

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE 55 OF 1988

NAME OF THE PARTIES.....

..... A. K. Aggarwal Applicant

Versus

..... U. O. T. S. others Respondent

Part A, B & C

Sl. No.	Description of documents	Page
1	check list	1 to 2
2	order sheet	3 to 6
3	Final Judgement	7 to 9
4	Retitition copy	10 to 37
5	Annexure	38 to 66
6	Power	67
7	C. A	68 to 143
8	M.P.N.O. 390/90 (Power)	144 to 45-849
9	D.A	150 to 163
10	Supp. counter (Power)	164 to 175
11		
12		
13		

CERTIFICATE

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

Dated... 19/10/16

Counter Signed.....

Section Officer / In charge

Signature of the
Dealing Assistant

[Signature]
19/10/16

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, MOTI MAHAL, LUCKNOW.

DATED: -----

Case Title CA NO 93/92(L) 19

Name of Parties.

Axial Corp Applicant

versus
U.O. 2 & others Respondents.

PART -A

<u>Sl.No.</u>	<u>Description of Documents</u>	<u>Page</u>
1-	Check List	<u>A</u>
2-	Order Sheet	<u>A1</u> <u>A2</u>
3-	Final Judgement <u>16/3/93</u>	<u>A3</u> <u>A11</u>
4-	Petition Copy	<u>A12</u> <u>A25</u>
5-	Annexure	<u>A27</u> <u>A44</u>
6-	Power	<u>A26</u>
7-	Counter Affidavit	<u>A45</u> <u>A63</u>
8-	Rejoinder Affidavit	<u>A64</u> <u>A70</u>

PART -B

B7, - B129

~~As per the order of the Tribunal dated 16/3/93, the case is fit for consignment to record room.~~

Part -C

C130 - C135

Certified that no further action is required. The case is fit for consignment to record room.

Section Officer

Court Officer

Incharge

17-1-94

Signature of Deal Assistant.

Pravaran
11/11/94

Termination

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 55 of 1988

APPLICANT (s) Arvind Kumar Aggarwal

RESPONDENT(s) U.C.I. through Home Secretary, New Delhi

by other

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 7 sets filed
3. (a) Is the appeal in time ?	Yes
(b) If not, by how many days it is beyond time ?	-
(c) Has sufficient case for not making the application in time, been filed ?	-
4. Has the document of authorisation, Vakalat-nama been filed ?	Yes
5. Is the application accompanied by B. D. /Postal-Order for Rs. 50/-	Yes
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	1
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

Sheet

A2

18/2/88

Hon. D.S. Misra - AM.
Hon. G.S. Sharma - JM

It is not clear from the
office report as to whom the
notice to the respondents was
sent. Shri K.C. Sinha files takes
notice and files his vakalatnama
on behalf of respondents No-1 to
4. The copies meant for the
respondents, if not issued be
handed over to Shri Sinha. He
may file reply within a month
Rejoinder, if any may thereafter be
filed within 15 days. Fresh
notice be issued to respondent No-5.
We have heard the learned
counsel for the applicant on the
point of interim relief. We are
not convinced that there is
any justification in granting any
interim relief at this stage.

interim
no. 5
24/2

Put up on 18-4-88

AM.

Sh.

18.4.88/

Hon. D.S. Misra - AM
Hon. G.S. Sharma - JM

Shri R.K. Jain for the applicant and Shri
K.C. Sinha for the respondents are present. Shri
Sinha files reply on behalf of respondent no.5 and
request for three weeks time to file reply on behalf
of remaining respondents. He is allowed to do so.
Rejoinder, if any may thereafter be filed within
two weeks. Put up on 27-7-1988 for final hearing

A.M.
Sh.

J.M.

The extra copy
filed today
by applicant
mainly
19/4/88

OTR. En.
For day present Vakalat Name of S
Arwal, Ad. For Arwal Name of S

07-10-88

Hon D.S. Mishra - AM A3
Hon G.S. Sharma - JM

Supplementary Counter affidavit
on behalf of Respondent Nos has
been filed today. On the request
of both the parties, the case is
adjudged to 6-1-89 for hearing.

JM.

AM

6.1.89

Hon. G. S. Sharma - J. M.
Hon. K. J. Raman - A. M.

On the request received
for the applicants counsel, the
case is adjourned to 28.4.89
for final hearing.

AM

A.M.

J.M.

11/01/89

श्रीमान -

श्रीमान गुरुदेव प्रसाद शर्मा व श्रीमान
कृष्ण चन्द्र शर्मा के पक्ष में दायर
अपील नं. 11/01/89 का आज
श्रीमान न्यायाधीश श्रीमान

(5)

AY

15-11-90

Honble V.C. is not available at station. Resolved to 29-11-90 for orders on ex-parte application

True
C.M.

29/11/90

/Hon. Mr. Justice K. Path, VC

Heard the applicant's counsel.
No ground for expecting the application. Rejected.

VC.

DR (J).

CTR

Since the matter is very
complex and there is no
time to do it all at once
and the court is
not prepared to
do it by itself
it is referred to
the judge.

CA & RA in this case
have been exchanged
and case is ripe for
hearing. Proceedings
are complete. None present
for parties.
Keeps it in the
line die list till
further orders.

pe
DR (J).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(ALLAHABAD)

O.A. No. 55/1988

A.K. Agrahari ^{Agrahari} VERSUS U.O.I. Zers

Sl. No.	DATE	OFFICE REPORT	ORDER
1	2	3	4
		<p><u>O.R.</u></p> <p>Regarding transfer to C.A.T. LKO Bench</p> <p>Submitted before Hon'ble Single Member Court for necessary orders regarding transferring the case to C.A.T. LKO Bench. As per orders of Hon'ble Principal Bench, New Delhi.</p> <p><i>[Signature]</i> 9/9/82</p> <p><u>2.2.82</u></p> <p><u>ORDER OF THE COURT</u></p> <p>This case pertains to jurisdiction of Principal Bench since the case is transferred to Principal Bench. The case is placed in Principal Bench on 6.2.82 for disposal. The parties are directed to not proceed with the case to be decided in the matter to be decided by the Principal Bench.</p>	

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH : LUCKNOW

Ag

ORDER SHEET NO. _____

O.A./I.A No 5588

OFFICE REPORT

DATE /

ORDER

4-11-92

By the Bench
This case has
been referred to
the Bench for
final hearing
for signature before
the Bench.

OK

NOTED

on 2-19-93

4-11-93

D.R.

Applicant is present before
Benchings are complete
List this case for
final hearing ~~on~~ before
Bench on 4-2-93

4/2/93

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LKO (ALLAHABAD BENCH) ALLAHABAD.

C.A. NO. 55/1986
TA. NO.

OF 1986

Date of decision-4/4/83

.....Arvind Kumar Agarwal.....Petitioner

.....Sri K. K. Tripathi.....Advocate for the petitioner

Versus

.....Union of India & others.....Respondent

.....Sri K. C. Sinha.....Advocate for the Respondents

xxxxxxxxxxxx

CORAM :-

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

The Hon'ble Mr. K. C. Sinha, J.M.
(By Hon'ble Justice C. C. Srivastava)

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 all other Benches ? N

Signature

NAQVI/

CENTRAL ADMINISTRATIVE TRIBUNAL
LUGNOK BENCH, LUGNOK

Original Application No. 55 of 1988

Arvind Kumar Agrahari Applicant

Versus

Union of India & others Respondents

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

Hon'ble Mr. K. Obayya, J.M.

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

On the Post of Stenographers which was advertised in the department, Directorate of Pulses Development, Government of India, the applicant was also one of the candidates, he was selected by the Staff Selection Commission and thereafter was appointed. The name of the applicant in the panel was at no.48 and in the other list name of Km. Shobha Yadav respondent# was placed at 119. It appears that as a reversion of Smt. Rozy Tomas to the permanent post of Junior Stenographer that is the post against, which she holds lien. Km. Shobha Yadav who was working against this post was appointed against temporary post of Junior Stenographer in the same scale with result that the applicant who was said to be Junior & most junior Stenographer in the Directorate of Pulses development was treated as surplus and his services were terminated with effect from 19.10.87. The applicant made representation against the same and ultimately re-appointment was given to him on 3.10.1988. The contention of the applicant in this case, that the applicant was not the Junior most person as a matter of fact, it is Km. Shobha Yadav who was Junior to him and her services be terminated. From the counter affidavit filed by t

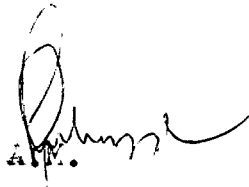
15/

Page

respondents. It appears that the mistakes occurred by the respondents Mr. Shobha Yadav joined earlier and that is why she was taken to be senior. It has been further stated in place of supplementary counter affidavit that no mistakes occurred at the level of the Directory. But, it is because of the list of seniority order as intimated by the Staff Selection Commission. The revision or termination took place. From the facts above, it is quite clear that the applicant's position was higher in the panel and it is Mr. Shobha Yadav whose service should have been terminated and not that of the applicant. This mistake occurred at the level of the respondents may be they were misled by the list or the communication which was given by the Staff Selection Commission. It is a sound principle of law that no one is to suffer because of the lapses and lapses on the part of the Government and it is also settled that on the principle of no work and no pay will not apply to a case wherein the person was willing to work thereof. But, he was not allowed to do the work in view of the fact that the applicant's services were wrongly terminated and the applicant remained out of service for one year. The applicant will be deemed to be continuing his services with the seniority position restored and taking into consideration the applicant will be entitled for four month's salary and the rest of the period can be treated to be a period of extraordinary leave.

2. This is being done in the order taking into consideration the overall situation as well as the facts the salary of the said period has already been paid to Mr. Shobha Yadav.

3. The application stands disposed of.


A.M.


V.C.

LUCKNOW

dated :- 4th Feb 83.

(g.s.)

Administrative Tribunal
at Allahabad.

55 — 88

Kumar Aggarwal

vs

1) India 2000

2001 Allahabad

Raj Kumar Jain

Advocate

Re: No. 55

7/1/88

A/c

By Post

1.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.

ADDITIONAL BENCH: ALLAHABAD.

Application under section 19 of the Administrative

Tribunals Act, 1985.

For use in Tribunal's office:

Date of filing:

Registration No. of 1988

Signature:

REGISTRAR

11-7-18 28/1/18
28/1/88
28-12-1988

Approved

28

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, ALLAHABAD.

BEFORE

Arvind Kumar Agrahari, son of Sri Suresh Chandra Agrahari, 705 (F), Baraganj, ALLAHABADAPPLICANT

AND

1. Union of India (through Home Secretary, Govt. of India), NEW DELHI.
2. Union of India (through Secretary, Agriculture and Co-operation), NEW DELHI.
3. Director, Pulses Development, Government of India, B-1/13, E-Park, Mahanagar Extension, LUCKNOW.
4. Chairman, Staff Selection Commission, NEW DELHI (through its Regional Director, Staff Selection, Allahabad).
5. Mr. Shobha Yadvu, Junior Stenographer, Directorate of Pulses, Government of India, B-1/13, E-Park, Mahanagar Extension, LUCKNOWRESPONDENTS.

DETAILS OF APPLICATION

1. Particulars of the applicant

- (i) Name of the applicant: Arvind Kumar Agrahari
- (ii) Name of Father: Sri Suresh Chandra Agrahari.
- (iii) Designation & office in which employed: Junior Stenographer, Director of Pulses, Govt. of India, B-1/13, E-Park, Mahanagar Extension, LUCKNOW
- (iv) Office address: Directorate of Pulses, Govt. of India, B-1/13, E-Park, Mahanagar Extension, LUCKNOW.

14. Agrahari

On

(v) Address for service of all notices;

C/O Sri Suresh Chandra Agrahari, 785 (F), Daraganj, ALLAHABAD.

2. Particulars of the respondents;

- (1) Name and/or designation of the respondents
- (ii) Office address of the respondents
- (iii) Address for service of all notices

1. Union of India (through Home Secretary, Government of India), NEW DELHI.
2. Union of India (through Secretary, Agriculture and Co-operation), NEW DELHI.
3. Director, Pulses Development, Government of India, B-1/13, B-Park, Mahanagar Extension, LUCKNOW.
4. Chairman, Staff Selection Commission, NEW DELHI (through its Regional Director, Staff Selection, ALLAHABAD).
5. Mr. Shekha Yadava, Junior Stenographer, Director of Pulses, Government of India, B-1/13, B-Park, Mahanagar Extension, LUCKNOW.

3. Particulars of the order against which application is made;

- | | |
|------------------------|-------------------------------|
| As made: |) This application is against |
| (i) Order No. |) order No. 3-6/83-D PD/ |
| (ii) Date |) dated 19.10.87 (Ann Excl) |
| (iii) Passed by |) of the Director of Pulses |
| (iv) subject in brief) |) Development, Government |

under the signature of Sri R.N. Bhargava purp
 terminate the applicant despite the fact that
 junior is being retained in service and also

11-10-87

Q

the applicant was appointed on probation in a clear vacancy for which he was selected by the respondent no. 4.

4. Jurisdiction of the Tribunal

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

5. Limitation.

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

6. Facts of the case:

(i) That the applicant is M.A. (Hindi) and knows Hindi and English stenography and possesses good speed both in stenography (Hindi & English) and typing.

(ii) That Staff Selection Commission, Central Zone, Allahabad, is a recruiting agency of the Government of India for subordinate services under the Government of India.

(iii) That on the recommendation of the Estimates Committee of Parliament in its 47th Report (1967-68), the

A. K. Agraham

Qu

recommendation of the Administrative Reforms Commission (A.R.C.) and the suggestion of the Union Public Service Commission for pooling of recruitments of Non-technical posts by different departments and selection of personnel either by joint recruitment or through a recruitment Board, the Government of India has established the Subordinate Services Commission under its Resolution No. 46(5)/74-Est.(B) dated 4.11.1975. The said body was later renamed as Staff Selection Commission on 27.9.1977.

(iv) That the Staff Selection Commission makes recruitment to non-technical class III Group 'C' posts in the Ministries/Departments and their attached and subordinate offices of the Government of India.

(v) That for purposes of efficiency and expedition, the Staff Selection Commission has been provided with regional set-up headed by a Regional Director, which implement and execute the policies and programmes of the Commission. There are six Regional Offices in the country. One such Regional Office headed by a Regional Director is located at Allahabad.

✓ K. Agrahasi

Dr

(vi) That the Staff Selection Commission holds selection for various posts on the basis of examination and/or only interview.

(vii) That after the examination is over and the answer books of candidates are got assessed through the examiners appointed by the Commission, the Commission fixes qualifying marks based on the consideration of number of vacancies to be filled, standard of performance of candidates etc.

(viii) That after approval of the qualifying standards, the list of qualified candidates is drawn out on the basis of merit.

(ix) That nominations of candidates declared successful on the basis of Stenographer's examination are made by the Regional Office of the Commission and a register of qualified candidates in order of MERIT is maintained.

According to guidelines in respect of appointments through the Union Public Service Commission which are applicable to appointments through the Staff Selection Commission, if within the period stipulated a request is received from a candidate for

A K. Arachay

Qu

extension of time, extension for a limited period may be granted if the grounds are convincing, but the total period granted including the extension during which the offer of appointment will be kept open should not exceed 9 months. A candidate who joins within that period will not lose his seniority.

(i) If a candidate joins the revived offer, his seniority will be decided on the basis of the following norms:-

- (a) If the candidate joins before the candidates of the next selection/examination join, he should be placed below all others of his batch, who have already joined the post within the prescribed period of 9 months.
- (b) If the candidate joins after some or all the candidates of the next examination (as distinct from selection) have joined, he should be allotted to the next year's batch and placed at the bottom.

(ii) That the Staff Selection Commission, Central Zone, Allahabad, gave an advertisement dated 22.4.1982 for recruitment to 800 posts of Stenographer in the attached/subordinate offices of the Government of India. The vacancies advertised were all clear vacancies. The

VA K. Agrahay

Dr

true copy of the said advertisement dated 22.4.1982

is being filed herewith and is being marked as

ENCL. 1

ENCLOSURE 1 to this application. It is relevant to

mention that various Ministries/Departments/Directerates

notified to the Commission permanent vacancies of

stenographer (Hindi/English) for holding selection.

The Commission received requisitions for 800 clear

permanent posts of stenographer for which the selec-

tion was to be made. Respondent no. 3 also notified to

the Commission vacancies in the Directorate of Pulses

Development.

(ii) That the applicant being M.A. (Hindi) and

versed in stenography - both Hindi and English -

possessing very good speed, made an application on the

prescribed form.

(iii) That the applicant was called by the

Commission to appear at the competitive examination

for the aforesaid posts.

(iii) That the applicant along with a large

number of other candidates, appeared at the said

competitive examination held on 5.9.1982 and was

selected for the post of stenographer. He was placed

A.K. Agrawal

Q

at 48th position in the Merit List prepared by the Commission. The respondent no. 5 was placed at 119th position in the Merit List.

(xlv) That the applicant received a letter dated 6.9.1983 from the Commission informing him that he had been nominated to the Directorate General, Telecommunication, U.P., Circle, Lucknow, on 11.5.83 for appointment as stenographer. The true copy of the said letter is being filed herewith and is being marked as ENCLOSURE 2 to this application. The applicant approached the Director General, Telecommunication, U.P. Circle, Lucknow, a number of times for giving appointment letter to the petitioner in pursuance of the letter dated 6.9.83 of the Commission but no appointment letter was issued to the applicant.

ENCLOS. 2

(xvi) That the Telecommunication Department, by its letter dated 25.10.1984, returned the papers in respect of the petitioner along with those of others on the ground that they wanted English stenographers whereas the candidates nominated (including the applicant) had qualified as Hindi stenographer. A true copy of the said letter is being filed as ENCLOSURE 3 to this application.

ENCLOS. 3

A-12 Agrahay

10.

(xvi) The Commission, by its letter dated 14.5.1984, again sent the dossier in respect of the petitioner to the Director General, Telecommunication, U.P. Circle, Lucknow, stating therein the decision of the Government of India to the effect that it was incumbent on the Ministry/Department/Offices to accept the qualified stenographers nominated to their offices by the Staff Selection Commission irrespective of whether they have qualified in English or Hindi stenography. It was impressed upon the Director General by the Commission that the candidates recommended by it should be appointed. A true copy of the said letter along with its enclosure is being filed herewith and is being marked as ENCL. 4 to this application.

ENCL. 4.

(xvii) It appears that the Director General Telecommunication, did not accede to the applicant being given appointment, and, therefore, the Staff Selection Commission nominated the petitioner to the Accountant General, U.P., Allahabad, for appointment by letter dated 26.7.1985 which fact was communicated to the petitioner also by the Commission vide its letter dated 26.7.1986, a true copy of which is being herewith and is being marked as ENCL. 5 to application.

ENCL. 5

W. K. Agrawal

11.

(xviii) That it appears that the Accountant General, U.P., also returned the dossier of the applicant and did not offer appointment to the applicant for reasons not known to the applicant inasmuch as the applicant has not been given any copy of his letter.

(xix) That ultimately, the applicant received a communication from the respondent no. 3 informing him that the name of the applicant was recommended by the Commission for appointment as stenographer (Jr) and asking the applicant to fill up the attestation form and to return it to respondent no. 3. A true copy of the communication from respondent no. 3 is being filed herewith and is being marked as ENCLOSURE

ENC. 6

(xx) That thereafter the applicant received another letter dated 8.1.1986 from respondent no. 3 whereby the applicant was required to report for duty by 27.1.1986 on the terms and conditions set out therein. A true copy of the said letter dated 8.1.86 is being filed herewith and is being marked as ENCLOSURE 7 to this application.

ENC. 7

has

Q

12.

(xxi) That from the perusal of the terms and conditions of appointment contained in the letter dated 8.1.1986 (Enclosure 7) it will be seen that the appointment was liable to be terminated at any time without any notice during the period of probation without assigning any reason.

(xxii) That the applicant joined the service as Junior Stenographer on 20.1.1986 after completing all the required formalities.

(xxiii) That the applicant was given a letter dated 5.2.1986 stating that the applicant was appointed on the post of stenographer (Jr.) in the scale of Rs.350- 560 in the Directorate of Pulses Development on regular basis with effect from 20.1.1986 on probation for two years, a true copy whereof is being filed herewith and is being marked as ENCLOSURE 8 to this application.

ENCL. 8

(xxiv) That ever since the applicant joined the Department, he has been working with diligence, honesty and efficiency. He has never given the cause for complaint and has been working to the satisfaction of his officers. He has earned ex-

A. K. Agrawal

3

13.

annual remarks deserving of higher promotion.

(xxv) That the applicant has earned his annual increment also for the year 1987. He has completed a little less than two years of the period of probation.

(xxvi) That there are two posts of Junior stenographer in the Directorate of Pulses Development. On one such post, Mr. Shobha Yadava respondent no. 5 has been working. She too was nominated by the Staff Selection Commission upon the result of Stenographers Examination held in 1983 on a requisition made by the Department and she was appointed to the post by the Director (respondent no. 3) in September 1985. She had secured 119th position in the same examination of 1982.

(xxvii) That although the applicant ranked higher (having secured 48th position) in the merit list prepared by the Staff Selection Commission on the basis of the examination conducted by it for the posts of Jr. Stenographer, his name had earlier been sent up for appointment to Telecommunication Department, Lucknow, at Accountant General, Allahabad, who eventually did not appoint the applicant in their department's. Subse-

A.K. Agrawal

[Signature]

14.

quently, when requisition for one more post of Junior stenographer was sent by the Director Pulses, his name was nominated by the Staff Selection Commission and the applicant was appointed ~~as~~ with effect from January 20, 1963.

(xxviii) That the applicant was taken ill and proceeded on casual leave with effect from 19.10.1987 and could not recover from his illness and, therefore, he has extended his leave on medical ground.

(xxix) That to the utter surprise and misfortune of the applicant, he has learnt that his services have been terminated by respondent no. 3 by his order dated 19.10.1987. The order of termination has not yet been served on the application. The applicant being still unwell and could not convalesce and was consequently held up at his home in Allahabad. A true copy of the said order is being filed herewith and is being marked as ENCLOSURE 9 to this application.

ENCL. 9.

(xxx) That the order of termination reveals that the applicant's services have been terminated on account of his allegedly being rendered surplus.

(xxxi) That the order of termination is

A.K. Agrawal

Q

15.

disconcoived and arbitrary inasmuch as in the situation disclosed in the said order, the services of junior-most person ought to have been terminated inasmuch as Km. Shet Shebha yadava, stenographer is much junior to the applicant by virtue of her position no. 119th in the merit list, below the applicant whose position is 48th in the merit list, but she has been retained in preference to the applicant.

(muksi) That the applicant was, despite his higher position in the merit list, prepared by the Commission, offered appointment after a lot of staggering in different departments. And if Km. Shebha, junior to the applicant, could join the Department earlier, she cannot, by any stretch of imagination, be treated to be senior to the applicant who had definitely attained a higher position at the examination. It was for no fault of the applicant that he was offered appointment by the Department later than it was done in the case of Km. Shebha.

(muksi) That the seniority of candidates selected through examination is reckoned by the order of position attained in the merit list, in case the delay

A. K. Agrawal

R

16.

in joining the service when offered, is for no fault of the person concerned. There were absolutely no lapses on the part of the applicant in joining the service. He did so immediately after he was offered appointment.

(xxv) That the applicant made a telegram and representation to the Director (Crop) Admin.-III, Agriculture Minister, New Delhi with copies to Joint Commissioner (Pulses) and under Secretary also on 19.10.1987. A true copy of the telegram dated 19.10.87 is being filed herewith and is being marked as ENCLOSURE 10 to this application.

ENCL. 10.

(xxvi) That the applicant also sent a representation to the Agriculture Commissioner, New Delhi; but he has not been informed of its fate as yet. A true copy of the representation dated 28.10.87 is being filed herewith and is being marked as ENCLOSURE 11 to this application.

ENCL. 11

(xxvii) That the ~~xxxxxxxxxxxxxx~~ applicant also made representation to the respondent no. 4 on 26.10.1987 a true copy whereof is being filed herewith and is being marked as ENCLOSURE 12 to this petition.

ENCL. 22.

IA IC Agralay

(xxxvii) That the respondent No. 4 has, by his letter dated 14.12.1937, filed a petition with the Secretary to the Government of India, Department of Agriculture and Co-operation, New Delhi, stating that the applicant is a senior technician, Grade X-4 (respondent no. 5), and the applicant be placed under the Director of Agriculture, Lucknow, against which a writ of certiorari was granted by the Division and that Mr. Shree Yedova be subject to the first vacancy which may be available in the Department of Agriculture. The Division has yet to receive a response from respondent No. 2 or from respondent no. 3.

A true copy of the said letter dated 14.12.1937 is being filed in the file of the Department of Agriculture and Co-operation. It is a copy of the said letter.

ENCL. 13

(xxxix) That the services advertised were all clerical and administrative in nature and were not of the nature of the services such as short-term and stop-gap appointments which are advertised for selection by competitive examination. It is also for recruitment by competitive examination. The applicant is a senior technician, Grade X-4, and is not eligible for recruitment by competitive examination.

A K. Arachch

Per

18.

(xli) That the applicant, when appointed against the clerical vacancy and did not do a little less than the work of the post holder and there being no complaint in regard to his work and conduct,, he earned a surplus of Rs. 100/- which was rendered surplus.

(xlii) That the applicant having been appointed against a clerical vacancy, and Mr. Jodha Singh appointed & consequent upon the promotion of Mr. Ravi Kumar, Mr. Jodha Singh (junior to the applicant) ought to have been awarded a surplus as a result of the reversion of Mr. Ravi and not the applicant as has been wrongly done by the Government. 3. This contention of the applicant finds support from the letter of the respondent n . 4 (XXXXXX dated June 13).

(xliii) That the applicant's position in the merit list was 48th and that of Mr. Jodha Singh was 119th. That being so, Mr. Jodha Singh was joined the Directorate of Public Health and the applicant in account of the circumstances stated in the preceding paragraphs, cannot stand in competition with the applicant and be awarded a surplus.

A K. Agrahay

De

19.

to the applicant. Even if there was a surplus, the junior person namely Mr. Datta Yadava should have been picked up for placement for his services against any other vacancy in the Department and not the applicant as has been illegally and erroneously done by the respondent No. 3.

(xliii) That ranking of persons selected on the basis of particular selection is to be reckoned in order of the position obtained at the examination and not by the date of joining.

(xliv) That the action of the Director (Pulses) that the applicant being junior was declared surplus on termination is manifestly erroneous and militates against the recognised principle of competitive examination, the object of drawing up a merit list and maintaining such a merit list by the Commission.

(xlv) That the applicant's case is not one that he joined the Department after seeking any extension of time nor that the period of extension went unutilised and his case was revived and

14 K. H. Mahesh



and he joined the Government as a candidate, subsequent selection had already taken place. This is the simple case that he joined the post immediately after it was offered. That being the position, the applicant cannot be treated as a junior employee who is liable to be made to suffer by the operations of seniority.

(xlvi) That the order of termination is arbitrary, illegal and is vitiated by the provisions of Articles 14 and 16 of the Constitution.

(xlvii) That the work and conduct of the applicant being above reproach, since he joined the Department, he could not be deemed for termination.

(xlviii) That since the applicant was placed on probation and he lawfully successfully completed a little more than two years' probation, it was not open to the Government to throw him out of job and deprive him of his job.

(xlix) That the applicant had no previous convictions and also had no disciplinary proceedings against him, but still he was terminated.

A.K. Arachay

Dr

21.

(1) That it was respondent no. 3 himself who had sent requisition to the Commission for making selection against clear vacancy in his Directorate and the applicant having been appointed against such a clear vacancy, it is unjustified and unfair for the respondent no. 3 to terminate the applicant's services on the flimsy ground of the applicant being rendered surplus.

(ii) That the order of termination is such as no person instructed with the relevant rules could have passed.

(iii) That the applicant has been paid his salary upto September 30, 1967, and he is entitled since 19.10.1967 and he has not received the salary of 19.10.1967. It is submitted in support of justice that a writ should be issued for protecting his interest is passed by this Hon'ble Tribunal, otherwise the applicant should have to bear the loss and suffer irreparable loss.

(iv) That the respondent no. 3 is a Government servant and he is entitled to the salary of Rs. 10,000 per month, and he is entitled to the salary of Rs. 10,000 per month, and he is entitled to the salary of Rs. 10,000 per month.

A K Agrahay

Reu

14-12-1944

... ..
... ..

...

2.

...

...

...

(14)

...

...

(14)

...

...

...

...

...

...

...

...

...

...

...

2.

23.

RELIEFS

- i) the order dated 19.10.1987 (Enclosure 9) passed by Sri R.N. Bhargava, Director, Palses, be quashed and declared as null and void and be not given effect to;
- ii) the respondents no. 1, 2, 3 and 5 be directed not to interfere with the working of the applicant as stenographer in the Directorate of Palses Development, Lucknow, and respondent no. 3 be directed to pay his arrears of salary and continue to pay his salary in future by treating him as stenographer;
- iii) any other suitable relief(s) be granted to which the applicant is entitled under law and which this Hon'ble Tribunal deems fit and proper in the circumstances of the case;
- and
- iv) costs of this application be granted to the applicant.

A.K. Agrawal

Dr

06 INTERIM ORDER PRAYED FOR:

Pending final decision on the application, the applicant seeks the issue of the following interim orders:-

~~xxx~~ This Hon'ble Tribunal may be pleased:-

(a) to suspend the order dated 19.10.1987 (Enclosure 9);

9b) to direct the respondents no. 1, 2, 3 and 5 not to interfere with the working of the applicant as stenographer in the Directorate of Pulses Development, Lucknow,

and to pay his arrears of salary and also to pay

.....

②

A.K. Agrawal

25.

pay salary in future and other benefits to which the applicant is entitled under law; and

(c) to issue any other suitable direction to which the applicant be entitled under law and which the Hon'ble Tribunal deems fit and proper in the circumstances of the case.

9. Details of the remedies exhausted

The applicant declares that no other remedy is provided under law and therefore none has been exhausted.

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 Bank Draft/Postal Order in respect of the application fee-

1. Name of the Bank on which drawn
2. Demand Draft No.

Or

1. Number of Indian Postal Order(s) DD 567
2. Name of issuing post Office GPO And
3. Date of issue of postal Order(s) 7/88
4. Post Office at which payable GPO And

A. K. Arora

Dr

12. Details of Index

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures:

- (i) Encl. 1: Photocopy of advertisement dated 22.4.82 for selection to 800 clear vacancies of stenographer in the Govt. of India.
- (ii) Encl. 2: T.C. of letter dated 6.9.83 from Commission re. applicant's nomination to Director Genl. Telecommunication, U.P. Circle, Lucknow, for apptt. as stenographer.
- (iii) Encl. 3: T.C. of letter dated 25.10.84 of Director Genl., Telecom. stating that English stenos were required by him and not Hindi stenos.
- (iv) Encl. 4: TC of Commission's letter dt. 14.5.84 returning the dossier to D.G. Telecom. impressing upon him that it was incumbent on him to accept the nominated stenos.
- (v) Encl. 5: TC of Commission's letter dt. 26.7.85 nominating applicant to A.G. U.P. for apptt. as stenographer.
- (vi) Encl. 6: TC of letter dt. 25.10.85 to applicant re. his nomination to Director pulses as steno.
- (vii) Encl. 7: TC of letter dt. 8.1.86 from Director pulses asking applicant to report for duty by 27.1.86.

IA K. Anand

Q

27.

- (viii) Encl. 8: TC of letter dt. 5.2.86 of Director Pulses to the effect that applicant was appointed as steno. in the Directorate of Pulses on regular basis w.e.f. 20.1.86 on two years' probation.
- (ix) Encl. 9: TC of letter dt. 19.10.87 of Director, Pulses terminating applicant from service on ground of his being rendered surplus.
- (x) Encl. 10: TC of telegram sent by applicant to Director (Crop), Agricultural Minstry. re. his termination.
- (xi) Encl. 11: TC of applicant representation dt. 28.10.87 to Agricultural Comm., G.I., New Delhi etc. re. his termination.
- (xii) Encl. 12: TC of applicant's representation dt. 26.10.87 to Commission re. his termination.
- (xiii) Encl. 13: TC of letter dt. 14.12.87 of Depl. Dir. SSC to Under Secy. Deptt. of Agri. & Coop. G.I. asking him to place applicant under directt. of pulses and adjust junior steno. Km. Yadava against some other vacancy available in Deptt.

IN VERIFICATION:

I, Arvind Kumar Agrahari, son of Sri Suresh Chandra Agrahari, aged about 26 years, working as stenographer in the office of Director, Pulses Development, Government of India, Lucknow, resident of 785(7)

IA K. Agrahari

26

28.

Daraganj, Allahabad, do hereby verify that the contents
from 1 to 13 are true to my personal knowledge and
belief and that I have not suppressed any material
facts.

A.K. Agrawal
(ARJUN KUMAR AGRAWAL)
APPLICANT

Through

R.K. Jain
(R.K. JAIN) Advocate,
Counsel for the applicant

Place: ALLAHABAD

Date January ,1988.

To

The Registrar,
Central Administrative Tribunal,
Additional Bench, ALLAHABAD.

.....

A.K. Agrawal

ENCLOSURE - 2

No. 3/3 SJ-All Hom
Government of India
Staff Selection Commission
(Central Region)

.....

8, Bell Road, Allahabad.
Dated: 6th Sepy 1983

MEMORANDUM

Subject: Stenographers Exam 1983

With reference to his candidature for the above mentioned examination, Shri A.K. Agrahari Roll no. 2410155 is hereby informed that he has been nominated to the O/C D.G. Telecom, Lucknow for appointment as Steno on 11-5-83

Sd/- Illegible
(D.P. Singh)
Section Officer

To,

Sri A.K. Agrahari,
785, Varanasi, Allahabad.

*He will receive further information from the aforesaid Department in due course.


TRUE COPY.



ENCLOSURE - 3

INDIAN POSTS AND TELEGRAPH DEPARTMENT

From : General Manager Telecom.

U.P. Circle, Lucknow - 226 001

To,
The Regional Director ,
Staff Selection Commission (Central Region)
8, Nelli Road, Allahabad.

No. Staff/M-81/1/84/8

Dated at Lucknow the 25-10-84

Subject:- Nomination of candidates for appointment as
Stenographers.

Kinsly refer to your letter No. 3/3/83-S.S.C.-

Exam. dated 26.2.84 and No. 3/3/83-S.S. - Exam/9 dated

15-84 with which the dossiers- 24 in all of the approved

candidates named below had been sent to this office for

appointment as Stenographers. The question of appointment of

these surplus Hindi Stenographers in this Circle, has been

referred to the Directorate. Their decision regarding the

policy to be adopted in the matter, such as appointment

and training of the candidates is likely to take some time

and in view of the ban imposed on recruitment at present of

the dossiers received with your aforesaid letters are returned

herewith so that in the meantime they can be nominated for

appointment in other departments wherever there are

vacancies. The factual position in the matter has been

explained in detail to the chairman, S.S.C. C.I. & T.C.P&T,

2-

Ministry of H.A. New Delhi vide Office D.O. letter
even dated 13.3.84 and 2.10.84.

<u>Sl.No.</u>	<u>Name</u>	<u>Roll No.</u>	<u>Category</u>	<u>Rank</u>	<u>Remarks.</u>
1.	Shri R.K.Srivastava	2510052	Genl.	11	Hindia
2.	" Promod Kumar	2540239	Genl.	41	"
3.	" A.K. Jain	2540159	Genl.	43	"
4.	" P.R.Dutta	2410629	Genl.	44	"
5.	" Om Prakash	2410213	Genl.	46	"
6.	" Ram Pher	2410050	Genl.	47	"
7.	" Arvind Kumar	2410155	Genl.	48	"
8.	" Lakshmi Kant	2410615	Genl.	51	"
9.	" Dilip Kapoor	2410623	Genl.	54	"
10.	" Uma Shanker	2410023	Genl.	57	"
11.	Ambrish Kumar Disit	2410529	Genl.	59	"
12.	" Sri Kant Arya	2410403	Genl.	64	"
13.	" Ashim K. Roy	2560106	Genl.	62	"
14.	" Ram Veer Singh	2540063	S/C	500	"
15.	" Raj Kumar N.	254008	S/C	501	"
16.	" Murat Prasad	2560209	S/C	318	"
17.	" Prahlad Prasad	2560056	S/C	367	"
18.	" Pyare Lal	2410380	S/C	397	"
19.	" Bachai Ram Saroj	2410319	S/C	413	"
20.	" Ram Jiwan	2510103	S/C	416	"
21.	" Om Prakash	2510073	S/C	439	"
22.	" Bala Prasad	2410517	"	440	"
23.	" Purnotam Lal	2470053	"	451	"
24.	" Radhey Shya,	2560147	"	460	"

Kindly acknowledge receipt.

D.A.-24 Desslers.

To,
Shri Arvind Kumar Agrahadi
785 F, Paraganj, Allahabad.

Sd/- Illegible
(K.H. ...)
By. General Manager (A.C.M.)
U.P. Telecom Circle, Lucknow.
Sd/-

True copy

ENCLOSURE - 4

No. 3/3/83-SSC Exam.
Government of India,
Staff Selection Commission,
Central Region.

REGISTERED/ORDINARY
BY-MAIL

To,

The General Manager,
Telecommunication, U.P. Circle,
Indian posts & Telegraphs Deptt.
LUCKNOW.

Sir,

Please refer to your letter no. STAFF/1327-SS/8 dated 9.11.83, wherewith you returned the dossiers of 28 candidates who were recommended for appointment as Stenographer in your organisation. You had returned the dossiers on the ground that you needed English stenographers and not Hindi Stenographers. Since this resulted in non-appointment of candidates already selected by the Commission, we refer the case to the Ministry of Home Affairs (Department of Personnel and Administrative Reforms), Government of India, Government of India have now decided that "it is incumbent on the Ministries/Department/Offices to accept the qualified stenographers nominated to their offices by the SSC irrespective of whether they have qualified in English or Hindi Stenography". A copy of OM. No. 24012/20/83-SS.H.I dated 29.3.84

2-

addressed by the Joint Secretary to Government of India to Ministries/departments is enclosed for your persual. Accordingly we are renominating 20 of the candidates, whose dossiers were returned by you earlier. The remaining 8 candidates, who were higher in rank have already been nominated to other departments. It is requested that action for appointing these candidates may please be taken immediately.

The receipt of the dossiers may please be acknowledged

Yours faithfully,

(Dr. G.C. Srivastava)
Regional Director.

Copy to :-

- 1- Secretary to Government of India, Ministry of Home Affairs
Department of Personal and Administrative Reforms, N. Delhi
with reference to O.M. no. 24012/20/83-Estt. B dated
29.3.84 (for Shri S. Krishnan, Jt. Secy.).
- 2- Chairman, Staff Selection Commission, Block No. 12, CGO
Complex, Lodhi Road, New Delhi. 110 003.
3. All the candidates. They requested to contact the office
of General Manager, Telecommunications, Lucknow
for securing the orders of appointment.

Sd/- Illegible
(Dr. G.C. Srivastava)
Regional Director.

T.N. EGI
8.4.1984


True copy.

ATC

ENCLOSURE - 5

No. Regd. 119/ S.S.C.O.R./84
Government of India
Staff Selection Commission
(Central Region)
.....

8, Beli Road, Allahabad.
dated 26 July, 1985.

MEMORANDUM

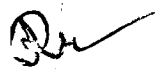

Subject: STENOGRAPHIC EXAMINATION, 1982

With reference to his candidature for the above mentioned examination, Sri A.K. Agrahari Roll No. 24-10155 is hereby informed that he has been nominated the office of the Accountant General, Allahabad for appointment as Steno on 26.7.1985.

Sd/- Illegible
Section Officer

To,

Sri A.K. Agrahari
785 (F), Daraganj,
Allahabad.


TRUE COPY


ENCLOSURE - 6

Bharat Sarkar
Krishi Aun Gramin Vikas Mantralaya
(Krishi Aur Sahkarita Vibhag)
Dalhan Vikas Mandeshalaya
B-1/13, E. Park, Mahanagar Extension
Lucknow - 226006

No. 3-10/85-TPD/4073

Dated the 16th October, 1985

M E M O

Staff Selection Commission, U.P., Allahabad has recommended your name for appointment in this Directorate to the post of Stenographer (Sr.) in the scale of Rs. 330-10-380-12-500-15-560. In this connection, I am enclosing 3 copies of the attestation form which may be filled in and returned to this Directorate within 15 days of its receipt.

Sd/- Illegible
(B.N. Bhargava)

Director,

Dte. of Pulse Development.

Mr. Arvind Kumar Agrahari,
785 F, Daraganj, Allahabad.

TRUE COPY

Agar Qun

ENCLOSURE - 7

Registered A.D.

Bharat Sarkar
Krishi Mantralaya
(Krishi Sur Saksharita Vibhag)
Dalhan Vikas Nideshalaya
B-1/13, E.Park, Mahanagar Extension
Lucknow - 220006.

No. 3-10/85-IPD/201

Dated the 8th January, 1986

M E M O

On recommendation of the Staff Selection Commission Mr. Arvind Kumar Agrahari is offered a temporary post of Stenographer (Junior) in the Directorate of Pulses Development Lucknow in the scale of Rs. 330-560. The appointee will also be entitled to draw D.A. & other allowances at the rate admissible under the rules and orders governing the grant of such allowances in force from time to time subject to the conditions laid down in this memo. The terms of appointment are as follows:-

- 1) On appointment to the post he will be given initial pay of Rs. 330.00 P.M.
- ii) The post is temporary, sanctioned upto 28.2.1986 at present but likely to continue thereafter.
- iii) He will be on probation for a period of two years from the date of his assuming charge of the post which may be extended at the discretion of the appointing authority. The appointment is liable to be terminated at any time without any notice during the period of probation without assigning any reason and thereafter

2.

on one month's notice given by either side, viz. the appointee or the appointing authority. The appointing authority however reserves the right to terminate the services of the appointee forthwith before the expiry of the stipulated period of notice by making payment to him of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.

- iv) Other conditions of his service will be governed by the relevant rules and orders in force from time to time. The appointment will be further subject to:-
 - (a) Production of certificate of medical fitness from the Chief Medical Officer, Alibab and subject to
 - (b) Submission of a declaration in the form enclosed and in the event of the candidate having more than one wife living, the appointment will be subject to this being exempted from the enforcement of the requirement in this behalf.
 - (c) Taking of oath of allegiance to the Constitution of India in the prescribed form.

If any information furnished by the candidate in his application or otherwise proves to be false or if the candidate is found to have wilfully suppressed any material information. He will be liable to removal from service and to such other action as Government may deem necessary.

No travelling allowance will be paid for joining the post.

3.

In case the post offered is acceptable to him on the above condition, Mr. Arvind Kumar Agrahari is requested to report himself for duty to the undersigned immediately with character certificates from two different Gazetted Officers. In case he fails to join duty on or before the 27th January, 1986, the offer will be treated as cancelled.

Sd/- Illegible

(R.N. BHARGAVA)
Director.

Mr. Arvind Kumar Agrahari,
785(F), Daraganj, Allahabad.

#

=====

C. BUE COPY

ATM

Ru

SECRET

Bharat Sarkar
Krishi Aur Gramin Vikas Mantralaya
(Krishi Aur Sahakarita Vibhag)
Dalhan Vikas Nideshalaya
B-1/13, E Park, Mahanagar Extension
Lucknow - 2206

No. 3-6/86(P.F.)DPD/392

Dated 5h Feb. 1986

Office Order

Mr. Arvind Kumar Agrahari whose name was sponsored
by the Staff Selection Commission, Allahabad is hereby appointed to
the post of Stenographer (Jr) in the scale of Rs. 330-10-380-EB-15-560
in the Directorate of Pulses Development on regular basis w.e.f.
20-1-86 (FN).

He will be on probation for two years other terms
and conditions of his appointment will remain the same as stipulated
in this Office Memo no. 3-10/85-DPD/201 Dt. 8th January 1986.

The expenditure will be met from the sanctioned Budget
for 1985-86 under Intensive Pulses Development Programme (Plan) of
the Directorate of Pulses Development.

Sd/- Illegible
(B.N. Bhargava)
Director

Mr. A.K. Agrahari
Stenographer (Jr.)
Dte. of Pulses Development, Lucknow.

ENCLOSURE - 9

Dharat Sarkar
 Krishi Mantralaya(Krishi Aur Sahkarit Vibhag)
 Dalhan Vikas Nedeshalaya
 D-1/13, B.Park, Mahanagar Extention.
 Lucknow - 22006

No. 3-6/83-DPD/

Dated; the 19th October, 87.

OFFICE ORDER

Consequent upon the reversion of Smt. Rasy Thomas to the permanent post of Jr. Stenographer (Non-Plan) against which she holds lien, Km. Shobha Yadav who was working against this post during the probationp period of Smt. Rosy Thomas, is hereby appointed against temporary post of Jr. Stenographer (Plan) in the same scale with immediate effect on the same terms and conditions.

Consequently Shri Arvind Kumar Agrahari who is junior most Jr. Stenographer in the Dte. of Pulses Development becomes surplus and his services are hereby terminated with immediate effect as per terms and conditions laid down in para 1.2 of office memo. No. 3-10/85-DPD/201 dated 8.1.1986 issued to ~~him~~ him and accepted by Sri Agrahari.

(R.S. Bhargava)
 Director (Pulses)

No. 3-6/83-DPD / 3081

Dated: the 19 Oct., 1987.

1. Km. Shobha Yadav, Dte. of Pulses Development, Lucknow.
2. Shri Arvind Kumar Agrahari.

2.

3. The Pay & Accounts Officer, (Sectt.), P.P. II Section, Deptt. of Agri. and Coop., 16- Akbar Road Hutments, New Delhi.
4. The Under Secretary (Crops), Deptt. of Agri. and Coop., C.A. IV Section, "rishi Bhawan, New Delhi.
5. The Bill Asst., Dte. of Pulses Development, Lucknow.
6. Copy to personel file of concerned employees.
7. Copy alongwith relevant folder of nomination of Shri A.K. Agrahari is returned to the Regional Director, Staff Selection Commission, Central Region, C-1, 22nd Road, Allahabad for favour of information and neccessary action.

Sd/- Illegible

(R. H. Bhargava)

Director(Pulses)

True Copy

Am

De

ENCLOSURE - 10

DEPARTMENT OF TELECOMMUNICATIONS

Indian Telegram

Service Indication (i.e. Reply Paid State Greetings)	Charges Rs. P. Initials	(Presented for transmission subject to Indian Tele. Act & Rules, The Govt. is not liable to make compen- sation for any loss, injury or damage arising or res- ulting from any failure of service affecting transmi- ssion of delivery of this telegram)	Sent Parti- culars () Date Stamp
--	--------------------------------------	---	--

Class	Time	No.	Office of Origin	Date	S.I.	Words.
			M. Khemani (Admin-III)			

To

Director Coop.
 Agri India
 New Delhi.

Due to action of Shri Bhargava, Director, Dalhan Vikas,
 Services of Arvind Agrahari may be terminated. Your interference in the
 matter solicited.

Santosh.

(From)

Sender's Signature Sd/- Illegible

Not to be Telegraphed

Name
 Address

True Copy.

Ver

De

ENCLOSURE - 11

28-11-57

To,

1- The Under Secretary (Scops)
Department of Agriculture & Cooperation,
C.A-IV Section, Krishi Bhawan,
New Delhi.

2- Sri T.V. Sampat, IAS
Agri. Comm., Deptt. of Agri. & Coop.,
C.A-IV Section, Krishi Bhawan
NEW DELHI.

Sir,

Most humbly and respectfully the undersigned
petitioner begs to draw your kind attention to the office order No.
3-6/83-DPD/3080 dated October 19, 1987 issued by the Director (Pulses)
Dalhan Vikas Nideshalaya, Krishi Aur Sahkarita Vibhag, Krishi Mantralya
Bharat Sarkar, Lucknow a copy of which has been endorsed to you also
for information and necessary action.

2- The Director Pulses has terminated the petitioner's
services, as the petitioner for the reasons stated in the said office
order dated October 19, 1987, has been declared 'SURPLUS'.

3- In this connection the petitioner begs to submit
that the petitioner was appointed on the post of Jr. Senographer
in the office of the Director (Pulses) Lucknow, in the scale
of Rs. 330-560 in February 1986 vide M.O. 3-10/85DPD/201 dated
January 8, 1986, (copy enclosed for ready reference). Accordingly
the petitioner joined the post on 29-1-1986. Since then the

2-

petitioner has been working on the said post to the entire satisfaction of his officers. His work and conduct has all along been excellent, and the petitioner never gave any cause of complaint to his officers, Besides, he earned EXCELLENT REMARKS in his character roll which are ample proofs of the fact that the petitioner's work and conduct has been excellent. Unfortunately, all of a sudden, the petitioner's services have been terminated on the ground of being 'SURPLUS' in the department and the petitioner, for no fault of his, has been thrown on the streets.

4- In this connection the petitioner begs to lay down the following few lines for your consideration and to submit that the Director, while terminating the services of the petitioner has invoked para 1-3 of O.M. no. 3-10-85DPD/201 dated 8-1-86 which stipulated that services of petitioner can be terminated without any notice or reason. But it is humbly submitted that the said clause cannot be applied in the present case because it is meant for such persons whose work and conduct is not found satisfactory. Secondly in the present case, a reason for termination of services has been given, the reason being that a situation has arisen wherein the post of the petitioner has become SURPLUS. Therefore the petitioner has every claim of being absorbed in any other office under Krishna Mantralaya as laid down in various circulars issued by Home Ministry

3-

in regard to post becoming surplus in any Deptt. In the circumstances the petitioner begs to submit that the case of the petitioner may be re-examined on the following legal and humanitarian grounds:-

i)

In the appointment letter No.3-10/85DPD/201 dated 8-1-86 it was nowhere mentioned that the appointment of the petitioner was in the chain of promotion of Smt. Rosy Thomas who was working on the post of SURPLUS stenographer on an ad-hoc basis. The petitioner was made to understand that the appointment was against Clear Vacancy and not short-term vacancy. Otherwise petitioner would not have joined the department in 1986.

ii)

the petitioner's services may not be terminated because petitioner's record of service has been Excellent. The petitioner has good knowledge of both English and Hindi Stenography and has been working in English stenography also in the Department (which is mainly the work in the department) although the petitioner was selected against the post of Hindi Stenographer.

iii)

Further, it is also submitted that practically the post of Jr. Stenographer has not yet become 'SURPLUS' because Smt. Rosy Thomas who was already on leave upto 25th October, 1987 has extended her leave and therefore she was neither joined nor is likely to join in the near future the said post of

4-

Jr. Stenographer with the result that no one else is working on the said post. It is also reliably learnt that Smt. Rosy has filed a GENERAL CLAIM PETITION before the Central Adm.-Tribunal, Allahabad and has prayed for STAY of the operation of order dated 19-10-1987. In view of these facts the post of Jr. Stenographer has not yet become 'SURPLUS' to warrant my termination from that post.

iv)

The petitioner's services can not be terminated because the petitioner's position in the Merit-List prepared by Staff Selection Commission, U.P., Allahabad was higher than Km. S. Hobha Yadav, another candidate whose services in the same department and office have been retained in preference to the petitioner.

v)

The petitioner has in the meantime contacted the Regional Director, Staff Selection Commission, U.P. Allahabad who has told the petitioner that the Commission would return the folder received from the Director on the ground that the services of a ~~regular candidate in the manner the Commission has done~~ regular candidate duly selected by the Commission can not be terminated in the manner it has been done and if a situation has arisen wherein the petitioner has become surplus he should be absorbed on another post in the scale of pay by the Department.

vi)

The petitioner has now become over age having already attained 26 years of age. After being successful in a regular examination in 1982-83, the petitioner did not appear in any subsequent examination and, therefore, he has no chance now of regular appointment

5-

anywhere of ~~the~~ else;

vii)

The petitioner has old parents to look after and this job was the only source of livelihood for the petitioner.

P R A Y E R

In view of the submissions made in the proceeding paras, your humble petitioner begs to invoke your kind interference in the matter so that the petitioner's services may not be terminated by the Department and it should be directed to cancel the order of Oct. 19, 1987 OR absorb the petitioner in the same Department giving the petitioner continuity of job and service with full salary and other benefits.

Encl: As Above

Yours faithfully,

(Arvind Kumar Agrahari)
Jr. Stenographer,

PRESENT ADDRESS

Arvind Kumar Agrahari,
785 (F), Daraganj, Alld.

Dalhan Vikas Nideshalaya,
B-1/13, E-Park, Mahanagar Ext.
Lucknow.

Copy forwarded for information and Necessary action to :-

- 1- Dr. T.V. Sengpat, Agriculture Commissioner, Ministry of Agriculture, Deptt. of Agriculture & Coopn., Krishi Bhawan, New Delhi.,
- 2- The Director (Crops) Admn. Section, Ministry of Agriculture, Deptt. of Agriculture & Coopn., Krishi Bhawan, New Delhi.
- 3- Dr. B.M. Sharma, Jt. Commissioner (Pulses), Ministry of Agriculture, Deptt. of Agriculture & Coopn. Krishi Bhawan, New Delhi.
- 4- Director (Pulses), Dalhan Vikas Nideshalaya, Lucknow.

(Arvind Kumar Agrahari)
Jr. Stenographer

Dalhan Vikas Nideshalaya, B-1/13,
E-Park, Mahanagar Ext. Lucknow.

Enclosure 12

To

The Regional Director
Staff Selection Commission,
Central Region,
8- Beli Road,
ALLAHABAD.

Sir,

Most humbly and respectfully the undersigned
petitioner begs to draw your kind attention to the
office order No.3-6/83-DPD/3080 dated October 19, 1987
issued by the Director (Pulses), Palhan Vikas Nideshalaya,
Krishi Sur Sahakarita Vikhas, Krishi Mantralaya, Bharat
sarkar, Lucknow and a copy of which has been endorsed
to you for information and necessary action. A photostat
copy of the said order is enclosed for ready reference.

2. The Director (Pulses) has very kindly
terminated the petitioner's services as the petitioner,
for the reasons stated in the said Office Order of
October 19, 1987, has been declared 'PULSED'

3. In this connection the petitioner begs to
recall that the petitioner has appeared in 'Stenographer's
Examination 1982 conducted by your august body and the

2.

petitioner has been allotted Roll No.24-10155. The petitioner was declared successful in the said Examination and had secured 48th position in the UPPIT JIST. On the basis of the said Examination the Staff Selection Commission had sent up my name to the Director Pulses, Govt. of India, Lucknow for being appointed as 'Junior Stenographer' in that Directorate. Thereupon the Director issued appointment orders to the petitioner vide office Orders No.3-10/85-DPD/201 dated January 8, 1986 and February 5, 1986. On the basis of these orders the petitioner joined the services on January 20, 1986. Since then the petitioner had been working on the post of Jr. Stenographer to the utmost satisfaction of the officers concerned. During the said period of service viz January 20, 1986 upto now, the petitioner never gave any cause of complaint to his officers and besides, earned EXCELLENT APPRAISAL in his character roll which are ample proofs of the fact that the petitioner's work and conduct has been excellent.

4. Unfortunately, all of a sudden, the petitioner's services have been terminated on the ground of being

3.

"SURPLUS" in the department and the petitioner for no fault of his has been thrown on the streets.

5. As the services of the petitioner had been sponsored by the august Staff Selection Commission, the petitioner begs to rivoke its interference for justice and continuity of employment on the following legal and humanitarian grounds :-

(a) The petitioner was selected on the basis of a regular examination conducted by an august body against a regular vacancy, he cannot be declared "surplus" by the said Directorate. It is incumbent upon the Krishi Mantralaya, Bharat Sarkar, to absorb the petitioner on the equivalent the post in any other subordinate office of the Krishi Mantralaya;

(b) The petitioner's services cannot be terminated because petitioner's record of service has been Excellent;

(c) The petitioner's services cannot be terminated because the petitioner's position in the Merit List prepared by the Staff Selection was higher than Km. Chobha Yadav, another candidate whose services in

4.

the same deptt. and office have been retained in preference to the petitioner;

(d) The petitioner has good knowledge of both English and Hindi Stenography and has been working in English stenography also in the Deptt. (which is mainly the work in the Deptt.) although the petitioner was selected against the post of Hindi Stenographer.

(e) The petitioner being a regularly selected candidate by the Staff Selection Commission should not have been terminated by the Deptt. without first consulting the Krishi Mantralaya because Pharat Sarkar have laid down certain set of rules for persons declared "surplus" by any subordinate office of the Pharat Sarkar.

(f) The petitioner has now become overage having already attained 26 years of age. After being successful in a regular examination in 1982-83, the petitioner did not appear in any subsequent examination and, therefore, he has no chance now of regular appointment anywhere else;

(g) The petitioner has old parents to look after and this job was only the source of livelihood for the petitioner.

5.

P R A Y E R

In view of the submissions made in the preceding pages, your humble petitioner begs to invoke your kind interference in the matter so that the petitioner's services may not be terminated by the Department and it should be directed to absorb the petitioner in the same department giving the petitioner continuity of job and service with full salary and other benefits.

In the alternative your kindness may sponsor the petitioner's in any other departments of Pharat Sarkar in the same scale of pay of course with the stipulation that his seniority shall be reckoned on the basis of the merit list of 1982 Examination.

Encls. is above.

Dated Oct. 26., 1987

Yours faithfully

sd/

(... K. Agrahari)
Jr. Stenographer,
Balhan Vikas Nideshalaya,
F-1/13 E. Park, Mahanagar Exten.
Lucknow-226006

TC
AGM

Re

ENCLOSURE - 13

REGD/ IMMEDIATE

No. 5/SSC(CR)/87

Government of India

STAFF SELECTION COMMISSION
Central Region

From: STASELCOM
ALLAHABAD.
Phone: 55924

8, Beli Road, Allahabad.
211 002

Dated Dec. 14, 1987.

To,

Shri R.P. Saxena,

Under Secretary to the Govt, of India,

Deptt. of Agriculture and Co-operation

Min. of Agriculture, NEW DELHI.

Subject:- Representation of Shri A.K. Agrahari, Sr. Stenographer,
Directorate of Pulses Development, Lucknow.

Sir,

Please refer to your letter no. 24-3/81-CA IV dated

26.11.87 on the above subject.

The proposed course of action has already been intimated to
Director (Pulses) Lucknow under intimation to Agriculture Commissioner
of your department vide letter of even no. dated 3.12.87 (Copy enclosed
for ready reference).

Since Shri Agrahari is senior to Km. Shobha Yadava of
same batch of Stenographers Examination, it is requested that services
of Shri Agrahari be placed under Director (Pulses) Lucknow against
whose requisition Shri Agrahari was nominated by this Commission
and Km. Shobha Yadava may be adjusted against any other vacancy
available in your deptt.

2-

The receipt of this letter may kindly be
acknowledged.

Yours faithfully,
(K. SETHI)
REGIONAL DIRECTOR (CR)

Copy forwarded for information and necessary action to :-

- 1- Shri R. N. Bhargava, Director (Pulses) Directorate of Pulses Development
B-7/13, E Park Mahanagar extension, Lucknow - 226 006.
- 2- Dr. T.V. Sanpat, Agriculture Commissioner Deptt. of Agriculture &
Cooperation, Krishi Bhawan, New Delhi.
- 3- Sri S.C. Srivastava, Under Secretary(S) Staff Selection Commission,
Block No. 12, CGO Complex, Lodhi Road, New Delhi. 110 003.
- 4- Shri A.K. Agrahari, 765 (F) Daraganj, Allahabad.
- 5- Kd. Shobha Yadava, Directorate of pulses, B-1/13, E-Park, Mahanagar
Extension, Lucknow.

Sd/- Illegible
(K. SETHI)
REGIONAL DIRECTOR (CR).

Copy of letter No. 5/SSC/CR/87 dated 3rd Dec., 1987.

IMMEDIATE

To, B

Shri R.N. Bhargava,
Director (Pulses), Directorate of Pulses,
B-1/13, E- Park, Mahanagar Extension.
Lucknow.

Subject:

Termination of Services of Shri A.K. Agrahari Roll
No. 2410155 Rank No. 48 a candidate of Stenographer
Examination.

3-

Sir,

I am to say to you that Shri A.K. Agrahari Roll no. 2410155 Rank No. 48 of the Stenographers ' Examination , 1982 was nominated to your Department. The candidate has been appointed by you vide your officer Order No. 3-6/86 (P.F.)/DFD/39 dated 5th February, 1986 on regular basis and after a period of over 22 months, his services have been terminated vide office order dated 19th October, 1987 on the ground of being junior most and on reversion of another stenographer.

2. The Departments of Government of India are required to intimate only those vacancies to the Commission which are likely to be permanent. The purely temporary vacancies should not be reported. It is not understandable why you had intimated such temporary vacancy to the Commission against which he became surplus, his services should have been placed with some other department of Ministry of Agriculture instead of terminating his services.

3. As per records, Shri A.K. Agrahari Rank No. 48 is senior to Km. Shobha Yadav, Rank No. 119 from the reserve list of the same Stenographers Examination, 1982.

4. It is therefor, requested that you may kindly inform the undersigned the circumstances under which it was necessary to terminate services of one of the two stenographers nominated to your office and why services

4-

services of Shri A.K. Agrahari were terminated when a joinor candidate is working your office.

Yours faithfully

Sd/-
(K. SETHI)

REGIONAL DIRECTOR

Copy for information and necessary action to :-

- 1- Dr. T.V. Sampat , Agriculture Commissioner, Department of Agriculture and Cooperation, Kishi Bhawan, New Delhi.
- 2- Shri S.C. Srivastava, Under Secretary (S), Staff Section Commission, Block No. 12, C.G.O. Complex, Lodhi Road, New Delhi.

Sd/-

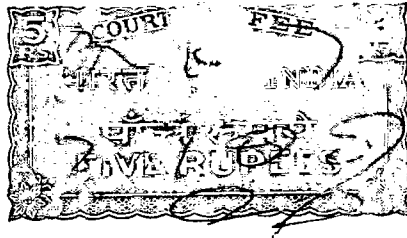
(K. SETHI)

REGIONAL DIRECTOR.

TRUE COPY.

ATr

De



A67

अभिभाषक पत्र (वकालतनामा)

~~होस्टाक्षर और जस्टिस के इलाहाबाद~~
 In the Central Administrative Tribunal at Allahabad
 Case No. 88 of 88
 Arvind Kumar Agarwal
 सन १६ ई० जिला
 वादी/प्रार्थी
 अपीलान्त

वनाम
 Union of India & Ors.
 प्रतिवादी
 रेस्पान्डेंट

मैं कि Arvind Kumar Agarwal
 हम

Shri. Sunesh Chandra Agarwal
 No. 785(F) Daraganj Allahabad

उपरोक्त प्रकरण में मैं अपनी ओर के पक्ष समर्थन के हेतु
 हम

श्री राज कुमार जैन

फोन : ३२६६

एडवोकेट हाइकोर्ट

३६०, बकशी बाजार (मंसूर पार्क), इलाहाबाद

को कानूनी शुल्क (मेहनताना) नियत करके अपना अभिभाषक (वकील) नियुक्त — करता हूँ
 निश्चित करते हूँ

और यह स्वीकार करता हूँ कि उक्त सज्जन हमारी ओर से पैरवां करें वाद-पत्र (अर्जीदावा), प्रतिवाद-पत्र (बयान तहरोरो), वाद स्वीकार पत्र, विवाद पत्र, पुनरावलोकन (रेस्टोरेशन प्रार्थनापत्र) एवं पुनर्निर्णय (तश्वाजसानी), प्रार्थना पत्र (दरखवास्त), शांतिपत्र कथन (हलकनामा) प्रवर्तन पत्र (दरखवास्त इजराय) मुजवात अगल, निगरानी इत्यादि हर प्रकार के अन्य मांगना पत्रादि एवं लेखादि का प्रतिलिपियां अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शांतिपत्र पुष्टीकरण करें और आवश्यक प्रश्न करें अथवा उत्तर दें और लेखादि को प्रतिलिपियां एवं हमारे प्राप्य धन को अपने हस्ताक्षरी पावती देकर प्राप्त करें, हमारा ओर से किसी को मध्य-पत्र, तथा साक्षी (गवाह माने और उससे सम्बन्धित प्रार्थना-पत्र प्रस्तुत करें तथा उसका समर्थन करें तथा प्रमाणित करें वाद-पत्र उठावें, छोड़े अथवा समझौता करें तथा मुलहनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना करके उसका समर्थन करें। प्रकरण से सम्बन्धित कुल कार्यवाही डिप्रा के भर पाई होने के समय तक स्वयं या संयुक्त करें, या दाखिल करें। आवश्यकता होने पर किसी अन्य वकील महोदय को वकील करें।

उस सभी कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भाँति हमको सर्वथा स्वीकार होगा अगर मैं कानूनी शुल्क उक्त सज्जन को न तो अधिकार होगा कि वह हमारी ओर से मुकदमा को पैरवां न करें। उपरोक्त दशा में उक्त सज्जन का कोई उत्तरदायित्व न रहेगा।

अतएव यह अभिभाषक पत्र लिख दिया कि प्रमाण रूप से समय पर काम आये।

तिथि

मास

स०

A68

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH : ALLAHABAD.

CA

.....

CIVIL MISC. APPLICATION NO. _____/1990

ON BEHALF OF

UNION OF INDIA & OTHERS.

APPLICANTS /
RESPONDENTS.

IN

REGISTRATION NO. 55 of 1988

Arvind Kumar Agrahari

Petitioner

Versus

Union of India & others.

Respondents.

To

The Hon'ble The Vice Chairman and His

Companion Members of the aforesaid Tribunal.

The humble application of the abovenamed

MOST RESPECTFULLY STATES AS UNDER:

1. That full facts have been asserted in the accompanying counter affidavit and it is therefore

le-

filed today
R
4/5/90

E

Arvind Kumar
Agrahari
vs. Union of India
- 19/4/90

SO(3)

Keep a record
if permissible

Dec 4.5.90

DR(7)


- 2 -

in the interest of justice that the Supplementary Affidavit as well as the petition is rejected by this Hon'ble Tribunal, and the relief claimed by the petitioner is also rejected.

P_R_A_Y_E_R

WHEREFORE, this Hon'ble Tribunal may kindly be pleased to reject the relief claimed by the petitioner by way of Supplementary Affidavit as well as Petition, otherwise the respondents would suffer irreparable loss.

Dated 6-5-90


(K.C. SINHA)
ADDL. STANDING COUNSEL
CENTRAL GOVT.
COUNSEL FOR THE RESPONDENTS.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH : ALLAHABAD.

.....

COUNTER AFFIDAVIT

TO THE SUPPLEMENTARY AFFIDAVIT FILED BY PETITIONER

IN

REGISTRATION NO. 55 of 1988

Arvind Kumar Agrahari.

.Petitioner

Versus

Union of India & others.

.Respondents.

Affidavit of R.N. Bhargava aged
about 55 years, s/o Sri L.N.

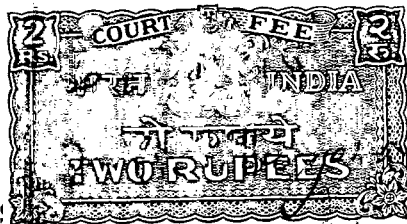
Bhargava, Director, Directorate
of Pulses Development, Lucknow.

R.N. Bhargava
(Deponent).

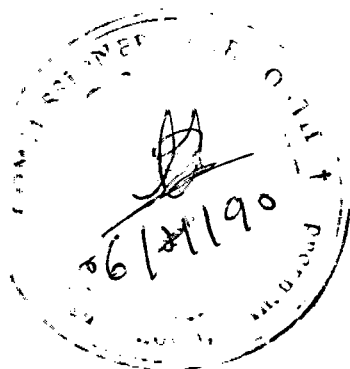
I, the deponent above named do hereby
solemnly affirm and state on oath as under :

1. That the deponent is Director, Directorate
of Pulses Development, Lucknow and is well acquainted
with the facts deposed to below.

2. That the deponent has read the supplementary
affidavit filed by the petitioner and has read the
contents therein fully and is in a position to reply
the same.



1990
AFFIDAVIT
27
HIGH COURT
ALLAHABAD



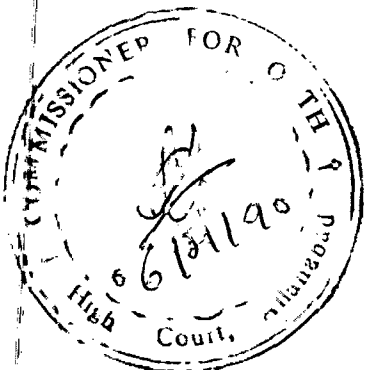
- 2 -

3. That the contents of paragraph 1 of the supplementary Affidavit need no comment.

4. That the contents of paragraphs 2 and 3 of the Supplementary Affidavit need no comments being matter of records.

5. That the contents of paragraph 4 of the Supplementary Affidavit are not correct as stated. It is further submitted that the petitioner joined the Department w.e.f. 20th January 1986 against a temporary post under Plan Scheme on his having sponsored by Staff Selection Commission, Allahabad. Another candidate namely Km. Shobha Yadav joined the Department w.e.f. 2nd September, 1985 against a permanent post under Non-Plan after having sponsored by the Staff Selection Commission. The name of M Smt. Shobha Yadav was sponsored much earlier, i.e. in the month of April, 1985, whereas the name of the petitioner was sponsored in the month of August, 1985 and joined the Directorate on 20th January, 1986. Over and above the name of Smt. Shobha Yadav and that of the petitioner were sponsored in different lists without mentioning the year of examination against which they were selected. The seniority of

Shobha Yadav



A72

- 3 -

both the candidates namely Smt. Shobha Yadav and the petitioner, were therefore, fixed according to their joining the post in the Directorate. The services of the petitioner being junior most in the cadre of Junior Stenographer as per records, had to be terminated on becoming the post of one Stenographer (Junior) as surplus to the sanctioned strength in the Directorate. At a later stage, the Staff Selection Commission came up pointing out the year of examination vis-a-vis seniority of the petitioner over Smt. Shobha Yadav according to the ranking they had secured in the Stenographer's examination. The petition of the petitioner, was thus reviewed in consultation with the Ministry of Agriculture and on the advice of the Ministry, the termination orders of the petitioner were revoked under intimation to all concerned.

6. That in reply to the contents of paragraph 5 of the Supplementary Affidavit, it is stated that after revocation the case of the petitioner was dealt with in accordance with the provisions contained in Office Memorandum dated 25th April, 1958 from the Ministry of Home Affairs, a copy of which is enclosed herewith and marked as Annexure-I to this affidavit.

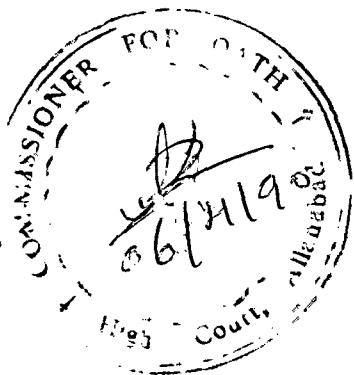


7. That in reply to the contents of paragraph 6 of the Supplementary Affidavit, it is stated that a copy of the Office Memorandum dated 25th April, 1958 was supplied to the petitioner, on the request made by him, hence the allegation in paragraph under reply is not tenable.

8. That in reply to the contents of paragraph 7 of the Supplementary Affidavit, it is submitted that the representation submitted by the petitioner is under consideration of the Competent Authority.

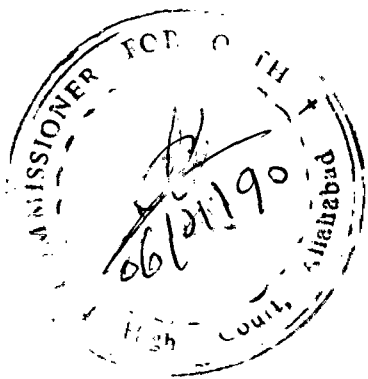
9. That the contents of paragraph 8 of the Supplementary Affidavit are not correct and as such are denied. It is further submitted that the order dated 20th February, 1989 are valid and binding on the petitioner, as these have been issued in accordance with the guidelines given in the office memorandum dated 25th April 1959, as already stated in foregoing paragraphs.

10. That the contents of paragraph 9 of the Supplementary Affidavit are not correct and as such are denied. It is further submitted that Smt. Shobha Yadav was sponsored in a separate list on 23rd April 1985 (List No.II) much earlier to the petitioner, whose name was sponsored in a separate list on 14th August 1985 (List No.III) by the Staff Selection



Commission, Allahabad for selection to the post of Junior Stenographer in the Directorate. Moreover, Smt. Shobha Yadav joined much earlier against a permanent post, whereas the appointment of the petitioner was against a temporary post and his name was also sponsored much later in a separate list by the staff Selection Commission. There was no mention about the batch or year of examination in respect of both the candidates. The termination of the petitioner, was, therefore, in order as he was the junior most as per records of the Directorate. At a later stage, the year of examination and the seniority of the petitioner was made known to the Directorate through Staff Selection Commission resulting in a review of the case and revocation of termination orders. Smt. Shobha Yadav has also been selected through Staff Selection Commission and has completed more than three years service as Junior Stenographer in the Directorate, efforts are, therefore, being made to absorb her in other Central Government Department at Lucknow, as no vacancy is available in the cadre of Junior Stenographer in the Directorate.

11. That in reply to the contents of paragraph 10 of the Supplementary Affidavit, it is submitted that the provisions of F.R. 54 are applicable in cases



where the order of dismissal/removal/termination from service are as a result of disciplinary proceedings instituted against a government servant and as such orders are set aside by the appellate or reviewing authority on the basis of the representation made by the government servant depending on the merit of the case. The case of the petitioner for payment of pay and allowances for the period from 20.10.87 to 2.10.88 is therefore, not covered within the provisions of F.R.54.

12. That in reply to the contents of paragraph 11 of the Supplementary Affidavit, it is submitted that in view of facts and circumstances stated in foregoing paragraphs, the supplementary Affidavit moved by the petitioner is not maintainable and is liable to be rejected.

That the contents of paras 1 and 2 of this affidavit are true to my personal knowledge; those of paras 3 to 11 are based on records/informations and those of paras 12 are based on legal advice, which all I believe to be true. No part of it is false and nothing material has been concealed in it.

SO HELP ME GOD.

Let A

DEPONENT.



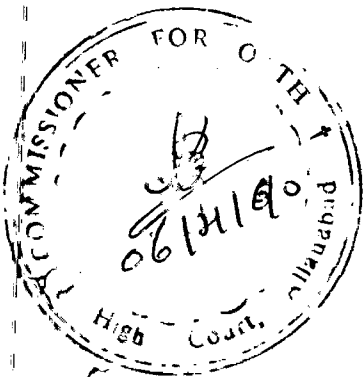
I, ²~~unidentified~~ ²deponent ²~~Raj Kumar Mishra~~

²~~Dr. R. M. Bhargava~~ ²Declare that the person making this affidavit and alleging himself to be the deponent is known to me ²personally. ²Raj Kumar Mishra
Advocate.

L.T.I. Identifier.

Solemnly affirmed before me on this 06 day of ²~~April~~ ²April, 1990 at 10:40 am/pm by the deponent, who is identified by the aforesaid ²clerk. ²Raj Kumar Mishra
Advocate High Court Lucknow Bench. Lucknow.

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.



G.K. Mishra
Oath Commissioner.

2027/128 06/11/90

No. 9/49/54-RPS
Government of India
Ministry of Home Affairs

A77

New Delhi-1, 25th April, 1958
5th Vaisakha, 1880.

OFFICE MEMORANDUM

Subject:- Treatment of cases of wrong retrenchment or reversion caused by Administrative errors.

The undersigned is directed to say that cases have come to the notice of the Government in which owing to administrative error or ignorance of facts persons not due for retrenchment were either reverted to lower posts or retrenched from service when making reduction in establishment or on normal cessation of vacancies, instead of other persons who would have been retrenched or reverted had the correct facts been available or taken into account at the time of ordering such retrenchment or reversion. The affected persons in such cases have no legal remedy as the orders are not void from the legal point of view.

2. The retrenchment or reversion in such cases may be due to non-observance of departmental instructions or due to erroneous interpretation of the instructions or to due to wrong determination of seniority of the individual concerned. In order to alleviate the hardship caused to individual Government servants in such cases, it has been decided that where the competent authority is satisfied that a Government servant is wrongly retrenched or reverted on account of administrative errors or ignorance of facts, he may be re-employed or re-promoted, as the case may be, as soon as possible and if necessary the person who has been wrongly retained in the service or in the higher post may be retrenched or reverted and the case may be dealt with as follows :-

(1) PAY

a) The pay on re-employment or re-promotion may be fixed from the date of such re-employment or re-promotion at the stage he would have reached but for the retrenchment or reversion, as the case may be. The period of break in service or break in officiating tenure of the higher post, as the case may be, may be counted for increment in the time scale of pay of the post or grade to the extent he would have continued in that post or grade, but no arrears of pay and allowances will be paid for this period.

b) Where the Government servant concerned had been retrenched after being given pay and allowances in lieu of notice and the re-employment takes place before the expiry of the period which would have been otherwise covered by notice, he shall refund to Government the pay and allowances in respect of the un-expired portion of that period.

Departments should take steps to see that the seniority lists reach the persons who are concerned promptly. Such seniority lists should contain a specific provision that any person who has any objection should submit his representation within six months of the publication of the seniority lists. Where representations are made after six months, the case should be submitted to the Government for orders.

5. Cases already decided before the issue of this Office Memorandum need not be re-opened but those which have not been finally decided on the date of its issue as well as future cases may be settled in accordance with the principles contained in this Office Memorandum.

Sd/- P. SITARAMAN
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.

To

All Ministries of the Government of India (including all Departments or Divisions of Finance/Ministry of Food and Agriculture, etc.); The Branch Secretariat of the Minister for Minority Affairs No.14, Theatre Road, Calcutta-16; Deptt. of Parliamentary Affairs; Cabinet Secretariat; Cabinet Sectt (C&M Div.) South Block; P.M. Sectt; R.S. Sectt; L.S. Sectt; Partition Sectt; Directorate General of Resettlement and Employment; Director General of Posts and Telegraphs; Office of the Election Commission; Military Secretary/Secretary to the President; E.O. to the Govt. of India; Registrar General of India; Union Public Service Commission; Comptroller and Auditor General of India; Planning Commission (programme Evaluation Organisation); Supreme Court; Ministry of Finance (Rehabilitation Division), 8 Theatre Road, Calcutta; Ministry of Rehabilitation (Branch Secretariat) 8 Theatre Road, Calcutta; Director Intelligence Bureau; Director of Coordination (Police Wireless); Director Sectt. Training school; Principal, Indian Administrative Service Training School; Delhi/Grand Hotel, Simla; Commandant, Central Police Training College, Mount Abu; Inspector General, Special Police Establishment; Commissioner for Scheduled Castes and Scheduled Tribes; Commandant, National Fire Service Training College, Nagpur; Commandant Central Emergency Relief Training Institute M.L.A.'s Hostel No.2, Nagpur; Inspector General, Central Reserve Police, Delhi; Department of Atomic Energy, Apollo Pier Road, Bombay-1; Joint Secretaries of all Zonal Councils; Chief Secretaries of all Union Territory Administrations; Commissioner for Linguistic Minorities, Allahabad; Office of the Pay Commission.

All regular Sections of the Ministry of Home Affairs as per standard list.

All officers.

06/11/90

(Signature)

1988
AFFIDAVIT
55
HIGH COURT
ALLAHABAD

179

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH : ALLAHABAD.

COUNTER AFFIDAVIT

ON BEHALF OF

MISS. SHOBHA YADAV

..RESPONDENT NO.5

II.

REGISTRATION NO. 55 OF 1988

Arvind Kumar Singh

..Applicant

Versus

Union of India & others.

..Respondents.

Affidavit of Mr. Shobha Yadav

aged about 26 years, d/o Shri

Raj. Kishore Yadav, r/o II-159E,

Rest Camp Colony, Charbagh, Lucknow.

(Deponent).

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

- 1- That the deponent is arrayed as respondent
no.5 in the petition and she is well acquainted
with the facts referred to hereinafter.

*By
Shri. R. K. Singh
18/4/88*

Shobha

2.

2- That the deponent has read the contents of the petition and has understood the contents therein fully and is in a position to reply the same.

3- That the contents of paragraphs 1, 2, 3, 4 and 5 of the petition need no comments.

4- That the contents of paragraphs 6(i) to 6(xxiv) and 6(xxv) of the petition do not relate with the deponent and as such no positive comments are being offered, except that the Staff Selection Commission conducts examination as per the requirement of various Departments and it only recommends the names of persons, who qualify the said examination. The Staff Selection Commission has nothing to do with the appointment of persons who are recommended for being appointed.

5- That in reply to the contents of paragraph 6(xxvi) of the petition, it is submitted that the candidature of the deponent was recommended by the Staff Selection Commission and an intimation was given on 7th June 1985 by the respondent No.3 intimating the deponent that her name has been recommended for appointment in the Directorate to the post of Stenographer(Junior). Alongwith the

Gyadar

3.

Ann-CA-I.

said communication three copies of attestation form was also sent to the deponent, which was to be returned within 10 days of the receipt of said communication. A true copy of the said communication dated 7th June 1985 is enclosed herewith and marked as Annexure CA-I to this affidavit. Thereafter on 9th August 1985, a memo of appointment was issued to the deponent and the deponent joined the office of respondent no.3 on 2nd September, 1985. A photostat copy of letter dated 9th August 1985 is also enclosed herewith and

Ann-CA-II.

marked as Annexure CA-II to this affidavit. So far as the position of the deponent in the list of the Staff Selection Commission, it is submitted that she have never been communicated that she have been placed in S.No.119 in the Examination 1982.

6- That the contents of paragraph 6(xxvii) of the petition are not admitted for want of knowledge except that the petitioner joined his services on 20th January 1986 and he became junior to the deponent in view of aforesaid in the department of respondent no.3.

Syada

7- That the contents of paragraphs 6(xxviii) 6(xxix) and 6(xxx) of the petition do not want any comment from the deponent.

8- That the contents of paragraph 6(xxxi) of the petition are not correct and as such are denied. It is further submitted that it is absolutely wrong to allege that the deponent is junior to the petitioner. As stated above, the deponent joined her services on 2nd September, 1985 in the department of respondent no.3., whereas the petitioner has joined his services on 20th January 1986 and in this way it is the petitioner, who is junior to the deponent and not the deponent is junior to the petitioner. It is well settled law that seniority counts on the basis of length of service. It might be the case that names may be recommended by the Staff Selection Commission for being appointed as stenographer(Junior) and in the said list of Recommendatories, the petitioner might be having place above the deponent, but it does not mean that by having place above to the deponent, the petitioner will be treated as senior. As stated above, the deponent joined her services in the office of respondent no.3 on 2nd September, 1985 whereas the petitioner joined on 20.1.86 and as such

Sadar

5.

in view of various pronouncements of Hon'ble Supreme Court, it is the deponent who is senior to the petitioner.

9- That the contents of paragraph 6(xxxii) of the petition are not correct and as such are denied. A detailed reply has already been furnished in preceding paragraph, hence need not be repeated here again. However, it is stated that the petitioner joined the deponent of respondent no.3 on 20th January 1986 knowing this fact that the deponent is already given appointment and she joined on 2nd September, 1985 and as such it is stated that the petitioner has accepted the said appointment very gladly on 20.1.1986 and as such now the petitioner is estopped in agitating the matter that he should be treated senior to the deponent. The petitioner himself has accepted the position for being junior to the deponent by joining at the later date. To the best of the knowledge of the deponent, the petitioner never agitated the matter that why he has been placed junior to the deponent, nor he ever agitated the matter that why the appointment of Km. Shobha Yadav i.e. the deponent was given earlier to the petitioner. Instead of he silently joined the service

Shadan

on 20.1.1986. In fact consequent upon the reversion of Smt. Rozy Thomas, who had lien against the post of Junior Stenographer, on which the deponent was working, the ~~petitioner~~ deponent had to make room for adjustment of Smt. Rozy Thomas and the petitioner being a juniormost person, he has to make room for the deponent and in this way the services of the petitioner were terminated. As per the Rule also, it is the petitioner who has to make room for a senior person, who has come back and who had lien on the basis of junior stenographer in the office of respondent no.3 on the principle of Last Come First Go. The petitioner could have agitated the matter in 1986 but he never gave any such representation about the fact that he was given appointment on later date than the deponent.

10- That the contents of paragraph 6(xxxiii) of the petition are not correct and as such are denied. It is absolutely wrong to say that ~~seniority~~ seniority of the candidates selected through the Staff Selection Commission is reckoned by the order in the serial attained in the list. Contrary to this the seniority is reckoned from the date of joining of service, i.e. on the criteria of

Quada

7.

length of service as after the recommendation there are other factors also which counts for joining the job. Here recommendation does not entitle a candidate to be appointed and the deponent is not in a position to state that on what position, the petitioner could not be given appointment earlier to the deponent. But the fact remains that the deponent got her appointment and joined also the office of respondent no.3 earlier to the petitioner and as such she is senior to the petitioner.

11- That the contents of paragraphs 6(xxxiv) 6(xxxv) and 6(xxxvi) of the petition do not relate to the deponent and as such no positive comments are being offered.

12- That the contents of paragraphs 6(xxxvii) and 6(xxxix) of the petition are not within the knowledge of the deponent and as such no positive comments are being offered except that the deponent is senior to the petitioner. Moreover, it is not for the petitioner to suggest the respondents for adjustment of the deponent. At the best, he can make a request to the respondents for his own adjustment instead of making a suggestion for the deponent as the deponent is senior to the petitioner

Gradar

8.

and as such it is juniormost person, i.e. the petitioner had to make a room for the senior persons and his services has rightly been terminated.

13- That the contents of paragraph 6(~~xi~~), 6(xii), 6(xlii), 6(xliii), 6(xliv), 6(xlv), ~~and~~ of the petition are not correct and as such are denied. A detail reply has already been furnished in foregoing paragraphs, hence need not be repeated here again.

14- That the contents of paragraphs 6(xlvi), 6(xlvii), 6(xlviii), 6(xlix), 6(~~l~~), 6(li) and 6(lii) of the petition do not relate to the answering respondent and as such no positive comments are being offered except which has been furnished earlier.

15- That the contents of paragraphs 6(liii) and 6(liv) of the petition are not correct and as such are denied. Smt. Rozy Thomas was having her lien on the post of Stenographer (Junior) in the office of the respondent no.3 and when she reverted back to her substantive post, i.e. Junior Stenographer, at which the deponent was working, the deponent had to make room for the

Grada

9.

adjustment of Smt. Rozy Thomas and the petitioner being junior-most person, he has to make room for the deponent. Admittedly the petitioner joined later than the deponent in the office of the respondent no.3 and became junior to the deponent and as such it is the petitioner, who was to be terminated and has been terminated rightly.

16- That the contents of paragraph 6(iv) of the petition need no comments.

17- That in ~~view of~~ reply to the contents of paragraph 7 of the petition, it is submitted that in view of facts and circumstances, the petitioner is not entitled for the relief, as he claimed in paragraph under reply.

18- That in reply to para 8 of the petition, it is submitted that in view of appointment letter and also joining, the deponent is peacefully working with entire satisfaction of superiors and as such question of her interference in the petitioner's employment does not arise. Unless and until there is a clear vacancy, petitioner cannot be allowed to work under the garb of any interim order and as such in view of administrative problem and also the balance of convenience, which lies in favour of the

Sudha

Sudha

10.

1788

deponent, the petitioner is not entitled to any interim relief, as referred in para under reply.

19- That the contents of paragraphs 9, 10, 11, 12 and 13 of the petition are matter of record and as such need no comments.

That the contents of paras 1 and 2 of this affidavit are true to my personal knowledge; those of paras 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 19 are based on record and those of paras 17 and 18 are based on legal advice, which all I believe to be true. No part of it is false and nothing material has been concealed in it. So help me GOD.

Gundam
Deponent.

I, D.C. Chaubey, Clerk to Shri KC Sinha Advocate, High Court, Allahabad, declare that the person making this affidavit and alleging herself to be the deponent and is known to me personally.

Chf
Identifier.

Gundam

A89

Solemnly affirmed before me on this ^{2nd} day
of April, 1988 at 8 ⁰⁰ ^{AM} am/pm by the deponent,
who is identified by the aforesaid
clerk.

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

[Handwritten signature]
5/5/88

ORAL COMMISSIONER.

[Handwritten signature]

ATTENDANCE CA-17

1990

REGISTRATION/12

Sharat Sarkar
Krishi Mantralaya
DAKSHIN VIKAS NIDHI ALAYA
B-1/13, E.Park, Mahanagar Extension,
Lucknow-226006

No.3-3/83-DDD/2259

Dated the 7th June, 1985

MEMO

Staff Selection Commission, U.P., Allahabad
has recommended your name for appointment in this
Directorate to the post of Stenographer (Jr.) in the
scale of Rs. 330-10-380-EB-12-500-EB-15-560. In this
connection I am enclosing 3 copies of the Attestation
Form which may be filled in and returned to this
Directorate within 10 days of its receipt.

sd/-

(M.N. Bhargava)
Director

Dte. of Pulses Development

To,

Km. Shobha Yadav
II 159 E,
Rest Camp Colony,
Charbagh, Lucknow.

Encl: A/a

2

TRUE COPY.

Gudra

Bharat Sarkar
Krishi Aur Gramin Vikas Mantralaya
(Krishi Aur Sahakarita Vibhag)
Balkari Vikas Bhogshala
B-1/13, E. Park, Mahanagar Extension
Lucknow 226006.

REGISTERED/AD

1991

No.3-4/85-DPD/3145

Dated the 9th August 1985

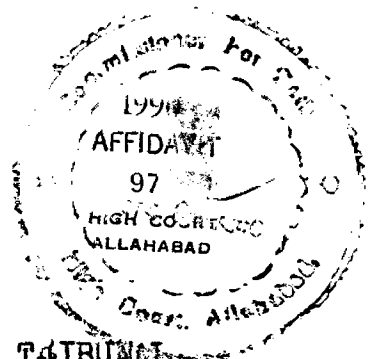
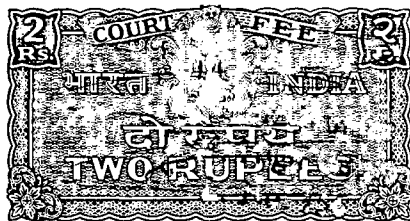
MEMO

On recommendation of the Staff Selection Commission Miss Spbha Yadav is offered a temporary post of Stenographer (Junior) in the Directorate of Pulses Development, Lucknow in the scale of Rs.330-560. The appointee will also be entitled to draw D.A.&Other allowances at the rate admissible under the rules and orders governing the grant of such allowances in force from time to time subject to the conditions laid down in this Memo. The terms of appointment are as follows:-

- i) On appointment to the post she will be given initial pay of Rs.330/- P.M.
- ii) The post is temporary, sanctioned upto 28.2.1986 at present but likely to continue there after.
- iii) She will be on probation for a period of two years from the date of her assuming charge of the post which may be extended at the discretion of the appointing authority. The appointment is liable to be terminated at any time without any notice during the period of probation without assigning any reason and thereafter on one month's notice given by either side, viz. the appointee or the appointing authority. The appointing authority however reserves the right to terminate the services of the appointee forthwith before the expiry of the stipulated period of notice by making payment to her of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.
- iv) Other conditions of her service will be governed by the relevant rules and orders in force from time to time. The appointment will be further subject to:-
 - (a) production of certificate of medical fitness from the Chief Medical Officer, Lucknow & subject to Police verification.
 - (b) Submission of a declaration in the form enclosed and in the event of the candidate having more than one husband

.....2/-

Spbha



A92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH-ALLAHABAD.

In

REGISTRATION NO. 55 of 1988

DISTT. ALLAHABAD.

ARVIND KUMAR AGRAHARI

....PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENTS

AFFIDAVIT of A.K. Agrahari aged about
28 years s/o Sri S.C. Agrahari P/o
785 (F), Daraganj, Allahabad.

(DEPONENT)

I, the deponent above named do hereby

solemnly affirm and state on oath as under:-

1.

That the deponent is the petitioner

in the above noted case and well acquainted with the

facts deposed to below.

2.

That the contents of the Counter

Affidavit filed by Sri R.N. Bhargava, Director Pulses

Development Lucknow have been read over to the

deponent and he has understood and is in a position



Counsel is not available
Copy shall be served on
the next date.

12/10/88

A. K. Agrahari

3.

194

of the two nomination letters of the Staff Selection Commission, Allahabad dated 14.8.85 and 23.4.85 in respect of the petitioner and Smt. Shobha Yadava respectively would show clearly that the crucial date for calculation of age as 1.8.1982 and rank Nos of Sri A.K. Agrahari (Rank No. 48) and K.M. Shobha Yadava (Rank No. 119) were duly mentioned therein which means that it was the 1982 Examination and one and the same examination on the basis of which the petitioner and K.M. Shobha Yadava were selected. Had the petitioner and K.M. Shobha Yadava been selected on the basis of examinations held in different years the crucial date for calculation of age could not be one and the same i.e. 1.8.1982. Photo copies of the said letters are being filed herewith as Annexure-1 and 2 respectively. The respondent No. 3 without examining the matter in its correct perspective and without applying his mind, illegally assumed the seniority and sought to terminate the Petitioner as JUNIOR MOST STENOGRAPHER. It was not at a later stage that the Staff Selection Commission informed

A.K. Agrahari

1495

4.

respondent No. ³2 about the fact of the petitioner being senior to Km. Shobha Yadava. Had the respondent No. 3 cared, he should have himself found out from the aforesaid two letters of Staff Selection Commission (Annexure 1 and 2) that the petitioner was SENIOR to Km. Shobha Yadava, and even if things were not clear to him, he ought to have got the position clarified from the Staff Selection Commission before embarking upon termination of the petitioner.

That the respondent no. 3 was informed by letters of the Staff Selection Commission dated 3.12.1987 and 14.12.1987 that the petitioner was selected at position no. 48 and Smt. Yadava was selected in reserve List at position no. 119 at the 1982 exam. and as such the petitioner was Senior to Smt. Yadava and his services ought not to have been terminated. But respondent no. 3 persisted on his order terminating the petitioner from service. Photocopies of the said letters are being filed as Annexure- 3 & 4 respectively.

It was only after about a year and that too when the Ministry of Agriculture and Cooperation



Hk. Patel

5.

persistently advised him to review the matter, that respondent no. 3 at great pains reviewed the matter ~~intimately~~ but then too deprived the petitioner of his rights of back wages, Seniority and other benefits. After the revocation of the termination Order, which was absolutely bad ab initio, there was nothing against the petitioner to deprive him of the benefits of ~~his~~ his pay, seniority etc.

4(i) That it may be further submitted that the respondent no. 3 wilfully did not refer to the entries in regard to the examination and position in merit of the petitioner and Km. Shobha Yadava in the two letters of the Staff Selection Commission Allahabad (Annexures 1 and 2) nor did he care to make enquiries from the Staff Selection Commission regarding the ~~Seniority~~ Seniority of the petitioner vis-a-vis Km. Shobha Yadava. He also did not even ask the petitioner to explain why he (the petitioner) being the Junior-Most-Stenographer be not terminated. As already stated the respondent no. 3 also did not pay heed to two letters of Staff

Atk. Agarwal

6.

Selection Commission. Thus the respondent No. 3 without observing the procedure prescribed for retrenchment wilfully and deliberately and in gross negligence of his duty chose the petitioner to be terminated clearly saving the Junior-most Stenographer Km. Shobha Yadava for the reasons known to respondent No. 3 alone, and when the correct position was stressed by the Staff Selection Commission, respondent no. 3 cared a hoot to it also and kept the petitioner in a state of agonising unemployment for about a year.

4(ii) That it may also be submitted that during the intervening period from 20.10.87 to 2.10.88 the petitioner having been out of employment had been running from post to pillar and did not undertake any sort of employment anywhere. Therefore, the petitioner is entitled to all his back salary, seniority leave, promotion for the period from 20.10.87 to 2.10.88-- no matter Government may recover the pecuniary loss from respondent no. 3 for reasons of his wilful and negligent act under G.I., M.H.A., O.M. No. F-2/9/59.Ests.(A),



At. Agal

7.

dated the 27th May, 1961 and the 30th May, 1962.

5. That in reply to the contents of para 6 of the C.A. the contents of para 5 of the Supplementary Affidavit are reiterated. It is further submitted that Annexure 1 to the C.A. clearly states that if the services of a person not due for retrenchment are terminated for reasons of administrative error or some ignorance of facts, then alone the said O.M. shall be applicable. In the petitioner's case the termination was issued deliberately and willfully only to save K. Shobha Yadava, although full facts regarding Seniority etc. were with the respondent no. 3 from before. There was neither any administrative error nor ignorance of facts. The petitioner had made a representation to respondent No. 2 (Union of India through Secretary, Agriculture and Co-operation), New Delhi, which has already been filed as Annexure S.A. 4 to the Supplementary Affidavit and ^{he} reiterates its contents.

6. That the contents of para 7 and 8 of the C.A. need no reply, It is, however, submitted that



H. K. Agarwal

8.

the representation of the petitioner dated 15.4.1989 is not being decided by the Ministry due to the manipulations of the respondent no. 3 because respondent no. 3 is solely responsible for unauthorisedly terminating the petitioner's services and he is also liable to recovery of the loss caused to Govt. in making payments ^{of} salary to the petitioner for the period 20.10.87 to 2.10.88.

7. That the contents of para 9 of the C.A. are not admitted and in reply the contents of para 8 of the Supplementary affidavit are reiterated.

8. That the contents of para 10 of The C.A. are not admitted as stated and the contents of para 9 of the S.A. and those of para 4 of this affidavit are reiterated. As stated earlier, the position regarding the seniority interse could have been easily ascertained from the two letters of the Staff Selection Commission (Annexure 1 and 2) or even by making a reference to the Staff Selection Commission before embarking upon the petitioner's termination. This illegal and wilful action of the respondent no. 3 was clearly malicious. The respondent no. 3 for reasons best

AL. H. al

9.

known to him took great interest in Km. Shobha Yadava and made the petitioner a scapegoat and even after Ministry's Orders he detained Km. Shobha Yadava unauthorisedly and drew her pay illegally from wrong head of account. While relying on the two lists dated 23.4.85 and 14.8.85 the respondent No. 3 has intentionally avoided to mention that the crucial date for calculation of age in both the lists is one and the same i.e. 1.8.82 which means both the petitioner and Km. Shobha Yadava had appeared in one and the same examination. Further, in list dated 23.4.85 the position of Km. Shobha Yadava is noted as 119 whereas in the list dated 14.8.85 the ~~position~~ position of the petitioner is noted as 248. Furthermore, it is noteworthy that both the names were sponsored in 1985 and as such there was no room for doubt that either of the nominees had appeared in one and the same examination. Photo copies of the two lists are being filed herewith as Annexure 1 and 2. The respondent no. 3 has unnecessarily harped on the same string even after revoking the termination order and has tried to find fault with the dossiers which clearly

At. Apal

10.

mention the crucial date for calculation of age meaning thereby that both the nominees belonged to the same year of examination. Respondent No. 3 maliciously terminated the petitioner as he had undue interest in Km. Shobha Yadava.

9. That the averments made in paras 11 and 12 of the C.A. are misconceived and denied and those of para 10 of the Supplementary Affidavit are reiterated. If an order of termination is passed illegally and without an authority of law it is tantamount to punishment. It is also submitted that the petitioner made enquiries from the Staff Selection Commission and was informed that they had by their letter dated 19.5.88 to Sri B.C. Sinha, Addl. Standing Counsel, Govt. of India, Allahabad, sent their comments on the petitioner's petition. But no C.A. has been filed on behalf of Staff Selection Commission. A Photocopy of the said letter alongwith comments of the Staff Selection Commission is being filed herewith as Annexure-5.



A.K. Agrahari

I, A.K. Agrahari the deponent do

heroby swear and state that the contents of paras ^{1, 2, 3, 3A, 4} _____

Pic!

11.

4(1) 4(1) of the affidavit are true to my personal knowledge,
5, 6, 7, 8, 9

that the contents of paras 4, 9 are based on
perusal of papers; that the contents of paras 2 of
this affidavit are based on legal advice which I believe
to be true; that no part of it is false and nothing
material has been concealed.

So Help me God.

AK Agarwal

DEPONENT.

I, D.B. Banerji, clerk to Sri R.K. Jain

Advocate Allahabad do hereby declare that the deponent
making this affidavit is known to me from the perusal of
papers produced by him in this case.

AK Agarwal

Solemnly affirmed before me on this

16th day of October, 1990 at 6:00 a/p/m by the deponent

who has been identified by the aforesaid clerk.

I have satisfied myself by examining

the deponent that he understands the contents of this
affidavit which have been read over and explained to him.

OATH COMMISSIONER.



R. C. Srivastava

OATH COMMISSIONER
High Court Allahabad

S. No. 97/876

Date 16.10.90

AK Agarwal

5. (1)

9/17/15

Annexure 1

Plc 3

सं० (१९) क०य आर०-म०क्ष०/७५
भारत सरकार
कर्मचारी चयन आयोग [म०क्ष०]

[illegible]

॥ श्री गुरुः,
 गुरुः गुरुः - गुरुः
 गुरुः ॥ १५ - ४ - ३३

सेवा में:

Shri R. N. Bhargava,
Director,

Directorate of Public Prosecution

---No. 413, E., Power, Waterbury, Conn. 1911.

विषय:-

नि - निषिद्धाङ्गुलिर्द्वयः । अथ च पुनरप्युक्तं ।

उच्च _____

वेतन :-

As 330 - 560.

संदर्भ :-

आपका पत्रांक D-O No. 3-2 83-D.P.D. 32.37 अ. 13-4-80

गृहे दिव्य,

आपके उत्तर पत्र के संदर्भ में आपके कार्यालय में 01/08/2018 दिनांक (दिनांक) के दिनांक निम्नलिखित उम्मीदवारों का नामांकन कर रखा है :-

पदों पर नियुक्ति के लिए निम्नलिखित उम्मीदवारों का नामांकन कर रखा है :--

[illegible]

R. C. Smurder

QATL.COMMI-SAO,LR

High Conductivity: 1.2

S. No. 97/876

Date 16/10/92

Ab Hyah

100 (14)

1104

- 2 -

इस पद की आयुश्रमा के लिए निर्धारित दिनांक 30.09.1982 को 1-8-1982 है।

2- इस नागरिक के बाद जो भी प्रमाणित किया जायगा कि वह निम्नलिखित है:-

वर्गित रिक्तियों जो आपके कार्यालय द्वारा इस आयोग को सूचित की गई है।	आयोग द्वारा नामांकित उम्मीदवार
सामान्य :- 40	40
अनुसूचित जाति :-	
अनुसूचित जन जाति :-	
भूतपूर्व सैनिक :-	
शारीरिक स्तर से निष्कांग :-	
कुल रिक्तियाँ 40	40

3- इस प्रकार आपके कार्यालय में जो रिक्तियाँ के लिए नामांकित उम्मीदवारों के नाम प्रकाशित किये जायेंगे।

- 4- हस्ताक्षर उम्मीदवारों को भेजा जायगा। यदि कोई उम्मीदवार नहीं आता तो उम्मीदवारों को प्रेषित किया जायगा कि वह एक प्रति इस आयोग को भी अनिवार्यता से भेजी जाय।
- 5- नामांकन सम्बन्धी अन्य आवश्यक निर्देश संलग्न है।
- 6- इस पत्र की संलग्न डॉरिएर की सूची सहित प्रमाणों की तत्काल प्रतों की कृपा करें।

संलग्नक : 40 डॉरिएर।

100/09/80/-

R. C. Srinivasan

19/10/80

महोदय,
आयोग के लिए
आपका नामांकन
किया गया है।
कृपया इसे ध्यान से
देखें।

A. R. Raghav

97/876
16.10.90

इस पत्र की आयु सीमा केवल विधिक माम

1882

1106

2- इस नामांकन के बाद आप द्वारा प्रेषित रिपोर्ट की स्थिति निम्नांकित है:-

वर्गीकृत रिक्तियों जो आपके कार्यालय द्वारा इस आयोग को सूचित की गई है	आयोग द्वारा नामांकित उम्मीदवार
सामान्य:- अनुसूचित जाति:- दो अनुसूचित जन जाति:- भूतपूर्व सैनिक शारीरिक रूप से विकलांग:- कुल रिक्तियां	दो

3- इस प्रकार आपके कार्यालय में प्रेषित रिपोर्टों के नीचे सूचित उम्मीदवारों की सूची यथा नीचे भेजी जायेगी।

4- कृपया इन उम्मीदवारों की सेवा प्राप्त नियुक्ति पर ध्यान दें।

5- उम्मीदवारों को प्रेषित नियुक्ति पर की एक प्रति जो आयोग की भी जातिवत् भेजी जायेगी।

6- नामांकन सम्बन्धी अन्य आवश्यक विवरण संलग्न हैं।

7- इस पत्र की संलग्न डॉरिएर की सूची जातिवत् प्रेषित की जायगी सूचना से संबंधित कृपया करें।

संलग्नक: 5 दो डॉरिएर।

सहायक,
रा. वि. प्रभाग
प्रशासक प्रभाग
रा. वि. प्रभाग

ओपीओ/-

R. C. Sinastak

97/876
16/10/90

AR. Aral

IMMEDIATE

A/c 7

सं. No 5/SSC-CR/87
भारत सरकार
Government of India
कर्मचारी चयन आयोग
STAFF SELECTION COMMISSION
मध्य क्षेत्र Central Region

तार : चयनायोग
GRAM: STASEL.COM
दूरभाष: 55924
PHONE: 55924

8, बेली रोड, इलाहाबाद 211002
8, Beli Road, Allahabad 211002
दिनांक 3rd December, 1987.
Dated

To

Shri R.N. Bhargava,
Director (Pulses),
Directorate of Pulses,
B-1/13, E-Parle,
Mahanagar Extension,
Lucknow.

Sub: Termination of Services of Shri A.K. Agrahari Roll
No. 2410155 Rank No. 48 a candidate of Stenographers
Examination, 1982.

.....

Sir,

I am to say to you that Shri A.K. Agrahari Roll No. 2410155 Rank No. 48 of the Stenographers' Examination, 1982 was nominated to your Department. The candidate has been appointed by you vide your Office Order No. 3-6/86(P.F.) DPD/39 dated 5th February, 1986 on regular basis and after a period of over 22 months, his services have been terminated vide Office Order dated 19th October, 1987 on the ground of being juniormost and on reversion of another stenographer.

2. The Departments of Government of India are required to intimate only those vacancies to the Commission which are likely to be permanent. The purely temporary vacancies should not be reported. It is not understandable why you had intimated such temporary vacancy to the Commission against which Shri A.K. Agrahari has been recommended for appointment. In case, he became surplus, his services should have been placed with some other department of Ministry of Agriculture instead of terminating his services.

P.T.O.

AR. H. al

A106

3. As per records, Shri A.K.Agrahari Rank No.48 is senior to Km.Shobha Yadav, Rank No.119 from the reserve list of the same Stenographers Examination, 1982.

4. It is, therefore, requested that you may kindly inform the undersigned the circumstances under which it was necessary to terminate services of one of the two stenographers nominated to your office and why services of Shri A.K.Agrahari were terminated when a junior candidate is working in your office.

Yours faithfully,

K. SETHI
(K.SETHI)
REGIONAL DIRECTOR

Copy for information and necessary action to:

1. Dr.T.V.Sampat, Agriculture Commissioner, Department of Agriculture and Cooperation, Krishi Bhawan, New Delhi...
2. Shri S.C.Srivastava, Under Secretary(S), Staff Selection Commission, Block No.12, C.G.O.Complex, Lodhi Road, New Delhi.

/
(K.SETHI)
REGIONAL DIRECTOR

R. C. Srivastava

97/876

16/10/90

AK Agrahari

Annexure 4

REGD. / IMMEDIATE

2109

सं. NO. 8/SSC(CR)/87.

भारत सरकार

Government of India

कर्मचारी चयन आयोग

STAFF SELECTION COMMISSION

मध्य क्षेत्र Central Region

8, बेली रोड, इलाहाबाद 211002

8, Beli Road, Allahabad 211002

दिनांक

Dated Dec. 14, 1987.

तार: चयनयोग, इलाहाबाद
GRAM: STASELCOM ALLAHABAD
दूरभाष PHON: 55924

To

Shri R.P.Saxena
Under Secretary to the Govt. of India
Deptt. of Agriculture and Co-operation
Min. of Agriculture, NEW DELHI.

Subject:- Representation of Shri A.K.Agrahari, Sr.Stenographer,
Directorate of Pulses Development, Lucknow.

Sir,

Please refer to your letter no.24-3/84-CA IV dated 26.11.87
on the above subject.

The proposed course of action has already been intimated to
Director(Pulses)Lucknow under intimation to Agriculture Commissioner
of your department vide letter of even no. dated 3.12.87(copy enclosed
for ready reference).

Since Shri Agrahari is senior to Km.Shobha Yadava of same batch
of Stenographers Examination, it is requested that services of Shri
Agrahari be placed under Director(Pulses) Lucknow against whose re-
quisition Shri Agrahari was nominated by this Commission and Km.
Shobha Yadava may be adjusted against any other vacancy available
in your deptt.

The receipt of this letter may kindly be acknowledged.

Yours faithfully

(K.SETHI)
REGIONAL DIRECTOR(CR)

Copy forwarded for information and necessary action to :-

- 1) Shri R.N.Bhargava, Director(Pulses) Directorate of Pulses Development, B-7/13, E Park Mahanagar extension, Lucknow-226006.
- 2) Dr.T.V.Sanpat, Agriculture Commissioner Deptt.of Agriculture & Cooperation, Krishi Bhawan, New Delhi.

.....24-

AR. Azal

3) Shri S.C. Sarin, Under Secretary (J) Civil
Selection Commission Block No. 12, Civil Complex,
Lodhi Road, New Delhi. 110029

4) Shri K. K. Ghosh, TPO (P) Barrack, Aligarh.

5) Mr. Shubha Varma, Directorate of Police, 101/13 Barak
Bahadur extension, Lucknow.

S. K. Sin
(S. K. Sin)
101/13 Barak (Lucknow)

R. C. Sin	
OAT COMMISSIONER	
High Court Allahabad	
S. No.	97/876
Date	16/10/90

Atk. Anil

Annexure 5

ग. नं. 2802/BSC-CR/88

भारत सरकार

Government of India

कर्मचारी चयन आयोग

STAFF SELECTION COMMISSION

मध्य क्षेत्र Central Region

AM

तार: चयनयोग, इलाहाबाद

GRAM: STASELCOM ALLAHABAD

दूरभाष PHON: 55924

8, बौली रोड, इलाहाबाद 211002

8, Boli Road, Allahabad 211002

दिनांक 19.5.1988

Dated

To

Shri K.C.Sinha,
Additional Standing Counsel,
Government of India,
20, A.D.A. Flat, Ashok Nagar,
Allahabad.

Subject: Registration No.55/88-A.K.Agrahari Vs. Union of India.

Sir,

I am to forward herewith the photostat copies of the nomination letters of Shri A.K.Agrahari and Km.Sobha Yadav which may be annexed alongwith the Court. Affidavit to be prepared by your kind self on the basis of the previous comments already handed over to you.

It will be seen from our records that our view is that Shri Agrahari Rank No.48 was senior to Km.Sobha Yadav Rank No.119 of the same examination and hence the termination of his services are not in order. It has always been in our practice to intimate the rank number of candidates to the recruiting departments while making nominations. The photostat copies of the nomination letters of both Shri Agrahari and Km.Sobha Yadav are attached for being brought to notice of the Court.

Yours faithfully,

K. Sethi
(K. SETHI)

REGIONAL DIRECTOR



AK Azal

Brief facts of case No. 55 of 1968 filed by
Shri Arvind Kumar Agrahari in C.A.T. Allahabad.

2112

Shri Arvind Kumar Agrahari appeared at the Stenographers Examination, 1982 from Allahabad with Roll No. 2410195. He was declared successful in the Examination and was ranked 48th amongst the candidates appearing from U.P. Zone. Shri Agrahari was nominated to Director General Telecommunications, Lucknow on 11.5.1983. However he was not offered appointment by the Telecommunications Department on the ground that he was a Hindi Stenographer. Shri Agrahari was subsequently nominated to A.C. U.P., Allahabad on 26.7.1983. On return of his dossier from A.C. office where he could not be appointed Shri Agrahari was nominated to the Directorate of Pulses Development, Lucknow on 14.8.1983. It would be relevant to state that we had nominated a candidate namely Sh. Shobha Yadav, Roll No. 2410762 ranked 119 and placed in the reserve panel to the Directorate Pulses on 1.5.1983. It would be evident that a candidate placed in the reserve panel got nominated to the Directorate earlier than a candidate placed in the select list. This anomaly arose because the Departments to which Shri Agrahari was nominated refused to accept a Hindi Stenographer. It is nevertheless evident that Shri Agrahari who was ranked 48th is to be treated senior to a candidate placed in the reserve panel and ranked 119.

As is evident from the plaint the case is filed against termination orders passed by the Directorate of Pulses, Lucknow on the ground that Shri Agrahari has become surplus. Since only vacancies for such posts as are likely to continue permanently and are clear cut, are to be reported to the Commission, it is not clear as to how Shri Agrahari could be declared surplus by the Directorate, moreover the termination of his services contravenes the principles of natural justice as the stenographer junior to him is still continuing in the post.

The proviso concerning filing of copy of the petition for filing counter affidavit by the respondent is not applicable. The date fixed for hearing of the case is 14.12.1983, therefore, early action is required to be taken.

Further action will be taken on hearing from the respondent.



AK Agrahari

In the Court of Central Administrative Tribunal
Additional Branch at Allahabad.

A113

.....

Para wise comments in Case No 55 of 1988. Arvind Kumar Agrahani

VS

Union of India.

Para wise comments on behalf of respondent No 4, Staff Selection
Commission, New Delhi through its Regional Director, Staff Selection
Commission, Allahabad are as under :-

Para 1 to 5 It is a matter of record and needs no comments.

Para 6 - Sub-para-I - No comments.

Sub Para (I) - No comments.

Sub Para (ii) - Admitted.

Sub para (iii) - Admitted.

" " (iv) - "

" " (v) - "

" " (vi) - "

" " (vii) - "

" " (viii) - "

" " (ix) - No comments.

" " (x) - Admitted.

" " (xi) - Admitted to the extent that he applied
for the post.

" " (xii) - Admitted.

" " (xiii) - "

" " (xiv) - "

" " (xv) - "

" " (xvi) - "

" " (xvii) - Admitted that the petitioner was nominated
to the A.G. UP, Allahabad.

" " (xviii) - No comments.

" " (xix) - Admitted.

" " (xx) - "

" " (xxi) - "

" " (xxii) - "

" " (xxiii) - "

" " (xxiv) - No comments.

" " (xxv) - Admitted.

" " (xxvi) - "

" " (xxvii) - "

" " (xxviii) - No comments.

" " (xxix) - No comments.

" " (xxx) - No comments.

" " (xxxi) - No comments.

" " (xxxii) - HQ may kindly comment. (Annex)

" " (xxxiii) - do-

" " (xxxiv) - No comments.

" " (xxxv) - do-

" " (xxxvi) - Admitted.

" " (xxxvii) - do-

" " (xxxviii) - No comments.

" " (xxxix) - do-

" " (xl) - do-

" " (xli) - HQ may submit on Rule position. (A)

" " (xlii) to
Lv) - No comments.

At Allahabad

114

Annexure

- (xxxii) As per prevailing practice and instructions on the subject, the Rank Nos. of the candidates of the same examination determine the seniority of the candidates. In the instant case, Shri A.K. Agrahari, (Rank No. 48) is senior to Km. Shoba Yadav (Rank No. 119).
- (xli) Since Km. Shoba Yadav was Junior in rank to the petitioner, the services of Km. Shoba Yadav should have been terminated instead of Shri A.K. Agrahari.
-

R. C. Gupta

COM.

16/10/76

92/876

16/10/76

At Bopal

115

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

ADDITIONAL BENCH, AHMEDABAD.

CIVIL MISC. APPLICATION NO. 380 OF 1989

IN

CASE NO. 55 OF 1988

Between

Arvind Kumar Agrhari, s/o. Sri. Suresh Chandra Agrhari,
785 (F), Daraganj, AllahabadAPPLICANT

VS.

1. Union of India (through Home Secretary, Govt. of India), NEW DELHI.
2. Union of India (through Secretary, Agriculture and Co-operation), NEW DELHI.
3. Director, Pulses Development, Govt. of India, B-1/13, Ek-Park, Mahanagar Extension, MUMBAI.
4. Chairman, Staff Selection Commission, NEW DELHI (through its Regional Director, Staff Selection Commission, AHMEDABAD)RESPONDENTS.

The humble application of the applicant

named above most respectfully sheweth as under:-

1. That certain developments have taken place since the filing of the above case inasmuch as the termination order dated 19.10.87 (Enclosure 2 to the petition) has been revoked by the respondent no. 3, by his order dated 20.9.88 and consequently the applicant rejoined his duty on 3.10.88. But the

Re-
10/11
4/11

2.

A118

respondent no. 3 has by his order dated 20.2.89 treated the applicant as re-employed and has treated the period of termination from 20.10.87 to 2.10.88 as without pay and not countable for leave of any kind, besides depriving the applicant of pensionary benefits, seniority etc.

2. That for the proper adjudication of the matter it is essential in the interest of justice that the accompanying supplementary affidavit be accepted and made part of the record.

PRAYER

It is, therefore, most respectfully prayed that the accompanying supplementary affidavit be accepted and brought on record.

Ray Kumar Jain

(RAK, JAIN)

COUNSEL FOR THE APPLICANT

DT. 4-8-89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH

AT ALLAHABAD

SUPPLEMENTARY AFFIDAVIT

ON BEHALF OF

ARVIND KUMAR AGRAHARIAPPLICANT

IN

REGISTRATION No. 55 OF 1988

ARVIND KUMAR AGRAHARIAPPLICANT

Vs.

Union of India & Others.....RESPONDENTS.

AFFIDAVIT OF A.K. Agrahari aged about 27 years,
S/o Sri S.C. Agrahari R/o 785 (F), Daraganj,
Allahabad (Deponent).

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

1. That the deponent is the petitioner in the instant case and as such he is fully acquainted with the facts of the case deposed to below.
2. That the above case was filed by the petitioner praying the Hon'ble Tribunal to quash the order dated 19.10.87 (Annexure-9) and declaring it as null and void and for payment of the arrears of salary w.e.f. 1.10.87 till date of the petitioner's resuming his duty.
3. That the case was listed on various dates but upto now none of the respondents has filed a Counter Affidavit except Km. Shobha Yadava respondent No.-5.
4. That, however, respondent No. 3 has by his order dated 20.9.88 revoked the order dated 19.10.87 terminating the petitioner's services. Consequently the petitioner resumed his duty on 3.10.1988. A photo copy of the order dated 20.9.88 is being filed herewith and

1989
AFFIDAVIT
6/1731
HIGH COURT
ALLAHABAD

Recd
Sd/-
Adv.

28/10/89
Received
R.K. Raja

R.K. Raja

R.K. Raja

28.4.89.

Agg

marked as annexure SA-1 to this affidavit.

A118

5. That curiously enough the respondent no. 3 after revoking his order of termination has now issued an order dated 20.2.89 whereunder the petitioner has been treated to have been ' re-employed ' in stead of " reinstated " and consequently the period of termination from 20.10.87 to 2.10.88 has been treated as without pay, and not countable for leave of any kind, besides depriving the petitioner of pensionary benefits, Seniority etc. on the basis of some O. M. of 25th April, 1958. The petitioner requested for a copy of the aforesaid O. M. but the respondent No.-3 did not supply the same. A photo copy of the order 20.2.89 is being filed herewith marked as Annexure S.A.-2 to this affidavit.

6. That, however, the petitioner obtained after a great effort the copy of the O.M. dated 25.4.58 on the basis of which the order dt. 20.2.89 has been issued by the respondent No. 3. A photo copy of the O.M. aforesaid is being filed herewith and marked as Annexure- SA 3 to this affidavit.

7. That the petitioner has submitted a representation dt. 15.4.89 to the Agriculture Commissioner, (Deptt. of Agri. & Coopn) C.A. IV Section, Krishi Bhawan, New Delhi, the photo copy of which is being filed herewith and marked as Annexure SA. 4 to this affidavit which is pending before the said authority.

8. That the order dt. 20.2.89 is exfacie bad/illegal unsustainable and an afterthought in-as-much-as the respondent No.-3 once having revoked the order of termination and asked

the petitioner to join duty is not open to him how to treat the petitioner as re-employed and thereby deprive him of his back salary and other benefits.

9. That the O.M. dt. 25.4.58 is inapplicable to the case of the petitioner in as-much-as respondent no. 3 was quite aware of the position of the petitioner of viz. a viz. Km. Shobha Yadav yet he intentionally and with ulterior motives picked up the petitioner for termination. The order of termination was not on account of some administrative error but was intended to save Km. Shobha Yadava, Junior to the petitioner for reasons best known to respondent no.-3 only. Respondent no. 3 is still trying to retain K. Shobha Yadav by illegally drawing her pay of Stenographer against the post of Superintendent by order dated 9.12.1988 a photo copy of which is being filed herewith and marked as Annexure SA 5 to this affidavit.

10. That, in any case, the C.M. aforesaid cannot override provisions of F.R. 54.

11. That it is expedient in the interest of justice that this Supplementary affidavit may be ordered to be treated as part of the petition.

I, A.K. Agrahari the deponent do hereby swear and state that the contents of paras 1,2,3,4,6 & 7 of the affidavit are true to my personal knowledge; that the contents of para 5 are based on perusal of papers; that the contents of paras-8, 9, 10,& 11 of his affidavit are based on legal advice which I believe to be true; that no part of it is false and

A120

nothing material has been concealed.

So help me God.

A.K. Agrahar

by Deponent.

I, D.K. Banerji, clerk to Sri R.K. Jain, Advocate Allahabad do hereby declare that the deponent making this affidavit is known to me from the perusal of papers produced by him in this case.

by D.K. Banerji

Solemnly affirmed before me on this 28th day of April, 1989 at 9.25 a.m./p.m. by the deponent who has been identified by the aforesaid clerk.

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

OATH COMMISSIONER.

J N G S W A

511731

28/4/89

Agar

Bharat Sarkar
Krishi Mantralaya
(Krisbi Aur Sahkarita Vibhag)
Dalban Vikas Nideshalaya
B-1/13, E.Park, Mahanagar Extension
Lucknow-226006.

A21

No.3-6/86(PF)/DPD/2447

Dated the 20th, Sept., 1988.

Order

Whereas an order terminating the services of Shri Arvind Kumar Agrahari, Jr. Stenographer was issued vide office order No.3-6/83-LPD/3080 dated 19.10.1987.

2. Now, therefore the undersigned after reviewing the case hereby revokes the said order of termination with immediate effect.

3. Shri Arvind Kumar Agrahari is therefore directed to report for duty as Jr. Stenographer within 15 days from the date of receipt of this order.

The receipt of this letter may please be acknowledged.

R.N. Bhargava
(R.N. Bhargava)
Director.

Regd/N.D. Distribution:

- ✓ 1. Shri Arvind Kumar Agrahari, s/o Shri Suresh Chandra Agrahari, 785 (F), Daraganj, Allahabad (UP).
- ✓ 2. Dr. P.D. Kheasani, Director (Crops), Ministry of Agriculture, (Deptt. of Agri. and Coop.), New Delhi, w.r.t his letter No.24-3/87-CA.IV dated 13.9.1988 for information.
- ✓ 3. The Regional Director, Staff Selection Commission, 8-Belly Road, Allahabad, for information and necessary action.
4. Shri K.C. Sinha, Advocate, 20 A.D.A. Flats, Ashok Nagar, Allahabad, for information.

T.C

Ag

J N Coswa

51/731

28/11/88

CTC

Rich

SA 2

A121

Bharat Sarkar
Krishi Mantralaya
(Krishi Aur Sahkarita Vibhag)
Palhan Vihar Nideshalaya
B-1/13, E.Park, Mahanagar Extension
Lucknow-226006.

No.3-6/86(PF)/DPD/382

Dated the 20th February, 89.

Office Order

Consequent upon his re-employment to the post of Junior Stenographer, the pay of Shri Arvind Kumar Agrahari, is fixed @ Rs.1260.00 P.M. in the scale of Rs.1200-30-1560-EB-40-2040 w.e.f. 3.10.1988 with date of next increment on 1.1.1989 in accordance with the provisions contained in the Ministry of Home Affairs, Govt. of India, New Delhi O.M. No.9/49/54-RPS dated 25.4.1958 received through the Ministry of Agriculture letter No.24-3/87-CA.IV dated 10.2.1989.

The details governing the fixation of pay on re-employment of Shri A.K. Agrahari are given here-under:-

- | | |
|--|-----------------------|
| 1. Date of initial appointment - | 20.1.1986 |
| 2. Date of termination - | 19.10.1987 |
| 3. Basic pay drawn before termination - | Rs.1230.00 PM |
| 4. Period of break in service - | 20.10.87 to 2.10.1988 |
| 5. Date of re-employment - | 3.10.1988 |
| 6. Basic pay fixed on re-employment after giving benefits of increments for the period of break in service - | Rs.1260.00 PM |
| 7. Date of next increment - | 1.1.1989 |

The pay fixation of Shri Agrahari on his re-employment is subject to the following conditions :-

- a) The period of break in service w.e.f. 20.10.1987 to 2.10.1988 will be counted for increment in the time scale of pay to the post held before termination but no arrears of pay and allowances will be paid for this period.
- b) The period of break in service will not count for calculation of leave of any kind.
- c) The period of break in service w.e.f. 20.10.1987 to 2.10.1988 is condoned for purpose of continuity of service but the break itself will not count for pensionary benefits or for Government contribution of any kind.
- d) The seniority of Shri A.K. Agrahari will be restored to the same position in the seniority list which he would have had but for the termination of his services. Such restoration of seniority will not, however, have retrospective effects for confirmation or promotion.
- e) The period of break will not count for any other purposes.

54/-
(R.N. Bhargava)
Director.

....2/-

C-12
R-12

No.3-6/86(PF)/D&D/383-87

Dated the 20th February, 89.

Distribution :

- ✓ 1. Shri Arvind Kumar Agrahari, Junior Stenographer,
Dte. of Pulses Development, Lucknow.
2. The Under Secretary (Crops), Ministry of Agriculture,
(Deptt. of Agri. and Coop.), CA.IV Section, Krishi
Bhavan, New Delhi, w.r.t. his letter No.24-3/87-CA.IV
dated 10.2.1989.
3. The Pay & Accounts Officer, (Sectt.), E.P. II Section,
Deptt. of Agri. and Coop., 16-Akbar Road Hutments,
New Delhi.
4. The Pay Bill Asstt., Dte. of Pulses Dev., Lucknow.
5. Copy to Service Book.

T.E.

Agri

20/2/89
(R.N. Bhargava)
Director

J M Goswami

511731

28/4/89

CITC

Rup

New Delhi-1, 25th April, 1958
5th Vaisakha, 1880.

OFFICE MEMORANDUM

Subject:- Treatment of cases of wrong retrenchment or reversion caused by Administrative errors.
.....

The undersigned is directed to say that cases have come to the notice of the Government in which owing to administrative error or ignorance of facts persons not due for retrenchment were either reverted to lower posts or retrenched from service when making reduction in establishment or on normal cessation of vacancies, instead of other persons who would have been retrenched or reverted had the correct facts been available or taken into account at the time of ordering such retrenchment or reversion. The affected persons in such cases have no legal remedy as the orders are not void from the legal point of view.

2. The retrenchment or reversion in such cases may be due to non-observance of departmental instructions or due to erroneous interpretation of the instructions or to due to wrong determination of seniority of the individual concerned. In order to alleviate the hardship caused to individual Government servants in such cases, it has been decided that where the competent authority is satisfied that a Government servant is wrongly retrenched or reverted on account of administrative errors or ignorance of facts, he may be re-employed or re-promoted, as the case may be, as soon as possible and if necessary the person who has been wrongly retained in the service or in the higher post may be retrenched or reverted and the case may be dealt with as follows :-

(1) PAY

a) The pay on re-employment or re-promotion may be fixed from the date of such re-employment or re-promotion at the stage he would have reached but for the retrenchment or reversion, as the case may be. The period of break in service or break in officiating tenure of the higher post, as the case may be, may be counted for increment in the time scale of pay of the post or grade to the extent he would have continued in that post or grade, but no arrears of pay and allowances will be paid for this period.

b) Where the Government servant concerned had been retrenched after being given pay and allowances in lieu of notice and the re-employment takes place before the expiry of the period which would have been otherwise covered by notice, he shall refund to Government the pay and allowances in respect of the un-expired portion of that period.

.....2/-

Agr

4

C.T.C.

Rel

A125

2. LEAVE

In the case of a person re-employed after retrenchment, the leave standing at his credit at the time of retrenchment and not already granted and availed of as terminal leave may be carried forward subject to the usual conditions regarding accumulation or lapsing of leave. The period of break in service will not count for calculation of leave of any kind.

3. RETIREMENT BENEFITS

a) In the case of persons re-employed after retrenchment, the break in service may be condoned for purposes of continuity of service, but the break itself will not count for pension or for Government contribution where the individual concerned is entitled to benefits of any contributory provident fund.

b) The Government servant shall be required to refund to Government any gratuity or other terminal benefits such as accumulations in his contributory provident Fund paid to him at the time of retrenchment.

4. SENIORITY

The Government servant may be restored to the same position in the seniority list which he would have had but for his reversion or the termination of his service. Such restoration of seniority will not, however have retrospective effect for confirmation or promotion.

5. The period of break itself will not count for any other purpose.

3. It has further been decided that the competent authority to take action in accordance with the above decisions in all cases where the period of break in service or break in officiating tenure of the higher post, as the case may be, does not exceed twelve months, is the authority empowered to make appointments to the posts occupied by the persons concerned at the time of reversion or retrenchment. In other cases, the sanction of the Government should be obtained.

4. Reversion or termination of service may also be caused by administrative delays which may be any one of the following types :-

- a) Delay in deciding a representation regarding the seniority of a particular individual.
- b) Delay in the sanction for the creation of new posts or in the sanction for the continuance of the existing temporary posts.
- c) Delay in the issue of any modification of general orders regarding determination of seniority or the method of effecting retrenchment.

The decisions contained in paragraph 2 above will not apply to cases covered by (b) and (c) above. As regards (a), Ministries and

....3/-

Agr

4

C. TC
Zul

H26

Departments should take steps to see that the seniority lists reach the persons who are concerned promptly. Such seniority lists should contain a specific provision that any person who has any objection should submit his representation within six months of the publication of the seniority lists. Where representations are made after six months, the case should be submitted to the Government for orders.

5. Cases already decided before the issue of this Office Memorandum need not be re-opened but those which have not been finally decided on the date of its issue as well as future cases may be settled in accordance with the principles contained in this Office Memorandum.

Sd/- P. SITARAMAN
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.

To

All Ministries of the Government of India (including all Departments or Divisions of Finance/Ministry of Food and Agriculture, etc.); The Branch Secretariat of the Minister for Minority Affairs No.14, Theatre Road, Calcutta-16; Deptt. of Parliamentary Affairs; Cabinet Secretariat; Cabinet Sectt (O&M Div.) South Block; P.M. Sectt; R.S. Sectt; L.S. Sectt; Partition Sectt; Directorate General of Resettlement and Employment; Director General of Posts and Telegraphs; Office of the Election Commission; Military Secretary/Secretary to the President; E.O. to the Govt. of India; Registrar General of India; Union Public Service Commission; Comptroller and Auditor General of India; Planning Commission (programme Evaluation Organisation); Supreme Court; Ministry of Finance (Rehabilitation Division), 8 Theatre Road, Calcutta; Ministry of Rehabilitation (Branch Secretariat) 8 Theatre Road, Calcutta; Director Intelligence Bureau; Director of Coordination (Police Wireless); Director Sectt. Training School; Principal, Indian Administrative Service Training School; Delhi/Grand Hotel, Simla; Commandant, Central Police Training College, Mount Abu; Inspector General, Special Police Establishment; Commissioner for Scheduled Castes and Scheduled Tribes; Commandant, National Fire Service Training College, Nagpur; Commandant Central Emergency Relief Training Institute M.L.A.'s Hostel No.2, Nagpur; Inspector General, Central Reserve Police, Delhi; Department of Atomic Energy, Apollo Pagar Road, Bombay-1; Joint Secretaries of all Zonal Councils; Chief Secretaries of all Union Territory Administrations; Commissioner for Linguistic Minorities, Allahabad; Office of the Pay Commission.

All regular Sections of the Ministry of Home Affairs as per standard list.

All officers.

.....

LE

T.C.

Ag

J N Dasgupta

51/731

22/4/59

C.T.C.

Dur

To,

Dr. T.P. Sampat, IAS
Agri. Commissioner,
Department of Agri & Coop.
C.A. IV Section, Krishi Bhawan,
NEW DELHI.

THROUGH PROPER CHANNEL.

SUBJECT:- Representation against the Officer Order No. 3-6/86 (PF)/382/ dated 20.2.89 treating the applicant as re-employed w.e.f. 3.10.88 even after revoking the order dated 19.10.87 of his illegal termination and depriving him of the arrears of salary for the period of illegal termination from 20.10.87 to 2.10.88.

Sir,

The applicant begs to represent against the above quoted officer order (copy enclosed for ready reference) as under :---

1. The aforesaid office order is unreasonably penal to the applicant on the following counts:--

- (i) It treats the applicant as re-employed instead of reinstated;
- (ii) It treats the period of unjustified and illegal termination from 20.10.87 to 2.10.88 without pay;
- (iii) it treats the aforesaid period as not to be counted for leave of any kind;
- (iv) it deprives the applicant of the pensionary benefits or for Government contribution of any kind for the said period;
- (v) it deprives the applicant of his seniority with retrospective effect for confirmation or promotion; and
- (vi) it also for-bids counting of the aforesaid period for any other purposes.

2. That the applicant's services were terminated by order dated 19.10.87 of the learned Director, Dalhan Vikas Lucknow on the ostensible ground that the applicant was

...2

Agri

C. T. R.

R. M.

the junior-most Stenographer although he was SELECTED IN THE MAIN-LIST (Position-48) by the Staff Selection Commission, whereas Smt. Shobha Yadava Stenographer whose services were retained was an UNPLACED Candidate (Waiting-list at Sl. No.-119) and was wrongly given appointment (which facts were already contained in the respective ² dossier) and, under law, if any retrenchment was necessitated it was Smt. Yadav and not the applicant to have been terminated.

3. That the MHA's O.M. No.-9/49/54/RPS dated 25.4.58 (the copy of which has not been supplied to the applicant even on demand) on the basis of which the Office Order dated 20.2.89 has been issued has manifestly been misapplied to the applicant's case and it invades the statutory inhibitions contained in Fundamental Rule-54 to the effect that in a case of reinstatement on the ground of termination of service being found by the reviewing authority to have been made unwarrantedly/unjustifiably, the person reinstated will not be deprived of full pay and allowances for the intervening period but the payment thereof shall be automatic & compulsory. That the seniority of the applicant was already disclosed by the Staff Selection Commission through his dossier . Yet in case there was any doubt, the matter ought to have been got clarified before embarking upon termination of the applicant services.

4- The order of termination dated 19.10.87 was revoked by the order of the learned Director No.-3-6/86 (PF) DPD/2047 dated 20.9.88 (copy enclosed) rendering the termination nonest, as to have never been in existence, the natural & ...3

Agg

21

C. TL
R. K.

legal consequence thereof being that the applicant stood reinstated from the date he was illegally terminated. But curiously enough the order dated 20.2.89 which is clearly an 'after-thought', has been couched in the shape of 're-employment' which term is at cross purposes with resultant 'reinstatement'. Had it been the intention of the reviewing authority to re-employ the applicant, the order dated 19.10.87 of termination should not have been revoked, but it should have been modified suitably. But, after a second thought, for reasons not known to the applicant, the order dated 20.2.89 has been clothed with punitive effects, for no fault on the part of the applicant.

5- That there is no law which deprives an innocent employee of his pay and other benefits even after revocation of the illegal termination. The applicant is not aware of the provisions of O.M. dated 25.4.58 quoted in the order dated 20.2.89 on the authority of which the applicant is being deprived of his legitimate claims. But the said O.M. being executive in nature cannot over-ride statutory provisions of Fundamental Rule-54 which applies to the case of the applicant on all fours.

6- That it may further be submitted that the position of the applicant in the seniority-list was well known by the learned Director through the dossiers of the applicant and Smt. Shobha Yadav yet, for reasons known to him alone, he chose to terminate the applicant in preference to Smt. Shobha Yadav. Even when the Staff Selection Commission clarified by letter dated 3.12.87 that the applicant was senior to Smt. Shobha

...4

Agg

CTC

RW

then too the learned Director did not see reason to save the applicant from being put out of job.

7- That in any case , if the O.M. relied upon has any basis to deprive a terminated person, it is respectfully submitted that that O.M. cannot be applied to the circumstances in which the applicant's services were terminated. In fact his services were terminated with full knowledge that he was senior to Smt. Shobha Yadav as is borne out by dossiers.

8-That since the termination order was passed neither due to some bonafide mistake nor ignorance of the fact of the seniority of the applicant, no administrative order or rule can sustain the said termination order. That being so, the applicant cannot be penalised.

9-That even if in any case it is said that the applicant's services were dispensed with for any administrative exigency, it is submitted that the doctrine of executive exigency has not been applied to the case of Smt. Shobha Yadav when it has become a truth as the day light that she is the junior most unplaced candidate and instead she is being paid vide order no.-3-6/86 (PF)/DPD/2644 dated 9.12.88 against the "resultant vacancy of Office Superintendent"

10-That the order aforesaid is unreasonable and without any basis. The applicant could of course be deprived of the aforesaid benefits had the termination order been passed for some fault on the part of the applicant. Coming as it did, the order of termination

Agr

4

C.T.L
RKL

was passed with eyes wide upon that the applicant was senior to Smt. Shobha Yadav. Since learned Director some how realised that the order was illegal and uncalled for, and ultimately revoked his own order terminating the applicant's services, it amounted to restoring all that the applicant had to lose on account of the illegal order of termination.

11- That in view of the submissions made above which are based on fact and law, it is only expedient that the order dated 20.2.89 be suitably modified so as to grant all the benefits to the applicant, otherwise the applicant shall suffer irreparable loss.

12- In view of clear and statutory provisions of F.R.-54, the O.M. of 25.4.1958 is illegal, arbitrary and bad in law.

13- The O.M. of 25.4.1958 deserves to be repealed.

14- If an illegal order has been passed with full knowledge about the correct position of seniority of the applicant viz a viz Smt. Shobha Yadav, the person issuing such an order should be penalised and not the applicant who has been made to suffer due to such an order.

P R A Y E R

It is, therefore, most respectfully prayed that your good-self may be pleased to modify the order of the learned Director dated 20.2.89 so as to grant all the benefits of pay, seniority, leave, pension, increments

....6

Agr

C. TC
Rw

continuity in service and such other benefits as the intervening period from 20.10.87 to 2.10.88 would have counted had the applicant not been illegally put out of employment.

And for the act of kindness my old parents and I shall remain beholden.

Dated, 15-4-89

Yours faithfully;

A. K. Agrahari

(A.K. Agrahari)

Jr. Stenographer,

Directorate of Pulses Development

B-1/13, E-Park, Mahanagar Extn.

LUCKNOW.

T.C.
Agr

C.T.C.
R.K.

J. H. Dasgupta

51/731

28/4/89

4

SA 4

A133

bharat sarkar
Krishi Mantralaya
(Krishi Aur Sahakarita Vibhag)
Dalhan Vikas Bhidoshalaya
B-1/13, B Park, Mahanagar Extension
Lucknow-226006.

No.3-6/86(PF)/DPD/ 2644

Dated the 9th December, 1988.

Office Order

In continuation of this office order No.3-6/86(PF)/DPD/2270 dated 21.10.1988, the pay of Shri Arvind Kumar Agrahar, Stenographer (Jr.) of this Directorate may be drawn under 'Intensive Pulses Development Programme' Plan. the Pay of Km. Shobha Yadav, Stenographer (Jr.) may be drawn against the resultant vacancy of office superintendent under (Non-Plan) till further order.

sd/-

(R.N. Bhargava)
Director

No.3-6/86(PF)/DPD/2645-51

Dated the 9th December, 1988.

Distribution :

- ✓ 1 Shri A.K. Agrahar, Stenographer (Jr.), Dte. of Pulses Development, Lucknow.
2. Km. Shobha Yadav, Stenographer (Jr.), Dte. of Pulses Development, Lucknow.
3. The Pay & Accounts Officer, (Sectt.), B.P. II Section, Deptt. of Agri. and Coop., 16-Akbar Road Hutments, New Delhi.
4. The Pay Bill Asstt., Dte. of Pulses Development, Lucknow.
5. Dr. P.D. Khemani, Director (Crops), Ministry of Agriculture, (Deptt. of Agri. and Coop.), Krishi Bhavan, New Delhi.
6. The Regional Director, Staff Selection Commission, 8-Belly Road, Allahabad.
7. Shri K.C. Sinha, Addl. Govt. Counsel, 20-A.D.A. Flats, Ashok Nagar, Allahabad.

sd/-

(R.N. Bhargava) —
Director.

TE

Agr

J N Gaswani

51/73)

28/4/89

CTC

R

1988

AFFIDAVIT
46/77
HIGH COURT
ALLAHABAD

A1341

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH

AT ALLAHABAD.

^{Counter}
~~Supplementary Affidavit~~

ON BEHALF OF

MISS SHOBHA YADAV RESPONDENT 5.

IN

REGISTRATION NO. 55 OF 1988.

Shri Arvind Kumar Agrahari Applicant.

Vs.

Union of India & others.

..... Respondents.

Affidavit of Km. Shobha Yadav

aged about 26 years married to Shri

Ram Khelawan Yadav r/o II-159 A,

Rest Camp Colony, Cherbagh, LUC, NOA.

(DEPONENT)

I, the deponent (now named as hereby) solemnly affirm
and state on oath as under:-

1. That the deponent is respondent no. 5 and as
such she is fully acquainted with the facts of the case
deposed to below.

2. That the contents of the counter affidavit have been

Shobha

A135

(2)

read over by this deponent and he has fully understood them and is in a position to reply the same.

3. That the contents of paragraph nos.1, 2 and 3 of the counter affidavit need no comments.

4. That in reply to the contents of paragraph no.4 of the counter affidavit it is stated that the deponent had qualified examination conducted by the Staff Selection Commission (Ranking No. 119) and her name was sponsored by the Staff Selection Commission to the Directorate of Pulses Development Lucknow for consideration for the post of Junior Stenographer in the Department. The deponent was never informed whether her name was in the reserve list or in the clear list. The deponent was given offer of ~~deponent's~~ appointment by the Directorate of Pulses Development and the deponent accordingly joined the office of the Directorate of Pulses Development (copy of the offer enclosed as Annex-I) under intimation to the Staff Selection Commission.

However, if the contention of the petitioner which is now exhibited in the affidavit is taken as correct, it lends credence that the name of Km. Shobha Yadav was

Ghadan

A126

(3)

only sponsored after having exhausted the regular list as maintained by the Staff Selection Commission.

5. That in reply to the contents of paragraph no. 5 of the counter affidavit, it is stated that the Directorate of Pulses Development was neither informed nor there was any objection to the appointment of deponent to the effect that there were candidates senior to the deponent which were still to be absorbed. The name of Km. Shobha Yadav was sponsored for consideration without any remarks as the deponent was sponsored by Staff Selection Commission and selected by the Department of Pulse on the basis of the sponsoring letter from the Staff Selection Commission, Allahabad. The deponent was never given any Ad-hoc appointment but was appointed on a regular basis by the office of the Directorate of Pulses Development and as such the contention of the petitioner that deponent was given an ad-hoc appointment in the resultant vacancy of Smt. Rosy Thomas are incorrect and denied (copy of the office order No. 3-4/85.DP9/37.05 dated 11-9-1985 enclosed as Annex-I).

6. That in reply to the contents of paragraph no. 6 of the counter affidavit, it is stated that the deponent joined the office of the Directorate of Pulses

(4)

Development on 2nd September, 1985 while the petitioner joined much after to Km. Shobha Yadav. Moreover, the petitioner name was sponsored by the Staff Selection Commission in the month of August, 1985 whereas the name of Km. Shobha Yadav was sponsored in the month of April, 1985 the name of petitioner was sponsored after a period of 4 months and in a separate list of the deponent. Moreover, there was neither any instructions nor intimation from Staff Selection Commission or from the office of the Directorate of Pulses Development about the seniority of deponent. Accordingly, deponent was senior to the petitioner as deponent joined the office of the Directorate of Pulses Development much earlier to the petitioner. Her name was also sponsored by the Staff Selection Commission much earlier through a separate list. The deponent was neither appointed on ad hoc basis nor as a stop gap arrangements and as such the contentions of the petitioner are incorrect.

It is again reiterated that the appointment of the deponent was not on ad hoc basis or in the resultant vacancy of Smt. Rosy Thomas but as already stated, she was given appointment on regular basis. The petitioner was also given appointment on regular basis but the services

Brada

2138

(5)

were terminated on having declared surplus as petitioner was junior in the seniority list maintained by the Department (Directorate of Pulses Development).

7. That the contents of paragraph no. 7 of the counter affidavit need no comments.

8. That in reply to the contents of paragraph no. 8 of the counter affidavit, it is stated that the appointment of the deponent was neither on ad-hoc basis nor as a stop gap arrangements but on a regular basis with a probationary period of 2 years in the clear vacancy and her selection was made on the recommendations of the Staff Selection Commission. The appointment of the deponent was not in a substantive capacity but on a regular basis. The appointment in a substantive capacity is made when an official is declared permanent in a particular cadre. The appointment of the petitioner by the Department was also made on regular basis against a plan post with a probationary period of two years as per terms and conditions of the offer of appointment. The services of a candidate selected and appointed on a temporary basis can be terminated without assigning any reasons whatsoever within the probationary period. The services of petitioner

Smada

(6)

were terminated of his having declared surplus and being junior as per seniority list maintained in the office of Directorate of Pulses Development.

9. That in reply to the contents of paragraph no.9 of the counter affidavit, it is stated that the appointment of deponent though temporary but on a regular basis and not on ad-hoc basis as stated. The services of the petitioner were terminated being junior most having declared the post as surplus. The appointment of Km. Shobha Yadav was neither ad-hoc nor as a stop gap arrangement.

The petitioner was not appointed in a substantive capacity but to a temporary post with a probationary period of two years. The contention of the petitioner that he was appointed to a substantive post are therefore incorrect. The name of Km. Shobha Yadav and Sri Arvind Kumar Agrahari were sponsored in a separate lists with a gap of 4-5 months in between. The Staff Selection Commission never pointed out to the office of the Directorate of Pulses Development that name of Km. Shobha Yadav though sponsored earlier was junior to Sri Arvind Kumar Agrahari though his name was sponsored by the Staff Selection Commission after a period of four months.

2140

(7)

The services of petitioner were terminated being junior to deponent and he was holding a temporary post with a probationary period of 2 years. As stated earlier, the applicant was sponsored much after he was appointed after a period of 4/5 months to the deponent; hence he became junior and had to be terminated being surplus by way of admitted principle "First Come First Go".

10. That in reply to the contents of paragraph no. 10 of the counter affidavit, it is stated that the Staff Selection Commission is a recognised body to conduct the examination for filling a list of the candidates found eligible for selection. Mr. Ramola Yadav and the other candidate Sri Arvind Kumar Chakraborty appeared in the examination conducted by Staff Selection Commission in the year 1982 and both were declared qualified for selection. The contention that the person selection as a subsequent examination conducted by Staff Selection Commission is wrong and incorrect. As a result, the services of the applicant being junior and surplus to the requirements were terminated. Moreover, the appointment of the applicant was against a post sanctioned under "plan" scheme of inter-caste means that the services can be terminated as soon as the work under the plan scheme is completed if there is no possibility of his having reserved against any other vacancy.

11. That the contents of paragraph no. 11 of the counter affidavit need no comments.

Sudha

12. That in reply to the contents of paragraph no.12 of the counter affidavit, it is stated that the petitioner is junior to the deponent. The name of Mr. Shobha Yadav was sponsored in the month of April, 1985 while the name of Shri Arvind Kumar Agrahari was sponsored in the month of August, 1985 in a separate lists. The deponent joined earlier to the petitioner and in absence of any intimation or remarks from the Staff Selection Commission the deponent was considered senior to the petitioner whose name was sponsored much later to the deponent.

& 14

13. That in reply to the contents of paragraph no.13/ and 14 of the counter affidavit, it is stated that the position explained vide para 13 and 14 of the counter affidavit are again reiterated as correct hence no further comments.

14. That the contents of paragraph no.15 of the counter affidavit are correct and the same are again reiterated as correct. The services of the petitioner were terminated being junior and as per terms and conditions of the offer of appointment thus making room for the deponent being senior having joined the office of the Directorate of Pulses Development much earlier on the basis of a separate lists sponsored by the Staff Selection Commission.

15. That in reply to the contents of paragraph no.16 of the counter affidavit it is submitted that the services of the petitioner were terminated being junior and having declared surplus in the Department and as such he is not entitled to any relief. The petitioner was neither appointed in a substitute capacity but to a temporary post with a probationary period of two years. The services have been terminated even before the expiry of the probation period as per terms and conditions of the offer of appointment.

16. That the contents of paragraph no.17 of the counter affidavit need no comments.

Susela

(9)

DMV

That the contents of paragraph nos. 1 and 2 of this affidavit are true to my personal knowledge; those of paragraph nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of this affidavit are based on perusal of records; which I believe to be true that no part of it is false and nothing material has been concealed. SO HELP ME GOD.

..... 18.9.88

(DEPONENT)

1. ~~Shri. R. S. Sinha~~ do hereby declare that the person within this affidavit and alleging ~~himself~~ herself to be Mr. Shobha Yadav is known to me personally.

(Rajesh Chandra Sinha)
.....
(Advocate)

Solely affirmed before me on this 10th day of September, 1988 at 9.05 P.M./A.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.

OFFICIAL SIGNATURE :

46/771
10.9.88

Sindan

Shri. S. S. Sarker
Krishi Aur Gramin Vikas Mantralaya
(Krishi Aur Sahakarita Vibhag)
Balhori Vikas Bhawan
B-1/13, E. Park, Mahanagar Extension
Lucknow-226006.

A 143

No. 3-4/85-DPD/3145

Dated the 9th August 1985MEMO

On recommendation of the Staff Selection Commission Miss Sphna Yadav is offered a temporary post of Stenographer (Junior) in the Directorate of Pulses Development, Lucknow in the scale of Rs. 330-560. The appointee will also be entitled to draw D.A. & other allowances at the rate admissible under the rules and orders governing the grant of such allowances in force from time to time subject to the conditions laid down in this Memo. The terms of appointment are as follows:-

- i) On appointment to the post she will be given initial pay of Rs. 330/- P.M.
- ii) The post is temporary, sanctioned upto 28.2.1986 at present but likely to continue thereafter.
- iii) She will be on probation for a period of two years from the date of her assuming charge of the post which may be extended at the discretion of the appointing authority. The appointment is liable to be terminated at any time without any notice during the period of probation without assigning any reason and thereafter on one month's notice given by either side, viz. the appointee or the appointing authority. The appointing authority however reserves the right to terminate the services of the appointee forthwith before the expiry of the stipulated period of notice by making payment to her of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.
- iv) Other conditions of her service will be governed by the relevant rules and orders in force from time to time. The appointment will be further subject to:-
 - (a) production of certificate of medical fitness from the Chief Medical Officer, Lucknow & subject to police verification.
 - (b) Submission of a declaration in the form enclosed and in the event of the candidate having more than one husband

.....2/-

96/57,
109/88

Before Central Administrative Tribunal
Additional Bench Allahabad

Registration No. 55/88

of 19 88

District Lucknow

Shri Arvind Kumar Agrahari Applicant

VERSUS

Union of India and others Respondents

I We Dr. R. N. Bhargava Director (Pulses)
Ministry of Agriculture (Dept. of Agri. & Coop.), Govt. of India,
Lucknow in the above matter hereby appoint and retain

SHRI KRISHNA CHANDRA SINHA, Advocate High Court

to appear, act and plead for me/us in the above matter and to conduct/prosecute and defend the same in all interlocutory or miscellaneous proceedings connected with the same or with any decree or order passed therein, appeals and or other proceedings therefrom and also in proceedings for review of judgment and for leave to appeal to Supreme Court and to obtain return of any documents filed therein, or receive any money which may be payable to me/us.

2. I/We further authorise him to appoint and Instruct any other legal practitioner authorising him to exercise the powers and authorities hereby conferred upon the Advocate whenever he may think fit to do so.

3. I/We hereby authorised him/them on my/our behalf to enter into a compromise in the above matter, to execute any decree order therein, to appeal from any decree/order therein and to appeal, to act, add to plead in such appeal or in any appeal preferred by any other party from any decree/order therein.

4. I/We agree that if/we fail to pay the fees agreed upon or to give due instruction at all stages he/they is/are at liberty to retire from the case and recover all amounts due to him, them and retain all my/our monies till such are paid.

5. And I/We, the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my own acts, as if done by me/us to all intents and purposes.

Executed by me/us this 8th day of February 1988 at Lucknow

Directorate of Public Prosecution
21/13, E. Park, Mahanagar, Lucknow
226043

Executant/s are personally known to me he has/they have signed before me

Satisfied as to the identity of executant/s signature/s.

(where the executant/s is/are illiterate blind or unacquainted with the language of vakalat)

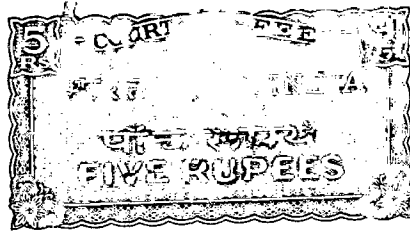
Certified that the content were explained to the executant/s in my presence in the language known to him/them who appear/s perfectly to understand the same and has/have signed in my presence.

Accepted

K. C. SINHA
Advocate

Additional Standing Counsel
Central Government
High Court-Allahabad
Counsel for Applicant/Respondents
No.

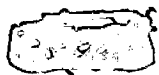
Recd
on 19-9-88
19/9/88



1147

In the Central Administrative Tribunal Allahabad

वकालतनामा



इलाहाबाद

Registration No इलाहाबाद 55/1988

रिट/अपील

नम्बर

सन १९

जिला

निगरानी

Arvind Kumar Agarwal

वादी प्रतिवादी

अपीलान्त

बनाम

Union of India & others

वादी प्रतिवादी

रेस्पान्डेंट

मैं

हम

km. Shobha Yadav, Junior stenographer & clerical,
of papers, development & records

Respondent No. 1

मैं

उपरोक्त प्रकरण—अपनी ओर के पक्ष समर्थन के हेतु

हम

Sadhna Anand

श्री

R. C. SINHA

एडवोकेट

Advocate

को उपरोक्त मुकदमे की पैरवी के लिये मेहनताना अदा करने का वचन देकर मैं अपना वकील नियुक्त करता हूँ/करते हैं उक्त वकील महोदय को मैं/हम यह अधिकार देता हूँ/देते हैं कि इस मुकदमे में वह मेरी ओर से पैरवी आवश्यक सवाल पूछें जवाब दें, और बहस करें। दस्तावेज का कागज अदालत में दाखिल करें व वापिस लें। पंचनामा उपस्थित करें पंच नियुक्त करें यदि आवश्यक हो तो पंच के निर्णय का लिखित विरोध करें सुलहनामा दाखिल करें दावा स्वीकार करें या उठा लेवें और डिग्री प्राप्त हो जाय तो उसे जारी करावें, डिग्री का रुपया व खर्चा व हरजाने का रुपया व किसी तरह का रुपया जो अदालत से मुझे/हमें मिलने वाला हो तो वसूल करें। मेरी/हमारी ओर से अदालत में दाखिल करें। कोर्ट फीस व स्टाम्प दें या वापिस लेवें रसीद लेवें व प्रमाणित करें। नकल प्राप्त करें अदालत की अनुमति से मिसिल का मुआईना करें आवश्यकता होने पर मुकदमा स्थापित करावें व मुकदमे के सम्बन्ध में दूसरे काम काज जो जरूरी समझें करें पैरवी के लिये अपनी ओर से कोई दूसरा वकील नियुक्त करें यदि आवश्यकता तो अपील या निगरानी दायर करें और अपील या निगरानी अदालत में पैरवी करें।

इस अधिकार पत्र के अनुसार उक्त वकील महोदय इस मुकदमे के सम्बन्ध में मुझे/हमें अपने करेंगे वह सब अदालत में स्वयं मेरा/हमारा किया हुआ समझा जायेगा और ही किये के समान/सर्वथा मान्य होगा।

तारीख

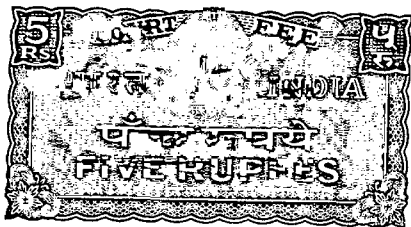
माह

सन

१९

स्वीकार है।

57d



M48

अभिभावक पत्र (वेकालतनामा)

हाईकोर्ट ऑफ जूडीकेचर, इलाहाबाद

नं० 55/88

सन १९

Arvind Kumar Agrahari

वादी प्रतिवादी

अपीलान्ट

बनाम

Union of India, Ministry of Agriculture
& others

वादी प्रतिवादी

रेस्पान्देन्ट

मैं/हम कि

Arvind Kumar Agrahari, 81081 Durga
Chandra Agrahari, 785 Daraganj, Allahabad

उपरोक्त प्रकरण में/हम अपनी ओर के पक्ष समर्थन के हेतु

श्री

Yusuf Mohammad

En. No. 3247/1991

एडवोकेट हाईकोर्ट इलाहाबाद

को कानूनी निश्चित शुल्क (मेहनताना) नियत करके अपना अभिभावक वकील (वकील) नियत करता है/करते हैं। वह स्वीकार करता है/करते हैं कि उक्त सज्जन हमारी ओर से वाद-पत्र (अजीदावा), प्रतिवाद-पत्र (बयान तद्गोरी), वाद स्वीकार पत्र, विवाद पत्र पुनर्दवलोकन एवं पुनर्निर्णय प्रार्थना पत्र (दरखास्त) शापथिक कथन (हलफनामा) प्रवर्तन पत्र (दरखास्त इजराय) मूजवात अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना वादि एवं लेखादि की प्रतिलिपियां अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथिक पुष्टीकरण करें और आवश्यक सवाल जवाब करें और लेखादि की प्रतिलिपियां एवं हमारे प्रायधन को अपने हस्ताक्षरी पावती देकर प्राप्त करें हमारी ओर से किसी को यध्य पत्र तथा साक्षी (गवाह) माने और उससे सम्बन्धित प्रार्थना-पत्र प्रस्तुत करें तथा उसका समर्थन करें तथा तसदीक करें, वाद-पत्र उठावे, छोड़े अथवा समझौता करें तथा मुलहनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना पत्र पर दाखिल करके उसका समर्थन करें अर्थात् प्रकरण में सम्बन्ध रखने वाली कुल कार्यवाही डिप्री भर पाई होने के समय तक स्वतः या संयुक्त करें। आवश्यकता होने पर किसी अन्य वकील महोदय को वकील करें।

उक्त सभी कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भांति हमको/हमको स्वयं स्वीकार होगी अगर मैं/हम कानूनी/निश्चित शुल्क उक्त सज्जन को न दें तो उनका अधिकार होगा कि वह हमारी ओर से मुकदमा की गैरबी न करें। उपरोक्त दशा में सज्जन का कोई उत्तरदायित्व न रहेगा।

अतएव यह अभिभावक पत्र लिख दिया कि प्रमाण रूप से समय पर काम आये।

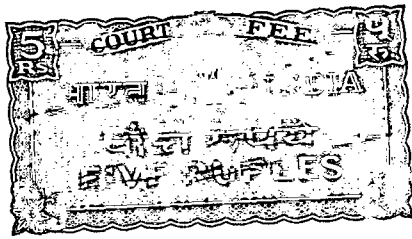
वेकालतनामा मन्जूर है

तिथि

माह

वर्ष

FF. 27/7/88
filed today
9/5/88



1149

वकालतनामा

सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल,

इलाहाबाद बेंच, इलाहाबाद

Reg. No. 55 of 1988

नम्बर

सन् १६

जिला

Arvind Kumar Aggarwal

वादी/प्रतिवादी

अपीलन्ट

Union of India

नाम

वादी/प्रतिवादी

रेस्पान्डेन्ट

मे Arvind Kumar Aggarwal (S/O)

हम Suresh Chandra Aggarwal No 785 (F)

उपरोक्त प्रकरण हम अपना ओर के पक्ष समर्थन के हेतु

श्री सुधीर अग्रवाल एडवोकेट हाईकोर्ट

इलाहाबाद को कानूनी निश्चित शुल्क जियत करके अपना अभिभाषक नियुक्त करते हैं, और स्वीकार करते हैं कि उक्त सज्जन हमारी ओर से बाद-पत्र, प्रतिवाद-पत्र, वाद स्वीकार पत्र, विवाद-पत्र, पुनर्वलोकन एवं पुनःनिर्णय प्रार्थनापत्र शापथिक कथन प्रवर्तन पत्र अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना आदि एवं लेखादि की प्रतिलिपियाँ अपने हस्ताक्षर केरके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथिक पुष्टीकरण करें, और आवश्यक सवाल जवाब करें और लेखादि की प्रतिलिपियाँ एवं हमारे प्राप्तधन को अपने हस्ताक्षरों द्वारा रसीद देकर प्राप्त करें। हमारी ओर से किसी मध्य पत्र, तथा साथी जाने ओर उससे सम्बन्धित प्रार्थना पत्र प्रस्तुत करें तथा उसका समर्थन करें तथा तत्सदीक करें वाद पत्र उठाएँ, छोड़े अथवा समझोता करें तथा मुल्हनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना पत्र दाखिल करके उसका समर्थन करें अर्थात् प्रकरण से सम्बन्ध रखने वाली कुल कार्यवाही डिग्री भर पाई होने के समय तक स्वतः या संयुक्त करें। आवश्यक होने पर किसी अन्य वक्तोज सहोदय को वकालत करें। उक्त सभी कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा से अपने किये की भांति हमको संध्या स्वीकार होगी। अगर हम कानूनी/निश्चित शुल्क उक्त सज्जन को न दें तो उनका अभिचार होगा कि वह हमारी ओर से मुकद्दमा की पैरवी न करें। उपरोक्त दशा में उक्त सज्जन का कोई उत्तरदायित्व न रहेगा।

अतएव यह अभिभाषक पत्र प्रमाण रूप लिख दिया कि प्रमाण रूप से समय पर काम आये।

हस्ताक्षर

A. K. Aggarwal

हस्ताक्षर

A. K. Aggarwal

हस्ताक्षर

हस्ताक्षर

हस्ताक्षर

A150

REPORT THE OFFICE OF THE ATTORNEY GENERAL, DEPT. OF JUSTICE, WASHINGTON

REPORT OF THE DEPARTMENT OF JUSTICE
(to the counter affidavit filed on behalf of rep. no. 5)
Re:

INTERVIEW OF JUNE 10, 1954

David James A. ...	APPLICANT
Union of ... and others

DAVID JAMES A. ... is a ... aged about 46
years, s/o ... A. ... s/o ...
... (respondent).

2. the respondent ... is hereby solemnly
affirm and state on oath as follows:

1. That the respondent is the petitioner in the
instant case and as such is fully acquainted with
the facts of the case except as follows:
2. That the respondent has read the contents of the
counter affidavit filed on behalf of respondent no. 5
and has understood the same fully.
3. That the contents of paragraphs 1, 2, and 3 of
the counter affidavit is not in full reply.
4. That in reply to paragraph 4 of the
counter affidavit it is stated that only the persons
recruited through the self selection committee (hereinafter
referred to as the committee) can be appointed

W.K. ...

- 2 -

by the Government and the Government is not competent
to make up a list of persons not selected through
the Commission. The statement to the contrary
contained in the paragraph in the reply was incorrect
and denied. Since the subject was not qualified
at the said examination, there can be no reason why
only in the first place, he could not have been
appointed unless the list of persons for first had
exhausted.

5. That in reply to the contents of para. 5 of the counter affidavit it appears that the position of candidate is only indicated by the appointing authority through the notification issued to the respective candidate and in the instant case respondent no. 3 (appointing authority) was only informed by the Commission that Mr. Shribe Vikram Singh was placed at serial no. 139, i.e. in the reserve list of J. G. S. S. Examination 1982 and also that the applicant stood at serial no. 40 in the J. G. S. S. Examination for the said examination. The result notified by the Commission contained only the name first change, the name of respondent no. 5 found no place. A copy of the list as exhibited on the notice dated 16 being filed herewith as Ex. 1 for reference.

That of the contents before I find that it is not valid for any reply. However, it is clear that respondent no. 5 has failed to reply and file his appointment order in which it is clearly shown that he was not considered for the post but in a way that he was given priority as a result of promotion of Mr. J. G. S. S. Examination. It is therefore suggested to the court that the respondent no. 5

W.K. Agrahar:

likely to be terminated.

6. That in reply to the contents of para. 6 of the counter affidavit the respondents that the applicant became junior to respondent no. 5 is absolutely misconceived, incorrect and denied. It is stated that as per the Civil Services Regulations the seniority amongst direct recruits of the same cadre is determined on the basis of their ranking in the merit list, and the date of order of appointment or joining is wholly irrelevant. The principle is further fortified by the rules of the Staff Selection Commission which shall be produced before the Hon'ble Bench at the time of hearing. A bare perusal of the order of petitioner's appointment dated 5.2.55 (para no 6 to the petition) clearly shows that he was given regular appointment w.e.f. 20.1.55. Conversely, the order of termination dated 19.10.57 (para no 9 to the petition) shows that Mr. Shobha Madava was appointed in stop gap arrangement consequent upon the promotion of Mr. Day Shams.

7. That the contents of para. 7 of the counter affidavit does not call for any reply.

8. That the contents of para. 8 of the counter affidavit, as stated, are incorrect and are denied. It is stated that as per the statutory rules and regulations, seniority of the employees recruited in the same year of selection is determined on the basis of their ranking in the merit list and hence, in any view of the matter, respondent no. 5 is much junior to the applicant. Further, there is no question of inter se seniority between the applicant and respondent no. 5 inasmuch as the two belong to different categories.

-4-

5.

the applicant belongs to the category of REGULAR EMPLOYEE while respondent no. 5 belongs to the category of AD HOC EMPLOYEE as is clear from the orders of respective appointments. Further, she herself has admitted in paras. 9 and 15 of her counter affidavit that she was appointed on the post on which Smt. Rosy Thomas was had her lien and hence the question of making substantive appointment of respondent no. 5 on the post of stenographer does not arise. The applicant was appointed in a clear and substantive vacancy and as such respondent no. 5 and the applicant are referable to two distinct and different class and cannot be equated together. It is well known that a person appointed on a purely ad hoc -stop gap - basis has no right to hold the post and if termination on account surplus is resorted to, the ad hoc appointee has to go first in preference to the regularly appointed incumbent. The further assertion that it is well settled law that the seniority is counted on the basis of length of service does not apply in the instant case inasmuch as under the statutory rules, it is clearly provided that persons selected in one selection shall rank in seniority in order of their merit prepared by the recruiting agency and it is also well settled law that the length of service for the purpose of seniority will apply only in the absence of statutory rules or regulations and that too as amongst the like appointees. Further, assuming without admitting that the said principle will apply for determination of seniority in the instant case, it is submitted that the said principle will apply only where the appointees belong to the same category and not where

H. K. Agrawal

MS4

- 5 -

8.

they are unequals. That being so, the said principle will not apply in the instant case. The averments to the contrary contained in the paragraph under reply are incorrect and are denied.

9. That the contents of para. 9 of the counter affidavit as stated are misconceived, incorrect and denied. It is stated that the petitioner is in no way junior to the respondent no. 5 inasmuch as she was appointed on a post on which Smt. Rosy Thomas had a lien and hence her appointment was not regular. On the other hand, the applicant's appointment was made specifically on regular basis on a post and vacancy which was absolutely clear and substantive and hence the applicant and respondent no. 5 constituting different and unequal class cannot be treated equal and the principle of 'last come first go' will not apply in the instant case as that principle is restricted to equals alone. In other words, applying the principle of 'last come, first go', the junior most temporary/ad hoc appointees will have to be terminated first in preference to the one regularly and substantively appointed. Application of the principle 'last come, first go' irrespective of the status and category of employees will be tantamount to infringement of the provisions of Article 16 of the Constitution inasmuch as unequals will be treated as equals in that event. The further contention regarding estoppel against the applicant is wholly misconceived and has no application for the facts and circumstances of the case. As to the averment that the petitioner did not agitate ever before regarding his seniority, it is submitted that since the petitioner was given regular appointment from the date of his joining (ENCLOSURE 8

A.K. Abraham

To

to the petition) and respondent no. 5 was clearly given stop-gap appointment in the vacancy caused by the promotion of Smt. Basy Thomas, there was absolutely no grievance for the petitioner to make a representation. The petitioner could never comprehend that respondent no. 3 would not be able to distinguish the two ^{categories} ~~categories~~ of appointee at a later stage and choose to violate the recognised canons of law with a view only to accommodate a person who has had no locus standi vis a vis the petitioner - a regularly selected and substantively appointed person.

10. That the contents of para. 10 of the counter affidavit are wholly misconceived, incorrect and denied. The statutory rules provide that seniority of direct recruits is determined by the order of merit in which they are selected ~~on the basis of~~ for such appointment on the recommendation of the Commission or other selecting authority and the person appointed as a result of earlier selection shall remain senior to the selectees of the subsequent selection. The relevant regulation is being quoted below:-

"Rule 21- The relevant seniority of all the direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendation of the Union Public Service Commission or other selecting authority, person appointed as a result of earlier selection being senior to those appointed as a result of a subsequent selection."

The averments to the contrary contained in para. under reply are incorrect and denied. It may be stated that the Staff Selection Commission has repeatedly pointed out this fact to the respondent no. 3 that the applicant is senior to respondent no. 5 and therefore he cannot be terminated from service in order to accommodate respondent no. 5 (ENCLOSURE 13 to the petition).

11. That the contents of para. 11 of the counter

A.K. Agrahar

affidavit do not call for any reply.

12. That in reply to the contents of para. 12 of the counter affidavit, the assertion that respondent no. 5 is senior to the applicant is wholly misconceived, incorrect and denied. Details and correct facts have already been stated hereinbefore and in various paragraphs of the application which are reiterated as correct. Averments contained in the paragraph under reply to the contrary are denied.

13. That the contents of paras. 13 and 14 of the counter affidavit are incorrect and denied and those of paragraphs 6(xii) to (xiii) of the application are reiterated as correct.

14. That in reply to the contents of para. 15 of the counter affidavit, the assertion that the petitioner being junior had to make room for respondent no. 5 is wholly misconceived, incorrect and denied. Further, the assertion that the applicant's services have been undervalued is also wholly misconceived, incorrect and denied. The contents of para. 6(xviii) and (xix) of the application are reiterated as correct. The averments to the contrary contained in the paragraph under reply are incorrect and denied. As stated in the foregoing paras., respondent no. 5 belonged to the rock-bottom of the results and could only be given appointment in case persons in the main list did not join and thus she was of an inferior lot of selectees. Merely because she joined earlier, she cannot claim equality with the petitioner who was directly selected in a superior position for regular appointment and till the availability of candidates of the main list, respondent

AK. Agrawal

9.

no. 5 had no right to remain in service.

15. That the contents of para. 18 of the counter affidavit are denied. It is stated that respondent no. 5 having no right to hold the post on which she was appointed, she cannot claim right of appointment in preference to the applicant who was appointed on regular basis in a substantive and clear vacancy, in a substantive capacity, and hence the assertion that the petitioner is not entitled for any relief is wholly misconceived, incorrect and denied. ^{The plea of} Administrative problems and balance of convenience has no force where a rightful claimant, illegally thrown out of employment on the street, is to be placed in the position he ought to be. The petitioner cannot be robbed of his right merely to place respondent no. 5 in the guise of administrative problems and conveniences. It is obvious that respondent no. 5 has so long been shown undue and unwanted favour for the last two and half years in three different chains of arrangement. Too much of undue administrative favour has already been shown to her.

16. That the contents of para. 19 of the counter affidavit do not call for any reply.

I, the deponent above-named, do hereby declare that the contents of paras. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 of this affidavit are true to my personal knowledge and those of paras. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 are based on perusal of record and those of paras. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 are based on legal advice, which all I believe to be true and nothing material has been concealed and no part of it is false. So help me God.

A.K. Abraham

A.K. Abraham
DEPONENT

~~20.~~

2. Laloo Singh, Clerk to Sri Suchir Agrawal, Advocate, High Court, Allahabad, do hereby declare that the person within this affidavit and alleging himself to be Sri M. S. Aggarwal, is the same person who is known to me from the perusal of record.

.....

Solemnly affirmed before me on this 21st day of July 1988 at 6th 4th am./p.m. by the deponent who has been identified by the aforesaid clerk.

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

IN WITNESS WHEREOF

M. K. Aggarwal

ENCLOSURE- I

CHINA UNIVERSITY COMMISSION
CHINESE EXAMINATION, 1953
LIST OF CANDIDATES IN MERIT ORDER

No.	Roll No.	Name
1.	26-20224	Shri Bhagwan Das Prajapati
2.	23-20273	Prasanna Kumar Srivastava
3.	26-20760	Vijaya Nath Prasad Verma
4.	25-20202	Muhammad Ali
5.	26-20007	Ashish Srivastava
6.	26-20203	Chandhyam Narayan Dixit
7.	26-20343	Surdeep Kumar Lal
8.	26-20780	Arvind Kumar Verma
9.	23-20270	Vijay Prakash
10.	23-20275	Nimesh Kumar Sharma
11.	23-20032	Daksh Kumar Srivastava
12.	26-20276	Nehru Lal Srivastava
13.	26-20003	Anur Kumar Srivastava
14.	23-20000	Mr. Punam Khullar
15.	26-20093	Sugdish Prasad
16.	26-20242	Shilochan Kaur
17.	23-20223	Kaleem Singh Bisht
18.	23-20007	Luxendra Kumar
19.	26-20002	Mr. Ahmed
20.	26-20270	Arun Singh
21.	26-20239	Mr. Asha Kaur
22.	26-20276	Mr. Shankar Meury
23.	23-20260	Miraj Phamag
24.	26-20730	Sirish Chand Bhat.
25.	26-20220	Arvind Kumar

W. K. K. K. K.

2.

26.	24-10333	Prathakar Joshi
27.	24-10338	Anil Kumar Pandey
28.	23-60167	Sharda Prasad
29.	24-10333	Chandra Prakash
30.	24-10313	Manglesh Kumar Maingi
31.	24-10352	Meera Ahuja
32.	23-10322	Jai Prakash Lal
33.	23-10333	Bhopal Singh
34.	24-10391	Udhir Kumar Pandey
35.	23-70100	
36.	24-70133	
37.	23-10344	Pradeep Kumar
38.	23-60133	Dinesh Chandra Ray
39.	24-10304	Mahendra Pratap Singh
40.	24-10442	V.P. Sivakaran
41.	23-10320	Pranod Kumar
42.	24-10311	Mr. Gita Singh
43.	23-10130	Ashok Kumar Jain
44.	24-10320	Wriy Ranjan Datt
45.	24-10327	Mohammad Naeem
46.	24-10313	Om Prakash
47.	24-10030	Ram Pher
48.	24-10233	<u>Arvind Kumar Agrahari</u>
49.	23-10243	Vitambar Tanta
50.	24-10310	Rajendra Prasad Diwedi
51.	24-10023	Laxmi Kant Shukla
52.	23-60131	Anil Kumar Srivastava
53.	23-40130	Pudh Singh

3.

34.	24-20323	Niloop Kapoor
35.	24-20327	Sanjesh Chandra Shukla
36.	24-20328	Shiva Ji Singh
37.	24-20328	Uma Shankar
38.	25-20336	Deepak Sehgal
39.	24-20329	Subroto Kumar Dixit
40.	24-20355	Sirun Bala
41.	24-20367	Shiv ...
42.	25-20356	Ashim Kumar Roy
43.	25-20358	Ashim Murari
44.	24-20403	Shri Kant Arya
45.	25-20360	Sh. Pooja Khuja
46.	25-20377	Sumit Kumar Pandey
47.	25-20052	Hora Lal
48.	25-20005	Harhar Lal Singh
49.	25-20036	Sren Chandra
50.	24-20325	Sh. Anil Swarnkar
51.	24-20327	Ganga Vishnu
52.	24-20423	Virendra Kumar Srivastava
53.	25-20322	Rakesh Kumar Verma
54.	25-20033	Brijesh Lal Verma
55.	24-20003	Chiranjeevi Jha
56.	24-20722	Ram Kartayen Verma
57.	24-20760	Sunil Kumar
58.	25-20333	Ram Shankar
59.	24-20033	Preetambaram Kumar
60.	25-20231	Yogendra Singh
61.	25-20320	Anil Kumar Tyagi
62.	25-20323	Sh. Sumitra Saharmal

6.

2	03.	24-100332	Sankar Kumar
	06.	23-100120	Vikram Kumar
	03.	24-100100	Sh. Anuraj Malik
	03.	24-100310	Om Prakash
	07.	24-100330	Aditya Singh
	03.	23-100330	Prakash Singh
	02.	23-100100	Vishal Singh
+	00.	23-100000	Ram Kumar Srivastava
	03.	24-100330	Sugandh Kumar
	03.	24-100200	Ashish Kumar
	03.	24-100700	Vishal Kumar Awasthi
	04.	23-100330	Deepak Singh Khatri
2	03.	24-100000	Dr. Anuraj Singh Kumar
	06.	23-100000	Chandana Kumar
	07.	24-100330	Deepak Singh
	00.	24-100400	Dr. Anuraj Verma
5	09.	23-100000	Dr. Anuraj Khan
	100.	24-100440	Anuraj Singh
	101.	24-100730	Anuraj Kumar Shukla
	103.	23-100000	Ram Kumar Srivastava
	103.	23-100000	Dr. Anuraj Devi Sharma
	104.	23-100000	Anuraj Chandra Sharma
2	103.	24-100200	Anuraj Prakash Singh
	103.	23-100000	Anuraj Chandra
	107.	23-100000	Anuraj Kumar
	103.	24-100700	Dr. Anuraj Keshavramani
	103.	24-100330	Anuraj Singh Yadav

Handwritten: 41.4.1940

110°	23-00007	German Armed Forces
111°	26-10020	German Armed Forces
112°	26-10126	German Armed Forces
113°	23-40012	German Armed Forces
114°	23-10123	German Armed Forces
115°	23-00116	German Armed Forces
116°	26-10016	German Armed Forces

00000

19/12/91

A164

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH : ALLAHABAD.

.....

CIVIL MISC. APPLICATION NO. _____ OF 1991

ON BEHALF OF RESPONDENTS

IN

ORIGINAL APPLICATION NO.55 of 1988

A.K. Agrahari

.. Applicant

Versus

Union of India & others.

.. respondents.

To

The Hon'ble Vice Charian and His
Companion Members of the aforesaid Tribunal.

The humble application of the above
named MOST RESPECTFULLY STATES :

1. That the petitioner has annexed certain documents and stated certain new facts in his rejoinder affidavit which necessiated to file the accompanying supplementary counter affidavit and in such contingency the accompanying affidavit

W


Recd Copy
Goswami
Shrikishan
20/12/91

is being filed, which may kindly be accepted
as part of the record.

P_R_A_Y_E_R

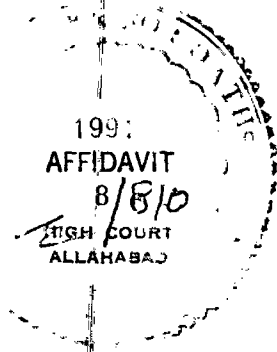
WHEREFORE, it is most respectfully
prayed that this Hon'ble Tribunal may be
pleased to accept the accompanying Supplementary
Counter affidavit as part of the record,
otherwise respondents would suffer irreparable
loss.

Dt/- December, 30th, 1991.


(K.C. SINHA)
ADVL. STANDING COUNSEL
CENTRAL GOVT.
COUNSEL FOR THE RESPONDENTS.

one do
S.O. (T)
Kepon xeon

30/1/91



A166

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH : ALLAHABAD.

.....

SUPPLEMENTARY COUNTER AFFIDAVIT

ON BEHALF OF RESPONDENTS

IN

O.A. No. 55 of 1988

A.K. Agrahari

.applicant

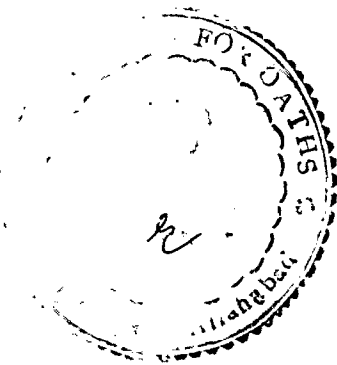
Versus

Union of India & others.

.Respondents.

Affidavit of R.N. Bhargava aged
about 55 years, s/o Shri L.N.
Bhargava, Director, Directorate
of Pulses Development, Lucknow.

R.N. Bhargava
(Deponent).



R.N. Bhargava

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

1. That the deponent is Director, Directorate
of Pulses Development, Lucknow and has been

authorised to file this affidavit on behalf of respondents and is well acquainted^a with the facts deposed to below.

2. That the deponent has read the Rejoinder Affidavit filed by the petitioner and has understood the contents therein fully.

3. That in reply to contents of paragraph 4 of the Rejoinder Affidavit, it is submitted that names of the two candidates were sponsored in two different lists without mentioning the year of examination. The crucial date for calculation of the age as on 1.8.1982 is only meant for admission of applications to assess the eligibility of the candidates. It cannot be taken the year of Examination. As a matter of fact in normal course the names were sponsored giving the year of examination also but in the case of the petitioner as well as Km. Shobha Yadav, the staff selection Commission has not shown the year of examination. The Staff Selection Commission should have pointed out about the seniority of the petitioner on receipt of copy of the appointment order and that the name of the petitioner should have been sponsored earlier, if he was senior to Km. Shobha Yadav.

Changane

4. That one post of stenographer becoming surplus to the requirement, there was no need of making an enquiry but to terminate the services of juniormost stenographer as per record. There was not any deliberate attempt nor any negligency of the Directorate but it was because the year of examination was not mentioned by the Staff Selection Commission.

5. That in accordance with the provisions, as contained in Office memorandum dated 25th April 1958, the petitioner is not entitled to any pay and allowances for the intervening period as his services were terminated as he was juniormost candidate as per record of the Directorate. A photo copy of the memo dated 25.4.1958 is enclosed herewith and marked as Annexure SCA-1 to this affidavit.

6. That the Office memorandum dated 25th April 1958 governs the cases of wrong retrenchment caused by the administrative errors, the services of the applicant had to be terminated as to the facts which came to the light much later were not brought to the notice of the Directorate at the time of termination either by the Staff Selection Commission or by the petitioner and as such he is not entitled for any pay and allowance as per the

office memorandum dated 25th April 1958, quoted above.

7. That Fundamental Rule 54 deals with the cases of dismissal/removal/termination from services as a result of disciplinary proceedings. The termination of the petitioner was not as a result of disciplinary proceedings, but he was junior in the cadre and as such this case is covered under the provisions of Office Memorandum dated 25th April 1958 and not under the provisions of Fundamental Rule 54 (of the Rules.

That the contents of paragraph 1 and 2 of this affidavit are true to my personal knowledge and those of paras 3,4, 5 and 6 are based on perusal of record and those of para 7 are based on legal advice, which all I believe to be true. No part of it is false and nothing material has been concealed in it.

SO HELP ME GOD.

L. H. S. S. S.

(DEPONENT)

4170

I, D.S. Chaubey clerk, to Shri K.C. Sinha
Advocate declare that the person making this
affidavit and alleging himself to be the deponent
is know to me personally.


IDENTIFIED 

Solemnly affirmed before me on this day 19/5
of Dec . 1991 at 10.30 am/pm by the deponent
who is identified by aforesaid.

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

OATH COMMISSIONER.



8/8/10
19.12.91

No. 9/49/54-RFS
Government of India
Ministry of Home Affairs

New Delhi-1, 25th April, 1958
5th Vaisakha, 1880.

OFFICE MEMORANDUM

Subject: - Treatment of cases of wrong retrenchment or reversion caused by Administrative errors.

The undersigned is directed to say that cases have come to the notice of the Government in which owing to administrative error or ignorance of facts persons not due for retrenchment were either reverted to lower posts or retrenched from service when making reduction in establishment or on normal cessation of vacancies, instead of other persons who would have been retrenched or reverted had the correct facts been available or taken into account at the time of ordering such retrenchment or reversion. The affected persons in such cases have no legal remedy as the orders are not void from the legal point of view.

2. The retrenchment or reversion in such cases may be due to non-observance of departmental instructions or due to erroneous interpretation of the instructions or to due to wrong determination of seniority of the individual concerned. In order to alleviate the hardship caused to individual Government servants in such cases, it has been decided that where the competent authority is satisfied that a Government servant is wrongly retrenched or reverted on account of administrative errors or ignorance of facts, he may be re-employed or re-promoted, as the case may be, as soon as possible and if necessary the person who has been wrongly retained in the service or in the higher post may be retrenched or reverted and the case may be dealt with as follows :-

(1) PAY

a) The pay on re-employment or re-promotion may be fixed from the date of such re-employment or re-promotion at the stage he would have reached but for the retrenchment or reversion, as the case may be. The period of break in service or break in officiating tenure of the higher post, as the case may be, may be counted for increment in the time scale of pay of the post or grade to the extent he would have continued in that post or grade, but no arrears of pay and allowance will be paid for this period.

b) Where the Government servant concerned had been retrenched after being given pay and allowances in lieu of notice and the re-employment takes place before the expiry of the period which would have been otherwise covered by notice, he shall refund to Government the pay and allowances in respect of the un-expired portion of that period.

A172

Departments should take steps to see that the seniority lists reach the persons who are concerned promptly. Such seniority lists should contain a specific provision that any person who has any objection should submit his representation within six months of the publication of the seniority lists. Where representations are made after six months, the case should be submitted to the Government for orders.

5. Cases already decided before the issue of this Office Memorandum need not be re-opened but those which have not been finally decided on the date of its issue as well as future cases may be settled in accordance with the principles contained in this Office Memorandum.

Sd/- P. SITARAMAN
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.

To

All Ministries of the Government of India (including all Departments or Divisions of Finance/Ministry of Food and Agriculture, etc.); The Branch Secretariat of the Minister for Minority Affairs No.14, Theatre Road, Calcutta-16; Deptt. of Parliamentary Affairs; Cabinet Secretariat; Cabinet Sectt (C.M. Div.) South Block; P.M. Sectt; R.S. Sectt; L.S. Sectt; Partition Sectt; Directorate General of Resettlement and Employment; Director General of Posts and Telegraphs; Office of the Election Commission; Military Secretary/Secretary to the President; E.O. to the Govt. of India; Registrar General of India; Union Public Service Commission; Comptroller and Auditor General of India; Planning Commission (programme Evaluation Organisation); Supreme Court; Ministry of Finance (Rehabilitation Division), 8 Theatre Road, Calcutta; Ministry of Rehabilitation (Branch Secretariat) 8 Theatre Road, Calcutta; Director Intelligence Bureau; Director of Coordination (Police Wireless); Director Sectt. Training school; Principal, Indian Administrative Service Training School; Delhi/Grand Hotel, Simla; Commandant, Central Police Training College, Mount Abu; Inspector General, Special Police Establishment; Commissioner for Scheduled Castes and Scheduled Tribes; Commandant, National Fire Service Training College, Nagpur; Commandant Central Emergency Relief Training Institute M.L.A.'s Hostel No.2, Nagpur; Inspector General, Central Reserve Police, Delhi; Department of Atomic Energy, Apollo Pier Road, Bombay-1; Joint Secretaries of all Zonal Councils; Chief Secretaries of all Union Territory Administrations; Commissioner for Linguistic Minorities, Allahabad; Office of the Pay Commission.

All regular Sections of the Ministry of Home Affairs as per standard list.

All officers.

LP

8/810

19.12.91

IN THE GENERAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

NO. CAT/CB/LKO/TUDL/

DATE _____

C. A. No. 223/92
REGISTRATION NO of 199.

S. K. Singh -----Applicant (s)

VERSUS

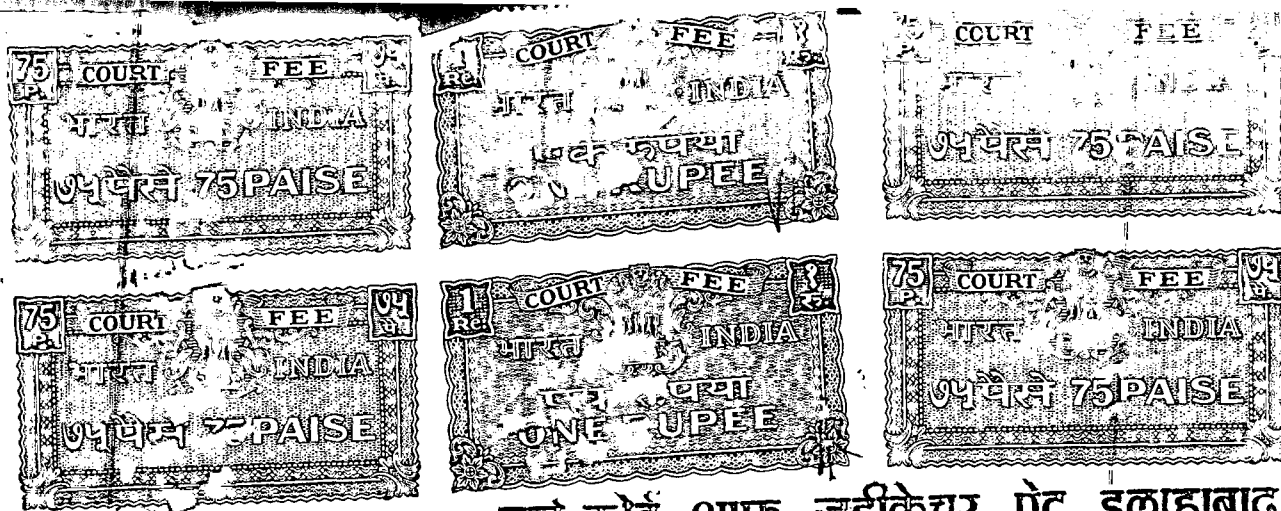
Government of India & Ors. -----Respondent (s)

Through the General Manager, N.R.
Northern Railway, Ashok Marg
Hazibnagar, District - Morad

Please take notice that the applicant above name has presented an application a copy of ~~petition~~ therefore is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed 10th day of Jan-93 to Show Cause as to why the petition be not admitted, Counter may be filed within four weeks, Rejoinder, if any to be filed with four weeks thereafter.

If, no appearance is made on your behalf, your plea as of by some one duly authorised to Act and plead on your behalf on the said application, it will be heard and decided in your absence. Given my hand and the seal of the Tribunal this day of 10th 199.

FOR DY. REGISTRAR



C232

हाई कोर्ट आफ जुडीकेचर ऐट इलाहाबाद

Regn No. 223/92 TL in A No 55/88

Fixed for fine
Hearing on 4-2-88

Arvind Kumar Agrahari

अबोलान्त

बनाम

Union of India & ors

Arvind Kumar Agrahari & ors ^{Lab रेसपाण्डेण्ट} Shri Suresh

Chandra Agrahari, 785 (F) Daraganj, Allahabad

निवासी

उपरोक्त प्रकरण में/हम अपनी ओर के पक्ष समर्थन के हेतु

श्री Far Mohd (Regn No. 3047/91) एडवोकेट हाईकोर्ट इलाहाबाद

का उपरोक्त मुकदमे की पैरवी के लिये मेहनताना अदा करने का बचन देकर अपना वकील नियुक्त करता-
हुँ/करता हूँ उक्त बचान महोदय को मैं/हम यह अधिकार देता हूँ/देते हैं कि इस मुकदमे में वह मेरी ओर
से पैरवी करें, आवश्यक सवाल पूछें, जवाब दें और बहस करें दस्तावेज व कागज अदालत में दाखिल
करें व वापस लेवे पंचनामा उपस्थित करें, यदि आवश्यक हो तो पंच के निर्णय का लिखित विरोध करे
मुलहनामा दाखिल करे, दावा स्वीकार करे, या उठा लेवे और डिग्री प्राप्त हो जाय वा उस जारा करावे
डिग्री का हाथ व खर्चा व हरजाने का हाथ या किसी दूसरी तरह का हाथ जो अदालत से पुने / हम
मिलने वाला हो बसूल करे मेरी / हमारी ओर से अदालत में दाखिल करे, कोई किस व स्टाम्प देवे, या
वापस लेवे, रसोद लेवे व प्रमाणित करे, नकल प्राप्त करे, अदालत का अनुमति से मिसिल का मुआइना
करे, आवश्यकता होने पर मुकदमा स्थगित करावे इस मुकदमे के सम्बन्ध में दूसरे काम जा बहरी
समझे करें, और पैरवी के लिये अपनी ओर से कोई दूसरा वकील नियुक्त करें यदि आवश्यकता हो ता
अबोल या निगराना दायर करें और अपाल निगरानो की अदालत में पैरवी करें।

इस अधिकार पत्र के अनुसार उक्त वकील महोदय इस मुकदमे के सम्बन्ध में जो कुछ काम करेंगे
वह सब अदालत में स्वयं/हमारा किया हुआ समझा जावेगा और वह पैसे/हमें सदैव अपने ही किये के
सामान मुबद्दा मान्य होगा।

तारीख

माह

सन १९८८

ई०

Far Mohd

F.T.
29/11/83
AR

75
CENTRAL ADMINISTRATIVE TRIBUNAL
CAND. BENCH, LUCKNOW.

No. NAT/001/1/100

DATE :

19/11/92

55/00

ADMINISTRATIVE NO. _____ OF 199 (L)

_____ Applicant(s)

VERSUS

_____ Respondent(s)
S/o Sd/- Suresh Chandra Agarwal
with his wife

Appeared before D.R. on 4-1-93

Please take notice that the applicant above name has presented an application a copy of _____ thereof is enclosed which has been registered in the Tribunal and the date is fixed _____ day of _____ to Show-cause as to why the petition be not admitted. Counter may be filed within _____ weeks. Reply, if any, to be filed within _____ weeks thereafter.

If appearance is made on your behalf, your pleader or by a person authorised to Act and plead on your behalf in the application, it will be heard and decided in your presence and the seal of the Tribunal this day _____

FOR DEPUTY REGISTRAR

(Signature)

PA

In the Central Administrative Tribunal
Lucknow Bench.

DA 55/100(1)

BETWEEN

Ram Prasad.

.. Applicant.

AND

Union of India, & others. ..

Respondents.

UNDER RULE 9 -

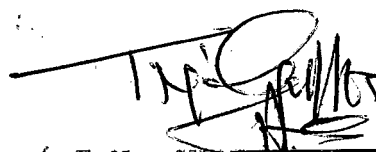
The Documents and Paper Book.

i n d e x

<u>S/No.</u>	<u>Particulars.</u>	<u>Pages</u>
1.	Application	1-14
2.	Annexure No. ^{A-} 1- Photostat copy of the Service certificate.	15
3.	Annexure no. ^{A-} 2- True copy of legal notice dated 23.10.87.	16-18
4.	Annexure no. ^{A-} 3- True copy of representation dated 12.12.1987.	19-22
5.	Annexure no. ^{A-} 4- Photostat copy of letter No. Staff/381-Ex. A/ Agraserut/ Lucknow-104/87 dated 23.12.87.	23
6.	Annexure no. ^{A-} 5- Photostat copy of the letter and order dated 11.3.88 passed by which the applicant's representation was rejected.	24
7.	Affidavit	25-26
8.	Power (Vekalatnama)	27

20-07-88

havi or
mad mis
Lucknow:
18.7.88.


(T.N. GUPTA)
Advocate.

Counsel for the Applicant.

18/07/88

A12

In the Central Administrative Tribunal
Lucknow Bench

5855/100()

BETWEEN

Ram Prasad son of Ram Din , resident of Mohalla
Mahboobganj, P.O. Amberganj, Lucknow.

.. Applicant.

AND

Union of India through Ministry of Communication,
Postal Department, New Delhi and others.

.. Respondents.

DETAILS OF APPLICATION

1. Particulars of Applicant:

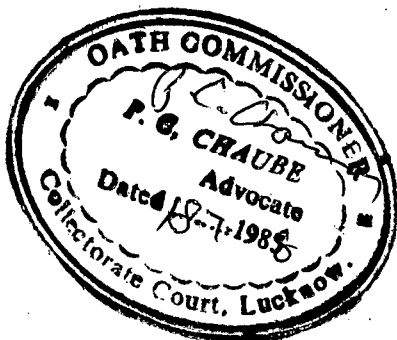
- (i) Name of Applicant. - Ram Prasad.
- (ii) Name of Father. - Sri Ram Din
- (iii) Age of Applicant. - 25 years 10 months
(31.7.1962)
- (iv) Designation and particulars of office(name and station) in which employed or was last employed ~~XXXXXX~~ ceasing to be in service. - E.D.SPM Takmil-ut-Tib
EDSO under Chowk
Head Office, Lucknow.

- (v) Office address: - Not in service at present time.

- (vi) Address for service of notices.- Ram Prasad
s/o Ram Din
r/o Mohalla Mahboobganj
P.O. Ambarganj,
Lucknow.

..2..

Ram Prasad



..2..

2. Particulars of respondents:

(i) Name of the respondents:

1. Union of India through Ministry of Communication, Postal Deptt. New Delhi.
2. Post Master General, U.P., Lucknow.
3. Senior Superintendent of Post Offices, Lucknow.

(ii) Name of father/Husband.

- Not known.

(iii) Age of respondents - Not known.

(iv) Designation and particulars (name & station) in which employed.

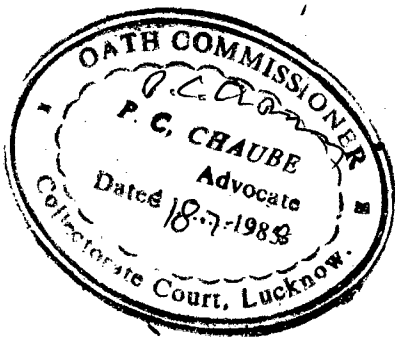
1. Union of India through Ministry of Communication, Postal Department, New Delhi.
2. Post Master General U.P., Lucknow.
3. Senior Supt. of Post-Offices, Lucknow.
4. Director Postal Services U.P. Lucknow.

(v) Office Address:

-(As above)

(vi) Address for Service of notices.

-(As above)



..3..

Ram Prasad

ATM
...3..

3 Particulars of the order
against which application
is made :

The application is against the following
orders :-

- i) Order No. H/V.F.-2/8 -Lucknow.
- ii) Date : 11.3.1988.
- iii) Passed by : Director Postal
Services, U.P. Lucknow.
- iv) Subject in
brief:-

Applicant's appeal against
the illegal order of removal
from service has been rejected.

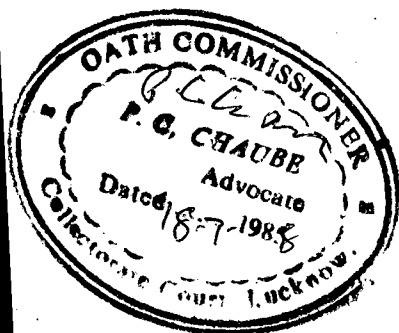
4. Jurisdiction of the Tribunal :

The applicant declares that the subject -
matter of the order against which he want
redressed is within the jurisdiction of the
Tribunal.

5. Limitation :

The applicant further declares that the
application is within the limitation prescribed
in section 21⁴ of the Administrative Tribunals
Act 1985.

..4..



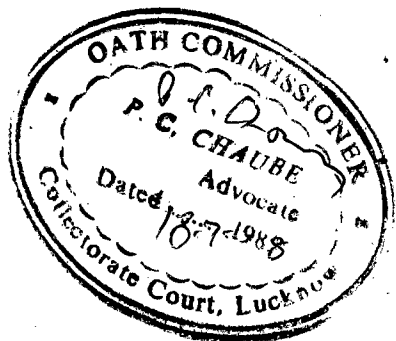
Ram Prasad

..4..

6. Facts of the case:

The facts of the case are given below :-

- (a) That the applicant had entered in the service on 14.3.86 and was posted as ED SPM Takmil-ut-Tib Post Office under Chowk Head Postoffice, Lucknow and continued on said post upto 23.10.87. A certificate issued by the Postal Office is filed herewith as Annexure no. 1^{A-2} to this application.
- (b) That the applicant is a Post Graduate and belongs to the Scheduled Caste Community and is most suitable candidate for the post held.
- (c) That under the Govt. of India, Ministry of Communication, Department of Post under rule 2 of the EDA's (Conduct and service) Rules 1964 the applicant was found most suitable for the post of ED-SPM hence he was selected for the said post on 14.3.1986.
- (d) That the applicant has performed his duties as ED SPM upto 23.10.87 i.e. about one year and seven months to the entire satisfaction of his superior officers.
- (e) That the applicant was paid full pay and allowances on the regular establishment Pay Bills and he was not treated as an Daily Wage worker since he was not paid on muster rolls or contingency funds.



Ram Prasad

..5..

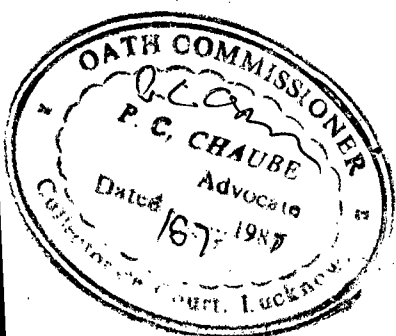
A16

..5..

(f) That the applicant's service record has always been excellent and unblemished and he has never been subjected for any disciplinary proceedings or any sort of allegations and there had been no complaint of public and even not from any authorities pertaining to the work and conduct of the applicant and departmental inspection and verification during his tenure, were found always satisfactory and moreover, the applicant while working as ED SPM Takmil-ut-Tib (as incharge of the office) for about more than 1½ years , have gone through several inspections by the seniors, i.e. over-seers every third month by Inspector of Post Offices and the officer of the office of the Postmaster General U.P. and with full satisfaction of the official business and conduct.

(g) The applicant is senior in his cadre and so many junior persons are still working in the department. Moreover the applicant belongs to scheduled caste , hence he has the prevelage of Reservation in service guaranteed under the Constitution of India.

(h) That the 18% reservation quota of S.C. candidate is not complete in the Postal Department at Lucknow, hence the applicant ought to have been retained in service against the reserve quota of S.C. candidates.



..6..

Ram Gargad

AM
...6..

- (i) That there is prevailing practice and tendency of lower officers of the department to extract the undue benefits from the staff working under them and even they do not hesitate to extract money from the working subordinate personnels and as such the applicant became the victim of these circumstances and when he refused to oblige the concerned over-seer has taken forcible charge from applicant on 23.10.87, hence has lodged a ~~xx~~ written F.I.R. at police-station Saadatganj, Lucknow.
- (j) That no notice regarding termination of job has ever been given or served upon the applicant or even no chargesheet or any order punishing the applicant has ever been given or served upon him forcible charge and ousting the applicant from his job is quite illegal, arbitrary, malafide and without jurisdiction as well as contrary to the relevant Service Rules.
- (k) That it is submitted that the Senior Supdt., of Post Offices, Lucknow was the Appointing Authority of the applicant, hence he can only be removed from his written order but it is submitted that the applicant was removed from his service without any order, or without assigning any reason which is illegal, patently void and as such is liable to be quashed.

...7..



Ram Prasad

..7..

(1) That the applicant has also sent a registered notice through his counsel Sri T.N. Gupta Advocate, regarding his illegal harassment and it was requested that justice be done to him and he should not be harassed and be allowed to discharge his duties peacefully but nothing has been done till now nor the notice has also been replied. The true copy of notice dated 23.10.87 is filed herewith as ^{No-A} Annexure/-II to this application.

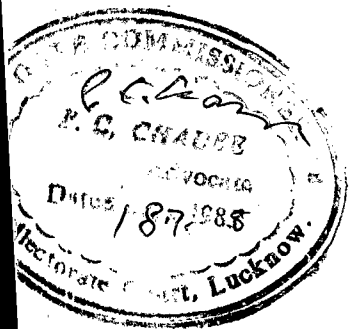
(m) That under the provisions of CCS(CCA) Rules 1965 and Article 311(2) of the Constitution of India, the applicant is entitled for full protection of his job and livelihood and the action depriving his legal claims is totally bad and against the principles of natural justice. Moreover, the applicant is also entitled for the protection under the different provisions and paras of P & T Manual Volume III.

(n) That the applicant has successfully and without interruption has completed one year and seven months i.e. more than 240 days hence he is liable to be made permanent as per the directives of Hon'ble The Supreme Court of India.

(o) That the applicant has preferred a representation to respondent no. (2) i.e. Post Master General U.P. Lucknow, against the

..8..

Ram Prasad



..8..

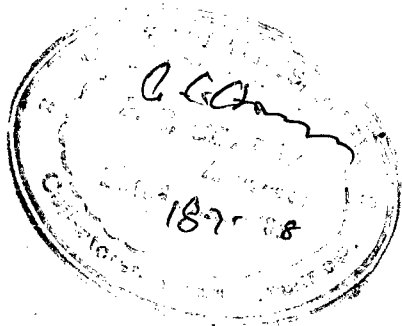
his illegal removal from service on 12.12.1987. The true copy of representation dated 12.12.87 is filed herewith as ^{No A-}~~Annexure-III~~ to this application.

(p) That applicant's said representation dated 12.12.1987 was transferred to Director Postal Services, Lucknow by the Post Master General U.P. Lucknow through his office letter No. Staff/381- EXA/Agrasarut/ Lucknow-104/87 dated 23.12.1987. The photocopy of the letter dated 23.12.87 is filed herewith as ^{No A-}~~Annexure-IV~~ to this application.

(q) That the applicant was informed by the letter of the respondent no.3 i.e. the Senior Superintendent of Post Offices, Lucknow through his office letter/Order No. H/PF-218 dated 11.3.88 that his representation has been rejected since he has worked on officiating capacity and there is no claim for officiating services, the photostat copy of the letter dated 11.3.88 is herewith as ^{A-}~~Annexure no.V.~~

(r) That the findings recorded by the Director Postal Services are illegal, misconceived and arbitrary and are based on conjectures and surmises as such are liable to be quashed.

(s) That the findings recorded by the Director Postal Services are also against the principles of natural justice since the



Ram Prasad

..9..

720
...9..

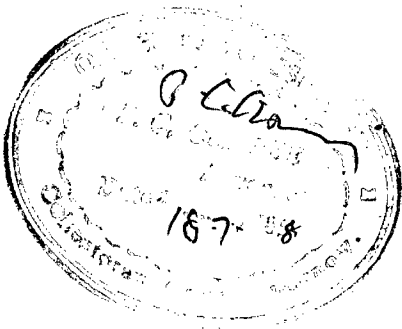
applicant was not allowed to argue his case either personally or through his counsel.

- (t) That the Director Postal Services has also not passed any self speaking order and has not gone thoroughly on the facts of the case and relevant provisions of the rules and has arbitrarily and mechanically rejected his representation.
- (u) That the applicant has sustained irreparable loss and injury and is facing great economic hardship due to his illegal removal from the service and has no other source of livelihood and virtually is at the verge of starvation.
- (v) That there is no other alternative, efficacious and speedy remedy available to the applicant except knocking the doors of this Hon'ble Tribunals.

7. Details of the remedies exhausted :

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

1) Representation dated 12.12.1987 addressed to respondent no.2 (Postmaster General U.P. Lucknow) Annexure no. ^{A-2} III which was rejected by the Director General Postal Services communicated to the applicant by respondent no.3 through his letter dated 11.3.1988 contained in Annexure no. ^{A-2} V.



Ram Prasad

...10..

..10..

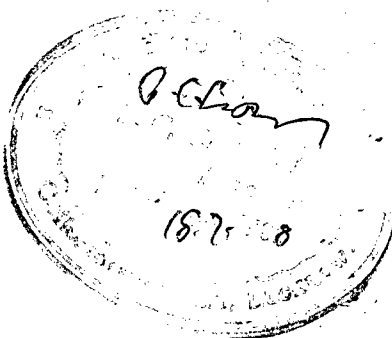
8. Matter not previously filed or pending with any other court.

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

9. Reliefs sought :

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

- i) That the applicant's removal from his service as ED SPM may be quashed and he may be allowed to resume his duties with immediate effect.
- ii) That he may be treated on duty since 23.10.87 with all economic benefits i.e. pay day and seniority.
- iii) That the applicant be declared as regular employee since he has completed more than 240 days, is Post Graduate and is a Scheduled Caste candidate.
- iv) That cost of this claim application be awarded to the applicant.



..11..

Ram Prasad

...11..

10. Interim order, if any prayed for :

11. In the event of application being sent by registered post, it may be stated whether the applicant desires to have oral hearing, at the admission stage and if so, he shall attach a self addressed Postcard/ Inland letter at which intimation regarding the date of ~~xxxxxx~~ hearing could be sent to him NO

12. Particulars of Bank Draft/ Postal Order in respect of the application fee.

1. Name of the Bank on which drawn. — No.

2. Demand Draft No. — No.

or

1. Number of Indian Postal Order: DD 067812
2. Name of Issuing Postoffice: High Court Bench Lucknow
3. Date of Issue of Postal Order: 16/7/1988
4. Post Office at which payable: Allahabad

13. List of enclosures :

- 1- Experience Certificate dated 23.10.87 issued by the S.P.M.
- 2- Legal notice dated 23.10.87 sent by Sri T.N. Gupta Advocate to respondent no.3.
- 3- Representation dated 12.12.1987.
- 4- PMG's letter dated 23.12.87 transferring

...12..

Ram Prasad



..12..

the applicant's appeal to Director
Postal Services.

- 5- Letter dated 11.3.88 intimating the
applicant regarding rejection of his
representation.

Verification

I, Ram Prasad son of Ram Din aged about 25 years
resident of mohalla Mahboobganj P.O. Ambarganj,
Lucknow, do hereby verify that the contents of
paras 1 to 4, 6-a to 6L 6-n to 6Q and 6U 6V 27, 8 and 10 to 13
are true to
personal knowledge and paras 5 6M, 6R to 6S 8 9
believed to be true on legal advice and that
I have not suppressed any material facts .

Date 18-7-88

Ram Prasad

Place Lucknow

Signature of the Applicant.

To

The Registrar

THE REGISTRAR
COUNSEL
(Applicant)

Grounds

1. Because, the applicant has continuously
worked for about more than 240 days.
2. Because the applicant was not assigned any
reason and no show cause notice or
opportunity for personal hearing was

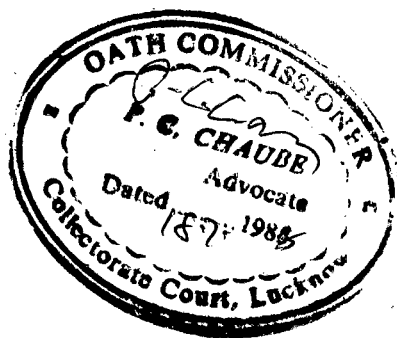
Ram Prasad

..13..

...13..

provided to him.

3. ~~That~~ Because the juniors to the applicant are still working.
4. That the applicant has an excellent and unblemished service record and he was never subjected for any departmental proceedings nor there was any public complaints against him.
5. Because the applicant is Post Graduate, fulfills the entire qualification and also is a Scheduled Caste Candidate hence he ought to have not been removed from service.
6. Because the 18% Reservation of Scheduled Caste Quota is not complete in the Postal Department at Lucknow, hence the applicant has Constitutional right to hold his post.
7. Because the applicant's age has reached the maximum of the prescribed age of Government Service and he has less chance to be recruited and employed in other Government Job.
8. Because the Hon'ble Supreme Court of India has already given directive to absorb all the persons who have completed one year's service in any cadre or capacity.



...14..

Ram Prasad

DRS
...14..

Prayer

It is therefore, most respectfully prayed
for the following reliefs :-

- i. That a Writ, order or direction in the nature of certiorari quashing the impugned order dated 11.3.88 contained in Annexure no. A-5 to the application, be passed.
- ii. That a Writ, order or direction in the nature of mandamus commanding the respondents to act in accordance with law and to treat the applicant on duty with all mesne benefits w.e.f. 23.10.87 and he should also be declared as regular and permanent employee.
- iii. That any other suitable Writ, order or direction which this Hon'ble Tribunal deems fit and proper in the circumstances of the case, in favour of the applicant be passed.
- iv. That the cost of the present application be awarded to the applicant.

Lucknow:

dt: 18.7.88

Ram Prasad

Applicant.



T.H. Gupta
Advocate
Counsel for
Applicant

Ram Prasad

In the Central Administrative Tribunal
Lucknow Bench

BETWEEN

Ram Prasad

AND

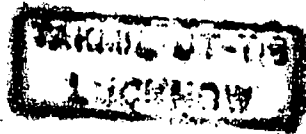
Applicant

Union of India & Ors

Respondents

ANNEXURE NO. A-1

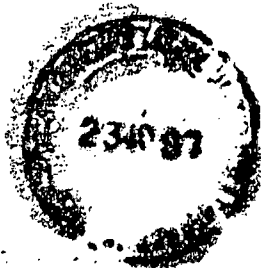
अनुभव उमान पत्र



प्रमाणित किया जाता है कि रामप्रसाद
रामदान उपडाकपाल तत्कालीन उच्च
सिफारस दिनांक 14-3-86 से 23-10-87 तक
कर किया है।
इसका पारित आत उत्तर है।

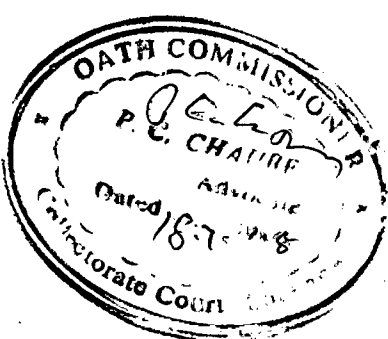
प्रमाण पत्र देना है

[Signature]
पद *[Signature]*
SPM
T. TIB PO
रु. 3



Ram Prasad

True Copy
Attested
B-N-Mia



2.

during this period he has gone under two general inspections made by the Authorities and more than dozen of verifications and the work of my client always was found to the best of satisfaction of the authorities.

3. That my client's service record has already been excellent and unblemished and he has never been subjected for any disciplinary action or proceedings on any sort of allegations and there had been no complaint of public and even not from any authorities pertaining to the work and conduct of my client.

4. That the salary of my client is being paid as per regular establishment pay bill, regularly and not from muster roll or contingency fund.

5. That my client is Senior in his cadre and so many junior persons of the same cadre are also still working in the department.

6. That my client under great pains submits that there is prevailing practice and tendency of lower officers of the department to extract the undue benefits from the staff working under them and even they do not hesitate to extract money from the working subordinate personnels and as such my client became the victim of these circumstances and when my client refused to oblige the concerned overseer, consequent upon this, he is trying to take forcible charge from my client and threatened to oust him from the job and the situation developed to the extent that my client was compelled to lodge a written F.I.R. in the police station Saadatganj, Lucknow.



Ram Prasad

7. That no notice regarding termination of job has ever been given or served upon my client or even no charge sheet

gga

3.

or any order punishing my client has ever been given or served upon my client hence forcible charge and ousting my client from his job is quite illegal, arbitrary, mala fide and without jurisdiction as well as contrary to the relevant to the conduct any service rules.

8. That my client's educational qualification is M.Com. and belongs to scheduled caste hence he ought to have been made regular on the prescribed reserved quota on preferential basis and moreover my client is entitled to the protection under Article 14 and 16 as well as article 311 of the Constitution of India.

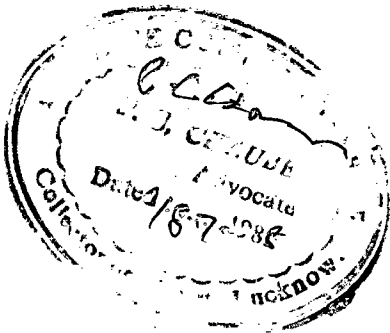
It is, therefore, most humbly requested that you please examine each and every facts stated in the foregoing paragraphs of this notice and atonce direct your concerned overseer and other concerned authorities not to harass and act arbitrarily against my client so that my client may discharge his legal duties, otherwise under compelling circumstances and facts stated in this notice, my client will be compelled to institute legal case in the competent court of law having the jurisdiction against you department at your costs and risks.

Yours faithfully,

Lucknow

~~Dated~~ October 23, 1987.

(T.N. Gupta)
Advocate



Ram Prasad

True copy
Attached
B. N. Prasad

In the Central Administrative Tribunal
Lucknow Bench

Ram Prasad

AND

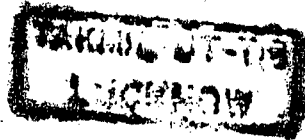
Applicant

Union of India & Ors

Respondents

ANNEXURE NO. A-1

अनुभव प्रमाण पत्र



प्रमाणित किया जाता है कि राम प्रसाद
रामदान उपडाकपाल तत्कालीन उच्च
सफाई के दिनांक 14-3-86 से 23-10-87 तक
कर किया है।
इसका चरित नाम उल्लेख है।

प्रमाण पत्र देना है

पद संकाय

S.P.M.

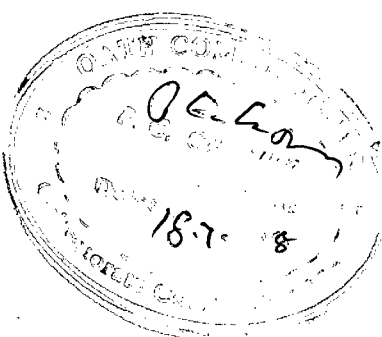
T. T. B. P. O.

Sub-3



Ram Prasad

True Copy
Attested
B.N. Khan



229

3.

or any order punishing my client has ever been given or served upon my client hence forcible charge and ousting my client from his job is quite illegal, arbitrary, malafide and without jurisdiction as well as contrary to the relevant to the conduct any service rules.

8. That my client's educational qualification is M.Com. and belongs to scheduled caste hence he ought to have been made regular on the prescribed reserved quota on preferential basis and moreover my client is entitled to the protection under Article 14 and 16 as well as article 311 of the Constitution of India.

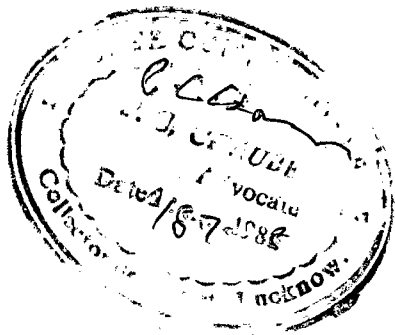
It is, therefore, most humbly requested that you please examine each and every facts stated in the foregoing paragraphs of this notice and atonce direct your concerned overseer and other concerned authorities not to harass and act arbitrarily against my client so that my client may discharge his legal duties, otherwise under compelling circumstances and facts stated in this notice, my client will be compelled to institute legal case in the competent court of law having the jurisdiction against you department at your costs and risks.

Yours faithfully,

Lucknow

~~Dated~~ October 23, 1987.

(T.N. Gupta)
Advocate



Ram Kishore

True copy
Attached
B to the
for

228

2.

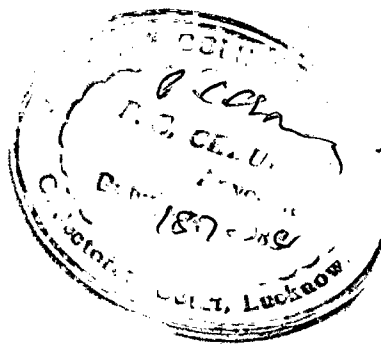
during this period he has gone under two general inspections made by the Authorities and more than dozen of verifications and the work of my client always was found to the best of satisfaction of the authorities.

3. That my client's service record has already been excellent and unblemished and he has never been subjected for any disciplinary action or proceedings on any sort of allegations and there had been no complaint of public and even not from any authorities pertaining to the work and conduct of my client.

4. That the salary of my client is being paid as per regular establishment pay bill, regularly and not from muster roll or contingency fund.

5. That my client is Senior in his cadre and so many junior persons of the same cadre are also still working in the department.

6. That my client under great pains submits that there is prevailing practice and tendency of lower officers of the department to extract the undue benefits from the staff working under them and even they do not hesitate to extract money from the working subordinate personnels and as such my client became the victim of these circumstances and when my client refused to oblige the concerned overseer, consequent upon this, he is trying to take forcible charge from my client and threatened to oust him from the job and the situation developed to the extent that my client was compelled to lodge a written F.I.R. in the police station Saadatganj, Lucknow.



Ram Prasad

7. That no notice regarding termination of job has ever been given or served upon my client or even no charge sheet

3.

or any order punishing my client has ever been given or served upon my client hence forcible charge and ousting my client from his job is quite illegal, arbitrary, malafide and without jurisdiction as well as contrary to the relevant to the conduct any service rules.

8. That my client's educational qualification is M.Com. and belongs to scheduled caste hence he ought to have been made regular on the prescribed reserved quota on preferential basis and moreover my client is entitled to the protection under Article 14 and 16 as well as article 311 of the Constitution of India.

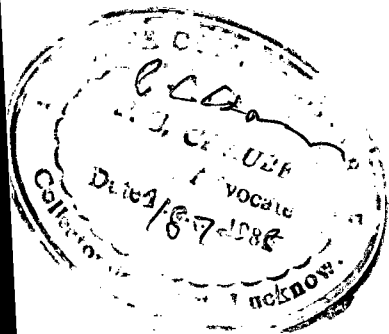
It is, therefore, most humbly requested that you please examine each and every facts stated in the foregoing paragraphs of this notice and atonce direct your concerned overseer and other concerned authorities not to harass and act arbitrarily against my client so that my client may discharge his legal duties, otherwise under compelling circumstances and facts stated in this notice, my client will be compelled to institute legal case in the competent court of law having the jurisdiction against you department at your costs and risks.

Yours faithfully,

Lucknow

~~Dated~~ October 23, 1987.

(T.N.Gupta)
Advocate



Ram Prasad

True copy
Attached
B. P. M.
for

In the Central Administrative Tribunal, Lucknow Bench.

B E T W E E N

Ram Prasad

..... Applicant.

A N D

Union of India and others

..... Respondents.

ANNEXURE No. A-3

R E P R E S E N T A T I O N

To,

The Postmaster General,
U.P. Circle,
Lucknow - 226 001.

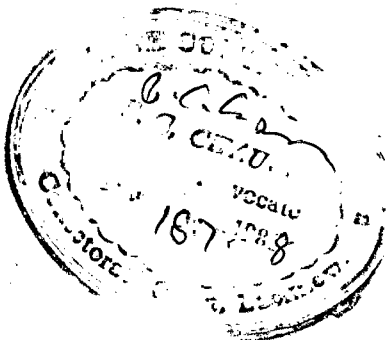
Subject: Representation against wrongful termination of
of EDAs- Case of Sri Ram Prasad EDSPM- Lakmil -ut-
Tib EDSO under Lucknow Chowk H.O. Service beyond one-
year and seven months.

Sir,

Most humbly and respectfully I beg to submit my
representation against the wrongful termination of my service
-s without assigning any reason and without affording
opportunity to defend and pray your humble self to kindly
consider the case sympathetically in my favour as under:-

1. That, I, Ram Prasad S/o Sri Ram Din R/o Mahboobganj
Harijan Basti, Mohalla Amberganj, Lucknow-226003 possess
Post graduate degree and I am a young man belonging to the
scheduled caste community.

2. That, as an unemployed graduate, I was in search
of my livelihood and by good luck I came to know that there
was a vacancy in the postal department at T.Tib E.D.S.O.
under Lucknow Chow. H.O. and I offered myself for the job
in January 1986.



Ram Prasad

821

2.

3. That, under the Govt. of India, Ministry of communications, department of posts under rule 2 of the E.D.As (conduct and service) Rules 1964 on the post of E.D.S.P.M., I fulfilled all formalities of recruitment and thereafter I myself being found eligible and suitable for the job got appointment on the post on 14.3.86.

4. That, thereafter, I continued in job upto 23.10.87 about more than one year and seven months.

5. That, while working on the post I was paid full pay and allowances on the regular establishment pay-bills, not on muster rolls.

6. That, while in service, I underwent one inspection by an officer of the office of the postmaster General U.P. ~~Dist~~ circle, Lucknow.

7. That, while in service, I underwent one inspection by the Asstt. Superintendent of post offices, Lucknow Division.

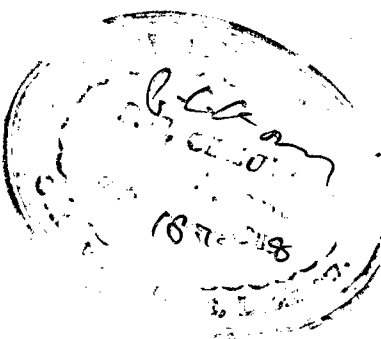
8. That while in service, I underwent several verifications and inspections by the Lower authorities as overseers etc.

9. That, while in service I received arrears of D.A., and regular increase in emoluments etc.

10. That while in service I was all along treated at par with the other similar employees of the department.

11. That having all the terms and conditions of the services being fulfilled, I was found most fitting person for the job, hence continued in it without break since 23-10.87.

12. That, all of a sudden, without assigning any reason and without affording any opportunity to be heard, I was



Ram Prasad

7/2

3.

removed from the job depriving me off my livelihood.

13. That, under the schedule of rule 27(1) of E.D.As (condition and service) rules 1964, the Senior Supdt. of post offices, Lucknow Division is my appointing authority who only is empowered to take action against me

14. That, there is nothing against me in writing by my appointing authority i.e. the Senior Superintendent of post offices Lucknow Division.

15. That, only the lower Authorities below the rank of my appointing authority continued harassing me against which I filed F.I.R. in the police station at Saadatganj Lucknow-3 and also I approached to legal advice after smelling danger to my job and livelihood.

16. That, on plight and seeking legal shelter, one Sri T.N.Gupta Advocate gave legal notice to the Senior Superintendent of post offices in writing on 23.10.1987.

17. That the notice given by said Shri T.N.Gupta still remains unanswered and unreplyed till now hence this representation.

18. That, under the provisions of CCs(CCA) Rules 1965 and the Article 311(2) of the constitution of India, I am entitled for full protection of my job and livelihood and the action depriving me off the legal claims is totally bad and against the principles of natural justice.

19. That, I am also entitled for protection under different provisions of different paras of P&T Manual volume III.

20. That, the cause of action arose on 23.10.87 the day, the representationist was deprived off the job be engaging

18-7-87

Ram Prasad

MM

4.

another person without reason and without cause.

21. That I therefore, request to kindly intervene and treat the service as continued with all benefits in view of arbitrary and mala fide order of termination of service on the following grounds besides enumerated above.

(i) That, I have successfully without interruption completed one year and seven months i.e. beyond 240 days.

(ii) That, no reason was assigned and no opportunity of show cause or personal hearing was provided.

(iii). That, there is nowhere any stigma in the service or conduct.

(iv) That, Juniors to the representationist are in the job.

(v) That, the Hon'ble Supreme court of India has already given directive to absorb all the persons who have completed one year of service in any cadre or capacity

P R A Y E R

I, therefore, most humbly and respectfully pray your honour to kindly consider my Representation and allow me to continue in the service or any suitable order as deemed fit by your honour.

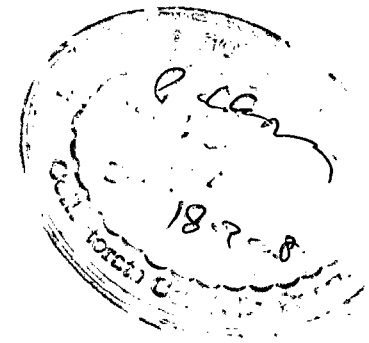
Dated 12.12.1987

Yours faithfully,

(Ram Prasad)

Copy to: The Postmaster General , direct for information and necessary action.

Ram Prasad son of Sri Ram
Deen,
Mohalla Mahbubganj Post
office Amberganj Lucknow.3



Ram Prasad

True copy
Attahed
B.N. Mehta

In the Central Administrative Tribunal
Lucknow Bench

-23-

Ram Prasad

BETWEEN

AND

Applicant

Union of India & Ors

Respondents

ANNEXURE NO A-4

भारतीय डाक विभाग

कार्यालय पोस्ट मास्टर जनरल उत्तर प्रदेश पारमण्डल लखनऊ - 226001.

सेवा में,

निदेशक डाक सेवाएँ,

लखनऊ-226007

पत्रांक: स्टाफ/381 एक्स ए/असातिरेत/लखनऊ दिनांक 10/12/87

विषय:

भारत डाक प्रा. लि. "लकमिल उल्लेख" के पद पर पुनः नियुक्ति

श्री राम प्रसाद निवासी रामपुरा गाँव का दिनांक 1/11/87 का आवेदन/प्रतिवेदन/परिणाम संलग्न है।

कृपया इस सम्बन्ध में आप अपने स्तर पर सक्षम कार्यवाही करें एवं उचित निर्णय लेकर परिणाम से आवेदक तथा इस कार्यालय को सूचित करें।

यह आवेदन/प्रतिवेदन/परिणाम सचिव, भारतीय डाक विभाग, संघार मंत्रालय, नई दिल्ली के माध्यम से प्राप्त हुआ है तथा परिणाम से उन्हें अवगत कराया जावे। अतः आप भी इस परिणाम से अवगत कराये।

आवेदन उदा. को इस सम्बन्ध में सूचित किया जा रहा है कि वे भविष्य में आपके कार्यालय से इस सम्बन्ध में पत्र व्यवहार करें।

संलग्नक:

4+4=8

राम प्रसाद

पोस्ट मास्टर जनरल
उ.प्र. पारमण्डल लखनऊ

प्रतिनिधि:

श्री राम प्रसाद

पोस्ट मास्टर जनरल के सम्बन्ध में सूचित किया जाता है कि वे निदेशक डाक सेवाएँ से सम्पर्क करें।

Ram Prasad



पोस्ट मास्टर जनरल
उ.प्र. पारमण्डल लखनऊ

True copy attached
1/11/87

In the Central Administrative Tribunal
Lucknow Bench

ABK

BETWEEN
Ram Prasad _____ Applicant
AND
Union of India & Ors _____ Respondents
ANNEXURE NO A-5

माननीय डाक विभाग

प्रमाण

श्री राक प्रसाद पुत्र श्री

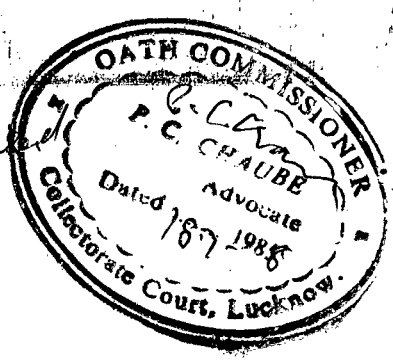
रामदीन मेह. महबूब गंज (हजियतपुर)
लखनऊ - 226 03

मार्गक हज/परम. 2/8 लख. 3 दि. 11.3.88
विभाग: पद न्यून किसे जाने के सम्बन्ध में प्रतिवेदन

आपके प्रतिवेदन दिनांक 12.12.87 के
मार्ग में सूचित किया जाता है कि आपका
प्रतिवेदन निदेशक डाक विभाग लखनऊ द्वारा
गिरत कर दिया गया है क्योंकि आपने
किसी भी विवेचन पर स्थापना के रूप
में कोई भी प्रमाण और विवरण
स्थापना के रूप में कोई प्रमाण/अनुमान
नहीं है।

प्रमाण
Date: 11.3.88
By: [Signature]

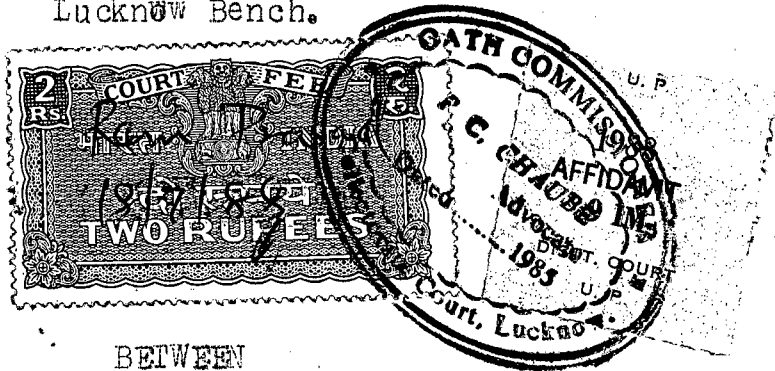
Ram Prasad



True copy
afforded
[Signature]

A37

In the Central Administrative Tribunal,
Lucknow Bench.



BETWEEN

Ram Prasad. .. Applicant.

AND

Union of India & others. .. Respondents.

AFFIDAVIT

I, Ram Prasad aged about ²²26 years,
son of Ram Din, resident of Mohalla Mahboobganj,
P.O. Ambarganj, Lucknow, the deponent do hereby
solemnly affirm and state on oath as under :-

1. That the deponent is the applicant in the
above noted application, hence he is fully
conversant with the facts deposed in this affidavit.

2. That the contents of the accompanying
application have been read over and explained
to him and he has understood the same.

²
a b-n to b-q and b-u to b-v and 7, 8, 9, 10-13
3. That the contents of paragraphs 1 to 4, ^{a2}b-a to b-l
are true to the deponent's own knowledge and those
of paras ^{or}5 and b-m and b-r to b-s ^{and 9a2}are based on
legal advice which are believed by the deponent to
be true.

4. That the annexures no.1, 4 and 5 are the
photostat copies and annexures no.2 and 3 are the

..2..

Ram Prasad



830

..2..

typed true copies , which have been compared
from their respective originals.

Lucknow:
18.7.88.

Ram Prasad
Deponent.

Verification

I, the above named deponent do hereby verify
that the contents of paras 1 to 4 above are true
to my own knowledge. Nothing material has been
concealed therein and no part thereof is false, so
help me God.

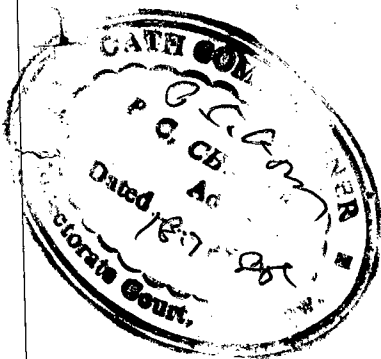
Signed and verified today in the
court compound at Lucknow.

18.7.88.

Ram Prasad
Deponent.

I identify the deponent who has signed
before me today.


(T.N. GUPTA)
Advocate.



Swornly affirmed before me in office
on 11.3.88 by Ram Prasad
who is identified by Shri T.N. Gupta Adv.
Clerk to Shri.....
I have satisfied myself by examining the
deponent that he understands the contents of
this affidavit which has been read out and
explained to him fee Rs. 1/- 1-50

P. C. CHAUDHARY
Advocate
Collectorate Court, Lucknow
Date 18-7-1988

1789

Central Administrative Tribunal

व कबालत ओमान

[वादी] अपीलान्त

प्रतिवादी [रैस्पॉण्डेंट]

Lucknow Bench, Lucknow महोदय

Ram Prasad

वकालतनामा

Case No. --- of 1988

Distt - Lucknow

Ram Prasad

vs.

Union of India
Through Ministry of
Communication, Postal Dept.
New Delhi & others

बनाल

न. मुकद्दमा

सन्

पेशी की ता.

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

T. N. Gupta, Advocate

वकील

महोदय

एडवोकेट ✓

B. N. Mishra, Adv.

ना वकील नियुक्त करके प्रतिज्ञा (इकरार)
इस मुकद्दमा में वकील महोदय स्वयं
कुछ पैरवी व जबाब देही व प्रश्नोंत्तर करें व
लीटावें या हमारी ओर से डिगरी जारी क
मुलहनामा व इकबाल दावा तथा अपील
या अपने हस्ताक्षर से दाखिल करें और
कोई रुपया जमा करें या हमारी विपक्ष
क्या हुआ रुपया अपने या हमारे हस्ताक्ष
रसाद से लेवे या पंच नियुक्त करें—वकील महोदय
सब कार्यवाही हमको सर्वथा स्वीकार है और होगा
करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने
रहूंगा अगर मुकद्दमा अवम पैरवी में एक तरफा मेरे
जाता है उसको जिम्मेदारी मेरे वकील पर नहीं
वकालतनामा लिख दिया प्रमाण रहे और समय पर

हस्ताक्षर

Ram Prasad

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

18

महीना

7

सं 1288 E

Accepted
B. N. Mishra
Adv.

Accepted

AYO

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, LUCKNOW

O.A. No.55 of 1988(L)

Fixed on 19.9.88

Ram Prasad

... Applicant

Versus

Union of India and others

... Respondents

COUNTER AFFIDAVIT ON BEHALF OF
OPPOSITE PARTIES.

I, D.R. Marak. aged about 35 years son of
Shri R.M. Sangama at present posted as Senior Superintendent
of Post Offices, Lucknow Division, Lucknow do hereby
solemnly affirm and state as under:-

1. That the deponent is posted as Respondent No.3
in the above noted application and as such he is well
conversant with the facts of the case and he has
also been authorised to file counter affidavit on
behalf of the other opposite parties.

2. That ~~the~~ before giving parawise replies
of the application it is necessary to give brief
history of the case which are as under:-

(a) That Shri Ashige Ali regular EDSPM Tak-mil-ul
Tib EDSP was put off duty vide Gr. Supdt of Post
Offices Lucknow Division Memo No.VR/T.Tib/85 dated 3.1.1986
as he was found involved in a case of misappropriation of

1988
AFFIDAVIT
97 IM

DIST. COURT
U. P.

29/9

29/9/88

AM

Government money. Shri Raj Kumar ED Packer of T.Tib EDSO was engaged as EDSM on 4.1.86 by the Asstt. Supdt of POs West Sub Division LW temporarily, Sri Raj Kumar had provided to the applicant as his substitute on the post of EDPacker T.Tib EDSO at his own risk and responsibility. This stop gap arrangement was approved by the ASPO West Sub Divn, LW vide his memo No.A.T/Tib dated 3/4.1.86.

(b) That later on Shri Raj Kumar handed over the charge of EDSM T.Tib to the applicant (substitute ED Packer) on 14.3.86 F/N. at the ~~own risk and~~ risk and responsibility of one Shri Prabhu Dayal, Postman, Lucknow Chowk HO and proceeded to work as outsider postman/Group-D in other PO without obtaining any order from ASPOs or from the Sr. Supdt of Post offices regarding the arrangement made by him. The applicant however, continued to work as EDSM T.Tib from 14.3.1986 to 23.10.87 in stop gap arrangement.


(c) That due to closure of four urban mobile BDs with effect from 31.1.87 few ED officials were rendered surplus and they were sitting idle for want of vacancies. As the departmental unions were pressing hard for their alternate employment, it was therefore considered

Amte 29/1/88

442

necessary to engage them on such posts temporarily and accordingly ASPOs West was directed to engage to one Shri Prakash Chandra ~~ASPO~~ a retrenched FD official to the post of EDSPM T. Tib temporarily terminating the existing stop-gap arrangement, the applicant substitute EDSPM T.Tib avoided to hand over the charge on 20.10.87. On much pursuation he handed over the charge of T.Tib EDSO to Shri Prakash Chandra a retrenched ED official on 23.10.87 in the presence of ASPOs west Sub-Division.

3. The contents of para 6(a) of the application are admitted to the extent that the applicant worked on the post of EDSPM Tak mil-ul-Tib as substitute from 14.3.86 to 23.10.87. The applicant was never appointed as EDSPM T.Tib He was purely on outsider substitute being provided by Shri Raj Kumar EDPacker T.Tib on 4.1.86 at his own risk and responsibility who was engaged as EDSPM T.Tib by the ASPOs West Lucknow in place of Sri Ashique Ali the regular EDSPM who was under put off duty. Later on Shri Raj Kumar handed over the charge of EDSPM T.Tib to Sri Ram Prasad, the applicant substitute EDPacker T.Tib on 14.3.86 on risk and responsibility of Shri Prabhu Dayal Postman Lw Chowk HQ and proceeded to work as outsider on departmental posts of postman/Group 'D' in other POs without obtaining any formal approval from ASPOs West or this office.


29/9


29/9/88

A43

4. That the contents of para 6(b) of the application needs no comments.

5. That the ~~contents~~ of para 6(c) of the application are not admitted because no vacancy for the post of EDSFM T.Tib was advertised and no formalities for the appointments were observed.

6. That the contents of para 6(d) of the application are admitted to the extent that he worked on the post of EDSFM T.Tib as substitute in stop gap arrangement as such he had no claim for permanent employment.

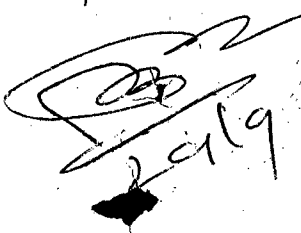
7. That the contents of para 6(e) of the application are admitted.

8. That the contents of paragraph 6(f) of the application needs no comments.

9. That the contents of para 6(g) of the application in reply it is submitted that the applicant was purely an outsider and not a regular employee of the Department.

10. That the contents of para ⁶~~7~~(h) of the application are not admitted. There was no clear vacancy as such the question of making an appointment or retaining him in job does not arise.

11. That the contents of para ~~7~~ 6 (i) of the application are not admitted because the ASFC, West, Lucknow was asked


20/9/88

Chmmd
20/9/88

Am

by the Sr. Supdt of Post offices to terminate the existing arrangement to adjust to a retrenched ED employee Sri Prakash Chandra.

12. That the contents of para 6(j) of the application in reply it is submitted that it is under EDA Rules that any substitute can be removed from the job without any ~~xx~~ prior information and assigning any reason.

13. That the contents of para 6(k) of the application in reply it is submitted that the applicant was removed from the job under instruction from the higher authorities as he was purely outsider and did not have any right to the post.

14. That the contents of para 6(l) of the application are admitted.

15. That the contents of para 6(m) of the application are not admitted as article 311(2) applied only to the civil servants holding a civil post. The applicant was working as substitute and the provision of article 311(2) are not applicable to this case.

16. That the contents of para 6(n) of the application are admitted to the extent that the applicant was engaged as substitute by the regular EDPacker purely on temporary basis as such he has no claim for the post. He was not appointed by the department. ~~The decision of the Supreme Court of India is not known.~~

29/9/88

29/9/88

MS

17. That the contents of paragraph 6(o) of the application, ~~xxx~~ in reply it is submitted that the representation was received and disposed off according to the departmental instructions on the subject.

18. That the contents of paragraph 6(p) ^{& (q)} of the application are admitted.

19. That the contents of para 6(r) of the application in reply it is submitted that the orders passed are correct in accordance with the instructions on the subject.

20. That the contents of para 6(s) to (v) of the application need no comments.

21. That the contents of paragraphs 7 & 8 of the application need no comments.

22. That the contents of paragraph 9 of the application, in reply it is submitted that the petitioner is not liable to get any relief.

23. That the contents of paragraphs 10 to 13 of the application do not require any comments from the opposite parties.

24. That the grounds taken by the petitioner in the concluding paragraph of the application are not tenable in the eyes of law and as such the applicant ~~is~~ not

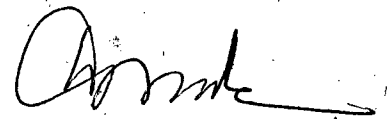
32
29/9

Amr
20/9/88

21

446

entitled to get any relief as prayed for in the instant application as such the application filed by the petitioner is liable to be dismissed with costs to the opposite parties.

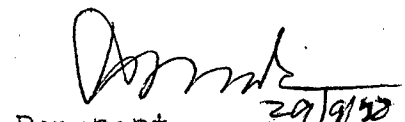

29/9/88
Deponent.

Lucknow

Dated 29/9/1988.

Verification.

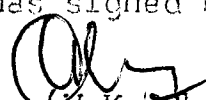
I, the above named deponent do hereby verify that the contents of paragraphs 1 to 9 are true to my personal knowledge, those of paragraphs 2 to 21, 23, 24 are believed by me to be true on the basis of records and information gathered and those of paragraphs 22 to 24 are also believed by me to be true on the basis of legal advice. No part of this affidavit is false and nothing material has been concealed so help me God.


29/9/88
Deponent.

Lucknow

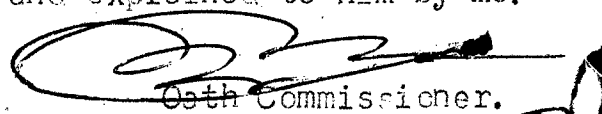
Dated 29/9/1988.

I identify the deponent who has signed before me and is also personally known to me.


(V.K. Chaudhari)
Advocate.

Solemnly affirmed before me on 29/9/88 at 6:00 am/pm by the deponent who is identified by Shri VK Chaudhari, Advocate, High Court, Lucknow Bench.

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


Oath Commissioner.
29/9/88

2119
9e
Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, GANDHI BHAWAN
LUCKNOW

No. CAT/CB/LKO/

539

Dated :

2/12/1988

Registration No. 55 of 1988 (1)

Ram Pd.

Applicant

Versus

U.O.A

Respondent's

Ram Prasad s/o Ram Din,

70 Mahala Mahabogani,

P.O. Ambergan, Lucknow

Please take notice that the applicant above named has presented an application a copy whereof is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed 13 day of 12 1988 for filing the copies of petition for notices to Respondents.

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

Given under my hand and the seal of the Tribunal this 2 day of 12 1988.

For DEPUTY REGISTRAR

dinesh/

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW

INDEX SHEET

Cause Title DA SS of 1988(2)Name of the parties Ram Prasad Applicants.

Versus

Union of India

Respondents.

Part B.C.

Sl.No.

Description of documents

Page

File A


(1) Check list	_____	A1-A2
2. Order Sheet	_____	A3-A10
3. Judgment	_____	None
3. Petition - Annexure	_____	A11-A30
4. Power	_____	A39
5. C.A.	_____	A40-A46
6. Cont. App.	_____	A47-A62
7. Reply	_____	A63-A75
8. Power	_____	A76-A77

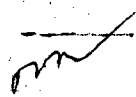
File B

B78-B117

File C

C118-C119

B/c handwritten/
destroyed.

 P.O. (S)



(A)

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No.

55

of 198

OLL

APPLICANT (s)

Ram Prasad

RESPONDENT(s)

U. P. G. through Minry. of Communication,
Postal Deptt., New Delhi and others

Particulars to be examined

Endorsement as to result of Examination

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

yes

yes

yes

only 2 complete sets of the application have been filed

yes

—

—

4. Has the document of authorisation, Vakalat-nama been filed ?

yes

5. Is the application accompanied by B. D. /Postal-Order for Rs. 50/-

DD 067812 of 16/7/80

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

AS

CAT, Circuit Bench at Lucknow

①
20.7.08

From: Ajay Dohi, Bm.

No body is present on behalf of the applicant. The case is adjourned to

19-9-08 for admission.

3 Bm.

Am

② 18.9.08 file for Admission

15/11/09

OK

No extra copy to be served on the opposite party have been filed by the counsel for the applicant. Put up on 21.11.09 before D.R(J)
Submitted for order
D.R(J)

fish

③

21.11.09

No. ~~Submitted~~ Adjourned to 24.11.09

fish
21/11/09

(3) (14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

SA 55/88 (4)

REGISTRATION No. _____ of 198 .

APPELLANT
APPLICANT

Ram Prasad

VERSUS

DEFENDANT
RESPONDENT

U.O.I.

Order for and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
26.4.89	<p>(9)</p> <p>Hon. D.S. Misra, F.M. Hon. D.K. Agrawal, J.M.</p> <hr/> <p>Shri. V.K. Chaudhary for the respondents filed reply. Since no one is present for the applicant, he has offered to send it by Registered Post to the applicant who may be given rejoinder affidavit, if any, within a month.</p> <p>list it for final hearing on 28.7.89.</p> <p style="text-align: center;">De J.M.</p> <p style="text-align: right;">A.M.</p>	<p>OR</p> <p>Counsel for respondents has not filed any reply so far. Submitted for orders. Adj. 23/4</p> <p>OR</p> <p>No rejoinder filed Submitted for hearing 27/7</p>

No Sitting Adj. to 15/9/89
for final hearing 28/8

(19) AS

25.10.91
D.R.

Both the parties
are absent today.
Applicant to file
Reply by
31/1/92.

(20)

3.1.92
D.R.

Both the parties
are absent today.
Reply has not
been filed. Applicant
to file it, by 20/3/92.

(21)

23.3.92
D.R.

This file case has
been taken up today
because on the
date fixed office was
closed. Counsel for
the applicant is
present. He is further
ordered to file Reply
by 5/5/92.

(22)

7/5/92 DR Both the parties
are absent. Applicant
file to reply by
27-92

(A6)

O A 55/88

(26)

7.7.92
D.R.

Both the parties are
absent. Applicant
did not file Rejoinder
so far. He is further
ordered to file Rejoinder
by 4/9/92.

(27)

4-9-92
D.R.

Both the parties are
absent. Rejoinder has not
been filed till today
It is a case of the year
1988. List for final hearing
on 3-11-92

(28)

3-11-92

No signing of D.R. adj
19.11.92

19.11.92

for Mr Justice V.C. Simons, J
for Mr K. O'Byrne, AM

learned counsel for the
applicant states that the
applicant is not interested
in pursuing the matter.
In view of the statement applicant
is dismissed as with reason.

OK
C.A. has been filed
But no R.A. filed
till today.
17-11-92