

Removal

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 453 of 198

APPLICANT (s) Kesari Kumar

RESPONDENT(s) Supdt. Posts Bahraich & another

Particulars to be examined

Endorsement as to result of Examination

- | | |
|---|------------------|
| 1. Is the appeal competent ? | yes |
| 2. (a) Is the application in the prescribed form ? | yes |
| (b) Is the application in paper book form ? | yes |
| (c) Have six complete sets of the application been filed ? | yes in four sets |
| 3. (a) Is the appeal in time ? | yes |
| (b) If not, by how many days it is beyond time ? | NA |
| (c) Has sufficient case for not making the application in time, been filed ? | NA |
| 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 |

Order Sheet - ① - ①

OA 453/88

A3

22-4-88

No Sitting. Adj 5 to 1-8-88

Q/R ~~ଅନୁରୋଧ~~ ~~କରିବା~~ ~~ସଂ~~ ~~କ୍ଷ~~ ~~ଅନୁରୋଧ~~
ଆମ୍ଭଙ୍କ ଦ୍ଵାରା ~~କରିବା~~ ~~କରିବା~~ ~~କରିବା~~ ~~କରିବା~~
27.4.88.

4.7.88 od

Compter may be put
by 9.10.88

9.10.88 od

Let the compter be put
by 27.9.88

27.9.88 od

Compter may be put
by 17.10.88

17.10.88 od

on the request of register
compter, & compter may be
put by 2.12.88

Q/R ଅନୁରୋଧ କରା ଯାଇଛି 24.11.88 ଓ
compter ଅନୁରୋଧ କରା ଯାଇଛି 24.11.88

2.12.88 od

An implementation application
has been put today. Let before
court for orders on 3.3.89
as required.

O.A. 453-88

Hon. K. J. Raman A-M.
Hon. D. K. Agarwal - J. M.

Ay

On the request of both the parties counsel, the case is adjourned to 10.7.89 for hearing.

ben

J. M.

A-M.

11/10/18 - 11/10/18. Miss. No. 24, 8. 85 11/10/18
 11/10/18 11/10/18
 11/10/18

10-7-84

Hon. G. S. Shenaya, J.M.

Hon. N. V. Krishnam. A.M.

Harneel Shri. R. K. Tiwari

on his amendment application.

Amendment
in Corporate
on 24-7-84

The amendment is allowed and may be incorporated in the claim petition within two weeks.

Rutledge
24/7/89

A supplementary reply may be filed within a month and a supplementary rejoinder, if any, may be filed within two weeks hereafter.

Amendment
done in my
presence

7/89

dist id for heavy oil

30.10.84.

U
A-M.

J. M.

ORDER-SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH

OA 453 of 88

S.No. of Order	Date Order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order.
		12-9-90 DR An appn. no. 129/88 in this case is pending for disposal. List the appn. before court for orders on 29-10-90. DR(5)	
	29.10.90	Hon. AP Bhattacharya, Am Hon. K. Chatterjee, Am	
		As neither party nor any counsel is present due to the resolution of strike passed by C.A.T. Bar Association the case is adjn to 4/12/91 for orders. Am.	
	17.12.90	Hon. K. Nath, VC Hon. K. Chatterjee, Am	
	14/12/90	No time left adjn to 11/2/91 for orders already fixed.	

cf
mise appn. No. 647/12/90
filed on 5-12-90. for order
on transfer the case
submitted before Hon.
court for orders on
mise appn. on 17-12-90.

4
14/12/90

Waller
Jm. 29.10.90

502
Counsel for applicant-
moved appn. No.
647/12/90 for transfer
of the instant case
to Circuit Bench, UCO.
Submitted before court-
for orders on 4.2.91.
1/2

put
Box

7

AB

Sl. No.	Date	Office Report	Orders
---------	------	---------------	--------

CA 453/88

14-3-91 DR (3)

As the Hon'ble V.C. is not available on the station list this ^{disc} ~~disc~~ application on 21-3-91 before Hon'ble V.C. for order

DR (3)

OR
Main Application for transfer of the case to CAT-140 is put up accordingly before Hon'ble Vice Chairman on 21.3.91.

OR
20/3/91.

21/3/91

For Mr. Justice K. Math, VC

Transfer this application to Lucknow Circuit Bench as requested by the applicant.

VC

OR
In compliance of Hon'ble V.C.'s order dated 21.3.91. The original case in 3 folders (A.B.C) with all its pertaining documents is sent to CAT 140 CB. by hand through Mr. Shreekant Singh.

OR
S.S. (J) 21/3/91
21/3/91.

OR
This file has been read on 22.3.91 by Mr. Shreekant, P.A. In this case counter has been filed. RA has not filed. Submitted before

DR (J)

21/3/91

9

us3/88

A7

25.7.91

D.R.

Both the parties
are present today.
Applicant to file

Rejoinder by

4/10/91.

4.10.91

D.R.

Applicant is present
imperson - No appears
for the O.P. Applicant
to file Rejoinder
by 13/11/91.

13.11.91

D.R.

Shri T. Upadhyay has
filed his vakalatnama
on behalf of applicant
today. No appears for
the O.P. Applicant
to file Rejoinder
by 20/1/92.

11

Ad

Central Administrative Tribunal
Lucknow Bench, Lucknow.

.....

O R D E R SHEET

O.A./I.A. No. 453/00

Date / Office Report / Order

OR
C.A, D.A have
been ~~file~~ exchanged
S.F.I.
24-9-82

MANISH/-

①

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. NO

453/88

199

(L)

T.A. NO

Date of Decision

Kesari Kumar

PETITIONER.

Applicant in person

Advocate for the Petitioner(S)

V E R S U S

Superintendent Pol Officer and

RESPONDENT.

another; Shri K C Sinha

Advocate for the RESPONDENT(S)

CORAM

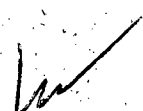
The Hon'ble. Mr.

Judge V.C. Srivastava, VC

The Hon'ble. Mr.

K. B. Singh, DM

1. Whether Reporters of local papers may be allowed to see the Judgment? N
2. To be referred to the reporter or not? N
3. Whether their Lordships wish to see the fair copy of the Judgment? N
4. Whether to be circulated to other benches? N


Vice-Chairman/Member

A9

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

O.A. No. 453/88

Kesari Kumar

Applicant

Shri

Applicant in person .

versus

Superintendent of
Post offices Bahraich
and another.

Respondents.

Shri K.C. Sinha

Counsel for Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

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

The applicant was appointed as E.D.B.P.M. Khajurar district Behraich vide order dated 9.12.86, after observing all the departmental procedure. After 6 months the order was cancelled, which order seems to have been issued in pursuance of the DPS Lucknow letter dated 15.6.87, against which representation was filed. The applicant has challenged the order on the ground that he was the fittest candidate for the appointment of the post and he was given appointment after gaining experience and his services were terminated in this manner.

2. The respondents have opposed the application on the ground that earlier one Shri Dhaneshwar Prasad Tripathi working as E.D.B.P.M. Khajurar (Ikauna) district Behraich sought voluntary retirement and on 31.8.85 he retired and then requisition was sent to the Employment Exchange for filling up the post of E.D.B.P.M. The Employment Officer did

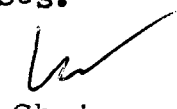
LM

A/O

send the names and as such the date was extended.

Incidentally the office of Employment Exchange sopsored 6 names and S.D.I.(E) submitted his report, on the basis of which the applicant was considered and was consequently given appointment. In the counter affidavit, details of other candidates have already been given. It appears that one Shri Ayodhya Prasad, who gave his details as Shop merchant, in the name of his father, made complaint to the Director of Postal Services and the Director set aside the selection of the applicant. The Director had power to set aside the selection but when the applicant was duly selected after due merit, to accommodate another candidate, the applicant could not have been ousted, as certain right accrued to him and the order could not have been cancelled. The order of cancellation of the appointment of the applicant deserves to be set aside and the order of cancellation dated 15.6.87 passed by D.P.S. Lucknow is set aside. The applicant shall be deemed to be continued in service. However, it will be open for the respondents to give him opportunity of hearing and thereafter pass an order. As a result of the restoration of the applicant, if any other person has taken over, the respondents can give him appointment elsewhere. It will not be obligatory on the part of the respondent to pay the allowances during the period the applicant remained out of service. No order as to costs.


Adm. Member.


Vice Chairman

Lucknow: Dated 25.8.92

Shakeel/

श्रीमान राजेन्द्र भट्ट

पुनर्जागरण आंदोलन
लोकन्याय

सेवा में:

निवेदन है कि प्राथी को मुकदमा नं. 453/85 दिनांक 25.8.92 केसरी कुमार तिवारी बनाम युनिफ़ॉर्म के केसल को जमाना को अवश्यपता जबकि केसरी कुमार ने प्राथी को करीब मुकदमा में नहीं बनाया था/ लेकिन इस केसल से प्राथी बहुत बुरी तरह से प्रभावित हो रहा है।

अतः श्रीमान जी से निवेदन है कि प्राथी - मुकदमा नं. 453/85 केसरी कुमार बनाम युनिफ़ॉर्म सी. 25-8-92 लिस्ट नं. 50 पर मुकदमा था/ प्राथी को जमाना दिलाने की हफ्ता की जाय उचित हफ्ता हफ्ता होगी।

419 448505-25/-
34448382 22/-
204034268 21/-
8/-

F.T.
22-9-92



प्राथी:-

असौध्या प्रसाद झा. श्री बच्चन लाल
शाम व दो. यादुगार जनों का
उप. प्र. महाराष्ट्र

Issue
गिरि
22-9-92
issued on
22-9-92
Rohr

A11

Application U/S 19 of The Administrative Tribunal Act, 85

Filed on the 7th April, 1988

Regn. No. 453 / of 1988

Signature Of D.R.(J).

In The Central Administrative Tribunal, Allahabad-1

Between

Keshari Kumar Applicant

A N D

(1) Supdt. Posts Bahraich I
(2) PMG UP Lucknow I Respondents
II

I N D E X

Sl. No.	Annexure Marked	Particulars Of Documents	Page No.
1	-	Application	2 to 5
2	A I	Appointment Order dated 9-12-86 issued by Resp. 1	6
3	A II	Impugned Order dated 18-6-87 Cancelling the Appointment Order issued by Resp. No.1	7
4	A III	Representation dated 23-7-87 to PMG UP	8 to 10
5	A IV	Appellate Order dated 12-01-88	11

R. K. TEWARI

Advocate
154, Laxmi Nagar
(K.)
Allahabad-16

केशरी कुमार

A11

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R. K. TEWARI

Advocate
154, Panchsheel Nagar
(K.)
Allahabad-16

केशरी कुमार

Date of Receipt
By Post

Dy Registrar

Details of Application

1- Particulars of the Applicant :-

- (i) Name of the Applicant **KESARI KUMAR**
(ii) Father's Name **Shri Rameshwar Nath Tripathi**
(iii) Designation & **Ex Branch Postmaster**
Office in which employed **Khajurar (Ikauna) Bahraich.**
(iv) Office Address
(v) Address for service **Village & P.O. Khajurar via Ikauna**
of all notices **District Bahraich UP**

2- Particulars of the Respondents :-

- (i) Name &/Or Designation (1) **Supdt. Posts Bahraich**
(2) **PMG UP Lucknow**
(ii) Official Address
(iii) Address for service
of all notices

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

- (i) Order No. **B-274/Khajurar** **Staff/381-XA/Bahraich-2/87/5**
(ii) Date **18-6-87** **anp-7** **12-1-1988** **an11**
(iii) Passed by **Supdt. Posts Bahraich** **PMG UP Lucknow**
(iv) Subject in brief **Removal from service by cancelling the order of Appointment.**

4- Jurisdiction of the Tribunal

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

5- Limitation

The applicant further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunal Act, 1985.

6- Facts of the case

The facts of the case are given below :-

Rustawar

अधीनस्थ

A/2
Filed today
Date of Admission
Noted for 22/4/88
Rustawar
Advocate
7/4/88

- (i) The applicant was appointed as E.D.B.P.M. Khajurar by Respondent No.1 vide orders dated 9-12-86 at Ann. A I on page 6. These orders were issued after observing all departmental formalities. The appointment was no doubt made provisional but it had exactly been in the same manner as the appointment of each and every B.P.M. is done. It is exactly in the proforma laid down by the D.G. P&T New Delhi and printed under the head Method Of Recruitment in the Book P&T ED Staff (Service & Conduct) Rules 1964. Therefore the mere provisional appointment does not confer any right upon the appointing authority to cancel the same without any rhyme or reason without offering the appointee any opportunity to have his say against the proposed cancellation.
- (ii) After the applicant had worked satisfactorily for 6 months and 9 days his appointment order was all of a sudden cancelled by the Resp. No.1 vide his impugned order dated 18-6-1987 at Ann. A II on page 7 and the applicant was removed from service. The applicant was not given any opportunity to have his say against the proposed cancellation order. The learned Resp. No.1 has thus breached the provisions of Art.311(2) of the Constitution.
- (iii) As the impugned order is said to have been issued in pusuance of DPS Lucknow No.RDL/Staff/C-4/87/3 dated 15-6-87 hence a representation against the said order was preferred to the next higher authority viz. The PMG UP on 23-7-87 vide copy at Ann. A III on Pages 8 to 10. The learned PMG UP rejected the said representation through a non-speaking

अनुराग

A14

order dated 12-1-1988 copy at Ann. A IV on Page 11;
hence this application is submitted .

- (iv) The Resp. No.1 will be requested to supply a copy of DPS Lucknow's letter in question in pursuance of which he cancelled the appointment order of the applicant along with his Reply Affidavit so that the applicant may know the reasons for the said drastic Action. He will then alone be in a position to make comments on that order.

7. Reliefs Sought For :-

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

- (i) The order cancelling the appointment order and thereby throwing the applicant out of Employment being in contravention of Art 311(2) of the Constitution it is prayed that it may kindly be set aside and the applicant may be reappointed on the post from which he has been removed.
- (ii) He may be allowed the pay and allowances & for the period for which he had been kept out of employment.
- (iii) He may be allowed the cost of this suit, together with any other relief deemed fit by the Hon'ble Tribunal.

R. K. Tewari
R. K. TEWARI

v. cate
154, L. B. Nagar
(K. L. Bad)
Allahabad-16

Chaitanya

8- Interim order, if prayed for— NIL

9- Details of the remedies exhausted

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

He preferred an appeal to the PMG UP on 28-7-87 vide Ann. A III on Pages 8 to 10 which was rejected by the latter on 12-1-1988 vide Ann. A IV on Page 11.

10- Matter not pending with any other court etc. :-

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law, or any other authority or any other bench of the Tribunal.

11- Particulars of the Postal Order in respect of the application fee :-

(i) No. of I. P. O. DD5/516447

(ii) Name of Issuing P. O. Allahabad H.P.O.

(iii) Date 5-4-1988

(iv) P. O. at which payable

Allahabad H. P. O.

12- Index- An Index of the documents to be relied upon is enclosed with each copy of this application

13- List of enclosures :-

(i) Vakalatnama

(ii) one I. P. O. for Rs. 50/-

(iii) Four documents to be relied upon

In Verification

I, Kesari Kumar

S/O Shri Rameshwar Nath Tripathi aged 30

years R/O Vill. & P.O. Khajurar
Ikarna Dist. Bahraich

and working as Ex B.P.M. do hereby
Khajurar

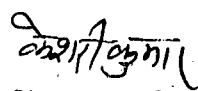
verify that the contents from 1 to 13 are true to my personal knowledge & belief and that I have not suppressed any material facts.

Place- Allahabad

Date 7/1/ 1988.

To

The Registrar, Central Administrative Tribunal,
Allahabad--211001


Signature of applicant


R. K. TEWARI

Advocate

154, Pursottam Nagar
(Khajurar)
Allahabad-16

Annexure A I

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS
O/O SUPDT. OF POST OFFICES BARRAICH DN,
BARRAICH-271001.

Regd

Memo No. B1224/Khajura 1078 Dahrach the, 12.08.76

"Shri. Khajura whose date of birth is 16-11-46 is hereby provisionally and temporarily appointed as EDPF Khajura. He will be governed by the P&T Extra Departmental Agents (Conducts & Service) Rules, 1964 as amended from time to time and will be paid such allowances as admissible under rules from time to time.

2. Shri. Khajura should clearly understand that his employment is purely provisional and temporary and is in the nature of a contract and can be terminated at any time by the undersigned without any previous notice and without assigning any reasons therefor and the provisional appointment is further subject to the satisfactory reports from the Police and Revenue Department regarding character, antecedents, solvency and income from any other source.

3. Shri. Khajura will keep the Post office at Bahraich in the village his own cost, risk and responsibility.

4. Shri. Khajura will contact the SDI (Postal) Bahraich for the practical training for 7 days and furnish the following documents through the SDI (Postal) Bahraich before training. He should submit

charge report of his joining as EDPF Khajura to the Postmaster, Bahraich and undersigned

1. Monthly certificate
2. Descriptive particulars.
3. Declaration (Performance attached).

5. He will please deposit a sum of Rs. 1,000/- only as security money placed by the Government of India through the Supdt. of Post Office Barrach DN.

6. If there are any documents accessible to him, he should submit the same enclosed through the SDI (Postal) Bahraich before training.

SUPDT. OF POST OFFICES,
BARRAICH DIVISION
BARRAICH-271001

Copy to SDI (Postal) Bahraich for perusal.

SDI (Postal) Bahraich He will forward in Para-4 and forward

TRUE COPY

Rutwan
(R. K. Tewari Advo.)

AD

-7-

Annexure A II

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS
O/O SUPDT. OF POST OFFICES BAHRAICH DN.
BAHRAICH-271801.

Memo No. D-274/Khajurax

Dt. at Bahraich the, 10.6.87

In pursuance of D.P.S. Lucknow letter No. RDL/Staff/C-4/87/3 dated 15.6.87, the provisional appointment of Shri Keshri Kumar S/O Rameshwar Prasad Vill. & P.O. Khajurax as ~~ma~~ vido memo no. even dated 9.12.86 is hereby cancelled with immediate effect.

[Signature]
Supdt. of Post Offices,
Bahraich Division
Bahraich-271801.

Copy to-

1. The SUI (East) Bahraich for information & n/a. Sri Keshri Kumar should be immediately relieved of the charge of EDBPM Khajurax.

2. Shri Keshri Kumar EDBPM Khajurax.

3. The P.M. Bahraich.

4-5. O/C & Sps.

TRUE COPY

[Signature]
(R. H. Tewari Advo.)

for dist
[Signature]

- 8 -

Annexure A III

To,

Shri S.P.Rai,
Postmaster-General,
U.P.Circle, Lucknow.

Through- Proper Channel

Sub:-

Cancellation of appointment of Sri KESHARI KUMAR, E.D.B.P.M., KHAJURAR (BAHRAICH) by the Director Postal Services, Lucknow on no ground- case of irregular act on the part of the said D.P.S. etc.

Ref:-

DPS, Lucknow Region, Lucknow no. RDL/Staff/C-4/
87/3 dated 15.6.1987 received under SPO's,
Bahraich No. B-274/Khajurur dated 18.6.1987.
---10:---

Sir,

The representation showeth as under :-

1. That the applicant was appointed by the SPOs Bahraich vide his office memo no. B-274/Khajurur/86 dated 9.12.86 as ED BPM Khajurur through employment exchange and also on merit amongst the candidates for the post.
2. That after completing the prescribed deptt. training for 7 days and executing the security bond worth Rs. 1000/- pledged to the President of India in shape of SB deposits the applicant remained busy with his work as ED BPM Khajurur w.e.f. 17.12.1986.
3. On one fine morning the applicant was called upon by the SDI, East-sub-Division Bahraich at his Head-quarter and after taking the records of the EDSO, PD Khajurur (Bahraich) dramatically in his possession, he was served with the impugned order dated 18.6.87 issued by the SPOs Bahraich under his office No. B-274/Khajurur dated 18.6.1987.
4. That Shri AYODHYA PRASAD S/o Sri Bachu Lal, R/o Vill- Belhapurwa, P.O. Khajurur, Bahraich was subsequently and immediately appointed as ED BPM Khajurur, Bahraich vice the applicant on 5.7.1987 without going through the prescribed training of 7 days as per rule.

Contd. 1. 2.

119

(9)

(7) 9.

That the applicant contacted the L. D.P.S., Lucknow and requested him to re-
the order as the same is defective on the
following counts :-

- (a) The case of Shri Ayedhya Prasad
alongwith the prescribed ingredients
have already been considered by the
Aptt.- Anth. to-gather with the
candidature of the applicant, which
was rejected being found less
deserving on merit and the applicant
was declared appointed to the post
of ED BPM, Khajur Barhaich.
- (b) That the appointment of the applicant
was regular and could not be
terminated without adopting the due
process of law.
- (c) That the nature of appointment being
temporary only could not form the
substantial ground to debar the
applicant from his constitutional
right emerges out of his appointment
through process of Law.
- (d) That the termination-order is abusive
to the Notification (showing no alle-
cation of posts for SC/ST etc.)
issued by the SPOs Barhaich and
Laconic on account of absence of
formalities (Mandatory in nature)
before issue of such order since an
appointment, as and when made, through
due process against clear vacancy
is not a provisional-appointment.
in the eye of judicial cannons.

The Learned Director Postal Services, Lucknow Region,
on hearing the applicant could not justified the
application of Reviewing-Authority and that's too

Contd., 3.

(10)

irregularly since the candidature of Shri Ayodhya Prasad has never been adjudicated adversely to suitability of the post merely on account of his being a resident of Beaha purwa, i.e. not of the village where the EDSO was proposed to function, rather the basic qualification for the post (High School ~~se-~~ supplementary) in itself was estimated at a point much below in category acquired by the applicant surpassing the additional number allotted to the additional qualification (Intermediate) of Shri Ayodhya Prasad.

As such termination-order encensed un-qualified gratification.

The contention of the Learned D.P.S., Lucknow is not only invalid rather the facts and records are not the such as they say.

P R A Y E R

Wherefore, it is prayed that the justice may now be done by placing orders to :

- (a) Set-aside the impugned order of termination of appointment of the petitioner as issued by the SDOs, Bahraich under his office no. B-274/ Khajurax dated 18.6.1987 with restrapective effect.

For this act of your kindness the applicant and his dependants will remain grateful for ever in such a hard-days.

With due regards,

Yours faithfully,

TRUE COPY

R. Tewari

(Kachari Kumar)
Ex- E.D.P.S.,
Khajurax (Bahraich)

Dated: 21.7.1987 J. Tewari Advo.

Copy to: 1. The SDO, Bahraich.
2. Shri P. Singh, D.P.S., Lucknow Region, Lucknow.
for information and necessary action with a request to submit the petition to the P.D.P., Lucknow with their
and also to the P.D.P., Lucknow with their

A2-1

Annexure A IV

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS

From

The Postmaster-General,
U.P. Circle, Lucknow-226001

To.

Shri Keshari Kumar
Ex.ED BPM Khajuraho
Bhairach.

No. Staff/361-XA/Bahraich-2/87/5 Dated at Lucknow / 12-1-58.

Subj- Representation against the appointment of BPM

Dear Sir,

After careful consideration of your representation dt. 23/7/87 on above subject ~~and~~ there has been found no justification to interfere into the decision taken by DPS Lucknow.

Yours faithfully

TRUE COPY

Rutherford
(R. 1000-1000)

for Postmaster-General, P.O. Circle
Bucknab 226001

४५.

For

1988
AFFIDAVIT
28/1344
HIGH COURT
ALLAHABAD

A23

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

COUNTER AFFIDAVIT

IN

REGISTRATION O.A. NO. 453 of 1988/

Keshari Kumar

.....

Applicant

Versus

The Union of India & others....

Respondents.

Received
copy
Rt. Hon.
21/11/88.

Affidavit of T.D. Gauri
aged about 47 years son of
Shri R.D. Gauri posted
as Supdt. of Post office
Bahmich (U.P.)
(Deponent)

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

1. That the deponent is posted
as Supdt. of P.O. Bahmich and as such is
fully acquainted with the facts of the case
deposed to below.

2. That before giving a parawise reply,

Signature

A24

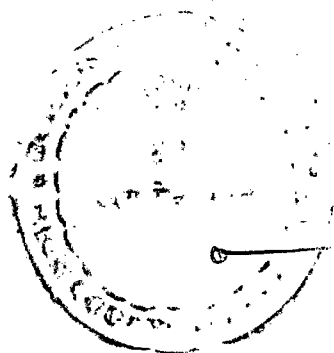
-2-

the following facts are being asserted in order to facilitate this Hon'ble Tribunal in administering justice.

3. That Shri Dhaneshwar Prasad Tripathi who was working as Extra Departmental Branch Post Master, Khajurar (Ikauna) district, Bahraich prayed for voluntary retirement from service and his request was acceded to and he was ordered to be retired w.e.f. 31.8.1985.

4. That thereafter in order to fill up the said vacancy, requisition was sent to the Employment Exchange Officer Bahraich through which the request was made that for filling up the said vacancy, names of eligible candidates may be sponsored by 5.9.85. Since the Employment Officer, Bahraich did not sponsor the candidates for filling the said vacancy and as such, the date was extended upto 30.9.85. Incidentally, the office of the Employment Exchange could sponsor the names of six candidates only on 10.10.85 which was forwarded to the SDI(E) for verification and the SDI submitted his report on 2.5.86 and on the basis of the report dated 1.12.86, the candidature of the following six candidates who were sponsored through Employment Exchange was considered;

1. Sri Devendra Nath Dwivedi s/o Sri ~~Bachan Lal~~ Manna Ram Dwivedi, Village & Post Khajurar, Bahraich.



12046

A25

-3-

2. Sri Ayodhya Prasad s/o Sri Bacchu Lal, village Belhan Purva Post Khajurar, Bahraich.
3. Sri Subhash Chandra s/o Sri Ram Lakhan village & Post Khajurar, Bahraich.
4. Ashok Kumar Singh s/o Sri Airapati Singh, village Tutiha Purva Post Khajurar, Bahraich.
5. Sri Narendra Kumar Singh s/o Sri Airapati Singh village Tutiha Purva Post Khajurar, Bahraich.
6. Sri Keshari Kumar son Sri Rameshwar Prasad ,r/o village & Post Khajurarj, Bahraich.

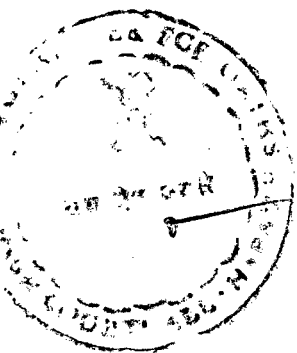
5. That Sri Devendra Nath Dwivedi at sl.no.1 and Sri Subhash Chand at sl.no.3 were already working on the post of Extra Departmental Branch Post Master, Sravasti and EDMP Balapur, Bahraich respectively and since they did not tender their resignation from their respective posts and as such their names could not be considered. Moreover, there is no provision for transfer of E.D. Employees under the E.D. Conduct & Service Rules, 1964. The candidatures of Sri Ashok Kumar Singh was also not found upto the mark as he has submitted his father's income certificate and not of his own which is not permissible under the act. Sri Narendra Kumar whose name figures at sl. no.5 has also not submitted his income certificate and as such, his candidature was also not considered for being appointed. Sri Ayodhya Prasad at sl.no.2 and the petitioner



file

-4-

submitted their Income certificate in which Shri Ayodhya Prasad has shown his income as Rs. 450/- per month whereas the petitioner has shown his monthly income to as Rs. 300/-. Both the candidates have passed their High School Examination and as such, their candidatures were considered for being appointed on the post of EDBPM. Sri Ayodhya Prasad was shown as the resident of Belhapurva as per the certificate given by village Pradhan and after verification, it was revealed that Belhapurva is not another village but it is the Hemlet of village Khajurar, but the income certificate which was furnished by Ayodhya Prasad was defective as the Shop of General Merchant was in the name of his father and not against his own name, as such the petitioner was given appointment on the post of EDBPM Khajurar. Thereafter, Sri Ayodhya Prasad made a complaint to the Director, Postal Services, U.P. Lucknow and vide his order dated 15.6.87, the DPS, Lucknow has cancelled the appointment of the petitioner and direction was given that candidature of Sri Ayodhya Prasad who is a Schedule Caste, was suitable and he should have been given the



A27

-5-

6. That the contents of para-1,2,3,4 and 5 of the petition are the matters of record, hence need no comments.

7. That the contents of para-6(1) of the petition are not disputed. It is further submitted that Sri Keshari Kumar (petitioner) was appointed as EDBPM vide ~~his~~ Office Memo dated 9.12.86 as the post of EDBPM Khajurar was vacant due to voluntary retirement of Shri Dhaneshwar Nath Tripathi, but the aforesaid appointment was cancelled by the D.P.S. Lucknow Region, Lucknow vide his order dated 15.6.87.

8. That in reply to the contents of para-6(2) of the petition, it is submitted that the appointment of the petitioner was cancelled by the D.P.S. Lucknow Region, Lucknow and accordingly orders were issued vide Memo dated 18.6.87.

9. That the contents of para-6(3) of the petition are not disputed. The applicant preferred an appeal to the P.M.G.U.P. Circle, Lucknow against the cancellation of his appointment which was rejected vide order dated 12.1.88.

10. That the contents of para-6(4) of the petition are matter of record, hence need no comments.

[Signature]

A28

-6-

11. ^{in reply to} That the contents of para-7 of the petition it is submitted that in view of the facts and circumstances mentioned above, no relief can be granted to the petitioner and the petition is devoid of merits, hence liable to be dismissed with costs.

12. That the contents of para-8,9,10,11,12 and 13 of the petition need no comments.

I, the deponent abovenamed do hereby verify that the contents of para- para 2 of this affidavit are true to my personal knowledge; those of paras 8, 9, 12 are based on legal advice; and those of para 11 are based on legal advice to which I believe to be true; that no part of it is false and nothing material has been concealed.

So help me God.


Deponent

I, D.S. Chaubey, Clerk to Shri K.C. Sinha, Advocate, High Court, Allahabad do hereby declares that the person making this affidavit and alleging himself to be the same is known to me from the perusal of papers.


Clerk

Solemnly affirmed before me on this 24th day of September, 1988 at 9.10 am by the deponent who has been identified by the aforesaid Clerk.

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

OATH COMMISSIONER.

भारतीय डाक विभाग
कार्यालय निदेशक डाक सेवायें लखनऊ-226007.

सेवा में,

श्री मालती प्रसाद तिवारी,
अधीक्षक डाकघर,
बहराइच प्रखण्ड, बहराइच।

A 29

संख्या: आरडीएल/स्टाफ/सी-4/87/3

लखनऊ दिनांक 10-5-87

विषय: - शाखा डाकपाल खुरार [बहराइच] की नियुक्ति का मामला ।

सन्दर्भ: - आपका पत्र बी-274/खुरार दिनांक 6-5-87.

निदेशक डाक सेवायें लखनऊ ने शाखा डाकपाल खुरार [बहराइच] की नियुक्ति के मामले का पुर्ननिरीक्षण करने के पश्चात यह पाया कि श्री अयोध्या प्रसाद [अनुसूचित जाति] शाखा डाकपाल पद के सभी अभ्यर्थियों में सर्वथा अयोग्य था परन्तु उसकी नियुक्ति पुरवा [हेमलेट] का होने के नाते नहीं की गयी जबकि डाक महाध्यक्ष के स्पष्ट निर्देश है कि हेमलेट को मुख्य ग्राम का ही एक भेज समझा जाय ।

इस प्रकार निदेशक महोदय ने यह पाया कि श्री केशरी कुमार की नियुक्ति अनियमित है और उसे तुरन्त निरस्त करके श्री अयोध्या प्रसाद की नियुक्ति की जानी चाहिये । इस कथित नियुक्ति में की गयी अनियमितताओं से सम्बन्धित आप अपना स्पष्टीकरण शीघ्र इस कार्यालय को भेजें तथा साथ ही अनुपालन आख्या भी दें । प्रखण्डीय पत्रावली : बी-274/खुरार क्रमांक 1 से 100 भी वापस की जा रही है । कृपया पावती स्वीकार करें ।

हठ/-

। रण्डी० यादव ।

सहायक निदेशक,

कृते निदेशक डाक सेवायें लखनऊ

लखनऊ-226007.

संलग्नक: उपरोक्त ।

सत्यप्रतिलिपि।

अधीक्षक डाकघर
बहराइच मण्डल,
बहराइच-271801.

A-29
28/134
2-5 988

A30

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH
AT ALLAHABAD.

CIVIL MISC. APPLICATION NO. 129 OF 1988.

On behalf of

Shri Ayodhya Prasad son of Shri Bachchu Lal
resident of village and post Khajurar (Ikauna) district
Bahraich.

..... Applicant.

(proposed respondent no.3)

IN

REGISTRATION NO.453 OF 1988.

Keshari Kumar Applicant.

Vs.

Superintendent of Post-offices,
Bahraich and another.

..... Respondents.

To

The Vice-Chairman and His other companion members
of the aforesaid Tribunal.

The humble petition of the abovenamed applicants-
proposed respondent no.3 Shri Ayodhya Pd. Showeth:-

*Recd copy.
R/S
2/12/88*

(Ajesh)
(Rajesh Chandra Sinha)

A31

(2)

1. That the aforesaid petition has been filed challenging the order dated 18-6-1987 passed by the Superintendent of Post-offices, Bahraich through which the appointment given to the petitioner on 9-12-1987 stands cancelled and also an order dated 12-1-1988 passed by the Post-master General, U.P. Circle, Lucknow, through which the representation of the petitioner dated 23-7-1987 was rejected.

2. That for making regular appointment of Extra Departmental Branch Postmaster, Khajurar (Ikauna) district Bahraich a requisition was sent by the Supdt. of Pos-offices, Bahraich to the Employment Exchange, Bahraich, through which the names of eligible candidates were sought to be sponsored and the office of the Employment Exchange, Bahraich sent an information in the month of September, 1985 sponsoring the names of five candidates including the name of the petitioner as well as the name of the applicant (proposed respondent no.3) Sri Ayodhya Prasad. The applicant Sri Ayodhya Prasad was referred as permanent resident of village & post Khajurar (Ikauna) local and his educational qualification has been prescribed by the Employment Exchange as Intermediate, whereas the

(Ajesh)

(3)

the petitioner was simply a High School. The applicant Ayodhya Prasad comes from a scheduled caste community but for the reasons best known to the Superintendent of Post-offices, Bahraich, the appointment letter was issued in favour of the petitioner and discarded the candidature of the applicant Sri Ayodhya Prasad.

3. That it has been learnt by the applicant Ayodhya Prasad that his candidature has been discarded on the ground that he is not a permanent resident of village Khajurar (Ikauna).

4. That against the aforesaid appointment, on 12-1-1987 the applicant Ayodhya Prasad moved an application to the Minister of Communication enclosing therewith all the necessary certificates, showing therein that he is permanent resident of village & post Khajurar (Ikauna) and his candidature has been wrongly rejected by the Superintendent of Post-offices, Bahraich.

5. That after receipt of the said representation of the petitioner, it appears that the same has been

(Lajesh)

(4)

sent to the relevant authorities and a detailed inquiry was conducted into the matter of the appointment of the petitioner and the Director, Postal Services, Lucknow issued a letter on 15-6-1987 through which the Superintendent of Post Offices, Bahraich, was directed to cancel the provisional appointment of the petitioner which was given to him on 9-12-1986.

6. That after cancellation of the said appointment of the petitioner, the applicant Sri Ayodhya Pd. was appointed on the post of the Extra Departmental Branch Postmaster, Khajurur (Ikauna). A photostat copy of the said appointment letter dated 18-6-1987 is being filed herewith and marked as ANNEXURE NO. 'A' to the accompanying affidavit.

7. That in pursuance of the aforesaid order dated 18-7-1987 the applicant Sri Ayodhya Prasad has been handed over the charge of the office of the Extra Departmental Branch Postmaster, Khajurur (Ikauna) by the petitioner on 6-7-1987 and since then Sri Ayodhya Prasad, the applicant is discharging the duties

Vijesh

A34

(5)

Extra Departmental Branch Postmaster, Khajurar (Ikauna)
district Bahraich.

8. That in view of the aforesaid circumstances, in case the petition is allowed and the order dated 18-6-1987 passed by the Superintendent of Post-offices, Bahraich, cancelling the appointment of the petitioner and the order dated 12-1-1988 rejecting the representation of the petitioner are quashed, it would automatically follow the appointment of the petitioner on the post of the Extra Department Branch Postmaster, Khajurar (Ikauna), ousting the ~~petitioner from~~ applicant Sri Ayodhya Prasad from the post of the Extra Departmental Branch Postmaster, Khajurar (Ikauna).

9. That in view of the aforesaid facts, the applicant Sri Ayodhya Prasad is a necessary party in the petition and the petitioner has deliberately not arrayed him as a party, whereas the aforesaid petition has been filed after handing charge of his office by the petitioner.

(Signed)

A35

(6)

10. That under these circumstances, it is necessary in the interest~~of~~ of justice that the applicant Shri Ayodhya Prasad may be allowed to be impleaded as respondent no.3, otherwise the applicant Ayodhya Prasad would suffer irreparable loss, as his right will be affected by an order of this Hon'ble Tribunal without hearing him.

PRAYER

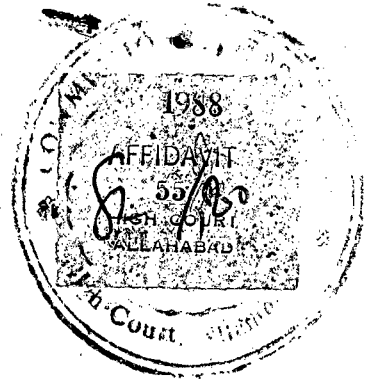
It is, therefore, most respectfully prayed that this Hon'ble Tribunal may be pleased to allow this application and allow the applicant Sri Ayodhyaya Pd. (proposed respondent no.3) to be impleaded as respondent no.3 in the aforesaid petition, as otherwise he shall suffer irreparable loss and injury.

And/or be further pleased to pass such other and further order which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.

DT/-

Rajesh Chandra Sinha
C *Rajesh Chandra Sinha*
Advocate,

Counsel for the applicant
Sri Ayodhya Pd., proposed respondent no.3.



A36

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH
AT ALIAHABAD.

AFFIDAVIT

IN

CIVIL MISC. APPLICATION NO. _____ OF 1988.

IN

REGISTRATION NO.453 OF 1988.

Keshari Kumar Applicant.

Versus

Superintendent of Post-offices,
Bahraich and another.

..... Respondents.

Affidavit of Sri Ayodhya Prasad
aged about 24 years son of
Shri Bachchu Lal resident of village
and post Khajurar (Ikauna) district
Bahraich.

(Deponent)

(Signature)

अयोध्या प्रसाद



A37

(2)

1. ~~That the deponent is the sole applicant proposed~~ 1

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

1. That the deponent is the sole applicant proposed respondent no.3 and as such he is fully acquainted with the facts of the case deposed to below.

2. That the aforesaid petition has been filed challenging the order dated 18-6-1987 passed by the Superintendent of Post-offices, Bahraich through which the appointment given to the petitioner on 9-12-1987 stands cancelled and also an order dated 12-1-1988 passed by the Post-master General, U.P. Circle, Lucknow, through which the representation of the petitioner dated 23-7-1987 was rejected.

3. That for making regular appointment of Extra Departmental Branch Postmaster, Khajurar (Bkauna) district Bahraich a requisition was sent by the Supdt. of Post-offices, Bahraich to the Employment Exchange, Bahraich, through which the names of eligible candidates were sought to be sponsored and the office of the Employment Exchange, Bahraich sent an information in the month



अतिरिक्त योग

बिना

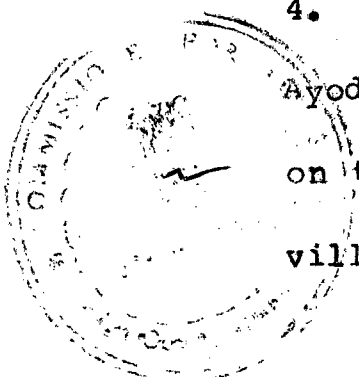
A38

(3)

of September, 1985 sponsoring the names of five candidates including the name of the petitioner as well as the name of the applicant (proposed respondent no.3) Sri Ayodhya Prasad. The applicant Sri Ayodhya Prasad was referred as permanent resident of village & post Khajurar (Ikauna) local and his educational qualification has been prescribed by the Employment Exchange as Intermediate, whereas the petitioner was simply a High School. The applicant Ayodhya Prasad comes from a scheduled caste community but for the reasons best known to the Superintendent of Post-offices, Bahraich, the appointment letter was issued in favour of the petitioner and discarded the candidature of the applicant Sri Ayodhya Prasad.

4. That it has been learnt that the applicant Ayodhya Prasad that his candidature has been discarded on the ground that he is not a permanent resident of village Khajurar (Ikauna).

5. That against the aforesaid appointment, on 12-1-1987 the applicant Sri Ayodhya Prasad moved an application to the Minister of Communication enclosing



अन्तरा मंत्रि

[Signature]

A39

(4)

therewith all the necessary certificates, showing therein that he is permanent resident of village & post Khajurar (Ikauna) and his candidature has been wrongly rejected by the Superintendent of Post-offices, Bahraich.

6. That after the receipt of the said representation of the petitioner, it appears that the same has been sent to the relevant authorities and a detailed inquiry was conducted into the matter of the appointment of the petitioner and the Director, Postal Services, Lucknow issued a letter on 15-6-1987 through which the Superintendent of Post Offices, Bahraich, was directed to cancel the provisional appointment of the petitioner which was given to him on 9-12-1986.

7. That after cancellation of the said appointment of the petitioner, the applicant Sfi Ayedhya Pd. was appointed on the post of the Extra Departmental Branch Postmaster, Khajurar (Ikauna). A photostat copy of the said appointment letter dated 18-6-1987 is being filed herewith and marked as ANNEXURE NO. 'A' to this affidavit.

8. That in pursuance of the aforesaid order

अन्तर्गत

[Signature]

(5)

dated 18-7-1987 the applicant Sri Ayodhya Prasad has been handed over charge of the office of the Extra Departmental Branch Postmaster, Khajurar (Ikauna) by the petitioner on 6-7-1987 and since then Sri Ayodhya Prasad, the applicant, is discharging the duties of the Extra Departmental Branch Postmaster, Khajurar (Ikauna) district Bahraich.

9. That in view of the aforesaid circumstances, in case the petition is allowed and the order dated 18-6-1987 passed by the Superintendent of Post-offices, Bahraich, cancelling the appointment of the petitioner and the order dated 12-1-1988 rejecting the representation of the petitioner are quashed, it would automatically follow the appointment of the petitioner on the post of the Extra Departmental Branch Postmaster, Khajurar (Ikauna), ousting the applicant Sri Ayodhya Prasad from the post of Extra Departmental Branch Postmaster, Khajurar (Ikauna).

10. That in view of the aforesaid facts, the applicant Sri Ayodhya Prasad is a necessary party

अनुपम

[Signature]

(6)

in the petition and the petitioner has deliberately not arrayed him as a party, whereas the aforesaid petition has been filed after handing over charge of his office by the petitioner.

11. That under these circumstances, it is necessary in the interest of justice that the applicant Sri Ayodhya Prasad may be allowed to be impleaded as respondent no.3, otherwise the applicant Sri Ayodhya Prasad would suffer irreparable loss, as his right will be affected by an order of this Hon'ble Tribunal without hearing him.

That the contents of paragraph nos.1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of this affidavit are true to my personal knowledge. No part of it is false and nothing material has been concealed. SO HELP ME GOD.

.....

(DEPONENT)

I, ~~Shri~~ Rajesh Chandra Sinha, Advocate

do hereby declare that the person making this affidavit and alleging himself to be Shri Ayodhya Pd. is known to me personally.

.....

उत्तराखण्ड

Rajesh

A42

(7)

Solemnly affirmed before me on this 23rd day of August, 1988 at 9.40 A.M./P.M. by the deponent who is identified by the Clerk.

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

अप्रोक्षितम्

OATH COMMISSIONER



S. K. Tiwari
S. K. TIWARI
ADVOCATE
OATH COMMISSIONER
High Court, Allahabad.
S. No 55 Date. 23-8-88
180

A43

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS
O/O SUPDT. OF POST OFFICES BAHRAICH DN.
BAHRAICH-271801.

Memo No.B-274/Khajurur Dt.at Bahraich the, 18.6.1987

In pursuance of the orders contained in the UPS Lucknow letter No.RDL/STAFF/C-4/8723 dated 15.6.87, the following orders are hereby made.

for Ayudhya
Shri Ayudhya Prasad S/O Shri Bachchu Lal Vill. Belha Purva P.O. Khajurur Distt. Bahraich whose date of birth is 1.4.64 is hereby provisionally and temporarily appointed as EDBPM Khajurur. He will be governed by the P&T Extra departmental agents (Conducts & Service) Rules, 1964 as amended from time to time and will be paid such allowances as admissible under rules from time to time.

2. Shri Ayudhya Prasad should clearly understand that his employment is purely provisional and temporary and is in the form of a contract and can be terminated at any time by the undersigned without any previous notice and without assigning any reasons thereto and the provisional appointment is further subject to the satisfactory reports from the Police and Revenue authorities regarding character, antecedents, solvency and independent income from other source.

3. Shri Ayudhya Prasad will keep the Post office at a suitable place in the village at his own cost, risk and responsibility.

4. Shri Ayudhya Prasad will contact the S.B.D. East Bahraich for the practical training for 7 days and furnish the following documents through the SDI East Bahraich before training. He should submit charge report on his joining as EDBPM Khajurur to the Postmaster Bahraich and undersigned.

1. Health Certificate. 2. Descriptive Particulars.
3. Declaration in Proforma attached.

5. He will please deposit a sum of Rs.1000/- only as security money pledged to the President of India through the Supdt. of Post offices Bahraich DN.

6. If these conditions are acceptable to him, he should communicate his acceptance in proforma enclosed through SDI East Bahraich before training.

Supdt. of Post offices,
Bahraich Division
Bahraich-271801.

Copy to:-

1. The SDI East Bahraich. He will please obtain the documents mentioned in Para-4 above and forward the same to the Postmaster Bahraich. The security money with acceptance

A43

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS
O/O SUPDT. OF POST OFFICES BAHRAICH DN.
BAHRAICH-271801.

Memo No.B-274/Khajurax Dt.at Bahraich the, 18.6.1987

In pursuance of the orders contained in the UPS Lucknow letter No.RUL/STAFF/C-4/87/3 dated 15.6.87, the following orders are hereby made.

Shri Ayodhya Prasad S/O Shri Bachchu Lal Vill. Balha Purwa P.O. Khajurax Distt. Bahraich whose date of birth is 1.4.64 is hereby provisionally and temporarily appointed as EDBPM Khajurax. He will be governed by the P&T Extra departmental agents (Conducts & Service) Rules, 1964 as amended from time to time and will be paid such allowances as admissible under rules from time to time.

2. Shri Ayodhya Prasad should clearly understand that his employment is purely provisional and temporary and is in the form of a contract and can be terminated at any time by the undersigned without any previous notice and without assigning any reasons thereto and the provisional appointment is further subject to the satisfactory reports from the Police and Revenue authorities regarding character, antecedents, solvency and independent income from other source.

3. Shri Ayodhya Prasad will keep the Post office at a suitable place in the village at his own cost, risk and responsibility.

4. Shri Ayodhya Prasad will contact the S.D.O. East Bahraich for the practical training for 7 days and furnish the following documents through the SDI East Bahraich before training. He should submit charge report on his joining as EDBPM Khajurax to the Postmaster Bahraich and undersigned.

1. Health Certificate. 2. Descriptive Particulars.
3. Declaration in Proforma attached.

5. He will please deposit a sum of Rs.1000/- as security money pledged to the President of India through the Supdt. of Post Offices Bahraich DN.

6. If these conditions are acceptable to him, he should communicate his acceptance in proforma enclosed through SDI East Bahraich before training.

Supdt. of Post Offices,
Bahraich Division
Bahraich-271801.

Copy to:-

1. The SDI East Bahraich. He will please obtain the documents mentioned in Para-4 above and forward the same to the Postmaster Bahraich. The security deposit Pass Book along with acceptance letter to the undersigned. He will also arrange to impart necessary training for 7 days to Shri Ayodhya Prasad personally or through the Overseer before allowing him to join as EDBPM.

2. Shri Ayodhya Prasad S/O Bachchu Lal Vill. Balha Purwa P.O. Khajurax, Bahraich.

3. The P.M. Bahraich for information and necessary

अयोध्या प्रसाद

[Signature]



A44

(2)

He will please watch the receipt of the documents under reference from SD (East) Bahadur nagar.

4. O.A. Estl. Branch D.O. for further necessary action.

5-7. Spare.

अप्री ५ १९८८



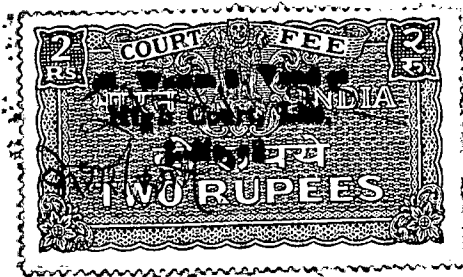
S. K. TIWARI
ADVOCATE
OATH COMMISSIONER
High Court
S. No 55
180
23.8.88

Voices

A45

In the Central Administrative Tribunal, Lucknow.

O.A.No.453 of 1980.



Keshari Kumar.

-----Applicant

Versus

Union of India and others.

-----Respondents

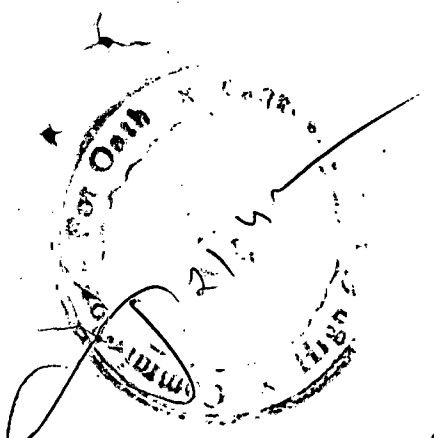
REJOINDER AFFIDAVIT

I, Keshari Kumar, aged about 33 years, son of Sri Rameshwar Nath Tripathi, resident of Village and P.O. Khajura District Bahraich, do hereby solemnly affirm as under :-

1. That the deponent is petitioner himself in the abovenoted case and is thus thoroughly conversant with the facts of the case.

2. That the deponent has been read over and explained the contents of the counter affidavit filed on behalf of opposite parties and has fully understood the same. The parawise reply is being filed as deposed to hereinafter.

3. That the contents of paras 1 to 4 of the counter affidavit call for no reply.



Filed today 2/4/92

by B

2/4/92

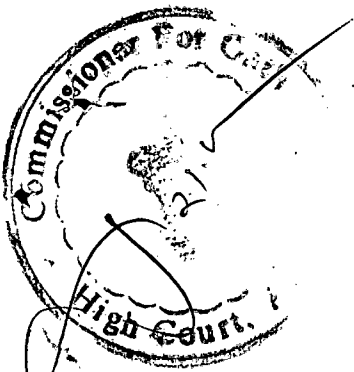
केशरी कुमार

4. That in reply to contents of para 5 of the counter affidavit, it is submitted that Sri Ayodhya Prasad was not a resident of the main village Khajuva rather he was a resident of one hamlet of Khajuva, which is situated at a distant place of one kilometer from the main village, whereas the deponent is the resident of the main village, that is why his name was not considered and the petitioner was appointed after fully considering his candidature. The deponent was comparatively a better candidate as he has passed High School in Second Division, whereas Sri Ayodhya Prasad is only a supplementary in High School. Otherwise also the deponent was better in all respect in comparison to Ayodhya Prasad. Further after issue of appointment order, the deponent had joined the post and had worked on the post for about 6-1/2 months but his appointment was cancelled illegally without any notice or opportunity to him.

5. That the contents of paras 6 and 7 call for no reply.

6. That in reply to para 8 of the counter affidavit, it is stated that cancellation of the appointment of the deponent was wholly illegal as no opportunity was afforded to him.

7. That the contents of paras 9 and 10 to the counter affidavit call for no reply.



अरवि कुमार

8. That the contents of para 11 of the counter affidavit are denied as incorrect and the averments made in corresponding paras of the application are reiterated to be correct. Since the appointment of the petitioner was cancelled illegally and in gross violation of principles of natural justice, the same deserves to be set aside and the petition deserves to be allowed with costs.

9. That the contents of paras 12 of the counter affidavit call for no reply.

10. That it is further stated that initially the representation made by Sri Ayodhya Prasad was rejected by the Divisional Postal Superintendent but subsequently the 2nd representation was illegally entertained by him and for extraneous consideration the appointment of the deponent was cancelled in a most arbitrary and unreasonable manner.

Lucknow, dated,
21 .4.1992

केशरी कुमार
Deponent.

Verification.

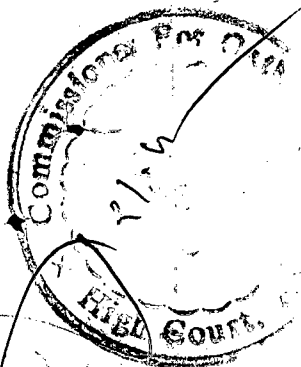
I, the deponent abovenamed do hereby verify that the contents of paras 1 to 10 of this affidavit are true to my own knowledge and no part of it is false and nothing material has been concealed so help me God.

Signed and verified this 21 day of April, 1992 at Lucknow.

केशरी कुमार
Deponent

I identify the deponent who has signed before me.

Supra
Advocate.



A48

Application No. 64-712-12 of 1990
I. M. S. O. G. X. P. 1988
453 and 1988
Versus U. G. I. 90 Others

453 02 19 88

Verdicts: U.S. 12 % Others 88 %

~~NOTICE~~

294
5712

(R.K. Tewari)

D. A. L.

Subject Matter

6/12

R. F. Lewis
5/12/88

pen copy
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cust. c. hr
Per
5/28/00

A49

Before The Central Administrative Tribunal, Allahabad-1

O.A. Regn. No. 453 of 1988

Keshari Kumar versus Union Of India & Others

Request for the transfer of case to Lucknow Bench

* * * * *

The applicant most respectfully prays that he is a resident of Village Post Khajurur via Ikauna District Bahraich Bahraich which is much nearer to Lucknow than to Allahabad. All the more Bahraich District belongs to Oudh Sub Province of this state and as there exists a Bench of this Hon'ble T Tribunal there the applicant prays that

P R A Y E R

The instant case may kindly be transferred to Lucknow Bench.

In Verification

I, Keshari Kumar, the applicant do hereby verify that the facts narrated in this application are true to the best of my knowledge and belief. Nothing herein is false or concealed.

Dated : 5-12-1990

केशरी कुमार / मजदूर
Deponent/Applicant

R.K. Tewari
(R.K. Tewari)
Advocate for the Applicant

Vakalatnama

In the High Court of Judicature at Allahabad

SITTING AT LUCKNOW

In the Central Administrative Tribunal Lucknow 88

Keshare Kumar - Petitioner

VERSUS

Suptd. Posts Office Behraich - Opp. Parties
& answer

No. 453 of 19 88

I/We the undersigned do hereby nominate and appoint Shri. Jagdish Upadhyay and Shri.....

..... Advocate, to be counsel in the above matter, and for me/us and on my / our behalf to appear, plead, act and answer in the above Court or any Appellate Court or any Court to which the business is transferred in the above matter, and to sign and file petitions, statements, accounts, exhibits, compromises or other documents whatsoever, in connection with the said matter arising there from, and also to apply for and receive all documents or copies of documents, depositions, etc, etc, and to apply for issue of summons and other writs or subpoena and to apply for and get issued any arrest, attachment or other execution, warrant or other and to conduct any proceeding that may arise thereout and to apply for and receive payment of any or all sums or submit the above matter to arbitration.

Provided, however that if any part of the Advocate's fee remains unpaid before the first hearing of the case or if any hearing of the case be fixed beyond the limits of the town, then, and in such an event my / our said advocate shall not be bound to appear before the court and if my/our said advocate doth appear in the said case he shall be entitled to an outstation fee and other expenses of travelling, lodging, etc. Provided ALSO that if the case be dismissed by default, or if it be proceeded ex parte, the said advocate (s) shall not be held responsible for the same. And all whatever my / our said advocate (s) shall lawfully do, I do here by agree to and shall in future ratify and confirm.

ACCEPTED :

1. [Signature] Advocate

2. Advocate

Signature of Client [Signature]