



Filed 14/9/88  
19/9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

REGISTRATION NO. OA-45 OF 1988 (L)

P.N. Mahendra ..... Applicant

Versus

Union of India & Others ..... Respondents

WRITTEN STATEMENT ON BEHALF OF RESPONDENTS NO. 1  
&2

The Respondents No. 1 and 2 most respectfully state as under:

(1) That before giving the parawise reply to 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.

2. That Council of Scientific and Industrial Research is a Society registered under Societies Registration Act and also as held A.I.R. 1975 Supreme Court page 1329 Shri Sabhajit Tiwari case is not a State or Union of India within the meaning of article 12 of the Constitution. The application is bat for misjoinder of parties.

3. That the cause of action accrued to the applicant, if any, at New Delhi. The order against which application of the remedy is sought for arose at Council of Scientific and Industrial Research Headquarters at New Delhi where the interview were held and the results were announced and as such the Circuit Bench, Lucknow of the Additional Bench of the Central Administrative Tribunal,

Tiwari

Allahabad has no jurisdiction to try the case. Only the Central Administrative Tribunal, New Delhi has jurisdiction to take up the matter.

Parawise Reply

4. That the contents of para 1 of the application gives the particulars of the applicant and is admitted.

5. That the contents of para 2 of the application gives the particulars about the respondents which needs no comments.

6. That the contents of para 3 of the application gives the particulars of the order indicating the number, date and subject and need no comments.

7. That the contents of para 4 is denied as under. In this connection it may be stated that the interview were held and results were announced at Council of Scientific and Industrial Research, Headquarters at New Delhi. In this connection it may be stated that the cause of action against which this application has been made arose at New Delhi and therefore the Circuit Bench of Central Administrative Tribunal of Allahabad has no jurisdiction to try this application. Only Central Administrative Tribunal at New Delhi is the competent court to consider this matter.

In this connection it may again be stated that the case of the applicant was considered, assessed and finalised by CSIR Headquarters at New Delhi and as such this Tribunal has no jurisdiction to try this application.

T. Thakur

8. That the contents of para 5 need no comments.
9. That the para 6(1) of the application are not disputed.
10. That the contents of para 6(2) of the application needs no comments. However, it may be clarified here that the Council of Scientific and Industrial Research have its national laboratories at various places in different scientific fields and are governed by the Council of Scientific & Industrial Research at New Delhi.
11. That the contents of para 6(3) of the application are denied as alleged. Council of Scientific and Industrial Research is a Society registered under the Societies Registration Act and is neither a State nor Union of India within the meaning of article 12 of the constitution as also held in A.I.R. 1975 Supreme Court page 1329.
12. That the contents of para 6(4) of the application are denied as under. It may be stated that the Council of Scientific and Industrial Research has got its own rules, regulations and bye-laws with regard to appointment and promotion at Council of Scientific and Industrial Research Headquarters at New Delhi as well as for the various national laboratories governed by it all over the country. Appointment of the Officers of Council of Scientific and Industrial Research and Director of National Laboratories are made as per rules, regulations and bye-laws of Council of Scientific & Industrial Research.

T. Murthy

13. That the contents of para 6(5) are denied as alleged. In this connection it may be stated that the Governing Body of Council of Scientific and Industrial Research has full powers to make its own rules and regulations etc. within the framework of its bye-laws. However, for ammendment in the rules and and regulations or in the bye-laws approval from the competent authority is required.

14. That the contents of para 6(6) are denied as alleged. It may again be mentioned here that the Council of Scientific & Industrial Research is a Society registered under the Societies Registration Act and as held in A.I.R. 1975 Supreme Court page 1329, the Society is not covered within the meaning of article 12 of the Constitution of India and is neither a State nor the Union of India as alleged. The Society has full powers to make its own rules, regulations and bye-laws for performance of its activities and appointment, recruitment and promotion of its own staff.

15. That the contents of para 6(7) of the application are not clear and confusive. However, it may be mentioned here that the Director-General of the Council is the Principal Executive Officer of the Council of Scientific and Industrial Research.

16. That the contents of para 6(8) of the application are not disputed.

17. That the contents of para 6(9)<sup>and 6(10)</sup> are denied as alleged. Bye-laws 71(b) is reproduced below:

Inserted

"Notwithstanding anything contained in these Byelaws, the Governing Body may formulate a Scheme or schemes of promotional system in the CSIR for all categories of staff."

Under the above clause the Governing Body appointed a Valluri Committee to review the promotion system in CSIR and on the report of the Committee, CSIR with the approval of the Governing Body formulated a new Recruitment/Assessment Promotion Scheme which was circulated to all concerned for their option under the terms and conditions formulated therein. The applicant opted for erstwhile Bye-law 71(b) and for him the same with modifications made by the Governing Body were applicable and his suitability was assessed under these rules. The applicant at the time of giving option for the provisions never raised any objection nor he raised any objection at the time of processing his case for assessment or at the time of his attending interview. Now he is raising objections when he was not found suitable for the next higher grade and result of the same has been annoured by the Council of Scientific & Industrial Research.

It may respectfully be submitted that the case of applicant for assessment promotion was taken, processed and completed as per provisions of the rules and regulations of Council of Scientific and Industrial Research as already opted by the applicant.

18. That the contents of para 6(11) of the application are not correct and denied. It is respectfully submitted that the contention of the applicant is confusive and misleading. Assessment of merit of each individual is made on the basis of self-assessment report

T. Murthy

of the work done which is assessed by the Committee with the performance of the candidate during interview, confidential report for the period under assessment and other achievements of the candidates by the Assessment Committee. It is totally denied that the promotion is made only on the recommendations of the Sectional Heads and Confidential Report but it depends on the capability of the candidate and performance during interview with reference to self-assessment report of work done (proforma II) and other achievements. The committee gives its recommendations keeping in view of the status of posts to which the promotion is to be considered. It may also be mentioned here that a person who is suitable for his present grade can not claim promotion to the next higher grade as a matter of right. It may be clarified here that the applicant cannot be judge of its own merit and if in the opinion of the assessment committee the candidate is not found fit for higher promotion he is not recommended for the same.

19. That the contents of para 6(12) of the application are denied as alleged. The assessment promotion is made on the basis of performance of the eligible persons before the Assessment Committee, self-assessment report indicating work done by him and his confidential report. It is baseless to say that the assessment were made on the basis of confidential report only.

20. That the contents of para 6(13) of the application are admitted to the extent that the applicant appeared before the assessment committee at New Delhi on 23.7.88. The applicant was assessed

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by the assessment committee duly constituted by the competent authority as per provisions of the rules. After interviewing the applicant and taking into consideration his self-assessment report indicating work done by him and also confidential report, the assessment committee did not find him suitable for promotion to the next higher grade and hence the result was communicated vide CSIR letter No. 9(2)-AO/87-PL dated 26.10.1987 through the respondent No. 2.

21. That the contents of para 6(14) of the application are denied as alleged. The contents of the decision of CSIR as per annexure 3 of the application are clear and self-explanatory and need no further clarification.

22. That the contents of para 6(15) are denied as alleged. It may be stated that the grievance of the applicant was carefully considered by the competent authority. Since there was no deviation in the process and formalities for consideration of the case of the applicant the appellant authority passed his order as per annexure-3 of the application. The applicant was given full opportunity to present his case, work and performance before the Assessment Committee which interviewed the applicant.

23. That the contents of para 6(16) are misleading and not clear. The competent authority to consider the suitability of the applicant was the Assessment Committee which was constituted by the

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competent authority and has full sanction of law. The committee under its jurisdiction interviewed the applicant, considered his confidential reports, self-assessment report of work done and performance of the applicant. However, the committee did not find the applicant suitable for promotion to the next higher grade. There is no violation of fundamental rights and principles of natural justice. The applicant was given the full opportunity to present his case before the Assessment Committee.

24. That the contents of para 6(17) are not correct and denied. They are also misleading and confusive. The case of the applicant was considered properly and as per provisions of the rules and regulations framed for the purpose. Even the applicant did not raise any objection at the time of consideration of his case or thereafter. The applicant is making this allegations only when his personal interest was not served.

25. That the contents of para 6(18) of the application are not correct. It may be stated here that the applicant was eligible for consideration of his merit by the Assessment Committee w.e.f. 2.2.1986 and it was done by constituting an Assessment Committee as per the constitution approved by the Council of Scientific & Industrial Research within the provision of rules and regulations and it has sanction of law. The applicant has again been eligible for consideration of his merit on subsequent chance for the same and for that purpose the applicant was requested to submit his self assessment report of the work done in proforma II. It is denied that he was entitled for promotion; rather he was eligible for consideration of his merit to assess his suitability for promotion

T. M. Sahas

promotion to the next higher grade. It may further be stated here that the promotion can not be claimed as a matter of right and one can not be judged by his own merit. It depends on his capability and performance to be judged by the assessment committee in which the applicant was found unsuitable and not fit for promotion.

26. That the contents of para 6(19) of the application are not correct and denied. The assessment of the applicant was made as per provisions of the Council of Scientific & Industrial Research rules and regulations. The merit of the candidate assessed by a high power committee constituted with the approval of the Governing Body as per rules and regulations on the subject. It is totally denied that the applicant is entitled for promotion rather he was eligible for consideration of his merit for promotion to the next higher grade. In this regard it may be stated that on consideration of his merit by the assessment committee constituted for the purpose the applicant was not found fit and hence not recommended for promotion. The applicant was given full opportunity to show his performance with reference to his work and achievements during the period of assessment. Considering the performance of the applicant, confidential report and work done etc. the committee came to the conclusion that the applicant is not at all fit for the post for which his merit was considered. The assessment was made in accordance with the rules and regulations of the Council of Scientific and Industrial Research.

27. That the contents of para 7 are denied as under. The applicant is not entitled to any of relief claimed by him. It may be

Amended

made clear that in the relief sought on the respondents the date of order which the applicant want to be quashed has not been given.

Contents of ground of relief as given are not correct and baseless and needs no further comments.

28. That the contents of para 8 are denied as alleged. In the event respondent no. 1 is restrained from making promotion and interview of post of Technical Officer, it will cause injustice not only to the respondent but other persons who are eligible for promotion will also suffer. So far the applicant is concerned in the event promotion are made it will cause no harm or injustice to him.

29. That the contents of para 9 needs no reply.

30. That the contents of para 10 needs no reply.

31. That the contents of para 11 needs no reply.

32. That the contents of para 12 needs no reply.

*Advocate San Rajh*  
16/9/88

#### VERIFICATION

I, Shri R.N. Wahal, Administrative Officer, Industrial Toxicology, Research Centre, Lucknow do hereby verify the contents of para 1 to 32 are true to my best knowledge as per records of the Industrial Toxicology Research Centre, Lucknow

Place: Lucknow

*R.N. Wahal*  
(R.N. Wahal)

Dated : September 17, 1988

e 19

C.A. N. 454/88-4

P. N. Mani Ganes v. L. C. S. S. S.

ORDER - S. K. E. T.

6.6.88

Mr. D. S. M. N. S.

Admit. Issue of

One month for C.A. for R.A.  
Issue after filing for  
Interim Relief for

19.6.88

Office Report

88

Am.

Notice has been issued to the respondent no. 1 under registered cover on 6.8.88

Notice on respondent no. 2 has been served through office on 13.6.88 personally.

No reply on the question of Interim Relief has so far been filed.

Submitted for orders on the prayer for Interim Relief.

Order  
19.6.88

20.6.88

Mr. L. S. Sharma, J.M.

Present : Sri P. K. Khare for the applicant and Sri G. K. Khanna for the respondents.

A request for one month's time has been made on behalf of the respondents to file reply. Let the reply be filed by 18<sup>th</sup> July 1988.

In the meantime, if the selection is held, its result shall not be declared till further order of this Court.

20.6.88

Very

J.M.

O.A. no. 45 of 1979 (L)  
P.N. Mahendral v. U. J. G.  
Order Sheet

18-7-88

Shri S. Srivallabha, learned Counsel for the applicant is present and none for the respondents are present. No reply has been filed as yet. Reply must be filed by 25/8/88. Inform Counsel for the respondents. Inform Counsel for the

10/7

Registrar

1-9-88

Notice have been issued to  
Respect Counsel Sri G.K. Khanna.

18/8

25.8.88 DR

Counsel for the parties are present.  
Case is adjourned for for reply to  
19.9.88 filing which the case will  
proceed case-parties in the same week

DR

17-5-88

10/8/88

15/5/88

OR No. 45/80

Am

23/2/89

Non. D. S. Misra, Am.

Non. T. S. Sharma, Jm.

Sr. G. K. Khanna for the respondents is present. No one is present for the applicant. No rejoinders has been filed on behalf of the applicant in spite of several opportunities given to him in the past. It appears that the applicant is not interested in pursuing the matter. The application is dismissed in default of the applicant.

Am

Jm.

Am

Am

13/4/89

OR

The learned counsel for the applicant has been filed an application of restoration.

OR

Am

13.3.89

Sr. N. P. Srivastava, Advocate, files his power and Restoration Application today on behalf of the applicant.

Restoration application is submitted for orders.

Am  
13/3/89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 45 of 198 ALL

APPELLANT  
APPLICANT

P.N. Mahendra

VERSUS

DEFENDANT  
RESPONDENT

Union of India & ors

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
11/5/89	<p><u>Hon' Mr. K.J. Raman, A.M.</u></p> <p>The learned counsel for both the parties are present. This is a restoration application. This case be listed for hearing before a Division Bench on <u>29-5-89</u>.</p> <p style="text-align: right;"><i>[Signature]</i> A.M.</p> <p>(sns)</p>	<p><i>OR</i></p> <p><i>Rejoinder filed today</i></p> <p style="text-align: right;"><i>h</i> <i>10/5</i></p> <p><i>OR</i></p> <p><i>The learned counsel for the applicant filed rejoinder against the objection filed by the respondents.</i></p> <p><i>Submitted for orders</i></p>
<i>29/5</i>	<p><i>No sitting. Adjourned to 25/7/89 for hearing.</i></p> <p style="text-align: right;"><i>[Signature]</i> B.O.C.</p>	<p><i>OR</i></p> <p><i>Case was adjourned to 29.5.89 for hearing on restoration application. Submitted for hearing</i></p> <p style="text-align: right;"><i>h</i> <i>26/5</i></p>
<i>25/7</i>	<p><i>No sitting. Adj. to 19.9.89.</i></p> <p style="text-align: right;"><i>h</i> <i>26/7</i></p>	
<i>19.9.89</i>	<p><i>No sitting of D/B. Adj. to 20-12-89. Counsel for applicant is present.</i></p>	
20/12/89	<p><u>Hon' Mr. Justice Kamleshwar Nath, V.C.</u></p> <p><u>Hon' Mr. K. Obayya, A.M.</u></p> <p>An adjournment prayer has been made on behalf of counsel for the applicant, namely, Shri N.P. Srivastava, who is said to be out of station. The case is adjourned to <u>1-2-90 for orders</u>.</p> <p style="text-align: right;"><i>[Signature]</i> V.C.</p>	<p><i>Case was adj. to 29.5.89 for hearing on restoration application. Submitted for orders</i></p> <p style="text-align: right;"><i>h</i> <i>26/5</i></p>

(sns)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH SITTING AT LUCKNOW.

Claim Petition No. 45 of 1988 (4)

Prakash Narain Mahendra

Petitioner

Versus

Scientific &  
Director General/Industrial  
Research New Delhi and another

Respondents



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

Claim Petition No. 45 of 1988 (4)  
Filed on \_\_\_\_\_

Prakash Narain Mahendra. Petitioner  
Versus

The Secretary of Union of India cum-  
Director General Scientific and Industrial  
Research Deptt. and another,

Respondents

I N D E X

Sl.No.	Particulars	pages
	Application for stay/Interim Relief	As shown in column-8
1.	Memo of petition	- 1 to 18
2.	<u>Annexure-1</u> True copy of the letter inviting the recommendations of the respondent No.2.	19 & 20
3.	<u>Annexure-2</u> , True copy of the order communicated to the petitioner refusing the promotion.	21 to 24
4.	<u>Annexure-3</u> , True copy of the order rejecting the appeal.	25
5.	<u>Annexure-4</u> , True copy of the order dated 24th of May 1988 whereby the petitioner has been asked to be re-tested/interviewed.	26
6.	<u>Other documents relied upon</u>	
i)		

Prakash Narain Mahendra

APPLICATION UNDER SECTION 19 OF THE  
ADMINISTRATIVE TRIBUNAL ACT 1985

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For use in Tribunal's Office

Date of filing: : .....

Or

Date of receipt by  
post : .....

Registration No. : .....

(Registrar )

2.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH AT LUCKNOW (ADDITIONAL BENCH  
AT ALLAHABAD ).

....

BETWEEN

Prakash Narain Mahendra  
s/o Late L. P. Mahendra.

LAKSHMAN SADAN. E-1998 RAJAJI PURAM, Lucknow.

And

Union of India through Secretary cum-  
1. Director General, Department of Scientific  
and Industrial Research, Rafi Marg, New  
Delhi.

Application under Section 19 of  
Central Administrative Tribunal  
Act 1985

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Details of the Application

1. particulars of applicant:

- i) Name of the Applicant - PRAKASH NARAIN MAHENDRA.
  - ii) Name of father LATE L. P. MAHENDRA.
  - iii) Designation and Office Senior Technical Assistant  
in which employed. INDUSTRIAL TOXICOLOGY RESEARCH  
CENTRE.
  - iv) Office Address MAHATMA GANDHI ROAD LUCKNOW.
  - v) Address for service of all notices. LAKSHMAN SADAN E-1998  
RAJAJI PURAM. LUCKNOW.
2. Particulars of respondents:

i) Name and address of DIRECTOR GENERAL, COUNCIL  
OF SCIENTIFIC & INDUSTRIAL  
RESEARCH, RAFI MARG NEW DELHI  
respondent No. 1

ii) Office address of DIRECTOR, INDUSTRIAL TOXICOLOGY  
RESEARCH CENTRE, MAHATMA  
GANDHI MARG, LUCKNOW.  
respondent No. 1

- iii) Address for service for all notices. DIRECTOR GENERAL, COUNCIL OF SCIENTIFIC RESEARCH, RAFI MARG, NEW DELHI.
- i) Name and address of respondent No.2 THE DIRECTOR, INDUSTRIAL TOXICOLOGY RESEARCH CENTRE, MAHATMA GANDHI MARG, LUCKNOW.
- ii) Office address of respondent No.2. INDUSTRIAL TOXICOLOGY RESEARCH CENTRE MAHATMA GANDHI MARG LUCKNOW.
- iii) Address for service of all notices. do

B- Particulars of the order against which application is made.

- i) Order No. CSIR Letter No 9(2)-AO/87-PL
- ii) Date 26-10-1987
- iii) Director (Staff) on behalf of D.G. CSIR New Delhi. DIRECTOR, INDUSTRIAL TOXICOLOGY RESEARCH CENTRE, M.G. MARG, LUCKNOW
- iv) Subject in brief: Promotion on assessment basis

4. Jurisdiction of the Tribunal

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

5- Limitation

The applicant further declares that the application is within the limitation prescribed in Section 21(3) of the Administrative Tribunal Act, 1985 for the following sufficient reasons:

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- 6- 1- That pursuant to the provisions of Societies Registration Act, 1860, the Council of Scientific and Industrial Research appears to have been constituted. This society, therefore, used to be called as Council of Scientific and Industrial Research. The Head Office used to be controlled and managed by the Director General, Council of Scientific and Industrial Research (hereinafter referred to as the CSIR), who is also Secretary of the Department of Scientific and Industrial Research, Government of India who used to maintain its office at CSIR HQ. at Delhi.
- 6- 2- That the Council of Scientific and Industrial Research Society maintains its Scientific institutions and its units at Lucknow by appointing its Directors, who used to be the Head of the various branches of the aforesaid institutions at Lucknow. It needs further clarifications that the society used to have Research institutions in different scientific fields and as such the institutions used to be maintained under the control of the relevant Director who are subordinate to the respondent No.1.
- 6- 3- That the Council of Scientific and Industrial Research Society, in fact, used to be controlled and managed by the Union of India and financial investments and expenditures used to be maintained by the Union of India itself. The CSIR, therefore, shall be

*Amma*  
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deemed to be the State within the meaning of Article 12 of the Constitution.

6- 4. That in relation to the procedure of appointment at different places of CSIR, the appointment of Directors and other officers of the Society used to be made by the Governing Body but the approval in respect thereto is obtained by the Government of India. The governing body, however, confer power on the Executive Council of its Units for appointment of Scientific and Technical Officers. In the instant case this discription has only been provided with the object to show ~~to~~ as to how the appointments of the petitioner has been made and to what extent they vest the authority with the respondents to control over the promotion and reversion in relation to the petitioner.

6- 5- That it further needs to mention that the governing body has power with sanction of the Government of India to frame rules and bye-laws but if the rules require any amendment it may be in consistent with the original rules framed by the administration and the management of the society, then in such an event the approval is to be obtained by the Government of India.

6- 6- That the governing body, therefore, is in fact, a head body of the society and as such it must have such power pursuant to which the functions of the society may be properly regulated but it should always be kept in mind that the said society should be deemed equivalent to the State within the meaning of Article

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12 of the Constitution of India. This respectful submissions have only been made with the objectives to say before the Hon'ble Tribunal that the CSIR may adopt the rules which may be constitutional and it may not have authority that any of the officer to enact with their jurisdiction to put any person indiscriminately to the different employees at their discretion. The petitioner, therefore, submits that having regard to the nature of the CSIR it is believed that fundamental rights assured to the citizens is available and applicable to the employees of the CSIR.

6- 7- That it needs a clarification that the Director General is deemed to be the highest officer and as such he is deemed to be the principal Executive Officer of the Society and other officers of the society including the Directors who are posted at different places including the National Laboratories and other officers who have been appointed in accordance with the rules and law.

6- 8- That the Society, i.e. CSIR is maintaining its branches at Lucknow. These parts are only Industrial Toxicology Research Center, National Botanical Research Institute and other National Laboratories. The petitioner also with all respect submits that the appointments to the various posts are made by the Director of the specified laboratories referred to above. This authority, however, is conferred on the respondent No.2 upto the extent of Scientist Head 'E-2'. This fact is apparent on reading the Rules, Regulations and Bye-laws adopted by the CSIR.

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6-10<sup>9</sup> That as indicated above the petitioner stood appointed prior to the year 1981 in accordance with the then existing rules, regulations and bye-laws. But with effect from 1.2.1981 the CSIR introduced a ~~new recruitment and technical staff~~ <sup>Promotion Scheme</sup> ~~ere~~ <sup>By law</sup> ~~rule~~ of course, was prospectively applicable amongst those persons who were to be appointed subsequently with effect from 1.2.1981 but the liberty was also extended to the then existing employees either to opt for newly constituted rules or to clarify themselves to be applicable pursuant to the rules existing prior to the commencement of the new rules. The petitioner, however, opted to be governed by the old assessment promotional rules, and as such they clarified that their promotions shall be governed by the then Rule 71(b), ~~of erstwhile Bye-laws~~ <sup>Bye Law</sup>. It needs mention that on reading the aforesaid ~~Rule~~ <sup>Bye Law</sup> it is apparent that for the purposes of promotion the assessment is to be made having regard to the functionings of last five years and not otherwise. The petitioner for the satisfaction of this Hon'ble Tribunal quotes hereunder the aforesaid relevant provisions and the ~~rule~~ <sup>Bye Law</sup> applicable to the petitioner:-

" 71(b). Notwithstanding anything contained in these Bye-laws:

- (i) the cases of Senior Scientific Assistants and Senior Technical Assistants who complete five years of their service in these grades may be assessed for promotion to the next higher grade by a Committee consisting of the Director-General, Director and two experts for each Laboratory;

(ix)

*Amma*  
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(ii) the merit of officers of the rank of a Junior Scientific Officer/Junior Technical Officer and Senior Scientific Officer Grade II/Senior Technical Officer Grade II engaged in scientific work may be assessed for promotion to the next higher grade, after every five years of the appointment of the officer concerned against that post. Such assessment will also be made after completing one year's service at the maximum of the scale of pay of his grade;

(iii) the merit of officers of the rank of Senior Scientific Officer Grade I/Senior Technical Officer Grade I engaged in scientific work may be assessed for promotion to the next higher grade after every five years of the appointment of the officer concerned against that post provided the said officer is at the maximum of the scale of pay of his grade for at least one year;

(iv) the assessment of the merit of officers arising under clauses (ii) & (iii) above shall be made by an expert Committee appointed, with the approval of the Vice-President, from amongst the members of the Executive Council and shall include three outside experts. The Committee may make recommendations for their promotion to the next higher grade for the approval of the competent authority;

(v) in the Central Secretariat of the Society, the assessment of officers arising under clause (i), (ii) and (iii) above shall be made by an expert Committee constituted by the Vice-President;

(vi) the pay of the officers in the higher grades shall be fixed according to rules; and

(vii) the promotion to the next higher grade will be by conversion of the post in the lower grade held by the officer."

6- 10. That the aforesaid provision, therefore, clarifies

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that the assessment of the merit should be in accordance with the provisions contained in the above Bye-law 71(b) and the recommendations <sup>to</sup> ~~and~~ the next higher grade <sup>of</sup> officer is also to be deemed to be a relevant consideration for the purposes of promotion. In the instant case the petitioner with all respect submits that in regard to his functioning the respondent No.2 is deemed to be the highest officer who controls the discharge of duties by the petitioner. The petitioner is confident that not only of the last five years but for more than that period his functionings have been found to be meritorious and as such the respondent No.2 always recommended the promotions of the petitioner to the higher grade ~~but inferior to the respondent No.2~~. In short it would be very appropriate to say so that the functioning of the petitioner is firstly looked after by such officer to whom he is subordinate and lastly the functioning is controlled by the Director, i.e. respondent No.2. The whole functioning therefore, remains at Lucknow under the control of the respondent No.2. The petitioner has been really fortunate to all praises in regard to his functionings and always believed that he will be entitled for promotions. But having regard to the applicability of the said Rules the matter was expected to be looked into by the promotional authority but in fact, no such examination is made to this effect and by maintaining the silence the petitioner is deemed unfit for promotion. But terms of the opinion is also not shown to the petitioner. The petitioner will also show that he preferred an appeal and also put in challenge the view taken by the said authority having right to make

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Kandhe*

appropriate orders for promotions. But it is really unfortunate that the appeal too used to be dismissed without assigning any reason. It is, therefore, really unfortunate for the petitioner to submit before this Hon'ble Tribunal that the concerned authority had never examined the petitioner for the purposes of promotion. But on the assumption that such authority has independent jurisdiction to make a silent order, passes an order against the petitioner who is deemed unfit and the terms are checked without reasons.

6-12- That, in fact, when the petitioner became eligible for promotion to the next higher grade of the post of Technical Officer then the Respondent No.1 through his letter dated 6th June, 1987 directed the respondent No.2 to intimate their eligible staff about the proposed assessment for the purposes of promotions in July, 1987. The said letter of respondent No.1 specifically provided that the assessment will be on the basis of opinion furnished in proforma II of the report and work as contained in his annual confidential report for each year. The letter further provided that in case the concerned employee is not recommended for promotion from the date of his eligibility then in that event he will be considered for subsequent changes. It is, therefore, clarified that if there exists an adverse entry and no recommendation is made then the person shall only call the authority when this term is withdrawn or cancelled and the right is left open to such person for the purposes of promotion on the basis of next existing adverse entry. The copy of

*Amma  
Lendia*

the aforesaid letter which invited the recommendations by the respondent No.2 is being annexed herewith as Annexure-1 to this petition.

6- ~~12~~ That as indicated earlier the petitioner had already completed his functioning as the employee for five years then in that event the recommendations were expected to be made by the respondent No. ~~2~~ <sup>to respondent no. 1</sup>. The petitioner, therefore, is confident that the recommendations made by the respondent No.2 and as such the petitioner was invited for an interview before the said committee, and there can be no presumption that there existed any adverse entry.

6- ~~12~~ That the petitioner, thus, put in appearance before the assessment committee on ~~23.7.87~~ <sup>23.7.87</sup> and ~~27.7.87~~ but it needs clarification and respectful submissions that there existed no written or oral examination pursuant to the Scientific and Technical Work etc. But the committee only examined the papers appears to have been sent by the respondent No.2. The petitioner with all respect submits, of course, these papers contained recommendations made by the respondent No.2 and the praises appear to have been afforded by the respondent No.2. But for no reasons disclosed till to-day the petitioner has been found to be unfit for promotion. As such the promotion of the petitioner has been refused. The communication thus was conveyed to the petitioner through the respondent No.2. The copy of the aforesaid order is being annexed herewith as

*Anna  
Rendia*

Annexure-2 to this petition.

6- 14- That the petitioner feeling aggrieved preferred an appeal and put in challenge the view taken by the said assessment committee. The petitioner, therefore, respectfully submits that there existed no material before the said committee which may take an opinion from those officers who have regularly examined and checked the functioning of the petitioner for a period of five years as prescribed under the rules and with all responsibility made the recommendations in favour of the petitioner. This appeal was also kept pending and no date was fixed or provided pursuant to which the hearing could be provided to the petitioner. It, however, needs mention that the appeal has been dismissed with a small order which does not contain any positive reason. The copy of the said order is also annexed herewith as Annexure-3 to this petition.

6- 15- That on reading the aforesaid order, it is therefore, apparent that the functioning of the assessment committee has not been properly tested by the appellate authority. It further needs mention that no opportunity was extended by which the petitioner may put his reason to show that the view taken by the assessment committee was not based on any material. It is, therefore, really unfortunate that though the negative orders have been passed but no opportunity has been extended by providing the rule of natural justice.

6- 16- That apart from respectful submissions as

*Amma*  
*Amma*

above, the petitioners also submits before this Hon'ble Tribunal that the functioning of the assessment committee shall be deemed to be void and unconstitutional in the event the limit of the assessment committee cannot be prescribed or controlled within the rules. The petitioner, in fact submits that in the event the assessment authority has a power to make an order relating to the terms and then the principle is to be adopted pursuant to which the result can be tested in the event the petitioner is ultimately found fit for promotion. The petitioner, therefore, in short submits that if the view of the assessment committee is deemed to be uncontrolled or regulated to any limit or to any certain extent, then in that event the assessment authority shall always have a privilege to make the promotion of any one and to ~~xxxx~~ refuse the promotion of any other. The petitioner has already submitted that the rules nowhere prescribe the proper method of functioning of such body, therefore, the functioning of this assessment committee, to that extent will be deemed to be unconstitutional and no right had been conferred to the petitioners though he is entitled to constitutional right enshrined under Article 14 and 16 of the Constitution. It is really unfortunate that though the petitioner's services have always been found to be fit and the recommendations too have ~~xxxx~~ been made by the respondent No.2 but the negative view has been taken by the assessment committee without any positive reasonings. The petitioner also submits that when the question arises as to what extent the petitioner is found to be unfit then the material is deemed

*Omna*  
*Handa*

absent. The view therefore, taken by the assessment committee is not only in violation of the fundamental rights but also in violation of the principles of natural justice.

6-19. That it needs mention that with regard to the petitioners the appearance before the assessment committee was required at Delhi but the rest of the persons who were have B.Sc./B.E. qualifications were not provided to be examined by such committee and the same is only to be tested at lab level. This is only being put up before this Hon'ble Tribunal to say so that if in respect of such persons the recommendations ordinarily are accepted then the said assessment body is to sit at Lucknow but when the assessment body sits at Delhi or other places in respect of the employees who are lessor than the qualification of B.Sc. then in that event maximum percentage of employees are declared to be unfit for promotion including the petitioner but the method of testing is neither provided nor the same is at all put in practice in any method. This type of method has only been adopted with effect from 1986 and prior to that the assessment used to be made at Lab level in respect of persons equivalent to the petitioner. This assessment always resulted in favour of the employees who were properly functioning and in respect of whom the recommendations were also made by the respondent No.2. In short, therefore, the submission is that the recommendations of the respondent No.2 used to be submitted in relation to the alleged assessment prior to 1986 but when the assessment ~~XXXXXX~~ appears to have been amended then to the extent of the petitioner the change has resulted in such a situation that the recommendation of the respondent No.2 were deemed of no value.

*Anand*  
*Verma*

6-18

That the petitioner has already specified that for the purposes of promotion he was allegedly interviewed and tested in the month of July 1987 and the decision in respect thereto was conveyed to the petitioner in November 1987.

The representation or the appeal was not forthwith disposed off rather the same was kept pending and disposed off recently by way of affirming the earlier view. The petitioner thus was compelled to get himself prepared for bringing this matter before this Hon'ble ~~Supreme~~ Tribunal then in that event the opposite parties on getting this information immediately passed an order dated 24th of May 1988 whereby again the petitioner is to be tested for the purposes of promotion. This order was conveyed to the petitioner on 27th of May 1988.

The petitioner with all respects submits that even the period of one year has not lapsed to the alleged prior consideration but without having any reason the petitioner is to be allegedly tested again without any reason. The petitioner therefore, is not satisfied with the view which is being taken by the opposite parties only in order to spent time without any reasonable consideration. The petitioner thus annexes herewith the copy of the said letter dated 24th May 1988 as ANNEXURE-4 to this petition.

The petitioner has already challenged that the process of testing is not in accordance with law and as such the petitioner submits that there is no justification to interview the petitioner again and the operation of the said order be stayed and further pursuant to the said alleged interview no promotion be afforded rather the rights of the petitioner should be afforded to him from the date from which the petitioner has become entitled i.e. 2.2.86.

6-19  
20.

That the petitioner, therefore, submits with respect that since he has been refused to avail of the promotion though he is entitled for such promotion and he in fact,

*Amrinder Singh*



has at all not been examined in respect thereto, therefore, the petitioner has no other alternative remedy except to file this petition whereby this Hon'ble Tribunal may summon the relevant papers which may show to what extent they have been met by the said assessment body and to what extent the negative view was expressed. The petitioner also submits that in the event the assessment <sup>says</sup> is ~~xxxx~~ that the petitioner could not discharge anything to the question alleged to have been asked by the said body (though not asked) then to what extent the percentage of marks or otherwise provided to prove that type of testing was before the said committee. These submissions have only been made with the only objective to show that as a matter of fact, the terms of the rule referred to above are not practically followed and the order used to be made at the direction and this is the only reason on account of which the petitioner has been found to be unfit for promotion negative to the view expressed by the respondent No.2. The extent of failure has also not been specified and clarified for the purposes of justifying that the committee discharged its duties more properly. The petitioner, thus, submits that the view taken by the respondent No.1 is not in accordance with law and rules.

#### 7- Relief South:

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

#### RELIEF

ix) Wherefore, it is most respectfully prayed that by an appropriate order the Hon'ble Tribunal be pleased to quash the order dated 26.10.87 and as contained in Annexures 2,3 and 4 to this petition;

and

by an appropriate order the respondents be commanded to deem the petitioner to be on promotion with effect from the date on which the petitioner had become entitled to be promoted and award the costs of the petition.

#### GROUND OF RELIEF

- i) Because the assessment of the petitioner was not made in accordance with the procedure laid down under ~~consideration~~ <sup>careful while</sup> bye-laws 71(b) of CSIR for which the petitioner gave his consent in writing at the time of introduction of the New Recruitment and promotion scheme.
- ii) Because the procedure of assessment for promotion did not specify the bifurcation of marks between the assessment based on record and assessment based on the interview, thus facilitated total arbitrariness in the assessment for promotion.
- iii) Because the assessment was ~~conducted~~ by the committee which had no idea about working of the applicants as no member of the committee was from the Laboratory in which the petitioner is working.
- iv) Because the assessment of employees ~~xxxxing~~ under the same bye-laws 71(b) having B.Sc/B.E. qualification by the respondent No.2 at the laboratory level and non B.Sc. by the respondent No.1 at central level was discriminatory.
- v) Because the proforma II and the annual confidential reports which were stated to be basis of assessment for promotion did not contain anything warranting the rejection of the petitioner.

*Donna*  
*Arora*

- vi) Because the rejection of the petitioner for all subsequent years from the date of eligibility by one assessment committee is wholly arbitrary, capricious and smacks of non-application of mind by the committee.
- vii) Because the action of the respondent No. 1 is violative of article 14 and 16 of the Constitution.
- viii) Because the action of the respondent No. 1 is otherwise bad, unconstitutional and without jurisdiction denying the promotion to the petitioner.

8- Interim order if prayed for:

*During the pendency of the petition the promotion and the interview in respect of the Post of Technical officers concerned may be stayed and in such other orders may also be made as this Hon'ble Court may deem fit and proper in the circumstances of the case.*

9. Details of remedies exhausted:

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

*Anand*

18

10. Matter not pending with any other court etc.

11. Particulars of ~~Bank Draft~~/Postal order  
in respect of the application fee:-

- i) No. of Indian Postal Order  $\frac{10}{4}$  227176
- ii) Name of issuing post office Head Post office Allahabad
- iii) Date of issue of postal order 3rd June 1988
- iv) Post office at which  
payable.

12. Details of Index

An Index containing the details of the  
documents to be relied upon is enclosed:-on front page

13. List of Enclosures: As shown in the  
index

In Verification:-

I, the above named applicant do hereby  
verify that the contents of paras / to 13  
are true to the best of my personal knowledge and belief  
and that I have not suppressed any material facts

*Prakash Narain Malendia*  
Applicant

Dated: Lucknow the  
3rd day of *June* 1988  
*6th*

NAME OF THE LABORATORY- INDUSTRIAL TOXICOLOGY RESEARCH CENTRE, LKO.

## 1. BIODATA OF CANDIDATE

Name : P.N. MAHENDRA  
 Designation and : S.T.A.  
 Trade/discipline: Radiography (X-Ray)

Qualification (highest): B.A., LLB

(please also indicate complete details of Tech/Professional courses attended/passed and certificates obtained, technical training received and specialised skills acquired)

Technical

Passed Radiographers examination  
 1965 from K.G. Medical  
 College, Lucknow conducted by  
 U.P. State Medical Faculty.

Date of Birth : 8.2.43

Date of last promotion & scale : 2.2.81 Rs. 550-990

## 2. JOB ASSIGNED DURING PERIOD UNDER REVIEW

1. Radiographic work in epidemiological health studies,
- 2- To assist in planning of epidemiological health surveys,
3. To assist in analysis of data collected during epidemiological health surveys.
4. To carry out any other research work allotted by the Scientist Incharge.

## 3. SELF ASSESSMENT:

I have carried out the tasks assigned to me by the Scientist Incharge with most sincerity, devotion and punctuality. The main job assigned to is to carry out radiological examinations of population in field conditions. This challenging task of setting of X-ray & dark room facilities etc and taking up x-rays on portable x-ray machine with proper safety measures have been successfully carried out, solving various bottlenecks. The quality of x-ray although taken in such difficult conditions, has been appreciated by many experts.

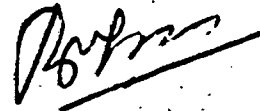
I have also been assisting in planning of epidemiological health surveys and in the analysis of data collected during such surveys. Throughout the period of assessment my work and conduct has been highly appreciated by my superiors.

*P.N. Mahendra*  
Signature of candidate

## 4. GROUP LEADERS ASSESSMENT (Job performance and personality)

Mr. P.N. Mahendra has done excellent work as an important member of the epidemiological team. His long experience of 26 years in radiological work in K.G. Medical College, Lucknow and ITRC, Lucknow together, with his Professional course of

of Radiological Examination are quite sufficient to be considered equivalent to the prescribed qualification. I very strongly recommend for his promotion/assessment.



( DR B.N. GUPTA )  
Signature of Group leader

5. DIRECTOR'S ASSESSMENT

.....  
.....  
.....

Signature of Director

*Alkhya*

*Dr. M. K. ...*

*Dr. ...*

## Annexure I

### Qualifications:

- (a) Educational::
1. High School (Commerce) III - 1956
  2. High school (Science) - 1962
  3. High School (Biology) - 1963
  4. Intermediate - 1966
  5. B.A. - III - 1968
  6. L.L.B. - I - 1973
- (b) Technical
7. Radiographers Examination (X-ray Technician course)-1965, from K.G Medical College, Lucknow.

## Annexure II

### Research Publications

1. A study of morbidity and socio-economic conditions of Workers in Glass (Bangle) Industry at Firozabad.
  2. Respiratory Morbidity in Agate workers -Study in Khambhat, Gujarat (In press)
  3. Follow up study of MIC exposed population at Bhopal (Phase I & II studies)
  4. Follow up study of MIC exposed population at Bhopal (Phase III study)
  5. Health Hazards in Electronic Industries - Epidemiological health survey in CEL, Sahibabad, BEL, Bangalore, ECIL, Hyderabad and KELTRON, Trivandrum (Survey completed and data being analysed)
- ....

*Anna  
Lindia*

*Anna  
Lindia*

*Annexure II*

REGISTERED/CONFIDENTIAL

COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH

Rafi Marg,

No. 9(2)-AO/87-PL

New Delhi-1, the 26th October, 87

From

Joint Secretary(Administration),  
Council of Scientific & Industrial Research,

To,

The Director,  
Industrial Toxicology Research Centre,  
Mahatma Gandhi Marg,  
Post Box No. 80,  
Lucknow. -226 001.

Subject:- Assessment of Scientific/Technical staff under  
erstwhile Bye-law 71(b).

Sir,

In continuation of this office letter of even  
number dated 20.10.1987 on the above subject, I am directed  
to state that the undermentioned staff were assessed upto  
dated indicated against each by the Expert Committee in  
July, 1987. They have not been recommended for assessment  
promotion:-

S.NO.	Name	Designation	Date upto which assessed
1.	Shri Mulk Raj	Tech. Officer-A	14.8.86
2.	Shri Lalji Shukla	S.T.A.	2.2.87
3.	Shri B.K. Majumdar	Tech. Officer-A	1.8.86
4.	Shri P.N. Mahendra	S.T.A.	2.2.87

The above members of staff may be suitably informed.

Yours faithfully,

Sd/-  
(K.S.R. Rao)  
Under Secretary

INDUSTRIAL TOXICOLOGY RESEARCH CENTRE, LUCKNOW  
(Council of Scientific & Industrial Research)

NO. Asmt/71(6)/87

Dated: 18.11.1987

Copy endorsed to the following persons for  
information.

- Amma/Lencha*
1. Shri Mulk Raj, Tech. Officer-A
  2. Shri Lalji Shukla, S.T.A.
  3. Shri B.K. Majumdar, Tech. Officer-A
  4. Shri P.N. Mahendra, S.T.A.

*T. M. S.*  
(S.S. MEENA)  
SECTION OFFICER  
*Adm*

*Amma/Lencha*



26

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AT ALLAHABAD SITTING AT LUCKNOW.

Claim Petition No. \_\_\_\_\_ of 1988

Petitioner

Versus

Director General Scientific  
and Industrial Research New  
Delhi and another.

Respondents

ANNEXURE-4

INDUSTRIAL TOXICOLOGY RESEARCH CENTRE LUCKNOW  
(Council of Scientific & Industrial Research)

No. Assmt./71-(b)/87-EI dated 24.5.1988

OFFICE MEMORANDUM

Sub: Assessment of merit for promotion to the  
next higher grade under erstwhile bye-law  
71(b).

...

The following officers and Members of staff  
were requested to submit their self assessment  
report in the prescribed proforma, already provided  
to them. Since CSIR has remained for the same,  
they are once again requested to submit 20  
copies of their self assessment report to the  
office on or before 30.5.1988.

1. Sri J.P. Sharma, T.O. 'B' (I.L.O.)
2. Sri Mulk Raj, T.O., 'A'
3. Sri B.K. Majumdar, T.O. 'A'
4. Sri P.N. Mahendra, S.T.A.
5. Sri Lalji Shukla, S.T.A.
6. Sri S.G. Husain, S.T.A.

Sd. (S.K. Bose)  
Section Officer

Copy to above officers and  
members of staff.

*Sharma  
Mahendra*

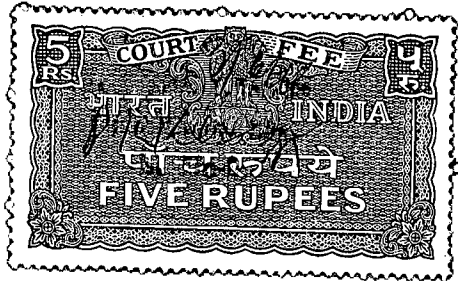
*Sharma*

*Sharma  
Mahendra*

Central Adm. District Court 1/2/74  
व अदालत श्रीमान Mr. J. K. Sen महोदय

वादी मुद्दै  
प्रतिवादी (मुद्दाअलेह) का

## वकालतनामा



Prakash Narain Mahendra

वादी (मुद्दै)

Dr. K. L. Seal बनाम

प्रतिवादी (मुद्दाअलेह)

ने मुकद्दमा सन् १९ पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमे में अपनी ओर से श्री पी० के० खरे

एडवोकेट महोदय  
वकील

को अपना वकील नियुक्त करके प्रतिज्ञा इकरार करता हूं और लिखे देता हूं  
इस मुकद्दमे में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी  
व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या  
हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा वा  
इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर  
से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें  
या हमारी या विपक्षी (फरीकसानी) का दाखिल किया रुपया अपने या हमारे  
हस्ताक्षर युक्त [दस्तखती] रसीद से लेवें या पंच नियुक्त करें-वकील महोदय  
द्वारा की गई वह सब कार्यवाही हमको स्वीकार है और होगी इसलिए यह  
वकालतनामा लिख दिया कि प्रमाण रहै और समय पर काम आवे।

हस्ताक्षर

Prakash Narain Mahendra

साक्षी [गवाह]

साक्षी [गवाह]

दिनांक

महीना

सन् १९

ई०

11/3/88

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

REGISTRATION NO. OA-45 OF 1988 (L)

P.N. Mahendra ..... Applicant

Versus

Union of India & Others ..... Respondents

*The Respondents later submit as under*  
Application

(1) That before giving the parawise reply to 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.

2. That Council of Scientific and Industrial Research is a Society registered under Societies Registration Act and also as held A.I.R. 1975 Supreme Court page 1329 Shri Sabhajit Tiwari case is not a State or Union of India withing the meaning of article 12 of the Constitution. The application is bat for misjoinder of parties.

3. That the cause of action accrewed to the applicant, if any, at New Delhi. The order against which application of the remedy is sought for arose at Council of Scientific and Industrial Research Headquarters at New Delhi where the interview were held and the results were announced and as such the Circuit Bench, Lucknow of the Additional Bench, of the Central Administrative Tribunal,

*Sanjay Advait Sr. Rele*

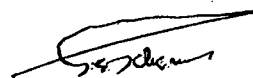
Allahabad has no jurisdiction to try the case. Only the Central Administrative Tribunal, New Delhi has jurisdiction to take up the matter.

It is respectfully prayed that preliminary objection raised in the reply of the main application may be decided first before proceeding further with the application on merit.

Place:

Dated:

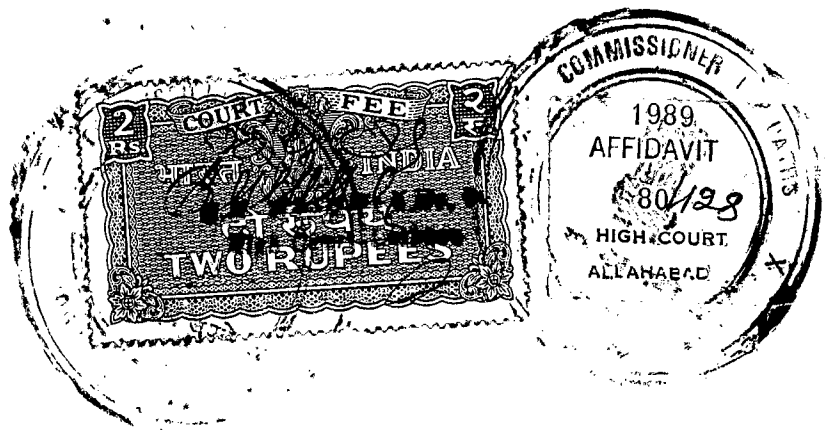
19/12/88



( G. K. Khanna )  
Advocate

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD: LUCKNOW BENCH: LUCKNOW. WS

Reg: No.45 of 88 (I)



P.N. Mahendra. ... Petitioner.

Vs.

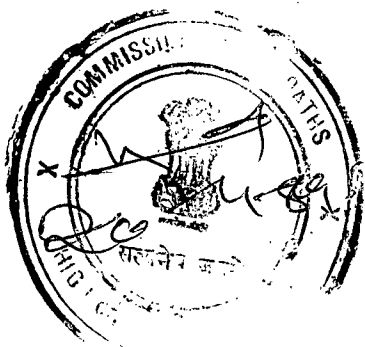
Director General, S.I.R. & others ... Opposite Parties

COUNTER AFFIDAVIT

TO THE AFFIDAVIT OF SHRI P.N. MAHENDRA, APPLICANT/  
PETITIONER.

I, M.L. Bhargava, aged about 54 years at present posted as Controller of Administration at Industrial Toxicology Research Centre, M.G. Marg, Lucknow, do hereby solemnly affirm as under:-

- Keep on record*  
*2/4*
1. That the contents of paras 1 and 2 of the Affidavit are admitted.
  2. That the contents of para 3 of the Affidavit are vague and as such denied for want of knowledge. The Petitioner has deliberately concealed the date as to when he left Lucknow and for what purpose. He has not even disclosed the nature of official work and duty on which he was deputed. He has not filed any evidence in support of his contention.
- Bhargava*



3. That the contents of para 4 to 6 are equally vague and hence denied. The Petitioner has not disclosed the name of the Counsel or his junior for whom reference has been made in the said paras nor filed their affidavit.
4. That the Respondent has neither been correctly described nor served with notices.
5. That the application does not disclose good and sufficient reason for restoration of the case.

Lucknow: Dated

20-4-89

*M. Shergar*  
Deponent.

Verification

I, the above named deponent, do hereby verify the contents of paras 1 to 4 of this Counter Affidavit, which are true to my personal knowledge based on the records of the office of I.T.R.C. and while the contents of para 5 are believed to be true on legal advice.

Signed and verified this 20<sup>th</sup> day of April,

1989 at Lucknow.

I know the deponent personally who has signed before me.

*M. Shergar*  
20/4/89

*M. Shergar*  
Deponent.

In the Central Administrative Tribunal, Allahabad, Lucknow Bench

Reg. No. 45/1988(L)

P.N. Mahendra

Petitioner

Versus

Director General, SIR and other

Opposite  
Party

My Lords,

The applicant begs to enclose a copy of the rejoinder affidavit in the above mentioned case reiterating his request to recall the orders dated February 23, 1989 and to restore it in the interest of Justice.

Lucknow

*N.P. Srivastava*  
( N.P. Srivastava)

Advocate

Dated: May 9, 1989

Counsel for the Petitioner

*Received  
one copy  
9/5/89*

*(JTRC 40)*

*In Sir's Room  
to keep on  
file*

*Q10*

In the Central Administrative Tribunal, Allahabad, Lucknow bench

Reg. No. OA 45 /1988 (L)

P.N. Mahendra

Petitioner

Versus

Director General, SIR, and other

Opposite party

Rejoinder Affidavit to the Counter Affidavit filled by Shri M.L. Bhargava, Controller of Administration, ITRC, Lucknow

P.N. Mahendra aged 45 years S/o Late Shri L.P. Mahendra, at present posted as STA in Industrial Toxicology Research Centre, Lucknow do hereby solemnly affirm as under:

1. The contents of para 1 of counter affidavit calls for no comments.
2. That the contents of para 2 are emphatically denied. The deponent of the counter affidavit being the Controller of Administration could easily ascertain the dates and purpose of tour from official records. However, it was clearly mentioned in para 3 of the restoration application that the deponent was out of station on official duty on that day meaning thereby February 23, 1989. A copy of the tour programme is filed herewith as annexure I.
3. That the contents of para 3 are denied. The opposite party is supposed to be familiar with the name of the Counsel and disclosing the name of the Counsel of his junior was not material. the name of of the counsel is Shri P.K. Khare and he was not present in this Hon'ble Tribunal on that day.



as must be evident from ordersheet of this Hon'ble Tribunal.

4. That the contents of para 4 of the counter affidavit are denied. The respondent has been correctly <sup>described</sup> ~~describing~~ being opposite party no. 1 in the plaint. That he has been served with notices as in evident from the fact that the deponent

has filed a reply thereto in the form of counter affidavit <sup>under reply.</sup>

5. That the contents of para 5 of counter affidavit are emphatically denied. The non-appearance of the learned counsel for the petitioner on 23rd February, 1989 by itself is sufficient <sup>for recalling</sup> reason for recording the order dated 23rd February, 1989 and for restoration of the case.

Wherefore it is prayed that the order dated 23rd February, 1989 dismissing the case in default may kindly be recalled and the case be restored.

Lucknow

Dated May 9, 1989

Deponent

#### Verification

I the above named deponent <sup>do hereby verify that the contents of</sup> ~~whereby~~ do paras 1-5 to this rejoinder affidavit are true to my personal knowledge and belief. No part of it is false and nothing material has been concealed. so help me God.

Lucknow

Dated May 9, 1989

Deponent

I identify in deponent in P.N. Mahendra who has signed in my presence.

M. V. S. L. S. S.  
Advocate  
9.5.1989

11-2087 P.N. Mahendra  
H. K. S. S. S.  
9.5.1989  
JOSHIR ALAM FARUQ

Oath Commissioner  
Civil Court Lucknow

Anexure I

INDUSTRIAL TOXICOLOGY RESEARCH CENTRE,  
L U C K N O W

Proposal for Tour (Separate proposal for each person will be submitted in duplicate)

1. Name & Designation of the Officer : Dr B.N.Gupta and staff proposing to go on tour,
2. Pay (Basic pay only) List attached
3. Particulars of tour Proposal

Date	Time of Departure	Place	Date	Time of arrival	Place	Journey by Air/Rail Road.
------	-------------------	-------	------	-----------------	-------	---------------------------

Lucknow - Allahabad & back by ITRC vehicle  
As per list attached

4. Purpose of Journey. for Epidemiology study, safety evaluation of drinking water and mass awareness programme of Kumbh meta, Allahabad.
5. Nature of the tour (please strike out unnecessary statement and initial).

(i) This is a fresh tour Proposal:

(ii) This is revised tour proposal (Original sanction)

No: \_\_\_\_\_

Date : \_\_\_\_\_

Grant of TA/DA

(i) TA/DA and registration fee Rs. \_\_\_\_\_ will be paid by this Laboratory.

(ii) TA/DA will be borne by outside organisation.

Officer

Signature of/going on tour

Signature of Project Leader/  
Head of Div./Section.

Director, ITRC may kindly approve the tour of Dr. B.N. Gupta & staff. \_\_\_\_\_ and sanctione TA/DA/Registration fee advance.

DY DIRECTOR

ADMINISTRATIVE OFFICER.

evaluation of drinking water, and mass awareness programme.

DEPARTURE-LUCKNOW

DEPARTURE-ALLAHABAD

1-1-1989

1. Sri J.N. Chopra	Section Officer (G)	7-1-89
2. Sri B.K. Mazumdar	Tech. Officer	4-1-89
3. Sri Musleh Ahmed	Photo Asstt.	7-1-89
4. Sri R.E. Sharma	JTA	7-1-89
5. Sri A.P. Pathak	Driver (Veh. Jeep)	7-1-89

6.1.89

1. Dr Harish Chandra	Sc.C	4-2-89
2. Dr Jai Raj Behari	Sc.C	19-1-89
3. Dr B.P. Srivastava	Sc.B	19-1-89
4. Bri S.P. Pathak	STA	19-1-89
5. Dr D.P. Modak	RA	19-1-89
6. Bri Zahid Husain	Tech	5-3-89
7. Sri S.B. Singh		5-3-89
8.	Cook	5-3-89
9. Sri Bal Krishan	Driver (Veh. URA 97)	5-3-89
10.	Helper (Cook)	5-3-89

11-1-1989

1. Dr B.N. Gupta	Sc.E	5-3-89
2. Dr S.K. Rastogi	Sc.c.	19-1-89
3. Mr. Musleh Ahmad	Photo Asstt.	19-1-89
4. Mr. B.S. Pangtey	STA	4-2-89
5. Mr. A.K. Seth	JTA	19-1-89
6. Mr Kishan Lal	Tech	19-1-89
7. Sri Feroz Khan	Proj. Asstt.	5-3-89
8.	Driver (Minibus)	5-3-89

12-1-1989

Mobile Van with

1. Sri J.N. Chopra	SO(G)	19-1-89
2.	Driver	
3.	Helper	

19-1-89

1. Dr R.K.S. Dogra	Sc.C	4-2-89
2. Mr. P.N. Mahendra	STA	5-3-89
3. Dr Sushil Kumar	Sc.B.	5-2-89
4. Sri R.R. Singh	RA	4-2-89
5. Dr K.P. Ostwal	Sc. Fellow	4-2-89
6. Sri Tanveer Husain	Proj. Asstt.	5-3-89
7. Sr Rajiv Srivastava	CPS	18-2-89
8. RB	Driver	4-2-89

4-2-89

1. Dr J.S.Gaur	Sc.B	18-2-89
2. Dr S.K.Bhargava	Sc.B	18-2-89
3. Sri Abhimanyu Singh	STA	18-2-89
4. Dr A.K.Srivastava	Sc.C	18-2-89
5. Sri Neeraj Mathur	Sc.B	18-2-89
6. Sri S.K. Shukla	Tech	5-3-89
7. Sri V.K. Pande	Proj.Astt.	5-3-89
8. Sri Vikas Tandelwkar	JRF	18-2-89
9.	Driver	

18-2-89

1. Dr S.K.Rastogi	Sc.C	5.3.89
2. Dr S.K.Sharma	Sc.Fellow	5-3-89
3. Dr K.S.P.Singh	Med.Officer	5-3-89
4. Mr.Sanjay Kumar	JTA	5-3-89
5. Mr.R.S. Bharti	JTA	5-3-89
6. Mr. P.W.Ramteke	Sc.B	5-3-89

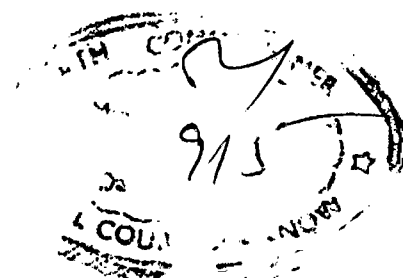
26-2-89

1. Dr Harish Chandra	Sc.C	5-3-89
2. Dr Jai Raj Behari	Sc.C	5-3-89
3. Dr J.S.Gaur	Sc.B	5-3-89
4. Sri J.N.Chopra	SO(G)	5-3-89
5. Sri Kishan Lal	Tech	5-3-89
6. Sri Bal Kishan	Driver	5-3-89

(URA-97)

  
( DR JAI RAJ BEHARI )  
CONVENOR

  
( DR B.N. GUPTA )  
CHAIRMAN



In the Central administrative Tribunal, Allahabad

Lucknow Bench, Lucknow

C.M. No. 29/09 (L)  
on

145.

Reg. No. OA 45 of 1988 (L)

P.N. Mahendra

Petitioner

Versus

Director General, SIR and others

Opp. Parties

**Notice**

Dear Sir,

Kindly find enclosed a copy of Restoration application in the above mentioned case proposed to be filed before the Central Administrative Tribunal, Lucknow bench, Lucknow

You are aware that the above mentioned case was dismissed in default on February 23, 1989.

Lucknow

Dated: March 13, 1989

*N.P. Srivastava*  
( N.P. Srivastava )  
Advocate  
Counsel for Petitioner  
Flat No. D 3/4 PWD Colony  
Rajendra Nagar, Lucknow

Office Filed today. Affidavit on 10 Rs.  
Stamp Paper is not needed. But  
learned Counsel insists to put up  
the same before Hon'ble Court. *13/3*  
Put up tomorrow on 14.3.89  
before the Hon'ble Court for orders  
with previous papers.

In the Central Administrative Tribunal, Allahabad  
Lucknow bench, Lucknow

*13.3.89*  
*13*

Reg. No. 45 of 1988 (L)

P.N. Mahendra

Petitioner

Versus

Director General, SIR and others

Opp. parties

Application for Restoration

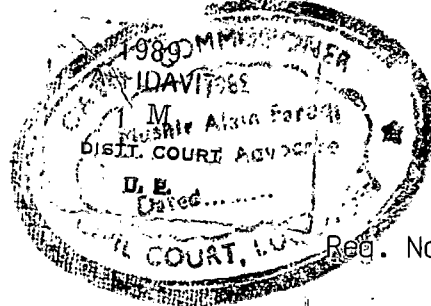
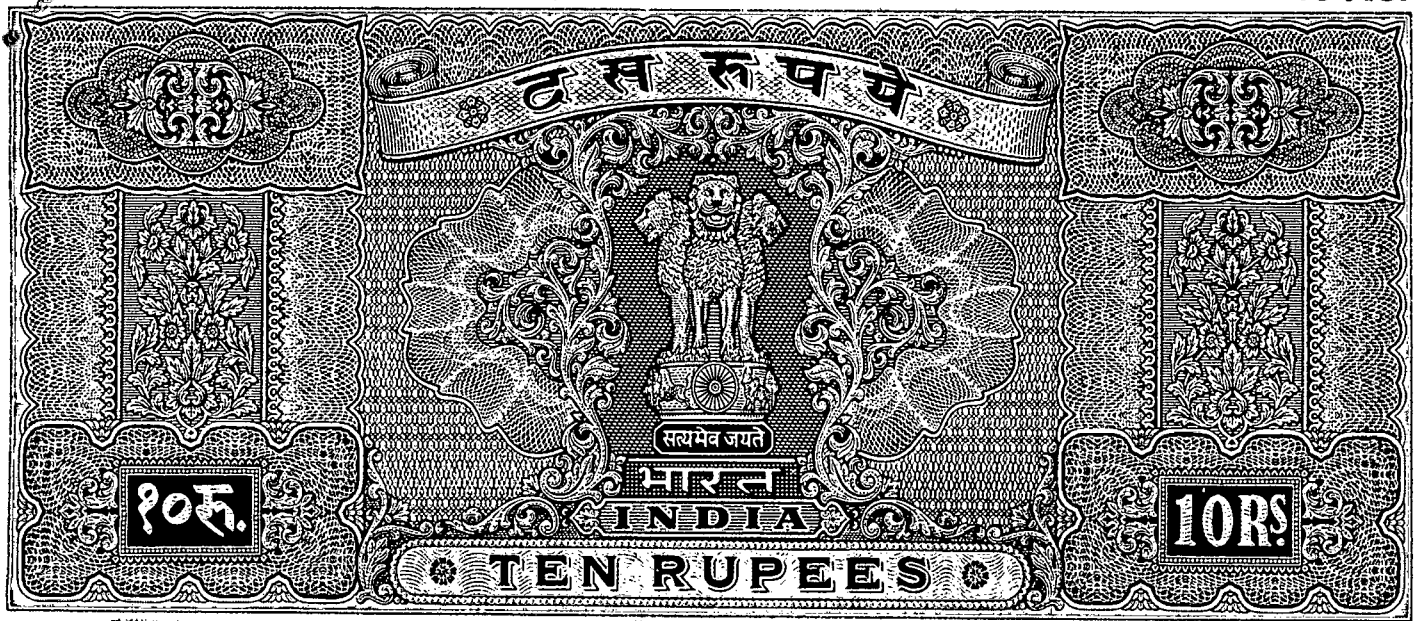
My Lords,

For facts and reasons stated in the enclosed affidavit in respect  
of the above mentioned case it is expedient and necessary that  
the above mentioned case is restored.

Wherefore it is respectfully prayed that this Hon'ble Tribunal  
may kindly be pleased to allow this restoration application in  
the interest of justice.

Lucknow

*N.P. Srivastava*  
( N.P. Srivastava )  
Advocate  
Counsel for Petitioner



In the Central Administrative Tribunal, Allahabad  
Lucknow Bench, Lucknow

Reg. No. OA-45 of 1988 (L)

Prakash Narain Mehandra

Petitioner

Versus

Director General, SIR and others

Opp. party

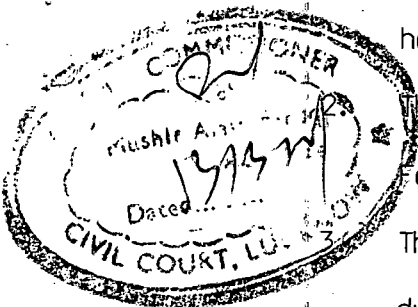
Affidavit on behalf of the deponent in the above mentioned case

I Prakash Narain Mehandra, aged about 45 years, s/o late Shri L.P. Mahendra Resident of E1998 Rajaji Puram, Lucknow at present employed as STA in Industrial Toxicology Research Centre, Lucknow do hereby solemnly affirmed and state as under:

1.) That the deponent is the petitioner in the above mentioned case and is fully conversant with the facts deposed to hereunder.

That the above mentioned case was fixed for hearing on February 23, 1989 before this Hon'ble Tribunal.

That the deponent was out of station on that day on official duty and therefore, it was not physically possible for him to be present before this Hon'ble Tribunal.



Page

4. That the Counsel engaged by the petitioner in this case could not find it convenient to appear before the Hon'ble Tribunal on that day for personal reasons.
5. That the counsel did not apply for adjournment of the case because he had given instructions to one of his juniors to hold brief for him.
- 60 That the junior also failed to appear before this Hon'ble Tribunal for some personal reasons.

Under the circumstances mentioned above it is respectfully prayed that the above mentioned case may kindly be restored in the interest of justice.

Lucknow

Dated:

13/3/19



*P. N. K. Sharma*

Verification

The above named deponent do hereby verify that the contents of paras 1-6 of the affidavit are true to my own knowledge and belief. No part of it is false and nothing material has been concealed so help me God.

11/05/19  
P. N. K. Sharma  
at Lucknow  
13/3/19  
MUSHIR ALAM FARUQ  
Only Co. Secy.  
Civil Court Lucknow.

*P. N. K. Sharma*

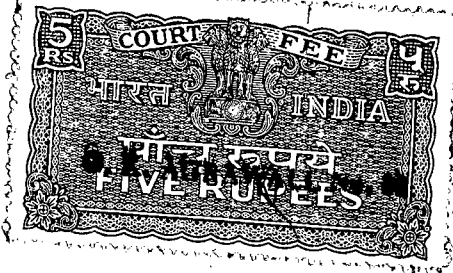
I identify the deponent who has signed before me.

13/3/19

M. S. Sharma  
Advocate



वादी (मुद्दै)  
मुद्दै (मुद्दालेह)



गालतनामा

PRAKASH NARAIN MAHENDRA  
VS

D. G. S. R. New Delhi & others

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

नं० मुद्दमा A0/45/88-सन

पेशी की ता०

१९

ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

वकील

एडवोकेट महोदय

को अपना वकील नियुक्त करके (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूंगा। अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

नाम अदालत

नं० मुकद्दमा

नाम फरीकन

हस्ताक्षर

(Prakash Narain Mahendra)

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १९

ई०

अभिभाषक पत्र (वकालतनामा)

सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिबुनल, एडिशनल बेंच, इलाहाबाद

मुकदमा नं० — 3 A 25 F — मन् १९८४

Mr. P. N. Mahendra

अपीलान्ट

वनाम

Union of India & Ors

रेस्पान्डेन्ट

मैं  
हम

कि

उपरोक्त प्रकरण (मुकदमा) में मैं अपना पक्ष समर्थन हेतु

जो श्री के. ए. लाल, एडवोकेट  
अनुपस्थित रहेंगे

को कानूनी शुल्क (मेहनताना) 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 (दखवास्त), शापथिक कथन (हलफनामा), प्रवर्तन-पत्र (दखवास्त इजराय), मुजवात 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 मूठ्टीकरण करें और आवश्यक मवाल जवाब 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 सन्झौता करें तथा सुलहनामा दाखिल करें तथा उसके सम्बन्ध से 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 मुझ को

होगी। अगर मैं कानूनी शुल्क तथा विशेष शुल्क आखिरी वहस के वक्त उक्त सज्जन को न दूँ/देँ 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

मेहरोत्रा प्रिंटिंग वर्क्स, इलाहाबाद। फोन : ५१०५६

Accepted  
M. Chandra

Admitted

सं०  
डा० पी० के० राय / Director  
निदेशक / Director

औद्योगिक विषय विज्ञान अनुसंधान केन्द्र  
Industrial Toxicology Research Centre  
लखनऊ/Lucknow

876

REGISTERED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
23-A, Thornhill Road, Allahabad- 211 001

*Circuit Bench, Gandhi Bhawan, Lucknow*

No. CAT/ALID/JUD/23426

Dated/- 13.6.88

In re

Registration No. OA 45 of 1988

Prakash Narain Mahesh APPLICANT(S).

Versus

U.O. Ind. & Others

RESPONDENT(S).

To

*Copy of the application filed by the applicant  
Prakash Narain Mahesh, dated 13.6.88, is  
being forwarded to the concerned authorities  
for their consideration.*

Please take notice that the applicant above  
named has presented an application, a copy whereof is  
enclosed herewith which has been registered, in this  
Tribunal, and the Tribunal has fixed <sup>20th</sup> ~~20th~~ *admitted*  
day of <sup>June</sup> ~~June~~ 1988 for *hearing* ~~hearing~~ *as prayer for*  
*Interim Relief. One month time granted for reply / CA*  
*Thereafter 10 days for rejoinder*

If no appearance is made on your behalf, you pleader  
or by some one duly authorised to act and plead on your  
behalf in the said application, it will be heard and  
decided in your absence.

Given under my hand and the seal of the Tribunal  
this <sup>13th</sup> ~~13th~~ day of <sup>June</sup> ~~June~~ 1988

*[Signature]*  
13/6  
FOR (DEPUTY REGISTRAR)

*[Signature]*

as

CA 4570827

Received notice no. 24, 25 & 26 @ 13.6.88  
alongwith the paper books from Deputy Registrar (T),  
C.A.T., Circuit Bench, Gaudh Bhawan, Lucknow.

Received

*[Signature]*

13/6/88

Section Officer  
Industrial Toxicology Research Centre  
LUCKNOW.

Notice on respondent no. 2  
served through office by hand due to  
short time.  
Original acknowledgement  
placed in CA no 4270827,

*[Signature]*  
13/6

Repas Central Admonisfalai Frhuma.  
celest-Banc, at Gaudh: Bhavn. 1/16  
Hennaw

Q. P. N. T. Andrews - Reliance

Industrial Toxicology Research Centre  
Munir Keerthi

Reg. 45/000(L)  
FF. 25-0-00

*W. J. G. Naylor No. 1, below as under.*

1. The Hon. G. H. Chalmers Advoct's  
 laid with favor. Since a week ago  
 as far as he is not attending to  
 Court as could not prepare the reply

100L  
25/8/88

Mr. M. C. S. improved fully & stayed  
along with his wife & family for  
one month.

49 cmw

10-25-0-029

*George*  
Advocate  
Account of Resolutions  
no.

Before the Central Administrative Tribunal  
Greenaw.  
1/5

Pankaj Narain Mahendra - Petitioner.

Union of India - Sh. - Respondents.  
Reg. No. OA 45/004  
FF. 20.6.00.

Respondents <sup>2003</sup> - superfluously submit as under,

1. That the undersigned has received the instructions together with copy of petition just now at 11-A.M.
2. That in such a short time, it is not possible to prepare the reply.

Seen  
Sanjay Kumar  
20/6

It is superfluously urged  
that one month time may be allowed  
for filing reply.

Greenaw.  
20.6.00

Secretary  
Adviser to  
President

REGISTERED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
23-A, Thornhill Road, Allahabad- 211 001

No. CAT/ALID/JOB/du Bhawan, Dated/for 1/8/12

In re

Registration No. .... of 198

OA 45

APPLICANT(S).

P. N. Mishra

Versus

RESPONDENT(S).

D. O. & Co.

To

Sr. G. K. Khanna, Adv.  
through Dr. P. K. R. G., Director  
I. T. R. C. ....

.....

Please take notice that the applicant above  
named has presented an application, a copy whereof is  
enclosed herewith which has been registered in this  
Tribunal, and the Tribunal has fixed .....  
day of ..... 198 for ..... 25  
..... file Reply  
.....

If no appearance is made on your behalf, you pleader  
or by some one duly authorised to act and plead on your  
behalf in the said application, it will be heard and  
decided in your absence.

Gives under my hand and the seal of the Tribunal  
this ..... day of ..... 198.

R (DEPUTY REGISTRAR)

Before Central Administrative Tribunal Allahabad Bench.

Lucknow Circuit Bench Lucknow

8/6/1

Prakash Narain

Petitioner

vs.

Union of India

Respts.

Reg. No. 45 of 1988(L).

Respondents No. 2 and 3 submits as under:-

- I. That reply in the above case has got to be approved and prepared at New Delhi and we are preparing the same.
2. That it is likely to take some time.

It is respectfully prayed that one month's time be allowed to file reply.

Lucknow.

18.7.1988



Advocate.

Respondents No. 2 and 3.

Granted.

Fix 25.8.88



18/8/88





Before General Administrative Tribunal Allahabad Bench.

Under Section 10 of the Act.

X2

Patilji Prasad

Petitioner

vs.

Union of India

Respondent

Reg. No. 45 of 1965(1).

Respondents No. 2 and 3 submit as under:-

1. That reply to the above case has got to be approved and prepared at New Delhi and we are preparing the same.
2. That it is likely to take some time.

It is respectfully prayed that one month's time be allowed to file reply.

Witness.

19.7.1966

T.P.  
*[Signature]*

Advocate.

Respondents No. 2 and 3.