

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE OA 63 OF 1988

NAME OF THE PARTIES Bhairo Prasad Applicant

Versus

The State of Madhya Pradesh & others Respondent

Part A.

Sl.No.	Description of documents	Page
1	General Index	1
2	Order sheet	1
3	Judgement dated 26-8-88	5
4	Petition alongwith annexure	23
5	counter affidavit	12
6	Rejoinder affidavit	9
7	Application alongwith document Annexure	12
8	In the supreme court of India	A-13-1014
9	(Civil) NO. 205 of 1989 / 57489/ 23-2-95	
10		
11		
12		
13		
14		
15		
16		
17		
18		

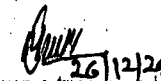
CERTIFICATE

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

Dated 26/12/2011

Counter Signed.....

Section Officer/In Charge

  
Signature of the  
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Lucknow Bench

INDEX-SHEET

CAUSE TITLE C.A. No 63 OF 1988. (2)

Name of the Parties

Bhaira Prasad

Versus

State of Madhya Pradesh & others

Part A, B & C

S.No.	DESCRIPTION OF DOCUMENTS	PAGE
A1	General Index - - - -	1
A2	Order sheet - - - - -	1
A3	Judgement dated 26-8-88	5
A4	Petition along with annexures -	23
A5	Counter affidavit - - -	12
A6	Rejoinder affidavit - - -	9
A7	{ Application along with document -	12
-	{ Annexures - - - - -	
B1	Vakalatnamas (Power) - -	1
B2	Notice - - - - -	1

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH? CIRCUIT BENCH AT LUCKNOW.  
LUCKNOW.**

Gandhi Bhavan,  
Opp Residency,  
Lucknow,

Dated the 21st Feb. 89.

To  
Shri,

- ✓ 1. Bhairon Prasad, aged about 46 years,  
S/o Late Gaya Prasad Pandey,  
R/o Village & Post Office Ghiya Nau,  
Police Station Baronda,  
Distt. Satna Madhya Pradesh.
2. The State of M.P. through the Secretary  
Home Deptt. Govt. of Madhya Pradesh,  
Civil Secretariat Bhopal.
3. The Director General and Inspector General of  
Police Madhya Pradesh Police Headquarters, at Bhopal.
4. The Superintendent of Police, District Executive  
Force, Khondawa, Madhya Pradesh.
5. The Assistant Director,  
Subsidiary Intelligence Bureau,  
U.P. Lucknow.
6. The Assistant Control Intelligence Officer (I)  
40/476-Earl Hat, Bahraich.
7. The Director,  
Subsidiary Intelligence Bureau,  
S.I.B. Headquarters,  
New Delhi.
8. Central Administrative Tribunal Additional Bench  
Allahabad Circuit Bench at Lucknow,  
Through its Vice Chairman.

Please find enclosed herewith the Orders of Hon'ble  
Supreme Court dated the 9th February, 1989 passed by the  
Bench consisting of Hon'ble Justice Mr. K.J. Shetty,

P.T.O.

# IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO. 205 OF 1989.  
(Under Article 136 of the Constitution of India from the Judgment and order dated 26th August, 1988 of the Central Administrative Tribunal, Allahabad (Lucknow Bench) Lucknow in Registration (O.A.) No. 63 of 1988(L).

WITH

No. of  
CIVIL MISCELLANEOUS PETITION NO. 512 OF 1989.  
(Application for stay by Notice of Motion with a prayer for an ex-parte Order).

Bhairon Prasad, aged about 46 years,  
s/o Late Gaya Prasad Pandey,  
r/o Village & Post Office Ghiya Mau,  
Police Station Barondha,  
Distt. Satna Madhya Pradesh.

Certified to be true copy  
Assistant Registrar (Judl.)  
..... 1989  
Supreme Court of India

... PETITIONER

- VERSUS -

1. The State of M.P. through the Secretary Home Deptt. Govt. of Madhya Pradesh, Civil Secretariate Bhopal.
2. The Director General and Inspector General of Police Madhya Pradesh Police Headquarters, at Bhopal.
3. The Superintendent of Police, District Executive Force, Khandawa, Madhya Pradesh.
4. The Assistant Director, Subsidiary Intelligence Berau, U.P. Lucknow.
5. The Assistant Central Intelligence Officer (I) 48/476-Bari Hat, Bahraich.
6. The Director, Subsidiary Intelligence Bureau, S.I.B. Headquarters, New Delhi.
7. Central Administrative Tribunal Additional Bench Allahabad Circuit Bench at Lucknow, through its Vice Chairman.

... RESPONDENTS

9th FEBRUARY, 1989

CORAM:

HON'BLE MR. JUSTICE K. JAGANNATHA SHETTY  
HON'BLE MR. JUSTICE A. M. AHMADI  
HON'BLE MR. JUSTICE KULDIP SINGH

For the Petitioner : M/s. S.D. Singh, Manoj Saxena and  
R.D. Upadhyay, Advocates.

THE PETITION FOR SPECIAL LEAVE TO APPEAL AND THE  
APPLICATION FOR STAY above-mentioned being called on for

-/ 2 /-

hearing before this Court on the 9th day of February, 1989 UPON hearing Counsel for the Petitioner, THIS COURT, while directing issue of Notice to the Respondents herein to Show Cause why Special Leave be not granted to the Petitioner herein to appeal to this Court from the Judgment and Order above mentioned, DOTH ORDER, that pending the hearing and final disposal by this Court of the application for stay after notice, the operation of the order dated 26th August, 1988 of the Central Administrative Tribunal Allahabad (Lucknow Bench) Lucknow in Registration (O.A.) No.63 of 1988 (L) be and is hereby stayed;

AND THIS COURT DOTH FURTHER ORDER THAT this ORDER be punctually observed and carried into execution by all concerned.

WITNESS the Hon'ble Shri Raghunandan Swarup Pathak, Chief Justice of India at the Supreme Court, New Delhi dated this the 9th day of February, 1989.

*S.S.*  
(S.S.SRIVASTAVA)  
ADDITIONAL REGISTRAR.

a/c  
NO.CAT/LKO/CB/5/88-89 91670 922

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH? CIRCUIT BENCH AT LUCKNOW.  
LUCKNOW.

Gandhi Bhavan,  
Opp Residency,  
Lucknow,

Dated the 21st Feb. 89

To  
Shri,

1. Bhairon Prasad, aged about 46 years,  
S/o Late Gaya Prasad Pandey,  
R/o Village & Post Office Ghiya Mau,  
Police Station Barondha,  
Distt. Satna Madhya Pradesh.
2. The State of M.P. through the Secretary  
Home Deptt. Govt. of Madhya Pradesh,  
Civil Secretariat Bhopal.
3. The Director General and Inspector General of  
Police Madhya Pradesh Police Headquarters, at Bhopal.
4. The Superintendent of Police, District Executive  
Force, Khandawa, Madhya Pradesh.
5. The Assistant Director,  
Subsidiary Intelligence Bureau,  
U.P. Lucknow.
6. The Assistant Central Intelligence Officer (I)  
48/476-Bari Hat, Bahraich.
7. The Director,  
Subsidiary Intelligence Bureau,  
S.I.B. Headquarters,  
New Delhi.
8. Central Administrative Tribunal Additional Bench  
Allahabad Circuit Bench at Lucknow,  
Through its Vice Chairman.

Please find enclosed herewith the Order passed by the  
Supreme Court dated the 9th February 1989. K.J. Shetty,  
Bench consisting of Hon'ble Justices

P.T.O.

# IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

**PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO. 205 OF 1989.**  
 (Under Article 136 of the Constitution of India from  
 the Judgment and order dated 26th August, 1988 of the  
 Central Administrative Tribunal, Allahabad (Lucknow  
 Bench) Lucknow in Registration (O.A.) No. 63 of 1988(L).

WITH  
 No. of  
**CIVIL MISCELLANEOUS PETITION NO. 512 OF 1989.**  
 (Application for stay by Notice of Motion with a  
 prayer for an ex-parte Order).

Bhairon Prasad, aged about 46 years,  
 s/o Late Gaya Prasad Pandey,  
 r/o Village & Post Office Ghiya Mau,  
 Police Station Barondha,  
 Distt. Satna Madhya Pradesh.

Certified to be true copy  
 Assistant Registrar (Judl.)  
 ..... 1989  
 Supreme Court of India

... PETITIONER

- VERSUS -

1. The State of M.P. through the Secretary  
Home Deptt. Govt. of Madhya Pradesh,  
Civil Secretariate Bhopal.
  2. The Director General and Inspector General  
of Police Madhya Pradesh Police Headquarters,  
at Bhopal.
  3. The Superintendent of Police, District  
Executive Force, Khandawa, Madhya Pradesh.
  4. The Assistant Director,  
Subsidiary Intelligence Bureau, U.P. Lucknow.
  5. The Assistant Central Intelligence Officer (I)  
48/476-Bari Hat, Bahraich.
  6. The Director, Subsidiary Intelligence Bureau,  
S.I.B. Headquarters, New Delhi.
  7. Central Administrative Tribunal Additional Bench  
Allahabad Circuit Bench at Lucknow,  
through its Vice Chairman.
- ... RESPONDENTS

9th FEBRUARY, 1989

CORAM:

HON'BLE MR. JUSTICE K. JAOANNATHA SHETTY  
 HON'BLE MR. JUSTICE A.M. AHMADI  
 HON'BLE MR. JUSTICE KULDIP SINGH

For the Petitioner : E/s. S.D. Singh, Manoj Saxena and  
 R.D. Upadhyay, Advocates.

THE PETITION FOR SPECIAL LEAVE TO APPEAL AND THE  
 APPLICATION FOR STAY above-mentioned being called on for

-/ 2 /-

hearing before this Court on the 9th day of February, 1989  
UPON hearing Counsel for the Petitioner, THIS COURT, while  
directing issue of Notice to the Respondents herein to Show  
Cause why Special Leave be not granted to the Petitioner  
herein to appeal to this Court from the Judgment and Order  
above mentioned, DOTH ORDER, that pending the hearing and  
final disposal by this Court of the application for stay  
after notice, the operation of the order dated 26th August,  
1988 of the Central Administrative Tribunal Allahabad (Lucknow  
Bench) Lucknow in Registration (O.A.) No.63 of 1988 (L) be  
and is hereby stayed;

AND THIS COURT DOTH FURTHER ORDER THAT this ORDER  
be punctually observed and carried into execution by all  
concerned.

WITNESS the Hon'ble Shri Raghunandan Swarup Pathak,  
Chief Justice of India at the Supreme Court, New Delhi dated  
this the 9th day of February, 1989.

*S.S.*  
(S.S. SRIVASTAVA)  
ADDITIONAL REGISTRAR.

*ME*

All communications should  
be addressed to the Registrar,  
Supreme Court, by designation,  
NOT by name.  
Telegraphic address :—  
"SUPREMECO"

D.No.536/89/XI

# SUPREME COURT INDIA

FROM

The Assistant Registrar  
Supreme Court.

To

✓ The Central Administrative Tribunal  
Allahabad, Lucknow Bench  
at ~~Allahabad~~ Lucknow.

Dated New Delhi, the ... 10th February, 1989.

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO. 205/89.  
WITH  
CIVIL MISC. PETITION NO. 512 OF 1989.  
( Application for stay ).

Bhairon Prasad

... Petitioner

-VS-

State of MP &amp; Ors.

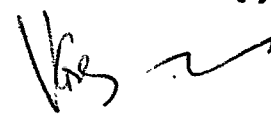
... Respondents

Sir,

I am directed to forward herewith for your information,  
record and necessary action a Certified copy of the Order of this  
Court dated 9th February, 1989 passed in the matter above-  
mentioned.

Please acknowledge receipt.

Yours faithfully,

  
Assistant Registrar.

Encl: As above.

-.-

SUPREME COURT  
CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO. 205 OF 1989.

WITH  
CIVIL MISCELLANEOUS PETITION NO. 512 OF 1989.  
(Application for stay).

No. of 198

BHAIRON PRASAD

Appellant  
Petitioner

*Versus*

STATE OF M.P. & ORS.

Respondent

ORDER DIRECTING ISSUE OF SHOW CAUSE NOTICE  
AND GRANTING EX PARTE STAY.

DATED THIS THE 9th DAY OF FEBRUARY, 1989.

Dated the day of 198

(AVATGA 11/11/89)  
JAN 11

11/10/1989  
SEALED IN MY PRESENCE

Engrossed by  
Examined by khanduri  
Compared with  
No. of folios

SHRI RD UPADHYAY  
Advocate on Record for the Petitioner.

SHRI  
Advocate on Record for

# IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

**PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO. 205 OF 1989.**  
 (Under Article 136 of the Constitution of India from  
 the Judgment and order dated 26th August, 1988 of the  
 Central Administrative Tribunal, Allahabad (Lucknow  
 Bench) Lucknow in Registration (O.A.) No. 63 of 1988 (L)).

WITH  
 No. of  
**CIVIL MISCELLANEOUS PETITION NO. 512 OF 1989.**  
 (Application for stay by Notice of Motion with a  
 prayer for an ex-parte Order).

Bhairon Prasad, aged about 46 years,  
 s/o Late Gaya Prasad Pandey,  
 r/o Village & Post Office Ghiya Mau,  
 Police Station Baronda,  
 Distt. Satna Madhya Pradesh.

Certified to be true copy  
 Assistant Registrar (Judl.)  
 ..... 10.2.1989  
 Supreme Court of India

... PETITIONER

- VERSUS -

1. The State of M.P. through the Secretary  
Home Deptt. Govt. of Madhya Pradesh,  
Civil Secretariate Bhopal.
2. The Director General and Inspector General  
of Police Madhya Pradesh Police Headquarters,  
at Bhopal.
3. The Superintendent of Police, District  
Executive Force, Khandawa, Madhya Pradesh.
4. The Assistant Director,  
Subsidiary Intelligence Bureau, U.P. Lucknow.
5. The Assistant Central Intelligence Officer (I)  
48/476-Bari Hat, Bahraich.
6. The Director, Subsidiary Intelligence Bureau,  
S.I.B. Headquarters, New Delhi.
7. Central Administrative Tribunal Additional Bench  
Allahabad Circuit Bench at Lucknow,  
through its Vice Chairman.

... RESPONDENTS

9th FEBRUARY, 1989

CORAM:

HON'BLE MR. JUSTICE K. JAGANNATHA SHETTY  
 HON'BLE MR. JUSTICE A. M. AHMADI  
 HON'BLE MR. JUSTICE KULDIP SINGH

For the Petitioner : K/s. S.D. Singh, Manoj Saxena and  
 R.D. Upadhyay, Advocates.

THE PETITION FOR SPECIAL LEAVE TO APPEAL AND THE  
 APPLICATION FOR STAY above-mentioned being called on for

All communications should  
be addressed to the Registrar,  
Supreme Court, by designation,  
NOT by name.  
Telegraphic address :-  
"SUPREMECO"

*stay*  
D.No. 536/89/XI

SUPREME COURT  
INDIA

Dated New Delhi, the 1st April, 1989 ~~197x~~

From:

Assistant Registrar  
Supreme Court of India.

To

The Central Administrative  
Tribunal Allahabad (Lucknow Bench),  
Lucknow.

CIVIL MISCELLANEOUS PETITION NO. 8673 OF 1989  
(Application for modification)

IN THE MATTER OF:

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO. 205 OF 1989

Bhairon Prasad

... Petitioner

Versus

The State of M.P. & Ors.

... Respondents


Sir,

In continuation of this Registry's letter of even  
even No. dated 10.2.89, I am directed to forward herewith  
for your information record and necessary action a Certified  
copy of the order of this Court dated 31.3.1989 passed in  
the matter above mentioned.

Please acknowledge receipt.

Encl: as above.

Yours faithfully,

  
ASSISTANT REGISTRAR

*ONE*  
1/7

## IN THE SUPREME COURT OF INDIA

CIVIL/CRIMINAL/APPELLATE JURISDICTION

CIVIL MISCELLANEOUS PETITION NO. 8673 OF 1939

(Application for modification of stay order dated 9th February, 1939)

IN THE MATTER OF:-

PETITION FOR SPECIAL LEAVE TO APPEAL(C) NO. 205 OF 1939

(Under Article 133 of the Constitution of India from the judgment and order dated 26.8.38 of the Central Administrative Tribunal, Allahabad (Lucknow Bench) Lucknow in Registration O.A. No. 63 of 1938(L).

Dhiron Prasad, aged about 46 years, son of Late Gaya Prasad Pandey resident of village & Post Office Ghiya Mau, Police Station Darondha District Satna Madhya Pradesh.

Certified to be true copy  
Assistant Registrar (Judl.)  
1.4.1939  
Supreme Court of India  
... PETITIONER

VERSUS

1. The State of M.P. through the Secretary, Home Deptt. Govt. of Madhya Pradesh, Civil Secretariate Bhopal,
2. The Director General and Inspector General of Police Madhya Pradesh Police Headquarters, at Bhopal.
3. The Superintendent of Police, District Executive Force, Khanawa, Madhya Pradesh.
4. The Assistant Director, Subsidiary Intelligence Berau, U.P. Lucknow.
5. The Assistant Central Intelligence Officer(I) 48/476-Bari Hat, Deharaich.
6. The Director, Subsidiary Intelligence Bureau, S.I.D. Headquarters, New Delhi.
7. Central Administrative Tribunal Additional Bench Allahabad Circuit Bench at Lucknow. through its vice Chairman.

... RESPONDENTS

31st MARCH, 1939

CORAM:

HON'BLE MR. JUSTICE G.L. OZA

HON'BLE MR. JUSTICE R. JAGANNATHA SHETTY

For the Petitioner : Mr. R.D. Upadhyay, Advocate

THE APPLICATION FOR MODIFICATION above mentioned being

called on for hearing before this Court on the 31st day of March, 1939, with hearing Counsel for the Petitioner, THIS COURT, while modifying this Court's earlier order dated 9th February, 1939 staying the operation of the order dated 26th August, 1938 of the Central Administrative Tribunal Allahabad (Madhav Bench) Lucknow in Registration O.A. No. 65 of 1933(L) DOETH ORDER that the order of repatriation dated 30th May, 1933 passed by the Assistant Director, Subsidiary Intelligence Bureau, <sup>MHA</sup> (U.P.) Lucknow (Respondent No. 4 herein) do and is hereby stayed until further orders;

AND THE COURT DOETH FURTHER ORDER THAT this ORDER be punctually observed and carried into execution by all concerned.

WITNESS the Hon'ble Shri Raghunandan Swarup Pathak, Chief Justice of En in at the Supreme Court, New Delhi dated this the 31st day of March, 1939.

*Sd/-*  
(B.R. GUPTA)  
DEPUTY REGISTRAR

*DMK*  
*1/4*

3

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 205 OF 1989.

WITH

CIVIL MISCELLANEOUS PETITION NO. 512 OF 1989.  
( Application for stay )

Bhairon Prasad

.. Petitioner.

Versus

The State of M.P. & Ors.

.. Respondents.

To,

1. The State of M.P. through the Secretary,  
Home Deptt. Govt of Madhya Prasa  
Pradesh Civil Secretariate Bhopal.
2. The Director General and Inspector General  
of Police Madhya Pradesh Police Headquarters,  
at Bhopal,
3. The Superintendent of Police, District Executive  
Force, Khandawa, Madhya Pradesh.
4. The Assistant Director, Subsidiary Intelligence  
Berau, U.P. Lucknow.
5. The Assistant Central Intelligence Officer (I)  
48/476 - Bari Hat, Bahraich.
6. The Director, Subsidiary Intelligence Bureau,  
S.I.B. Headquarters, New Delhi.
- ✓ 7. Central Administrative Tribunal Additional  
Bench Allahabad Circuit Bench at Lucknow.  
through its Vice Chairman.

WHEREAS the petition for special leave to appeal and application for stay above mentioned (copy enclosed) filed in this Registry by Mr. R.D. Upadhyay, Advocate on behalf of the Petitioner above named was listed for hearing before this Court on the 9th day of February, 1989 when the Court was pleased to pass the following order:-

" We are satisfied that there is no delay.  
Issue notice for final disposal. Pending notice there  
will be ex parte stay as prayed for. Exemption application  
is allowed".

IN THE HON'BLE SUPREME COURT OF INDIA,

NEW DELHI

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL), NO. 205 OF 1982

In the matter of:

Bhairon Prasad, aged about 46 years, son of  
Late Gaya Prasad Pandey resident of village  
& Post Office Ghiya Mau, Police Station  
Barondha District Satna Madhya Pradesh.

...Petitioner

Versus

1. The State of M.P. through the Secretary,  
Home Deptt. Govt. of Madhya Pradesh, Civil  
Secretariate Bhopal.
2. The Director General and Inspector General  
of Police Madhya Pradesh Police Headquarters,  
at Bhopal.
3. The Superintendent of Police, District Executive  
Force, Khandawa, Madhya Pradesh.
4. The Assistant Director, Subsidiary Intelligence  
Beraul, U.P. Lucknow.
5. The Assistant Central Intelligence Officer (I)  
48/476-Bari Hat, Bahraich.
6. The Director, subsidiary Intelligence Bureau,  
S.I.B. Headquarters, New Delhi.
7. Central Administrative Tribunal Additional  
Bench Allahabad Circuit Bench at Lucknow

contd.

through its vice Chairman.

8  
..Respondents.

Petition for Special Leave to Appeal under  
Article 136 of the Constitution of India.

To

The Hon'ble the Chief Justice of India  
and his Other companion Judges of the  
Supreme Court of India.

May it please your Lords,

This humble petition for Special Leave to  
Appeal most respectfully sheweth as under:

1. That the petitioner is hereby challenging the judgement and order of the Central Administrative Tribunal Allahabad circuit Bench at Lucknow dated 26.8.88 delivered in Registration (O.A) No.63/88 (L) Bhairon Prasad Versus State of Madhya Pradesh and others dismissing the application of the petitioner made under Section 1 of the Administrative Tribunals Act No. XIII of 1985. The petitioner has not filed any other special Leave Petition against the aforesaid judgement.

2. That the brief facts of the case before the Hon'ble Tribunal were as under:

contd.

3. That the petitioner while posted as a Junior Intelligence Officer I) the Subsidiary Intelligence Bureau Bahraich under the Assistant Intelligence Officer on being order to be repatriated and thereby reverted in ranks & emoluments vide order No. 303 Lko/88 dated 30.5.88 passed and issued by the Assistant Director Subsidiary Intelligence Bureau M.M.A) Govt. of India Lucknow. A copy of the concerned order is being annexed herewith as Annexure No.I to this Petition.
4. That it may be pointed out here at the outset that the petitioner who is a Junior Intelligence Officer in the Subsidiary Intelligence Bureau receiving monthly emoluments amounting to Rs.1552/- per month after all deductions, will have to be reverted by two stages in rank on being posted as a constable the original rank of his posting and on being posted as such as there is no post like Junior Intelligence Officer (I),(C) in the District Executive Force of the Madhya Pradesh Police and the petitioner cannot be posted on the same rank and post on repatriation after continuous service of 16 years duration in the Subsidiary Intelligence Bureau and on being made to face with the above reversion/reduction in rank and salary the petitioner.

Contd.

is being said to be deprived of his right of continuance of a post which is two ranks higher than that of continuance on which he will be posted in the District Executive Force, Khandawa of the Madhya Pradesh Police and will have to be made to receive lower scale of pay for the post of a constable of Civil Police in the District Executive force, Khandawa, District of Madhya Pradesh.

5. That it may be stated here that in case the petitioner is not reverted to lower rank or pay for fault of his own, as is found to occur on the execution implementation and enforcement of the impugned order dated 30.5.1988 aforesaid as contained in Annexure No.1 above and passed by the Assistant Director, Subsidiary Intelligence Bureau, U.P., Lucknow in pursuance of the Police Head Quarter memo Bhopal mentioned therein the petitioner has no objection to his posting on the same rank carrying the same scale of pay anywhere throughout India.

6. That it is evident from the contents of the impugned order aforesaid, the passing of the order concerned has apparently been resultant to some Police Head Quarters of the Subsidiary Intelligence Bureau, New Delhi else the officers of the Subsidiary Intelligence Bureau had no objection to petitioner's continuance or absorption in the Subsidiary Intelligence Bureau of the Government of India as is

Contd.

was offered appointment on deputation in the 12  
Subsidiary Intelligence Bureau of the Government  
of India on a higher scale of pay than that was being  
paid to him and as a result thereof the petitioner  
joined the Subsidiary Intelligence Bureau of the  
Government of India with effect from 22.10.1972  
on his being posted in Dehradun, Uttar Pradesh  
after having been relieved from the District  
Executive Force, Rhandawa on 12.10.1972.

10. That the above appointment of the petitioner on  
deputation was made initially for a period of five  
years only with effect from the date of his joining  
the Subsidiary Intelligence Bureau and it was pre-  
sumed that after serving on deputation for a  
period of five years, the petitioner would be repatriated  
back to his parent department, i.e. Madhya Pradesh Police.
11. That, however, on feeling certain difficulties during  
his service in the Subsidiary Intelligence Bureau while  
posted as a constable under the Assistant Central  
Intelligence Officer (II), Haridwar, Uttar Pradesh,  
the petitioner made an application dated 26.9.1973  
requesting the Deputy Director, Subsidiary Intelligence  
Bureau U.P. and Bihar with his office at Lucknow to  
repatriate the petitioner to his parent department  
the Madhya Pradesh Police. A copy of the above-said  
application dated 26.9.1973 is being annexed hereto as  
Annexure No.2.

Contd.

12. That however, the above request of the petitioner was not acceded to and he was subsequently promoted to the rank of Junior Intelligence Officer (II) in the year 1978 on the basis of his efficiency, devotion to the duty honesty and intelligence while serving the subsidiary Intelligence Bureau, under the Assistant Central Intelligence Officer, Hardwar in Uttar Pradesh.
13. That again after a gap of five years duration from the above, said promotion of the petitioner accorded to him in the year 1978, the petitioner was given a further promotion to a still higher rank of Junior Intelligence Officer (I) (C) vide an order dated August 27, 1983. A copy of the above said order of promotion of the petitioner dated 27.6.1983 to the rank of Junior Intelligence Officer (I) (C) is being hereto as Annexure No.3
14. That it appears that during the period the petitioner was posted as Junior Intelligence Officer, (I)(C) under the Assistant Central Intelligence Officer, Banda in June, 1986 the Superintendent of Police, Khandawa, Madhya Pradesh made some request for petitioner's repatriation from Subsidiary Intelligence Bureau to District Executive Force, Khandwa vide his memo No. KWA/Ext/M/763-A dated 7.6.1986 and in pursuance of the same, the Assistant Director, Subsidiary Intelligence

14  
Bureau MHA, Government of India Uttar Pradesh,  
Lucknow vide his office order No. Lkw/443/86  
dated 18.7.86 issued on July 21, 1986 directed  
that the petitioner shall stand relieved on repatri-  
ation to his parent department with effect from 1.8.86  
with the instruction to report to District Executive  
Force, Khandawa D.R.A. Line, A copy of the above said  
order dated 21.7.1986 passed and issued by the  
Assistant Director aforesaid is being annexed hereto  
as Annexure No.4.

15. That, however, shortly after passing and issuing the  
above said order of repatriation of the  
petitioner within a period of about 25 days, the  
Assistant Director concerned. passed another  
order dated August 15, 1986 signed on 14.8.86  
directing that the earlier order regarding  
petitioner's repatriation to his parent department  
may be treated canceled. A copy of the above said  
order dated 15.8.86 indicating the cancellation of  
the petitioner's repatriation to his parent department  
is being annexed hereto as Annexure No.5

16. That it would not be out of place to mention here  
that the above order of cancellation of repatriation  
was passed by the Assistant Director, Subsidiary  
Intelligence Bureau, U.P. Lucknow on the petitioner  
having brought to the notice of the authorities  
concerned that on being compelled to repatriate to  
Madhya Pradesh Police, the petitioner will have to

Contd.

suffer reduction in rank and pay and that the reasons for his repatriation after such a long period of time after expiry of the period of deputation of five years was unduly harsh against the petitioner and detrimental to his interest.

17. That, however, subsequently vide a circular dated February 3, 1988 the Assistant Director Subsidiary Intelligence Bureau, MHA Government of India, Uttar Pradesh Lucknow invited the written consent of the willing deputationist from State Police Forces for their absorption in non-gazetted Executive M.T. rank in the Intelligence Bureau fixing the criterion of their eligibility to be completion of five years of service in the Intelligence Bureau and having more than five years of service before retirement. A copy of the above-said circular dated 3.2.1988 addressed to the petitioner by the Assistant Director concerned is being annexed hereto as Annexure No.6
18. That in pursuance of the above requirement, the petitioner duly submitted his written undertaking in quadruplicate and the same was duly forwarded by the assistant Central Intelligence Officer (I) Bahraich vide his letter dated 9.2.1988 a copy of which is being annexed hereto as Annexure No.7
19. That in view of the fact that the petitioner has

contd.

already opted for absorption as a Junior Intelligence Officer-1 in the S.I.B. and he is eligible and entitled for the same, the officers of the Madhya Pradesh Police can now no more compel the applicant to go back on repatriation to the District Executive Force of District Khandawa in Madhya Pradesh Police on the ground that the petitioner was initially recruited as a constable in the Madhya Pradesh Police of his posting in the District Executive Force, Khandawa as they have no right or authority under law to compel the petitioner to go back on reversion by two ranks to joint as a constable in the District Executive Force of Madhya Pradesh Police in district Khandawa putting him to a huge loss of emoluments every month and the untold humiliation after having continuously served on higher ranks than that of a constable of District Executive Force in a still better police agency belonging to the Government of India.

20. That in view of the fact that the S.I.B. have absorbed Servasri M.P. Trivedi, A.C.I.G. (II), Rampur and J.N. Singh, A.C.I. OO, (II) Rupai Dina, District Bahraich who were also similarly situated to petitioner as they had also come on deputation from the District Executive Force of Madhya Pradesh Police at the same time when the petitioner had come on deputation to the same S.I.B. from the same state Police Force, the respondents have no right jurisdiction or authority to discriminate the applicant against his above said

contd.

17

similarly situated colleagues who were similarly  
circumstanced with him.

21.. That it is further submitted here: that in view  
of the fact that the respondents have not required  
Sri N.K.Dixit, Junior Intelligence Officer (II), Kupai  
Diha District Bahraich posted under the Assistant  
General Intelligence Officer (II), Kupai Diha,  
District Bahraich on having come on deputation from  
the District Executive Force, Khandawa along with the  
petitioner on the ground that he has opted for absorption  
in the S.I.B. under the abovesaid circular of the  
Assistant Director, S.I.B.U P., Lucknow, the respondents  
have no authority under law to violate the guarantee  
enshrined under Article 14 and 16 of the Constitution  
of India available to the applicant and to put him  
to face hostile discrimination vis-avis his similarly  
situated colleagues and juniors.

22. That it would not be out of place to mention here  
that the petitioner who stood first and was awarded  
the shield for obtaining the first position in the  
Police Training Centre, Indore during the initial  
training after recruitment, continued to serve with  
his utmost devotion to duty, efficiency, ability  
and honesty and his annual confidential reports  
are although excellent and unblemished and his work  
and conduct are in no manner inferior to any other

Contd.

deputationist including these overnamed persons 18  
originally belonging to the Madhya Pradesh Police  
and the respondents cannot take the ground of the  
petitioner being unsuitable for absorption or conti-  
nuance as Junior Intelligence Officer (I)(c), in the  
S.I.B. and to the best of knowledge of the petit-  
ioner, they have no such ground against him.

23. That the petitioner, on coming to know of the above  
said order has made a detailed representation to  
the Assistant Director, Subsidiary Intelligence  
Bureau, U.P. Lucknow indicating the difficulties  
and losses accruing to him on repatriation and  
detailing his agony on being compelled to go back on  
the purported repatriation to his parent depart-  
ment vide a representation dated 4.6.1988 which is  
pending undecided and undecided to. A copy of the above  
said representation dated 4.6.1988 is being annexed  
hereto as Annexure No.8.

24. That the Hon'ble Tribunal did not consider that  
the condition for absorption of the non-gazetted  
Executive non-technical ranks in the Intelligence  
Bureau as provided in the contents of Annexure No.6 to  
the petition was.-

(A) That the officer concerned should have completed  
5 years of his service in the Intelligence Bureau,  
and

19

- B. That the officer should have more than five years for his retirement and,
- (c) That the officer should be willing to be absorbed in the Intelligence Bureau and should express his such willingness.

25. That the petitioner having already expressed his willingness vide Annexure No.7 to the petition and the contents of Annexure 6 to the petition having already declared him to be eligible for absorption in the Subsidiary Intelligence Bureau the question of his repatriation to the parent Department prior to decision on the petitioners' willingness expressed vide Annexure No.7 to the petition being taken.

26. That the following substantive question of law arise out of the impugned judgement of the Learned Tribunal and the same being questions of general public importance, require to be determined by the Hon'ble Court.

- A. Whether in a case of repatriation a person initially sent on deputation for five years only on being retained for a long period of 16 years without any order of extension of deputation automatically acquires right of continuation in service in the Deptt where he was sent on deputation as if a confirmed employee of the said Deptt which has retained him for a long,

contd.

period of 16 years without obtaining any further consent of the parent deptt. 20

B. Whether the factum of a public servant being reduced in rank and pay on being repatriated to his parent deptt. is not to be taken into account by a court of law while considering the case of a public servant's repatriation resulting in his reduction in rank reversion to the lower post and diminution in monthly emoluments on his repatriation to the parent Deptt.?

C. Whether the guarantees enshrined in Article 14 and 16 of the Constitution of India are not available to a deputationist vis-à-vis his colleagues and juniors worse off than him?

D. Whether the factum of a Govt. Servant on deputation being repeatedly promoted to higher ranks in the Department in which he is on deputation lies nothing to do with his right of being retained on the same post or on a reverted post in the parent Department.

E. Whether in a case where a person is declared eligible for absorption if he has served for five years or more on deputation he has more his retirement on superannuation and he has opted for absorption in the deputation Department, has no right to content that

contd.

3  
he has to be deemed as observed in the foreign <sup>21</sup>  
Department where he is serving in the absence of an  
order of rejection of his option to be observed in  
such Deptt?

F. Whether a court of law in the absence of the  
orders of rejection of any representation, application  
or option made by the petitioner being brought on  
records of the case, can hold in its judgement  
that such application, representation or option stood  
rejected by the competent authority merely on the  
basis of the unfounded allegation to the said effect  
made in the Counter Affidavit/written statement  
vaguely?

27. That in view of the above facts and  
substantial question of law the petitioner prays  
this petition for special leave to appeal inter alia  
on the following:-

GROUNDS

- i) For that the impugned order dated 30.5.1988  
passed by the Assistant Director (A), SIB U.P.,  
Lucknow as contained in Annexure No.1 above  
together with the PHQ Bhopal Memo No. P.Mu.  
/Sthn/(116)/3799/88 dated 26.4.88 is illegal  
unjust, improper and arbitrary;
- ii) For that the aforesaid impugned order has been  
passed and issued against the principles of  
natural justice.

Contd.

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ADDITIONAL BENCH,**

23-A, Thornhill Road, Allahabad-211001

Registration No.

63

of 1988

(C)

APPLICANT (s)

Bhairon Pd.

RESPONDENT(s)

The State of M.P. through the Secy, Home Deptt  
Govt. of M.P., civil secretaries, Bhopal &  
'5-dress'

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 ?

NO

yes

yes

5 Complete sets of app. have been submitted & 3 copies have already been submitted to the Standing Counsel by the applicant himself.

4. Has the document of authorisation/Vakalat-nama been filed ?
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?

yes but no stamps as required under Rules are affixed.

yes DD 067201 dt. 7/10/88.

yes but in one copy of the app.

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

Particulars to be ExaminedEndorsement as to result of Examination

- (c) Are the documents referred to in (a) above neatly typed in double space ?
8. Has the index of documents been filed and paging done properly ?
9. Have the chronological details of representation made and the outcome of such representations been indicated in the application ?
10. Is the matter raised in the application pending before any Court of law or any other Bench of Tribunal ?
11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with Annexures filed ?
- (a) Identical with the original ?
- (b) Defective ?
- (c) Wanting in Annexures
- Nos...../Pages Nos..... ?
13. Have file size envelopes bearing full addresses, of the respondents been filed ?
14. Are the given addresses, the registered addresses ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?
17. Are the facts of the case mentioned in item No. 6 of the application ?
- (a) Concise ?
- (b) Under distinct heads ?
- (c) Numbered consecutively ?
- (d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for indicated with reasons ?

yes

yes

yes

NO

only one copy has been signed

yes

—

—

3 envelopes with Postage  
of Rs. 10/- (Ch. ten/-)  
have been submitted.

yes

yes

N.A.

yes

yes

yes

yes

yes

19. Whether all the remedies have been exhausted. The applicant has preferred a representation on 4/6/88 against the impugned order but no reply has been received. Submitted for necessary orders, as may be deemed fit.
- Q19.
- Ref: 1988

23.8.88

Hon. A. Johri, A.M.

A counter affidavit  
has been filed to-day. Learned  
counsel for the applicant prays  
for and is allowed 24 hours' time  
to file a rejoinder affidavit.

List this case for hearing  
on admission as well as for  
final hearing on 25.8.88.

*[Signature]*

A.M.

*[Signature]*

25.8.88

Hon. A. Johri, A.M.

Hon. E. S. Sharma, J.M.

Urm. Anandjeet Kaur for applicant  
Sh. D. S. Randhawa for respondent

Learned counsel for the parties.

Judgement Reserved.

*[Signature]*

A.M.

*[Signature]*

J.M.

*[Signature]*  
25/8

Received  
copy of judgment -  
A. Kaur

26.8.88

Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD  
CIRCUIT BENCH, GANDHI BHAWAN  
LUCKNOW  
\*\*\*

No. CAT/CB/LKO/

Dated : 20/11/14

OFFICE - MEMO

Registration No. O.A. 63 of 193 Q(C)  
T.A.

Blair Bd.

Applicant's

Versus

State of M.P. for

Respondent's

A copy of the Tribunal's ~~Order~~/Judgement  
dated 26/10/14 in the abovenoted case is forwarded  
for necessary action.

For DEPUTY REGISTRAR (H)

Encl : Copy of ~~Order~~/Judgement dated 26/10/14

To.

Sd/- M. K. Choudhary, Asst. V. Respondent

dinesh/

Read for perhours  
\*\*\*\*\*  
Whir?

13

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.  
CIRCUIT BENCH AT LUCKNOW  
\*\*\*\*\*

Registration (O.A.) No. 63 of 1988 (L)

Bhairo Prasad

.....

Applicant

Versus

State of Madhya Pradesh & others ...

Respondents

\*\*\*\*\*

Hon'ble Ajay Johri, A.M.  
Hon'ble G.S. Sharma, J.M.

(Delivered by Hon. Ajay Johri, A.M.)

This is an application filed under Section 19 of the Administrative Tribunals Act XIII of 1985.

2. The case of the applicant is that he came on deputation from the State of M.P. to the Subsidiary Intelligence Bureau (SIB), Government of India, Lucknow in the year 1972. He was given an order on 30.5.1988 repatriating him to his parent department, i.e. the M.P. Police. In the Intelligence Bureau, The applicant was working as a Junior Intelligence Officer (JIO). According to him, if he is reverted back to his parent department he will have to face reversion by two stages and will get posted as a Constable and since he has been on deputation for the last 16 years of service. This will result <sup>3/ on</sup> great financial loss to him inasmuch as there will be reduction in his salary. He has, however, said that he will have no objection to his posting in the same rank carrying the same scale of pay through out India. According to him the initial appointment on deputation was made for a period of 5 years and it was presumed that after serving for 5 years he will be repatriated back. In the year 1973, i.e. within a year of his taking over he had requested for being repatriated back because he had some personal problems,

A3/2

-: 2 :-

but his request was not acceded to and subsequently in 1978 he got promoted as JIO. He was further promoted as JIO (I)(C) in 1983. In the year 1986 also an order of repatriation was issued but this order was cancelled after sometime and thereafter he had been asked to give his option whether he will like to be absorbed in the Intelligence Bureau (IB) and he had given his option for such absorption but the respondents have taken no decision over the same. They have issued orders for his repatriation. He has alleged that some of his colleagues have been absorbed in the Department but he has not been considered for absorption and, therefore, he has been discriminated against. His stint of service with IB had also been very satisfactory in the sense that he had <sup>earned</sup> ~~earned~~ a number of awards for his performance during the training, etc. He has, therefore, prayed that the order dated 30.5.1988 repatriating him to his parent department may be quashed.

3. In the reply filed by the respondents they have not denied the facts of the case. Regarding cancellation of the repatriation order in 1986 they have said that this was done on <sup>SS</sup> ~~compassionate~~ grounds after considering the representation of the applicant. They have further said that the applicant has not been absorbed in IB Department and his request for extending the deputation period has also not been conceded by the parent department, i.e. M.P. Police and they have sought early repatriation of the applicant. His representation against the repatriation order has also been considered and rejected. Since his whereabouts was not known this rejection order could not be conveyed to him. Thereafter in June, 1988 the applicant sent an application along with a medical certificate from the District Hospital, Bahraich. This has been forwarded to his parent department for necessary action and a copy of the forwarding letter was endorsed to him but

-: 3 :-

the same has been received back with the remarks 'not available'. The applicant had also filed a writ petition being Civil Misc. Writ Petition No. 4914 of 1988 in the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow on 24.6.1988 but after hearing the petition it was dismissed by the High Court on the question of jurisdiction. The High Court had also made observations on the merits of the case.

4. We have heard the learned counsel for the parties. The contentions raised before us by the learned counsel for the applicant were that by his transfer back to his parent cadre since there is no post of JIO he will be fixed in a lower post and that since he had opted for being absorbed in IB and the option has not yet been decided the order for repatriation is premature and also that the persons who came earlier and after him have been retained in preference to him. These contentions were repelled by the learned counsel for the respondents who submitted that a repatriation order was already issued in 1986 but it was cancelled on <sup>32/54</sup> compassionate grounds. The applicant has not been absorbed in IB Department. No legal rights have accrued to him to continue in the Department. According to the learned counsel he had already <sup>32/54</sup> relieved on 15.6.1988 and the rejection of his request for absorption could not be conveyed to him as his whereabouts were not known. His representation dated 12.6.1986 has also been rejected. He further submitted that the absorbing department has to be free to chose from amongst the opties as to who should be finally absorbed and the same cannot be enforced on the Department and if there is no equivalent post in the parent cadre it is not the concern of the Department in which the applicant has been on deputation. Nothing else was pressed before us. We have also examined the case file and the papers available on the record.

(As/24)

-: 4 :-

5. The <sup>nt</sup>applica~~ce~~ came on deputation to IB Department. The term of deputation was 5 years and it was extended from time to time. However, finally in 1986 some orders for repatriation of the applicant were issued. It is not under dispute that these orders were cancelled on certain representation made by the applicant and on <sup>W/S</sup>companionate grounds. The fact that the applicant has been getting promotions after having come on deputation, <sup>W/S</sup>does not automatically give him any protection for being absorbed against an equivalent post in the parent department when the period of deputation is over and when a person is not required any more for the purpose for which he was called on deputation he has to go back and he cannot get any protection of a position or salary that he may be drawing while on deputation <sup>W/S</sup>from his parent cadre vis-a-vis his seniors. What is necessary is that as a result of deputation he should not be made to suffer in his parent cadre neither he should <sup>W/S</sup>not be ignored if his due term came for promotion from being considered for such post. No such plea has been taken by the applicant that he will be deprived of any of his due privileges on the reversion back to the parent department.

6. If there was arbitrariness in any action and fairness and equality of treatment was under question it could amount to a mala fide exercise of power but in the applicant's case it was a question of a person coming on deputation and being repatriated to his parent department. The fact that he had been asked to ~~nn~~ give his option for absorption in the

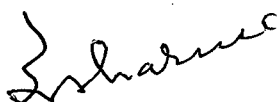
AB  
5

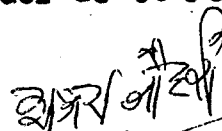
-: 5 :-

Department and that he had opted for absorption does not in any case add any extra weight to the applicant's request for cancellation of his transfer on that account.

7. The applicant's being purely and simply a case of repatriation after he is no more required on a post where he was asked to come on deputation, it is not the question of a transfer in own department but he is governed by special conditions of persons called on deputation. We, therefore, do not think that the applicant's is a case to fit for any interference by this Tribunal. There is no allegation of mala fide against the respondents. It is the responsibility of the respondents to determine how to manage with their work force and utilise them as the responsibility for good administration is squarely lies on their shoulders.

8. In view of the above we find no force in the application and it is liable to be rejected. We accordingly dismiss this application with no order as to costs.

  
MEMBER (J).

  
MEMBER (A).

Dated: August 26, 1988.

PG.

(A4/1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL  
BENCH AT KM ALLAHABAD-LUCKNOW

Bhairo Prasad

...

Applicant

Versus

The State of Madhya Pradesh & others .. Respondents

I N D E X

<u>Sl.No.</u>	<u>P a r t i c u l a r s</u>	<u>Page Nos.</u>
1.	Application ... ..	1 - 13
2.	<u>Annexure No.1:-</u> True copy of the impugned order dated 30.5.1988.	14
3.	<u>Annexure No.2:-</u> True copy of the application dated 26.9.73.	15
4.	<u>Annexure No.3:-</u> True copy of the order of promotion dated 27.8.1983.	16
5.	<u>Annexure No.4:-</u> True copy of the order dated 21.7.1986.	17
6.	<u>Annexure No.5:-</u> True copy of the order dated 15.8.1986 indicating the cancellation of the petitioner's repatriation.	18
7.	<u>Annexure No.6:-</u> True copy of the circular dated 3.2.88.	19
8.	<u>Annexure No.7:-</u> True copy of the forwarding letter dated 9.2.1988 enclosing option forms of the petitioner.	20
9.	<u>Annexure No.8:-</u> True copy of the representation dated 4.6.1988 made by the petitioner.	21 - 22
10.	Vakalatnama ... ..	23

Place: Lucknow:

Dated: 4th July, 1988.

Signature of the applicant

List this Case on 20-07-88

(19-8) 88

14  
2

Date of filing

OR Date of receipt by ~~hand~~ post:

Registration No.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,

AT ALLAHABAD, SITTING AT LUCKNOW

Bhairon Prasad, aged about 46 years, son of  
Late Sri Gaya Prasad Pandey, resident of  
Village and Post Office Ghiya Mau, Police  
Station Barondha, District Satna, Madhya  
Pradesh, at present posted as J.I.O.(I)(C)  
under A.C.I.O.-I, Subsidiary Intelligence  
Bureau, Bahraich. ...

APPLICANT

V E R S U S

1. The State of Madhya Pradesh through the  
Secretary, Home Department, Government of  
Madhya Pradesh, Civil Secretariat, Bhopal;
2. The Director General and Inspector General  
of Police, Madhya Pradesh Police Headquarters  
at Bhopal;
3. The Superintendent of Police, District Executive  
Force, Khandawa, Madhya Pradesh;
4. The Assistant Director, Subsidiary Intelligence  
Bureau, U.P., Lucknow;
5. The Assistant Central Intelligence Officer (I),  
48/476- Bari Hat, Bahraich;
6. The Director, Subsidiary Intelligence Bureau,  
S.I.B. Headquarters, New Delhi.

... RESPONDENTS

Contd...2

2129457124

.2.

1. PARTICULARS OF THE APPLICANT

- (i) Name of the applicant:- Bhairon Prasad.
- (ii) Name of father:- Late Gaya Prasad Pandey.
- (iii) Designation and office in  
which employed : Intelligence Bureau,  
Bahraich.
- (iv) Office Address:- A.C.I.O.(I), S.I.B.Office  
(MHA), Government of  
India, 48/476, Bari Hat,  
Bahraich.
- (v) Address for service of  
all notices:- Village and Post Office  
Ghiya Mau, Police Station  
Barondha, District Satna,  
Madhya Pradesh.

2. Particulars of the respondents, their  
office address and address for service of  
all notices:-

- 1. The State of Madhya Pradesh through  
the Secretary, Home Department,  
Government of Madhya Pradesh, Civil  
Secretariat, Bhopal;
- 2. The Director General and Inspector  
General of Police, Madhya Pradesh  
Police Headquarters, at Bhopal;
- 3. The Superintendent of Police, District  
Executive Force, Khandava, Madhya  
Pradesh;
- 4. The Assistant Director, Subsidiary  
Intelligence Bureau, U.P., Lucknow;

*Handwritten signature/initials*

PHQ  
C

.3.

5. The Assistant Central Intelligence Officer  
(I), 48/476-Bari Hat, Bahraich;

6. The Director, Subsidiary Intelligence Bureau,  
S.I.B. Headquarters, New Delhi.

3. Particulars of orders against which the  
application is made:-

Office order No. 303 LKO/88 dated 30.5.1988 passed  
by the Assistant Director, Subsidiary Intelligence  
Bureau (MHA), Government of India, Lucknow, repatriating  
the applicant to his parent department (i.e. Madhya  
Pradesh Police).

4. Jurisdiction of the Tribunal:- The applicant  
declares that the subject matter of the order against  
which he wants a redressal is within the jurisdiction  
of the Tribunal.

5. Limitation:- The applicant further declares  
that the application is within the limitation described  
in section 21 of the Administrative Tribunals Act,  
1985.

6. Facts of the case:-

(a) That the applicant is presently posted as a  
Junior Intelligence Officer (I)(G) under the Assistant  
Intelligence Officer, Subsidiary Intelligence Bureau,  
Bahraich and is challenging the validity of the  
order of the ~~PHQ~~ applicant's reversion in rank as well  
as ~~in~~ emoluments resulting on account of the directions  
of the ~~PHQ~~ applicant's repatriation to Madhya Pradesh  
Khandawa on his alleged repatriation alleging the  
Madhya Pradesh Police to be his parent department  
in reference to the PHQ Bhopal Memo No. Pu.Mu./Stha/  
(116)/2799/88 dated 26.4.88, along with the abovesaid  
PHQ Bhopal Memo and the office order No. 303 LKO/88  
dated 30.5.1988. A true copy of the above-said office

AY  
S

.4.

order No. 303 LKO/88 dated 30.5.1988 is being annexed hereto as ANNEXURE NO.1.

(b) That it may be pointed out here at the outset that the applicant who is a Junior Intelligence Officer in the S.I.B. receiving monthly emoluments amounting to Rs. 1552/- per month after all deductions, will have to be reverted by two stages in rank on being posted as a constable - the original rank of his posting and on being posted as such as there is no post like Junior Intelligence Officer (I)(C) in the District Executive Force of the Madhya Pradesh Police and the ~~pm~~ applicant cannot be posted on the same rank and post on repatriation after continuous service of 16 years duration in the S.I.B. and on being made to face with the above reversion/ reduction in rank and salary the applicant is being said to be deprived of his right of continuance of a post which is two ranks higher than that on which he will be posted in the District Executive Force, Khandawa of the Madhya Pradesh Police and will have to be made to receive lower scale of pay for the post of a constable of C.P. in the District Executive Force, Khandawa, District of Madhya Pradesh.

(c) That it may be stated here that in case the applicant is not reverted to lower rank or pay for no fault of his own, as is bound to occur on the execution, implementation and enforcement of the impugned order dated 30.5.1988 aforesaid as contained in Annexure No.1 above and passed by the Assistant Director, S.I.B., U.P., Lucknow in pursuance of the PHQ memo Bhopal mentioned therein the applicant has no objection to his posting on the same rank carrying the same scale of pay anywhere throughout India.

(d) That as is evident from the contents of the

...5

4/20/88

AY  
6

.5.

impugned order aforesaid, the passing of the order concerned has apparently been resultant to some Police Headquarters Bhopal Memo dated 26.4.1988 addressed to the Headquarters of the S.I.B., New Delhi else the officers of the S.I.B. had no objection to applicant's continuance or absorption in the S.I.B. of the Government of India as is specifically pointed out hereunder:-

(e) That in view of the fact that the applicant is presently posted as a Junior Intelligence Officer (I)(C) under the Assistant Central Intelligence Officer, Bahāraich with his office in Mohalla Bari Hat, Bahraich within the territorial jurisdiction of the Hon'ble Court and the order impugned hereinabove is given effect to against the applicant within the territorial jurisdiction of the Hon'ble Tribunal metting at Lucknow, the applicant is approaching the Hon'ble Tribunal by means of this humble application under Article 226 of the Constitution of India on account of the major part of the cause of action against the impugned order having accrued to the applicant within the territorial jurisdiction of the Hon'ble Tribunal.

(f) That initially the applicant was recruited as a constable of Civil Police on 14.7.1964 at the Police Lines, Satna for his appointment and posting in the District Executive Force of the Madhya Pradesh Police in district Khandawa.

(g) That after having obtained the requisite training and served successfully for a period of over eight years in the District Executive Force, Khandawa, Madhya Pradesh, the applicant on the basis of his honesty, integrity, devotion to duty and efficiency

2/24/55/12

114  
7

.6.

was offered appointment on deputation in the S.I.B. of the Government of India on a higher scale of pay than that was being paid to him and as a result thereof the applicant joined the S.I.B. of the Government of India with effect from 22.10.1972 on his being posted in Dehradun, Uttar Pradesh after having been relieved from the District Executive Force, Khandawa on 12.10.1972.

(D) That the above appointment of the applicant on deputation was made initially for a period of five years only with effect from the date of his joining the S.I.B. and it was presumed that after serving on deputation for a period of five years, the applicant would be repatriated back to his parent department, i.e. Madhya Pradesh Police.

(1) That, however, on feeling certain difficulties during his service in the S.I.B. while posted as a constable under the Assistant Central Intelligence Officer (II), Haridwar, Uttar Pradesh, the applicant made an application dated 26.9.1973 requesting the Deputy Director, S.I.B., U.P. and Bihar with his office at Lucknow to repatriate the applicant to his parent department - the Madhya Pradesh Police. A true copy of the above-said application dated 26.9.1973 is being annexed hereto as ANNEXURE NO. 2.

(j) That, however, the above request of the applicant was not acceded to and he was subsequently promoted to the rank of Junior Intelligence Officer (II) in the year 1978 on the basis of his efficiency, devotion to duty, honesty and intelligence while serving the S.I.B. under the Assistant Central Intelligence Officer, Haridwar in Uttar Pradesh.

2/12/74

APG  
8

.7.

(k) That again after a gap of five years duration from the above-said promotion of the applicant accorded to him in the year 1978, the applicant was given a further promotion to a still higher rank of J.I.O.(I)(C) vide an order dated August 27, 1983. A true copy of the above-said order of promotion of the applicant dated 27.8.1983 to the rank of Junior Intelligence Officer (I)(C) is being annexed hereto as ANNEXURE NO.3.

(L) That it appears that during the period the applicant was posted as Junior Intelligence Officer (I)(C) under the Assistant Central Intelligence Officer, Banda in June, 1986, the Superintendent of Police, Khandawa, M.P. made some request for applicant's repatriation from S.I.B. to District Executive Force, Khandawa vide his memo no. KWA/Est./M/763-A dated 7.6.1986 and in pursuance of the same, the Assistant Director, S.I.B., MHA, Government of India, Uttar Pradesh, Lucknow vide his office order NO. LKW/443/86 dated 18.7.86 issued on July 21, 1986 directed that the applicant shall stand relieved on repatriation to his parent department with effect from 1.8.86 with the instruction to report to D.E.P., Khandawa D.R.A. Line. A true copy of the above-said order dated 21.7.1986 passed and issued by the Assistant Director aforesaid is being annexed hereto as ANNEXURE NO.4.

(m) That, however, shortly after passing and issuing the above-said order of repatriation of the applicant within a period of about 25 days, the Assistant Director concerned passed another order dated August 15, 1986 signed on 14.8.86 directing that the earlier order regarding applicant's repatriation to his parent department may be treated

21/29/52114

(A/9)

.8.

as cancelled. A true copy of the above-said order dated 15.8.86 indicating the cancellation of the petitioner's repatriation to his parent department is being annexed hereto as ANNEXURE NO.5.

(n) That it would not be out of place to mention here that the above order of cancellation of repatriation was passed by the Assistant Director, S.I.B., U.P., Lucknow on the applicant having brought to the notice of the authorities concerned that on being compelled to repatriate to Madhya Pradesh Police, the applicant will have to suffer reduction in rank and pay and that the reasons for his repatriation after such a long period of time after expiry of the period of deputation of five years was unduly harsh against the applicant and detrimental to his interest.

(o) That, however, subsequently vide a circular dated February 3, 1988, the Assistant Director S.I.B., MHA, Government of India, Uttar Pradesh, Lucknow invited the written consent of the willing deputationist from State Police Forces for their absorption in non-gazetted Executive/M.T. rank in the Intelligence Bureau & fixing the criterion of their ~~at~~ eligibility to be completion of five years of service in the Intelligence Bureau and having more than five years of service before retirement. A true copy of the above-said circular dated 3.2.1988 addressed to the applicant by the Assistant Director concerned is being annexed hereto as ANNEXURE NO.6.

(p) That in pursuance of the above requirement, the applicant duly submitted his written undertaking in quadruplicate and the same was duly forwarded by the Assistant Central Intelligence Officer (I), Bahraich vide his letter dated 9.2.1988, a true copy of which is being annexed hereto as ANNEXURE NO.7. ...9

2/24/92/114

AC  
10

.9.

(q) That in view of the fact that the applicant has already opted for absorption as a Junior Intelligence Officer-I in the S.I.B. and he is eligible and entitled for the same, the officers of the Madhya Pradesh Police can now no more compel the applicant to go back on repatriation to the District Executive Force of district Khandawa in Madhya Pradesh Police on the ground that the applicant was initially recruited as a constable in the Madhya Pradesh Police for his posting in the District Executive Force, Khandawa as they have no right ~~and~~ or authority under law to compel the applicant to go back on reversion by two ranks to join as a constable in the District Executive Force of Madhya Pradesh Police in district Khandawa putting him to a huge loss of emoluments every months and the untold humiliation after having continuously served on higher ranks than that of a constable of District Executive Force in a still better police agency belonging to the Government of India.

(r) That in view of the fact that the S.I.B. have absorbed Sarvashri M.P.Trivedi, A.C.I.O.(II), Kanpur and J.W. Singh, A.C.I.O.(II) Rupai Diha, District Bahraich who were also similarly situate to applicant as they had also come on deputation from the District Executive Force of Madhya Pradesh Police at the same time when the applicant had come on deputation to the same S.I.B. from the same State Police Force, the respondents have no right, jurisdiction or authority to discriminate the applicant against his above-said similarly situate colleagues who were similarly circumstanced with him.

(s) That it is further submitted here that in view of the fact that the respondents have not required Sri N.K.Dixit, Junior Intelligence Officer

21/2/2014

11/11

.10.

(II), Rupai Diha, District Bahraich posted under the Assistant Central Intelligence Officer (II), Rupai Diha, district Bahraich on having come on deputation from the District Executive Force, Khandawa along with the petitioner/applicant on the ground that he has opted for absorption in the S.I.B. under the abovesaid circular of the Assistant Director, S.I.B., U.P., Lucknow, the respondents have no authority under law to violate the guarantee enshrined under Article 14 and 16 of the Constitution of India available to the applicant and to put him to face hostile discrimination vis-a-vis his similarly situate colleagues and juniors.

(t) That it would not be out of place to mention here that the applicant who stood first and was awarded the shield for obtaining the first position in the Police Training Centre, Indore during the initial training after recruitment, continued to serve with his utmost devotion to duty, efficiency, ability and honesty and his annual confidential reports are althrough excellent and unblemished and his work and conduct are in no manner inferior to any other deputationist including the above-named persons originally belonging to the Madhya Pradesh Police and the respondents cannot take the ground of the applicant being unsuitable for absorption or continuance as Junior Intelligence Officer (I)(C) in the S.I.B. and to the best of knowledge of the applicant, they have no such ground against him.

(u) That the applicant, on coming to know of the above-said order has made a detailed representation to the Assistant Director, S.I.B., U.P., Lucknow indicating the difficulties and losses accruing to him on repatriation and detailing his agony on being

Contd...1

2/10/1954

.11.

compelled to go back on the purported repatriation to his parent department vide a representation dated 4.6.1988 which is pending undecided and unheeded to. A true copy of the above-said representation dated 4.6.1988 is being annexed hereto as ANNEXURE NO. 8.

(m)

7. Reliefs sought:-

It is, therefore, necessary in the ends of justice to the applicant and respectfully prayed that this Hon'ble Tribunal may be pleased to quash the impugned order dated 30.5.1988, issued by the Assistant Director (A), SIB, UP, Lucknow, contained in Annexure No. 1 to this application together with the PHQ Bhopal Memo No. Pu.MU/Stha/(116)/2799/88 dated 26.4.1988 mentioned therein and also pass any other order or orders deem fit and proper in the circumstance of the case, awarding costs of these proceedings in favour of the applicant.

8. Interim Relief if prayed for :-

It is most respectfully prayed that the Hon'ble Tribunal may be pleased to stay the operation, implementation and enforcement of the order dated 30.5.1988 issued by the Assistant Director (A), SIB, UP, Lucknow as contained in Annexure No.1 of this application and the applicant may be allowed to continue as JIO- Junior Intelligence Officer (I)(G), Bahraich.

9. Details of the Remedies exhausted:-

The applicant has preferred a representation to the Assistant Director, Subsidiary Intelligence Bureau, Lucknow on 4.6.1988 against the impugned order of repatriation dated 30.5.1988. Thereafter, the applicant preferred a writ petition No. 4914 of

21/5/88

.12.

1988 - Bhairon Prasad Versus The State of Madhya Pradesh and others in the Hon'ble High Court at Lucknow which was dismissed in limine on 28.6.1988 on the ground of the matter being cognizable by this Hon'ble Tribunal exclusively.

10. Matter not pending with any other court etc.

The applicant further declares that the matter regarding which the 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 Fees:

Number of Indian Postal Order:-

Name of Issuing Post Office:-

Date of issue of Postal Order:-

Post Office at which payable:-

12. Details of Index:

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

13. List of enclosures:

- (i) Annexure No.1:- A true copy of the impugned order dated 30.5.1988.
- (ii) Annexure No.2:- A true copy of the application dated 26.9.73 made by the petitioner for repatriation.
- (iii) Annexure No.3:- A true copy of the order of promotion dated 29.8.1983.
- (iv) Annexure No.4:- A true copy of the order dated 21.7.1986.
- (v) Annexure No. 5:- A true copy of the order dated 15.8.1986 indicating the cancellation of the petitioner's repatriation.
- (vi) Annexure No.6:- A true copy of the circular dated 3.2.1988.

AC  
TC

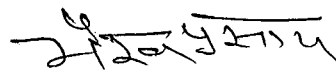
.13.

- (vii) Annexure No.7:- A true copy of the forwarding letter dated 9.2.1988 enclosing option forms of the petitioner.
- (viii) Annexure No. 8:- A true copy of the representation dated 4.6.1988 made by the petitioner.

VERIFICATION

I, Bhairon Prasad, aged about 45 years, son of Late Sri Gaya Prasad Pandey, resident of Village and Post Office Ghiya Mau, Police Station Barondha, District Satna, Madhya Pradesh, at present posted as J.I.O.(I)(G) under A.C.I.O.(I), Subsidiary Intelligence Bureau, Bahraich, the deponent do hereby verify that the contents of paras 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place:

  
Signature of the applicant

Dated: 4.7.1988

14  
AY  
15

ANNEXURE NO.1

Office Order No.303 LKO/88

Reference: PHQ Bhopal Memo No. Pu.Mu./Stha/(116)/2799/88  
dated 26.4.88.

Shri Bhairo Prasad, JIO-I(G) a deputationist  
from M.P.Police is repatriated to his parent department  
(i.e. M.P.Police). Consequently he will stand relieved  
of his duties w.e.f. 15.6.88 (AN) with the instruction  
to report to S.P.Khandawa.

Sd/-Illegible  
Assistant Director

No. L-7/ADM/83(2)-7668  
Subsidiary Intelligence Bureau  
(MHA), Govt. of India.

Lucknow, the

Copy forwarded to:-

1. Office Order Book.
2. AD(E), IB Hqrs, New Delhi.
3. AD(G), IB Hqrs, New Delhi.
4. Section Officer (A), SIB Hqrs., Lucknow.
5. Shri Bhairo Prasad, JIO-I(G) through ACIO-I Bahraich.
6. ACIO-I Bahraich.
7. A.IG(Est) Police Hqrs., M.P. Bhopal.
8. Supdt. of Police Khandawa.
9. DCIO Gonda.

Sd/-Illegible  
30/5  
Assistant Director

::TRUE COPY::

24/5/88

C.T.C.  
C.T.C.  
Adh.

अनेकजर नं० २

सेवा में,

श्रीमान् डी०डी० महोदय,  
एस०आई०जी० एण्ड बिहार, लखनऊ ।

द्वारा?— उचित मार्ग

विषय:- बाबत स्थानान्तरण हेतु ।

मान्यवर,

निवेदन यह है कि प्राची एस०आई०जी०, लखनऊ में जिला खंडवा (म०प्र०) पुलिस से डेपूटेशन पर आया था । दिनांक २२-१०-७२ को आया था । प्राची को यहां पूरी ज़रूरी सुविधायें दियूटी करने में नहीं मिलती है जिस कारण प्राची यहां पर सन्तोषजनक दियूटी नहीं कर पा रहा है ।

अतः श्रीमान् जी से प्रार्थना है कि प्राची को वापस स्टेट (म०प्र०) पुलिस जिला खंडवा स्थानान्तरण करने की कृपा करें । आपकी अति कृपा होगी ।

दिनांक २६-६-७३

प्राची

ह० भैरव प्रसाद

का० (भैरव प्रसाद)

कैप्टन आफ एस०सी०आई०जी० ॥

हरिद्वार

२६-६-७३ ।

॥ सत्य प्रतिलिपि ॥

*भैरव प्रसाद*

C.T.C.

*Adm*

16  
14/12

ANNEXURE NO. 3

OFFICE ORDER NO. 447/LKW/1983

Authority (I.B.'s order No. 4/C IV/83(24)-3202

Dated 22.8.83).

Shri Bhairon Prasad, JIO-II(G) (Deputationist) is hereby appointed to officiate in the rank of JIO-I (G) against the deputation quota vacancies in this rank of JIOS-I(G) from the date he takes over charge of the post under D.D., S.I.B., Bhopal.

Sd/-Illegible

(R.K.Das)

Assistant Director

No. L-5/ADM/83(1)  
Subsidiary Intelligence Bureau,  
(Ministry of Home Affairs),  
Government of India,  
Uttar Pradesh.

Lucknow, 27 AUG 1983

Copy forwarded for information and necessary action to:-

1. Assistant Director (E), I.B.Hqrs., New Delhi w.r. to his order cited above.
2. Shri Bhairon Prasad, JIO-II c/o ACIO-I, Banda for information.
3. ACIO-I, Banda. He is being relieved w.e.f.1.9.83(FN)
4. Office order book.
5. Section Officer (A), S.I.B., Lucknow.

Sd/-Illegible 26/8  
Assistant Director

:: TRUE COPY ::

*2/20/83*

*C.T.C.*

*Adv.*

(17)  
17

ANNEXURE NO.4

Office Order No. LKW/443/86

Ref:- S.P.Khandawa, memo No. KNA/EST/M/763-A  
dated 7.6.86.

Shri Bhairo Prasad, JIO-I(8) a deputationist from M.P. Police is repatriated to his parent department (M.P. Police). Consequently he will stand relieved of his duties w.e.f. 1.8.86 (F/N) with the instruction to report to D.E.F. Khandawa D.R.A. Line.

Sd/-Illegible  
Assistant Director

No. L-7/ADM/83(2)-14462  
Subsidiary Intelligence Bureau,  
MHA, Govt. of India,  
Uttar Pradesh.

Copy to:-

Lucknow, the 21 JUL 1986

1. Office Order Book.
2. AD(G), IB, MHA New Delhi.
3. AD(E), IB, MHA, New Delhi.
4. S.O. (Acctt.) Branch SIB Hqrs, Lucknow (2 copies).  
His pay may be sent at the earliest.
5. Shri Bhairo Prasad, JIO-I(G), through ACIO-I  
Banda. He may be relieved on 1.8.86 (F/N)  
positively.
6. R.H.Q. Bhopal.
7. Supdt. of Police Khandawa, M.P.
8. DCIO(G) Jhansi.

Sd/- Illegible  
18/7  
Assistant Director,

::TRUE COPY::

2/5/86

C.T.C.  
A.W.

AY  
14

18

ANNEXURE NO. 5

OFFICE ORDER NO. 484/LKO/86

Our order No. 443/86, issued under endorsement No.L-7/ADM/83(2) dated 21.7.86 regarding repatriation of Shri Bhairu Prasad, JIO-I Banda to his parent department (MPP) may please be treated as cancelled.

Sd/-Illegible  
Assistant Director

No.L-7/ADM/83(2)-15466  
Subsidiary Intelligence Bureau,  
MHA, Govt. of India,  
Uttar Pradesh.

Lucknow, the 15 AUG1986

Copy to:-

1. Office Order Book.
2. AD(G), IB Hqrs, New Delhi.
3. AD(E), IB Hqrs, New Delhi.
4. SO(A), SIB Hqrs., Lucknow.
5. Shri BBhairu Prasad, JIO-I, Banda.
6. D.I.G., Police Hqrs., Bhopal (M.P.).
7. Supdt. of Police, Khandawa, M.P.
8. DCIO(G), Jhansi.
9. P.F. of Shri Bhairu Prasad.

Sd/-Illegible  
14/8  
Assistant Director.

::TRUE COPY::

21/2/87

C.F.C.  
C. F. C.  
Adm

19  
AY  
20

ANNEXURE NO. 6

No. L-8/ADM/83(1)-1697  
Subsidiary Intelligence Bureau,  
(Ministry of Home Affairs)  
Govt. of India.  
Uttar Pradesh.

Lucknow, the 3 Feb 1988

Memorandum

Subject: -Absorption of Non-gazetted deputationists  
State Police Officials in Non-gazetted  
executive/MT grade in the IB.

IB Hqrs. is considering eligible and willing deputationists/State Police Officials for absorption in Non-gazetted executive/MT rank in the IB. They must have completed 5 years of service in IB and should have more than 5 years for retirement.

If you wish to be absorbed in IB, a written undertaking in quarduplicate in the enclosed proforma may be submitted to us by 10.2.88 positively.

Sd/-Illegible  
3/2/88

For Assistant Director.

To: =

Sh. Bhairon Prasad,  
J.I.O.I (G),  
ACIO-I- Bahraich.

...

:: TRUE COPY ::

2/2/88

C.T.C.

20  
AY  
21

अनेकजर नं० ७

सं० बी०-१।व्यवस्था।८८-१०६  
कार्यालय सं०के० आ० सू० अधि०-१ (बी)  
बहराइच

दिनांक ६-२-८८

ज्ञापन

कृपया आप अपने कार्यालय के ज्ञापन क्र० एस-८।ए०डी०एम०।८३(१)-१६६७  
दि० ३-२-८८ का अवलोकन करें, जो प्रतिनियुक्ति पर आये कर्मचारियों  
के इन्टेलिजेंस व्यूरो में विलय हेतु इच्छा पत्र भरने के सम्बन्ध में है।

उपरोक्त आदेशानुसार श्री भैरव प्रसाद कानि० आ०सू०-१ का  
विलय हेतु इच्छा फार्म भरकर आवश्यक कार्यवाही हेतु आपके सेवा में  
प्रेषित है।

श्री भैरव प्रसाद कानि० आ०सू० अधि०-१ इन्टेलिजेंस व्यूरो  
में विलय हेतु इच्छुक है।

संलग्न:- चार विलय फार्मस

ह० अपठनीय  
६-२-८८  
(सं०के०आ०अधि०-१)  
बहराइच।

सेवा में,

सहायक निदेशक (ए),  
एस०आई०बी० लखनऊ।

॥सत्य प्रतिलिपि॥

21/2/88

C.T.C.  
C.  
Adh.

144  
22

21

अनेकजर नं० ८

सेवा में,

सहायक निदेशक (ए०,  
सहायक आसूचना व्यूरो,  
लखनऊ ।

द्वारा:- उचित माध्यम ।

महोदय,

आपके कार्यालय द्वारा निर्गत आदेश संख्या ३०३।८८ दि०

३० मई १९८८, जिसके द्वारा मेरी सेवार्यें इस विभाग से समाप्त कर मुझे पुनः पुलिस विभाग में वापस किया जा रहा है, के सम्बन्ध में पुनर्विचार एवं अपेक्षित आदेश हेतु निम्नवत् निवेदन है :-

१- मैं १९७२ में प्रतिनियुक्ति पर मध्य प्रदेश पुलिस से इस विभाग में लिया गया था । लगभग १६ वर्ष व्यतीत हो चुके हैं, तब से अब तक निरन्तर इसी विभाग में विभिन्न स्थानों पर कार्यरत रहा हूँ ।

२- विभागीय सेवा सन्दर्भ में मेरी कार्यकुशलता के आधार पर मुझे दो प्रोन्नतियाँ और तदनुसार बढ़े हुए वेतनमान प्रदान किये जा चुके हैं ।

३- यदि इस विभाग द्वारा मुझे पूर्व विभाग में ही वापस करना था तो मेरी प्रतिनियुक्ति के पश्चात् पांच वर्षों के भीतर होना चाहिये था । इस सम्बन्ध में मैंने सन् १९७३ में स्वयं ही एक प्रार्थना-पत्र देकर वापसी के लिए निवेदन किया था, किन्तु मुझे वापस न भेजकर इसी विभाग में कार्यरत रखा गया ।

४- ऐसी स्थिति में इस विभाग में कार्यरत रहते हुए अपने पूर्व विभाग में पदोन्नति तथा तदनुसार वेतनमान के अवसरों से मुझे वंचित रहना पड़ा । इस प्रकार आपके उपर्युक्त आदेश के अनुपालन से सम्पूर्ण सेवाकाल के लगभग २४ वर्षों के पश्चात् भी मुझे प्रतिनियुक्ति के पूर्व पद (कान्सटेबल) तथा वेतनमान पर ही कार्य करना पड़ेगा जो न्यायसंगत नहीं है ।

५- गत १६ वर्षों से इस विभाग की कार्यविधि के अनुरूप मैंने अपने आपको ढाल कर विभागीय अधिकारियों की दृष्टि में अपने सामर्थ्य के अनुसार समय-समय पर सराहनीय कार्य किये हैं । वर्तमान समय में जबकि मैं किसी भी समय सेवा से अवकाश (रिटायरमेंट) प्राप्त करने योग्य हो चुका हूँ तब मुझे पूर्व विभाग को भिन्न कार्य पद्धति के साथ संलग्न करने का औचित्य उचित नहीं है । मानसिक तथा शारीरिक रूप

क्रमशः---२

21/20/92/14

-२-

से अपने पूर्व पुलिस विभाग की भित्त कार्य प्रणाली के साथ मुझे सामंजस्य स्थापित करने में मुझे विशेष कठिनाईयों का सामना करना पड़ेगा ।

उपरोक्त लिखित कारणों पर सहानुभूतिपूर्वक दृष्टि डालने की अपेक्षा करता हुआ नम्र निवेदन है कि मुझे आपके समक्ष पेश होने की अनुमति दी और उपरोक्त आदेश निरस्त करने की कृपा की जाय ।

आशा ही नहीं पूर्ण विश्वास है कि प्रार्थी के साथ न्याय किया जायेगा ।

प्रार्थी,  
ह० अपठनीय ४-६-८८  
(भैरव प्रसाद)  
प०आ०अ०-१  
बहराइच

दिनांक ४-६-८८ ।

॥ सत्य प्रतिलिपि ॥

भैरव प्रसाद

C.T.C.

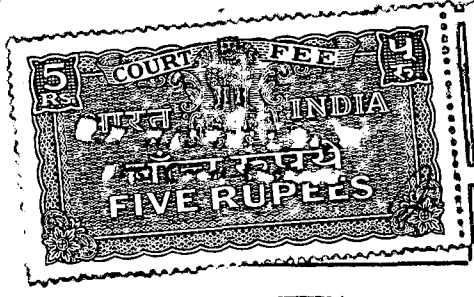
Adi

23  
 14

इन दि आनरेबुल सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल, एडीशनल बेंच,  
 पंजाब लीजिस्लेशन डिवीजन, लखनऊ । सहोदय

[ पक्षी ] पक्षीपक्षी मेरव प्रसाद धर  
 प्रतिपादी [ रजिस्ट्रार ] वकालतनामा

मेरव प्रसाद



(अपीलेंट)

पनाम दि स्टेट आफ मध्य प्रदेश एण्ड मदर्स प्रतिपादी (रजिस्ट्रार)

पं० मुफद्दा १६८८ पेजी जी सी० १० ई०

ऊपर लिखे मुफद्दा में अपनी ओर से श्री श्री सत्यदेव सिंह, एडवोकेट

Singh & Kumar Amarjit Kumar

एडील  
 महोदय  
 एडवोकेट

नाम अर्ज  
 मुफद्दा नं०  
 नाम फरीफ्त

जो अपना वकील नियुक्त करके प्रतिज्ञा ( इफरार ) करता हूं और लिखे  
 देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील  
 द्वारा जो कुछ पैरवी व अपाव देही व प्रश्नोंत्तर करें या कोई जागज दाखिल  
 करें या लौटावें या हमारी ओर से छिगरी पारी करावे और रुपया वसूल  
 करें या मुलहनामा व इफ्तबाल दावा तथा अपील निगरानी हमारी ओर  
 से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुफद्दा  
 उठावें या कोई एपया पया करें या हमारी विपक्षी (फरीफ्तानी) का  
 दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (वस्तुस्थिति)  
 रसीद से लेवे या पंच नियुक्त करें—एडील महोदय द्वारा की गई व  
 सप कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार  
 करता हूं कि मैं हर पेक्षी पर स्वयं या किसी अपी पैरोकार को भेजता  
 रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो  
 जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह  
 पनामनामा लिख दिया प्रमाण रहे और समय पर काम आये।

स्वीकृत

(सत्यदेव सिंह)  
 एडवोकेट  
 ४-७-१६८८

हस्ताक्षर

Accepted

साक्षी (पचाह)

साक्षी (पचाह)

४

जुलाई,

१६८८

पिनीप

जहीना

सन् १०४४१०

स्पीकस

4  
 Accepted

A K

AS  
1

Cour. ALA. A. T.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH, ALLAHABAD,  
CIRCUIT BENCH  
LUCKNOW

H. S. Lodan  
2/10/88

NO. .... 63 ..... OF 1988. 4

BHAIRO PRASAD. .... APPLICANT.

VS.

STATE OF MADHYA PRADESH AND OTHERS. .... RESPONDENTS.

Counter Affidavit on behalf of opposite parties 4, 5 & 6,  
to oppose admission of the application.

I, Smt. Renuka Muttoo, aged about 35 years, Wife of  
Shri S.K. Muttoo, resident of. 10/6 Dalibagh Butler Palace,  
Lucknow, hereinafter described as the Deponent, do  
hereby solemnly affirm and state as under:-

1. That the Deponent is the Assistant Director, Subsidiary Intelligence Bureau under the Ministry of Home Affairs, Government of India, Lucknow, and she is competent to affirm this affidavit on behalf of the opposite parties 4, 5 and 6.
2. That the Deponent has read and understood the contents of the claim petition filed before the Central Administrative Tribunal at Lucknow and she is well conversant with the facts of the case, deposed hereinafter.

Contd....2

12/2/88  
10/10/88

AS  
2

-2-

3. That before giving para-wise replies to the claim petition, it is necessary to give the following facts by way of brief back-ground to the case:-

(i) That the applicant Shri Bhairu Prasad had joined the Intelligence Bureau on 22/10/1972 on deputation from Madhya Pradesh Police as Constable. He was promoted to officiate as Junior Intelligence Officer - I on 21.1.1984. Earlier, repatriation order about him was issued on 21.7.1986. However, this order was subsequently cancelled by the order dated 5.8.1986 on compassionate grounds after considering his representation. But he was simultaneously transferred to Bahraich. Thereafter, the repatriation order dated May 30 1988, was served on him and subsequently he stands relieved with effect from 15.6.1988 from Intelligence Bureau with the instructions to report to the Superintendent of Police, Khandwa, Madhya Pradesh.

(ii) That it is significant to mention that Shri Bhairu Prasad has not yet been absorbed in the Intelligence Bureau and the request for extending the deputation period has not been conceded by the parent Department, the Madhya Pradesh Police.

Contd.....3

hmk  
LUCKNOW

As  
3

It may be added that the Police Head Quarter, Madhya Pradesh, Bhopal, vide their letter No.Pu-Mu/3/Stha/6 (116)/2799/88 dated 26.4.1988 addressed to the Assistant Director, Subsidiary Intelligence Bureau (Ministry of Home Affairs, Government of India) Uttar Pradesh, Lucknow, had sought early repatriation of Shri Bhairo Prasad to his parent Department, the Madhya Pradesh Police. A Photostat copy of the aforesaid letter dated 26.4.1988 from the Police Head-quarter, Madhya Pradesh, Bhopal, is filed herewith as Annexure No.C-1.

- (iii) That the representation of Shri Bhairo Prasad dated 4.6.1988 against repatriation order had been duly considered and rejected. In this regard it may also be mentioned that Shri Bhairo Prasad, after receiving his repatriation order dated 3~~0~~<sup>1</sup> May, 1988, submitted his representation dated 4.6.1988 against it and left the office without permission and without informing about his whereabouts. Therefore, the orders of the Subsidiary Intelligence Bureau, rejecting his representation could not be served on him. Then, an application for leave from 8.6.1988 alongwith a Medical Certificate from District Hospital, Bahraich was sent by him by Registered Post to his Superior Officer at Bahraich, which was received by the latter on 16.6.1988. That application alongwith the Medical Certificate was forwarded to the Superintendent of Police, Khandwa(Madhya Pradesh),

Contd....4

hth  
22/8/88  
LUCKNOW

AS  
4

-4-

for necessary action and a copy of the forwarding letter was endorsed to Shri Bhairo Prasad on 27.7.1988 through Registered Post on his address as in our records:-

C/o Shri Devi Prasad Soni,  
Sardar Dahyan Singh-Ka-Hata,  
Gudari,  
Bahraich.

But, the Registered Cover No.6104 dated 27.7.1988 was received back from Postal Authorities with the remark that the addressee, Bhairo Prasad was not available. In the meantime, on 1.7.1988, Shri C.K. Pandey, A.C.I.O.-1, Bahraich, issued a memo No.B-1/Est/88-622, pointing out that he had already been relieved from the Subsidiary Intelligence Bureau as well as from its Unit at Bahraich with effect from 15.6.1988 and as such no correspondence would be entertained by the Bureau and he was advised to contact the Superintendent of Police, Khandwa(M.P.) for further correspondence, if any, in the matter. But Shri Bhairo Prasad refused to receive this memo. A photostat copy of the aforesaid memo dated 1.7.1988 is filed herewith as Annexure No.C-2. Further, Shri Bhairo Prasad submitted an application requesting for leave on Medical Grounds with effect from 7.8.1988 to 6.9.1988. In the same application he also asked for his pay with effect from 15.6.1988.

Contd.....5

COM  
H  
29/10/08

hth

AS  
5

-5-

That application was also forwarded to the Superintendent of Police, Khandwa (Madhya Pradesh) on 16.8.1988 and a copy of the forwarding letter was endorsed to Shri Bhairo Prasad, directing him to report to Superintendent of Police, Khandwa (Madhya Pradesh) and claim his pay from that Madhya Pradesh Police Authority. The Deponent is not aware whether Shri Bhairo Prasad has reported for his duties to the Superintendent of Police, Khandwa (Madhya Pradesh) or not.

- (iv) That the applicant, Shri Bhairo Prasad, on 24.6.1988 filed a Writ Petition No.4914 of 1988 in the Lucknow Bench of the Allahabad High Court, which was heard on 28.6.1988 during the Summer Vacation and was dismissed by the Vacation Judge Hon'ble Mr. Justice S.C. Mathur, on the question of jurisdiction as well as on merits. A photostat copy of the certified copy of the aforesaid judgement and order dated 28.6.1988 passed by the Hon'ble High Court, is filed herewith as Annexure C-3.

4. That with regard to the contents of Para-6 (facts of the case) of the petition, the replies to the respective sub-paras are as under:-

- (a) It is not correct that Bhairo Prasad was on the strength of Subsidiary Intelligence Bureau on the day he was challenging the validity of his repatriation order dated 15.6.1988, which was duly

Contd...6

hmk

AS  
6

-6-

served on him in pursuance of PHQ Bhopal (the lending department) Letter No. Pu. Mu/3/Stha/6(116)/2799/88 dated 26.4.1988, seeking early repatriation of Bhairo Prasad. Bhairo Prasad has not yet been absorbed in the Intelligence Bureau, and his request for extending deputation period has not been conceded to by the Madhya Pradesh Police (the lending department). The Subsidiary Intelligence Bureau, had sought extension vide their letter No. L-8/ADM/83(1)-1992 dated 3.2.1987 of deputation period of Bhairo Prasad and seven others from Madhya Pradesh Police for the period upto 31.12.1987. A photostat copy of the aforesaid letter is filed herewith as Annexure C-4. The PHQ Bhopal vide its letter No. Pu-Mu/3/Stha/6-2166 dated 23.3.1987 did not at all agree for extension of deputation period in respect of Bhairo Prasad, and for the remaining seven personnel, it sought their written willingness and some other particulars.

A photo-stat copy of the aforesaid letter dated 23.3.1987 of the Madhya Pradesh Police Head Quarter, Bhopal is filed herewith as Annexure C-5.

- (b) The petitioner's contention that there is no equivalent rank of JIO-I(G) in the Madhya Pradesh Police is incorrect. The rank of ASI in Madhya Pradesh Police is equivalent to JIO-I(G). His officiating on higher posts on deputation in the borrowing department, does not confer him the right of being repatriated, whereas he had held

Contd...7

AS  
7

-7-

substantive rank of Constable, when he had come on deputation to Intelligence Bureau.

- (c) The contention raised is strongly refuted. The repatriation by no stretch of imagination can be construed as reduction in rank.
- (d) The contents of the letter of PHQ Bhopal dated 26.4.1988 have not been correctly stated and he has tried to misrepresent the facts to suit his interests. Actually, through this letter, the PHQ Bhopal has insisted that Bhairo Prasad who had been repatriated in 1986 but not relieved, should now be relieved.
- (e) The petitioner is not presently posted as JIO at Bahraich since he already stands relieved with effect from 15.6.1988 to join his parent department following termination of his deputation from Intelligence Bureau.
- (f) The contents relate to M.P. Police.
- (g) His deputation to our department was in routine course in pursuance of our policy to fill up a few vacancies exclusively from Deputation. It was not correct that he was taken on deputation on account of his so called "honesty, integrity, efficiency and devotion to duty."
- (h&i) Not denied.

Contd....8

*huk*

As  
Q

(j) He got promotion in turn against deputation quota and not because of his so called 'honesty, efficiency, integrity and devotion to duty' as claimed by the petitioner.

(k&l) Not denied.

(m) His repatriation order was cancelled on his own request on compassionate grounds.

(n) In his application dated 27.7.1986, which is filed herewith as Annexure No.C-6, he had never mentioned that he would suffer reduction in rank and pay and the repatriation after such a long time would be harsh upon him, instead he requested that his case may be re-considered on compassionate grounds, as he was willing to serve in the organisation and might be given another opportunity. It is not correct that his repatriation order was cancelled because he had brought to the notice of authorities that he would suffer from reduction in rank and pay. His request for retention was considered on compassionate grounds with a view to giving him an opportunity to serve the department effectively, despite the fact that his parent department was pressing hard for his repatriation. He was, however, transferred to Bahraich on administrative grounds.

(o) It was a routine circular for absorption of all deputationist officer in the Intelligence Bureau and not a specific offer to the petitioner.

Contd...9

Secy  
29/8/86

huth

AS  
9

-9-

The consent letters of the deputationists were forwarded to Intelligence Bureau Head-quarters.

- (p) He has not been absorbed.
- (q) His exercising mere option for absorption like many other personnel does not confer on him the right to be absorbed as the cases of absorption are decided as per the laid down rules/procedures by Intelligence Bureau Head-quarters, New Delhi. But the Madhya Pradesh Police, which is his parent department, is competent to seek his repatriation.
- (r)& (s) The petitioner's contention of being discriminated in so far as absorption is concerned, is incorrect. Incidentally, the persons quoted by the petitioner are not from his rank.
- (t) The petitioner's inference that he is entitled for absorption on the ground of his 'best performance including claim of 'excellent' ACRs is incorrect. In fact the ACR entries are not supposed to be in the knowledge of the petitioner. As already stated in para r & s the deputationists of Madhya Pradesh Police, quoted by him do not belong to his rank i.e. JIQ-I.
- (u) Not admitted. His representation dated 4.6.1988 against repatriation order has been duly considered and rejected. The petitioner after receiving his repatriation order on 4.6.1988 sent a representation against it and left office without permission and

Contd....10

AS  
10

-10-

without informing his whereabouts. Our ~~or~~ orders rejecting his representation could not, therefore, be served on him. An application for leave from 8.6.88 alongwith a Medical Certificate from District Hospital Bahraich was sent by him by registered post to his officer at Bahraich, which was received by the latter on 16.6.1988. During this period he filed a writ petition in the High Court, Allahabad, Lucknow Bench, Lucknow, on the same grounds as mentioned in the present petition before the Tribunal and prayed for stay orders against his repatriation to Madhya Pradesh. The writ petition was heard by the Hon'ble Vacation Judge, High Court of Allahabad, Lucknow Bench, Lucknow on 28.6.1988 and was dismissed. As such the petitioner is not entitled to the relief prayed by him and the case deserves to be dismissed.

5. That with regard to the contents of para - 7 containing the reliefs sought by the applicant, it is submitted that, since he had not been absorbed in the Intelligence Bureau, he had no right to continue to remain on ✓ deputation and his parent department, had already ✓ ~~write~~ to call him back. Accordingly, the applicant is not entitled to reliefs sought by him.
6. That regarding the interim relief prayed for in para - 8 of the application, it is submitted that in view of the position stated above, the impugned

Contd....11

hkh

AS  
11

order dated 30th May, 1988, issued by the Assistant Director(A), Subsidiary Intelligence Bureau, Uttar Pradesh, Lucknow, is perfectly legal, just and proper. Further, the applicant has already been relieved with effect from 15.6.1988 from the Subsidiary Intelligence Bureau and he has no connection, whatsoever, now with the Bureau. In view of this position, now there is no question of staying the operation of the impugned order.

7. That the Deponent has been advised to state that there is absolutely no merit in the case of the applicant and his application does not deserve to be admitted. The application being devoid of any merit is liable to be dismissed with the costs.

COMMISSIONER  
22/8/88

LUCKNOW

DEPONENT.

August 22 1988.

Assistant Director,  
Subsidiary Intelligence Bureau,  
Lucknow  
22/8/88

VERIFICATION

I, the above named Deponent do hereby verify that the contents of paras 1 and 2 of this Affidavit are true to my own knowledge, the contents of paras 3 to 6 are true to my knowledge derived from the official records and the contents of para-7 of this Affidavit are believed 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.

LUCKNOW

DEPONENT

August 22 1988.

Contd... 12  
Assistant Director,  
Subsidiary Intelligence Bureau,  
Lucknow  
22/8/88

AS  
R

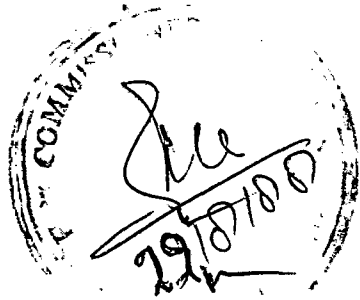
-12-

I identify the deponent who is personally known to me and has signed before me.

*[Signature]*  
ADVOCATE. (*OS Rana Hada*)

Solemnly affirmed before me on *22-8-80* at *9:45* AM/PM

by Smt. Renuka Muttou, the deponent who has been identified by Sri. *[Signature]* *[Signature]* I have satisfied myself by examining the deponent that she understands the contents of this affidavit which have been read over and explained to her by me.



OATH COMMISSIONER

*[Signature]*

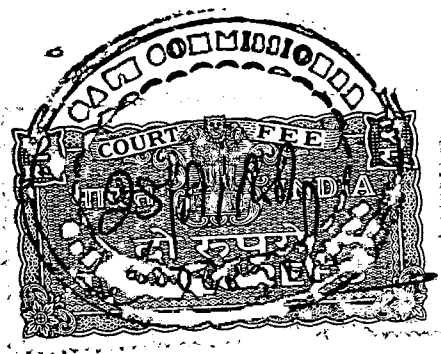
Date *22/8/80*

(RADHEY SHYAM SEIVASTAVA)

HIGHER JUDGE, LUCKNOW

Lucknow Bench

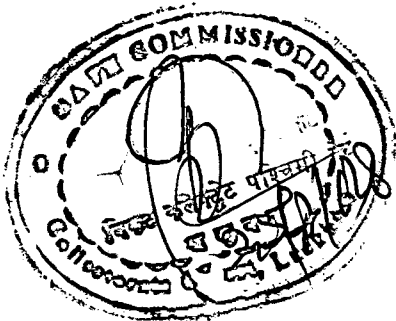
No. 81/31-92/80



A6  
1

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

Bhairon Prasad, aged about 46 years, son of  
Late Sri Gaya Prasad Pandey, resident of  
Village and Post Office Ghiya Mau, Police  
Station Barondha, District Satna, Madhya  
Pradesh, at present posted as J.I.O.(I)(C)  
under A.C.I.O.-I, Subsidiary Intelligence  
Bureau, Bahraich. ... APPLICANT



V E R S U S

1. The State of Madhya Pradesh, through the  
Secretary, Home Department, Government of  
Madhya Pradesh, Civil Secretariat, Bhopal;
2. The Director General and Inspector General  
of Police, Madhya Pradesh Police Headquarters,  
at Bhopal;
3. The Superintendent of Police, District Executive  
Force, Khandawa, Madhya Pradesh;
4. The Assistant Director, Subsidiary Intelligence  
Bureau, U.P., Lucknow;
5. The Assistant Central Intelligence Officer (I),  
48/476- Bari Hat, Bahraich;
6. The Director, Subsidiary Intelligence Bureau,  
S.I.B. Headquarters, New Delhi.

... RESPONDENTS

REJOINDER AFFIDAVIT OF THE APPLICANT:

I, Bhairon Prasad, aged about 46 years, son  
of Late Sri Gaya Prasad Pandey, resident of Village  
and Post Office Ghiya Mau, Police Station Barondha,  
District Satna, Madhya Pradesh, at present posted as

Contd...2

AB  
2

.2.

J.I.O.(I)(C) under A.C.I.O.-I, Subsidiary Intelligence Bureau, Bahraich, the deponent, do hereby make oath and state as under:-

1. That the deponent is the petitioner/applicant himself in the above-noted writ petition and he states that he is fully conversant with the facts of the case, deposed to hereinafter:-

2. That the contents of the Counter affidavit filed on behalf of the opposite parties 4 to 6 have been read out and explained to the deponent, who understands the same and its reply runs as under:-

3. That the contents of paras 1 and 2 of the counter affidavit need no comments from the deponent.

4. That in reply to the <sup>sub-</sup>contents of para 1 of para 3 of the counter affidavit, it is submitted that it is wrong to say that the petitioner was relieved on 15.6.1988. It is pertinent to point out here that no-body asked him to hand over the charge of the office of J.I.O.(I), Bahraich to anybody and nobody took over charge from the applicant and the deponent was never regularly relieved. On the other hand, the application for leave on medical ground supported by the medical certificate as submitted by the deponent were duly received from him in the office of A.C.I.O.(I), Bahraich and each and every person in the concerned office was aware of the whereabouts of the deponent during his ailment and treatment with effect from 8.6.88 onwards till date.

5. That in regard to the contents of sub-para 2 of para 3 of the counter affidavit, it is submitted that as already admitted in the averments of the

Contd...2



4  
21/2/88

16  
3

.3.

counter affidavit, it is general procedure of the Subsidiary Intelligence Bureau to absorb the deputationist borrowed from the State Police Forces finally in the S.I.B. subject ~~to~~ only to their opting for absorption and having served for five years or more satisfactorily on deputation in S.I.B. and having five years or more duration of their service for retirement on superannuation. All these criterion and qualifications having already been fulfilled by the deponent, he was entitled for final absorption as J.I.O. in S.I.B. and his repatriation after a continuous service over 16 years in S.I.B. before deciding his case for absorption was absolutely arbitrary and unmindful on the post of the offices concerned belonging to S.I.B. It is pertinent to point out here that the case for absorption of the deponent in S.I.B. which has not yet been decided by the opposite parties is liable to be decided by them before requiring the deponent to proceed on repatriation to District Executive Force, Khandawa in Madhya Pradesh Police. It is further submitted that a perusal of Annexure No.C-1 itself indicates that the letter concerned of the Madhya Pradesh Police Headquarters was in reference of a prior communication by the Subsidiary Intelligence Bureau itself and it was not a demand of the deponent's immediate repatriation to his parent department as alleged.

6. That with regard to the contents of sub-para 3 of para 3 of the counter affidavit, it is submitted that the order of rejection of the petitioner's representation against his repatriation has yet not been served upon the deponent and the opposite parties have not chosen to file any copy of the same along

Contd...3 4



22952714

16/4

.4.

with their counter affidavit as well. It is difficult to understand as to how the opposite parties, who have retained Shri M.P.Trivedi, A.C.I.O.-II, Kanpur, Shri J.N.Singh, A.C.I.O.-II, Lucknow Headquarters, D.N.Pandey, J.I.O.-I, who had been constables in the same Madhya Pradesh Police before their coming on deputation to Subsidiary Intelligence Bureau and who have earned similar or lesser promotions in Subsidiary Intelligence Bureau and were quite similarly situate persons ~~of the~~ to the deponent, have picked up and chosen deponent alone after his continuous satisfactory service of 16 years long duration in Subsidiary Intelligence Bureau for repatriation especially when his case for absorption was still pending consideration of the opposite parties, who have yet not decided the same regarding allegation relieving of the deponent has already been replied in the preceding paragraph 4 and the contents of para 4 of the application ~~x~~ are reiterated here. It is further submitted that the deponent was under treatment in Bahraich, he was not served with any information or memo.

7. That in reply to the contents of sub-para 4 of para 3 of the counter affidavit, it is submitted that resjudicata does not apply in the case of the deponent.

8. That the contents of sub-para (a) of para 4 of the counter are not correct as stated hence denied and in reply the averments made in sub-para (a) of para 6 of the application/petition are reiterated as true and correct and it is further submitted that the deponent has been discriminated in the matter of his employment as he has also given his willingness

Contd...5

25/11/18

21/20/18

116/5

.5.

like others for serving in Subsidiary Intelligence Bureau.

9. That the contents of sub-para (b) of para 4 of the counter affidavit are not correct as stated hence denied and in reply the averments made in sub-para (b) of para 6 of the petition are reiterated (as true and correct statement of facts.

10. That the contents of sub-para (c) of para 4 of the counter affidavit are emphatically denied and in reply while reiterating sub-para (c) of para 6 of the petition, it is submitted that the order of repatriation of the deponent in fact is ~~an~~ an order of reversion as there is no such post of J.I.O.-I in Madhya Pradesh, the deponent will not be getting the same pay scale.

11. That the contents of sub-para (d) of para 4 of the counter affidavit are wrong hence denied and in reply the averments made in sub-para (d) of para 6 of the petition and para 5 above are reiterated.

12. That the contents of sub-para (e) of para 4 of the counter are wrong hence denied and in reply the averments made in sub-para (e) of para 6 of the petition and para 4 above are reiterated.

13. That the contents of sub-para (f) of para 4 of the counter affidavit need no comments.

14. That the contents of sub-para (g) of para 4 of the counter affidavit are not correct as stated hence denied and in reply the averments made in sub-para (g) of para 6 of the petition are reiterated as true and correct statement of facts.

Contd...6

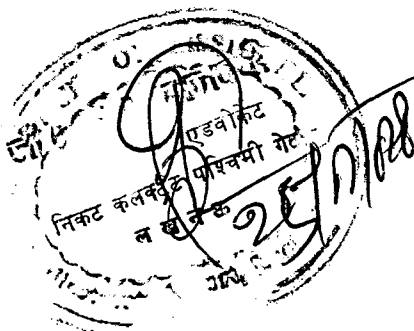
2120152114

AG  
6

.6.

15. That the contents of sub-para (h) and (i) of para 4 of the counter affidavit need no comments from the deponent.

16. That in reply to the contents of sub-para (j) of para 4 of the counter affidavit while reiterating sub-para (j) of para 6 of the petition, it is submitted that the other constables came on deputation before the deponent from Madhya Pradesh Police did not get the promotion which is a proof that the deponent was promoted due to his good conduct and hard work.



17. That the contents of sub-para (k) and (l) of para 4 of the counter affidavit need no comments from the deponent.

18. That in reply to the contents of sub-para (m) of para 4 of the counter affidavit, the averments made in sub-para (m) of para 6 of the petition are reiterated as true and correct statement of facts.

19. That the contents of sub-para (n) of para 4 of the counter affidavit are not correct as stated hence denied and in reply the averments of sub-para (n) of para 6 of the petition are reiterated as true and correct statement of facts.

20. That the contents of ~~para~~ sub-para (o) of para 4 of the counter affidavit are not correct as stated hence denied and in reply while reiterating sub-para (o) of para 6 of the petition it is submitted that the persons came before the petitioner on deputation and those came with the petitioner on deputation and even they came after the petitioner/deponent on deputation have been ~~xxxx~~ retained and have been absorbed also permanently whereas the deponent has alone been chosen for repatriation

Contd...6

21201 52112

AG  
7

.7.

and like this the deponent has been discriminated in the matter of employment.

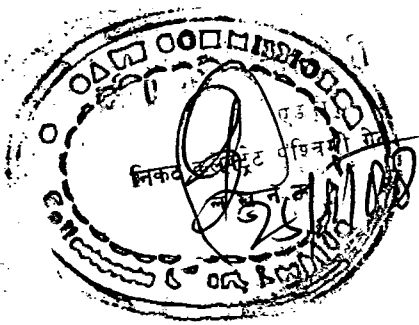
21. That in reply to the contents of sub-para (p) of para 4 of the counter affidavit while reiterating sub-para (p) of para 6 of the petition, it is submitted that there are other persons also who have not been absorbed but have been retained in Subsidiary Intelligence Bureau.

22. That the contents of sub-para (q) of para 4 of the counter affidavit are not correct as stated hence denied and in reply it is submitted that the matter of absorbing of the petitioner has not yet been decided and the deponent is liable to be retained in Subsidiary Intelligence Bureau till his case for absorption is decided and till the other similarly situate persons are retained in Subsidiary Intelligence Bureau.

23. That the contents of sub-para (s) and (t) of para 4 of the counter affidavit are not correct as stated hence denied and in reply while reiterating sub-para (r), (s) and (t) of para 6 of the petition, it is submitted that the persons who have been retained came ~~as~~ <sup>as</sup> constables like the deponent and did not get promotion like the deponent got in Subsidiary Intelligence Bureau is not the fault of the deponent. The names given in Annexure No.C-4 with the counter affidavit are the names of those persons also who are of the deponent's rank like Shri D.N.Pandey, J.I.O.-I.

24. That the contents of sub-para (u) of para 4 of the counter affidavit are wrong hence denied and in reply the averments made in sub-para (u) of para 6 of the petition are reiterated as true and correct

Contd...8



2129 9212

116/8

.8.

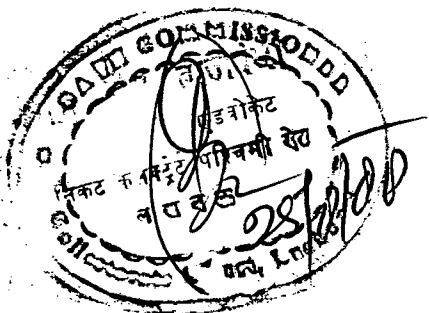
statement of facts. It is further submitted that the order passed on representation of the deponent was not communicated to the deponent and the same is also not annexed with the counter affidavit.

25. That the contents of para 5 of the counter affidavit are wrong hence denied and in reply it is submitted that the deponent is not liable to be sent on repatriation so long his case for absorption is decided and so long the persons came on deputation before the deponent with the deponent and after the deponent retained in Subsidiary Intelligence Bureau, the petition of the deponent is maintainable and the deponent is entitled to all the reliefs claimed in the petition and the petition of the deponent is liable to succeed with costs and with special costs against the answering opposite parties.

26. That the contents of para 6 of the counter affidavit are wrong hence denied and in reply it is submitted that the impugned order dated 30.5.1988 of repatriation is liable to be stayed as it is illegal arbitrary, mala fide and the same is liable to be stayed and quashed ultimately. It is wrong to say that the deponent was relieved on 15.6.88 in fact nobody asked the petitioner to hand over the charge of the office of J.I.O.-I, Bahraich and anybody - nobody took over the charge from the deponent and the deponent was never regularly relieved. The deponent is still holding the charge of his office, the impugned order dated 30.5.1988 is liable to be stayed.

27. That the contents of para 7 of the counter affidavit are wrong hence denied and in reply it is submitted that the petition of the deponent is

Contd...9



2129152112

Ab  
9

.9.

maintainable and the same is liable to be allowed with costs, the deponent is entitled to all the reliefs claimed and the petition is liable to succeed with costs and special costs against the answering opposite parties.

LUCKNOW:

DATED: 25.8.1988.

*[Signature]*  
DEPONENT

VERIFICATION

I, the above-named deponent, do hereby verify that the contents of paragraph Nos. 1 to 27 of this rejoinder affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So, help me God.

LUCKNOW:

DATED: 25.8.1988.

*[Signature]*  
DEPONENT



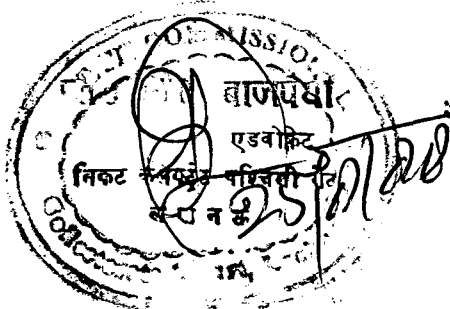
I know personally and identify the deponent who has signed in my presence

*[Signature]*  
21/2/92/14

S.R. Srivastava  
Adv.

On A. B. Bhawan Prasad  
I, the undersigned, being a  
A.M./D.M. of Sri/Smt  
who is identified Shri/Smt  
to Shri  
I have verified by self the contents  
of the deponent's affidavit and  
the contents of this affidavit which he  
has read out and explained to me.

*[Signature]*  
25/8/88



(A7)

In the Central Administrative Tribunal, Additional Bench,  
Allahabad.  
Circuit Bench, Lucknow.

O.O. No. 63 of 1988 (L)

Bhairo Prasad

..Applicant.

Versus

State of M.P. & others.

.. Opp. Parties.

Fixed for 25-8-1988)

Application for filing document on behalf of  
opposite parties no. 4, 5 and 6

The opposite parties no. 4, 5 and 6 respectfully  
submit as under :-

That it is expedient in the interest of justice to  
file the office Memo dated 13-6-1988, whereby the  
representation of the petitioner dated 4-6-1988 was  
rejected by the S.O.B. Lucknow.

Therefore, it is humbly prayed that the above  
mentioned accompanying document may kindly be taken  
on record of the case.

Lucknow, dated :  
25-8-1988

*D.S. Randhawa*  
(D.S. Randhawa)  
Advocate,  
(Senior Standing Counsel,  
Central Government,  
High Court, Lucknow)  
Counsel for opposite parties  
nos 4, 5 and 6.

A7  
2

CR No-10  
12/6

Most Immediate  
Out-Today

358

NO. L-6/PFL/EST/72(30)  
Subsidiary Intelligence Bureau  
(PFL), Govt. of India,

Lucknow, the 4 JUN 1980

MEMORANDUM

Please refer to your Memo No. B-1/EST/83 dated 5.6.83 forwarding therewith the representation of Shri Bhairu Prasad, JIO-I(G).

2. His case for repatriation had come up earlier also, but on his representation it was decided to retain him. However, it was noticed that he continued to maintain an indifferent attitude towards the organisation and did not rise upto the expected levels of performance particularly during Plan-83 etc. Hence his retention is not desirable.

3. He may therefore, be relieved on 15.6.88 (AN) positively with instruction to report to S.P. Khajawa, Madhya Pradesh.

at  
Assistant Director

ACIO-I- Bahraich

✓ Copy to Control Room, SIB Hqs, Lucknow for onward transmission to ACIO-I Bahraich over telephone.

for  
Assistant Director

Bahraich - Pank.

On 15.6.88 at 10.50 am, msg. conveyed to ACIO-I Bahraich.

15/6  
10.50h

A-2827  
1915

(C-1)

5700  
1915

Annexure  
C-1

A7  
3

दिनांक- 26.4.88

पुलिस मुख्यालय म० प्र० भोपाल.

क्रमांक पु०मु०/3/स्था/6/११६१/ 2295/88  
प्रति,

सहायक संचालक,  
सबसीडियरी इंटरलिजेंन्स ब्यूरो,  
भारत सरकार, गृह मंत्रालय,  
उत्तर प्रदेश लखनऊ ।

विषय- आरक्षक श्री भौरव प्रसाद गुप्तवार्ता विभाग भारत सरकार  
से प्रत्यावर्तन ।  
संदर्भ- आपका पत्र क्र० एल-7/प्रस्था/83/१2१/4117 दि० 22 मार्च 88

-----x-----

कृपया उपरोक्त विषय में संदर्भित पत्र का अवलोकन करें,  
जिसके द्वारा गुप्तवार्ता विभाग में प्रतिनिधित्वित श्री भौरव प्रसाद  
के प्रत्यावर्तन आदेश जारी करने का निवेदन किया गया है ।

यह उल्लेखनीय है कि आरक्षक क्र० 458 श्री भौरव प्रसाद  
को इस कार्यालय के राजपत्र आदेश क्र० 964 दि० 7-9-72 अनुसार जिला  
छाण्डवा से गुप्तवार्ता विभाग भारत सरकार में प्रतिनिधित्वित पर भोजा  
गया था । तत्पश्चात् इस कार्यालय के आदेश क्रमांक-पु०मु०/3/स्था/6/  
११३९१/4902/86 दिनांक 4-8-86 अनुसार उनके प्रत्यावर्तन आदेश जारी  
कर, जिला छाण्डवा में पदस्था किया गया है । किन्तु गुप्तवार्ता विभाग  
द्वारा श्री भौरव प्रसाद को कार्यमुक्त न करने के कारण उनके द्वारा जिला  
छाण्डवा में आशुद नली दी गई है ।

अतः आरक्षक श्री भौरव प्रसाद के प्रत्यावर्तन आदेश क्र० पु०मु०/  
स्था/6/११३९१/4902/86 दि० 4-8-86 की एक प्रति संलग्न कर भोजते  
हुए निवेदन है, कि आरक्षक 458 श्री भौरव प्रसाद को जिला छाण्डवा में  
आमद देने हेतु कार्यमुक्त कर, कार्यमुक्ति दिनांक से अवगत कराने का कष्ट  
करें ।

संलग्न- एक

उप पुलिस अधीक्षक/स्था०  
हेतु- स० म० नि०/स्था०/सा०/सा०  
पुलिस मुख्यालय म० प्र० भोपाल.

RECEIVED  
High Court  
125/10/100