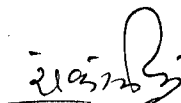
A36

-: 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.

Case No 392/88

Sri Bhagwati Singh vs. U.O. 9

802/

GOVERNMENT OF INDIA  
DEPARTMENT OF POSTSOFFICE OF THE POSTMASTER-GENERAL, U.P. CIRCLE  
LUCKNOW- 226001.Estt  
302  
128/e  
B  
(133)

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  
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 (Deptt of Posts) New Delhi addressed to ~~me~~ P.M.G. UP 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 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.

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

Pls discuss and  
put up by 5/8/88  
20/8/88  
31/8/88

A.O.  
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.

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) 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 ~~xxxxxx~~ thorough review made with a  
view to effecting as much economy as possible.

With regards,

Yours sincerely

sd/-  
(P.S. Ragavachari)

Case No. 392/88

Sri Bhagwati Singh vs. U.O. 194/✓

129

के.सी. मिश्र  
आई.पी.एस.

अ.शा.पत्रिका - ए-1/16/कार

25.4.88

पुवर अधीक्षक डाकदार  
पैजाबाद मण्डल पैजाबाद

अर्द्धयुक्त श्रामन्,

क्षेत्रीय कार्यालय के आपन सभा निहाल/स्टेट/एक-31 दिनांक 19.4.88 के प्रत्येक किन्तु पर निम्नलिखित आया आपके अवलोकनार्थ प्रस्तुत है -

1. इस डाक मण्डल में कमि टन्नेन्सी पेट कर्मचारियों का कोई भी पद उनकी माता वृद्धि के डाक महानिदेशालय के आदेश की प्राप्ति के बाद नहीं समाप्त किया गया है। यहाँ यह उल्लेख करना आवश्यक प्रतीत होता है कि इस डाक मण्डल में 22 सी.पी. चौकीदारों के पद, उक्त माता वृद्धि के आदेश की प्राप्ति के पूर्व ही समाप्त किये जा चुके थे जिन्हें पोस्टमास्टर जनरल के द्वारा प्राप्त निर्देशों के अनुसार ही समाप्त किया गया। दिनांक 5.8.85 तथा 6.8.85 को तत्कालीन निदेशक डाक सेवाएँ के द्वारा किए गए इस कार्यालय के निरीक्षण आया के पैरा 18 पर तत्कालीन पोस्टमास्टर जनरल श्री डी.एस. सकलकरी के आन्वर्षन (INV/IR-38/DPS/85/3 दिनांक 28.11.85) में 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 अनुपालन में इस कार्यालय के सभा सचिव पत्र दिनांक 27.6.86 के द्वारा समस्त उपमण्डलीय प्रभारियों से निर्धारित प्रारूप में सी.पी. कर्मचारियों के औचित्य के पुनरीक्षण के लिए सूचनाएँ एकत्र करने के लिए लिखा गया। पुनः 4.2.87, 27.3.87, को अनुस्मारक भी भेजे गए। इसी बीच निदेशक (सतर्कता) के अ.शा.पत्रिका डी.वी./मिस/87 दिनांक 5.6.87 के द्वारा 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 क्षेत्रीय कार्यालय के पत्रांक आरडीएल/इडेटो/एस-31 दिनांक 23.7.87 के द्वारा प्राप्त हुआ जिसमें सीधे परिमण्डलीय कार्यालय को उत्तर प्रेषित करने का निर्देश दिया गया है। अतः उपमण्डलीय 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 पुनरोद्घाटन के सम्बन्ध में निम्नलिखित प्राप्त सूचना एकत्र की गई। समस्त सूचनाओं को समेकित करके दिनांक 17.2.88 को 22 सी०पी० चौकीदारों के पदों को बरकरार रखने का औचित्य न पाये जाने के कारण त्वरित अत्रिा से समाप्त कर दिया गया। शेष 38 सी०पी० चौकीदारों के पदों को बरकरार करने की संस्तुति के सहा इस कार्यालय के समसंख्यक पत्र दिनांक 24.2.88/15.3.88 के माध्यम से अग्रसारित किया जा चुका है। समाप्त किए गए सी०पी० चौकीदार के पदों पर कार्यरत कर्मचारियों को छटनी शुदा कर्मचारी मानकर रिक्त इंडी० पदों पर नियुक्त करने हेतु अ०शा० पत्र समसंख्यक दिनांक 19.2.88 के द्वारा मैंने आपसे अनुरोध भी किया था तथा इस सम्बन्ध में आपके कार्यालय से पत्रांक आरडीएल/इएसटी/एस-31/पै० दिनांक 18.3.88 द्वारा निकाले गए सी०पी० कर्मचारियों को रिक्त इंडी० 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 कार्यालय द्वारा सी०पी० चौकीदारों के पदों के समाप्त करने के उपरोक्त आदेश के विरुद्ध कुल 8 केस केन्द्रीय न्यायिक प्राधिकरण इलाहाबाद में दायर हो चुके हैं।

इस सम्बन्ध में 27.6.86 का पत्र तथा बाद में जारी अनुस्मारकों, समाप्त किए गए सी०पी० कर्मचारियों के सम्बन्ध में प्राप्त पर एकत्रित सूचनाएं तथा चार्ट की फोटोप्रति मन्थन के अवलोकनादि संलग्न हैं।

2. महानिदेशालय के पत्र संख्या 45/95/87/एसपीबी-1 दिनांक 10.2.88 के प्राप्ति के बाद कोई भी सी०पी० (कन्स्टि-जेन्सी) पद समाप्त नहीं किया गया है।

3. इस डाक मसूदा में 22 सी०पी० चौकीदारों के पदों, जिन्हें बरकरार रखने का औचित्य नहीं पाया गया, को पैरा-1 में लिखे पोस्टमास्टर जनरल के निर्देशों के आधार पर समाप्त करने का आदेश इस कार्यालय के आपन समसंख्यक दिनांक 17.2.88 के द्वारा जारी किया गया है। (आपन को प्रति संलग्न है)।

सम्पूर्ण मामला आपके अवलोकनादि इस आशय से प्रस्तुत किया जा रहा है कि इस सम्बन्ध में अग्रिम कार्यवाही हेतु इस कार्यालय को आदेश देने की कृपा करें तथा अपने अमूल्य मार्ग दर्शन से हमें कृतार्थ करें।

खाबर एवं ससम्मान भवदीय

माननीय श्री सी०पी०ओसेड  
आई०पी०एस०

(के० सी० मिश्र)

निदेशक डाक सेवाएं  
लखनऊ, उ०प्र० - लखनऊ - 226007

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.

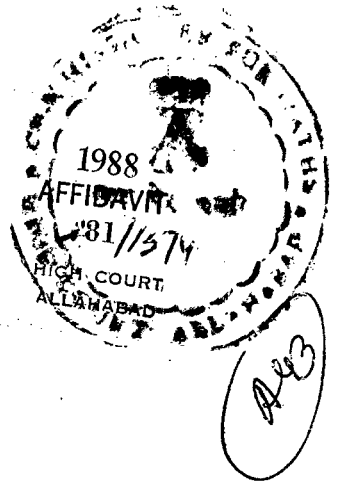
Versus

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

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

The humble application of the abovenamed  
applicant 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 Mishra  
aged about 55 yrs son of  
Shri Thakur Prasad Mishra.  
at present posted as Sr Suptd of P.O.  
Faizabad Dist Faizabad

21/1/88  
DEPT. of Post Offices  
Faizabad Division  
FAIZABAD 224001

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

Sd/- Suptd. of Post Offices  
Faiz. Division  
21/1/88

File

-2-

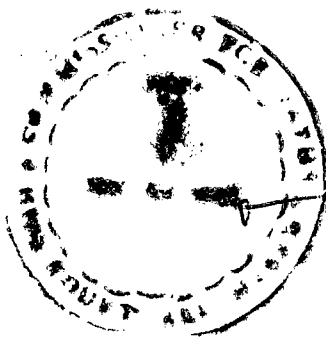
1. That the deponent is the *Sr. Supdt*  
*of Post offices Faizabad.*

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.

*21*  
Sr. Supdt. of Post Offices  
Faizabad Division  
FAIZABAD.-224001

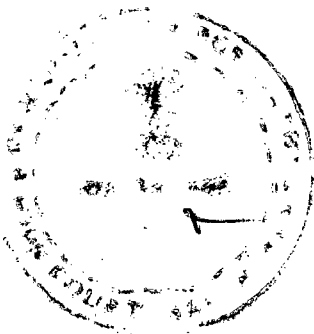


4. That to curtail the expenditure incurred upon Contingent Paid employees, the then Director Postal Services. Smt. Neelam Srivastava issued directions during inspection of the office of Sr. Supdt. of Post Offices, Faizabad 5.8.1985 & 6.8.1985. The directions given in para 18 reads;.

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.s 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.

20  
Sr. Supdt. of Post Offices  
Faizabad Division  
FAIZABAD. 22/6/01



446

1024-

Lucknow Region, the then PMO 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

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





AWB

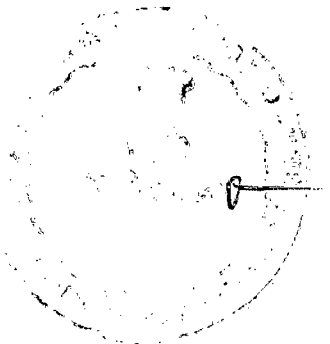
-6-

"In order to avoid such wasterful 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 Offices  
Faizabad Division  
FAIZABAD. 224001



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

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

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



ASL

11. That the abolishment 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<sup>P</sup>osts 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.

22  
Sr. Supdt. of Post Offices  
Lucknow Region  
19/3/88

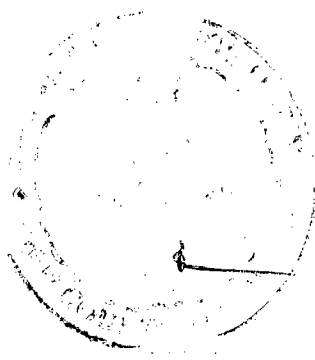
12. That it is worth while to mention



AS2

-10-

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 than 18.2.88. vide this office Memo. No. A-1 /16/Conr dated 17.2.1988- .



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

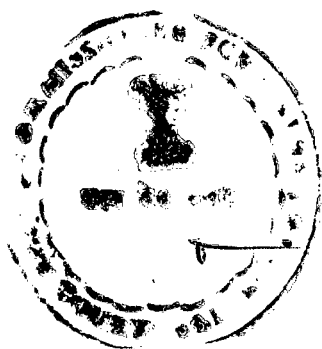
13. That in reply to the contents of paragraph 6(1) of the application it is submitted that the petitioner was working as C.P. Chowkidar at Kuchera Sub Post Office. This post is not a Civil Post.

A53

-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 continuance 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- .



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

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.

154

-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 ~~xxxxx~~ 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-.



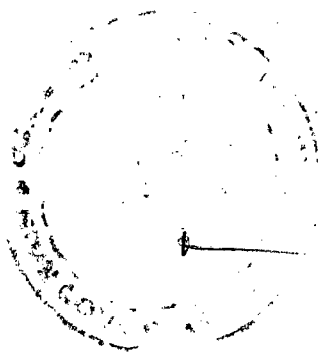
Supdt. of Post Offices  
Raizabad Division  
RAIZABAD 22-001

ASS

-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 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 that the engagement 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



**Sd. Supdt. of Post Offices**  
Faizabad Division  
PAIZ BAD 224001

ASG

-14-

Contigent 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 relivance 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 paragra ph 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.

21  
Sp. Supdt. of Post Offices  
Fazabad Division  
FAIZABAD. 223001



AST

-15-

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



21  
Sr. Supdt. of Post Offices  
Postal Division  
RAJAHMUNDY

Ass

-16-

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. Supt. of Post Offices**  
Faizabad Division  
FAIZABAD. 224001

AS

-17-

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 ~~for~~ 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

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

A60

-18-

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.

26  
Sr. Supdt. of Post Office  
Patna Division  
P.O. No. 100/101

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

AGI

-19-

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.Os. 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.

Sp. Supdt. of Post Offices  
Faizabad Division.  
FAIZABAD, P. O.

A62

-20-

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 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

~~600~~ 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,

Sp. Supdt. of Post Office  
Fuzabad Division  
PAIZABAD. 224001

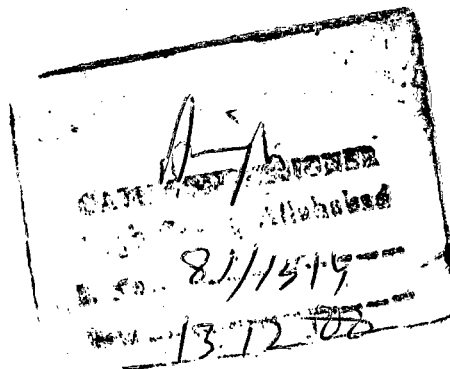
A64

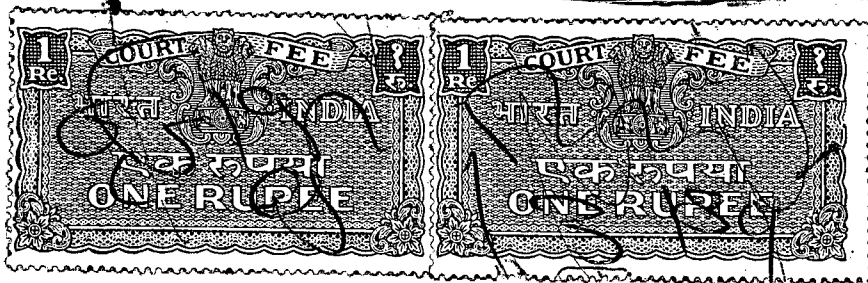
-22-

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

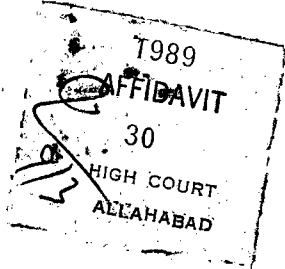
I have satisfied myself by examining  
the deponent that he understands the contents  
of this affidavit.

OATH COMMISSIONER.





A65



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BRANCH, ALLAHABAD

Registration No. 317/1988

DISTRICT FAIZABAD

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 Lakhnan Dubey, the petitioner above named do  
hereby stated 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/-

*Handwritten notes:*  
21/1/89  
filed today  
12/5/89

*Handwritten notes:*  
Received off  
P. S. A. S. S. S.  
5/89  
5/89



986

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 ✓

प्रमाणित

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.

168

12. That in reply to the averments made in para 12, it is submitted that even upon 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 ~~payment~~ 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 <sup>Kuchera</sup> ~~Raxaul~~ Sub. Post Office. As a matter of fact the petitioner worked at Raxaul in Faizabad District. It is loss of the Kuchera Sub Post 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.

12/3/88

Contd.....5/-

AG9

-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

हजारावली

Khajurhat

170

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 creteria 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

बृजभुषण दुबे  
(Brij Bhushan Dubey)

Dated: March 9, 1989.

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 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.

March 9, 1989.

बृजभुषण दुबे  
(Brij Bhushan Dubey)

Deponent.




A71

-7-

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

Faizabad.

March 9,  
Feb. , 1989, ✓

  
(M.C. Sinha)  
Advocate

Solemnly affirmed before me on this 9 th day of  
~~Feb.~~ 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.

  
OATH COMMISSIONER. ✓

A72

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH LUCKNOW

Misc. Application No.                      of 1989.

of

Brij Bhushan Dubey                      .....                      Applicant

Inre:                      ~~Versus~~

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  
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 supplimentary affidavit, it is MOST RESPECTFULLY  
PRAYED that this Hon'ble Tribunal may be pleased to bring on  
record the accompanying supplimentary affidavit to meet the ends of  
justice between the parties.

  
(M.C. Sinha)  
Advocate

Counsel for the petitioner.

Lucknow.

Dated: 5th March 1990  
Oct., 1989.



A23

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 sypplimen-tary affidavit is being filed herewith. So that justice may be done in the Petitioner's case.
4. That altogether 22 posts of contingency paid



बृज भूषण दुबे



A74

-2-

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.

बृज भूषण द्वे



A25

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

1876

-4-

them and consequently they are reinstate vide respondent no.3 office order No. A-1/~~Garry~~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).

A27

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 1970  
Oct. 1989

ब्रिज भुषण दुबे  
(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



178

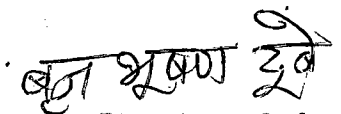
-6-

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 5<sup>th</sup> March  
the 5<sup>th</sup> Oct., 1989.

  
( Brij Bhushan Dubey )

Deponent,

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

  
(M.C.Sinha)  
Advocate


Lucknow.

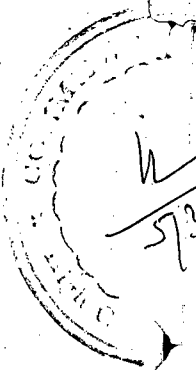
the 5<sup>th</sup> March  
the 5<sup>th</sup> Oct., 1989.

High Court, Lucknow.

Solemnly affirmed before me on this 5<sup>th</sup> day of <sup>March</sup> Oct. , 1989 at 4.00 am/pm. by the above named deponent who has identified by 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.

  
Oath Commissioner.  
NARENDRA PRATAP SINGH  
OATH COMMISSIONER  
High Court Allahabad.  
Lucknow Bench.  
No. 05/53  
Date 5/3/90

  
5/3/90  
Brij Bhushan Dubey

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.Supt. 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. निदेशा/स्थापना/एनपी-31/के.आर.पि.के. 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 ordered 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.

बृज भूषण दूबे

A79

573990

ASO

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 HO/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.B. No. 1111/1111/1111 - 5 जे आता दिनांक 31-5-07
- 38-40) O/C and spare.

वृजशुभा देव

5/3/00

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.~~ 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. निसल/प्रमाण/सर्व-31/मार्च/प्रमाण 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. 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 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.



विफोर दि आनरेबल सेन्ट्रल रेडमिनिस्ट्रेटिव ट्रिब्यूनल  
तरफिट बेनच, लखनऊ

ओ.ए. नं० 317/88

बुज भूषण दूवे

पिटिशनर

परतेज

यूनियन आफ इण्डिया एण्ड अदर

रेस्पान्डेन्ट

अनेक्जर नं० आर.ए.-3

भारतीय डाक विभाग

कार्यालय निदेशक डाक सेवाये, लखनऊ क्षेत्र  
लखनऊ-226007

ज्ञापन संख्या निडाल/स्टेट/एक्ट-31 दिनांक अप्रैल 19, 1988  
सेता देखाने में आया है कि जबसे कन्टीनजेंसी कर्मचारियों के एलाउन्स बुद्धि का  
आदेश महानिदेशक से प्राप्त हुआ है तबसे कुछ मण्डलों के प्रवर अधीक्षक

/अधीक्षक बिना किसी सामान्य आदेश या परिमण्डल कार्यालय/क्षेत्रीय  
कार्यालय अनुमोदन के ही कई सी.पी. चौकीदार के पदों को समाप्त करने का  
आदेश दे दिया जिसके फलस्वरूप उन पदों पर लम्बी अवधि से कार्य रत कर्मचारी  
हटा दिये गये इस प्रकार का निर्णय मानवीयदृष्टिकोण तथा नैतिक न्याय  
के तत्त्वान्त के विरुद्ध लगता है और हटाये गये कर्मचारी उनके परिवार को  
प्रत्यक्षतः सेता दण्ड ता लगता है जो किसी भी प्रकार अपेक्षित नहीं है इन  
पदों को तब तक समाप्त करने का विचार करना जबतक कि उन्हें उनके समकक्ष  
किसी अन्य पद पर नियुक्त नहीं कर लिया जाता है न्यायोचित नहीं है तथा  
बिभागीय निर्देशों के अन्तर्गत तत्त्वान्त के प्रतिकूल है।

2- अतः निदेशक डाक सेवा लखनऊ ने आदेश दिया है कि कोई भी सी.पी.  
या अन्य सी.पी. कन्टीनजेंसी पद पर बिना इस कार्यालय या परिमण्डल  
कार्यालय या निदेशालय के आदेश को समाप्त नहीं किया जाता तथा जो  
पद महानिदेशकलय के पत्र संख्या 45/95/87 एक्ट.पी.पी. दिनांक 10-2-88 के  
प्राप्ति के बाद समाप्त किये गये हों उन्हें तत्काल प्रभाव से पुनर्जीवित रेस्टोर  
किया जाय तथा इस कार्यालय को सूचित किया जाय।

3- जिन मण्डलों में कुछ पद समाप्त किये जा चुके हैं उपरोक्त निर्देशानुसार  
अनुपालन तुरन्त किया जाय वहेले ही तोड़े गये पदों का पूरा विवरण एवं  
तोड़े जाने के औचित्य के बारे में पूरी आख्या भी इस कार्यालय को भेजे जितने  
यदि आवश्यकता है तो इस निर्देश के बारे में पुनर्विचार किया जा सके।

कृते निदेशक डाक सेवाये  
लखनऊ क्षेत्र लखनऊ

226007

प्रतिलिपि

- 1- प्रवर अधीक्षक/अधीक्षक डाकघर फैजाबाद लखनऊ, गोण्डा, बहराइच।  
तीलापुर, डीरी, बाराबंकी, शाहजहांपुर तथा हरदोई
- 2- मुख्य डाकपाल लखनऊ बहिष्ट डाकपाल फैजाबाद तथा लखनऊ बीक
- 3- डाक महाअध्यक्ष 30 प्र० लखनऊ 226007 को सूचनार्थ एवं यदि उचित  
तमझा जाय तो परिमण्डलीय स्तर पर भी सेता निर्देश करने हेतु।

बुज भूषण दूवे

(183)

CENTRAL  
BEFORE THE HON'BLE ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

Miscellaneous Application No. \_\_\_\_\_/1990

M. P. No. 522/90 F. F. : 26<sup>th</sup> 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

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.

Lucknow

(MANIK SINHA)

Dated: Aug. 24th, 1990.

Advocate,

Council for the Petitioner

*Filed today  
27/8*

pen

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.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 full facts  
in support of the legal question raised.

Contd.....2/-

1405

-2-


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 HUMBLE AND RESPECT<sup>3</sup><sub>4</sub>  
FULLY prayed that the accompanying supplementary  
affidavit may graciously be pleased to bring on  
record to meet the ends of justice.

Lucknow.

Dated: Aug.2<sup>3</sup>, 1990.

  
(Manik Sinha)

Advocate

Chamber No.3.

High Court, Lucknow.

106

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

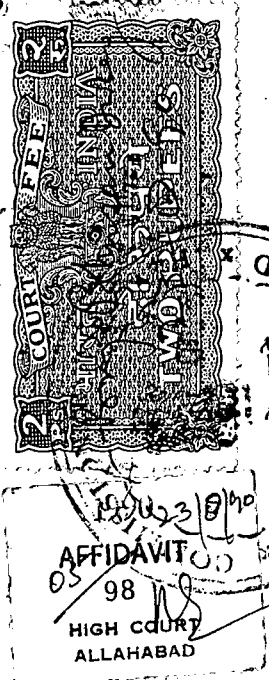
Versus

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  
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.
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/-



23-8-90

23-8-90

187

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 plea 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 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



408

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 enterprises are also involved in the business of postal services, like curriour services, hence the Department of Post falls within the definition of "Industry".

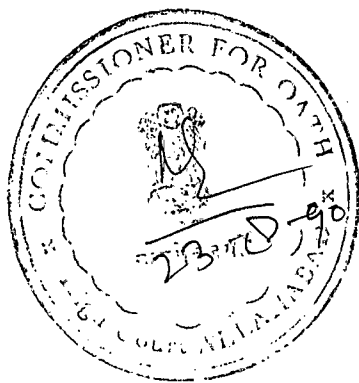


Contd....4/-

2 214509-1

1084

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 reinstatements 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 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



23/10/90

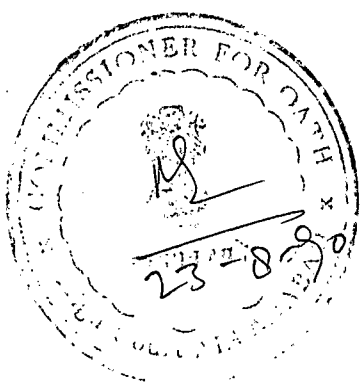


1990

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 challanged 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 prejudicials, 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 autometoc  
termination. In such case notice has to be given  
to the incumbent and the principle of "last come  
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 clock to dispense  
with the services of the petitioner, hence the impugned  
action is subject to judicial review.

Contd.....6/-



२ ०१५५ ०१

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.

(Deponent)

VERIFICATION

I, the above named deponent Brij Bhushan Dubey do hereby verify on oath that the contents of paras 1,2,3,4,5,6,7,8,9,10,12, 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.

(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. which has been readout and explained by me.

Lucknow Bench.

No. 23-8-90

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
	11.10.07	<p><u>Deer</u></p> <p>Counter may be put by 30.9.07</p>	
	30.9.07	<p><u>Deer</u></p> <p>On the request of respondents, counter may be put by 13.12.07</p>	
	13.12.07	<p><u>Registrars</u></p> <p>Counter may be filed by 24.1.08, Sri N.B. Singh is present for the respondents.</p>	
	24.1.08	<p><u>Deer</u></p> <p>Counter has been filed today. Exonider may be put by 17.3.08</p>	
	17.3.08	<p><u>DR</u></p> <p>on request, respondents may be put by 12.5.08</p>	
	12/5/08	<p><u>DR</u></p>	

15/4

Termination

# CENTRAL ADMINISTRATIVE TRIBUNAL

## ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

(21)

Registration No. 392 of 1988

APPLICANT (s) Bhaganti Singh

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

New Delhi &amp; 3 others

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

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  
transfer and that the case is fit for consignment in the  
record room.

(Signed)

ed.

Signature of the  
Dealing Officer

Session Officer/Court Officer.

.....

Order Sheet  
OA 392/88

(AI) (AM)

12/5/89 DK

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

DK

OK Case has been received from  
Att. in the month of May 1989  
Case is ready for hearing  
Submitted for leave  
v/v

28/7/89

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

BOC

25/9/89

Hon Justice K. Natch, v.  
Hon. K. Obayya, Att.

OK Case is ready for hearing  
v/v

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

Att.

V.C.

100

1.6.90

Stable M.P.E. Jan Am

Stable M.P.E. Sharma Jan

on the request of the learned Counsel

of the applicant in the hearing of 30/1/89.

adjoin to 26.7.90

Am

Am

(AS)

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

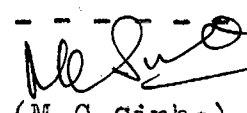
Versus

Union of Indian & Others ..... Respondents.

S.No.	Description of the documents relied upon	Page No.
1.	Application.	1-9
2.	Annexure A-1 Copy of the appointment letter dated 1.7.75.	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.Suptd. of Post offices Faizabad creating 62 Post of chaukidars.	13
6.	<u>Annexure A-5</u> 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)  
Counsel for the petitioner.

For and on behalf of the petitioner  
[Signature]

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Application No. of 1988

Reg. No. 392 of 1988  
Central Administrative Tribunal

Additional Bench At Allahabad  
Date of Filing... 25/3/88

Date of Receipt  
by Post

25/3/88  
By Registrar

Bhagauti Singe 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.Suptd. 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/-





(A7)

(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~~  
~~Senior Superintendent of Post Offices~~  
~~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.Supt. 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/-

महादेव ठाकुर

100

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 ~~xxx~~ 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 be the Inspector of Post Offices from any

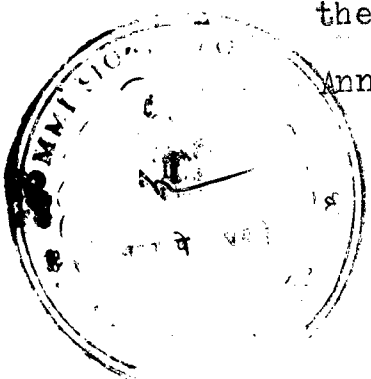
Contd.....4/-

मजदारी विभाग



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 and sincerity.
- (vi) That the petitioner was appointed as a casual employee and was doing his duties for 16 Hrs. daily from <sup>4.30</sup> 3 p.m. to <sup>9.30</sup> 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) .

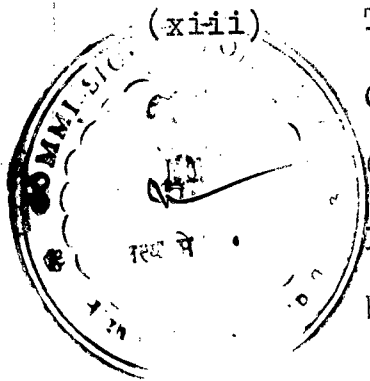


Contd.....5/-

*[Handwritten signature]*

110

- (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.



27/10/88

ALL

-6-

espacially for the security of the post offices the abolition of 22 Posts involves with it 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 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 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 decision in the interest of administrative efficiency. As a matter of fact the act of abolition of posts aforesaid is a cloak for dispensing with the services of the petitioner and other incumbents. It is in violation of the provision of Art. 14, Art 19(i) (g) and 311(2) of the constitution.
- (xvii) That while relieving the services of 22 Chaukidars the junior among the 62 posts 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 constitution.

Contd.....7/-

महाराष्ट्र सरकार



112

-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.Supt. of Post offices, Faizabad on 20.2.88 and presented him memorandum urging him to reinstate the petitioner, but the Sr.Supt. 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/-

नारायण सिंह



A13

-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

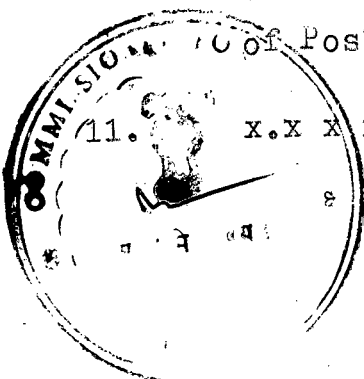
In view of the facts mentioned in para 6 above the applicant prays for the following reliefs :-

- (i) to direct the respondents to reinstate the petitioner with continuous service and back wages.
- (ii) to strike 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 ~~xxxxxxfxxxxxx~~ 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) .



Contd.....9/-

*Handwritten signature*

144

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. Dta of issue of postal order : 22.3.88  
4. Post office at which payable.: Allahabad.

Removed  
Ans  
27/3

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 formarly 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 trued on legal advice and that I have not supressed any material facts.

Dated: March 25, 1988.

Place : Allahabad

To,

The Registrar,

Central Administrative Tribunal  
Allahabad Bench, Allahabad.



(Bhagauti Singh)

Signature of the applicant.





AIS

-10-

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. Mehnauna Distt. Faizabad is  
hereby allowed to work as C.P. Chaukidar Kutchera  
w.e.f. 1.4.75 till further orders.

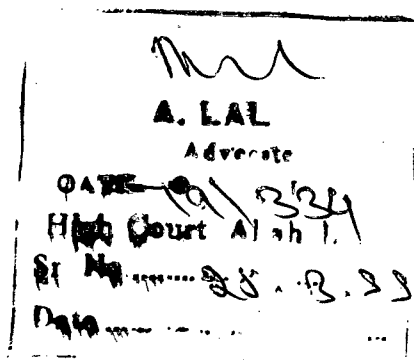
sd/-

Copy to the concerned.

POS, Faizabad.

True copy attested.

*Handwritten signature*



AIG

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

*Handwritten signature*



<i>Handwritten signature</i>	
A. LAL	
709/1534	
High Court Allahabad	
St No	24-3-88
Date	...

A7

BEFORE THE HON'BLE CENTRAL ~~XXXXXX~~ 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  
~~increment with effect~~ 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 Finance' Amnd) U.O.  
No. 548/FAP/88 dated 5.2.88.

Yours faithfully,

-Sd/-

(S CHADHA)  
DIRECTOR (STAFF)  
*Neel*  
Advocate

True copy attested.

*Neel*  
OATH (9/3/88)  
High Court Allahabad  
(Sr. No. .... 25.3.88)

Date .....



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD  
APPLICATION No. of 1988

Bhagauti Singh ..... Petitioner  
Versus  
Union of India and others ... Respondents.

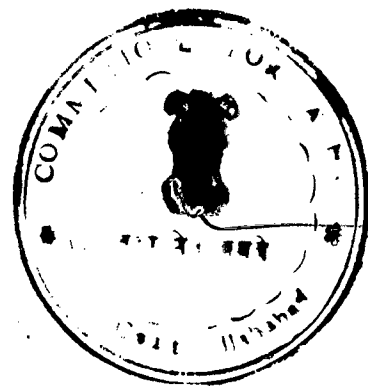
Annexure A-4

C/o The Sr.Suptd. 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 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.Suptd. 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 debitabale 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. Schawal         |
| 10. Bharatkund     | 52. Tarun Bazar.    |
| 11. Bikapur        | 53. Takari          |
| 12. Bhiti          | 54. Rajesultanpur   |
| 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. Ittifatganj    |                     |
| 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. Mijhaura       | 36. Milkipur        |
| 37. Mittupur       | 38. Motinagar       |
| 38. Ahuragola      | 40. Mahboobganj     |
| 41. Pahitiput      | 42. Ram Nagar.      |



Sd/-  
Sr.Suptd. 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.  
*[Signature]*

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. Ittifatganj  | 16. Rasulabad      |
| 6. Inayatnagar  | 17. Ramkot         |
| 7. Jahangirganj | 18. Shahganj       |
| 8. Khajurabat   | 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 relived 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. atonce.
- 45-66) The relevent 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 (vig) 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 E.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.



DATE 28/3/88  
High Court Allahabad  
Sr. No. 28/3/88  
to...

A20

-15-

विफोर दि आनरेबुल सेन्ट्रल रिट्रिब्युट्रल रेडमिनिस्ट्रेटिव ट्रिबुनल  
इलाहाबाद बेन्च इलाहाबाद ।

प्रार्थना पत्र संख्या सन 1988

भगवती सिंह

पेटिशनर

वरसेज

युनियन आफ इण्डिया एण्ड अदर्स

रेस्पान्डेन्टस

अनेक्जर नं० ए-6

सेवा मे,

श्री मान निदेशाक डाक सेवाये उत्तर प्रदेश  
कैम्प- फैजाबाद ।

महोदय,

निवेदन है कि प्रार्थी दिनांक 22.11.80 से 1-4-75 से उप डाकघर  
कुचेरा जिला फैजाबाद मे लगातार सी० पी० चौकीदार के पद पर कार्यकरता चला  
आ रहा था की दिनांक 18-2-88 को उसे सेवा से अलग कर दिया गया है मेने  
13 वर्षों तक लगातार विभाग की सेवा पूरी निष्ठा 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 उसकी उम्र 36 वर्ष  
हो जाने के कारण इस बेरोजगारी मे कोई नौकरी भी नहीं मिल सकती ।  
बेरोजगार हो जाने के फलस्वरूप प्रार्थी के बच्चे व परिवार भूखो मरने की कगार  
पर आ गये है । ज्ञात हुआ है कि विभाग मे अभी चौकीदार के अनेक पद  
रिक्त है । 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 करे । जिसके प्रार्थी श्री मान जी का  
आजन्म आभारी रहेगा ।

आपका आज्ञाकारी सेवक,

॥ भगवती सिंह ॥

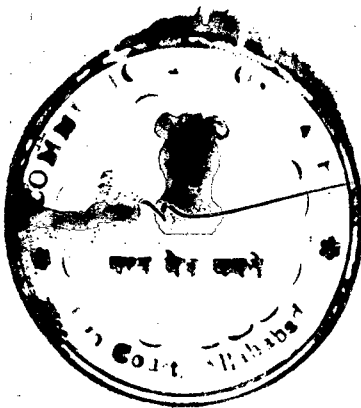
ग्राम रजामूर

पोस्ट- बारुन

जनपद- फैजाबाद

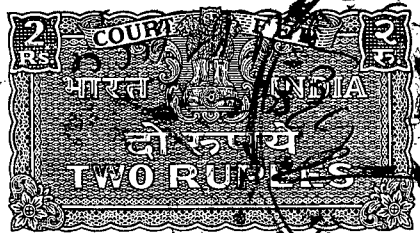
दिनांक 9-3-1988 ई०

सत्य प्रतिष्ठापि प्रमाणित ।



4. LAL  
19/3/88  
OATH  
High Court  
No. 25.3.88

भगवती सिंह



1988

AFFIDAVIT

79/88

HIGH COURT  
ALLAHABAD

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD

Application No.      of 1988

Bhagauti Singh  
~~XXXXXXXXXXXXXX~~

....

Applicant

Versus

Union of India & Others      .....      Respondents.

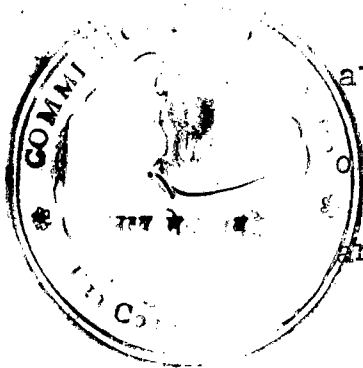
Affidavit of Sri Bhagauti Singh aged  
about 36 years S/o Late Sri Raj Karan  
Singh r/o village Razaupur P.O.

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,

*Noted file*



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 information 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)  
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.

*C.T.S of  
the deponent*

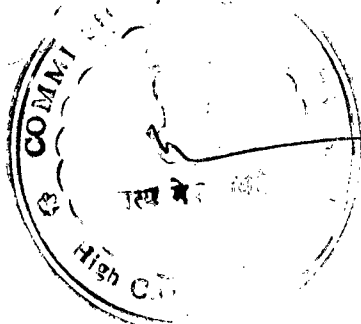
25th day of March at (M.C. Sinha)  
Advocate.

Solemnly affirmed before me today at ... 10:30 A.M.  
10:30 P.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 read over and explained to him by me.

Faizabad Allahabad  
22nd day of March, 1988.

Oath Commissioner.



<u>A. LAL</u> Advocate
OATH <u>20/3/88</u>
High Court Allahabad
Sr. No. <u>25/3/88</u>
Date....



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 manner presented him separately 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 ~~xxxxx~~ Tribunal for seeking justice.

Dated: Faizabad *Allahabad*  
the 22nd of March 1988.

*Bhagauti Singh*  
(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.

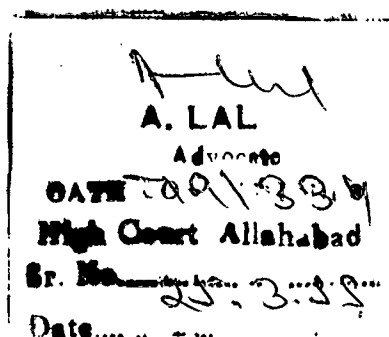
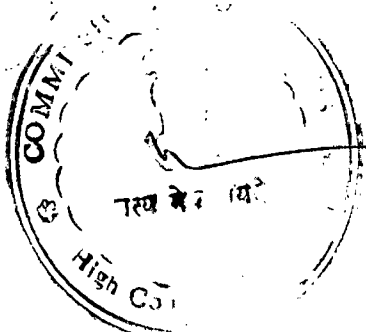
*L.T.S of  
the deponent*

25th day of March at  
(M.C. Sinha)  
Advocate.

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.



वकालतनामा



A24

न्यायालय श्रीमान The Hon'ble Central Administrative Tribunal  
Allahabad Bench, Allahabad

..... Bhagnahi Singh ..... वादी/अपीलान्त/प्राथी/अभियुक्त

विरुद्ध

..... Union of India & Ors ..... प्रतिवादी / रिस्पॉण्डेंट / विपक्षी / अभियुक्त

व्यवहार विवरण

उपयुक्त व्यवहार में मैं/हम ..... L. M. C. S. S. Advocate ..... प्रतिज्ञ

..... वकील, एडवोकेट

को वकालत नामा द्वारा वकील नियुक्त करके अधिकार देता हूँ/देते हैं कि उपरोक्त अधिवक्ता, वकील उपरोक्त वाद में मूल न्यायालय से लेकर अपील या निगरानी न्यायालय तक तथा निष्पादन कार्यवाही में उपस्थित हों, कार्य करें और अधोहस्ताक्षरी की तरफ से आवश्यकता पड़ने पर न्यायालय में उपस्थित हों कार्य करें और अधोहस्ताक्षरी का पत्र 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 डिक्री 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 १९८०

चिन्ह या हस्ताक्षर प्रतिज्ञ

साक्षी

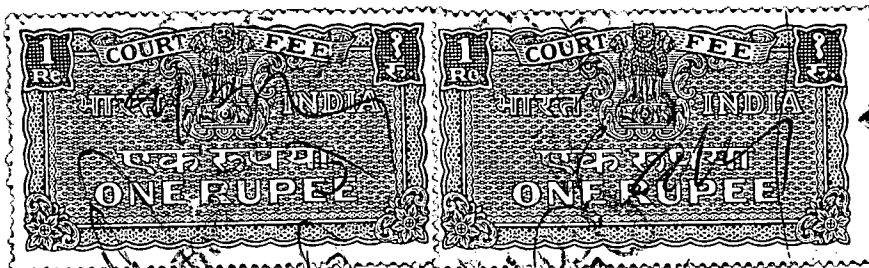
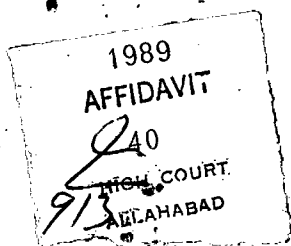
साक्षी

म. ग. ल. सिंह

स्वीकृत

M. S.

एडवोकेट, प्लीडर



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH, ALLAHABAD

Registration No. 392/1988

DISTRICT FAIZABAD

Bhagwati 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 :- a

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/-

Received off  
R.P.S. 11/10/89  
N.B.S. 11/10/89  
S.S.C.  
12/5/89

Notarizing

(B28)

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 irregularly 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

B27

-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 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. ✓

9/13/88

W. R. L. S.

B20

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 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 petitioner.
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 registers, stock registers for N.S.Cs, I.P.Os, Indira Vikas Pat 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 al provided iron chest at the Sub. Post Office to keep the aforesaid valuably.

Contd.....6/-

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. ✓

Allahabad

Dated: Feb. , 1989.

भगवती सिंह

(Bhagwati ~~xxxxxx~~ 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 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

Mar 9,  
Feb. , 1989.

भगवती सिंह

(Bhagwati Singh)

Deponent.




B30

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

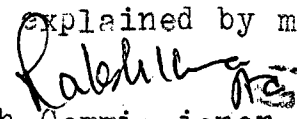
Faizabad.

March 9,  
Feb. , 1989.

  
(M.C.Sinha)  
Advocate,

Solemnly affirmed before me on this 9 th day of  
March  
Feb. 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.

  
Oath Commissioner.  
913189.



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

Miscellaneous Application No. /1990

In re:

O.A.No.392/1988

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 28.7.90  
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  
affidevit 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 to delay and order to bring on  
record the accompanying Supplementary affidavit to  
meet the ends of Justice.

Lucknow.

Dated: Aug. 24th, 1990.

(MANIK SINHA)

Advocate,

Council for the Petitioner

*Filed today  
27/8*

B32

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 26.7.90  
by the Bench comprising of the Hon'ble Mr. Justice  
K. Nath Vice-Chairman and Hon'ble Mr. K. Ghayya, 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 <sup>narrating</sup> ~~managing~~ full facts  
in support of the legal questions raised.

Contd.....2/-

B33

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.

Lucknow.

Dated: Aug.23, 1990.

*Manik Sinha*

(Manik Sinha)

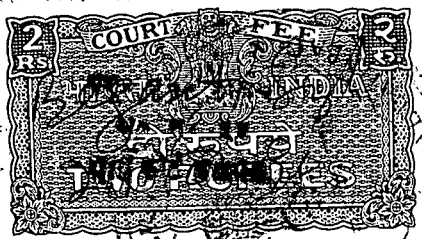
Advocate,  
Chamber No.3,  
High Court, Lucknow.

B34

In the Hon'ble Central Administrative Tribunal Allahabad

Circuit Bench, Lucknow

Supplimentary affidavit on behalf of the petitioner



In re:

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



*Signature*

Contd.....2/-

B25

-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<sup>as</sup> "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

Contd.....3/-



March 2001

departments as explained in the Corporation of Nagpur, (Supra) will <sup>be</sup> 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 <sup>welfare</sup> ~~mettase~~ activities or economic adventures undertaken by Government <sup>or</sup> 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 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 enterprises are also involved in the business of postal services, like courier services, hence the Department of Post falls within the definition of "Industry."

B37

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(A) 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 ~~xxxx~~ Tribunal for redressal. The 13 Chaukidars were i reinstated on their original posts after reviving their posts because they did not move the court of law



Handwritten signature and initials.



1688

-5-

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 <sup>of</sup> ~~was~~ the post of the petitioner was not genuine and <sup>in</sup> good faith, and since the abolition of post was made as a clock to dispense with the services of the petitioner, hence the impugned action is subject to judicial review.

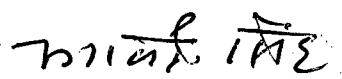


5/11/80

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)

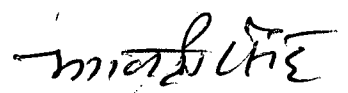
Dated: Aug. 23, 1990.

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, 12, 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)

Dated: Aug. 23, 1990.

Deponent,

I, know the deponent Bhagauti Singh, 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 10-45 am./pm by the above named deponent

who has identified Sri Manik Sinha, Advocate, High Court LKO.

NARENDRA PRATAP SINGH

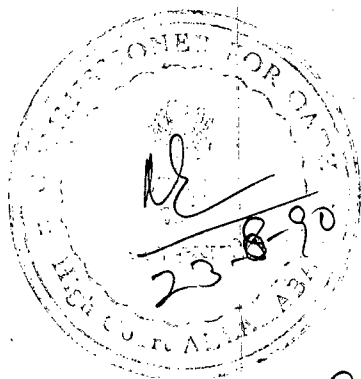
OATH COMMISSIONER  
High Court Allahabad,  
Lucknow Bench.

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

Bhagauti Singh ..... Applicant

INRE:

O.A. No. 392/88

(District Faizabad )

Bhagauti Singh ..... Applicant

Versus

Union of India & Others ..... Respondents.

To,

The Humble the Chairman and his other Companion  
Members of this Hon'ble Tribunal.

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

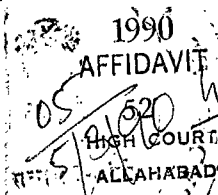
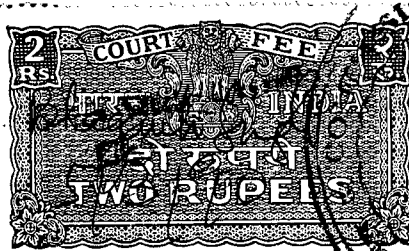
1. That for the reasons disclosed in the accompanying  
supplimentary affidavit it is necessary in the  
interest of justice that the accompanying Supplementary  
Affidavit may be brought on record ,other wise this  
petitioner would suffer grave and irreparable loss.

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 Supplimen-  
tary affidavit to meet the ends of justice between  
the parties.

Lucknow - set , 1989.  
5th March 1990

(M.C. Sinha)  
Advocate



Bul

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~~r~~ 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 ~~xxx~~  
present supplimentary affidavit is being filed



Mat 108

11/2

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-5 to the petition)

ANNEXURE A-V

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 <sup>h</sup> chowkidars were ordered to be reinstated. <sup>h</sup> 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



AM3

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 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.	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 (Ram Das 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

..... 4/-

mad for



AM

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 petitioner 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 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 persuance 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 then <sup>they</sup> get <sup>the</sup> 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).

*h.rah.102*

ACIS

10. That the action of abolition of post~~s~~ 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 <sup>h</sup>abolishing<sup>h</sup> the post 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 <sup>h</sup>of<sup>h</sup> 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.

Dated : 5th March 1990  
Oct. , 1989.

(Bhagauti Singh)

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.  
the <sup>March 5<sup>th</sup></sup> Oct. , 1980.

  
(Bhagauti Singh)  
Deponent,

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


Lucknow.  
the <sup>March 5<sup>th</sup></sup> Oct. ? 1980.

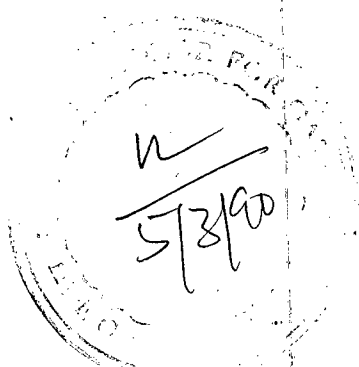
  
(M.C. Sinha)  
Advocate  
High Court, Lucknow.

Solemnly affirmed before me on this <sup>March</sup> 5<sup>th</sup> 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 that he fully understands the contents of this affidavit, which has been readout and explained by me.

Oath Commissioner.

  
NARENDRA PRATAAP SINGH  
OATH COMMISSIONER  
High Court Allahabad.  
Lucknow Bench.  
No. 05/52  
Date-5/3/80

  
5/3/80

497

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

~~Misapplication~~

O.A. No. 392/88

Bhagauti Singh ..... Petitioner

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.

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.

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

noted 16/5

h  
5/3/90

A48

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 ~~xxxxxx~~.  
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.  
नाजला/स्वायत्ता/इम्प-5/कजाबाद दिनांक 31-5-00
- 38-40 O/C and spare.

बतावत होत

5/3/92

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

~~XXXXXXXXXXXX~~ CIRCUIT BENCH LUCKNOW

O.A. No. 392/1988

Aug

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. निजल / (प्रमाण) / 31/ 4 जनवरी 1989 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.

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. files.
- 13-14) 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.

निराकर

विफोर दि आनरेबुल सेन्ट्रल रेडमिनिस्ट्रेटिव ट्रिबुनल  
सरकिट बेन्च लखानऊ  
ओ० ए० नं० 392/1988

ASO

भगौती सिंह

वरसेज

मिटीशनर

यूनियन आफ इण्डिया इण्ड अदर्स

रेस्पान्डेन्टस

अनेकजर-आर-ए-3

भारतीय डाक विभाग  
कार्यालय निदेशाक डाक सेवासे, लखानऊ क्षेत्र  
लखानऊ 226087

ज्ञापन संख्या निडाल/स्टेट/एक्स-31

दिनांक अप्रैल 18, 1988

ऐसा देखाने में आया है कि जबसे कन्टीनजेंसी कर्मचारियों के एलाउन्स वृद्धि का आदेशा महानिदेशालय से प्राप्त हुआ है तभी से कुछ मण्डलों के प्रवर अधीक्षक / अधीक्षक विना किसी सामान्य आदेशा या परिमण्डल कार्यालय/क्षेत्रीय कार्यालय के अनुमोदन के ही कई सी०पी० चौकीदार के पदों को समाप्त करने का आदेशा दे दिया जिसके फलस्वरूप उन पदों पर लम्बी अवधि से कार्यरत कर्मचारी हटा दिये गये। इस प्रकार का निर्णय मानवीय दृष्टिकोण तथा नैतिक न्याय के सिद्धान्त के विरुद्ध लगता है और हटाये गये कर्मचारी उसके परिवार को प्रत्यक्षात: 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 समक्ष किसी अन्य पद पर नियुक्ति नहीं कर लिया जाता है न्यायोचित नहीं है तथा विभागीय निर्देशों के अन्तर्गत निहित सिद्धांतों के प्रतिकूल है।

2- अतः निर्देशा डाक सेवा लखानऊ ने आदेशा दिया है कि कोई या अन्य सी.पी. कन्टीनजेंसी पद पर विना इस कार्यालय या परिमण्डल या निदेशालय के आदेशा के समाप्त नहीं किया जाय तथा जो पद निदेशालय के पत्र संख्या 45/95/87 एस.पी.वी. दिनांक 10-2-88 वाद समाप्त किये गये हो उन्हें तत्काल प्रभाव से पुनर्जीवित रिस्टोर तथा इस कार्यालय को सूचित किया जाय।

3- जिन मण्डलों के कुछ पद समाप्त किये जा चुके हैं उपरोक्त अनुपालन तुरन्त किया जाय पहले ही तोड़े गये पदों का पूरा विवर ज्ञाने के औचित्य के बारे में पूरी आख्या भी इस कार्यालय का भेज आवश्यकता है जो इस निर्देशा के बारे में पुनर्विचार किया जा सके।

4- इस ज्ञापन की पावती उप निदेशाक के नाम से स्वीकार की

कृते निदेशाक डा  
लखानऊ क्षेत्र ल  
226007

प्रतिलिपि

1- प्रवर अधीक्षक/अधीक्षक डाकघर फैजाबाद लखानऊ गोण्डा ब

सी गपुर खीरी बाराबंकी, राहजहांपुर तथा हरदोई

2- मुख्य डाकपाल लखानऊ, बरिष्ठ डाकपाल फैजाबाद तथा ल

3- डाक महाअध्यक्ष 30 प्र० लखानऊ 226007 को सूचनार्थ एवं

जाय तो परिमण्डलीय स्तर पर भी ऐसा निर्देशा करने हेतु

भगौती सिंह

(1)

4/5

511-10  
63

अभिभाषक पत्र (वकालतनामा)

सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिबुनल, एडिशनल बेंच, इलाहाबाद

मुकदमा नं० 392 सन् १९८८ ४

Bhagwati Singh

अपीलान्ट

वाम

Union of India

रेस्पान्डेन्ट

मैं  
हम

कि

उपरोक्त प्रकरण (मुकदमा) में मैं अपना पक्ष समर्थन हेतु

श्री अन० बी० सिंह

सीनियर स्टैंडिंग कौंसिल

४

अधीकार

Sr. Supdt. of Post Offices  
Faizabad Division  
Faizabad 224001

Sr. Supdt. of Post  
Faizabad Div  
Faizabad 224001

हस्ताक्षर ..... हस्ताक्षर .....

3. Ram
4. R. Sivastava
5. M. Yadava V. U.O.I.
6. B. B. Dubey V. U.O.I. (31/88)
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 Honble 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 tagged together.

Applicant  
M. S. S.

(M. C. Singh)  
Counsel for the Petitioners

21-7-88

On 21-7-88

W. C. A.  
No 392/88  
for the  
+ 27-7-88  
as prayed