

22
11
1 Removal

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Ap

Registration No. 453 of 198

APPLICANT (s) Kesari Kumari

RESPONDENT(s) Subdt. 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 ? N/A
- (c) Has sufficient cause for not making the application in time, been filed ? N/A
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 - 01

A3

OA 453/18

22-4-88

No Sitting. Ad J to 1-8-88

OIR

Statement ~~not~~ being filed by 22/4/88
by 22/4/88

SL

22/4

22/4-00

4.7.00 sd

Coumee may be filed
by 9.00 AM

DR

9.0.00 sd

Let the coumee be filed

by 27.9.00

DR

27.9.00 sd

Coumee may be filed

by 17.10.00

DR

17.10.00 sd

On the request of ~~regarding~~
coumee, the coumee may be
filed by 2.12.00

DR

OIR

After the court is held on 24.11.00 to
coumee filed before 24.11.00

2.12.00 sd

An implement application
has been filed today. Let before
court for orders on 3.3.01
as required.

DR

3

O.A.453-88

4.6.89

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

Ay

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

W.M.

J.M.

A.M.

Order - on M. M. S. No. 24, of 83 on 15/7/89
Hon. D. K. Agarwal
12.6.89

10.7.89

Hon. G. S. Shrivastava J.M.
Hon. N. V. Krishnam A.M.

Heard Shri. R. K. Tiwari
on two amendment application.

Amendment
in Corporation
On 24-7-89
The amending is allowed and
may be incorporated in the
claiming petition within two weeks.

R. K. Tiwari
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
24/7/89

dist it for hearing on
30.10.89.

Vijay
A.M.

J.M.

(5) AS

ORDERSHEET

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	
29.10.90		Hon. A.P. Bhattacharya, AM Hon. K. Chatterjee, AM	DR (J)
ct misr. appn. no. 647/12/90 filed on 5-12-90. for orders on transfer the case. submitted before court court for orders on misr. appn. on 17-12-90. 4 14/12/90	17.12.90	No neither nor any counsel is present due to the resolution of strike barred by C.A.T. Bar Association the case is adjourned to 11/2/91 for orders. A.P.	W.M. 29.10.90 J.M. 29.10.90
		Hon. K. Chatterjee, AM Hon. K. Chatterjee, AM No time left adj. into 11/2/91 for orders already fixed.	

order
Court for applicant-
moved after App. No-
647/12/90 for transfer
of the instant case
to Circuit Bench, L.D.C.
submitted before court
for orders on 4.2.91.
DR
17/2

Recd
BSC

P.T.O.

A6

Sl. No.	Date	Office Report	Orders
			CA 453/88
			14-3-91 DR (3)
		<u>OR</u>	As the Hon'ble V.C. is not available on the station Not this application ^{PLSC} application on 21-3-91 before Hon'ble V.C. for order
		<u>OR</u> 20/3/91.	DR (3)
		<u>OR</u>	21/3/91 For Mr. Justice R. Nath, 2 nd
		<u>OR</u>	Transfer this application to Subordinate Circuit Bar as requested by the applicant.
		<u>OR</u> 21/3/91.	DR V.C.
		<u>OR</u> 21/3/91.	S.C. (J) 21/3/91.
		<u>OR</u> 21/3/91.	This file has been recd. on 22.3.91 by Mr. Sharad, P.A. In this Case Counter has been filed. RA has not filed. Submitted before
		<u>DR (J)</u>	22/3/91

9 us3/88 A)

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
in person - No appears
for the O.P. Applicant
to file Rejoinder
by 13/11/91. ✓

13.11.91

D. R.

Shri J. Upadhyay has
filed his vakanatnam a
on behalf of applicant
today. No appears for
the O.P. Applicant
to file Rejoinder
by 20/11/92. ✓

(11)

Ad

Central Administrative Tribunal
Lucknow Bench, Lucknow.

ORDER SHEET

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

Date / Office Report /

Order

OR
C.A.O.A have
been ~~not~~ exchanged
S.G.J.
R
24-7-92

MANISH/-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

S. O.A. NO

1453/88

199 (L)

T.A. NO

Date of Decision

Rezai Kumar

PETITIONER

Applicant in person

Advocate for the Petitioner(s)

V E R S U S

Superintendent Post offices and

RESPONDENT

another, Shrikant C. Sinha

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice V. C. Srivastava, V.C.

The Hon'ble Mr. K. Rayagopal, A.M.

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

Vice-Chairman/Member

AG

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

O.A. No. 453/88

Kesari Kumar

Applicant

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.

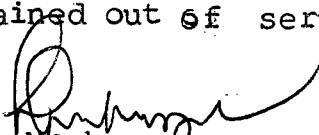
(Hon. Mr. Justice U.C. Srivastava, V.C.)

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.

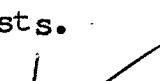
2. The respondents have opposed the application on the ground that earlier one Shri Dhaneshwar Prasad Tripathi working as E.D.B.P.M. Khajurar (Ikauna) district Behraich sought voluntary retirement and on 31.8.85 he retired and then requisition was sent to the Employment Exchange for filling up the post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

send the names and as such the date was extended.

Incidentally the office of Employment Exchange sponsored 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.

Lucknow: Dated 25.8.92


Vice Chairman

Shakeel/

श्रीमान राजेश्वर गोदावरी

प्रशासनिक अधिकारी
काशीपुर

लोबन्त ११८

संलग्न:

मुद्रा द्वारा दिए गए दस्तावेज़ को उल्लंघन नं. ४५३/८५ दिनांक २५ अगस्त १९९२ के दरारा काशीपुर अधिकारी द्वारा दिए गए दस्तावेज़ को उल्लंघन करने का अवश्यकता
पर्याप्त काशीपुर द्वारा दिए गए दस्तावेज़ को उल्लंघन में नहीं
बनाया था/ लोगों द्वारा इस दस्तावेज़ से दस्तावेज़ लूप्ट करने
के प्रश्नावली ही रही है

अतः अधिकारी द्वारा दिए गए दस्तावेज़ को उल्लंघन नं. ४५३/८५ के दरारा काशीपुर वनाम सुनिधत्त
दिनांक २५-८-९२ तक नं. ५०५८ उल्लंघन २८/
दस्तावेज़ को बाला दिलों के दृश्य के दृश्य के ५८५
उल्लंघन करा दिया

419 ४४८५८५-२५/-
३ ४४४८३८२ २२/-
२०४०३ ४७६८ २१/-
८१/-

उत्तीर्ण:
अस्योद्या प्रसाद काशीपुर
वनाम व दृश्य सुनिधत्त करा
५०५८ अधिकारी

F.T.
२२-९-९२

Issue
71

22-9-92
Issued on 22-9-92
Date

A/1

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

Filed on the 7th April, 1988

Regn. No. 453 / 08 1988

Signature Of D.R.(J).

In The Central Admininstrative Tribunal, Allahabad-I

Between

Keshari Kumar Applicant

A N D

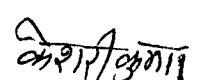
(1) Supdt. Posts Bahraich I I Respondents
(2) PMG UP Lucknow II

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 Canelling 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

Vicariate
154, Laxmi Narayan Nagar
(Kanpur Road)
Allahabad-16



AII

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

Filed on the 7th April, 1988

Regn. No. 453 / 08 1988

Signature Of D.R.(J).

In The Central Admininstrative Tribunal, Allahabad-I

Between

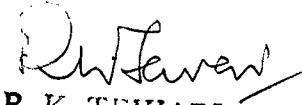
Keshari Kumar Applicant

A N D

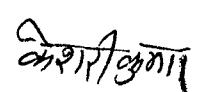
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R. K. TEWARI

Vicariate
154, T. C. P. Nagar
(K. C. C.)
Allahabad-16


Addl. Agent

High Court of Judicature at Lucknow

Central Bench

File No. 274/88

Date of Filing

7/4/88

Date of Receipt

By Post

22.4.88

By Registered

27/4/88

Regd. 253/88

7/4/88

27/4/88

Details of Application

A/2

Filed to day

Date of Admittion

Notified for 27/4/88

Ritikwar

Advocate

7/4/88

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**

(iv) Office in which employed **Khajurar (Ikauna) Bahraich.**

(v) Office Address

(vi) Address for service **Village & P.O. Khajurar via Ikauna**

District Bahraich UP

of all notices

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** *arif-7* **12-1-1988** *arif-11*

(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 :-

Ritikwar

27/4/88

(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 cancell the same without any rhyme or reason without offerring 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 pursuance 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

D.S.R./gsm/

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 :-

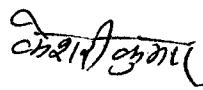
(i) The order cancelling the appointment order and thereby throwing the applicant out of Employment being in contravention of Art 311(2) of the Constitution it is prayed may kindly be set aside and the applicant may be reappointed on the post from which he has been removed.

(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

v. date
154, Laxmi Narayan Nagar
(Kanpur Road)
Allahabad-16



8- Interim order, if prayed for— N I L

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 branch of the Tribunal.

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

(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

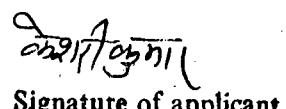
years R/O Vill. & P.O. Khajurar and working as Ex B.P.M. do hereby
Ikauna Dist. Bahraich Kha jurar
verify that the contents from 1 to 13 are true to my personal knowledge & belief and that I have not suppressed any material facts.

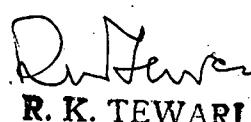
Place- Allahabad

Date 7/1/ 1988.

To

The Registrar, Central Administrative Tribunal,
Allahabad--211001


Signature of applicant


R. K. TEWARI
Advocate

154, Purshotam Nagar
(Khajurad)
Allahabad-16

Annexure A I

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS
D/P/1 SUPTD. OF POST OFFICES BAHRAICH DN,
BAHRAICH-271801.

Regd.

Memo No. 3234/Khajara of 08/02/1986 Dated the 08/02/1986

..... "Shimla, 27th Jan. 1964, whose date of birth is 16-11-1964
..... is hereby provisionally and temporarily appointed as Extra Departmental Agent (Conducts & Services) Rules, 1964 as amended from time to time and will be paid such allowances as admissible under rules from time to time.

3. ~~Start~~ Open ~~at~~ by ~~1861~~ ~~will~~ keep the Post office at ~~the~~ ~~in the village~~ his own cost, risk and responsibility.

Mr. John R. Gifford will contact the BOB for the practical training for 7 days and submit the following documents through the EDD on 10/16/2011:

Bachwach ~~has~~ *has* ^{SD. 1. 1976} before training. He should submit charge report of his joining as EDDP *Klejgjizay* and undersigned to the Protmistrz *Bachwach*.

5. We would please deposit a sum of Rs 1,000/- only as security money paid into the Government of India through the Supdt. of Post office Department, Dacca.

Post office department, 1900. If it is not possible to him, he should
not train the dog, and if it is possible, he should do so, and then, through
Postal) Patchwick, Fitch, before training.

SUPER. OF POST OFFICES,
REGISTRATION DIVISION
Copy to (R.S.D.) Bohemia ~~Copy~~ ^{He will} for in Part-4 and forward
Ref. No. 271001

TRUE COPY

RECEIVED
R. N. Tewari
(R. N. Tewari Atto.)

AD

-7-

Annexure A II

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS
O/O SUPDT. OF POST OFFICES BAHRAICH DIV.
BAHRAICH-271001.

Memo No.B-274/Khajurao Dt. at Bahrach 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. Khajurao as vide memo no. even dated 9.12.86 is hereby cancelled with immediate effect.

~~Supdt. of Post offices,
Bahrach Division
Bahrach-271001.~~

Copy to-

1. The SDI (East) Bahrach for information & n/a. Sri Keshri Kumar should be immediately relieved of the charge of EDBPM Khajurao.
2. Shri Keshri Kumar EDBPM Khajurao.
3. The P.M. Bahrach.
- 4-5. O/C & Spc.

TRUE COPY

R. L. Tewari

(R. L. Tewari Advo.)

Copy to

Annexure A III

To:

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

Through- Fraser 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/Khajurar dated 18.6.1987.

---101---

Sir,

The representation showeth as under :-

1. That the applicant was appointed by the SPOs Bahraich vide his office memo no. B-274/Khajurar/86 dated 9.12.86 as ED BPM Khajurax 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 Khajuror 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 Khajurar (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/Khajurar dated 18.6.1987.

4. That Shri AYODHYA PRASAD S/o Sri Bachu Lal, R/b. Vill- Seharpurwa, P.O. Khajuror, Bahraich was subsequently and immediately appointed as ED BPM Khajuror, Bahraich vice the applicant on 5.7.1987 without going through the prescribed training of 7 days as per rule.

Contd. 1

AH

(Q)

(7) 5. That the applicant contacted the Lt. D.P.S., Lucknow and requested him to review the order as the same is defective on the following counts :-

- (a) The case of Shri Ayodhya Prasad alongwith the prescribed ingredients have already been considered by the Aptt.- Anth. together 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, Khajurao Bhabraich.
- (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 selection of posts for SC/ST etc.) issued by the SPBs Bhabraich 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 justify the application of Reviewing-Authority and that's a fact.

Contd., 3.

A20

(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 Bawali purwa, i.e. not of the village where the EDSO was proposed to function, rather the basic qualification for the post (High School + 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 encased 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.

PLAyer

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 S.I.O.S., Bohraich under his office no. B-274/ Khajurao dated 18.6.1987 with retrospective effect.

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

With due regards,

Yours faithfully,

TRUE COPY
R.Dewari

1. Kochari Kumar
Ex- E.D.O.P.S.
Khajurao (Bohraich)

Dated: 23.7.1987. R.Dewari Advo.

Copy to 1. The Subdt. P.D.O., Bohraich.
2. Shri P. P. Singh, D.P.S., Lucknow Region, Lucknow.
for information and necessary action with a request to
admit the petition to the P.D.O. Lucknow with their
recommendation along with the relevant papers of the
petitioner.

A2-1

-11-
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 Khajurao
Bhariaich.

No. Staff/381-XA/Bhariaich-2/87/5 Dated at Lucknow 12-1-88.

Sub:- 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

R. Tewari
(R. Tewari)

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

g.v.

For

11/1/88

1988

A23
AFFIDAVIT
28/1344
HIGH COURT
ALLAHABAD

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
R. D. Golee
21/11/88.

Affidavit of T. D. Golee
aged about 47 years son of
Shri R. D. Golee posted
as Suptt of Post offices
Bahniel (U.P.)
(Deponent)

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

1. That the deponent is posted
as Suptt of Post offices Bahniel and as such is
fully acquainted with the facts of the case
deposed to below.

2. That before giving a parawise reply,

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 acceeded 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, requisiton 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 sponsore 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 sponsore 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 candidatur of the following six candidates who were sponsored through Employment Exchange was considered;

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

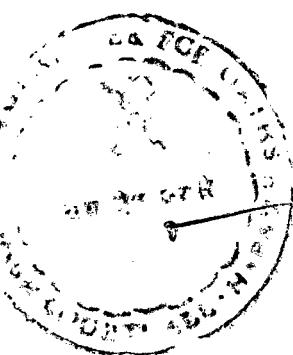
-3-

2. Sri Ayodhya Prasad s/o Sri Bacchu Lal, village Belhan Purva Post Khajurar, Bahraich.
3. Sri Subhash Chandra s/o Sri Ram Lakan 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 Khajurar, 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

-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 this 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.

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-7 and 2 of this
affidavit are true to my personal knowledge; those
of paras 8 15 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
declare that the person making this affidavit and
alleging himself to be the same is known to me from
the perusal of papers.

D.S. Chaubey
Clerk

28/9/88
28/9/88

Solemnly affirmed before me on this 24th
day of September, 1988 at 10 am / pm 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.

RECEIVED
OATH COMMISSIONER.

भारतीय डाक विभाग
कार्यालय निदेशक डाक सेवायें लखनऊ क्षेत्र-लखनऊ-226 007.

सेवा में,

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

संदेश: आरडीसल/स्टाफ/सी-4/87/3

लखनऊ दिनांक 10-5-87

विषय: - शाखा डाक्याल खुरार [बहराइय] की नियुक्ति का मामला ।

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

निदेशक डाक सेवायें लखनऊ ने शाखा डाक्याल खुरार [बहराइय] की नियुक्ति के मामले का पूर्णनिरीक्षण किए करने के पश्चात यह पाया कि श्री अरोध्या प्रसाद [अनुसूचित जाति] शाखा डाक्याल पद के सभी अध्योधियों में सर्वों अयुक्त 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 भूमि समझा जाय।

इस प्रकार निदेशक महोदय ने यह पाया कि श्री केशरी लुधार की नियुक्ति अनियमित है और उसे तुरन्त निरस्त करके श्री अरोध्या प्रसाद की नियुक्ति की जानी चाहिए। इस कीथित नियुक्ति में की गयी अनियमितताओं से सम्बन्धित आप अपना स्पष्टीकरण श्रीमुख इस कार्यालय को भेजें तथा साथ ही अनुपालन आध्या भी दें। प्रुण्डीय पत्रावली : बी-274/खुरार क्रमांक । से 100 भी वापस की जा रही है। लुप्ता पापती स्वीकार करें।

हर/-

संलग्नक: उपरोक्त।

रुपाली ० यादव
सहायक निदेशक,
कूटे निदेशक डाक सेवायें लखनऊ क्षेत्र^{क्षेत्र}
लखनऊ-226 007.

सत्यपुत्रिलिपि।

अधीक्षक डाकघर
बहराइय मण्डल,
बहराइय-271 801.

289/134
26/988

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.

*Recd copy
Rakesh
2/12/88*
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:-

*(Lajesh
Rajeshchandra Sinha)*

A3)

(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

Naresh

(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

A handwritten signature in black ink, appearing to read "Vaibhav".

A33

(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 Prasad was appointed on the post of the Extra Departmental Branch Postmaster, Khajurao (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, Khajurao (Ikauna) by the petitioner on 6-7-1987 and since then Sri Ayodhya Prasad, the applicant is discharging the duties

Umesh

A 34

(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 ~~and~~ 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 petitioner 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.

Unjed

A35

(6)

10. That under these circumstances, it is necessary in the interest 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

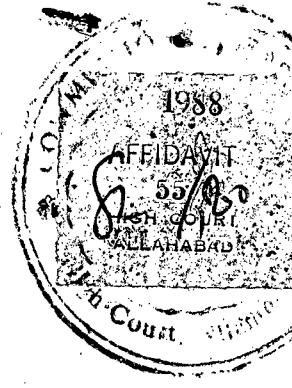
It is, therefore, most respectfully prayed that this Hon'ble Tribunal may be pleased to allow this application and allow the applicant Sri Ayodhyaya Pd. (proposed respondent no.3) to be impleaded as respondent no.3 in the aforesaid petition, as otherwise he shall suffer irreparable loss and injury.

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/-

C Rajesh Chaudhary Singh
C Rajesh Chaudhary Singh
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.

30/04/1988

(Deponent)

Umesh

A37

(2)

2.

Deponent do hereby solemnly

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, Khajurah (Kauna)
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 Employ-
ment Exchange, Bahraich sent an information in the month

March 1988

Bahraich

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

Brijendra Singh

Chaudhary

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 Sri Ayodhya 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

31/12/1987

(Loyalty)

Ayodhya

(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

[Signature]

31/12/1987

(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, ~~xxxxxx~~ 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.

Rajesh

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.

Satisfying

OATH COMMISSIONER

S. K. TIWARI
ADVOCATE
OATH COMMISSIONER
High Court, Allahabad.
S. No 55 Date. 23.8.88



180

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS
G.O. SUPDT. OF POST OFFICES BAHRAICH DH.
BAHRAICH-271801.

A43

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

In pursuance of the orders contained in the DPS Lucknow letter No.RDL/STAFF/C-4/6783 dated 15.6.87, the following orders are hereby made.

Shri Ayodhya Prasad S/O Shri Bachchu Lal Vill. Disha Purwa P.O. Khajurao Distt, Bahraich whose date of birth is 1.4.64 is hereby provisionally and temporarily appointed as EDPM Khajurao. 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.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 change report on his joining as EDPM Khajurao 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 ploughed to the President of India through the Supdt. of Post Offices Bahraich DH.

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 with acceptance

A43

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

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

In pursuance of the orders contained in the D.P.S. Lucknow letter No.RUL/STAFF/C-4/6763 dated 15.6.87, the following orders are hereby made.

To Ayodhya
Shri Ayodhya
Prasad
lal

Shri Ayodhya Prasad S/O Bachchu Lal Vill. Mitala Purwa P.O. Khajurao Distt. Bahraich whose date of birth is 1.4.64 is hereby provisionally and temporarily appointed as EDBPM Khajurao. 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.I. 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 Khajurao 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 ploughed up the President of India through the Supdt. of Post offices Bahraich Distt.

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. Mitala Purwa P.O. Khajurao, Bahraich.
3. The P.M. Bahraich for information and necessary

ग्रन्ती २११ भी

Ch. Jaiswal



A44

(2)

He will please watch the receipt of the documents under reference from S.D. (East) Bahadur Bhawan.

4. O.A. Estt., Branch D.O. for further necessary action.

5-7. Spare.

Guilford 4/1975



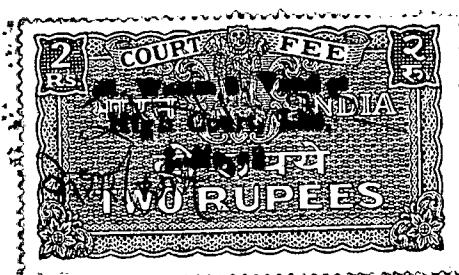
S. K. Tiwari
ADVOCATE
OATH COMMISSIONER
High Court, Lucknow
S. No 55 Date 23.8.88
T80

Sealed

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. Khajuya, 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. *filed today* 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.
21/4/92
3. That the contents of paras 1 to 4 of the counter affidavit call for no reply.

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.

A47

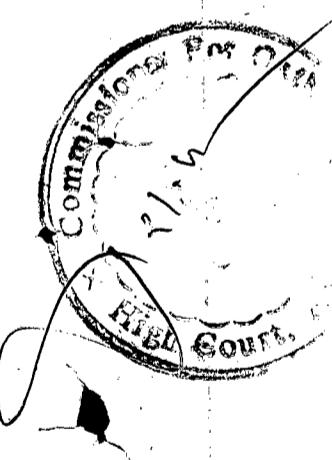
-3-

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 para 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


Deponent.

Verification.

I, the deponent abovenamed dohereby 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.


Deponent

I identify the deponent who has signed before me.


Advocate.

A48

Before the Central Administrative Tribunal, Allahabad

Misc. Application No. 677/2 of 1990

O.A. Regn. No. 453

Or. 19

88

Keshri Kumar

versus U.O. & Others. R.

~~MOTION NOTICE~~

44

5/12

Kindly take Notice that the undersigned on behalf of the applicant proposes to move the court on 17-12-90 at 10-30 A.M. or soon thereafter to consider and pass orders on the enclosed application. The subject matter of the same is briefly narrated below.

D.A. 1

dated : 5-12-90

Subject Matter

Request for the transfer of the case to Lucknow Bench.

Filed today
Notice for 17-12-90

R.K.Tewari
5/12/90

Retd. only
cert. for
5/12/90

A 49

Before The Central Administrative Tribunal, Allahabad-1

C.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 Khajurao via Ikauna District Bahraich which is much nearer to Lucknow than to Allahabad. All the mere Bahraich District belongs to Oudh Sub Province of this state and as there exists a Bench of this Hon'ble Tribunal there the applicant prays that

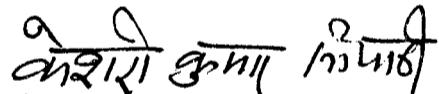
P R A Y E R

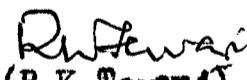
The instant case may kindly be transferred to Lucknow Bench.

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


Keshari Kumar
Dependent/Applicant


(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

Keshore Kumar

Petitioner

VERSUS

Suptd. Posts Office Bijnor - opposite
& another

St.

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 hereby agree to and shall in future ratify and confirm.

ACCEPTED :

1. ----- Advocate

2. ----- Advocate

Signature of Client

22/1/2011