

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE 9A772 OF 1988

NAME OF THE PARTIES Om. Prakash

Applicant

Versus

Union of India Respondent

Part A, III

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CERTIFICATE


Certified that no further action is required to 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
Circuit Bench, Lucknow
Opp. Residency, Gandhi Bhawan, Lucknow

INDEX SHEETCAUSE TITLE 772 of 19 88

NAME OF THE PARTIES _____

Om Prakash

Applicant

Versus

U.O.

& Respondent

Part A, B & C

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29/7
Termination
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 772 of 1989

APPLICANT (s) Om Prakash

RESPONDENT(s) U.O.I through Ministry of Communication

New Delhi & 3 others

<u>Particulars to be examined</u>	<u>Endorsement as to result of Examination</u>
1. Is the appeal competent ?	Yes
2. (a) Is the application in the prescribed form ?	Yes
(b) Is the application in paper book form ?	Yes
(c) Have six complete sets of the application been filed ?	6 sets filed
3. (a) Is the appeal in time ?	Yes
(b) If not, by how many days it is beyond time ?	-
(c) Has sufficient case for not making the application in time, been filed ?	-
4. Has the document of authorisation, Vakalat-nama been filed ?	Yes
5. Is the application accompanied by B. D /Postal-Order for Rs. 50/-	Yes
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	No
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Yes
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Yes

Particulars to be ExaminedEndorsement as to result of Examination

- (c) Are the documents referred to in (a) above neatly typed in double space ? *Ys*
8. Has the index of documents been filed and paging done properly ? *Ys*
9. Have the chronological details of representation made and the outcome of such representations been indicated in the application ? *Ys*
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 ? *Two copies signed*
12. Are extra copies of the application with Annexures filed ? *Ys*
- (a) Identical with the original ? *Ys*
- (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 ? *Ys*
15. Do the names of the parties stated in the copies tally with those indicated in the application ? *Ys*
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? *Y-A*
17. Are the facts of the case mentioned in item No. 6 of the application ? *Ys*
- (a) Concise ? *Ys*
- (b) Under distinct heads ? *Ys*
- (c) Numbered consecutively ? *Ys*
- (d) Typed in double space on one side of the paper ? *Ys*
18. Have the particulars for interim order prayed for indicated with reasons ? *No*
19. Whether all the remedies have been exhausted. *Ys*

If approved the case may be listed
On 29.7.88
Leh
03.6.88

Submitted by
Chandra
3.6.88

Hon' Mr. D.K. Agrawal, J.M.

Hon' Mr. K. Ubayya, A.M.

27/11/89

Shri B.P. Srivastava counsel for the applicant and Shri K.C. Sinha counsel for the respondents are present. Counsel for the respondents wants time to file counter affidavit. Allowed. Let counter be filed within 4 weeks to which the applicant may file rejoinder within two weeks thereafter. List this case before the Deputy Registrar(J) on 17-1-90 for fixing a date for orders/hearing as the case may be.

A.M.

J.M.

(sns)

17.1.90

The case is adj to 26.4.90 before DR(J) fixing a date for hearing

In
for Repr

OR

* Counter has been filed. Submitted before DR(J) on 26-11-90 for fixing a date for hearing.

19/4

26-4-90 DR

Adjourned to 24-8-90 before DR(J) for fixing a date for hearings

DR(J)

24-8-90

OR

As per order of Hon'ble V.C. conveyed today P.S. the instant case is listed for Cont- No. I on 24.1.91.

The same is sent through supplementary Cause List.

P.S.
through the ex-officio app.
18/1/91 No. is 161/91

As the case is ripe for hearing. But as of the year 1988. Adjourned sine die.

K
D.R.

ORDER SHEET

1 (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Reg. No. 772 of 1988

Om Prakash Vs. Union of India & Ors.

Sl.No. of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
		<p>O/R.</p> <p>Sir,</p> <p>Notices for all Respondents are issued for Reply by 5/9/88 on 2/8/88.</p> <p>R32</p> <p>2/8/88.</p>	
		<p>O/R</p> <p>श्रीमान जी कोर्ट में नोटिस का पत्र प्राप्त नहीं है। कोर्ट में ही Reply साबित किया गया है 5/9/88</p>	
		<p>O/R. श्रीमान जी कोर्ट में ASST. Engg (Elect) के पत्र प्राप्त हैं।</p> <p>17/10/88</p>	
28/10/88		<p>les</p> <p>no one appears for replies. Counter may be put by 9.1.89.</p>	
9.1.89		<p>no one appears for replies. Counter may be put by 24.2.89.</p>	

D.L.

(A2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
CIRCUIT BENCH : LUCKNOW.

Registration O.A.No.772 of 1988.

Om Prakash

....

Applicant

Vs.

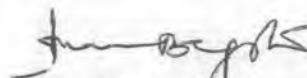
Union of India & Others

Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member (A)

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

The applicant was appointed as Khalasi on 1.5.1986 in the Telecommunication Department by the Assistant Engineer, but his services have been ~~terminated~~ by the Junior Engineer (E) on 20.9.1987. No appointment letter was filed by the applicant as he has lost the appointment letter. It appears that ~~that~~ in the year 1986 he worked for 2 months and in the year 1987 he worked for 5 months as Khalasi. As he had worked less than the prescribed period in two years for regularisation he cannot claim the benefit of the regularisation. So far as his appointment is concerned it is difficult to accept that he was thrown out by one who had not ^{ed} appointed him in the absence of any order. The other grievance of the applicant is that his juniors have been retained as Khalasi but he was thrown out. It is not known in what manner his juniors have been retained. The respondents are directed to consider the case of the applicant within 2 months as to whether he can be appointed again as Khalasi or not. With these observations this application is disposed of finally. No order as to costs.


Member (A)


Vice-Chairman.

6th Nov. 1991., Lucknow.

(sph)

(A3)

Before the Central Administrative Tribunal
Additional Bench Allahabad

—
Index

in

Registration No. of 1988

between

Om Prakash ... petitioner

and

Union of India and others ... Respondents

S.No.	Particulars	Pages
1.	Memo of petition	.. to ..
2.	Annexure I Memorandum dt. 7th May, 85	.. to ..
3.	Annexure II Representation dt. 23.10.87	.. to ..
4.	Annexure III letter dt. 10.2.88	.. to ..
5.	Vakalatnama	.. to ..

B.P. Srivastava

(B.P. Srivastava)
Counsel for the petitioner

R.K. Pandey
(R.K. Pandey)
Counsel for the petitioner

Central Administrative Tribunal
Additional Bench At Allahabad
B.N. - 3.6.1988... 5 copies

Date of Receipt
by Post *Filed 29-7-88*

By Registrar,
Delu 03-088

Before the Central Administrative Tribunal
Additional Bench Allahabad

Registration No. *772 of* 1988

between

Shri Om Prakash , aged ... petitioner
and
Union of India and others ... Opp. Parties

1. Particulars of the applicant :

(i) Shri Om Prakash , aged about 29 years, son of Shri Devi Din , resident of 250 /27 , Yahiaganj, Bhim Nagar, Lucknow posted as Khalasi , Aliganj Sector K Postal Electrical Enquiry P & T Colony, Lucknow.

Filed today
Noted for 29/7/88
29/7/88
3/6/88

Note: The notices meant for the petitioner may be served on Shri B.P. Srivastava Advocate, r/o 188-A Alopibagh, Jawahar Lal Nehru Road, Allahabad.

2. Particulars of the Respondents :

(i) Union of India , through the Ministry of Communication , New Delhi.

Accepted
29/7/88

29/7/88

(PS)

- 2 -

(ii) The Executive Engineer (Postal Electrical Division) 15, Ashoka Marg, Lucknow.

(iii) The Assistant Engineer (I) Postal Electrical Sub Division, Behind Basant Cinema, Lalbagh, Lucknow.

(iv) The Junior Engineer (I) Shri R.K.Srivastava, Electrical Inquiry Post and Telegraph Colony, Aliganj K Sector, Lucknow.

Note The notices meant for the respondents may be served on them on the addresses given above.

3. That the present application is against the order dated 20.9.1987 terminating the petitioner's services from the post of Khalasi passed by Junior Engineer (I) Aliganj, Lucknow.

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

5. That the applicant further declares

20/11/2012

AB

- 3 -

that the application is within the limitation prescribed under Sec. 21 of the Administrative Tribunal Act, 1985.

6. That the facts of the present case are as under:

(I) That the petitioner got himself registered in the Employment Exchange Office, Lucknow for being appointed on a suitable post.

(II) That the petitioner's name was sponsored by the employment exchange office, Lucknow for appointment on the post of Khalasi in the year 1985.

(iii) That on the nomination of the employment ~~exa~~ exchange office, Lucknow, the petitioner was duly selected and appointed as Khalasi in semi unskilled labour on daily wages basis by an order dated 1.5.1986. As the petitioner has lost the appointment letter, therefore, the same is not filed herewith.

Attested
by
[Signature]
[Signature]

(IV) That the petitioner was appointed as Khalasi . The petitioner's bio data of

[Signature]
[Signature]

(A7)

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appointment are as under;

1986	1.5.1986 to 15.7.86
1987	4.4.87 to 20.9.87

(V) That the petitioner's work and conduct as Casual Labour remained quite satisfactory and his superior officers always remained satisfied with his work and conduct.

(VI) That ~~the~~ on 20th September, 1987 the petitioner was asked by Shri R.K.Srivastava Junior Engineer that he has terminated his services and he should not come to work from tomorrow. On the petitioner's request to give him a termination order, Shri R.K.Srivastava rebuked him and said that no order in writing would be given to him. The petitioner's name finds place in the muster roll and that he has been satisfactorily discharging his duties as no termination order in writing has been given to the petitioner, therefore, he is unable to submit the same before this Hon'ble Tribunal.

*Attested
by
[Signature]
[Signature]*

(VII) That the petitioner belonged to Scheduled caste and he is entitled to be absorbed against 18 per cent reserve quota mea

[Signature]

for scheduled caste. The said 18 per cent quota is not complete and yet the petitioner's services have been terminated, instead of absorbing him on regular basis. The petitioner has also been given a certificate of his being a scheduled caste candidate and the same can be produced whenever this Hon'ble Court may deem just and proper. The aforesaid document was also submitted by the petitioner at the time of his interview and selection and it is in the record of the opposite parties.

(VIII) That the petitioner was appointed by the Assistant Engineer, who is the appointing authority, but the petitioner's services have been terminated by the Junior Engineer, who is not the petitioner's appointing authority, as such the petitioner's termination order has been issued against jurisdiction.

(IX) That several juniors have been retained as Khalasi while the petitioner's services have been dispensed with in a grossly arbitrary and discriminatory manner. The names of a few of such juniors are given as under:

1. Shri Ashok Kumar,
2. Shri Ram Narain.

Attested
by
Refund
by

आमयकरी

19

(X) That the department has been issuing various orders from time to time for the regularisation of services of casual workers. Under order dated 25th May, 1985, the Assistant Director General has issued an office memorandum dated 7th May, 1985 for information to all the departments for strict compliance. A perusal of the office memorandum dated 7th May, 1985 from the Government of India, Ministry of Personnel and Training, Administrative Reforms and Public Grievances and Pension would show that it has categorically directed that the services of a casual workers should be regularised who have been appointed through employment exchange offices. It has also been mentioned therein that such employees belonged to weaker section of the society and the termination of their services causes hardship to them.

A photostat copy of the said letter dated 25th May, 1985 endorsing the office memorandum of the Ministry dated 7th May, 1985 is being filed herewith as Annexure I to this petition.

Annexure I

(XI) That thus the petitioner was entitled for regularisation on the aforesaid post but instead of regularising the petitioner on the aforesaid post, his services have been dispensed with.

Attested
Sd/- Secretary

31/12/85

(A10)

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(XII) That being aggrieved by the aforesaid termination order dated 20th September, 87, the petitioner has preferred a representation to the Executive Engineer on 23.10.87 but when the petitioner met the aforesaid Executive Engineer he showed his inability to mitigate the grievances of the petitioner.

A true copy of the said representation dated 23.10.87 is being filed herewith as Annexure II to this petition.

Annexure II

(XIII) That thus the petitioner has been left with no option but to take shelter of this Hon'ble Court.

(XIV) D.G. P & T has issued instructions dated 10.2.88 to all the Circles in India to the effect that the casual labourers be paid arrears at the enhanced rate of their wages by 25.2.88 positively but due to the prejudicial attitude adopted by the authorities the same has also not been paid to the petitioner. The said wages had to be paid with effect from 5th January, 1986 along with the D.A. and A.D.A. but the same has also not been paid to the petitioner as yet. The petitioner had also applied for payment of the aforesaid arrears but the

Attested
by
[Signature]

[Signature]

(211)

same has not been paid to him as yet.

A true copy of the said letter dated 10.2.1988 is being filed herewith as Annexure III to this petition.

Annexure III

(XV) That thus the said termination order has been passed illegally, arbitrarily and in a grossly discriminatory manner and is liable to be set aside.

7. That the applicant declares that he has availed of all the remedies available to him under the relevant service rules. Against the termination order dated 20th September, 1987 the petitioner has filed a representation to the Executive Engineer on 23.10.87 but the Executive Engineer aforesaid has refused to give any relief to the petitioner, as such the petitioner has been left with no option but to take shelter of this Tribunal.

8. That the applicant further declares that he has previously not filed any application, writ petition, or suit regarding the matter in respect of which this application has been made, except one which has been mentioned above

Attested
by
[Signature]

अभिषेक

A12

- 9 -

before any court of law or any authority or any other Bench of this Tribunal nor any such application writ petition, or suit (except as already mentioned above) is pending before any of them.

9. That in view of the facts mentioned above, the petitioner prays for the following reliefs:

(a) that a declaration may be issued declaring the termination order dated 20th Sept. 87 as null and void.

(b) that a declaration may be issued directing the opposite parties to regularise the petitioner on the post of Khalasi and to accord him all the benefits and privileges of the said post.

(c) that a declaration may issue to declare that the petitioner is entitled for wages along with D.A. and A.D.A. with effect from 5th Feb. 1986 and that the petitioner be paid the arrears accruing thereof.

(d) That any other suitable order, or direction may also be issued which this Hon'ble Tribunal may deem just and proper in the circumstances of the case.

(e) to award the costs.

11/8/88
S. Singh

Singh

A13

- 10 -

10. That at the present moment, no interim relief is prayed for.

11. Particulars of the postal order:

1. Number of postal order 567293
2. Name of issuing post office H. P. O. All
3. Date of postal order 1-2-88
4. Name of post office at which payable

12. That the list of enclosures has already been given at the top of paper book as such need not repeated.

श्री प्रकाश

I, Om Prakash, aged about 29 years, son of Shri Devi Din, resident of 250/27, Yahiaganj, Bhim Nagar, Lucknow posted as Khalasi Aliganj Sector K Postal Electrical Enquiry P & T Colony, Lucknow, do hereby declare that the contents of paragraph nos. 1 to 12 of this petition are true to my personal knowledge and belief and nothing has been suppressed.

Through

B. P. Srivastava

(B. P. Srivastava)

Counsel for the petitioner

R. K. Pandey

(R. K. Pandey)

Counsel for the petitioner

श्री प्रकाश

(Deponent)

11
14/5/85
Annexum No. I
A14
Copy of communication No. 45-27/85-SFB-I. dated 25th May, 1985 from K.L. Sharma, Asstt. Director-General, (SPN) Office of Director-General, Ministry of Communications, Department of Posts, New Delhi addressed to All Heads of Postal Circles and other.

Subject:- Regularisation of services of casual workers in Group "D" posts-
Relaxation of employment exchange procedure-Instructions regarding.

Sir,

I am directed to forward herewith a copy of Ministry of Personnel and Training Administrative Reforms and Public Grievances and Pension (Department of Personnel and Training) O.M. No. 49014/18/84-Estt. (C) dated the 7th May, 1985, on the subject noted above, for information, guidance and further necessary action.

The instructions contained in the enclosed O.M. may be brought to the notice of all concerned under your control for strict compliance with specific emphasis in respect of the provisions of para 2 of the said office memorandum.

Hindi version of this will follow.

Yours faithfully

Sd/=

(K. L. Sharma)

Asstt. Director-General, (SPN)

Copy of Memo.No. 49014/18/84-Estt.(C) Government of India Ministry of Personnel & Training, Administrative Reforms and Public Grievances and Pension, (Department of Personnel and Training) New Delhi dated 7th May, 1985.

OFFICE MEMORANDUM.

Subject:- Regularisation of services of casual workers in Group "D" posts-
Relaxation of employment exchange procedure.

The undersigned is directed to say that services of casual workers may be regularised in Group "D" posts in various Ministries/Departments etc. subject to certain conditions, in terms of the general instruction issued by this department. One of these conditions is that the casual workers concerned, should have been recruited through the employment exchange. Sponsorship by the employment exchange being a basic and essential condition for recruitment under the Govt., it has repeatedly been brought to the notice of the various administrative authorities that recruitment of casual workers should always be made through the employment exchange. It has, however come to the notice of this Department that in certain cases these instructions were contravened and casual workers were recruited otherwise than through the employment exchange.

Contd....2/=

Ministry

(15)

Though these persons may have been continuing as casual workers for a number of years, they are not eligible for regular appointment and their services may be terminated any-time. Having regard to the fact that casual workers belong to the weaker section of the society and termination of their services will cause undue hardship to them it has been decided, as a one time measure, in consultation with the D.G.E. & T. that casual workers recruited before the issue of these instructions may be considered for regular appointment to Group "D" posts, in terms of the general instructions, even if they were recruited otherwise than through the employment exchange, provided they are eligible for regular appointment in all other respects.

It is once again reiterated that no appointment of casual workers should be made in future otherwise than through the Employment Exchange. If any deviation in this regard is committed, responsibility should be fixed and appropriate departmental action taken against the official concerned.

Sd/-
(A. JAYARAMAN)
DIRECTOR (E)

No. Rectt/R-39/V/5

Dated at Lucknow the 7th June, 1985.

Copy forwarded to:-

- 1- All Director Postal Services in UP. Circle.
- 2- All Sr. Supdt/Supdt. of Post Offices)
- 3- All Sr. Supdt/Supdt. of R.M.S.)
- 4- The Postmaster, Kanpur/Lucknow
- 5- The Supdt. of Postal Stores Forms Seals, Aligarh.
- 6- The Manager, Mail Motor Services, Kanpur.
- 7- All Officer of Circle Office, Lucknow.
- 8- Office Supdt/Dy. Office Supdt. of Circle Office, Lucknow.

For Postmaster-General,
UP. Circle, Lucknow.

T/C
Sd/-

13
A/6

Before the Central Administrative Tribunal
Additional Bench Allahabad

Annexure II
in

Registration No. of 1988

between

Om Prakash ... petitioner

and

Union of India and others ... Respondents

To

The Executive Engineer,

P & T Ele Sub Division.

Sub Appeal against order of termination from
service issued by Shri R.K.Srivastava J.E.
(Electrical).

Sir,

Respectfully I am to state as under :

1. That I was appointed as casual labour by
A.P.E. (Postal) Elec Sub Division Lucknow. I
was sponsored by employment exchange and was
selected after test and interview.

Om Prakash

A17

- 2 -

2. That I have worked for the under noted period :

1.5.86 to 15.7.86

4.4.87 to 27.7.87

28.7.87 to 20.9.87.

3. That persons selected after my selection are still working and I have not been given any show cause notice which is contrary to the law and the subject.

Prayer

It is respectfully prayed that I may be given my job and the order of the J.E. may be set aside.

Thanking you,

Yours faithfully,

Sd. Om Prakash

Casual Labour

Aliganj

Sector K

P & T Colony

Dated 26.10.87

True copy

Om Prakash
PS

Om Prakash

15

A18

Before the Central Administrative Tribunal
Additioaal Bench Allahabad

Annexure III

in

Registration No. of 1988

between

Shri Om Prakash ... petitioner

and

Union of India and others ... Respondents

Copy of comm letter no. 45/ 95/27 CPU
I, dated 10 Feb. 1988 from Director Staff
Department of Posts, Dak Bhawan, New Delhi 110011
endorsed to Shri S.P.Rai, Postmaster General
U.P. Circle Lucknow and others.

Sub Absorption of Casual Labourers in the light
of Supreme Court judgment.

Sir,

In compliance to Hon'ble Supreme
Court of India decision dated 27th October, 1987
in writ petition no. 378 of 1986 regarding
payment of wages to casual labourers at the
minimum of pay in the pay scale of the

2/11/88

A19

- 10x - - 2 -

regularly employed workers in the corresponding cadre but without any increments with effect from 5th February, 86, the Directorate of Posts has decided that :

(i) all the casual labourers engaged on casual basis are to be paid wages worked out on the basis of the minimum pay in the pay scale of regularly employed workers in the corresponding cadre but without any increment, with effect from 5th Feb. 86 but casual labour will also be entitled to F.A. and A.D.A. if any on the minimum of the pay scale. No other allowance are to be paid .

(ii) The word Casual labourers would cover full time casual labour , part time casual labour and workers engaged on contingency basis. Part time workers casual or contingency paid will be paid on pro rata basis. For the purpose of payment, no distinction should be made whether the casual labourers and contingency paid staff are being paid wages or from office contingencies.

(iii) The arrears at the enhanced rate to be paid before 25.2.88 positively.

Srinivasan

17

A20

- 3 -

2. For the allotment of funds you are requested to contact the budget section of the Directorate. You are requested to take further necessary action in the matter regarding payment of arrears as indicated above and a detailed statement showing the payment made to each worker be sent before 2.3.1988.

3. The receipt of this letter may kindly be acknowledged to Shri S.S. Mehra, Section Officer SPU I) before 15.2.88.

4. This issue with the approval of Finance (Admin) U.O. No. 548/1AP/88 dated 5.2.88.

Yours faithfully,

Sd. Director (Staff)

True copy

Deputy

Munim

filed today
R
9/3/90

14

A22

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH : ALLAHABAD.

.....

CIVIL MISC. APPLICATION NO.

OF 1989

ON BEHALF OF

UNION OF INDIA & OTHERS.

.APPLICANTS/
RESPONDENTS.

IN

REGISTRATION NO. 772 of 1988

Shri Om Prakash

.Applicant

Versus

Union of India & others.

.Respondents.

SO(J)

Keep on record
if permissible.
Rev. 04.3.80

DR(J)

To

The Hon'ble The Vice Chairman and His

Companion Members of the aforesaid Tribunal.

The humble application of the abovenamed

Most Respectfully States :

1- That in view of facts and circumstances
stated in the accompanying counter affidavit, it
is in the interest of justice that the relief
claimed by the applicant is rejected by this

W

2.

A23

Hon'ble Tribunal, otherwise respondents would
suffer irreparable loss.

P_R_A_Y_E_R

WHEREFORE, this Hon'ble Tribunal may
kindly be pleased to reject the relief claimed
by the petitioner, otherwise respondents would
suffer irreparable loss.

Muslin
Dt/-July 8th, 1989. 1990

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



A24

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH : ALLAHABAD.

.....

COUNTER AFFIDAVIT

ON BEHALF OF RESPONDENTS

IN

REGISTRATION NO. 772 of 1988

Shri Om Prakash

.Applicant

Versus

Union of India & others.

.Respondents.



Affidavit of V. K. Gupta

aged about 43 years, s/o Sh. B. D. Gupta.

Assistant Engineer, Postal Elect. Division
Lucknow.

(Deponent).

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

1- That the deponent is Assistant Engineer,
Postal Elect. Division Lucknow and has been deputed

Gupta

2.

A25

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

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

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

4- That the contents of paragraph 3 of the petition are matter of record and as such need no comment except that the order dated 20th May 1987 is mere a communication, which was issued by the Junior Engineer (Electrical) on the basis of verbal orders of the Executive Engineer (Electrical) Postal Electrical Division, Lucknow.



5- That in reply to the contents of paragraph 4 of the petition, it is submitted that the petitioner was employed as a daily rated Khallasi without any claim to regular appointment and as such the present petition does not fall within the purview of the Central Administrative Tribunal and therefore,

Ample

226

3.

the declaration, which has been made in para under reply is absolutely wrong and this Hon'ble Tribunal got no jurisdiction to decide the issue.

6- That the contents of paragraph 5 of the petition need no comments.

7- That the contents of paragraphs 6(i), 6(ii) and 6(iii) of the petition need no comments.

8- That the contents of paragraphs 6(iv) and 6(v) of the petition are matter of record and as such need no comment.

9- That the contents of paragraph 6(vi) of the petition are not correct and as such are denied. In fact, the petitioner was deployed as a daily wages labourer and his services were terminated from 21st September, 1987. The Executive Engineer, Electrical Postal Electrical Dn. during his inspection, directed verbally the Junior Engineer (Electrical) to terminate the services of the petitioner and as such in compliance of his verbal direction, necessary order of termination has been passed.



Dimple

A27

10- That in reply to the contents of paragraph 6(vii) of the petition, it is submitted that contention raised in para under reply are misconceived. In fact the number of quota for Scheduled Caste and ~~Scheduled Tribe~~ ^{at all} ~~is not/applicable~~ ^{because} ~~xxxxxxx~~ / casual labourers were engaged for intermitent period and the said quota is applicable where the appointment is made on regular basis.

11- That in reply to contents of paragraph 6(viii) ^{and 6(ix)} of the petition, it is submitted that it is true that appointing authority of the petitioner post is Assistant Engineer Electrical, ~~xxxxxx~~ and it is he, who has deployed him for intermitent period but the services have been terminated on verbal direction of the Executive Engineer, who came on inspection and during the course of inspection, he had given said instruction and as such the communication made by the Junior Engineer is not an order, but is a communication only in compliance of verbal direction of the Executive Engineer. It is wrong to say that some juniors have been retained, whereas petitioner's services have been dispensed with. In fact alongwith the petitioner such other casual labourers have also been terminated.



Amplified

A28

5.

12- That the contents of paragraph 6(x) of the petition are not correct as stated. It is further submitted that the Government of India, Ministry of Personnel & Administrative Reforms and Public Grievance has issued a circular dated 7th May 1985 regarding regularisation of casual labourers against Group D posts and in the said circular certain instructions have been issued. One of the instruction for regularisation of casual labourer against Group D post, it has been prescribed is that the petitioner must have put in two years of service as casual labourer with 240/206 days or more of service as such during each year and since the petitioner did not put in the required service, as above, either in 1986-87 or 1987-88, he is not eligible for regularisation. In order to appreciate the controversy, a photostat copy of the office memorandum dated 26th October, 1984 is enclosed herewith and marked as Annexure-I to this affidavit.

Ann-I.

13- That the contents of paragraph 6(x) of the petition has already been replied in preceding paragraph, hence need not be repeated here again.



Amptan

A29

14- That the contents of paragraphs 6(xii) and 6(xiii) of the petition need no comment.

15- That the contents of paragraph 6(xiv) of the petition are not correct and as such are denied. The petitioner has been paid arrears in view of the Director General, Post & Telegraph instructions dated 10th February 1988 and 6th June 1989 amounting to Rs. 2,987.30p.

16- That the contents of paragraph 6(xv) of the petition are not correct and as such are denied.

17- That the contents of paragraphs 7 and 8 of the petition need no comments.

18- That in reply to the contents of paragraph 9 of the petition, it is submitted that in view of facts and circumstances stated above, the petitioner is not entitled for any relief as the petition is misconceived and is liable to be dismissed.

19- That the contents of paragraphs 10, 11



Amplar

7.

A30

and 12 of the petition need no comments.

That the contents of paras 1 and 2 of this affidavit are true to my personal knowledge; those of paras 3 to 17 and 19 are based on perusal of records and those of para 18 are based on legal advice, which all I believe to be true. No part of it is false and nothing material has been concealed in it.

SO HELP ME GOD.

Damodar
(DEPONENT).

I, D.S. Chaubey, clerk to Shri KC Sinha Addl. Standing Counsel, declare that the person making this affidavit and alleging himself to be the deponent is known to me personally.

DS
(IDENTIFIER)

Solemnly affirmed before me on this ~~14~~ ⁷ day
of ^{March} July 1989 at 11.15 am/pm by the deponent, who
is identified by the aforesaid clerk

Damodar

8.

(A31)

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

(Signature)

High Court, Allahabad
OATH COMMISSIONER
High Court Allahabad
Sl. No. 126/14
Date 7/8/90

Amplar

ANNEXURE - (I)

Copy of letter No.45/67/84/SPB-Idt.=12.12.88 received from Asstt. Director Genl. (SPN) & the Director General Posts & Telegraphs New Delhi.

Sub:-Group D Implementation of the instructions relating to regularisation of services of casual workers in Group D Posts, in the organisations observing five day week.

Sir, I am directed to refer to the enclosed copy of Deptt. Personnel and Administrative Reforms instructions No. 49014/10/88/Estt.(C) dated the 26th of Oct. 1984 on the above subject for information and guidance.

2. Hindi version is enclosed.

Yours faithfully
Sd/- K.L.SHARMA

Encl:- as above.

Asstt. Director Genl.(SPN)

No.49014/19/84-Estt(C)
Government of India Bharat Sarkar
Ministry of Home Affairs/Srih Mantralaya
Department of Personnel & Administrative Reforms
Karmik Aur Prashaunik Sudhar Vibhag

New Delhi the 26th Oct. 1984

OFFICE MEMORANDUM

Subject:- Implementation of the instructions relating to regularisation of services of casual workers in group D Posts in the organisations observing five day week.

The undersigned is directed to say that as per the general instructions issued by this Department, the services of a casual worker may be regularised in a Group D post, provided inter alia he has put in two years as a casual worker, with 240 days or more of service as such during each year. The number of 240 days was worked out with reference to 6 day week being observed in central Government Officers. It has been brought to the notice of this Department that there are certain organisations, which have adopted the instructions issued by this Department about regularisation of service of casual workers, but who are observing a five day week. A question has been raised whether even in the organisations observing five day week, the requirement of 240 days or more of service during each of the two years may be enforced as it is, or whether the requisite number of days may be brought down proportionately.

The matter has been considered in this Department and it has been decided that in the organisation observing five day week, casual workers may be considered for regular appointment to Group D posts, if otherwise eligible, if they have put in 2 years of service as casual workers with 206 days of service during each year (as against the usual 240 days). This may please be brought to notice of all concerned.

sd/-

(Miss Manjula Subramaniam)

DEPUTY SECRETARY TO THE GOVT. OF INDIA

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
P&T ELECTRICAL CIRCLE NO. I
NEW DELHI

Np. SE/P&T/E-I/5(23)/143-45

Dated New Delhi

10.1.85

copy to:- The Executive Engineer (E) Postal Electrical Division No. I, II New Delhi and Lucknow for information

Sd/- E.A. to S.E.(E)

P&T Electrical Circle New Delhi



A33

Filed today
15/5/90

IN THE HONOURABLE HIGH COURT OF
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH: ALLAHABAD.

...

Rejoinder Affidavit

In

Registration No. 772 of 1988

Sri Om Prakash Applicant.

Vs.

Union of India and
others Opp. parties.

Received copy
Chk to the C.A.
15/5/90



Affidavit of Shri Om Prakash
aged about 30 years son of
Sri Devi Deen resident of
250/27, Ahiyaganj, Bhim Nagar,
Lucknow.

(Deponent).

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

50(J)
Keep on record.

15/5/90
DR(J)

1. That, I am the petitioner in the aforesaid
petition and as such I am fully acquainted with
the facts of the case deposed to below:

2. That, I have gone through the counter
affidavit of Sri V.K. Gupta, and have fully

अभिप्राय

understood the contents thereof.

(A 34)

3. That, in reply to contents of paragraph no. 4 of the counter affidavit, the contents of paragraph no. 3 of the petition are reaffirmed as correct.

4. That, the contents of paragraph no. 5 of the counter affidavit raise legal issues, hence they are not replied by the affidavit. However, the petitioner has been advised that the contentions raised therein are wrong, and the petitioner has been advised that his petition is liable to be allowed with cost and it is cognizable by this Hon'ble court.

5. That, in reply to the contents of para 9 of the counter affidavit, the contents of para 6(6) of the petition are reaffirmed as correct. It is wrong to say that the Executive Engineer had verbally directed the junior engineer Electrical to terminate the services of the petitioner. It appears that those allegations have been made for the purposes of the petition.



3/11/54

A perusal of the verification clause would show that this said paragraph no. 9 has been verified on record, whereas in the paragraph it has been alleged that the termination order has been issued on the verbal orders of the junior engineer. Thus the said allegations are false.

6. That, in reply to the contents of para 10 of the counter affidavit, the contents of para 6(7) of the petition are reaffirmed as correct.

7. That, in reply to the contents of para 11 of the counter affidavit, the contents of para 6(8) and 6(9) of the petition are reaffirmed as correct. It has already been mentioned earlier that the allegation that the petitioner's services have been terminated on the verbal direction of the Executive Engineer are false. The paragraph no; 11 has also been verified on the basis of perusal of records. The petitioners services have been terminated by order of the Junior Engineer, it has been falsely mentioned that the juniors have not been retained. The following are the names of the juniors who have been retained while the petitioner's services have been terminated:



अभिप्रेत

P 36

- xx 1. Sri Ashok Kumar Misra,
2. Sri Badlu Ram Saini,
3. Sri Y₂ trilal.

8. That, in reply to the contents of para no. 12 of the counter affidavit, the contents of paragraph no. 6(10) of the petition are reaffirmed as correct. The petitioner has been advised that the aforesaid circular is not applicable ~~xx~~ in the petitioner's case. On the other hand the Government has issued the latest circular dt. 13.12.1989.

A true copy of the said circular dt. 13.12.1989 is being filed as Annexure-RA-I to this affidavit.

Annexure-RA-I



9. That, the aforesaid circular clearly directs that the casual labours belong to poor class and as such they should not be retrenched on flimsy grounds. According to the aforesaid circular the authorities were asked to continue their engagement.

Amn Yauri

(A37)

10. That, the contents of paragraph no. 15 of the counter affidavit are not admitted and those of paragraph no. 6(14) of the petition are reaffirmed as correct. The petitioner has not been paid his full emoluments. As such he had to file representation which is still pending disposal.

11. That, in reply to the contents of paragraph no. 16 of the counter affidavit, the contents of paragraph no. 6(15) of the petition are reaffirmed as correct.

12. That, the contents of paragraph no. 18 of the counter affidavit are denied and the petitioner has been advised that he is entitled for the relief-s claimed by him in the petition.



That, the contents of paragraph nos.

1 to 7, 8 to 12 of this affidavit are true to the personal knowledge of the deponent and those of paragraph nos. 8 of the affidavit are based on perusal of papers on record, and those of paragraph nos. 13 to 15 of the affidavit are based on legal advice which all the deponent believes to be true, that nothing material has been concealed in it, and no part of the affidavit is false.

Depo. 21/21

A38

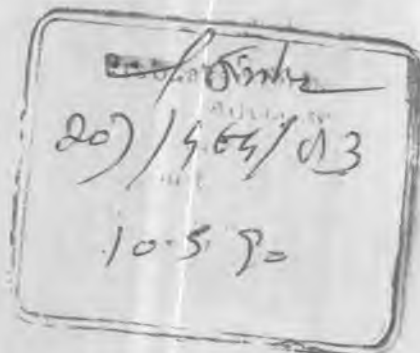
I, T.N.Singh, clerk to Sri B.P.Srivastava,
Advocate, High court, Allahabad, do hereby
declare that the person above named making this
affidavit is known to me from the perusal of
papers proruded by him in this case.

T.N. Singh
10.5.90
T.N.Singh,
Clerk.

Solemnly affirmed before me on this....
day of ~~May~~ 1990, at about 11³⁰ a.m/p.m. by the
deponent who is identified by the aforesaid
clerk.

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

Cath Commissioner.



मनप्राप्त

A38

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: ADLBENCH
ALLAHABAD.

..

Annexure-RA-I

In

Rejoinder Affidavit

In

Registration No. 772 of 1988

Sri Om Prakash..

..Applicant.

Vs.

Union of India and
others..

.. Opp. parties.

..

Copy of letter No. 45-98/87-SPN/dated 13.12.89
from Shri R.L. Gupta, Asstt. D.G. (SPN) Department of
Postt. New Delhi addressed to all Heads of Postal
Circles, and received under C.D. endt. No. Rectt/
R-39/VIM 5 dated 16.1.1990.

...

Subject: Deployment of casual labourers -
instructions regarding.

...

It has been brought to the notice of
this office that casual labourers who have been
working in our subordinate offices either have
been retrenched or not being engaged on fit
grounds as hitherto. In this connection, your



ॐ नमो भगवते वासुदेवाय

:2:

Aho

kind attention is invited to the judgment of the supreme court wherein the Govt. of India was directed not to discontinue the engagement of casual labourers having one year service as on 5.2.1986. Accordingly, instructions were issued vide even number dated 10th March, 1989.

2. As the category of casual laborers is a poor one, you are therefore, advised not to retrench them as per instructions ibid. Also you are requested to continue their engagement as and when a need arises.

3. Hindi version follow.

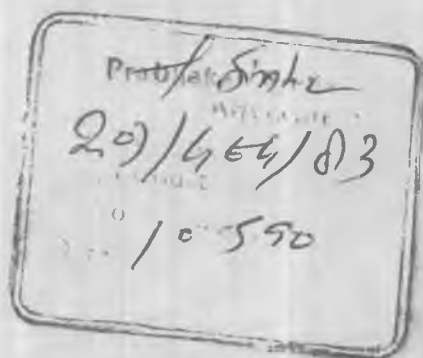
No.A-1/12 dated at Lucknow-226003 the 29.1.90

Copy forwarded for information to:

1. All the S.P.Ma. in Lucknow division.
2. All the ASPOs./SDI(E) Lucknow.
3. Dy.SFCs/CI/SBDO Lucknow Division.

sd/illegible.

Sr.Supt. of Post Officers,
Lucknow Division, LW-226003.
dt. 29.1.90.



20/464/83

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE C.P. 04 OF 1992

NAME OF THE PARTIES un OA 772/PB Om Prakash

Applicant

Versus

Shri J.K. Puri and another Respondent

Part A, ~~B & C~~

Sl. No.	Description of documents	Page
1	order sheet	1
2	Judgment 26-5-92	A 2 to 3
3	petition copy with annexes	A 4 to 19
4	counter	A 20 to 29
5	Rejoinder	A 30 to 34
6	Affidavit	A 38 to 39
7	Power	A 40 to 45
8	C.P. (Civil) No. 04/1992	
9		
10		
11		
12		
13		

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
LUCKNOW BENCH LUCKNOW

INDEX SHEET

Cause Title 24/92 of 1992 (L)Name of the parties Om Prakash Applicant.

Versus

S. K. Puri and others Respondents.

Part A.B.C.

Sl. No.

Description of documents

Page.

① Order Sheet

M

② Judgement

A1 to A3

③ Selection & Appointment Annals

A4 to A19

④ Counter

A20 to A4

⑤ Remarks

A30 to A36

B. File

⑥ Selection copy

⑦ Counter sheet

⑧ Supplementary counter

⑨ Remarks

⑩ Power for R.C. sig

①
24-7-92

C-84/92
in
6 A 772/88



30.1.92

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Adm. Member.

Issue notice to the opposite party
contemnors to show cause as to why the
proceedings for contempt should not be
initiated against them. Notice returnable
within 4 weeks. List for orders on 6.3.92
on which dated the question of personal
appearance of the opposite parties shall
be considered.

A.M.

Shakeel/

V.C.

O-R
Notices Issued

10/2

OT

contemn

6-3-92

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, A.M.

The applicant is present in
person. The respondents - the
alleged contemnors are also
present in person and filed
their reply, the copy of which
has been given to the
applicant who appears ^{to be} of more

A2

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW.

Contempt Petition No. 4 of 1992

IN

Registration C.A. No. 772 of 1988

Om Prakash ... Applicant.

Versus

Shri J.K. Puri and another ... Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member (A)

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

This contempt application is directed against our order dated 6.11.1991. We have disposed of the application of the applicant finally directing the respondents to consider the case of the applicant within a period of 2 months as to whether he can be appointed or not. No communication to this effect has been received by the applicant and the time has expired, the applicant has moved this contempt application. The respondents have put in their appearance and have denied the same. The respondents have stated that the case of the applicant has been considered and the applicant has not ^{been} found fit, that is why, he was not appointed. Therefore, in view of the assertions made in the application, the contempt application deserves to be dismissed. The applicant's claim is that when he has received ^{no communication} from the department, he again approached the Tribunal by means of this application, but the respondents have refuted the same, and have stated that no casual labour junior to him has been retained in service as Khalasi and has been wor

u

Filing of contempt application should not be a ground
for ^{refusing to} considering the case of the applicant again. ^{With} ~~But~~ ²
the above observations, the contempt application is
otherwise dismissed. Notices are discharged.


Member (A)


Vice-Chairman

Dated: 26.5.1992

(n.u.)

8/11

Bench Copy

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.

Contempt Petition (Civil) No. 4 of 1992.

In re:
O.A.No.772 of 1988

On Prakash, aged about 32 years s/o Late Sri Devi Din
r/o 250/70, Yahya Ganj, Bhim Nagar, Lucknow.

...Applicant

Versus

1. Sri J.K.Puri, Executive Engineer, Postal Electrical
Division, Sector-C, Post Office Building, Aliganj,
Lucknow.

2. Sri Rameshwar Dayal, Asstt. Engineer, Postal Electrical
Sub-Division, Sector-C, Post Office Building, Aliganj,
Lucknow.

...Respondents.

APPLICATION UNDER SECTION 12 OF THE CONTEMPT OF THE
COURTS ACT, 1971 READ WITH SECTION 17 OF THE ADMINIS-
TRATIVE TRIBUNALS ACT 1985 AND RULE 4(iii) OF CENTRAL
ADMINISTRATIVE TRIBUNAL (CONTEMPT OF COURTS) RULES
1986 FOR INITIATING CONTEMPT PROCEEDINGS.

The applicant abovenamed most respect-
fully begs to submit as under:-

1. That the applicant was initially appointed
as Khalasi in semi skilled labour on daily wages
w.e.f. 1.5.1986. He worked from 1.5.86 to 15.7.86
during 1986 and from 4.4.1987 to 20.9.87 during the
year 1987.

2. That the work and conduct of the applicant was satisfactory.

3. That despite the fact that the work and conduct of the applicant was satisfactory and the posts were available the services of the applicant were terminated vide order dated 18.9.1987 with effect from 21.9.1987, though several juniors to the applicant who were appointed subsequently were allowed to continue.

4. That aggrieved by the termination order the applicant filed Original Application No.772 of 1988 before this Hon'ble Tribunal. The main ground of challenge was that while the services of the applicant have been terminated, juniors to the applicant were retained in service.

5. That after the exchange of counter and rejoinder affidavits the O.A.No.772 of 1988 was decided by this Hon'ble Tribunal vide judgment and order dated 6.11.1991 passed by Hon'ble Mr.Justice U.C.Srivastava V.C. and Hon'ble Mr.A.B.Gorthi, Administrative Member. A photostat copy of the judgment and order dated 6.11.1991 is being annexed as Annexure No.1.

T.C. ✓

6. That vide judgment and order dated 6.11.1991 this Hon'ble Tribunal had directed the respondents to consider the applicant for re-employment within a period of 2 months as to whether he can be appointed again as Khalasi or not.

7. That after the receipt of copy of the judgment from this Hon'ble Tribunal, the copy of the same was submitted to the Respondent alongwith application dated 12.11.1991 a photostat copy of which is being annexed as Annexure No.2.

8. That the applicant submitted an application cum reminder to the Chief Post Master General J.2. Lucknow and requested for allowing the applicant to join the duty. A photostat copy of this is being annexed as Annexure No.3. The applicant submitted another application to the Respondent No.1 on 3.1.1992 with the same request but no action whatsoever was taken in the matter. A photostat copy of the application dated 8.1.92 is being annexed as Annexuure No.4.

9. That one more application was submitted by the applicant addressed to the Respondent No.2 on 13.1.92 with a copy to the Respondent No.1 amongst others. A photostat copy of the application dated

dated 13.1.92 is being annexed as Annexure No.5.

The respondent No.2 refused to accept the letter and therefore the same was despatched to him by Regd.Post A/D on 13.1.92. The Respondent No.2 has even refused to accept the Registered letter which has been received back undelivered with the endorsement of postman. A photostat copy of the Registered cover together with the endorsement of the Postman is being annexed as Annexure No.6.

10. That The respondents have thus disregarded and disobeyed the judgment and order dated 6.11.91 passed by this Hon'ble Tribunal wilfully and deliberately for which they are liable to be summoned, dealt with and punished in accordance with law.

11. That it may be stated that vide Memo No. Rectt/R-93/Lucknow Region 1 dated 8,1991 issued by the Office of Chief Post Master General, U.P.Circle Lucknow casual labours of the Postal Electrical Division Lucknow were granted temporary status. A photostat copy of the memo dated 8,1991 is being annexed as Annexure No.7. A perusal of the memo reveals that following individuals who were appointed subsequently are still working as Khalasi, as such the applicant is entitled for re-employment

T.C.✓

with the benefit of continuity of service as per the Judgment of this Hon'ble Tribunal.

<u>Sl.No.</u>	<u>Name</u>	<u>Date of appointment</u>
1.	Shri Roop Chand (SC)	14.8.86
2.	" Radhey Shyam	12.9.86
3.	" Meharban Singh	21.5.86

12. That the cause of action accrued on 12.1.92 i.e. the date of expiry of the period of two months from the date of service of the copy of the judgment and order dated 6.11.91 upon the respondents and is continuing on day to day basis.

13. That the act and conduct of the respondents is contemptuous for which contempt proceedings U/S 12 of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985 may be initiated against them.

P R A Y E R

WHEREFORE, it is humbly prayed that this Hon'ble Tribunal may kindly be pleased to summon the Respondents, deal with and punish them in accordance with law for committing contempt of this Hon'ble Tribunal.

(R.C.SINGH)
Advocate
Lucknow: Counsel for the applicant

Dated: January 23rd, 1992.

T. C. ✓

In the Central Administrative Tribunal, Lucknow Bench, Lucknow
Contempt Petition (Civil) No. of 1992

Om Prakash

vs.

Shri J.K. Puri and Another

--- Applicant

--- Respondents

ANNEXURE No. 1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
CIRCUIT BENCH : LUCKNOW.

Registration O.A.No.772 of 1988.

Om Prakash

....

Applicant

Vs.

Union of India & Others

Respondents

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

Hon'ble Mr. A.E. Gorthi, Member (A)

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

The applicant was appointed as Khalasi on 1.5.1986 in the Telecommunication Department by the Assistant Engineer, but his services have been terminated by the Junior Engineer (E) on 20.9.1987. No appointment letter was filed by the applicant as he has lost the appointment letter. It appears that in the year 1986 he worked for 2 months and in the year 1987 he worked for 5 months as Khalasi. As he had worked less than the prescribed period in two years for regularisation he cannot claim the benefit of the regularisation. So far as his appointment is concerned it is difficult to accept that he was thrown out by one who had not appointed him in the absence of any order. The other grievance of the applicant is that his juniors have been retained as Khalasi but he was thrown out. It is not known in what manner his juniors have been retained. The respondents are directed to consider the case of the applicant within 2 months as to whether he can be appointed again as Khalasi or not. With these observations this application is disposed of finally. No order as to costs.

Vice-Chairman.

6th Nov. 1991, Lucknow

(sph)

T.C. ✓

True Copy
AKS
11/11/91



Checked by
msb

A
10

In the Central Administrative Tribunal, Lucknow Bench, Lucknow
Contempt Petition (Civil) No. of 1992

Om Prakash
vs.
Shri J.K. Puri and Another

--- Applicant
--- Respondents
ANNEXURE No. 2

To,

1) Shri J.K. Puri Executive Engineer

O/O Postal Electrical Dn. Sector 'C' P.O. Building Aliganj

2) Shri Rameshwar Dayal, Asstt. Engineer, Postal Electrical
Sub-Dn. Sector 'C' P.O. Building Aliganj Lucknow.

Sub- Application for reemployment as Khalasi in the Department
Lucknow Postal Electrical Sub-Division.

Sir,

With Humble submission I beg to state that I may please be
reemployed as Khalasi in the Lucknow Electrical Sub-Dn. (Postal)
Lucknow, as early as possible. The termination order issued to
me stood nul and void against the decision of CAT circuit Bench
Lucknow. The copy of the order passed by the Hon'ble Central Admn.
Tribunal Lucknow, bench on 6.11.91 in petition No.772 of 1988
Om Prakash versus union of India Respondents, by Hon'ble Justice
UC Shri U.C. Srivastava VC and Hon'ble Mr. A.B. Gorthi AJ directing
the Department to consider me for re-employment with in a period
of two months is enclosed herewith for ready reference.

Kindly allow me duty at your earliest and oblige.

Yours Faithfully

Dated
12/11/91

Enclosed - Judgement copy

Om Prakash
(Om Prakash)
250/70, Yahiya Ganj
Bhim Nagar Lucknow



ANNEXURE NO. 3 Respondents

सेवा में
श्री ^{यल}~~प्रकाश~~ प्रसाद जी का चिकित्सीय मास्टर जनरल ड० ए०
परिमंडल लखनऊ

महोदय,

विनम्र निवेदन यह है कि प्रार्थी का पेशला केन्द्रीय न्यायाधिकरण सर्किट बेन्च सखानउ द्वारा दि० 6 नवम्बर 1991 को हुआ था जिसमें कन्सीडर के लिए दो माह का समय था, और मैने जजमेंट की कापी भी दि० 12.11.91 को श्रीमान जी के कार्यालय में दी थी, जिसमें जूनियर सीनियर की भी बात कही गयी थी किन्तु हमसे जूनियर आज भी कार्य कर रहे हैं। इसके अतिरिक्त पद भी रिक्त है।

अतः श्रीमान जी मे विनम्र निवेदन हे कि प्राधार् के विषय मे क्या हुआ हे, श्रीमान जी अपने हस्तर से हमे छुट्टी देने की कृपा करे, जिससे इस महंगाई के युग मे अपने परिवार की जीविका चला सकूँ । क्योंकि दो माह का समय भी बीतने वाला हे ।

मरण कृपा होगी ।

संलग्न- ज्वर्मेट कापी की छाया प्रति ।

Simon 3/1/92

Reed

03.1.92

Post 7

21:91

प्राप्त

॥ ओम प्रकाश ॥

250/70, यहियागंज, लखनऊ

भीमनगर लखनऊ ।

Om Prakash
vs.
Shri T.K. Puri and Another

Applicant-
Respondents
ANNEXURE No. 4

सेवा में,

श्री जे.के. पुरा अधिकांश अभिवन्ता डाक विद्युत
सेक्टर-ता, पोस्ट आफिस बिल्डिंग,
जलौगंज, लखनऊ।

महोदय,

विनम्र निवेदन है कि प्रार्थी का केतला केन्द्राव
न्यायाधिकरण सर्किट बेन्च लखनऊ द्वारा दि० 6 नवम्बर 1991 को
हुआ था जिसमें कन्सिडर के लिए दो माह का समय था, और मैंने
जजमेन्ट को कापी भी दि० 12-11-91 को श्रीमान जो के कार्यालय
में दी थी, जिसमें जूनियर तानियर को भी बरत कहा गया था
किन्तु हमने जूनियर आज भी कार्य कर रहे हैं। इसके अतिरिक्त
पद भी रिक्त है।

अतः श्रीमान जो से विनम्र निवेदन है कि प्रार्थी के
कार्य में क्या हुआ है, श्रीमान जो अपने त्तर से हमें डिप्लोमा देने
का कृपा करें, जिससे इस महगाई के युग में अपने परिवार को जीविक
पला सकूँ। क्योंकि दो माह का समय भी बीतने वाला है।

महान कृपा होगा।

प्रार्थी,

ओम प्रकाश
जोम प्रकाश
250/70, बहियागंज, भाँसगंज
लखनऊ।

Recd copy
only

दिनांक
8/11/92

संलग्नक -

जजमेन्ट कापी की जाँच प्रति।

8/11/92

8/11/92
26/11/92

T.C.

Om Prakash

vs.

Shri J.K. Puri and Another

Applicant-

Respondents

ANNEXURE No. 5

सेवा में,

श्री रामेश्वर दयाल,

सहायक अभियन्ता,

डाक विद्युत मण्डल, सेक्टर 'सी' पोस्ट ऑफिस बिल्डिंग,

सेक्टर 'सी' अलीगंज, लखनऊ-20

विषय:- पुनः नियुक्ति के सम्बन्ध में।

संदर्भ - केन्द्रीय प्रशासनिक न्यायाधिकरण इलाहाबाद सर्किट बेंच लखनऊ
आदेश संख्या-ओएचओ 772/88 दिनांक 6.11.91 तथा दिनांक
12.11.91 को आपको प्राप्त कराया गया।

प्रत्येक,

उपरोक्त सन्दर्भित आदेश में माननीय न्यायाधीश ने प्रार्थी को
पुनः नियुक्ति हेतु दो महीने का समय दिया था। उपरोक्त सम्बन्ध में
प्रार्थी ने दिनांक 2.1.92 को एक प्रार्थना-पत्र पुनः आपको दिया गया।
कार्यालय में हाथों हाथ प्राप्त कराया गया। परन्तु अब तक न तो प्रार्थी
को कार्यभार ग्रहण कराया गया और न ही कोई आदेश प्राप्त हुआ।

अतः श्रीमान जी मैं विनम्र निवेदन है कि माननीय न्यायाधिकरण
द्वारा पारित उपरोक्त आदेश में दिये गये समय को ध्यान में रखते हुए
प्रार्थी को ड्यूटी देने की कृपा की जाय। अन्यथा प्रार्थी को बाध्य होकर
अग्रिम कार्यवाही हेतु बाध्य होना पड़ेगा, जिसकी सारी जिम्मेदारी
आपकी होगी।

दया हेतु अग्रिम धन्यवाद,

मोहम्मद युसूफ
प्रार्थी

प्रतिलिपि-

1- श्री जे.के. पुरी, अधिकांश अभियन्ता,
डाक विद्युत मण्डल, पोस्ट ऑफिस बिल्डिंग
सेक्टर 'सी', अलीगंज, लखनऊ-20

2- श्री एस.के. आचार्य, चीफ पोस्ट मास्टर जनरल, उ०प्र० लखनऊ, परिमण्डल
लखनऊ।

3- श्री कमलेश चन्द्र निदेश, डाक सेवाएँ लखनऊ कार्यालय चीफ पोस्ट मास्टर
जनरल लखनऊ को इस निवेदन के साथ प्रेषित है कि अपने स्तर से
सुन्त कार्यवाही करने की कृपा की जाय यदि प्रार्थी बेरोजगार रहे और
पारिवारिक सदस्य भुज्जारी के कारण परहे।

दिनांक

13/11/92

प्रार्थी

मोहम्मद युसूफ

ओम प्रकाश
250/70, यदियागंज, भीमनगर,
लखनऊ

CA to D.P.S.
Lucknow - 20001

C. A. TO CHIEF
P. M. G. U. P.

In the Central Administrative Tribunal, Lucknow Bench, Lucknow
Contempt Petition (Civil) No. of 1992

Om Prakash

vs.

Shri J-K. Puri and Another

--- Applicant-

--- Respondents

ANNEXURE NO. 6

रजिस्ट्री पत्र REGISTERED LETTER

लिफाफे का मूल्य 50 पैसे COST OF ENVELOPE 50 PAISE

केवल पता ADDRESS ONLY

50

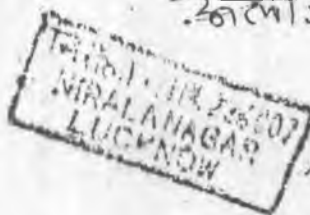
सेवा में,

श्री रामेश्वर पयाल (सहायक, अभियंता)

पोस्टल विद्युत सब डिवाजन

पोस्ट ऑफिस बिल्डिंग सेक्टर (सी)

आलीगंज लखनऊ - 20



आगत 5/12/92

25/07/90 प्रविष्टि गण

मीरगंज लखनऊ

3

T.C.

T.C. ~

In the Central Administrative Tribunal, Lucknow Bench, Lucknow
Contempt Petition (Civil) No. of 1992

Om Prakash

vs.
Shri J.K. Puri and Another

--- Applicant

Respondents

ANNEXURE No. 67

DEPARTMENT OF POSTS

OFFICE OF THE CHIEF POSTMASTER GENERAL, U.P. CIRCLE, LUCKNOW

Memo No. Rectt/R-93/Lucknow Region/1 Dated at LKO: .8.1991

In pursuance of Govt. of India, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi No. 45-95/87-SPB.I dated 12.4.91 circulated under C.O. letter No. Rectt/R-39/VI/5 dated 30.4.91 the following casual labourers of the Postal Electrical Division, Lucknow as mentioned below are hereby granted "Temporary Status" under Casual Labourers (Grant of Temporary Status and Regularisation) Schemes :-

Sl. No.	Name of the casual labourers.	Nature of duty.	Date of joining as C.L.	Office to which attached
1.	Shri Avsan Kumar	Asst. wire-man.	7.5.85	Sub Division Lucknow.
2.	Shri Jageshwar Dayal (SC)	-do-	22.10.85	-do-
3.	Shri Rajendra Kumar (SC)	-do-	13.5.85	-do-
4.	Shri R.N. Misra	-do-	21.11.85	-do-
5.	Shri Raj Giri	-do-	1.5.85	-do-
6.	Shri Zahid Ali	-do-	24.1.85	-do-
7.	Shri Ahmed Zaved	-do-	23.4.85	-do-
8.	Shri Raj Bahadur Singh	-do-	21.4.84	-do-
9.	Shri Yatri Lal (SC)	Khalasi	21.4.85	-do-
10.	Shri Ram Asis (SC)	-do-	7.5.85	-do-
11.	Shri Ashok Kumar	-do-	1.5.85	-do-
12.	Shri Ram Pyare (SC)	-do-	17.10.85	-do-
13.	Shri Badloo Ram	-do-	25.4.85	-do-
14.	Shri Ved Prakash	-do-	23.4.85	-do-
15.	Shri Ram Narain	-do-	25.5.85	-do-
16.	Shri Chote Lal (SC)	-do-	1.1.82	-do-
17.	Shri P.K. Nigam	-do-	4.6.84	-do-
18.	Shri Madho Lal	-do-	11.10.84	-do-
19.	Shri Sahib Barden	-do-	1.3.85	-do-
20.	Shri Atal (SC)	-do-	17.4.84	-do-
21.	Shri Hriday Narain	-do-	12.12.84	-do-
22.	Shri Suresh	-do-	12.5.81	Sub Division Dehradun.
23.	Shri Om Singh (SC)	-do-	18.4.83	-do-
24.	Shri Azad Singh	Asst. wire-man	6.1.84	-do-
25.	Shri Neim Ahmad	Khalasi	20.12.84	-do-
26.	Shri Janeshwar Pr.	Asst. wire-man	24.3.86	-do-

contd/2

(2)

27. Shri Dinesh Uniyal	Asst. wire-	14.8.86	Sub Ln. Dehradun
	man		
28. Shri Roop Chand (SC)	Khalasi	14.8.86	-do-
29. Shri Radhey Shyam	-do-	12.9.86	-do-
30. Shri Om Prakash (SC)	-do-	10.7.87	-do-
31. Shri Koshan Lal	A.D.	1.2.84	-do-
32. Shri Mohd. Saleem	Khalasi	17.5.81	-do-
33. Shri Satish Kumar	-do-	1.1.84	-do-
34. Shri Sunder Mani	-do-	16.1.84	-do-
35. Shri. Mand Kishore (SC)	-do-	31.1.84	-do-
36. Shri Meharban Singh	-do-	21.5.86	-do-
37. Shri R.N. Dubey	Asst. operator	6.7.87	-do-

The above noted persons (casual labourers) will be entitled to all the benefits contained in D.G(Post) New Delhi letter no. 45-95/87-SPB.I dated 12.4.91 referred to above.

These orders will take effect from 29.11.89.

(R.B. PANDEY)
A.P.M.G. (Rectt),
For Chief P.M.C. U.P.
Lucknow.

Copy forwarded to:-

1. APMG(Staff), C.O. Lucknow
2. Accounts 'A' Section, C.O. Lucknow.
3. Casual Labourers concerned.
4. Staff Assistant, STA Section, C.O. Lucknow.
5. He will please maintain the personal files of the concerned casual labourers concerned for which 37 spare copies are enclosed.
6. DPA Lucknow.
7. OS/Dy.OS I&II, Lucknow for information.
8. Executive Engineer (Elect.) Postal, Electrical Division, Lucknow w.r.t. his letter no. 2(7)/PEDL/1465 dated 9.8.91 for information and arranging the name of the casual labourers who have been granted ~~inxxxxxx~~ T.S in order of seniority as per the records available.

A
78

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

AFFIDAVIT

Contempt Petition (Civil) No. of 1992.

In re:

O.A.No.772 of 1988.

Om Prakash

...Applicant

Versus

Sri J.K.Puri and another

...Respondents

I, Om Prakash, aged about 32
years s/o Late Sri Devi Din r/o
250/70, Yahya Ganj, Bhim Nagar,
Lucknow, the deponent, do hereby
solemnly affirm and state on oath
as under:-

1. That the deponent is the applicant in the
above described contempt petition and as such he is
fully acquainted with facts and circumstances of the
case.

2. That the contents of paras 1 to 9, 11 and 12
of the contempt petition are true to my personal
knowledge and those of paras 10 and 13 are believed
to be true on the basis of legal advice.

T.C.✓

3. That Annexures Nos. 1 to 7 are the electrostst copies of their respective originals.

Lucknow:

Deponent

Dated: January 23rd, 1992.

VERIFICATION

I, the deponent abovenamed do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my personal knowledge. No part of it is false and nothing material has been concealed. So help me God.

Deponent

Lucknow:

Dated: January 23rd, 1992.

IDENTIFICATION

I identify the deponent who has signed before me.

Advocate.

T. C. ✓

(F)
39

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,
LUCKNOW BENCH, LUCKNOW.

M.P.No. _____ of 1992.

Contempt Petition No.4/92 (L).

In

O.A.No.772/88.

Om Prakash Applicant.

Versus

Shri J.K.Puri & another Respondents.

To,

The Hon'ble Vice Chairman and his companion members of the
Hon'ble Tribunal.

The Respondents most respectfully submit as under :-

That for the facts and circumstances mentioned in the accom-
panying affidavit, the compliance of the Hon'ble Tribunal judgement
dt.6-11-91 has since been made and the contempt notice is liable
to be discharged.

:- PRAYER :-

Wherefore, it is respectfully prayed that this Hon'ble
Tribunal be gracious enough to discharge the contempt notice for
which act of kindness the respondents shall ever remain grateful.

Shri J.K.Puri

J. (Dinesh Chandra) 8/3/92

(DR.DINESH CHANDRA),

Counsel for Respondents.

(F)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,
LUCKNOW BENCH, LUCKNOW.

Contempt Petition No. 4/92 (L)

In

O.A. NO. 772/88.

Om Prakash Applicant.

Versus

1. Shri J.K. Puri
2. Shri Rameshwar Dayal Respondents.

➔ COUNTER-AFFIDAVIT BY RESPONDENTS ::-

R *✓*

I, Rameshwar Dayal, Assistant Engineer (Electrical), Postal
Electrical Sub Division, Lucknow do hereby solemnly affirm and
state as under :-

1. That I have read the contempt petition filed by Shri Om Prakash in O.A. No. 772/88 and have understood the contents thereof. I am filing this affidavit on behalf of Shri J.K. Puri, Executive Engineer (Electrical), Postal Electrical Division, Lucknow.
2. That in compliance to the Hon'ble Tribunal's judgment dated. 6-11-91 a copy of which was received from our Counsel on 16-12-91

Contd...2/-

action was initiated immediately.

3. That in compliance to the Hon'ble Tribunal's judgement dt. 6.11.91 the case of Shri Om Prakash was considered and it was found that no Casual labour junior to him has been retained in service as Khallasi & has been working in the Postal Electrical Sub-Division, Lucknow.

4. That the names of the Casual labourers (Khalasis) given by the applicant in his petition who were granted "Temporary Status" do not belong to Lucknow Sub-Division and are not working under the control of the deponent and neither the deponent is their appointing authority.

5. That there has been no laxity or slackness on the part of the deponent in the compliance of the orders of the Hon'ble Tribunal dt. 6.11.91 as the action was initiated immediately on receipt of the judgement.


(DEPONENT)

Contd.....3/-



1-20 PM
Rameshwar Dey
Dr. D. Chandan
I have searched the file and found that no understanding has been reached with the applicant.
By Mr. P. K. Singh
4/3/92

// 3 //

—: VERIFICATION :—


I, the above named deponent do hereby verify that the contents of paras 1 of this affidavit are true to my personal knowledge and those of paras 2-5 are believed by me to be true based on records and as per legal advise of my counsel. That nothing material facts has been concealed and no part of it is false, so help me God.

Signed and verified this the 5th day of ^{March} 1992


within the court compound at Lucknow.

Lucknow.

Dated:- 5-3-92


(DEPONENT)

I identify the deponent who signed before me.


(ADVOCATE)



अदाख्त श्रीमान्
(वादी) अपीलान्त

Central Adm. Tribunal
Lucknow Bench

महोदय

8/24

प्रतिवादी रैस्पाडेन्ट

वकालतनामा

टिकट

वादी (अपीलान्त)

Am Pmlar बनाम J. K. Pmlar प्रतिवादी रैस्पाडेन्ट

नं० मुकदमा मन् 4/92 पेशी की ता०

१६

ई०

ऊपर लिखे मुकदमा में अपनी ओर से

Dr. Vinesh Chandra Adm.

वकील

महोदय

Adv. Gen. Standby Counsel एडवोकेट

को अपना वकील नियुक्ति करके प्रतिज्ञा इकरार करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल कर या लौटावे या हमारी ओर से डिगरी जारी करावे और रुपया वसूल कर या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और और तसदीक करें मुकदमा उठावे या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानो) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवे या पंच नियुक्त करें--वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी। इसलिए यह वकालत नामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Accepted
J. Chandra
Adm.

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६

ई०

अदालत श्रीमान् महोदय
 (वादी) अपीलान्त
 Central Adm. Tribunal
 Lucknow Bench

..... का
 प्रतिवादी रैस्पाडेन्ट **वकालतनामा**

टिकट

वादी (अपीलान्त)

Am Prakash बनाम J. K. Puri and another प्रतिवादी रैस्पाडेन्ट

नं० मुकदमा सन् ५/९२ पेशी की ता० १६ ई०

ऊपर लिखे मुकदमा में अपनी ओर से

J. Dinesh Chandra Admose वकील
 Addl. Gen. Secy. Standing Case एडवोकेट
 महोदय

नाम अदालत
 मुकदमा नं०
 नाम फरीकान
 बनाम

को अपना वकील नियुक्ति करके प्रतिज्ञा इकरार करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल कर या लौटावे या हमारी ओर से डिगरी जारी करावे और रुपया वसूल कर या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और और तसदीक करें मुकदमा उठावे या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवे या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी। इसलिए यह वकालत नामा लिख दिया प्रमाण रहे और समय पर काम आवे।

.....
 J. Chandra

हस्ताक्षर
 R. D. 10

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना सन् १६ ई०

(A)
28

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH.

M.P.No. of 1992.

CONTEMPT PETITION NO.4 OF 1992.

In

O.A.No.277/88

Om Prakash Applicant.

Versus

Shri J.K.Puri & another Respondents.

APPLICATION FOR DISMISSAL OF CONTEMPT PETITION.

The application of the above named respondents most respectfully.

SHEWETH:-

FT
Q-26/15

That for the facts and circumstances mentioned in the accompanying affidavit it is apporant that the respondents have not disobeyed the orders and directions dt.6-11-91 of this Hon'ble Tribunal.

-: PRAYER :-

Wherefore, it is respectfully prayed that for the facts & circumstances mentioned in the accompanying affidavit this Hon'ble Tribunal be gracious enough to dismiss the above Contempt Petition for which act of kindness the respondents shall ever remain grateful.

J. G. S.
(DR.DINESH CHANDRA),

Counsel for Respondents.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH.

SUPPLEMENTARY COUNTER-AFFIDAVIT BY RESPONDENTS.

Contempt Petition No.4/92.

In

O.A.No.772/88.

Om Prakash Applicant.

Versus

J.K.Puri & another Respondents.

I, Rameshwar Dayal, Asstt.Engineer (Electrical), Postal
Electrical Sub-Division, Lucknow do hereby solemnly affirm and
state as under :-

1. That the deponent has read the Rejoinder-affidavit filed by
Shri Om Prakash and has understood the contents thereof.
2. That in the Rejoinder-affidavit to the contempt Petition
the applicant has made certain averments to mislead the Hon'ble
Tribunal which are patently not correct and it has become impera-
tive in the interest of justice to contravert the same by the

Contd....2/-

deponent and on behalf of Respondent No.1.

3. That in the judgement dt.6th November,91 in O.A.No.772/88 which was received by the counsel on 16-12-91, the respondents were directed "to consider the case of the applicant within 2 months as to whether he can be appointed again as Khalasi or not." In this connection the following observations of the Hon'ble Tribunal contained in the said judgement and order which are very significant are re-produced below :-

" It appears that in the year 1986 he worked for 2 months and in the year 1987 he worked for 5 months as Khalasi. As he had worked less than the prescribed period in two years for regularisation, he can not claim the benefit of the regularisation. "

4. That immediately on receipt of the judgement and order dt. 6-11-91 of the Hon'ble Tribunal in O.A.No.772/88, the case of the applicant was considered for appointment on the post of Khalasi but it was found not to be a fit case for appointment and accordingly no appointment was made in his favour. No casual labour junior to him has been retained in service as Khalasi and has been working in Electrical Sub-division, Lucknow. As per Annexure 7 filed by



Contd.... 3/-

the applicant Shri Ram Narain is at Serial No.15 and his date of appointment is 25-5-85 whereas applicant was appointed on 10-7-87. The rest of the contents of para 5 of Rejoinder-affidavit are not relevent for the present Contempt Petition.

5. That in the claim petition, the applicant had made a casual averment to the effect that some juniors had been retained whereas the applicants services were dispensed with. This averment of the applicant was denied in the Counter-affidavit filed by the respondents.

6. That the averment of the applicant that the Respondent No.1 is the appointing authority of the applicant is denied. It is re-affirmed that the appointing authority of the applicant is the Assistant Engineer (Electrical) of the Sub-division. This fact has been admitted by the applicant himself in his Claim Petition.

7. That in view of the facts and circumstances mentioned above it is apparant that the respondents have not disobeyed the orders and direction dt.6-11-91 of this Hon'ble Tribunal in any way.

8. That the respondents have the highest regard for the orders/

Contd.....4/-



// 4 //

directions of the Hon'ble Tribunal and can never even think of disobeying them whatsoever.


(DEPONENT)

:- VERIFICATION :-

I, the above named deponent do hereby verify that the contents of paras 1 & 2 of this affidavit are true to my personal knowledge and those of paras 3 to 8 are believed by me to be true based on records and as per legal advice of my counsel. That nothing material facts has been concealed and no part of it is false.

Signed and verified this the 18/5/ day of 1992 within the court compound at Lucknow.

Lucknow.

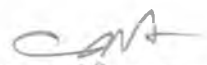
Dated;

18/5/92


(DEPONENT)

I identify the deponent who signed before me.


(ADVOCATE)


18/5/92
I have verified the contents of the affidavit and find it to be true and correct.
Signature of the court officer
18/5/92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,

LUCKNOW.

F.F. 22.4.92



REJOINDER AFFIDAVIT

In re:

Contempt Petition(Civil) No.4 of 1992(L)

Om Prakash

....Applicant

Versus

Sri J.K.Puri and another

...Respondents.

I, Om Prakash, aged about 32 years,
son of Late Sri Devi Din, resident
of 250/70, Yahaiya Ganj, Bhim Nagar,
Lucknow, the deponent, do hereby
solemnly affirm and state on oath
as under:-

1. That the deponent is the applicant in the
above described Contempt Petition and as such he is
fully conversant with the facts of the case.

2. That the deponent has been read over and
explained the contents of counter affidavit filed
by the respondent No.2, on behalf of the respondent
No.1, and its rejoinder is being filed hereunder.

Filed today

SKP

13/4/92

20/4/92

3. That in reply to the contents of para 1 of the counter affidavit, it is stated that respondent No.2 himself is a party in the present contempt petition but he has filed the counter affidavit on behalf of the respondent, which is not understood. It is worth consideration by this Hon'ble Tribunal how counter affidavit may be filed by any one other than the party.

4. That the contents of para 2 of the counter affidavit are denied as wrong and concocted. The respondents have not stated as to what action was initiated and when. Moreover, the copy of the judgment dated 6.11.1991 passed by this Hon'ble Tribunal in O.A.No.772 of 1988 was duly delivered in the office of the respondents on 12.11.1991, as is evident from Annexure No.2 to the contempt petition but no action was taken in the matter which ipsofacto shows that the respondents did not bother to look into the matter despite the judgment dated 6.11.1991 passed by this Hon'ble Tribunal.

5. That the contents of para 3 of the counter affidavit are denied as wrong, baseless and concocted. No communication, whatsoever, has been received by the deponent in this regard so far. Even, the respondent No.2 refused to accept the registered letter sent by the deponent, which shows the bias and prejudice against the deponent. As regards retaining the juniors, besides the individuals mentioned in para 11 of the contempt

8/4/92
6/4/92

Shriyans,

petition, it may also be mentioned that Sri Ram Narain (mentioned at Serial No.16 of Annexure No.7 to the contempt petition) was engaged as Carpenter initially, though there was not post of carpenter, and subsequently he was engaged as Khalasi in November 1986. Sri Ram Narain was not sponsored by the Employment Exchange and his engagement as Khalasi was a back door entry subsequent to the engagement of the deponent and as such is junior to the deponent.

6. That the contents of para 4 of the counter affidavit are denied as wrong and misconceived. The individuals mentioned in Annexure No.7 to the contempt petition are working in Lucknow and Dehradun Sub-Divisions, both are under the administrative control of respondent No.1, who is the appointing authority. This fact is also evident from the fact that the two other individuals S/Sri Devi Gulam and Vijay Shanker Tiwari were re-employed after pronouncement of the judgment by this Hon'ble Tribunal by the respondent No.2 under the orders issued by the Respondent No.1 vide letter No.2(7)PEDL/3572-76 dated 31.1.92, a photo stat copy of which is being annexed as Annexure No.R-1 to this affidavit. Further it is stated that order regarding grant of annual increment to daily rated casual workers, granted Temporary Status has been sanctioned by the respondent No.1 vide Office order



अन्याय

A/37

No.2(7)DEDL/3704-25 dated 4.2.1992, a photostat copy of which is being annexed as Annexure No.R-2 to this affidavit. In view of the fact that the respondent No.1 is the appointing authority and several persons engaged subsequent to the deponent have not been retained in service but granted the "Temporary Status", there is no justification in not considering the deponent for the re-engagement. The action of the respondent is not only wholly unjustified but also contrary to the spirit of the judgment passed by this Hon'ble Tribunal and is contemptuous.

7. That the contents of para 5 of the counter affidavit are denied as wrong and baseless. The respondents have taken no action in the matter in the light of the judgment and order dated 6.11.1991 passed by this Hon'ble Tribunal ^Lnot any communication has been sent to the deponent. The respondents have also not annexed any document or paper which could support the contention. Apparently, no action appears to have been taken in the matter.

8. That it may be pertinent to mention that the respondents have filed only a vague reply. Neither the parawise reply has been filed nor the reply submitted is specific. The respondents are liable to be dealt with

DATE COMMUNICATED
S K TRIVEDI
6/4/2

अन्यायाधीश

summoned with the records and punished for committing deliberate and wilful contempt of this Hon'ble Tribunal.

Om Prakash
Deponent

Lucknow:

Dated: *April 6th*, 1992.

6/4/92
S K TRIVEDI

VERIFICATION

I, Om Prakash, son of Late Sri Devi Din, resident of 250/70, Yahaiya Ganj, Bhim Nagar, Lucknow, do hereby verify that the contents of paras 1,2,3,4,5, 6,7,8(partly) of this affidavit are true to my personal knowledge and those of paras 8(partly) are believed to be true on the basis of legal advice and that I have not suppressed any material fact.

Om Prakash
Deponent

Lucknow:

Dated: *April 6th*, 1992.

IDENTIFICATION

I identify the deponent who has signed before me.

R.C. Singh Adv.
(R.C.SINGH)
Advocate.

C.No. 58 M
10.07 AM

Om Prakash
R.C. Singh
Adv.

6/4/92

In the Central Administrative Tribunal, Lucknow Bench, Lucknow,
Contempt Petition (Civil) No. 4 of 1992 (L)

Omn Prakash

vs.

Shri J.K. Puri and Another

--- Applicant-

--- Respondents

ANNEXURE No. R-1

From:

Executive Engineer(E),
Postal Elect. Dn.,
Lucknow.

To:

The Asstt. Engineer(E),
Postal Elect. S/Dn.,
Lucknow.

No. 2 (7) PEDL/3522-26

Dt. 31/1/92

Subj:- Taking of Daily wages back in service on the basis of CAT judgement.

S/Sri Devi Gulam and Vijay Shanker Tewari, Daily rated Mazdoors may be taken in service in compliance to the CAT judgement dt. 6/11/91 with immediate effect. Since the MRS for the month of Jan., 1992 have already been issued, their names may be included therein quoting the authority of the letter.

This may please be treated as "Most Urgent".

Executive Engineer(E),
Postal Elect. Dn.,
Lucknow.

Copy to:-

1. The S.E.(E), Postal Elect. Circle, New Delhi, in continuation of this office confidential letter no. 2(7)PEDL/Vol. VIII/3160 dt. 4/1/92 for information and n/action.

2. The A.A.O., for information & n/action. The names of these LRMs may be included in future in the MRS to be issued to the AE(E), PESD, Lucknow.

3. S/Sri Devi Gulam and Vijay Shanker Tewari, LRMs for information with the direction that they should report to the AE(E), PESD, Lucknow for duty immediately.

Phan
31/1/92
Executive Engineer(E),
Postal Elect. Dn.,
Lucknow.

Shri J.K. Puri

Shri J.K. Puri

6/4/92

In the Central Administrative Tribunal, Lucknow Bench, Lucknow
Contempt Petition (Civil) No. 4 of 1992 (L)

Om Prakash
vs.
Shri J.K. Puri and Another

Applicant-
Respondents
ANNEXURE No. R-2

DEPTT. OF POSTS, GOVT. OF INDIA.

No. 2(7)PEDL/2704-25

Postal Electrical Divn.
Lucknow.

OFFICE-ORDER

In pursuance of Govt. of India Ministry of Communications
Deptt. of Posts New Delhi No. 45-25/87-SPR-I dated 22.4.91
circulated by CPMG U.P. Circle Lucknow vide No. Postt/R-23/1/91
dated 30.4.91 the Annual increment to the following casual labourers
of the Postal Electrical Division Lucknow who have been confirmed
"Temporary Status" under casual labours (Grant of Temporary Status &
and Regularisation) Scheme vide CPMG U.P. Circle Lucknow to the
Rectt/R-23/Lucknow Region/1 dated 30.8.1991 U.O.P. 23.11.89
completion of one year of service from the date of confirmation of
Temporary status (i.e. 240 days) in a year) is hereby

Sl.No.	Name of casual Labourers	Nature of Duty.	Date of Joining
1-	Shri Anwar Kumar	Asstt. Wireman	7.1.85
2-	" Jagadwar Dayal (S.C)	-do-	22.11.85
3-	" Rajendra Kumar (S.E.)	-do-	13.8.85
4-	" R.N. Mitta	-do-	21.11.85
5-	" Raj Giri	-do-	1.8.85
6-	" Zahid Ali	-do-	24.1.85
7-	" Ahmad Zaved	-do-	23.4.85
8-	" Raj Bahadur Singh	-do-	21.4.84
9-	" Yatri Lal (SC)	* Khallasi	21.4.85
10-	" Ram Asis (SC)	(do)	7.2.85
11-	" Ashok Kumar	-do-	1.1.85
12-	" Ram Pyare (SC)	-do-	17.10.85
13-	" Dadloo Ram	-do-	25.4.85
14-	2 Ved Prakesh	-do-	27.4.85
15-	" Ram Narain	-do-	25.8.85
16-	" Chhotey Lal (SC)	-do-	1-1-82
17-	" P.K. Nigam	-do-	4-8-84
18-	" Madho Lal	-do-	21.10.84
19-	" Sahib Dargan	-do-	1.3.85
20-	" G. Atal (SC)	-do-	17.4.84
21-	" Hirday Narain	-do-	12.12.84
22-	" Suresh	-do-	12.3.81
23-	" Om Singh (SC)	-do-	10.1.81

Om Prakash

Contd...2

24-	Shri Azad Singh	Asstt. Wiroman	1.1.84
25-	" Naim Ahmad	Khallasi	20.12.84
26-	" Jangshwar Prasad	Asstt. Wiroman	24.3.86
27-	" Dinosh Uniyal	-do-	14.8.86
28-	" Roop Chand (SC)	Khallasi	14.8.86
29-	" Radhoy Shyam	-do-	12.4.86
30-	" Om Prakash (SC)	-do-	18.7.87
31-	" Roshan Lal	A.P.O.	1.2.84
32-	" Mohd. Sulaman	Khallasi	17.5.91
33-	" Shri Satish Kumar	-do-	1.1.84
34-	" Sunder Mani.	-do-	16.1.84
35-	" Nand Kishore (SC)	-do-	31.1.84
36-	" Moharban Singh	-do-	21.5.84
37-	" R.N. Duboy	Asst. Operator	6.7.87
38-	" Shahnawaz Khan	Khallasi	1.3.86
39-	" Y.K. Saini.	-do-	1.11.84

Note:- Benefit of increment to Shri Shah nawaz Khan Khallasi will be allowed w.e.f. 1.8.92 i.e. the date of grant of Temporary Status.

Executive Engineer (Elect)
Postal Electrical Divn.
Lucknow.

Copy to:-

1- W/branch Postal Electrical Division Lucknow.

2- P/F of each Casual Labourers.

3- Asstt. Engineer (E) Postal Electrical Sub. Dn. Lucknow.

4- Asstt. Engineer (E) Postal Electrical Sub. Dn. Mohradun, W.R.L. Div.

No. 1(24)AE(E)DDN/715 Dt. 2.1.92

No. 1(24)AE(E)DDN/716 Dt. 2.1.92

No. 1(24)AE(E)DDN/601 Dt. 3.1.92

5- CPMG.U.P. Circle Lucknow. It is intimated that the name of casual labourer at Sl. No. 32 has been written Shri Mohd. Saleem Khallasi whereas the correct name is Mohd. Sulaman in your Memo Dt. 30.8.91 The same may be corrected as Mohd. Sulaman Khallasi.

Executive Engineer (Elect)
Postal Electrical Division,
Lucknow.

R.N.4.2.92.

Shri Azad Singh

6/4/92

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

AFFIDAVIT

Contempt Petition(Civil) No. of 1992.

In re:

O.A.No.772 of 1988.



Om Prakash

...Applicant

Versus

Sri J.K.Puri and another

...Respondents

I, Om Prakash, aged about 32
years s/o Late Sri Devi Din r/o
250/70, Yahya Ganj, Bhim Nagar,
Lucknow, the deponent, do hereby
solemnly affirm and state on oath
as under:-



1. That the deponent is the applicant in the
above described contempt petition and as such he is
fully acquainted with facts and circumstances of the
case.

2. That the contents of paras 1 to 9, 11 and 12
of the contempt petition are true to my personal
knowledge and those of paras 10 and 13 are believed
to be true on the basis of legal advice.

ओम प्रकाश

- 2 -

3. That Annexures Nos. 1 to 7 are the electrostst copies of their respective originals.

Lucknow:

[Signature]
Deponent

Dated: January 23 1992.

VERIFICATION

I, the deponent abovenamed do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my personal knowledge. No part of it is false and nothing material has been concealed. So help me God.

Lucknow:

[Signature]
Deponent

Dated: January , 1992.

IDENTIFICATION

I identify the deponent who has signed before me.

[Signature]
Advocate.

G 23 Jan

45 An - One Prokash
R. C. Singh
Advocate
23-192

(40)

C.C.P. No. 07/1982

अदालत श्रीमान

C.A.T. Lucknow Bench Lucknow

महोदय

[बादी अपीलान्ट]

Om Prakash

प्रतिवादी [रेस्पाडेंट]-

वकालतनामा



(बादी अपीलान्ट)

Om Prakash

बनाम

Sri J.K. Puri & Another

(प्रतिवादी रेस्पाडेंट)

नं. मुकद्दमा

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

R.C. Singh, Advocate

Regn. No. U.P. 2388 of 1987

वकील

व

512/29, 7th Lane, Nishatganj, Lucknow

महोदय

एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवागदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटाव या हमारी ओर से डिमरी जारी करावें और रुपया वसूल करें या मुल्हनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करें या हारी विपक्षी (फरोकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर श्रीमान प्रकाश

Om Prakash

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

23/1

महीना

January

सन् १९९२ ई०

स्वीकृत

R.C. Singh

Adv.

23/1/92

(41)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.

Contempt Petition (Civil) No. 4 of 1992. 4/

In re:

O.A.No.772 of 1988

Central Administrative Tribunal
Circuit Bench, Lucknow

Date of Filing ... 23/1/92

Date of Receipt by Post ...

Deputy Registrar (J)

Om Prakash, aged about 32 years s/o Late Sri Devi Din
r/o 250/70, Yahya Ganj, Bhim Nagar, Lucknow.

...Applicant

Versus

1. Sri J.K.Puri, Executive Engineer, Postal Electrical
Division, Sector-C, Post Office Building, Aliganj,
Lucknow.
2. Sri Rameshwar Dayal, Asstt. Engineer, Postal Electrical
Sub-Division, Sector-C, Post Office Building, Aliganj,
Lucknow.

...Respondents.

APPLICATION UNDER SECTION 12 OF THE CONTEMPT OF THE
COURTS ACT, 1971 READ WITH SECTION 17 OF THE ADMINIS-
TRATIVE TRIBUNALS ACT 1985 AND RULE 4(iii) OF CENTRAL
ADMINISTRATIVE TRIBUNAL (CONTEMPT OF COURTS) RULES
1986 FOR INITIATING CONTEMPT PROCEEDINGS.

The applicant abovenamed most respect-
fully begs to submit as under:-

1. That the applicant was initially appointed
as Khalasi in semi skilled labour on daily wages
w.e.f. 1.5.1986. He worked from 1.5.86 to 15.7.86
during 1986 and from 4.4.1987 to 20.9.87 during the
year 1987.

2. That the work and conduct of the applicant was satisfactory.

3. That despite the fact that the work and conduct of the applicant was satisfactory and the posts were available the services of the applicant were terminated vide order dated 18.9.1987 with effect from 21.9.1987, though several juniors to the applicant who were appointed subsequently were allowed to continue.

4. That aggrieved by the termination order the applicant filed Original Application No.772 of 1988 before this Hon'ble Tribunal. The main ground of challenge was that while the services of the applicant have been terminated, juniors to the applicant were retained in service.

5. That after the exchange of counter and rejoinder affidavits the O.A.No.772 of 1988 was decided by this Hon'ble Tribunal vide judgment and order dated 6.11.1991 passed by Hon'ble Mr. Justice U.C.Srivastava V.C. and Hon'ble Mr.A.B.Gorthi, Administrative Member. A photostat copy of the judgment and order dated 6.11.1991 is being annexed as Annexure No.1.



20/11/91

6. That vide judgment and order dated 6.11.1991 this Hon'ble Tribunal had directed the respondents to consider the applicant for re-employment within a period of 2 months as to whether he can be appointed again as Khalasi or not.

7. That after the receipt of copy of the judgment from this Hon'ble Tribunal, the copy of the same was submitted to the Respondent alongwith application dated 12.11.1991 a photostat copy of which is being annexed as Annexure No.2.

8. That the applicant submitted an application cum reminder to the Chief Post Master General J.P. Lucknow and requested for allowing the applicant to join the duty. A photostat copy of this is being annexed as Annexure No.3. The applicant submitted another application to the Respondent No.1 on 8.1.1992 with the same request but no action whatsoever was taken in the matter. A photostat copy of the application dated 8.1.92 is being annexed as Annexuure No.4.

9. That one more application was submitted by the applicant addressed to the Respondent No.2 on 13.1.92 with a copy to the Respondent No.1 amongst others. A photostat copy of the application dated



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dated 13.1.92 is being annexed as Annexure No.5.

The respondent No.2 refused to accept the letter and therefore the same was despatched to him by Regd.Post A/D on 13.1.92. The Respondent No.2 has even refused to accept the Registered letter which has been received back undelivered with the endorsement of postman. A photostat copy of the Registered cover together with the endorsement of the Postman is being annexed as Annexure No.6.

10. That The respondents have thus disregarded and disobeyed the judgment and order dated 6.11.91 passed by this Hon'ble Tribunal wilfully and deliberately for which they are liable to be summoned, dealt with and punished in accordance with law.



11. That it may be stated that vide Memo No. Rectt/R-93/Lucknow Region 1 dated 8,1991 issued by the Office of Chief Post Master General, U.P.Circle Lucknow casual labours of the Postal Electrical Division Lucknow were granted temporary status. A photostat copy of the memo dated 8,1991 is being annexed as Annexure No.7. A perusal of the memo reveals that following individuals who were appointed subsequently are still working as Khalasi, as such the applicant is entitled for re-employment

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with the benefit of continuity of service as per the Judgment of this Hon'ble Tribunal.

Sl.No.	Name	Date of appointment
1.	Shri Roop Chand (SC)	14.8.86
2.	" Radhey Shyam	12.9.86
3.	" Meharban Singh	21.5.86

12. That the cause of action accrued on 12.1.92 i.e. the date of expiry of the period of two months from the date of service of the copy of the judgment and order dated 6.11.91 upon the respondents and is continuing on day to day basis.

13. That the act and conduct of the respondents is contemptuous for which contempt proceedings U/S 12 of the Contempt of Courts Act. 1971 read with Section 17 of the Administrative Tribunals Act. 1985 may be initiated against them.

अभिप्रेत

P R A Y E R

WHEREFORE, it is humbly prayed that this Hon'ble Tribunal may kindly be pleased to summon the Respondents, deal with and punish them in accordance with law for committing contempt of this Hon'ble Tribunal.

R.C. Singh Adv.
(R.C.SINGH)
Advocate

Lucknow:

Counsel for the applicant

Dated: January 27 1992.

