

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE C.A. 391 OF 1988

NAME OF THE PARTIES S.P. Devedi

Applicant

Versus

Unnati of Malig Respondent

Part A, ~~B~~

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13		

CERTIFICATE

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

Dated.....

Counter Signed.....

Section Officer / In charge

Signature of the
Dealing Assistant

41
1

29
2

CENTRAL ADMINISTRATIVE TRIBUNAL
~~ALLAHABAD BENCH, ALLAHABAD~~

Lucknow Bench

INDEX-SHEET

CAUSE TITLE O.A No. 391 OF 1988

Name of the Parties S. P. Dwivedi

Versus

Union of India & others

Part A, B & C

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(A2)
1

391/88

ORDER SHEET

5.4.1988/

III Hon. Ajay Johri-AM
Hon. G.S. Sharma-JM

The applicant in person and Shri K.C.Sinha for the respondents are present. The applicant has moved an application that the respondents be directed to pay salary and allowances and allow him to work at Lucknow ignoring the order of transfer. Shri Sinha has filed two documents to show that the applicant was already relieved on 1.3.1988 and his successor Sri I.M.Saxena has already resumed charge in his place. Shri Sinha may file objection, if any, against this application and may also file reply of this case within three weeks. Let this case be listed at Lucknow Circuit Bench, on 28-4-1988, if there be a sitting, as requested by the applicant.

J.M.

Sh.

(S)
A.M.

Circuit Bench at Lucknow

28-4-88

Hon. S. Zafar Hasan, V.C.

Hon. Ajay Johri, AM.

The applicant in person is present. Shri K.C.Sinha for respondents is not present. A request has been made on his behalf by Shri V.K.Chandhary, Advocate to give time for filing reply. Reply can be filed by 25-5-88 at Lucknow. Shri Chandhary undertakes that he will inform Shri K.C.Sinha.

AM

(S)
AM

V.C.

25-5-88

Hon. Ajay Johri, AM
Hon. G.S. Sharma, JM

for order, see and our order & date
passed in separate sheet.

AM

25.5.88
AM

JM

GENERAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,
 Gandhi Bhawan,
 23-A, Thorntown Road, Allahabad-211001
 Circuit Bench - Lucknow

Registration No. 5 of 1988

APPLICANT (s) S. P. Dwivedi

RESPONDENT(s) Union of India & ors.

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 ?	four sets of Extra Copy filed
3. (a) Is the appeal in time ?	yes
(b) If not, by how many days it is beyond time ?	x
(c) Has sufficient cause for not making the application in time, been filed ?	x
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 ?	yes
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 ?	yes

Let this case be listed
 before Hubble Bench today
 22.3.88.

Central Administrative Tribunal.
Lucknow Bench.

Registration O.A.No. 391 of 1988

S.P.Dwivedi Applicant.

Vs.

Union of India & another... Respondents.

Hon. Ajay Johri, AM
Hon. G.S.Sharma, JM

(By Hon. Ajay Johri, AM)

In this application, Sri S.P.Dwivedi the applicant had challenged the order dated 15.3.1988 issued by the Director General Defence Estates, Ministry of Defence, New Delhi, by which order, his request for promotion and modifying transfer to Secunderabad was rejected. The applicant is present today and Sri V.K.Chaudhary, learned counsel for the respondents files a short reply contending that respondent no.2 has modified/cancelled the transfer and posting order with regard to the applicant vide his order No.102/195/ADM/DE dated 8.4.1988. A copy of the order has also been annexed as Annexure 'A' to the reply.

2. Both the parties agree that the grievance for which this application was made has been settled for the present and, therefore, there is no cause that survives today. Under the circumstances, we dismiss this petition as infructuous.

The parties shall bear their own costs.

~~S.P.Dwivedi~~,
MEMBER (A)

Sharma
MEMBER (J)

Dated 25.5.1988
kkb.

Particulars to be ExaminedEndorsement as to result of Examination

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

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

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

10. Is the matter raised in the application pending before any Court of law or any other Bench of Tribunal ? *yes*

11. Are the application/duplicate copy/spare copies signed ? *No*

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

- (a) Identical with the original ? *yes*
- (b) Defective ? *No*
- (c) Wanting in Annexures *No*

Nos...../Pages Nos..... ?

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

14. Are the given addresses, the registered addresses ? *yes*

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

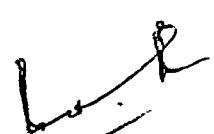
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? *N.A.*

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

- (a) Concise ? *yes*
- (b) Under distinct heads ? *yes*
- (c) Numbered consecutively ? *yes*
- (d) Typed in double space on one side of the paper ? *yes*

18. Have the particulars for interim order prayed for indicated with reasons ? *There is no separate application for Stayed. A prayer for stay has been made in the petition.*

19. Whether all the remedies have been exhausted. *yes.*



Central Administrative Tribunal.
Delhi Bench.

Registration O.A.No. 391 of 1988

S.P.Dhivedi Applicant.

VS.

Union of India & another... Respondents.

Hon. Ajay Johni, AM
Hon. S.S. Shrestha, JL

(By Hon. Ajay Johni, AM)

In this application, Sri S.P.Dhivedi the applicant had challenged the order dated 13.3.1988 issued by the Director General Defence Estates, Ministry of Defence, New Delhi, by which order, his request for promotion and modifying transfer to Secunderabad was rejected. The applicant is present today and Sri V.K.Chaudhary, learned counsel for the respondents files a ^{short} reply contending that respondent no.2 has modified/cancelled the transfer and posting order with regard to the applicant vide his order F.Y.102/195/ADM/DE dated 8.4.1988. A copy of the order has also been annexed as Annexure 'A' to the reply.

2. Both the parties agree that the grievance for which this application was made has been settled for the present and, therefore, there is no cause that survives today. Under the circumstances, we dismiss this petition as infructuous. The parties shall bear their own costs.

MEMBER (A)

Dated 25.5.1988
Lkb.

MEMBER (J)

True copy of the
order attested
K. K. Chaudhary
25.5.88

(S. K. Bajaj)
Private Secretary
Central Administrative Tribunal
Allahabad

Reef copy
S. K. Bajaj
Date 25.5.88
b/s/ S. K. Bajaj
b/s/ S. K. Bajaj

(AU)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL A
BENCH AT ALLAHABAD

SITTING AT LUCKNOW.

Claim Petition No. 5 (L) of 1988

S.P.Dwivedi

391/8d....Applica

Versus

Union of India and others.

...Opp.p.a.

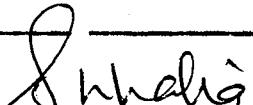
I N D E X

Sl.No.	Particulars	Page N
1.	Claim Petition 1 to 9
2.	<u>Annexure no.1</u> True copy of circular dated 19thFebruary, 1988.	
3.	<u>Annexure no.2</u> True copy of promotion order dated 19thFeb, 1988.	
4.	<u>Annexure no.3</u> True copy of letter of the petitioner/ applicant dated 27th February, 1988	
5.	<u>Annexure no.4</u> True copy of letter dated 29th Feb, 1988 of Director Defence Estates, Lucknow.	
6.	<u>Annexure No.5</u> Order 15th March, 1988	
7.	An affidavit in support of the Claim petition.	
8.	Application for stay.	
9.	Vakalatnama	

—

Lucknow:Dated:

March 21,1988


(S.K.KALIA)
Advocate,
Counsel for the applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Allahabad Lucknow Bench
Sitting at Lucknow.

Claim Petition No.

of 1988

AY
2

S.P.Dwivedi ,aged about 55 years,
son of Sri A.P.Dwivedi,resident of
House No.L-1/44, Aliganj Extension,
Lucknow.

....Applicant

Versus

1. Union of India, through the Secretary,
Ministry of Defence, South Block,
New Delhi.

2. Director General,
Defence Estates, Ministry of Defence,
West Block, 4,R.K.Puram, New Delhi-66

3. Director Defence Estates,
Ministry of Defenco, Central Command,
Lucknow Cantt.

4. Sri I.N.Saxena, Technical Assistant,
Resident of House No.
Dugawan, Lucknow.

....Respondents.

DETAILS OF APPLICATION

1. Particulars of the Applicant. SxPxDWIXXUDX

(i) Name of the Applicant. S.P.Dwivedi.

(ii) Name of Father/ Husband. Sri A.P.Dwivedi.

(iii) Age of the Applicant. 55 years.

(iv) Designation and particulars of office in which employed or was last employed before ceasing to be in service. Technical Assistant, Director Defence Estates, Ministry of Defence, Central Command, Lucknow Cantt.

Received Copy
of the order and
and copies of the papers
16/2/88

Subhada

(PU)
3

(v) Office address

Director Defence Estates,
Ministry of Defence, Central
Command, Lucknow Cantt.

(vi) Address for service
of notices.

House No. L-1/44, Aliganj
Extension, Lucknow.

2. Particulars of the
respondent:

(i) Name of the
respondent

1. Union of India, through the
Secretary, Ministry of Defence
South Block, New Delhi.

2. Director General,
Defence Estates, Ministry
of Defence, West Block,
4, R.K. Puram, New Delhi-66

3. Director Defence Estates,
Ministry of Defence, Central
Command, Lucknow Cantt.

4. Sri I.N. Saxena, ~~X~~

(ii) Name of the
father/Husband

1. Nil

2. Nil

3. Nil

4.

(iii) Age of respondent

1. Nil

2. Nil

3. Nil

4. -----

(iv) Designation and
particulars of
office in which
employed.

x. Director Defence Estates
Ministry of Defence,
Central Command, Lucknow
Cantt.

(v) Office address

Director Defence Estates
Central Command, Lucknow
Cantt.

(vi) Address for service
of notices.

1. Union of India, through the
Secretary, Ministry of
Defence, South Block,
New Delhi.

2. Director General, Defence
Estates, Ministry of Defence
West Block, 4, R.K. Puram,
New Delhi-66

3. Director Defence Estates,
Ministry of Defence, Central
Command, Lucknow Cantt.

4. I.N. Saxena, House No.
, Dugawan, Lucknow.

(b) 4

3. Particulars of the order against which application is made

The application is against the following order:-

(i) Order No. with No. 42/4(350)/ADM/DE
reference to Annexed as Annexure no.5
Annexure.

(ii) Date 15th March, 1988

(iii) Passed by Director General, Defence Estates, Government of India, Ministry of Defence, Dte. Gen. Defence Estates, R.K. Putam, New Delhi.

(iv) Subject in brief. Refusing to accept the option of the applicant foregoing the promotion order and requiring him to join at Secunderabad.

4. Jurisdiction of the Tribunal:

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

5. Limitation

The applicant further declares that the application is within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the case:

The facts of the case are given below:

The applicant most humbly submits as under:-

(i) That the applicant was initially appointed on the post of Lower Division clerk in the department of Defence Estates, formerly known as Military Lands and Cantonment Services. The work and conduct of the applicant was absolutely unblemished and has always been appreciated by the authorities. He was promoted on the post of Upper Division Clerk and subsequently on the post of Technical Assistant in 1981 and since 1981 the applicant is working on the post of Technical Assistant.

(ii) That it may be stated here that next promotional post from the post of Technical Assistant is office Superintendent Grade II. The payscale of both the posts

(b) 2

of Technical Assistant and Office Superintendent ,Grade II have been made equivalent i.e. Rs.1400-2300.

(iii) That on 5th February,1988 a meeting of Joint Consultative Machinery was held in New Delhi under the Chairmanship of DirectorGeneral Defence Estates and the representatives of the staff. In the said meeting various items were discussed and one of the items with which the applicant is presently concerned, was posting/transfer and appointments of the staff members. After discussion it was decided that by the Chairman that the ladies would not be allowed to stay at the same station on posting in case they forego the promotion 3rd time. She would be transferred on the same post to some other station provided she foregoes promotions for 3rd time. The said benefit was made applicable to the male employees of the staff also.

(iv) That in pursuance of the decision taken by the Chairman i.e Director General of Defence Estates, a circular was issued on 19th February,1988 by which the proceedings of the said meeting were circulated to all the offices of the department. A true copy of the circular dated 19th February,1988 along with the minutes of the meeting so far as they are relevant for the purposes of the present claim petition, are being annexed herewith as Annexure no.1 to this Claim petition.

(v) That in view of the above facts it is abundantly clear that in case of promotion of the applicant he could not be compelled to join at the transferred place of posting if he opted to forego his promotion. The applicant was promoted on the post of Office Supdt.vide order dated 19th February,1988 which was received by him on 27th February,1988 at Lucknow. A true copy of the promotion order dated 19th February,1988 is being annexed

J. L. L. L. L.

(P.W.D.)

herewith as Annexure no.2 to this claim petition.

(vi) That a perusal of the promotion order would reveal that the applicant was given an option to refuse the transfer and communication of such refusal was to reach the office of the Director General within 30 days from the date of issue of the letter. It was also mentioned in the said promotion order that in case of refusal of promotion, the consequences as provided in the notification of Ministry of Home Affairs dated 1st October, 1981 would follow.

(vii) That it may be stated here that in the notification of 1st October, 1981 only this much is provided that in case an employee refuses to accept promotions on the higher post, he would not be considered for promotion again in the promotional vacancies within a period of one year.

(viii) That immediately after the receipt of the promotion order dated 19th February, 1988, the applicant submitted his inability to accept the said promotion and he informed in writing that he foregoes the said promotion. A true copy of the letter of the applicant dated 28th February, 1988 foregoing his promotion on the post of Office Superintendent Grade II, is being annexed herewith as Annexure no.3 to this Claim petition.

(ix) That it may be stated here that the applicant had sent advance copy of the said letter refusing the promotion to the Director General Defence Estates, New Delhi on 28th February, 1988 itself.

(x) That the applicant had mentioned in his representation and the application for going promotion, the bank details of his family circumstances because of which he was unable to accept the promotion and shift from

(b) 2

Lucknow. The applicant would be relying on the points mentioned in the said representation for the purposes of the present Claim petition.

(xi) That the Director Defence Estates, Lucknow vide his letter dated 29th February, 1988 forwarded the application of the petitioner foregoing the promotion to the Director General of Defence Estates. The Director Defence Estates, Lucknow under whom the applicant is working, recommended that the applicant may be retained at Lucknow against the existing vacancy of Office Supdt. The Director Defence Estates, Lucknow had recommended that the applicant should not be transferred out of Lucknow considering the health of his wife who is a heart patient with high blood pressure and also keeping in mind that the applicant has only three years to go before the retirement. A true copy of the letter dated 29th February, 1988 of the Director Defence Estates is being annexed herewith as Annexure no.4 to this claim petition.

(xii) That from the above facts it is abundantly clear that unless the official promoted gives his option to accept the promotional post or one month lapses from the date of issue of the promotion order, no posting order could be issued on the post from which the official is being promoted. The promotion order was issued on 19th February, 1988 promoting the petitioner to the post of office Supdt. and the petitioner had declined to accept the said promotion on 27th February, 1988 and the opposite parties could not make any posting on the post of Technical Assistant at Lucknow on which post the petitioner is working.

(xiii) That it may be stated here that vide order dated 19th February, 1988 by which the applicant

J. L. H.

AO
B

was promoted to the post of office Supdt., Grade II, one Sri I.N.Saxena was transferred from the office of the Director General Defence Estates, New Delhi to Director Defence Estates, Central Command, Lucknow against the post to be created by the promotion of the petitioner.

(xiv) That it may further be stated here that the posting or relieving order of Sri Saxena cannot be issued unless as stated above one month's lapse from the date of issue of the promotion order or unless the applicant accepted the promotion order. The Opposite parties in most arbitrary manner relieved Sri I.N.Saxena from his place of posting at New Delhi on 29th February, 1988 and Sri Saxena submitted his joining report on 1st March, 1988 in the office of the Director of Defence Estates, Lucknow. The applicant is on leave since the afternoon of 1st March, 1988.

(xv) That it may be stated here that Sri I.N. Saxena was working on the post of Upper Division Clerk at Lucknow and in August, 1986 he was promoted to the post of Technical Assistant and was transferred to Delhi. Sri Saxena was continuously trying for his transfer to Lucknow since the date he joined at New Delhi.

(xvi) That the action of the Opposite parties clearly show that the relieving order of Sri Saxena which has been issued in absolute defiance of the rules, is arbitrary and malafide.

(xvii) That it may be stated here that the post of Office Superintendent, Grade II is still lying at Lucknow and the Director Defence Estates, Lucknow had already recommended to the Director General for getting the applicant accommodated against the said post at Lucknow.

(xviii) That as even one month had not lapsed

1/2/88

(P)
a

from the issue of the promotion order and Sri Saxena was relieved from Delhi for joining at Lucknow which action is absolutely against the provision of the rules and against the decision taken by the Chairman of the Joint Consultative Machinery on 5th February, 1988 as circulated vide letter dated 19th February, 1988.

(xix) That the applicant approached the Director General-Opposite party no.2 personally and the applicant was assured by the Opposite parties that due to some mistake the relieving order of Sri Saxena was issued and the applicant would be accommodated at Lucknow itself.

(xx) That though the applicant cannot be compelled to join at his transferred place from his present place of posting but the Opposite parties are compelling him to join at Secunderabad and he is not being allowed to attend his duties at Lucknow where he is entitled to function on the post of Technical Assistant.

(xxi) That it may be stated here that the transfer of the applicant from Lucknow to Secunderabad is absolutely illegal and cannot be enforced and posting of Sri Saxena -respondent no.4 at Lucknow is also illegal and arbitrary.

(xxii) That vide order dated 15th March, 1988 the representation of the petitioner has been rejected and request of the applicant for declining the promotion has been refused and the Director Defence Estates, Lucknow has been directed to relieve the applicant from his duties. A true copy of the order dated 15th March, 1988 is being annexed herewith as Annexure no.5 to this Claim petition.

(xxiii) That the order dated 15th March, 1988 is violative of the Circular dated 19th February, 1988 contained in Annexure no.1 and is also violative of the terms of the promotion order itself contained in Annexure no.2.

J. Shukla

AM
10

7. Details of the remedies exhausted:

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

The petitioner represented to the Director ~~General~~ General, Defence Estates vide letter dated 27th February, 1988 contained in Annexure no.3 which has been rejected vide order dated 15th March, 1988 contained in Annexure no.5.

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

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court of law or any other authority or any other Bench of the Tribunal and nor any such application, writ petition or suit is pending before any of them.

9. Relief(s) sought

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

(a) To issue a suitable order or direction quashing the order dated 15th March, 1988 which is in violation of the circular dated 19th Feb, 88 contained in Annexure no.1 to this Claim petition.

(b) To issue suitable order to the respondents to accept the option of the applicant to forego his promotion for which he is entitled to under the circular dated 19th Feb, 1988 contained in Annexure no.1 and also as provided in the promotion order itself contained in Annexure No.2.

(c) To direct the opposite parties not to disturb in the function of the applicant as Technical Assistant at Lucknow and allow him to function as such in the office of the Director Defence.

J. Shinde

AM
11

Estates, Ministry of Defence, Central Command, Lucknow

10. Interim order, if any prayed for :

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

This Hon'ble Tribunal may kindly be pleased to issue suitable order staying the operation of the order dated 15th March, 1988 and allow him to function as Technical Assistant in the Office of Director Defence Estates, Ministry of Defence, Central Command, Lucknow.

11. The applicant ^{is} being presented in person through his advocate.

12. Particulars of the Bank Draft/Postal order in respect of the Application fee:

1. No. of Indian Postal order	DD 829921 4
2. Name of the issuing Post office	High Court Bench, Lucknow.
3. Date of Issue of Postal Order.	21st March, 1988
4. Post office at which payable.	ALLAHABAD

*Removed
Ans
27/3*

13. List of Enclosures:

1. True copy of circular dated 19.2.1988
2. True copy of promotion order dated 19.2.1988
3. True copy of letter of the applicant dated 27th February, 1988.
4. True copy of the letter dated 29th Feb, 1988
5. True copy of the order dated 15th March, 1988
6. Application for stay
7. Vakalatnama.

VERIFICATION

I, S.P. Dwivedi, son of Sri A.P. Dwivedi aged about 55 years, working as Technical Assistant in

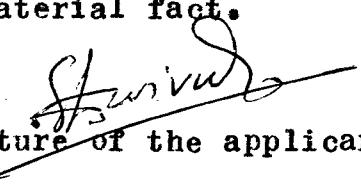
S. P. Dwivedi

AM
12

-11-

the office of Director Defence Estates, Ministry of Defence
, Central Command, Lucknow Cantt. resident of House No. L-1/
44, Aliganj Extension, Lucknow do hereby verify that the
contents of paras 1 to 13 are true to my personal knowledge
and para x to x are believed to be true on legal advice
and that I have not suppressed any material fact.

Date : 22nd March, 1988


Signature of the applicant.

Place: Lucknow.

AC
13

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL
BENCH AT ALLAHABAD
SITTING AT LUCKNOW³

Claim petition No. of 1988

S.P.DwivediApplicant

Versus

Union of India and others. ...Opp. parties.

Annexure no.1

No.119/2/ADM/DE/88/JCM-III

Government of India
Ministry of Defence
Dte Gen. Defence Estates
West Block-4 Wing No.3& 7
R.K.Puram, New Delhi-110066

the 19th February, 1988

MEMORANDUM

Subject:- Minutes of the Third Level Council (JCM) meeting

Reference this Dte-General Memorandum No.119/2/ADM/DE/88/JCM-III, dated 12 January, 1988.

2. Minutes of the Meeting held on 5th February, 1988 in the office of the Dte General Defence Estates, New Delhi is forwarded herewith.

Sd/-V.K.Budhraja,
Secretary,
Third Level Council (JCM)

To,

Shri K.M.Sebastian, DG DE: Chairman

Shri K.Cubramanian, Addl.DG: Member

Shri Nsvin Soin, AFA(Q) : Member

Shri B.K.Kaul, C/o Dte.DE, NC, Jammu, Member

Shri D.K.Gosh, Q.No.1631, Lodhi Road, N.Delhi Member

Shri Piara Singh, C/o Cantonment Board, Ferozepore Cantonment: Member.

Shri RajKumar, C/o DEO, Delhi Cantonment: Member

Shri S.S.Matyal, C/o Dte.DE, Central Command, Lucknow Member

Shri R.Goshwami, C/o Jt.Directorate, DE, Shillong, Member.

All Directors DEAll CDAs JD, DE, Shillong
DEO Delhi/Jallandhar.

Sudhir N. De

(P)
(T)

MINUTES OF THE THIRD LEVEL MEETING (JCM)HELD ON 5th
FEBRUARY, 1988 IN THE ROOM OF DIRECTOR GENERAL
DEFENCE ESTATES NEW DELHI.

<u>Official M Side Members</u>	<u>Staff Side Members</u>
1. Shri K.M.Sebastian Director General Defence Estates:Chairman	1. Shri H.K.Kaul, C/o Dte.Defence Estates Northern Command <u>JAMMU-i80003</u>
2. Shri K.Subramanian Additional Director General Defence Estates:Member	2. Shri D.K.Gosh Q.No.1631,Lodhi Road <u>New Delhi.</u>
3. Shri Navin Soh AFA(Q) :Member	3. Shri Piara Singh, C/o Cantonment Board Farozepore Cantonment
	4. Shri Raj Kumar C/o Defence Estates Office,Delhi Cantonment
	5. Shri S.S.Katyal C/o Dte Defence Estates Central Command Lucknow-226002
	6. Shri R.Goswami C/o Jt.Directorate Defence Estates Dilara,Laithumkhah, <u>Shillong.</u>

Before discussing the Agenda points, the staff side raised the following points with the permission of the Chairman:-

1. Three vacant posts of Assistant Defence Estates Officer may be filled up as the staff is facing certain administrative problems.
2. Shri Borghain,Sub-Divisional Officer,Grade-II of ADEO,Tenga has completed his tenure there, he should be posted out to Jorhat.
3. Vacant posts of Daftries may be filled up.

The Chairman assured the staff side that the above cases would be examined and necessary action would be taken.

Item No.I: Confirmation of the Minutes of the last meeting.

Considered and confirmed.

Sudhakar

(a) Shri B.Krishnamurthy,Sub-Divisional Officer, Grade-I has been transferred from Joint Directorate,Shillong to Defence Estates Office Bangalore. DGDE letter No.102/194/ADM/DE,dated 8.10.1987.

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(b) The Assistant Defence Estates Officer, Dehradun has regularised the period of un-authorised absence from duty of Shri Nanwa Singh, Forester vide D.O. Part II No.156 dated 13.11.1987

(c) Smt. Parmod Bala Keot, W/o Late Shri G.K. Keot, Chairman of Defence Estates, Office, R Tejpur had been offered appointment on compassionate basis. The necessary orders were issued vide Dte. General letter No.105/14/1/ADM/DE, dated 26.11.1987.

Item No.2: Progress report on Decision taken at the last meeting.

The progress regarding follow up action was brought to the knowledge of all concerned by the Chairman. The progress except on decided/settled points was reported to be as under:-

Progress on other points which were not included in the Agenda

(a) The official side intimated the staff side that the case of grant of Special Pay to Directorate General, Defence Estates Staff on their posting to Service Head Quarters on the analogy of Controller General of Defence Accounts should not be examined due to non-receipt of information from CGDA. The staff side agreed to forward the copy of orders under which the CGDA staff was granted Special Pay on their posting to the Head Quarters. On receipt of the same from Staff side the matter would be examined.

(b) The case of Shri Ram Dulary, safaiwala at Lucknow for conversion as Peon was under consideration.

2.1

Examination Policy

The Chairman intimated the staff side that the recruitment Rules for the post of Cantonment Executive Officer Group 'B' had been published. The staff side stated that the earlier Rules for the post were much better than the new rules. They pointed out that no junior translator with twenty years service is available as the posts were created five years back. Therefore, it is an eye wash. As regards Office Supdt. Grade-I they had stated that the Office Supdt. Grade I is a promotion post from initial recruitment of Lower Division Clerk. Therefore it is only at the age of 52-53 years that one gets the post of Office Supdt. Grade-I. At the old age ~~the~~ one cannot appear for the examination. Stenographers Grade I would be eligible for appearing in the Departmental Examination only after their regularisation in the Grade. At present no recruitment rules exists for Stenographers Grade I, as such, the regularisation would take time. The staff side demanded that the UPSC should be informed of the peculiar circumstances in the Defence Estates Organisation and the norms adopted in the earlier rules should be

*S. K. S.
Sudhir Park*

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revived.

Decision

The Chairman after taking into consideration all the points raised by Staff side on the issue decided to make out a case to the UPSC for amendment of the Recruitment Rules.

2.2. Filling up of vacant posts.

The official side intimated the staff side that most of the vacant posts had been filled up. Remaining vacant posts would be filled up as early as possible. As regards filling up of posts of Stenographers Grade-I and Grade II, the official side intimated that a Draft Nominal Roll had been published for inviting objections and suggestion/objections, the final nominal roll would be published and the ~~final~~ promotions would be made according to it. The Chairman assured the Staff side that when the seniority of Stenographers Grade-III and Steno-typist is fixed the seniority from the confirmation ~~is~~ would be taken into account under instructions issued by the Government from time to time.

2.3. Fellow upaction on construction of accommodation for Defence Estates employees.

The Official side informed the staff side that Ministry of Defence had asked for the total expenditure of last 10 years of Defence Estates Organisation in order to examine the proposal. The requisite information was yet to be received from lower offices. The Chairman decided that all the Command Directors will be addressed officially for expediting the information.

2.4. Anomaly in payscale of Technical Assistant and office Supdt. Grade II

The official side intimated the staff side that neither grant of one increment on promotion from Technical to office Supdt. Grade-II nor revision of pay scale had been accepted by the Government. The staff side had intimated that a proposal in this regard was submitted by the General Secretary of the Association which was not processed to the Ministry of Defence. The Chairman assured to look into the matter. The proposal did not appear to have been received in Directorate General Defence Estates. However, it was decided that a copy of the same would be obtained from the General Secretary in order to process the case further. Ministry of Defence had given a noting of Department of Expenditure in similar case of Workshop staff which is reproduced below:-

"It may be pointed out that with the implementation of the revised pay scales, these three grades have become identical. Therefore, now the question of promotion from one post to another

S. Sudhir P. B.
Sudhir P. B.

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does not arise. In the changed circumstances now, these posts may be considered together for promotion to the higher grades. In other words though these posts will continue to be entrusted with different nature of work, they may be put on a combined seniority list, as they are now borne on the same scale of pay".

In view of the above ruling the staff side stated that if this principle was applied to Defence ~~SM~~ Estates Organisation, the ratio of office Supdt., Grade-I and Office Supdt. Grade II would increase. As a result we would get five posts of office Supdt. Grade I extra. The staff side demanded that a Government order for combined seniority of Technical Assistant and Office ~~SM~~ Supdt. Grade II should be issued.

Decision

The proposal of General Secretary AIDL&CSSA would be examined first. In case the Ministry of Defence does not agree the proposal for obtaining orders for combined seniority of Technical Assistant and office Supdt. Grade II would be processed.

2.5 Nominal Rolls

The staff side stated that confirmation carries seniority as such the Nominal Rolls of Technical Staff should be corrected. The official side assured that the Nominal Rolls of Technical staff should be corrected. The official side assured that the Nominal rolls of Technical staff would be published in the next two weeks.

2.6. Change in Recruitment Rules of Sub-Divisional Officer Grade-I fixing ratio Dr.:D.P.

The official side informed the staff side that the recruitment Rules of Military Engineering Service were not submitted by them, as such, proposal was not examined. They have stated that the recruitment Rules of MEB can be obtained from the file of revision of pay scales of Sub-Divisional office Grade-I. It was decided that the matter would be examined.

2.7. Sanction of conveyance advance by the Head of the Department.

The official side intimated the staff side that certain information had been asked for from lower officer in order to process the matter further. On receipt of

*S. J. Srinivas
Sudhir Patel*

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the same, the matter would be examined.

2.8. Regularisation of Assistant Defence Estates officer

It was intimated by the official Side that the Recruitment Rules of Assistant Defence Estates officer were with the Ministry of Environment & Forests Defence for consideration. The staff side stated that the quota of DR:EP is in the ratio of 50:50. It would be in the interest of the serving officers if the 50% of DR quota is to be filled amongst the Serving Sub-Divisional officer Grade-I by passing a departmental competitive Examination. The Chairman stated that the matter was discussed with UPSC several times but they did not agree. The staff side stressed that the above provision can be incorporated in the Rules, if UPSC agrees. This proposal as the rules are yet to be published.

Decision

The official side agreed to take up the matter with the UPSC again.

Item No.3: Amendment to Recruitment Rules of Sub-Divisional officer Grade-I

The matter was discussed under point 2.6 above, therefore, it was decided to exclude the point.

Item No.4 Posting/Transfer policy

The staff side demanded that the posting/transfer policy of Group 'C' and 'D' staff of Defence Estates Organisation should be published afresh taking into consideration the following points:-

- (a) Transfer are made on the seniority in the station determined on all India basis;
- (b) Ladies are also be transferred. The exception can be provided for unmarried ones or widows.
- (c) Group 'D' employees are completely excepted from posting/transfer.

The Chairman stated that frequent transfers are not made. The transfers are made only in case of promotions or necessary administrative arrangements or adjusting the employees who have completed hard station tenure or on compassionate grounds. The Group 'D' employees are transferred only in exceptional cases and that too on their own requests.

The staff side stated that ladies are not transferred

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even ontheir promotion and the Department has been trying to adjust them at the same station. Secondly some officials had been staying at one station for the last 10 to 15 years whereas others had been frequently transferred .This practice should be discontinued. The Chairman intimated the staff side that the ladies do not accept the promotion, if the promotion carries posting to some other station. Some male employees also refuse promotions if it involve transfer.

Decision

After discussion, the Chairman decided that the ladies would not be allowed to stay at the same station of posting in case they forego the promotion third time. She should be transferred in the same post to some other station provided she foregoes promotion for third time. It would be applicable to male employees also.

An all India roster for posting transfer would be maintained. The staff side would prepare the same for office Supdt.Grade I and II, Technical Assistant,Upper Division Clerks, Sub-Divisional Officer Grade-I and II and forward to directorate General,Defence Estates.A roster of hard station posting would be maintained. No employee would be posted to hard station second time. Everybody would go on hard station posting once during his service.

Item no.5 Overtime Allowance to Chowkidars.

The Staff side stated that the Controller of Defence Accounts was not admitting the claim of over-time allowance in respect of chowkidars inspite of the orders issued by DGDE .The Chairman intimated that the Ministry of Defence had clarified that the OTA of Defence Estates Chowkiars would be claimed as per DP&T OMNo.1501203/86-Estt.(Allowance) dated 13.11.1986 After the recommendations of 4thpay Commission.The same letter had been forwarded to all the field offices vide DGDE letter No. 129/16/ADM/L&C dated 28th January 1988.

Decision

Settled.

Item No.6 Upgradation of Stenographers(Gazetted)

S. Sudhir P. K. M.D.
The Staff Side stated that Stenographers Grade-I had been placed in the grade of Rs.2000-3200 and had been declared Gazetted in Defence Accounts Department.They demanded that the Stenographers of Directorate General

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Defence Estates should also be declared Gazetted. The official side intimated that the Recruitment Rules were under consideration with the Ministry of Defence. On return of our file, the matter would be examined.

The staff side raised the following points with the permission of the Chair:-

(a) While regular promotions were being made of cantonment Executive office Group 'B' the quota prescribed for Cantonment Board and Defence Estates staff was not maintained. Consequent on, the Defence Estates staff had lost 3 posts in regular promotion due to not following the quota. The Director General assured them that when further promotions were made these three posts would be filled up from amongst Defence Estates staff.

(b) The orders issued for ~~rotation~~ rotation of duties in lower offices were not being followed strictly by the field offices. The Chairman had pointed out in the some cases there were practical difficulties.

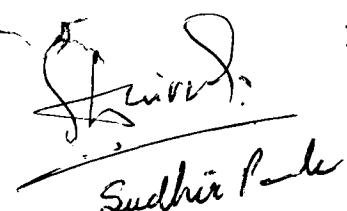
It was decided that instructions would be issued for compliance of these orders to the extent feasible.

It was decided that the next JCM meeting would be held on 20th May, 1988 at 1100 hours in the Directorate General, Defence Estates, New Delhi.

The meeting was closed with a vote of thanks to the Chair.

Dated: 19th February, 1988

(V.K.BUDHRAJA)
Secretary,
JCM Third Level.


Sudhir Park

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL
BENCH AT ALLAHABAD
SITTING AT LUCKNOW.

Claim Petition No.

of 1988

S.P.Dwivedi

...Applicant

Versus

Union of India and others

...Opp. parties

Annexure no.2

No.102/195/ADM/DE
Government of India
Ministry of Defence
Dte. General Defence Estates
New Delhi-110066

To,

19 Feb, 1988

The Director,
Defence Estates
Ministry of Defence
Central/Easter/Western/Northern/Southern Command/
NIMA, LUCKNOW/CALCUTTA/PANCHKULA/JAMMU/PUNE/MEERUT

Subject- PROMOTION POSTING /TRANSFER OF GROUP 'C'
(CLERICAL)STAFF OF DEFENCE ESTATES ORGANISATION

Reforence panel for promotion to office Supdt. Grade
II, Technical Assistant and UDC, issued vide our letter
No.102/43/ADM/DE, dated 17th and 19th August, 1987.

2. Consequent on declining of promotion by Shri J.P.

Mehta T.A, Miss.A.Fernoss, UDC and Shri K.M.Parmashwaran,
UDC, the following office Supdt. Grade II, Technical
Assistant, Upper Division Clerk and Lower Division clerk
are promoted as officiating office Supdt. Grade I, Office
Superintendent II, Technical Assistant and Upper Division
Clerk respectively with immediate effect:-

From Office Supdt. Grade II to office Supdt. Grade I

1. Shri B.K.Gupta- promforma promotion(holding
Group 'B' post).

2. " P.R.Yadav

From Technical Assistant to office Supdt. Grade II

1. Shri S.P.Dwivedi

From Upper Division Clerk to Technical Assistant

1. Shri D.C.Chakraborty.

From Lower Division Clerk to Upper Division Clerk

1. Shrimati Bharati G.Menon.

2. Shri Narendor Singh

3. Smt. Alka Surosh Jayant

4. Shri Sher Jang.

S.P.Dwivedi
Sudhir Patel

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5. Shri Ram Samajh

6. Shri Brahma Nand

3. Any of the above officials not willing to accept the promotion may be informed that he/she has to bear the consequence of such refusal as stated in Government of India, Ministry of Home Affairs (PP&A) OM No.22034/3/81/Estt(B), dated of Oct.1981. The intimation of such refusal if any must reach this Dte.Gencl within thirty days from the date of issue of this letter.

4. Consequent to the above promotion, it has been decided to make the following posting/transferred with immediate effect with the modification of this office letter of even Number dated 13 Oct,1987 in respect of Km.N.Basumatari,OS I, Shri PA Wankhade,OS II and Sri R.S.Sharma,T.A.

Office Supdt.Grade I

SI.	Name of the officer	From	to
1.	Km.N.Basumatari	DEO Tezpur	DEO Tezpur
2.	Shri P.R.Yadav	Dte.D.E.CC Lucknow	DEC Bareilly Existing Vacancy

Office Supdt.Grade II

1.	Shri PA Wankhade	DG DE	Dte DE SC Pune against existing vacancy.
2.	Shri S.P.Dwivedi	Dte DE CC Lucknow.	DEO Secunderabad against existing vacancy.
3.	Shri R.S.Rawat	Dte.D.E.CC Srinagar	Dte.DE CC Lucknow vide Sh.P.R. Yadav promoted.

Technical Assistant

1.	Shri I.N.Saxena	DG DE	Dte.D.E.CC Lucknow Vice Sh.S.P.Dwivedi promoted.
2.	Shri R.S.Sharma	DEO Meerut	DG DE vide Shri I.N.Saxena transferred.
3.	Shri D.C.Chakraborty	DEO Calcutta	Dte.DE EC Calcutta against existing vacancy

Sudhir Pande

(Signature)

5. The above mentioned officials may please be relieved of their duties immediately with directions to report to the office of their posting as per para 4 above.

6. The posting of S/Shri M.K.Chmraborty, UDC, ~~BxEx~~ D.K.Lamba, UDC Sunder Shyam, LDC have been ordered on their own request and they will not be entitled to TA/DA on their transfer.

7. The dates (F.N/A,N.) of relinquishment/assumption are to be reported to this Dte.General after the events.

8. The Directorate, Defence Estates are hereby authorised to fill the following temporary vacant posts of LDCs in the offices indicated against each vacancy by suitable candidates through permissible channels:-

Sl.No.	Communal composition	Office where to be filled.
--------	----------------------	----------------------------

1.	1. General candidate	DEO Ambala
2.	1. Reserved for Ex-Serviceman	DEO Manibaug Bombay
3.	1. Reserved for physically handicapped candidate	ADEO Chandigarh
4.	1 General candidate	DEO Bareilly
5.	1 Reserved for SC candidate	DEO Jabalpur
6.	1 General candidate	DEO Ambala
7.	1 General candidate	DEO Jabalpur.

9. The particulars of the candidates recruited against the above said vacancies may please be forwarded to this Dte.General.

Sd/-illegible
Director General,
Defence Estates.

Copy to:-

All DEOS All ADEOs JD ,DE ,Shillong.
CDA HQrs, Sena Bhavan, New Delhi.

CDA CC/EC/WC/NC/SC

General Secretary
AIBESS ASSOCATION C/o Northern
Command Jammu
CA A-2 (Admin & Pay)

Internal - DADG Coord
Personal file of all concerned.

Sh. Anand
Sudhir Parke

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Upper Division Clerk

1. Shri M.K.Chakraborty	DEO Bubneshwar	DEO Calcutta vice Sh.D.C.Chakraborty promoted
2. Shri G.C.Pal	JD Shillong	DEO Bhubneshwar vice Sh.M.K.Chakraborty transferred
3. Shri Ram Samajh	DEO Bareilly	DEO Meerut vide Shri R.S.Sharma promoted.
4. Smt.Bharti G, Menon	DEO Bombay	Dte DE SC Pune against existing vacancy.
5. Shri D.B.Nalkande	-do-	DEO Pune vide Sri C.B.More promoted.
6. Shri Harandra Singh	ADEO Chandigarh	ADEO Dehradun vide Sri D.K. Lambat transferred.
7. Shri D.K.Lamba	ADEO Dehradun	Dte DE CC Lucknow vide Sh N.K. Dandona transferred.
8. Shri N.K.Dandona	Dte DE CC Lucknow	ADEO Mhow vice Shri J.N.Ohahar transferred.
9. Smt.Alma Suresh Jayant	Dte DE Sc. Pune	DEO Bombay vide Shri D.B.Malkande transferred.
10. Shri Sher Jang	DEO Ambala	DEO Srinagar against existing vacancy.
11. Shri Jarnail Singh	-do-	DEO Jallandhar against existing vacancy.
12. Shri J.S.Chahar	ADEO Mhow	DEO Agra against existing vacancy
13. Shri Brahma Nand	Dte DE CC Lucknow	DEO Ambala vice Shri Jarnail Singh, transferred

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Lower Division Clerk

1. Shri Sunder Shyam	DEO AMBALA	DEO Delhi against existing vacancy
2. Shri Ram Kirpal	DEO Jabalpur	DTEDECC Lucknow vice Shri Brahma Nand promoted.

Sudhir Pande

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL
BENCH AT ALLAHABAD
SITTING AT LUCKNOW

Claim Petition No.

of 1988

S.P.Dwivedi

....Applicant

Versus

Union of India and others.

...Opp. parties.

Annexure no.3

To,

The Director General
Defence Estates, Ministry of Defence
R.K.Puram, New Delhi.

through Proper Channel

Subject:- Promotions, posting and transfers of Group
'C' staff- S.P.Dwivedi Tech Assistant.

Sir,

Reference Dte.General De.Letter No.102/195/SM ADM/DE dated 10.2.1988.

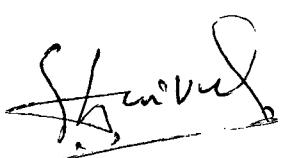
2. Sir, I am very grateful to you for promoting me as O.S.II after completion of 30 years of service but at the same time shocked to note for my posting to such a far off place. In this connection I may please be permitted to state that I am due for retirement just after 3 years in 1991 and therefore I am not willing to accept the promotion on posting due to the family problems and thus I intend to forego promotion on transfe

I hope your goodself will give due consideration towards my humble request, keeping in view the following family circumstances:-

- (a) that I am due for retirement in 1991
- (b) that the promotion of O.S.II is simply the change of designation, having no financial benefit to the promotee, as pay scale of O.S.II and T.A. are one and the same.
- (c) My eldest daughter is of marriageable age and at present I am in the process of to settle her marriage.
- (d) I have 2 sons and 2 daughters as under:-
 - i) Eldest son-In Civil Eng.-Diploma course.
 - ii) Daughter-B.A.Part II
 - iii) Son - B,S.c.Part I.
 - iv) Daughter- X- High school.

I leave the present station, it would not be possible for me to meet out the expenses of 2 places, in the handdays.

- e) My wife is heart patient and having high blood pressure. She requires frequent medical check up and treatment on short notice. In case I move


Sudhir Pande



from here, it would be quite impossible for me to work peacefully at such a far off place, leaving my wife at the mercy of others, in her old age.

f) My daughter (w/o late Sri Ambika Pd. Retd. CEO was looking after the ancestral land in the village. She, too, expired last year, leaving family burdens on my shoulders. In case I am out, Bataidars snatch my land in my absence and put up in trouble at the last moment.

3. In view of the foregoing family problems I am helpless to accept the promotion on transfer and this decision I have taken after noting down the contents of Govt. of India, Min. of Home Affairs O.M. dated 1.10.1981.

It is therefore requested that to kindly take a sympathetic and adjustable view towards my humble request with your helping hands.

Yours faithfully,
Sd/- S.P. Dwivedi,
T.A.

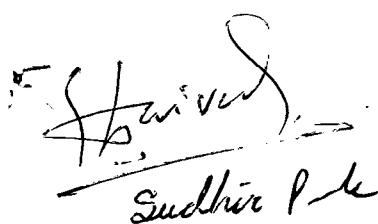
Directorate Defence Estates, Central
Command, Lucknow.

Dated: 28.2.1988

Copy forwarded in advance:-

The Director General,
Defence Estates, Ministry of Defence,
R.K. Puram, New Delhi.

Ref. above for sympathetic consideration and
favourable orders.


Sudhir Patel

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL
BENCH AT ALLAHABAD
SITTING AT LUCKNOW.

Claim Petition No.

of 1988

S.P.Dwivedi

.... Applicant

Versus

Union of India and others.

...Opp. parties.

Annexure No.4

No. 82799/mf LCE
Dte of Def.Estates
Min of Def.Central Command
Lucknow 29th Feb,1988

To, #

The Director General
Defence Estates
Ministry of Defence
R.K.Puram New Delhi-66

Subject:- Promotion ,posting and transfer of Group
'C' Staff- S.P.Dwivedi, Tech.Assistant.

Sir,

Reference your Dte.General Letter No.102/195/DM/D
De, dated 19.2.1988.

2. I am forwarding herewith a representation of Shri
S.P.Dwivedi ,T.A.who has been promoted and posted as
Office Supdt. in the office of the Defence Estates Offic-
cer Secunderabad. I have discussed this matter with Sri
Dwivedi. He has genuine domestic problems and his
absence from the station is likely to aggravate the health
of his wife, who is a heart patient with high blood
pressure. Sri Dwivedi has 3 years more to go and at this
stage his transfer from Lucknow will cause considerable
hardship to him and upset his plans for post retirement
settlement.

3. Km.Basumatari was transferred from Tezpur and posted
to this Dte as O.S, She has not reported here and
probably she has been adjusted at Tezpur. I would
therefore recommend that Sri Dwivedi may be retained
against this vacancy at this Dte.

Yours faithfully,
Sd/- Illegible,
Director,
Defence Estates.

S.P.Dwivedi
Sudhir P. De

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
ALLAHABAD BENCH,
SITTING AT LUCKNOW.

Claim petition No. of 1988

S.P.Dwivedi ... Applicant
Versus
Union of India and others. ... Opp. parties.

Annexure no.5

No.42/4(350)/ADM/DE

Government of India,
Ministry of Defence
Dte.Gen.Defence Estates
R.K.Puram New Delhi-66

15th March, 1988

To,
The Director
Defence Estates
Ministry of Defence
Central Command,
Lucknow.

Subject:- Promotion and posting/transfer of GP'C' & 'D'
officials : Shri S.P.Dwivedi T.A.

Reference to your letter no.82799/LCE, dated 29th
February, 1988.

2. The request of Shri S.P.Dwivedi, Technical Assistant
Dte.D.E.Central Command, Lucknow, for declining the
promotion to the rank of Office Superintendent Grade-II
on transfer to Secunderabad, on family grounds has
been considered and cannot be acceded to.

3. He may be relieved of his duties immediately and
directed to report in the office of Defence Estates
Officer, Secunderabad.

Director approved.

Sd/-Illegible,
Director General
Defence Estates.

Copy to:

The Director,
Defence Estates, Ministry
of Defence, Southern Command,
PUNE.

S.P.Dwivedi
Sudhir Park

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28

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
SITTING AT LUCKNOW.

Misc. Application No.

of 1988

S.P.Dwivedi, aged about 55 years,
son of Sri A.P.Dwivedi, resident of
House No.L-1/44,Aliganj Extension,
Lucknow.

..Applicant

Versus

1. Union of India, through the Secretary,
Ministry of Defence, South Block,
New Delhi.

2. Director General,
Defence Estates, Ministry of Defence
West Block, 4,R.K.Puram, New Delhi-66

3. Director Defence Estates,
Ministry of Defence, Central Command,
Lucknow Cantt.

4. Sri I.N.Saxena, Technical Assistant,
Resident of House No.
Dugawan, Lucknow.

...Respondents.

The applicant most respectfully submits as under:

1. That the applicant is working as Technical Assistant in the office of the Director Defence Estates Opposite party no.3 at Lucknow. His promotion on the post of Office Superintendent, Grade II has been made and transferred him to join his duties at Secunderabad

2. That the applicant has represented against his posting and transfer and declined his promotion. The said request has been rejected by the Director General Defence Estates, New Delhi vide order dated 15th March, 1988.

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3. That the applicant is being compelled to join his duties at Secunderabad and as such the matter is very urgent and replacement of Section 21 on the Act may be waived and petition may be accepted as a special case.

P R A Y E R

WHEREFORE, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to waive the condition of Section 21 of the Act and the Claim petition may be accepted as a special case and may pass such other orders which are deemed just and proper in the circumstances of the case.

Lucknow:Dated:

March 22, 1988

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

I, S.P.Dwivedi, son of Sri A.P.Dwivedi, aged about 55 years, working as Technical Assistant in the office of Director Defence Estates, Central Command, Lucknow residing at L-i/44, Aliganj Extension, Lucknow do hereby verify that the contents of ~~thix~~ para 1 to 3 are true to my knowledge, and on legal advice and that I have not suppressed any material fact.

Lucknow:Dated:

March 22, 1988

Signature of the Applicant

Signature of the Advocate.

(A.Y.
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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL
BENCH AT ALLAHABAD
SITTING AT LUCKNOW.

Civil Misc. Application No. of 1988

S.P. Dwivedi, aged about 55 years, son
of Sri A.P. Dwivedi, resident of House
No. L-1/44, Aliganj Extension, Lucknow. ...Applicant

In re:

Claim petition No. of 1988

S.P. Dwivedi ...Petitioner/Appn.

Versus

1. Union of India through Secretary,
Ministry of Defence, South Block,
New Delhi.

2. Director General Defence Estates,
Ministry of Defence, West Block,
4, R.R.K. Puram, New Delhi-66.

3. Director Defence Estates, Ministry
of Defence, Central Command, Lucknow
Cantt..

4. Sri I.N. Saxena,
Technical Assistant,
Resident of House No.
Bugawan, Lucknow.Opp. parties

Application for Stay

The petitioner/applicant most respectfully submits
as under:-

1. That the petitioner has filed a reference

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petition challenging the order dated 15th March, 1988 contained in Annexure no.5 regarding his promotion/ transfer and posting which is absolutely against the rules prevailing in the Department.

2. That the petitioner has sanguine hope of success in the said Claim petition and in case the petitioner is compelled to join the transferred post, he would suffer grave and irreparable loss.

3. That the petitioner knows that one post of office Superintendent, Grade II is vacant in the office of Director of Defence Estates at Lucknow. The pay scale of Technical Assistant and Office Superintendent, Grade II is the same, and the petitioner can be accommodated against the said post as mentioned by the Director.

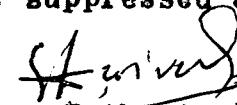
P R A Y E R

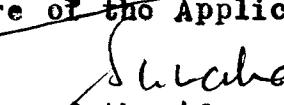
WHEREFORE, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to stay the order dated 15th March, 1988 contained in Annexure no.5 to the reference petition and Opposite parties may be directed to allow the petitioner to work as Technical Assistant in the office of Director Defence Estates, Central Command, Lucknow and may pass such other orders which are deemed just and proper in the circumstances of the case.

VERIFICATION

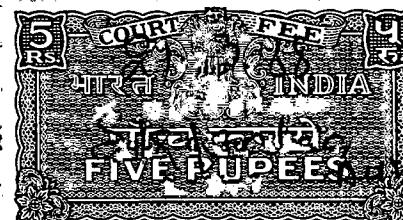
I, S.P. Dwivedi, son of Sri A.P. Dwivedi, aged about 55 years, working as Technical Assistant in the office of Director Defence Estates, Central Command, Lucknow do hereby verify that the contents of para 1 to 3 are true on legal advice and that I have not suppressed any material fact.

Place: Lucknow.
March 22, 1988


Signature of the Applicant


Signature of the Advocate.

Before the Central Administrative Tribunal Additional
 ब अदालत अधीकार
 (वादी) अपीलान्द
 (विवादी रेस्पोन्डेंट)
 अदालतनामा
 लहरिया अधीकार
 सेटिंग एवं रिकार्ड



S. P. Devi
 देवी

दानाम

प्रतिवादी (रेस्पोन्डेंट)

Union of India v. Sudhir Pande

मा. मुकद्दमा

सन्

प्रतिवादी दो ता. ०

१० रु.

अपर लिखे मुकद्दमा में अपनी ओर से श्री

Shri - S. K. Kalia Adv
 Sudhir Pande, Adv.

वकील

महोदय
 एडवोकेट

यो अपना वकील नियुक्त करके प्रतिज्ञा (इपरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील हारा जो कुछ पैरवी या जबाब देही या प्रश्नोत्तर करें या कोई फागज तालिम फरें या लौटावें या हमारी ओर से डिगरी द्यारी करावे और रुपया बसूल लरें या मुलहनामा या इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से याखिल करें और तसदीक फरें मुकद्दमा उठावें या कोई रुपया अमा फरें या हमारी चिपकी (फरीकसानी) का दाखिल छिपा हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या वंच नियुक्त करें—वकील महोदय हारा को यह बूलाया दायरवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार परता हूं कि मैं हर पेशी पर स्वयं या फिसी अपनी पैरोकार फो भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे लिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह प्राप्तालहनामा लिख दिया प्रमाण रहे और समय पर फाम आये।

हस्ताक्षर

Sudhir Pande

शासी (दावाह)

शासी (दावाह)

प्रिवेक्ष

प्रिवेक्ष

सन् १० रु.

एस० के० श्रीवास्तव

स्टाम्प बिक्रेता

पूर्वी गेट कलकट्टा कोट लखनऊ

AS
1

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

Claim Petition No. 5/88(L)

S. P. Dwivedi Applicant

Versus

Union of India & others Respondents

APPLICATION FOR DISMISSAL OF THE APPLICATION

SHRI S. P. DWIVEDI AS INFRACTUOUS

The respondent No.1 to 3 beg to submit as under :-

1. That for the facts, reasons and circumstances mentioned in the accompanying short counter affidavit it is expedient in the interest of justice and most respectfully prayed that the O.A. No.5/88/(L) be very kindly be dismissed as infructuous.



Lucknow

(V. K. CHAUDHARI)

Dated 25th May, 1988. Additional Central Government Standing Counsel, High Court, Lucknow Bench.

AS
2

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

O. A. NO. 5/88(L)

S. P. Dwivedi

.....

Applicant

Versus

1988
AFFIDAVIT
38/863
HIGH COURT
ALLAHABAD

Union of India & others

.....

Respondents

SHORT COUNTER AFFIDAVIT ON BEHALF OF

RESPONDANT NOS. 1 TO 3

I, Ned. Prakash aged about 41 yrs
son of Shri Birendra Singh working as Assistant
Director, Defence Estates, 17, Carrappa Road, Lucknow
Cantonment do hereby solemnly affirm and state as
under :-

1. That the deponent is posted as Asst. Director in the office of the Director, Defence Estates, 17, Carrappa Road, Lucknow Cantonment and he has been authorised to file this short counter affidavit.
2. That the deponent has read and understood the contents of the application moved by the applicant as well as the facts deposed to hereinunder in reply thereof.

verified

..... 2/-

DS

3. That there is no necessity to give parawise reply to the application at this moment.
4. That the application of the applicant is preferred by the applicant against the order No. 42/4/ (350)/ADM/DE dated 15.3.88 passed by Respondant No.2
5. That the Respondant No.2 vide his order No. 102/195/ADM/DE dated 8.4.1988 modified/cancelled the transfer and posting order with regard the applicant. A true copy of the said order dated 8.4.1988 is being enclosed ~~xx~~ herewith as Annexure 'A' to this short counter affidavit.
6. That the applicant was adjusted as Technical Assistant in the Office of the Director, Defence Estates, Central Command, Lucknow Cantonment against the existing post of Office Supdt. Grade II.
7. That in the circumstances disclosed in above paras the application of the applicant has become infructuous and is liable to be dismissed.

LUCKNOW
Dated 25th May, 1988

Medhan
DE PONANT

VERIFICATION

I, Ned Prakash son of late...
Sh: Budh Singh aged about 41 years, working as ~~Asstt. Director~~
~~Defence Estates~~ in the office of the Director, Defence Estates
Central Command, Lucknow Cantonment do hereby verify that
the contents of paras 1 to 8 are true to my personal knowledge
Lucknow 23 May, 1988. Ned Prakash DEponent

Answer A'

~~AS
G~~

No. 102/195/ADM/DE
Government of India
Ministry of Defence
(Dte Gen Def Estt es)
R.K. Puram, New Delhi.

To

the 8 April '88

The Director
Defence Estates
Ministry of Defence
Northern/Southern/Central/Western/Eastern/NIMA
Jammu/Kashmir/Lucknow/Port Blair/Calcutta/Meerut.

Sub: Promotion/posting of Group 'C' (Clerical) officials
of Defence Estates Organisation.

Reference this Dte Gen letter No. 102/195/ADM/DE
dated 19.2.88 and No. 42/4/(350)/ADM/DE dated 15.3.88.

2. On reconsideration of the case of promotion/
transfer/posting issued vide our letter dated 19.2.88
as quoted in para 1 above, it has been decided as
under :

(i) The transfer of Shri R.S. Rawat, GS-II from
the office of DEO Srinagar to Dte DE Central
Command, Lucknow is hereby cancelled and he
is allowed to be retained at Srinagar till
further orders.

(ii) The request of Shri S.P. Dwivedi, T.A. to
decline his promotion to the rank of GS-II
is acceded to and his posting on promotion to
Dte DEO Secunderabad is hereby cancelled and he is
retained as T.A. in the office of Dte DE,
Central Command, Lucknow against the existing
post of DEO till further orders.

Signature
Director General
Defence Estates

Copy to :

DEO Srinagar/Secunderabad.
C.D.A. Northern/Central Command.
C.G.D.A. New Delhi.
The Secretary, ADRDOCS Staff Association,
C/o, Northern Command, Jammu.

14.7.88

ved prasad
विदेशप
रक्षा संशदा, रक्षा मंत्रालय
गोपनीय राजा राम राजा

Defence Estates
Central Command, Lucknow

Ab
1

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

O.A.No. 5 of 1988 (LKO)

S.P.Dwivedi

....Petitioner

Versus

Union of India & others.

...Opp.parties.

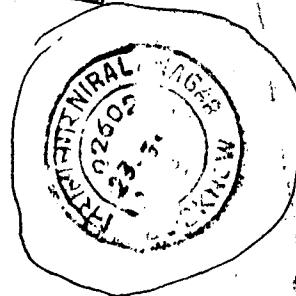
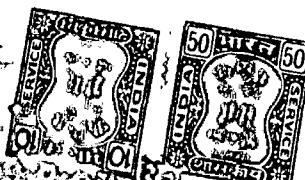
The petitioner/applicant submits as under:-

1. That the aforesaid claim petition was filed before the Central Administrative Tribunal at its circuit Bench at Lucknow on 22nd March, 1988. On the date of admission of the Claim petition this Hon'ble Tribunal was also pleased to pass an interim order to the effect that the transfer of the petitioner from Lucknow to Secunderabad is stayed provided he has not been relieved. A certified copy of the order was served in the office of the respondent no.3 on 24th March, 1988. The petitioner is on leave.

2. That the petitioner has been sent a letter by an ordinary post dated 1st March, 1988 intimating him that he has been relieved with effect from 1st March, 1988 in the afternoon. The Envelope in which the said letter has been sent, bears the seal of 23rd March, 1988. *Att'd.*

3. That it may be stated here that Director General vide his order dated 15th March, 1988 contained in Annexure no.5 to the Claim petition had rejected the request of the petitioner for not accepting the promotion and the same order it was directed that he may be

Ab
3



To O.I.C.S.

Shri S. P. Dwivedi, TA

L-1/44 Aliganj Extension

Mahanagar, Lucknow

घेपक:-

निदेशक,

रक्त सभादा, रक्त संवादथ

स्पेशल लखनऊ छावनी

Shrivardhan

(16/4)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

O.A.No. 5 of

1988 (L.E.O)

S.P.Dwivedi

....Applicant/petitioner

Versus

Union of India & others.

...Opp.parties.

The petitioner/applicant submits as under:-

1. That the aforesaid Claim petition was filed by the petitioner at Lucknow and he has engaged a lawyer Sri S.K.Kalia, Advocate who is practising at Lucknow.
2. That it is neither possible for the petitioner nor it is within his means to engage another counsel. He is also unable to afford the expenses of a lawyer from outside because the petitioner is also posted at Lucknow and it will be a great financial strain on him if he is to attend the hearing before this Hon'ble Tribunal at each occasion at Allahabad.
3. That it is expedient in the interest of justice that the hearing of the aforesaid case at Lucknow may be allowed whenever the Bench of the Tribunal sits at Lucknow.

WHEREFORE, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to allow the petitioner to attend the hearing the aforesaid case at Lucknow whenever the Bench of the Hon'ble Tribunal sits at Lucknow and may pass such other orders which are deemed just and proper in the circumstances of the case.

Allahabad Dated:
April 6, 1988

(S.P.DWIVEDI)

Applicant/petitioner.

I declare that I have one witness for this application
7th April 1988

P-8

Pt. II Office Order No. 75 Dte. 01 March '88.
Issued by Dte. Defence Estates, Central Command, Lucknow

In pursuance of order contained in the DG, DE, Min. of Defence, New Delhi letter No. 102/195/Adm/DE dated 19th Feb. '88, Sari S.P. Dwivedi, TA of this Dte. on his promotion and permanent transfer to the office of the DEO, Secunderabad is hereby relieved of his duties on 1.3.88(A.N) and struck off strength of this Dte. w.e.f. the same date with directions to report for duty to the DEO, Secunderabad after availing usual joining time and journey period.

2. In pursuance of the orders contained in the aforesaid letter, and having been relieved from the Office of the DG, DE New Delhi on 29.2.88(A.N) vide DG, DE letter No. 56/50/Coord/ DE dt. 29.2.88, Sari I.N. Saxena, TA has reported for duty in this Dte. on 1.3.88(F.N) and taken on strength of this Dte. w.e.f. the same date.

D. Purush

Director
Defence Estates,
Central Command.

Distributions:-

1. Part II Office Order book

2. The Director General, DE,
Govt. of India, Min. of Def.
R.K. Puram, New Delhi-110066.

3. The CDA, DE, Lucknow.

4. The CDA, Secunderabad, Pune.

5. The DEO, Secunderabad.

6. Personal file of the above officials.

7. Sari S.P. Dwivedi, TA - for compliance.
Pay and allowances of Sari S.P. Dwivedi, TA has been claimed upto 29 Feb. '88 at the following rates:-

Basic Pay : Rs 720/-

DA : 224/-

H.R.A. : 450/-

C.C.A. : 50/-

Total : Rs 2444/-

Deductions:-

G.P., F. Subscriptions: Rs. 500/-

CGEIs. Rs.

P.M. 20/CP.M.
520/-

Date of next increment : 1.3.88.

He is having 02 days C.L. and 2 days R.H.

~~Copy~~

~~Do not~~

To

The Director,
Defence Estates,
Central Command,
Lucknow Cantt.

SUBJECT: JOINING REPORT IN RESPECT OF SHRI I.N. SAXENA
TECH ASSTT.

Sir,

In pursuance of Dte. Genl. Defence Estates, New Delhi letter No. 102/195/ADM/DE dated 19.2.88 and Relieving order No. 56/50/Coord/DE dated 29.2.88 (enclosed) I beg to report myself for duty today the 1st March 1988 (F.N.). I have drawn my pay and allowances upto 29.2.88 from the CAO(MQV) New Delhi.

Thanking you.

Yours faithfully

Sd/xx

(Inder Narain Saxena)
TA

1 March '88.

(No 7)

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW CIRCUIT BENCH.

Copy of the Order dt. 22nd March,
1988 in O.A.No. 5 of 1988(LKO)
S.P.Dwivedi Vs. Union of India and
others, passed by C.A.T.Lucknow
Bench, consisting of Hon'ble S.Zahoor Hasan, V.C.
Hon'ble D.S.Misra, Member(A)
Max

(ORDER)

Admit.

The transfer of the petitioner from
Lucknow to Sicunderabad is stayed provided
he has not been relieved so far.

Issue notice to the respondents fixing 5th
April, 1988 for filing objection, if any at
Allahabad Bench in Bench no.2. A copy of this
order may be given to the applicant free of
costs today. This file may be taken to Allahabad
and there, the counsel for the respondent be
informed about this order and the date fixed.

sd. S.Z.H.(VC)
sd. D.S.M.(A)
22.3.1988.

Dt. 22.3.1988

True and certified
Copy given by order
of the D.R.(J)

22.3.88
22.3.88

(Jagdish Chandra)

Central Administrative Tribunal
Lucknow

6
R/R

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW CIRCUIT BENCH.

Copy of the Order dt. 22nd March,
1988 in O.A.No. 5 of 1988(LKO)
S.P.Dwivedi Vs. Union of India and
others, passed by C.A.T. Lucknow
Bench, consisting of Hon'ble S.Zahoor Hasan, V.C.
Hon'ble D.S.Misra, Member(A)
Muzaffar

(ORDER)

Admit.

The transfer of the petitioner from
Lucknow to Secunderabad is stayed provided
he has not been relieved so far.

Issue notice to the respondents fixing 5th
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Allahabad Bench in Bench no.2. A copy of this
order may be given to the applicant free of
costs today. This file may be taken to Allahabad
and there, the counsel for the respondent be
informed about this order and the date fixed.

sd. S.Z.H. (VC)
sd. D.S.M. (A)
22.3.1988.

Dt. 22.3.1988

True and certified
Copy given by order
of the D.R. (J)

(Jagdish Chandra)

VAKALATNAMA

C A T

In the Hon'ble High Court of Judicature at Allahabad
At Circuit Bench
Lucknow Bench

S. P. Duvvada Plff./Applt./Petitioner/Complainant

Veres

V. O. L. & re Defent./Respt./Accused

KNOW ALL to whom these presents shall come that I/We.....
the above-named.....do hereby appoint

Shri V. K. CHAUDHARI, Advocate,
.....High Court, Lucknow Bench
(hereinafter called the advocate/s) to be my/our Advocate in the above-noted case and
authorised him :—

To act, appear and plead in the above-noted case in this Court or in any other Court
in which the same may be tried or heard and also in the appellate Court including High Court
subject to payment of fees separately for each Court by me/us.

To sign, file, verify and present pleadings, appeals, cross-objections or petitions for
executions, review, revision, withdrawal, compromise or other petitions or affidavits or other
documents as may be deemed necessary or proper for the prosecution of the said case in all
its stages.

To file and take back documents, to admit &/or deny the documents of opposite
parties.

To withdraw or compromise the said case or submit to arbitration any differences
or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

To deposit, draw and receive moneys, cheques, cash and grant receipts thereof and
to do all other acts and things which may be necessary to be done for the progress and in the
course of the prosecution of the said cause,

To appoint and instruct any other Legal Practitioner authorising him to exercise the
power and authority hereby conferred upon the Advocate whenever he may think fit to do so
& to sign the power of attorney on our behalf.

And I/we the undersigned do hereby agree to ratify and confirm all acts done by the
Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all
hearings & will inform the Advocate for appearances when the case is called.

And I/we undersigned do hereby agree not to hold the advocate or his substitute
responsible for the result of the said case. The adjournment costs whenever ordered by the
Court shall be of the Advocate which he shall receive and retain for himself.

And I/we the undersigned do hereby agree that in the event of the whole or part of
the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to
withdraw from the prosecution of the said case until the same is paid up. The fee settled
is only for the above case and above Court I/we hereby agree that once the fees is paid. I/we
will not be entitled for the refund of the same in any case whatsoever.

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the
contents of which have been understood by me/us on this.....25.....day of.....5.....1982

Accepted subject to the terms of fees.

V. K. Duvvada

Client

V. K. Duvvada

Client

निवेश

रक्षा मंत्रालय

निवेश

रक्षा मंत्रालय

Advocate

A. S. G.

Defence
Central Govt.