

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE GA 637 OF 1988NAME OF THE PARTIES Namhey Lal

Applicant

Versus

Union of India

Respondent

Part A, ~~B & C~~

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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... 29/12/2011

Counter Signed.....

Section Officer In charge

Signature of the
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL
~~ALLAHABAD BENCH, ALLAHABAD~~

(Circuit Bench)
Lucknow

INDEX-SHEET

CAUSE TITLE Reg. no. 637 - OF 1988

B/II

Name of the Parties Nanhey Lal

Versus

Union of India and others

Part A, B & C

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25/5

Transfer

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 637/88 of 1988

APPLICANT (s) Nanhey Lal

RESPONDENT(s) U.O.I. through Secretary, Ministry of Water

Resources, New Delhi & 2 others

Particulars to be examined

Endorsement as to result of Examination

1. Is the appeal competent ?
2. (a) Is the application in the prescribed form ?
- (b) Is the application in paper book form ?
- (c) Have six complete sets of the application been filed ?
3. (a) Is the appeal in time ?
- (b) If not, by how many days it is beyond time ?
- (c) Has sufficient case for not making the application in time, been filed ?
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 ?
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?
- (b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?

Yes

Yes

Yes

6 sets filed.

Yes

—

—

Yes

Yes, No. $\frac{2D}{4}$ 227229 dt. 20-5-88 for B-50/-

Yes

Yes

Yes.

Particulars to be ExaminedEndorsement as to result of Examination

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

If approved, the case may be listed on 25.5.08

[Signature]

Submitted by
[Signature]
23.5.08

8/7/00

(A2)

Hon. D.S. Mishra - AM.

Hon. G.S. Sharma - JM

The petition suffers from various defects. Steps be taken to remove the defects.

JM

BL

Sh.

23.8.00 DR J.

Counsel for applicant files an amendment application. Sri V.K. Choudhary has accepted the notice of the same.

Put up before court for orders on 26.8.00

Sharma

DR J.

Aug
29/8

29.8.00
J.C. Tandon

26.8.00

Hon. A. John. SM
Hon. G.S. Sharma JM
Amendment Allowed.

SD

Vc/AJ(AM)

7.10.1988

Az
2


Applicant in person.

Respondents by Shri V.K.

Choudhary.

Applicant prays for
time. Time prayed for is
granted.

Post this case for
hearing on 25th October,
1988.


(Ajay Johari) (K.S. Pattaswamy)
Member(A) Vice Chairman.

25/x/88

Hon. D.S. Misra, Am.

Heard the applicant on the matter
of interim relief. The prayer for
interim relief has been opposed by
the respondents' counsel Shri V.K. Choudhary
who has filed an objection to the same.
A copy of the objection has also been
served on the applicant. The main
relief sought in the application is
for cancellation of transfer orders which
was opposed on 4-4-88. There is no
justification for grant of interim
relief. The prayer for interim relief
is rejected. The respondents are allowed
one more opportunity to file reply
to the main petition. Rejoinder, if
any, may be filed within ten days.
Registry will fix the date of final
hearing after the counter & rejoinder
are exchanged.



A.M.



Registered

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

No. CAT/CB/LKO/ 610 28/11 Dated : 13-1-09

OFFICE - MEMO


Registration No. O.A. 637 of 1938
I.A.

Nanhey Lal Applicant's

Versus

V. C. & Son Respondent's

A copy of the Tribunal's ~~Order~~ Judgement dated 12-1-09 in the abovenoted case is forwarded for necessary action.


For, DEPUTY REGISTRAR (H)

Encl : Copy of ~~Order~~ Judgement dated 12-1-09
Luc

To.

Recd. on
Registrar

→ Sm Nanhey Lal - applicants.

Recd. on
Deputy Registrar

Sm V. K. Chavelling - Adv.

dinesh/

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH

LUCKNOW

Registration O.A. NO.637 of 1988

Nanhey Lal

....

Applicant

-VS-

Union of India and others

....

Respondents

Hon'ble Ajay Johri, AM

By this application made under section 19 of the Administrative Tribunal Act 1985. The applicant who is working in the Middle Ganga Division No.1 at Lucknow as a work Sarkar, has challenged an order dated 4-4-1988 issued by the executive engineer Lucknow transferring him from Lucknow to Haldwani. The applicant's case is that while he was working at Varnasi he had made a request for transfer to Lucknow and it was in April, 1987 that he was transferred in response to his request, that Against the impugned order the applicant had represented bringing out his personnel difficulty and the fact that he was transferred on his own request to settle certain problems regarding his property etc and that his posting to Haldwani would defeat the purpose for which he had requested for transfer to Lucknow. The applicant has alleged that the transfer order is mala fide and against the provisions of the rules. According to him Group D employees cannot normally be transferred except in certain exigencies of service, he has further said that he is not the person with the longest stay at Lucknow and therefore even on this account the transfer is bad.

According to him since he is the circle president of the Union, and he takes up the problems of the employees with departmental authorities, he has become an eye sore and he is being punished by his transfer order. By this application the applicant has prayed for cancellation of the impugned order.

The respondents in their reply have said that since there is no vacancy of work Sarkar at Lucknow and a vacancy exists at

Haldwani the applicant has been transferred to Haldwani. His transfer from Varnagi to Lucknow was made when there was shortage of staff in the regular establishment. Since regular vacancy has now been filled the applicant has become surplus and was transferred out of Lucknow. They have denied that any harrasment has been caused to the applicant. According to the respondents the services of work charged staff are ^{required} ~~posed~~ on works so they are posted where the requirement exists irrespective of their representations or requests.

The applicants posting at Lucknow was only till the vacancy of junior computers was not filled. As soon as the vacancy was filled he has been transferred. According to the respondents the applicant was transferred to Haldwani because there was no clerk posted there and he was supposed to do clerical work also. The transfer of the applicant has also been made in the Government intrest and is not with any malafide intension³.

This reply has been apposed by the applicant in his rejoinder. The applicant has reiterated that he was appointed on the post of work Sarkar, and is working in the same post till now. According to him the grade of junior computers is different and their work is also different. He has attached a copy of transfer policy as Annexure R.A. 1. He has further said in the rejoinder that one other person has been posted to Lucknow after him and it cannot be said that there is no work for him now. His emphasis is that he has property dispute and that absence from Lucknow will adversely effect him.

I have heard the learned counsel for the parties the submission made by the learned counsel for the applicant were that the transfer is against the laid down policy, the applicant is not the person with the longest stay, his work has been satisfactory and his transfer on his request has already ^{3/5} ~~req~~ resulted in lowering his seniority therefore he should not be transferred again after the short spell of posting at Lucknow.

AB
3

-3-

On behalf of the respondents the learned counsel submitted that the transfer has been made because there is no more any requirement at Lucknow and the applicant is a field worker and the work for him is in the field and not in the head quarters office. Nothing else was pressed before me. The transfer policy for C.W.C., employees lays down certain general principles and guide lines. It says that the transfers are to be kept to the minimum extent possible. Group C & D, personnel should not normally be transferred except for ^{3/}adjusting surplus staff or for making up deficiency , or on the request of the employee, or at the time of promotion when local adjustment is not possible and for exigency of services. This policy further lays down that the order of transfer should be first those who ^{3/}vol~~unteer~~ there after those who are with the longest stay.

It is not under dispute that the applicant was transferred on his own request and the controlling authority agreed to his request and transferred ^{3/}to him from Varnasi to Lucknow. The applicant came on transfer in April 1987, When the applicant had made the request, he had indicated the reasons for his request and the respondent accepted the same before they brought him from Varnasi to Lucknow. It is not pleaded before me that in the transfer order it was mentioned that the request was consider only for a short period.

In view of definite guide lines having been issued in

...4/-

respect of group C & D employees the respondents should have examined the applicant's case keeping in the view these guide lines. The applicant has averred that he is not the person with the longest stay at Lucknow. A submission was made by the learned counsel for the respondent by saying that the person with the longest stay is also utilised on certain other work which only he can do. This aurgument does not impress me. If the department has spelled out a particular policy which governs the transfer of Group C and D employees the action to be taken has to fall within those guide lines.

The plea of exegiency of service also does not meet the eye. The applicant is a work Sarkar and has got definite duties to perform.. It cannot be said that he is the only suitable person to meet the requirements of the posts at Haldwani.

At the bar the learned counsel for the applicant submitted that the applicant had been indulging in Union activities and that he is now regretting the same and also under takes that he will not indulge in these activities in future. According to the learned counsel his Union activities were also a back ground of the impugned order. Also the present request of the applicant is for letting him stay at Lucknow for two more years by which time he feels that his personnel problems on the ground of which he requested his transfer to Lucknow will be over come.

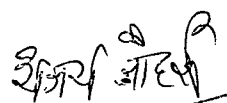
On considering of the above facts, I feel that the transfer

A3/5

-5-

order is bad as it does not follow the guide lines and defeats the purpose for which the applicant had ^{3/} ~~had~~ agreed to suffer in matter of seniority while coming on transfer from Varnasi. Though transfer orders are normally not open for adjudication yet where it is found that they have been issued for extraneous consideration or against the policy and guide lines laid down for such transfers, they can be interfered with. ^{3/} The transfer order is, therefore, bad and is liable to be set aside.

In the above view I allow the application and set aside the transfer order dated 4-4-1988. The period of absence of the applicant will be treated as leave of any kind due to him. I make no order as to costs.


Ajay Johri (AM)

Dated: 12-1-1989.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

Allahabad Bench, Allahabad

Registration No. 637 of 1988

Nenhey Lal - - - - - PETITIONER

Vs.

Union of India & others - - - - - OPP. PARTIES

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DATED: 20.5.01

(SATISH KANT SRIVASTAVA)
ADVOCATE

20/5/01
Counsel for the petitioner

VARANASI

14/2

Administrative Tribunal
Allahabad Bench At Allahabad
G28/0025-5-88
By Post

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD

Registration No. 637 of 1988

Nanhey Lal a/a 41 Years son of Late Shri Jaggu,
Resident of 545, Ka/57, Para, Rajaji Puram, Lucknow

----- PETITIONER.

- Versus -

1. Union of India through Secretary, Ministry of
Water Resources, New Delhi.
2. Superintending Engineer, Middle Ganga Circle, Varanasi
3. Executive Engineer, Middle Ganga Division No. 1,
Lucknow.

----- -OPPOSITE PARTIES

1. PARTICULARS OF APPLICATION

- | | |
|---|--|
| i) Name of Applicant: | NANHE LAL |
| ii) Name of father | Late Shri Jaggu |
| iii) Designation & Office
in which employed: | Work Sarkar, Middle Ganga
Division, No. I,
Lucknow |

Filed to-day
Noted 25-5-88
20/5/88

20-5-88

By
3

- iv) Office Address: Middle Ganga Division No. I,
Central Water Commission,
Pratap Bag, Aliganj, LUCKNOW
- v) Address for service of all notices: 545, Ka/57, Para, Rajajipuram,
Lucknow.

2. PARTICULARS OF THE RESPONDENT:

- i) Name or designation of the respondent:
1. Union of India through Secretary,
Ministry of Water Resources,
New Delhi.
 2. Superintending Engineer,
Middle Ganga Circle,
Tulsipur, Mahmooorganj,
Varanasi.
 3. Executive Engineer,
Middle Ganga Division No. 1,
Central Water Commission,
Pratap bag, Aliganj,
LUCKNOW

- 2) Office address of the respondent:

- DO -

- 3) Address for service of all notices:

- DO -

3. PARTICULARS OF THE ORDER AGAINST WHICH APPLICATION

is made:

Handwritten signature/initials

Handwritten signature/initials
Am. 21.5.08

My
to

- i) Order No. E-9/Ma.Ga.Me.-I/Lakh./88/1903-10
- ii) Date 4.4.1988
- iii) Passed by: Executive Engineer, C.W.C., Middle Ganga Div.-I, Aliganj, Lucknow
- iv) Subjects in Brief:

The petitioner who is own request was transferred from Varanasi to Lucknow to protect his ancestral property from litigations going on in April 1987 the Litigations are still pending but the illegal transfer order has been passed to harass the petitioner . Hence this petition, for stay of its operation.

4. JURISDICTION OF THE TRIBUNAL:

The petitioner has been serving as Work Sarkar under Executive Engineer, Middle Ganga Division - I, Lucknow U.P. where the impugned order has^{also} been passed hence this tribunal has jurisdiction to try the petition.

5. LIMITATION:

The impugned order having been passed on 4.4.88 served on 18.4.88 admitting of no departmental appeal or remedy . The matter is well within limitation, provided under the act.

12/5/88

Shim

ADV. 20/5/88

44/5

6. FACTS OF THE CASE:

1. The petitioner was appointed initially on 24.3.71 as Gauge Khalasi - Cum-Messenger in scale 70-1-85 and was confirmed by order Dt. 12.5.87 with effect from 20.2.86 the photo state copy of confirmation order is enclosed as ANNEXURE I.

2. He was subjected to appointment as Work Sarker in work charge establishment on 1.6.72 in scale Rs.85-2-95 disclosed by payment but not in the appointment letter. Photostate copy of the order of appointment enclosed as ANNEXURE 'II'.

3. That the working of the petitioner being successful and to the mark, he was given quasi permanency by order Dt. 24.7.85 w.e.f. 18.12.75 in scale Rs. 210-270 against the recognised and prescribed scale for Work Sarker Rs. 260-400. The initial scale given to the petitioner Rs. 85-2-95 was also incorrect and illegal, and the correct scale was Rs. 110-180. The Photostat copy of the order of quasi permanency is enclosed as Annexure

III

5/10/87

[Signature]

Asst. Secy. to Govt.

Ag
6

4. That on 1st of May, 1987 the petitioner on own request came on transfer from Varanasi to Lucknow and on 26.3.88 he submitted a detailed representation regarding his claim for proper scale and grade of work sarkar and payment of his arrears as a consequence of fixation in correct grade. The Photostat copy of the Representation is enclosed as ANNEXURE IV. (X) Amendment incorporated. S.C. Tadeva. 9.8.88

CS
Amendment incorporated
S.C. Tadeva
9.8.88

5 (15) That the Opposite Parties instead of sympathetically considering the claim of the petitioner for proper scale and grade took it otherwise and as a Measure of reprisal and punishment passed the impugned order Dt. 4.4.88 transferring petitioner from Lucknow Division to Haldwani sub Division. Which is a Cold and Hill Area, not suiting to the physical condition of the petitioner. The Photostate copy of the transfer order challenged is enclosed as ANNEXURE V to the petition. The same is wholly illegal, arbitrary, malicious, punitive, vindictive, and ineffective for the following reasons amongst other:-

G R O U N D S

a) Because the impugned order is innocuously

7/2 21/2
J
Aen. 20.5.88

14/7

worded yet judged in the light of antecedent is punitive in nature and penal ineffect.

b) Because the petitioner was transferred from Varanasi to Lucknow on own request to protect his ancestral Property and the litigations then going ^{on} are still pending i.e. the ~~same~~ ^{compensable} ground for transfer ~~are~~ still existing but the order of transfer has been maliciously passed to harass the petitioner.

c) Because the impugned order has been passed against the Transfer Policy declared in the C. W. C., Office Memorandum dealing with Transfer matter of C.W.C.'s Employee - The Transfer for administrative reasons are to be kept to the minimum extent possible - Group 'C' & 'D' employees are exception to transfer except in inevitable contingencies Defined from (a) (d) under clause 3 .

d) Because the petitioner is a Group 'D' employee and he cannot be transferred normally from one station to an another except in contingencies specified .

14/7/81
[Signature]
A.K. 20.5.08

Hy
a

e) Because the impugned transfer order is in arbitrary exercise of power by the Executive Engineer, against the mandatory conditions declared in the memorandum and a deviation in as much as it has been passed without taking approval of the Chairman, C. W. C.

f) Because the impugned transfer order amounts to unequal treatment against the recognised policy and constitutional guarantees under article 14 and 16 of constitution of India.

g) Because the transfer order in question having been passed by way of punishment in annoyance to the representation Dt. 26.3.88 is punishment without any show cause or hearing in breach of principle of natural justice and fair play and article 311 (2) of Constitution of India.

h) Because the Opposite Party No. 3 has adopted policy of Pick and Choose in as much as Sri Kaushal Kishore, ~~Sri~~ Work Sarker similarly circumstances as Petitioner is retained at Lucknow since before 1979 for reasons best known for ulterior consideration.

i) Because the petitioner is unionist and circle

12/2/88
- 25.00

11/9

President often negotiating the problems of employees in general with the departmental authorities, including Shri Ram Sharan, Executive Engineer, and has been an eye sore and has been targeted for punishment to discourage his position in the ~~recognized~~ association.

7. RELIEF SOUGHT:

That by means of suitable order or directions the impugned order of transfer Dated: 4.4.88 served on 18.4.88 be quashed and declared ultravires, the petitioners be declared continuing as Work Sarkar, under Executive Engineer, Middle Ganga Division - I, Lucknow with all consequential benefits.

cc.
Adm. 9.9.88

Amendment (b) incorporated
and prayer (b) is deleted

that by suitable order or direction the opposite party be directed to fix the grade and scale of the petitioner as a work sarkar Rs. 260-400 revised to Rs. 950 - 1500 w.e.f. 1.6.72 as per rules and the revised scale from 1.1.86.

8. INTERIM ORDER IF ANY PRAYED FOR:

The Interim order staying the operation of impugned

4/2/88

[Signature]

for 20.5.00

14/10

transfer order Dt. 4.4.88 served on 18.4.88 be passed directing the opposite party to recognise petitioner as work sarkar under Executive Engineer, Middle Ganga Division No.I, Lucknow and to pay him the salary admissible to the post regularly.

9. DETAILS OF REMEDY EXHAUSTED.

The impugned order admits of no statutory remedy by way of appeal or representation and in the exigency of matter it is not possible to file the representation and wait for less the purpose of the petition may fail.

10. MATTER NOT PENDING WITH ANY COURT:

No Petition regarding matter in issue is pending in any court and before any authority or tribunal in India.

11, PARTICULARS of Bank Draft/ Postal O.D. Mahabud order in respect of application fee: — Rs. 50/-

- i) Number of Indian Postal Order $\frac{DD}{4}$ 227229
- ii) Name of Issuing Post Office. L.P.O. Mahabud

21/10
Mr. G. S. OP

Am
4

3. Date of issue of Postal Order. 20.5.00

4. Post Office at which Payable. L.O. Allahabad

12. DETAILS OF INDEX:

An Index in duplicate containing the detail of the document to be valid upon in addition to annexure is enclosed.

13. List of Enclosures::

ANNEXURE 'I' to ANNEXURE 'V'

VERIFICATION

I, Nanhey Lal, a/a 41 years son of Late Jaggu as Work Sarkar at Middle Ganga Division-I, Lucknow do hereby verify that the contents of Para 1 to 13 are true to my personal knowledge & belief and that I have not suppressed any material facts.

PLACE:

Signature of applicant.

DATE:

To,

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

Am
4
20.5.00

भारत सरकार
केन्द्रीय जल आयोग
कार्यालय अखिल भारतीय
मध्य गंगा परिषद
बी 38/1, पो- मङ्गलूर
वाराणसी- 221010
.....

कार्यालय आदेश

विभागीय फेननति समिति जिसका गठन मध्य गंगा परिषद, केन्द्रीय जल आयोग, वाराणसी के अधीन कार्यरत वर्ग 'ग' और 'घ' के कार्यप्रभारी कर्मचारियों की फेननति एवं संपुष्टि के लिए किया गया है, की सिफारिशों के अनुसार, अधोहस्ताक्षरित द्वारा निम्नलिखित कर्मचारियों की केन्द्रीय जल आयोग के केन्द्र में गैलिक रू में छताली पद पर भेदनभन
रू 750-12-870-40रू 10-14-940/- में उनके नदों के सभन दशमि गये दिनंक से अधनन,
केन्द्रीय जल आयोग के रूंक 1/30/85-रूकनन-12 दिनंक 20-2-86 द्वारा मंनूर लिये
गये रूानी नदों पर निमूनि की नती है ।

क्रम संख्या	नाम	नियुक्ति स्थान	संपुष्टिकरण तिथि
1-	श्री लाल देव प्रसाद	मध्य गंगा मण्डल-5, पटना	20-2-86
2-	श्री श्याम मिश्र	मध्य गंगा मण्डल-4, पटना	20-2-86
3-	श्री राम धूष	मध्य गंगा मण्डल-5, पटना	20-2-86
4-	श्री वकील राम	मध्य गंगा मण्डल-4, पटना	20-2-86
5-	श्री वारुदेव प्रसाद सिंह	मध्य गंगा मण्डल-5, पटना	20-2-86
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7-	श्री शोभा कन्त ठाकुर	मध्य गंगा मण्डल-4, पटना	20-2-86
8-	श्री नथुना ठाकुर	मध्य गंगा मण्डल-5, पटना	20-2-86
9-	श्री गंगा दयाल	मध्य गंगा मण्डल-4, पटना	20-2-86
10-	श्री गंग नारायन पालवान (अनु० नाति)	मध्य गंगा मण्डल-5, पटना	20-2-86
11-	श्री राम नगीना प्रसाद	मध्य गंगा मण्डल-4, पटना	20-2-86
12-	श्री युगत किशोर प्रसाद	मध्य गंगा मण्डल-4, पटना	20-2-86
13-	श्री नमदीश प्रसाद	मध्य गंगा मण्डल-4, पटना	20-2-86
14-	श्री के०एन० चौधरी	मध्य गंगा मण्डल-5, पटना	20-2-86
15-	श्री परमानन्द गुप्ता	मध्य गंगा मण्डल-4, पटना	20-2-86
16-	श्री अतरफी साह	मध्य गंगा मण्डल-4, पटना	20-2-86
17-	श्री नय गंगल सहानी	मध्य गंगा मण्डल-4, पटना	20-2-86
18-	श्री लाल लाल पाण्डेय	मध्य गंगा मण्डल-3, वाराणसी	20-2-86
19-	श्री लक्ष्मी कन्त सिंह	मध्य गंगा मण्डल-4, पटना	20-2-86
20-	श्री नवील अहमद	मध्य गंगा मण्डल-1, लखनऊ	20-2-86
21-	श्री बुद्धी लाल (अनु० नाति)	मध्य गंगा मण्डल-1, लखनऊ	20-2-86
22-	श्री श्याम लाल	मध्य गंगा मण्डल-3, वाराणसी	20-2-86
23-	श्री नन्हे लाल	मध्य गंगा मण्डल-3, वाराणसी	20-2-86
24-	श्री राम सिंह	मध्य गंगा मण्डल-3, वाराणसी	20-2-86
25-	श्री भिज लाल (अनु० नाति)	मध्य गंगा मण्डल-3, वाराणसी	20-2-86

नन्हे लाल

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20.5.80

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No. E-5/CH 2/JP/72/
Government of India
Central Flood Forecasting Division
Central Water and Power Commission
313/12, Khun Khun Ji Road, Lucknow

Lucknow-3. 13/7/72

OFFICE ORDER

Sri Manhey Lal, gauge khalsi man is hereby appointed as a Work Sarker (Work charged Establishment). The expenditure is chargeable to collection of gauge data from G & D Site maintained by W.R.S., Division and Irrigation Deptt., under Gorakhpur Control Room.

Sd.

(G.J. BHOWMI)
DEPUTY DIRECTOR.

Copy to:

1. The Assistant Engineer, C.F.F.Dn., Lucknow
2. Accounts Branch, Lucknow.
3. Sri Manhey Lal, Gauge khalsi. He should take over charge of Work Sarker and he should submit his joining report as Work Sarker.

12/7/72

(G.J. BHOWMI)
DEPUTY DIRECTOR.

* RI 2VI *

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Sir
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भारत सरकार
केन्द्रीय जल आयोग
कार्यालय अधिभासी अभ्यन्ता
जल संसाधन एवं बाढ़ पूर्वानुमान
पुष्पड, 3, तेलियाबाग, वाराणसी

पत्रांक: ई-35/जसंस्वापु/वा०/85/ 3661-65 दिनांक: 24-7-85

केन्द्रीय सिविल सेवाएं {अस्थाई सेवा} नियमावली 1965 के
नियम उपाधाय के अन्तर्गत घोषणा एवं नियुक्ति आदेश।

मैं मुहम्मद रफीक, केन्द्रीय सिविल सेवाएं {अस्थाई सेवा} नियमावली 1965 के नियम 2 तथा 4 के अनुसरण में निम्नलिखित वर्क सरकारों को उनके कार्य, वॉरन्ट तथा आवरण से सन्तुष्ट होकर उन्हें उनके सामने दी गयी तिथि से कार्यभार पर पद स्थापना में वर्क सरकार के पद पर जिसका वेतन क्रम रन 210-4-250-50वीं-5-270/- है, स्थाईवत् {क्वासी परमानेन्ट} रस में नियुक्त किये जाने योग्य समझे हुए उक्त वर्क सरकारों को स्थाईवत् {क्वासी परमानेन्ट} रस में नियुक्त करता हूँ :-

क्र.सं.	नाम	नियुक्त करने की तिथि
1.	श्री नन्हे लाल,	18.12.75
2.	श्री साधु लाल पाण्डेय	27.3.76

मुहम्मद रफीक
{मो० रफीक}
अधिभासी अभ्यन्ता

प्रतिलिपि:-

1. श्री नन्हे लाल, वर्क श्री साधु लाल पाण्डेय, वर्क सरकार
2. श्री सम्बन्धित कर्मचारियों की सेवा पुस्तिका
3. सहायक अधिभासी अभ्यन्ता, केन्द्रीय बाढ़ पूर्वानुमान, उपखण्ड, इलाहाबाद
4. सहायक अभ्यन्ता, जल संसाधन उपखण्ड, वाराणसी
5. कार्यालय आदेश पंजीका।

मुहम्मद रफीक
{मो० रफीक}
अधिभासी अभ्यन्ता
जल संसाधन एवं बाढ़ पूर्वानुमान
पुष्पड, वाराणसी-2

H. T. C.

20.5.88

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सेवा में

श्रीमान अधिशासी अभियन्ता,
मध्य गंगा मण्डल प्रथम,
केन्द्रीय जल आयोग,
लखनऊ।

विषय:- उचित वेतन मान में वेतन निर्धारण करने एवं उसके फलस्वरूप देय धनराशि के भुगतान की प्रार्थना।
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महोदय,

मेरी नियुक्ति दिनांक 24-3-1971 से " गेज खलासी " के पद पर हुई थी। मेरी योग्यता, कार्य क्षमता, एवं मेरे कार्य से संतुष्ट होकर शासन ने पत्र सं० ई-9/सी०एफ०एच/यू०पी०/72/2313 दिनांक 1-6-1972 से मुझे " वकील सरकार " के पद पर नियुक्त किया था। तब से मैं " वकील सरकार " के पद पर सुचारु रूप से कार्य कर रहा हूँ।

अध्यापक कार्यालय द्वारा मुझे " वकील सरकार " ग्रेड तृतीय सम्बोधित करने पर मैंने आपत्ति की थी जिस पर मुझे कार्यालय द्वारा बताया गया था कि " वकील सरकार " तथा वकील सरकार ग्रेड तृतीय एक ही पद है फिर भी मेरे द्वारा आपत्ति करने पर कार्यालय द्वारा सुधार करके पुनः " वकील सरकार " कर लिया गया था।

जब भी कार्यालय द्वारा मुझे " वकील सरकार " ग्रेड तृतीय सम्बोधित किया गया मैंने उही समय आपत्ति की, जिस पर मुझे यही समझाया जाता रहा कि " वकील सरकार " तथा वकील सरकार ग्रेड तृतीय एक ही पद है तथा वकील सरकार ग्रेड प्रथम व वकील सरकार ग्रेड द्वितीय अलग-अलग पद है फिर भी मेरी आपत्ति पर कार्यालय द्वारा सुधार करके " वकील सरकार " कर लिया जाता रहा है। इस सम्बन्ध में मुझे भी यह कहा गया कि यदि आपत्ति है तो आप स्वयं " वकील सरकार " ही लिखें। और मैं अपने पद को " वकील सरकार " ही लिखता रहा हूँ क्योंकि मेरी नियुक्ति " वकील सरकार " के ही पद पर हुई थी। तथा इस पर कार्यालय द्वारा अभी तक कोई आपत्ति नहीं की गयी है।

अब मुझे मालूम हुआ है कि " वकील सरकार " तथा वकील सरकार ग्रेड द्वितीय एक पद है तथा वकील सरकार ग्रेड तृतीय निम्न कोटि का पद है वेतन निर्धारण के समय भी मुझे " वकील सरकार " पद का वेतनमान न देकर " वकील सरकार ग्रेड तृतीय " के वेतनमान में सम्बोधित किया गया है जो पूर्णतया गलत है तथा मेरे साथ किया गया अन्याय है और मेरा आर्थिक शोषण करने का षड्यन्त्र है।

अतः आपसे अनुरोध है कि मुझे मेरे पद " वकील सरकार " का वेतनमान नियुक्ति तिथि से देने का आदेश यथीशीघ्र जारी करने की कृपा करें तथा उसके

16/5/72

[Signature]

20.5.72

पेज दो पर 2/...
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फलत्वरूप इसी बकाया धनराशि का भुगतान यथा शीघ्र करने की कृपा करें और भविष्य में " वकील कार ग्रेड तृतीय के स्थान पर मुझे " वकील सरकार " ही सम्बोधित करने की कृपा करें वकील कार ग्रेड तृतीय सम्बोधन से युक्त किसी भी आदेश/पत्र को स्वीकार न करने के लिये मैं बाध्य हूँ ।

निम्न तिथि से वेतनमान में सुधार सरकारी आश्लेषों में प्राक्कीय है ।

- 111 1-6-72 से 95-2-95 के स्थान पर 110-3-131-4-143-ई0वी0-4°
171 ई0वी0-4-175-5-180
121 1-1-73 से 210-4-250-ई0वी0-5-270 के स्थान पर 260-6-290
ई0वी0-6-326-8-366 ई0वी0-8-390-10-400
131 1-1-36 से 800-15-1010-ई0वी0-20-1150 के स्थान पर 950-20 -
1150-ई0वी0-25-1500

दिनांक :- 26-3-88

आपका विश्वास पात्र

नन्दे लाल
वकील सरकार
मध्यगंगा मण्डल प्रथम,
लखनऊ ।

प्रतिलिपि :-

- 111 श्रीमान अधीक्षा अधिवक्ता मध्यगंगा पारिमण्डल वाराणसी को इस प्रार्थना के साथ कि मेरा नाम वकील सरकार ग्रेड तृतीय की वरिष्ठता सूची से प्रयुक्त दिया जाय ।
121 श्रीमान अधीक्षा अधिवक्ता मध्यगंगा मण्डल तृतीय वाराणसी को इस प्रार्थना के साथ कि मे 4-2-1981 से 30-4-1987 तक उनके अधीनस्थ कार्यरत था अतः सम्बन्धित अवधि के लिये आवश्यक कार्यवाही करें ।

नन्दे लाल

आपका विश्वासपात्र

नन्दे लाल
वकील सरकार
मध्यगंगा मण्डल प्रथम
लखनऊ ।

20.5.09

कार्यालय आदेश

निम्नलिखित कार्य प्रभारित कर्मचारियों का स्थानान्तरण उनके नाम के सामने दर्शाये गये स्थान पर किया जाता है। यह आदेश तत्काल प्रभावी होगा।

क्रमिक नाम व पद	वर्तमान कार्यस्थल	भविष्य का कार्यस्थल	टिप्पणी
1- श्री बाबूलाल गेज महायक	पलियाकला	जहांगीराबाद	निजस्थित में।
2- श्री रमेश प्रसाद गेज महायक	जहांगीराबाद	थल	जनस्थित में।
3- श्री नमोलाल वर्क सरकार	मण्डलीय कार्यालय इन्दरगढ़ उपमण्डल लखनऊ।		जनस्थित में। रिक्त पद के विरुद्ध।
4- श्री गोपालराम गीजर	अयोध्या	बी०के० घाट	जनस्थित में। रिक्त पद के विरुद्ध।
5- श्री हरीओम उपाध्याय, गे०क०	बलरामपुर	चन्द्रदीपघाट	निजस्थित में।
6- श्री ओमप्रकाश गुप्ता, क्लर्क	चन्द्रदीपघाट	तवाघाट	जनस्थित में।
7- श्री के०के० सिंह नाविक	उपमण्डल गीण्डा।	बी०के० घाट	जनस्थित में। रिक्त पद के विरुद्ध।
8- श्री रामचक्र-1 नाविक पत्र श्री रामकुमार	अयोध्या	बी०के० घाट	जनस्थित में। रिक्त पद के विरुद्ध।
9- श्री आर०एस० कृत्योदी, गे०क०	मण्डलीय कार्यालय लखनऊ	बागेश्वर	जनस्थित में। रिक्त पद के विरुद्ध।
10- श्री रामसुय नाविक	बी०के० घाट	अयोध्या	निजस्थित में।
11- श्री श्रीराम नाविक	निपाकला	मुहचुरवाघाट	निजस्थित में।
12- श्री अयोध्या प्रसाद एल्लिनड्रिज नाविक		अयोध्या	निजस्थित में।

नोट- पत्र प्राप्त होने के एक सप्ताह के अन्दर कार्य मुक्त करना अनिवार्य है।

प्रो. 18/4/88

पत्रांक : ई-9/म०ग०म०-1/लख०/88/ 1903-10

दि० 4.4.88

निम्न को सूचनार्थ एवं आवश्यक कार्य-वाही :-

- 1- सहायक अभियन्ता/महायक अधिकारी अभियन्ता, इन्दरगढ़/मण्डल/मण्डलीय कार्यालय/जलतरंग/प्रसिद्धि, लखनऊ।
- 2- लेखाशुभाग, मण्डलीय कार्यालय, लखनऊ।
- 3- प्रत्येक कर्मचारी द्वारा महायक अभियन्ता/महायक अधिकारी अभियन्ता।
- 4- व्यक्तिगत पत्रावली।

Technical Officer
in charge
(P.B) for
H.O. J.R.

राम मरन
सहायकी अभियन्ता।

राम मरन
सहायकी अभियन्ता।

Amir Te.

21.5.00

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A. No. 637 of 1988(A)

Nanhey Lal

... Applicant

Versus

Union of India & others

.. Opp. parties.

Rehly
~~COUNTER AFFIDAVIT~~ ON BEHALF OF OPP. PARTIES

I, S.H. Lal

aged

about 50 years, son of Late S.H. Lal

at present posted as Executive Engineer,

Middle Ganga Division No.1, Central Water Commission,

Lucknow do hereby solemnly affirm and state as

under:-

2. That the deponent is the opposite party no.3 in the above named case and as such he is well conversant with the facts of the case.

3. That the deponent has read and understood the contents of application ~~for~~ filed by the petitioner as well as the reply given ~~xxxxxx~~ given hereunder:

4. That the contents of para 1 to 3(iii) of the application need no comments.

Shya Lal Lal

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5. That in reply to the contents of para 3(iv) of the application it is submitted that there is no existing vacancy of Work Sarkar Grade.III in division office (H.O.) . There is a existing vacancy of Work Sarkar Gr.II at Haldwani Sub Division under this division. The posting of all work charged staff are made to the name of Middle Ganga Division -I, Lucknow but the further posting are made by Division to its Sub-division wherever vacancy and work exist, Shri Nahe Lal the applicant was transferred to Middle Ganga Division-1, Lucknow from Varanasi and his services were utilised at Divisional office, due to shortage of staff like Junior Computer who comes under regular establishment. The regular vacancy were filled up by the head office, New Delhi. So he was transferred from Lucknow to Haldwani where the services of work Sarkar were actually required. So using the word of harassment is quite baseless.

6. That the contents of para 4 of the application need no comments.

7. That in reply to the contents of para 5 of the application it is submitted that the

Shyam Lal Lal

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services of work-charged staff are totally based on works so that where the necessity of work arises, they are posted there or may be retrenched if work is not available irrespective of their representation or request.

8. That in reply to the contents of para 6 of the application work-charged staff specially group D Staff are posted in remote areas at sites. If they request for leave, the same are granted to them whether it may be medical or earned leave to meet their exigencies as per Government rules.

9. That in reply to the contents of para 7 of the application it is submitted that whatever might be the case at Varanasi Division where he has already worked and was allowed to work under this division (H.O) also till the vacancy of Jr. Computers were not filled. As soon as the Jr. Computers joined this Division, his service was not required at the Division level and thus he was posted to Haldwani Sub-division (H.O) instead of any remote areas. The Haldwani place has every

Shyam Narayan

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type of facilities and well connected by Railways as well as highways with Lucknow. He can look after his problems by taking of proper leaves which will be granted to him without any difficulty from this end.

10. That the contents of para 8 of the application are incorrect and in reply it is submitted that there is no transfer and posting for group 'D' work-charged staff of C.W.C. Their services are based on work only where the work will be available they may be posted there irrespective of their personal problems.

11. That in reply to the contents of para-9 of the application there are 12 other work-charged staff under that panel and moreover there are 2 charged assistants also who come under Group-C work-charged staff. They have been posted to more remote and hill areas in the interest of Govt work. They have already joined their duties. Now this transfer order is in malafide intention for the petition. He has posted in Government interest there.

Shyam Lal

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12. That in reply to the contents of para 10 of the application it is submitted that he was transferred to Haldwani Sub-Divison to help the SDO and Junior Engineer (HO) , Haldwani because there was not any Sub-division clerk also there. At hill area flood season is started from May of every year. So his services were urgently required at that time as per requisition of the Assistant Engineer for work sarkar who are supposed to do clerical type work.

13. That the contents of para 11 of the application need no comments.

Shyam Narayan

14. That in reply to the contents of para 12 of the application it is submitted that the petitioner is not residing permanently at Lucknow. His permanent residence is about 35 KMs. away from Lucknow in village area as per his declaration given in his service book. It is not possible to attend the office daily from his village Behta by the petitioner except attending the office irregularly. Moreover, he was extended every available

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-6-

facilities during his tenure at Lucknow (H.O). But due to non-availability of post at Lucknow he was transferred to Haldwani where his services were actually required.

15. That in reply to the contents of para 13 of the application it is submitted that transfer orders were issued in Govt interest and in bonafide intentions alongwith other 11 Nos. of work-charged staff transferring them to different places. His plea is baseless and as such the transfer order merit no malafide intention, as alleged by the applicant.

Shyam Narayan

16. That the contents of para 14 of the application are incorrect as stated.

17. The contents of para 15 of the application are incorrect as stated and in reply it is stated that if the work is not available to allot to the applicant, how can his appeal for retention at Lucknow is accepted.

18. That the contents of paras 16 & 17 of the application need no comments.

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-7-

19. That in reply to the contents of para 18 of the application it is submitted that the petitioner was appointed with effect from 1.6.72 in the scale of Rs.85-95 and he was also given Quasi permanency from 16.12.75 in the revised scale of pay Rs.210-270 and he accepted the same without any reluctance and worked under the above scale till to the transfer date from Varanasi Division to Lucknow Division. He also worked at Lucknow Division in the same scale without any objection. Now it is very strange that he is challenging his appointment as work sarkar Gr.III after lapse of a period of 14 years and demanding the scale of Group -C scale in place of Group 'D'. The appointing officer has appointed him as work sarkar Gr.III in the above scale in his best of knowledge and belief, At that time why the petitioner accepted the appointment of work sarkar in the scale of Rs.85-95 which is for the post of Wrok Sarkar Gr.III.

20. That in reply to the contents of para 19 of the application it is submitted that the Fourth

Shyam Lal

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Pay commission submitted his report in July 1986 and the petitioner got transfer order in May 1987 from Varanasi Division to Lucknow Division.

It is very much strange that he sent his representation to Varanasi Division after 1 year for his so called claims. His pay was fixed by Middle Ganga Division.III, Varanasi on 21.10.86 in the scale of Rs.800-1150 (revised) in the post of W/S. Gr.III It is not understood way he accepted the revised pay scale of Work Sarkar Gr.III there and why he submitted representation in this regard from Lucknow on 20.3.1988 for claiming the scale of Work Sarkar Gr.II.

Syain Arora

21. That in reply to the contents of para 20 of the application it is submitted that the transfer order were issued in Govt interest and as well as in the interest of petitioner too irrespective of any reapraisal and Maliceness. Transfer order is not a sort of punishment. It is stated that Haldwani is not a cold and Hill area but a health resort area and has more suitable climate.

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22. That the grounds sought by the
applicant are not tenable in the eyes of law

~~and the same~~

23. That in view of the facts and
circumstances stated above, the application
filed by the applicant is liable to be
dismissed with costs.

Shyam Narayan
Deponent.

Lucknow,

Dated: 24 Nov. 88

Verification

I , the above named deponent do hereby
verify that the contents of paragraphs 1 and 2
of this affidavit are true to my personal
knowledge and those of paragraphs 3 to 21
of this affidavit are believed to be true on the
basis of official records and information
gathered from the office and those of paragraphs

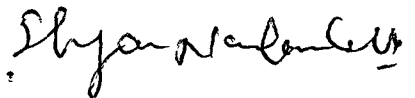
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22 to 23 are believed to be true on the basis of legal advice.

Signed and verified this

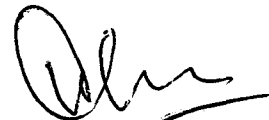
on 24th day of November 1988 in the Court compound at Lucknow.


Deponent.

Lucknow

Dated: 24 Nov. 88

I identify the deponent, who had signed before me.


(VK CHAUDHARI)
Advocate.

Lucknow,

Dated: 24 Nov. 88

(AS/11)

Before the Hon'ble Central Administrative Tribunal,
Circuit Bench Lucknow.

O.A. No. 637/88.

Nanhey Lal.

... Petitioner.

Versus,

Union of India and others.

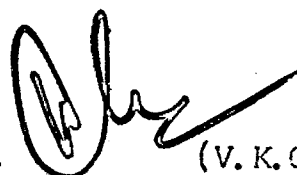
... Oppn.-Parties

The Opposite-Parties in the above case beg
to submit as under :-

1. That for the facts, circumstances and reasons disclosed in the accompanying affidavit it is expedient in the interest of justice that the application moved by the applicant for interim relief be rejected.

It is there fore most humbly prayed
that the application moved by the petitioner for
interim relief be very kindly rejected.

Lucknow; Dated;
Oct. 6th. 1988.



(V. K. Chaudhari)
Addl. Cen. Govt. Standing
Counsel, High Court Lucknow.

AS
12

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. No .637 of 1988(T)

Nanhey Lal

... Petitioner

Versus

Union of India and others ... Opposite parties.

Counter Affidavit on behalf of Opposite Parties
to the application for interim relief.

I, S.N. Lal ^{Asst.} ~~Ran Saran~~, aged about 50 ² years,

son of Sri Harilal (late) a

at present posted as ^{Asst.} Executive Engineer, Middle
Ganga Division No.1, Central Water Commission,

Lucknow do hereby solemnly affirm and state
as under:

- posted in the office*
1. That the deponent is ^{the} opposite party
No.3 in the above named case ^{As} and as such, he is
well conversant with the facts of the case.
 2. That the deponent has read and understood
the contents of application for Interim Relief and
affidavit filed by the petitioner in support
thereof as well as the reply given to the
said affidavit which is as follows:-
 3. That the contents of para 1 and 2 of the
affidavit filed in support of the application for
interim relief herein after referred as Affidavit
do not require any comments.

1988
AFFIDAVIT
98 IM
DIST. COURT
U.P.

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5/10/88

Shyam Narain

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4. That in reply to the contents of para 3 of the affidavit it is submitted that the said notices has not yet been received by the answering opposite parties.

5. That in reply to the contents of para 4 of the affidavit it is submitted that the Central Administrative Tribunal Allahabad was attended on 8.7.1988 as per information received from the Sr. Standing Counsel but the copy of the petition was not received by the office of the deponent from any end neither from the petitioner nor from the Advocate. On transfer of the case to Lucknow Bench, Lucknow the Court was attended by the office of the Deponent on 23.8.1988 but the petitioner as well as his advocate were not able to furnish the copy of the petition filed by the petitioner.

5/10/88

By order

6. That in reply to the contents of para 5 of the affidavit, it is stated that the next date was fixed by the Hon'ble Court on 26.8.88 for allowing the amendment in the petition of petitioner. The Court was attended on 26.8.88 but the petitioner again failed in furnishing the copy of the petition.

7. That in reply to the contents of para 6 of the affidavit it is stated that despite of attending all the fixed dates as fixed by Hon'ble Tribunal, the copy of the petition could not be received by the deponent.

AS
14

Hence the counter affidavit could not be filed for want of the same. So ~~xxxx~~ the deponent is not responsible for the delay in filing the counter affidavit. It is only the fault of the petitioner only.

8. That in reply to the contents of para 7 of the affidavit it is stated that since the petitioner has already been relieved from the office of the deponent with effect from 14.4.1988 in the interest of Government work and has not joined his duties at his new place of posting so far. Hence question of paying his salary from April 88 and onward does not arise. In this connection it is pointed out that the transfer order of the petitioner alongwith 11 other officials were issued well in advance before starting the educational session so that transferred staff may not suffer to get admission in the educational institutions of their children but as soon as the petitioner heard the transfer order he left the office without any information and applied the medical leave and taking treatment under private medical practioner in spite having the Central Government Health Scheme (CGHS) Card for getting treatment on very concessional rate which seems to be very strange.

9. That in view of the above facts it is requested that the stay may not be given to the petitioner at this stage as his services are urgently required

5/10/88

L. J. Anand

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at the transferred place ie. Haldwani Sub-Division. He has been appointed on work-charged establishment, the services of the persons who are appointed under W/C establishment depends on work only. On transfer from Varanasi his services were utilised in division office as there was shortage of Junior Computers who are in regular establishment for computing the technical data. Due to closure of the Sone River Commission, Patna the vacancies of the Computers were filled by Head office, New Delhi. So his services is not required at Division level and transferred to the place at which services were urgently required in Government interest.

10. That the copies of application moved by the petitioner were served on the Counsel on the opposite parties only on 4.9.1988 and the opposite parties requires at least two months time for preparing and filing the counter affidavit to the main application which already expires on 4.11.1988. The opposite parties be allowed to at least one month for filing the replies/counter affidavit, ~~thereafter~~ thereafter the application of the petitioner be heard and decided on merit.

11. That in view of the facts stated above, the application for interim relief is liable to be rejected.

Shyam Lal
Deponent.

Lucknow,

Dated: 5th Oct. 1988.

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Verification.

I, the above named deponent do hereby verify that the contents of paragraph 1 and 2 of this affidavit are true to my personal knowledge and those of paragraphs 3 to ~~7~~⁸ ~~and~~ 7 of this affidavit are believed to be true on the basis of official records and information gathered from the office and those of paragraphs 8 to 11 are believed to be true on the basis of legal advice.

Signed and verified this on 05th day of October 1988 in the premises of Court at Lucknow.

Shyam Sunder
Deponent.

Lucknow,

Dated: 5-10-1988

I, identify the deponent, who had signed before me.

[Signature]
(VK CHAUDHARI)
Advocate.

Lucknow,

Dated: 5 Oct 88.

32
5/10/88

CW-9824
5:30 pm

S. N. Sall,
V. K. Chaudhary

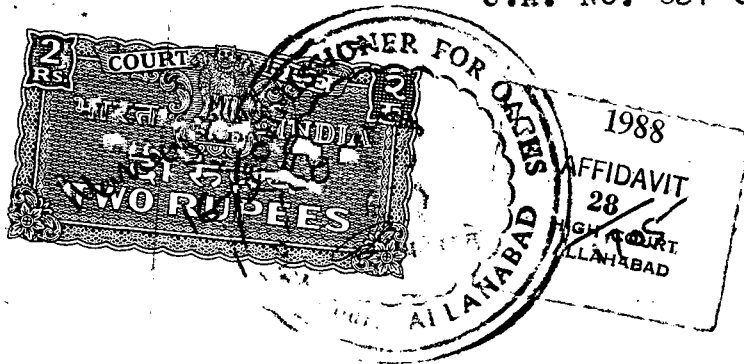
Legal K. S. Sall

5/10/88

Court - SC No 17
Filed today
22/12
16

~~IN THE~~
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT
BENCH, L U C K N O W.

O.A. No. 637 of 1988 (A)



Nanhey Lal. Applicant.

Versus

Union of India and others. Opp. Parties.

REJOINDER AFFIDAVIT

I, Nanhey Lal aged about 42 years son of Late
Shri Jaggu, resident of 545-Ka/57, Para, Rajaji Puram,
Lucknow do hereby solemnly affirm and state on oath as
under:-

- 1) That the deponent is the applicant in the above
noted case and as such he is fully conversant
with the facts of the case.
- 2) That the deponent has read and understood the
contents of the Counter affidavit filed by the
opposite parties as well as the reply given
hereunder;



16/12/88

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(2)

- 3) That in reply to the contents of paragraphs 1 and 2 of the Counter affidavit, it is submitted that Shri S.N.Lal is not Executive Engineer but is an Assistant Executive Engineer hence he is not well conversant with the facts of the case.
- 4) That the contents of paragraphs 3 and 4 of the Counter affidavit need no reply.
- 5) That in reply to the contents of paragraph 5 of the counter affidavit, it is submitted that ⁽ⁱ⁾ the opposite party no.3 has posted the petitioner/ applicant on the post of work sarkar in the Divisional Lab Lucknow on his transfer from Varanasi, and the petitioner was appointed on the post of work sarkar and uptill now is working on the same post. (ii) There are seprate pay-scales, grades and service conditions of junior computers and work sarkar. Junior computers come under regular Establishment, Whereas the work sarkars (petitioner) come under workcharged establishment. The Cadres of work sarkar and junior computer are quite different. (iii) Further Shri Santosh Kumar Bhattacharya junior computer was transferred from Bahrampore division to divisional lab Lucknow in the month of September, 1988, after a laps of



16-12-88

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(3)

five months from the date of issuing transfer order of petitioner, this prove the harassment of the opposite party. (iv) There is no any vacancy of work sarkar Grade II in Haldwani Sub-Division as such no any work sarkar grade II/work sarkar has been posted there up-till now. Since the work sarkar of longest continuous stay (Shri Kaushal Kishore) is working in Lucknow Divisional Office he should be transferred first from Lucknow in compilation of transfer policy for CWC Employee clause 4(b) and petitioner (shortest stay) should not be transferred in compliance of above policy. This also prove harassment of opposite parties.

A true copy of the transfer policy is being filed herewith as Annexure no. RA-1 to this affidavit.

(v) Shri Vijai Singh has joined Haldwani Sub-Division as Sub-Divisional clerk on 20.5.1988 but the transfer order has not been cancelled due to malafide intention. (vi) The services of work sarkar is not required at all in Haldwani Sub-Division as because the Collection and compilation work is not being done there, for which the petitioner is appointed due to water resources Sub-Division and not flood forecasting Sub-Division at Haldwani. The requisition for such staff is a well planned action to harass the

Annexure no.
R-A-1.



16/12/88

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(4)

petitioner. (vii) Shri K.C.Modak who joined this division on 17/12/1988 has not been posted at Haldwani as Sub-Divisional Clerk being not there since 1982 but the petitioner has targeted due to mala fide intention, which was well planned. (viii) The petitioner has purchase house no. 545-Ka/57, Para, Lucknow under urban area in the name of his wife but the house come on disputes for which 2 nos Regular and one Miscellaneous suit is pending in Civil Courts for which petitioner has come on transfer from Varanasi and residing in it with family to prove the possession.

- 6) That the contents of paragraph 6 of the Counter affidavit need no reply.
- 7) That in reply to the contents of paragraph 7 of the counter affidavit, it is submitted that the petitioner was transferred from Varanasi to Lucknow in May, 1987 and other work charged staff Shri Babulal was posted in 6/7/1987 and after issuing the transfer order of petitioner, three other staff has been posted in Middle Ganga Div.,



16-12-88

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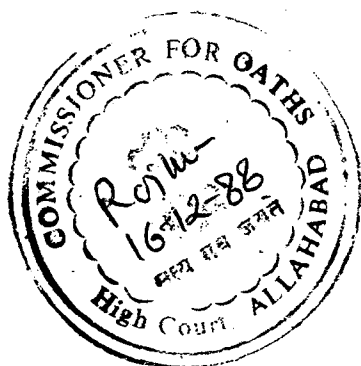
(5)

Lucknow-I for work and they are continuing. The duties of the petitioner, are compiling the data which is still continued by the staff who come on transfer after issuing the transfer order of the petitioner which shows that there is a lot of work and necessity of work-charged staff.

8) That in reply to the contents of paragraph 8 of the Counter affidavit, it is totally denied. ^{It is} That

Submitted, a lot of work charge-staff has been posted in Divisional Office and as well as in Sub-division office no any staff posted in remote area of the petitioners cadre in this division (Middle Ganga Division I, Lucknow).

9) That in reply to the contents of paragraph 9 of the Counter affidavit, it is submitted that there is no question of comparison of work sarkar with junior computer. The petitioner was originally appointed on the post of work sarkar in the year 1972 and has been serving continuously on the same post so far. The pay-scale, nature of work, duties and service condition of junior computer are different from the work sarkar. Both the posts are of separate cadres. Their respective establishments are quite separate. Rest of the contents of this paragraph under reply are not



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(6)

admitted.

- 10) That in reply to the contents of paragraph 10 of the counter affidavit is incorrect and violative of transfer policy of Central Water Commission issued by Under Secretary Government of India Central Water Commission Office Memorandum no. A-49011-13 (A)-85-Establishment IV dated 27.5.1987 contained in Annexure no. ReA-1 to this affidavit.
- 11) That the contents of paragraph 11 of the counter affidavit are not admitted. It is further submitted that the transfer of 12 other work charge-staff and two charge assistant as stated by the respondent no. 3 was also done against the transfer policy and Shri K.K.Singh serial no. 7. However is still working in Ganga Sub- Division and not join as per order, other were interested due to their choice place and home town. The respondents has also ammended their transfer order and posted some employee at places of their home town but the request of the petitioner dated 18.4.88 is still pending due to malafide intention of the respondents.
- 12) That the contents of paragraph 12 of the counter



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affidavit, it is submitted that the respondents has issued transfer order of the petitioner for the post of sub-divisional clerk to Haldwani Sub-division, it is also stated ~~by~~ the respondent in their paragraph 4 of the reply that the services of the petitioner is being utilized for the ~~xxxx~~ junior computer the reply is already given in the concerned paragraph. The Hon'ble Tribunal is requested to direct the respondents to explain the designation and duties of the petitioner, thus the respondents have tried to mislead to this Hon'ble Tribunal.

- 13) That the contents of paragraph 13 of the Counter Affidavit need no reply.
- 14) That the contents of paragraph 14 of the Counter affidavit are denied. It is further submitted that the ancestral residence of the petitioner is situated in Behta Village District Lucknow, but the petitioner has changed his residence to Lucknow city and informed the respondents which was acknowledged by the respondents by issuing Central Government Health Scheme Identity Card and Rationing Card no. 142128 on the local address. The petitioner has all along attending the office regularly and performing his duties with devotion



16/12/88

(8.)

co-operation and to the satisfaction of the authority it is evident from the fact that neither any staff member nor any authority have complaint against the petitioner so far as such the question of attending the office late irregularly does not arise.

- 15) That in reply to the contents of paragraph 15 of the Counter affidavit, it is submitted that there is clearly violation of policy hence in-justice has been done to harrase the petitioner.

~~15) The eleven other except petitioner has transferred~~
~~That in reply to the contents of paragraph 15~~
~~of the Counter affidavit, it is submitted,~~
~~that there is clearly violation of policy hence in-~~
~~justice has been done to harrase the petitioner.~~
~~The eleven other except petitioner has transferred~~
~~at their choice place/home town and in-justice has b~~
~~been done with the petitioner only by voilating~~
~~their policy.~~



- 16) That the contents of paragraph 16 of the Counter affidavit are denied. It is submitted that in-justice has been done with passing illegal transfer order.

- 17) That the contents of paragraph 17 of the Counter affidavit are denied. If work is not available the the employees may be retrenched on the prin-

16/9

(9)

ciple of last come first go. The petitioner is quite a senior person as such he can not be ousted or ignored from his cadre.

18) That the contents of paragraph 18 of the Counter affidavit need no reply.

19) That in reply to the contents of paragraph 19 of the Counter Affidavit, it is submitted that the petitioner was appointed on the post of work sarkar but he was paid the salary of work sarkar grade III for which there is higher pay-scale, when (on 26.3.1988) the petitioner claimed the salary of his post for which he was actually appointed and served the department, the respondent has issued the transfer order and pressed the ~~transfer~~ petitioner to withdraw the claims of proper scale and given threatening for suspension etc.. and transferred as punishment. Which is contained in annexure no. 4 and 5 to the application. However the petitioner has never accepted the appointment of Junior computers as such he could not be posted against the post of junior computer.



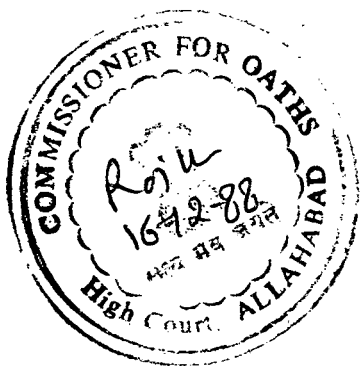
20) That the contents of paragraph 20 of the counter affidavit, it is submitted that the application

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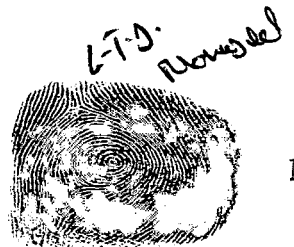
(10)

of claiming proper scale has been submitted to the all concerned authorities.

- 21) That ~~in reply to~~ the contents of paragraph 2 = 21 of the Counter Affidavit are denied . It is submitted that the transfer order has issued against the policy of the Government hence it is neither in the interest of respondents nor the petitioner, the reply of the respondents that the Haldwani is not a cold and hill but a health resort area and suitable climate is totally wrong because the Haldwani is a famous hill and cold area and bad climate not suiting the petitioner.
- 22) That the contents of paragraph 22 of the Counter affidavit are denied.
- 23) That the contents of paragraph 23 of the Counter affidavit are denied. The deponent is advised to state that the application is liable to be allowed with costs. All the papers of the application are reiterated.



L
Lucknow; dated:
16-12, 1988.



Deponent.

VERIFICATION

I, the above named deponent do hereby verify

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(11)

that the contents of paragraphs 1 ~~and 2~~ of this affidavit are true to my personal knowledge ~~and those of paragraphs 3 to~~ of this affidavit are believed to be true on the basis of official records and information gathered from the office and those of paragraphs ~~to~~ are believed to be true on the basis of legal advice. No part of it is false and nothing material has been concealed, So help me God.

Signed and verified this

on 16 day of December, 1988 in the Court compound at Lucknow.

Lucknow; dated:

16-12, 1988.

L.T.D. Nal Singh

Deponent.

I identify the deponent, who has signed before me.

PR- Dwnedi
Advocate.

Lucknow; dated:

16-12, 1988.



Rajw msa
(K3) Kumar Mishra,
JATHI COMMISSIONER
High Court, Allahabad
Lucknow Bench
No. 28/1705
Date 16-12-88

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

O.A. No. 637 of 1988 (A)

Nanhey Lal

Applicant.

Versus

Union of India and others

Opp. Parties.

ANNEXURE NO. R-A-1

No. A-49011/13(A)/85-Estt. IV

Government of India
Central Water Commission.

303, Sewa Bhawan, R.K. Puram,
New-Delhi-66.

Dated the 27th May, 1987.

OFFICE MEMORANDUM

Sub: Transfer policy for Central Water Commission.

The undersigned is directed to enclose a copy of the Transfer Policy in respect of C.W.C. employees, as approved by the Commission for information and guidance.

Sd. M.R. Single
(M.R. Single)

Under Secretary,
Central Water Commission

To,

1. PS to Chairman/Members/Chief Engineers, CWC.
2. All Directors/Superintending Engineers, CWC.
3. Director (Adm.)/Secretary, CWC/Under Secretaries/Accounts Officer/Senior Analyst/Dy. Director (Trg.), CWC
4. All Field Offices headed by Executive Engineers/Dy. Directors.
5. All Sections of the A & C Wing, CWC.



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(2)

CENTRAL WATER COMMISSION
TRANSFER POLICE FOR CWC EMPLOYEES

Need for the Policy

All appointments to Civil posts/services in the Central Water Commission carry a liability for transfer or posting to any part of the country and outside and this condition is invariably indicated in the offers of appointments made to the new entrants to Government Service. Notwithstanding this stipulation and its unconditional acceptance, orders of transfer/posting from the one station to another are by and large met with reluctance and concerted efforts are made for their evasion. Understandably, this reaction is due to considerable inconvenience, financial hardship and domestic considerations involved in shifting of an employee from one station to another, especially when transfer is to a place in a different State/remote area. In view of the nature of functions of CWC and the fact that a good number of posts on its establishment are meant for manning posts in the field formations, periodical transfers of its employees from one station to another is a normal feature of the requirements of service in CWC, for most of the employees. Inter-Unit transfers at the same station are also essential for valid administrative reasons and contingencies of work. It is, therefore, considered essential to evolve a rational transfer policy so as to ensure balancing the essential needs of the organisation and the interests of the employees. With these objectives and considerations in view, it has been decided that the following general principles and guidelines shall govern the posting and transfers of various categories of the employees of the CWC.

16-12-88



Transfers for Administrative Reasons

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d) The period spent on a deputation outside the country will be treated as the period spent at Delhi for counting the period of stay at Delhi.

e) For counting the stay at Delhi/Faridabad, the period will be counted after the return to Delhi/Faridabad from the date of the last posting outside Delhi/Faridabad.

f) Posting to Faridabad before 1972 when HRA/CCA and other facilities were not available will not be counted as service at Delhi for the purpose of transfer/posting.

To minimise transfers at the junior level, staff recruitment in the lowest posts in the cadres of Tracers, Ferro-Printers, Jr. Draftsmen, Research Assistants, Jr. Computers, Stenographers, LDCs, Group IV employees, etc. shall be made by the field officers, on regional basis, through the Staff Selection Commission or through Employment Exchanges, as provided in the relevant recruitment rules.

6. Employees transferred to stations away from their home stations may be brought back, subject to exigencies of service and availability of vacancies after 3 years of posting at the stations outside the home State. In no case, the period of such a stay should exceed 5 years, unless voluntarily desired by the employee and also considered in the public interest. However, in case there are no vacancies to accommodate all such persons, a persons having the longest stay outside his home State shall be given first preference.

In case of Drawing Staff Group 'C' the service outside Home State, Delhi/Faridabad shall be restricted

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to years unless extension is desired on voluntary basis.

Added vide
M.No.49011/
3(A)/5-Estt.IV dt. 10.7.86.

7. Officers returning from foreign posting/service shall be posted in offices located outside Delhi/Faridabad for a minimum period of two years. This principle will be strictly adhered to. This condition will not apply to deputations within India. As a general procedure the services of CWC officials returning to the organisation on repatriation from foreign posting/service will be placed at the disposal of the field Chief Engineers who will issue further posting orders, under intimation to the head office administration, keeping in view the preference if any, given by the officials (see para 10).

8. Employees due for retirement on superannuation within a period of 3 years, before their superannuation, shall not ordinarily be transferred, but requests for transfers to places of their choice, if made, would be considered sympathetically. However, in the event of a person aged 54 years has to be sent out he shall be brought back to Delhi. after attaining the age of 55 years provided he so desires.

In case of Group C Staff, the employees due for retirement on superannuation within a period of 5 years before their superannuation shall not ordinarily be transferred.

In the case of Head Draftsmen, they shall not be dislocated within three years of retirement on superannuation.

9. Officers deputed for training in specialised subjects should, on successful completion of the training,



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be posted to a place/Unit, where experience/knowledge acquired during the training could be utilised best.

10. Officers due for transfer, including officers returning from foreign postings, should give their preference for places of posting, well in time, and the same would be considered subject to exigencies of work and administrative requirements, along with requests of other officers in the grade, entered in the Request Register, maintained for the purpose (see para 15).

11. Rotational and other transfers as far as possible, will be ordered once a year in the months of March/April and compliance of these orders secured by May/June as this will cause the least disruption of the educational schedule of the school/college going wards of the employees.

12. Requests of CWC employees for posting to a station where the employee's spouse in Govt. service is posted, would be considered sympathetically and efforts will be made to the extent possible to accommodate the official at or near the place of posting of the spouse subject to the administrative conveniences. Such transfers may be treated as transfers on request on compassionate grounds.

Transfer Necessitated by conditions of Services

13. As per provisions of the Recruitment Rules of CWE (Group-A) Service, 60 percent of the total posts at the lowest level of the Service, i.e. Assistant Director/Asstt Executive Engineer, in CWC, are to be recruited through the Combined Engg. Services Examination conducted by UPSC. These officers are to be placed on probation for a period of 2 years, during which period they have to be given induction training. The Recruitment Rules provide that ar

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officer of C.W.E.(Group-A) Service has to render field service of 2 years either in the grade of Dy.Director/Executive Engineer and/ or of Director/Superintending Engineer at the first available opportunity and in any case before they can be considered for promotion to the grade of Chief Engineer (Level-II). Accordingly the following general principles should govern the postings/transfers of the aforesaid officers to CWC field formations:-

- i) Officers having rendered no field service or inadequate field service in the respective grades, i.e. Dy.Director/Executive Engineer or Director/Superintending Engineer, would be transferred to field posts outside Delhi and Faridabad.
- ii) For other administrative/rotational transfers/postings necessitated by exigencies of services, the guidelines/principles prescribed for such transfers/postings would apply.

14. Officers posted to field units in pursuance of the requirement of field-service-posting, will be transferred back, on completion of the prescribed period of field service tenure, subject to exigencies of work. In any case the period of such field service shall not be less than 2 years nor exceed 5 years at each level. The instructions issued by Min. of Home Affairs, DPAR for the persons working in North Eastern Region with regard to transfer will also be kept in view.

Compassionate Transfers/Mutual Request Transfers

15. The following procedures will apply to transfers/postings on compassionate grounds :

- (a) Employees seeking posting/transfer on compassionate grounds should apply to the concerned Cadre/



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transfer controlling authority, through proper channel. No application for such transfers received from relative or sent by the employee direct, would be entertained.

(b) Applications for transfers on compassionate grounds will be forwarded by the existing office of the applicant, with suitable recommendations, to the concerned Supdt. Engineer/Chief Engineer or CWC head Office, who can order the transfer.

(c) On receipt, these applications will be entered in the Compassionate transfer register maintained for each grade/post separately, by the Unit responsible for processing/dealing such requests.

(d) Requests for transfer on compassionate grounds, mutual request from all employees in a grade will be entered in the Compassionate transfer register, in the order of receipt of the request by the concerned Section and transfers/postings made according to inter-seniority of applications seeking transfer to the same station.

(e) Consideration of applications for transfers on domestic/compassionate grounds, should be subject to verification by and satisfaction of the department of genuineness of the grounds indicated by the applicant. Applications on medical grounds should be accompanied by appropriate medical certificate from the authorised medical attendant (where authorised Medical Attendant is available from a Civil Surgeon or a Medical Superintendent Govt. Hospital) indicating the nature of illness and reasons justifying transfer of the individual.

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compassionate grounds. Such requests would, however, not be accepted, if they violate the requirements of field service.

(g) All transfers on mutual-transfer basis or on compassionate grounds will be ordered at the expense of the individual, except when such a transfer is ordered in respect of a person, who has crossed the age of 55 years, in which case the transfer would be treated as in the public interest (See para 8).

(i) All requests for transfers shall be submitted in the prescribed proforma, a specimen copy of which is attached with this policy document.

Rotational Inter-Section / Unit Transfers

16. It is essential that an employee should have experience in more than one type of work. Long posting in Sensitive places should also be avoided. Accordingly-

a) No Technical Officer shall remain continuously in one Wing for more than 10 years, which period may be extended further for special reasons, by not more than two years on the recommendations of the Member concerned.

b) At the CWC head office most of the ministerial staff are in the A & C Wing and they belong to CSS/CSCS/CSSS. There shall be periodical inter-sectional transfer (including Technical Dtes.), so that no one remains in the same Section/Dte. for more than 5 years.

17. Employees posted to sensitive places, such as work of secret/confidential nature or work involving procurement/handling of stores, award of contracts etc. should not ordinarily be retained on that work, for a



(10)

period of more than three years.

Representations against Transfers/Postings.

18(a) Representation, if any, against the transfer/posting orders will be made through proper channel, by the affected individuals, within seven days of the receipt of posting orders. When the representation received through proper channel is considered and rejected at an appropriate level, the concerned individual will move without further delay, failing which he will be relieved/deemed to have been relieved by the competent authority.

(b) Bringing of outside influence by the employee to bear on the decision on his request for transfer should be discouraged. If the employee continues to bring such outside pressure, suitable action would be taken against him as per CCS (Conduct) Rules and Government instructions on the subject.

Female Employees

19. Subject to the provisions of para 20, female employees would be treated at par with male employees for transfers/postings.

20. Female employees would ordinarily not be posted to non-family stations, except on their own request or due to exigencies of work etc.

Authorities competent to order Internal Transfers.

21. Subject to transfers/postings ordered by the CWC head office administration, the local/internal transfers/postings shall be made by the following authorities:

- i) Members will be empowered to transfer locally any official upto the level of Directors within



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their own Wings.

ii) To have a systematic rotation of officers as between the field units, and the headquarters, the transfers/ postings in the case of Executive Engineers/Deputy Director will be decided by the Commission.

iii) The Chief Engineers and Superintending Engineers in charge of field formations may transfer officials upto the level of Asstt. Engineers within their jurisdictions after ascertaining the position of pendency of requests for transfer for a particular station.

iv) The Executive Engineers of field formation will also be authorised to effect transfers of all categories of staff except AEE/AE under their administrative jurisdiction, after ascertaining the pendency of requests for transfers for a particular station.

22. Transfers on compassionate grounds by the Chief Engineers/Superintending Engineers, will be as per general guidelines in this regard and they will also maintain requests registers separately for each grade (vide para 15)

23. Prompt intimation will be sent by the Chief Engineers and Superintending Engineers to the Head-Office Establishment Units regarding posting/transfer ordered by them and also about their implementation, for enabling completion of relevant records.

Appropriate Authorities for representation against transfers;

24. An officer one level higher to the one ordering transfers.

Relaxation/ Deviations

25. Transfers/postings in relaxation/deviation of the guidelines detailed above shall require the prior approval of the Chairman, CWC.

.....



Filed on 23/01/88

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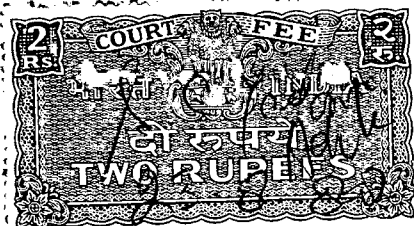
(A2)

Before the Central Administrative Tribunal, Lucknow Bench,

L u c k n o w

C.M. Application No.

/88



In re:

Registration Case No. 637 of 1988

(filed at Allahabad Bench
Allahabad)

Nanhey Lal son of Late Jaggu, resident
of 545 Ka/57, Village-Para, Rajajipuram,
Lucknow.

... Petitioner

Versus

Union of India and others Opposite Parties.

APPLICATION FOR AMENDMENT

The above named petitioner begs to state
as under:-

1. That the petitioner has filed a petition before this Hon'ble Court which requires certain amendment, due to fact that certain relevant facts were left in the earlier petition.

2. That the following amendment are necessary in the petition after paragraph 4 of the said petition and para 5 of earlier may be treated as paragraph 15.

- (5) That the petitioner send various representation to the opposite party no.2 since 1981 for the transfer from Varanasi to Lucknow. A true copy of representation dated 31.3.1987 is being annexed herewith as Annexure No. VI.
- (6) That the petitioner was transferred from Varanasi to Lucknow on his own request after considering his personal difficulties and problems. A true copy of the transfer order dated 29.4.1987 is being annexed herewith as Annexure No. VII.
- (7) That on receiving the transfer order dated 4.4.1988 the petitioner preferred representation on 10.4.1988 to the opposite party no.2 stating therein that the petitioner's case was specially considered in transferring him from Varanasi to Lucknow on compassionate grounds to attend him on his pending cases before the local courts then he was transferred from Varanasi to Lucknow, but avoiding again the problems of petitioner the opposite party no.3 has transferred the petitioner once again to a very much far District which is

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-3-

not approachable to the petitioner to attend the court in pending cases. A true copy of representation is annexed herewith as Annexure No. VIII.

(8) That the impugned order dated 4.4.1988 is in violation of the transfer policy declared in the Central Water Commission memorandum dealing with transfer matter C.W.C. Employees.

(9) That according to section 3 clause 'b' the impugned order is based on malafide and whimsical because according to this provision, the petitioner was transferred from Varanasi to Lucknow on compassionate ground but violating this, the petitioner was again transferred in such a short time which is bad in law.

(10) That the petitioner is ~~not~~ a group 'D' employee and according to transfer policy of the Central Water Commission the petitioner cannot be transferred normally from one station to another except in certain exigencies as specified.

(11) That if there is any delay on the part of the petitioner in moving this petition, the same will be condoned in favour of justice, equity and good conscience as that time the petitioner was confined to bed so this cannot be filed earlier. The petitioner is confined to bed and is on Medical

leave since then

12. That the petitioner having his permanent residence at Lucknow and he is unable to bear the undue expenses. Besides that has been involved in dual establishment expenses beyond his means.

13. That the impugned order is in violation of the law of estoppel as well as principles of natural justice as the petitioner was transferred from Varanasi to Lucknow on compassionate ground as special case.

14. That the action of the opposite party is wholly unjustified and illegal.

3. That the above paragraphs Nos. 5 to 14 may be added in the interest of justice.

4. That in paragraph No. 7 of the original petition, the relief No. 'B' may be kindly be deleted.

P R A Y E R

Therefore, it is most respectfully prayed that this Hon'ble Court may be pleased to allow above amendment to be incorporated in the interest of justice.

Lucknow Dated: 23.8.88.

J. C. Yadav
Advocate

Counsel for the Petitioner

17/5

Before the Central Administrative Tribunal, Lucknow Bench
L u c k n o w .

Affidavit

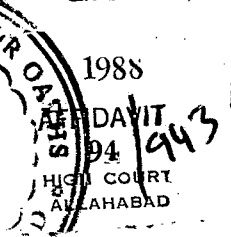
In support of :

C.M. Application No.

of 1988

In re:

Registration Case No. 637 of 1988.

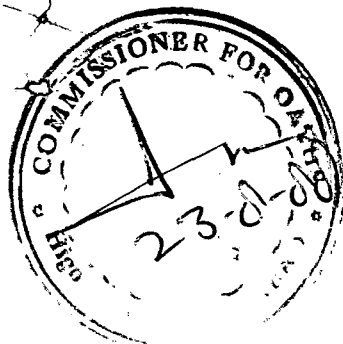


Nanhey Lal

... Petitioner

Versus

Union of India and others .. Opposite-Parties.



I, Nanhey Lal, son of late Sri Jaggu, aged about 41 years, resident of 545-Ka/57, Village Para, Rajajipuram, Lucknow, deponent do hereby solemnly affirm and state on oath as under:-

1. That the deponent is sole petitioner in the above described case, as such he is fully conversant with the facts of the case.

2. That the contents of paras 1, 2 and sub-paragraphs 5 to 14 of para 2 and contents of para 3 and 4 are true to my own knowledge.

Lucknow Dated: 23-8-88

Deponent.

VERIFICATION

I, the above named deponent do hereby verify that the contents of para 1 and 2 of this 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: 23.8.88

Depnent.

I identify the deponent who has signed before me.

S.C. Yadav
Advocate.



Solemnly affirmed before me on 23.8.1988 at 11-15 A.M./P.M. by Sri Nanhey Lal the deponent who is identified by Sri S.C. Yadav Advocate, High Court, Allahabad.

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

A. N. Khanam
A.N KHANAM
OATH COMMISSIONER
High Court Allahabad
Lucknow Bench Lucknow
No..... 94/943
23.8.88

Nanhey Lal — — — petitioner.

vs.

Union of India & others — — — app. parties.

Annexure No. VI

आवकां प्रार्थना-पत्र

A2/7 (7)

सेवा में,

अधीक्षणा अभियन्ता,
मध्य गंगा परिमण्डल,
वाराणसी।

। द्वारा उचित माध्यम ।

विषय:- निजी शार्च पर स्थानांतरण हेतु प्रार्थना-पत्र ।

संदर्भ: मेरे प्रार्थना-पत्र दिनांक 22/9/81, 14/1/82, 10/4/85, 8/9/85, 11/12/86 एवं 15/1/87 तथा अधिष्ठासी अभियन्ता, वाराणसी को सम्बोधित प्रार्थना-पत्र दिनांक 22/1/87 ।

महोदय,

संदर्भित प्रार्थना-पत्रों के माध्यम से प्रार्थी ने अपने लखनऊ स्थानांतरण की प्रार्थना आपके पास भेजी है।

अत्यन्त दुःखा के साथ कहना पड़ता है कि इतने प्रार्थना पत्रों के प्रेषित करने के पश्चात भी प्रार्थी का स्थानांतरण लखनऊ नहीं किया गया।

इस सम्बन्ध में प्रार्थी ने अनेकों बार परिमण्डलीय कार्यालय से सम्पर्क किया तो शीघ्र ही स्थानांतरण कर दिये जाने का आश्वासन मिला परन्तु आदेश आज तक नहीं प्राप्त हुआ।

प्रार्थी अपनी प्रार्थना लेकर आपसे भी व्यक्तिगत रूप में कई बार मिल चुका है और आपने अप्रैल 1987 में स्थानांतरण आदेश जारी करने का आश्वासन दिया था।

श्रीमानजी इस समय प्रार्थी के भूमि विवाद सम्बन्धी तीन केस लखनऊ न्यु यालयों में चल रहे हैं और अब प्रार्थी को उनकी पैरवी करना अति आवश्यक हो गया है।

अतः प्रार्थी को दिये गये आश्वासन के अनुसार प्रार्थी का स्थानांतरण लखनऊ में करने की कृपा करें ताकि प्रार्थी अपने मुकदमों की ठी से पैरवी कर सके। और मुकदमा जीत सके।

प्रार्थी,

सन्ध्यावाद ।

दिनांक: 31-3-87,

। नन्हे लाल ।
वर्क सरकार

मध्य गंगा छोटी सरयू उपमंडल,
वाराणसी



Nanhey Lal

— —
Vs.

petitioner.

Union of India

— —

opp. parties.

Annexure No. VII

भारत सरकार

केन्द्रीय जन आयोग

कार्यालय - अधीक्षता अभियन्ता,

मध्य गंगा परिमण्डल

बी३८/१ मायूरगंज

वाराणसी 221010

कार्यालय - आदेश

=====

श्रीनन्हेलाल वर्क सरकार ग्रेड-३ को उनके निजी छार्जे पर मध्य गंगा मण्डल-तृतीय वाराणसी से मध्य गंगा मण्डल-प्रथम, लखनऊ में वर्क सरकार ग्रेड-२ के रिक्त पद के विरुद्ध स्थानांतरित किया जाता है, जो तत्कालिक प्रभाव से लागू माना जायेगा।

श्री नन्हेलाल कोई यात्रा भत्ता पर ज्वाइनिंग टाइम पाने के इकरार नहीं होंगे।

ह०/-

। सु० श्री० सोहनी ।

पत्रांक 9/37/87-प्रशा०/ 453-55 दिनांक 29-4-87

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

- 1= अधीक्षता अभियन्ता मध्य गंगा मंडल- तृतीय वाराणसी ।
- 2= अधीक्षता अभियन्ता मध्य गंगा मंडल -प्रथम, लखनऊ।
- 3= श्री नन्हेलाल, वर्क सरकार ग्रेड-३ । द्वारा अधीक्षता अभियन्ता- मध्य गंगा मण्डल तृतीय वाराणसी ।

ह०: अपठनीय,

। सु० श्री० सोहनी ।

अधीक्षता अभियन्ता,
मध्य गंगा परि० वाराणसी।



Nanhey Lal — Vs — Union of India & others.

Annexure No. VIII

अग्रिम प्रति भेजी गयी

सेवा में,

श्रीमान् अधीक्षक अभियन्ता,
मध्य गंगा परिमण्डल,
वाराणसी।

द्वारा: उचित माध्यम

विषय:- स्थानांतरण आदेशा निरस्त कराने हेतु प्रार्थना-पत्र।

संदर्भ: केन्द्रीय जल आयोग का पत्रांक ए-49011/13101/85-इष्ट चतुर्थ
दिनांक 27-5/24-6-1987।

महोदय,

आपके कार्यालय आदेशा सं० 9137187-प्रशा/453-55 दिनांक 29/4/87, के द्वारा प्रार्थी का स्थानांतरण वाराणसी से लखनऊ मण्डल प्रथम में निजीछाचें पर अनेकों प्रार्थना-पत्रों के फल स्वस्थ मुकदमों की पैरवी के कारण विशेष रूप से हुआ था। परन्तु अधीक्षक अभियन्ता महोदय ने अपने कार्यालय आदेशा सं० इ० 9/म० ग० म० -1 लख०/88 1903-10 दिनांक 4-4-88 के द्वारा स्थानांतरण हलदवानी मंडल में कर दिया है। प्रतिलिपि संलग्न।

- 1: श्रीमानजी प्रार्थी के भूमि विवाद सम्बन्धी लखनऊ दीवानी न्यायालय में अभी भी चल रहे जिनकी पैरवी हेतु ही प्रार्थी ने 11 माह पूर्व अपना स्थानांतरण अपने छाचें से कराकर लखनऊ में कार्यभार ग्रहण किया था। लखनऊ से अन्यत्र रहकर मुकदमों की पैरवी बहुत हाचीली होती है।
- 2: पैरवी के साथ ही साथ मुकदमों में जीत के लिए कच्चा आवश्यक होता है बच्चों को मकान में छोड़कर अन्य स्थान पर जाने से उनकी सुरक्षा को गंभीर खतरा है।
- 3: प्रार्थी एक अल्पवैतन भोगी कर्मचारी है और लखनऊ जिले का स्थायी निवासी है यहां पर उसकी थोड़ी छोटी भी है जिससे कुछ सहारा भी मिल जाता है।

सन् 1978 से 1979 तक देहरादून में तैनात रहने के कारण प्रार्थी एलर्जी का रोगी हो गया है। प्र माणा-पत्र संलग्न। जिसके कारण उसे भ्रांति-भ्रांति के कष्ट आज भी हैं और बनारस के सेवा काल में काफी इलाज कराने पर भी पूर्ण रूप से स्वस्थ न हो सका क्योंकि अल्पवैतन भोगी कर्मचारी होने के कारण कभी भी समुचित और लगातार इलाज न करा सका। लखनऊ में स्थित के०स०यो०-के अन्तर्गत अपना इलाज सुचारु रूप से करा सकता है क्योंकि इसके अन्तर्गत प्रार्थी की दवा इत्यादि का व्यय उपरोक्त योजना के द्वारा किया जायेगा।

अतः अति विनम्रता के साथ प्रार्थना है कि उपरोक्त पर दया पूर्वक विचार करते हुए प्रार्थी का लखनऊ हलदवानी हुए स्थानांतरण को निरस्त करने की व्यवस्था करें जिससे प्रार्थी अपने भूमिविवादों की पैरवी सुविधा पूर्वक कर सके। मकान पर कच्चा सिद्ध करते हुए मुकदमा जीत सके तथा अपना निरन्तर समुचित इलाज भी करा सके।

दिनांक:- 18-4-88

संलग्नक:- आठ पृष्ठ

विस्तृत विवरण कृपया पीछे देखें।

आपका विश्वासपात्र,

। नन्हे लाल ।

महोदय सरकार,
मध्यगंगा मण्डल प्रथम,
लखनऊ।



:- संलग्न फोटो प्रतियों का विवरण :-

क्रमांक	विवरण	पृष्ठ
1-	पत्रांक 453-55 दिनांक 29-4-87	01
2-	स्थानांतरण हेतु मेरे द्वारा दिया गया प्रार्थना-पत्र दिनांक: 31-3-87	02
3-	अधिकासी अभियन्ता मध्य गंगा मण्डल तृतीय वाराणसी का पत्रांक 1246-87 दिनांक 2-4-87 जिसके द्वारा मेरा 31-3-87 का प्रार्थना-पत्र अग्रसरित हुआ ।	03
4-	अधिकासी अभियन्ता मध्य गंगा मण्डल प्रथम, लखनऊ के द्वारा जारी स्थातंरण आदेश सं01903-10 दिनांक 4-4-88	04
5-	देहरादून के सरकारी अस्पताल द्वारा जारी मेडिकल प्रमाण- पत्र जिसके द्वारा मेरा स्थानांतरण देहरादून से हुआ था।	05
6-	भूमि विवाद सम्बन्धी नकलों की फोटो प्रतिया	6,7.

। नन्दे लाल ।
वर्क सरकार
मध्य गंगा मण्डल, -प्रथम,
लखनऊ।




Handwritten signature and date 22/4/87

(Ad)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
BENCH, ALLAHABAD

Registration No. 637/OA/88



Narhey Lal Petitioner

Versus

Union of India & others Opposite-Parties.




Application for Interim Relief

The above named petitioner begs to state
as under:-

For the facts and circumstances mention
in the accompanying affidavit, it is most respect-
fully prayed that this Hon'ble Court may be pleased
to s-tay the impugned transfer order dated 4.4.1988
passed by opposite party no.3, ~~may kindly be stayed~~
till the disposal of this petition.

Lucknow Dated: 21.9.88.

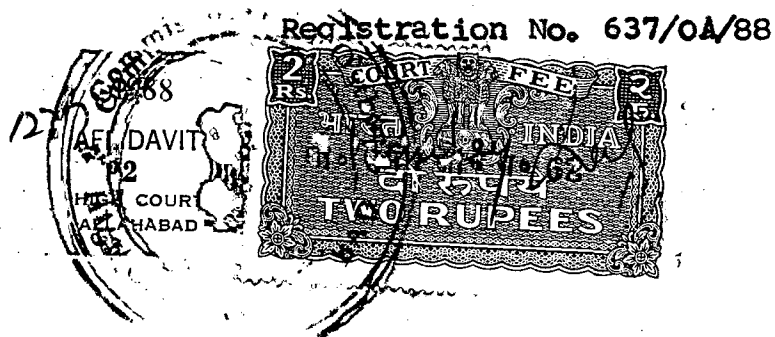

Advocate
Counsel for the Petitioner

As
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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
BENCH, ALLAHABAD.

Affidavit

In support of Application for Interim
Relief.



Nanhey Lal

Petitioner

Versus

Union of India & others

Opposite-Parties.



I, Nanhey Lal, son of Sri Late Jaggu, aged about 41 years, r/o 545-Ka/57 Village-Para Rajajipuram Lucknow, deponent do hereby solemnly affirm and state on oath as under:-

1. That the deponent is sole petitioner in the above described case, as such he is fully conversant with the facts of the case.

2. That the above noted petition was filed

27/12/88

on 20.5.1988 before this Hon'ble Court in Allahabad.

3. That on 25.5.1988 this Hon'ble Court was pleased to issue notices against opposite parties.

4. That on 8.7.1988 the ^lcounsel for the petitioner moved an application for transfer of the above noted case to Lucknow Bench, Lucknow. The above noted case was transferred to Lucknow Bench, Lucknow and the date was fixed on 23.8.88. On the date ~~was~~ fixed an amendment application was moved on behalf of the petitioner in compliance of order dated 8.7.1988 passed by this Hon'ble Court.

5. That on 23.8.1988 the court was not sitting hence the date was fixed on 26.8.1988. On that date this Hon'ble Court was pleased to allow the amendment application filed by the petitioner.

6. That in this case notices were already issued to opposite parties, but again on 4.9.1988 the petitioner has served the notices to the counsel for opposite parties. In this case no counter affidavit has been filed till date by the opposite parties and the petitioner is suffering a great loss due to pendency of this petition.

7. That the petitioner is a very poor man and is working on class IV post. The petitioner is not getting any salary from opposite parties



for 20/8/88

from April 1988. The petitioner is on E.L. 1/2 Medical leave from 4.4.1988 but transfer order was served on 18.4.1988 and still going on medical leave for treatment. The petitioner has already sent his medical certificate alongwith medical leave application to opposite party no.3.

8. That the petitioner will suffer irreparable loss and mental agony if the impugned transfer order dated 4.4.1988 ~~is not~~ is not stayed.

Lucknow Dated: 20.9.88

H. E. Lal
Deponent.

Verification.

I, the abovenamed deponent do hereby verify that the contents of paras 1 to 8 of this 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: 20.9.88

H. E. Lal
Deponent.

I identify the deponent who has signed before me.

S. C. Yadava
Advocate.

Solemnly affirmed before me on 20.9.1988 at 10.35 A.M./P.M. by Sri Nanhey Lal, the deponent who is identified by Sri S.C. Yadav, Advocate, High Court, Lucknow Bench, Lucknow.

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

S. R. Ahmad
S. R. AHMAD ADDL
OATH COMMISSIONER
High Court, Allahabad,
Lucknow Bench

No. 22-1272
Date 20.9.88



THE CHIEF JUSTICE OF THE SUPREME COURT OF INDIA

NEW DELHI

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IN RE: THE CHIEF JUSTICE OF THE SUPREME COURT OF INDIA

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T.C.

J. E. Yadava.

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