

CAT

CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow
Opp. Residency, Gandhi Bhawan, Lucknow

INDEX SHEETCAUSE TITLE 796/88 of 19 FEB (L)

NAME OF THE PARTIES _____

Shri. Ramen Hary Applicant

Versus -

Union of Indis & RespondentPart A, B & C

| Sl. No. | Description of documents | PAGE |
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ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

.....No.....796.....of 1980

.....Vs.....

| Sl.No. of order | Date of order | ORDERS WITH SIGNATURE | Office Notes as to action (if any) taken on order |
|-----------------|---------------|--|---|
| | 26.0.01 | <p>les</p> <p>No one appears for reports. Committee may be held by 14.11.01</p> <p>✓</p> <p>les</p> <p>01/11/01 met AGSTH. Enquiry (closed) for 13th 9th 12th 1st 12th</p> | |
| | 14.11.01 | <p>al.</p> <p>one to holiday, al to 9.12.01</p> | |
| | 9.12.01 | <p>al</p> <p>No one appears for report. Committee may be held by 10.2.02</p> <p>✓</p> <p>al</p> | |
| | 10.2.02 | <p>al</p> <p>No one appears for reports. Committee may be held by 07.4.02</p> <p>✓</p> <p>al</p> | |

26/7

Termination

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

1/

Registration No. 796 of 1988

APPLICANT (s) Salamanul Haq,

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

Communications New Delhi & 3 others

Particulars to be examined

Endorsement as to result of Examination

1. Is the appeal competent? 48
2. (a) Is the application in the prescribed form? 48
 (b) Is the application in paper book form? 48
 (c) Have six complete sets of the application been filed? 6 sets filed.
3. (a) Is the appeal in time? 48
 (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? 48
5. Is the application accompanied by B.D./Postal-Order for Rs. 50/- 48 $\frac{DD}{5}$ 567296 Dr. 1-2-88 for Rs. 50/-
6. Has the certified copy/copies of the order (s) against which the application is made been filed? 48
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed? 48
 (b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly? 48

Particulars to be ExaminedEndorsement as to result of Examination

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

19. Whether all the remedies have been exhausted. **Yes**

If approved, the Case may be listed
 on 26-7-88
 Recd 27/6/88

Submitted by
 (Signature)
 27/6/88

3 ON 796/88

22-1-90

On the Request Reply
may be filed by 16.2.90

Dr
J B Rogers

16.2.90

On the Request, Reply
may be filed by 21.3.90

J B Rogers 16/4/90

21/3/90

DR

On the request reply
can be filed by 1-5-90.

him

DR(J)

of
Reply has been
filed. Submitted
before DR(J) 1-5-90
for further orders.

4
24/4

25.90 DR

On the request reply can
be filed by 25.7.90.

him
DR(J)

R.M. and C.M.
has been filed as
received.

1
18/7/90

6.11.91 -

Hon. Mr. Justice V.C. Srivastava - vs.
Regn. No. A.B. Jethi — AM

Argument heard. Judgement
dictated separately.

l
AM

✓
ve.

२१/११/९१

11/11/91

R 243

D. C. S.
18/11/91

41/5

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

Registration O.A.No.796 of 1988

Slamanul Haq

....

Applicant

Vs.

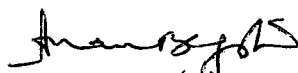
Union of India & Others


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 20.9.87. No appointment letter was filed by the applicant. It appears that in the year 1986 he had worked for 2 months and in the year 1987 he had worked for 4 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. We accordingly direct the respondents to consider the applicant's case ~~also~~ within a period of 2 months as to whether he can be appointed again as khalasi or not. With the above observation the application disposed of finally. No order as to costs.


Member(A)


Vice-Chairman.

6th Nov., 1991, Lucknow.

(sph)

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Before the Central Administrative Tribunal
Additional Bench Allahabad

Index

in

Registration No. of 1988

between

Shri Salamanul Haq ... petitioner
and

Union of India and others ... Respondents

| <u>S.No.</u> | <u>Particulars</u> | <u>Pages</u> |
|--------------|--|--------------------------|
| 1. | Memo of petition | ... ¹ to 10 |
| 2. | Annexure I Termination order dt. 18th Sept. 87 | ... ¹¹ to ... |
| 3. | Annexure II Memorandum dt. 7th May, 88 | ... ¹² to 13 |
| 4. | Annexure III Representation dt. 26.10.87 | ... ¹⁴ to ... |
| 5. | Annexure IV letter dt. 10.2.88 | ... ¹⁵ to 17 |
| 6. | Vakalatnama | ... ¹⁸ 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 A, Allahabad
Date: 22.6.88

Date of receipt by Post *Fixed for 26.7.88*

By Registrar
[Signature]

In the Central Administrative Tribunal
Additional Bench Allahabad

27.6.88

Registration No. of 1988
between

Shri Salamanul Haq ... petitioner.
and
Union of India and others ... Respondents

1. Particulars of the Applicant

(i) Salamanul Haq, aged about 22 years, son of late Shri Abrarul Haq, resident of Masjid Chauraha, (opposite Liberty Cinema) Ghasiari Mandi, Lucknow.

Filed today
Noted for 26/7/88
[Signature]
27/6

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

2. Particulars of the Respondents:

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

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

Attested
[Signature]
27/6

संलग्न नुसार

8/6

- 2 -

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

(iv) The Junior Engineer (E) Shri R.K.Saxena, Postal Electrical Sub Division, Office of Post Master General U.P. Circle , Lucknow.

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

3. That the present application is against the order dated 18th September, 1987 terminating the petitioner's services from the post of Khalasi passed by Junior Engineer (E) Postal Electrical Sub Division, 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 that the application is within the limitation prescribed under Sec. 21 of the Administrative

Attestd
Secretary
Tribunal Act, 1985.

सेक्रेटरी नुल दफ्तर

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

(I) That the petitioner got him self 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 exchange office, Lucknow, the petitioner was duly selected and appointed as Khalasi in unskilled labourer on daily wages basis by an order dated 1.5.1986 passed by the appointing authority, the Assistant Engineer (E).

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

| | |
|--------|---------|
| From | to |
| 1.5.86 | 17.7.86 |
| 6.5.87 | 20.9.87 |

Attest
Secretary

सलमा गुलश

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

(VI) That the petitioner was surprised to see a notice of termination dated 18th Sept. 1987 passed by the Junior Engineer (F) Shri R.K. Saxena.

A true copy of the said termination order is being filed herewith as Annexure I to this petition.

Annexure I

(VII) 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 without jurisdiction.

(VIII) That several juniors have been retained as Khalasi while the petitioner's services have been dispensed with in a grossly discriminatory and arbitrary manner. The name of

*Attested
by
Ad*

२५/११/८७ एम

such a junior is given as under:

1. Ram Narain

(IX) 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 casual worker should be regularised who have been appointed through employment exchanges 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 II to this petition.

Annexure II

Attd to
Secretary
AM

25/5/85

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

(XI) That being aggrieved by the aforesaid termination order dated 18th September, 1987, the petitioner had preferred a representation to the Executive Engineer on 26.10.87 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 26.10.87 is being filed herewith as ~~(XXX)~~ Annexure III to this petition.

Annexure III

(XII) That thus the petitioner had been left with no option but to take shelter of this Hon'ble Tribunal.

(XIII) That D.G. P & T has issued instructions dated 10.2.88 to all the circles in India to the effect that casual labourers be paid arrears at the enhanced rate of their

Attested
Definitely
K.H.

wages by 25th February, 1988 positively but due to the prejudicial attitudes 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 D.A. and A.D.A. but the same has also not been paid to the petitioner. The petitioner had also applied for payment of the aforesaid arrears but the same has also not been paid to him as yet.

A true copy of the said letter dated 10.2.88 is being filed herewith as Annexure IV to this petition.

Annexure IV

(XIV) That a perusal of the termination order dated 18th September, 87 would show that four persons are alleged to have been terminated but Shri Jogeshwar Dagal who is at B.No. 1 is still continuing whereas the petitioner's services have been dispensed with arbitrarily.

(XV) That thus the said termination order has been passed illegally, arbitrarily

Attest
Defender
Adv

रुद्रनाथ दत्त

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 18th September, 87, the petitioner had filed a representation to the Executive Engineer dated 26.10.87 but the ~~XXXX~~ Executive Engineer aforesaid had refused to give any relief to the petitioner, as such the petitioner has been left with no option but to file the present petition in this Hon'ble 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, before any court of law or any authority or any other Bench of this Tribunal or any such application writ petition, or suit (except as already mentioned earlier) is pending before any of them.

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

Attested
By *[Signature]*
A4

संलग्नानुसारं

A/15

- 9 -

(a) that a declaration may be issued declaring the termination order dated 18th September, 1987 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 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.

(d) that the costs of this petition may also be awarded to the petitioner.

10. That the petitioner does not pray for an interim relief at the present moment.

11. Particulars of the postal order :

- (i) Number of postal order ₹P 567296
- (ii) Name of the issuing post office
- (iii) Date of postal order H.P.O. Allahabad
2.1.2.1980
- (iv) Post office at which payable

Attested
Sd/- Secretary
A/15

12. That list of enclosures has already been given at the top of the paper book as such the same is not repeated here. संलग्नता है

- 10 -

I, Salamanul Haq , aged about 22 years, son of late Shri Abrarul Haq, resident of Masjid Chauraha, (opposite Liberty Cinema) Ghasiari Mandi, 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 material has been suppressed.

शैलमानुल हाक

Dated June 5 , 1988
Allahabad.

Depoent
Petitioner

Through

B. P. Srivastava

(B.P. Srivastava)

Counsel for the petitioner

R. K. Pandey

(R. K. Pandey)
Aq

शैलमानुल हाक

11

8/17

Before the Central Administrative Tribunal
Additional Bench Allahabad

Annexure I

in

Registration No. of 1988

between

Shri Salamanul Haq ... petitioner

and

Union of India and others ... Respondents

Indian P & T Department

1. Shri Jageshwar Dayal (A.W.N)
2. Shri Vijai Shankar Tiwari (Khalasi)
3. Shri Devi Gubam (Khalasi)
4. Shri Salmanul Haq (Khalasi)

Aap longon ki sewayen Dinank 20.9.87
tak hi rahengi. Aap log apna vetan 24/25 tarikh ko
akar lene ka kasta karen.

Sd. R.K.Saxena

J.E. (E)

19.9.87

True copy

Defender
for

24/9/87

12 12
Amr... II
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/=

13
1217

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.&F. 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.Suptd/Suptd. of Post Offices }
- 3- All Sr.Suptd/Suptd. of R.M.S. }
- 4- The Postmaster, Kanpur/Lucknow
- 5- The Suptd. of Postal Stores Forms Seals, Aligarh.
- 6- The Manager, Mail Motor Services, Kanpur.
- 7- All Officer of Circle Office, Lucknow.
- 8- Office Suptd/Dy. Office Suptd. of Circle Office, Lucknow.

For Postmaster-General,
UP. Circle, Lucknow.

T/C
Devedey
Ad

Annexure III 14

8/2

To,

The Executive Engineer,
P & T Electrical Dn. Lucknow.

Subj. Appeal against the order of termination of services issued
by shri RK Saxena JE Electrical, Lucknow.

Sir,

Being aggrieved with the above referred to order issued
by the JE Electrical terminating my services wef 20.9.87, I beg
to submit this appeal to your goodness for justice and equity
from your kind hands:

1. I was sponsored by Employment Exchange and after selection
I was appointed by the Assistant Engineer Electrical, Lucknow
but my services have been terminated by shri RK Saxena JE(E) LK⁰

2. That I have worked for the following period :

from 1.5.86 to 15.7.86

6.5.87 to 20.9.87.

3. that I have not been given any show cause notice for termina-
tion of my services and persons much junior to me are allowed
to continue in services which is discrimination in the eye of
law .

4. that one shri Jageshwar Dayal who was removed from the
service under order dtd 18.9.87 is still continuing in service
for the reasons best known to the authorities.. My termination
from service is against the basic rules of the subject.

PRAYER.

It is respectfully prayed that I may very kindly be
put to my job and order terminating my service be set aside.

Thanking you,

yours faithfully,

Salmanul Haq (Signature)
(Salmanul Haq) C/Labour.

dtd 26.10.87

PMG's Office Electrical Enquiry.
Lucknow.

T/C
Sd/- Salmanul Haq

(Signature)

कापी प्राप्त किया
26/10

Assistant Engineer (Electrical)
Postal Division Sub-Division
LUCKNOW.



In the Central Administrative Tribunal
Additional Bench Allahabad

Annexure IV
in
Registration No. of 1988
between

Shri Salamanul Haq ... petitioner
And
Union of India and others ... Respondents

Copy of Comm letter no. 45/95/27 CPW -I
dated 10 Feb. 1988 from S.Chocha Director
staff Department of Posts, Dak Bhawan, New
Delhi 110001 addressed to Shri S.P.Rai , Post
Master 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. 878 of 1988 regarding payment
of wages to Casual Labourers at the minimum of
pay in the pay notice of the regularly employed
worker in the corresponding cadre, but
without any increments with effect from 5th Feb. 86
the Directorate of Posts has decided that :

मन्मथगुप्त

16

1/22

- 2 -

(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 or regularly employed workers in the corresponding cadre but without any increment, with effect from 5th Feb. 1988 but casual labour will also be entitled to D.A. and A.D.A. if any on the minimum of the pay scale. No other allowances 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 purposes 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, are to be paid before 25.2.1988 positively.

2. For the allotment of funds you are requested to contact the budget section of the Directorate. You are requested to take further

Handwritten signature

- 3 -

necessary action in the matter regarding payment of arrears as indicated above and a detailed statement showing the payment made to each worker be made before 25.2.88.

3. The receipt of this letter may kindly be acknowledged to Shri S.S.Mehra , Section Officer (SRS -1) before 16.2.1988.

4. This issue with the approval of Finance (Admn) U.O.No. 546/Pat /CS dated 5.2.88.

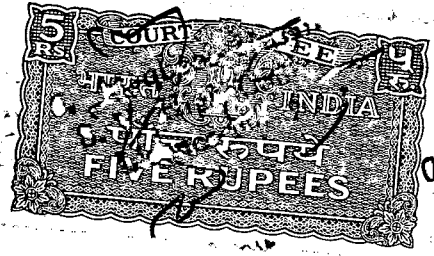
Yours faithfully,

Sd. Illegible

Director (Satff)

True copy

S. S. Mehra
Au



24

अभिभाषक पत्र (वकालतनामा)

सेण्ट्रल अडमिनिस्ट्रेटिव ट्राइबुनल, अडीशनल बेंच, इलाहाबाद

Registration No. ... सन् १९८८

Su. Salamatul Haq

वादी / प्रतिवादी
अपीलान्त

वनाम

Union of India & Ors.

वादी / प्रतिवादी
रेस्पान्डेंट

मैं कि Su. Salamatul Haq

हम

R/o - Masjid Chauraha

Ghazipur Road

Allahabad

उपरोक्त प्रकरण में मैं अपनी ओर के पक्ष समर्थन के हेतु

श्री बी० पी० श्रीवास्तव व श्रीमती उमा श्रीवास्तव, एडवोकेट हाईकोर्ट

१८८ ए, अलोपीबाग, जवाहरलाल नेहरू मार्ग, इलाहाबाद

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

यह स्वीकार करता हूँ कि उक्त सज्जन हमारी ओर से पैरवी करें वाद-पत्र (अर्जीदावा), प्रतिवाद-पत्र (बयान तहरीरी), वाद स्वीकार पत्र, विवाद पत्र, पुनरावलोकन (रेस्टोरेशन प्रार्थनापत्र) एवं पुनर्निर्णय (तजवाजसानी), प्रार्थना पत्र (दरखास्त), शापथिक कथन (हलफनामा) प्रवर्तन पत्र (दरखास्त इजराय) मूजवात अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना पत्रादि एवं लेखादि को प्रतिलिपियाँ अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथिक पुष्टीकरण करें और आवश्यक प्रश्न करें अथवा उत्तर दें और लेखादि की प्रतिलिपियाँ एवं हमारे प्राप्य धन को अपने हस्ताक्षरो पावती देकर प्राप्त करें, हमारी ओर से किसी को मध्य-पत्र, तथा साक्षी (गवाह माने और उससे सम्बन्धित प्रार्थना-पत्र प्रस्तुत करें तथा उसका समर्थन करें तथा प्रमाणित करें वाद-पत्र उठावें, छोड़ें अथवा समझौता करें तथा मुलहनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना करके उसका समर्थन करें अर्थात् प्रकरण से सम्बन्धित कुल कार्यवाही डिग्री के भर पाई होने के समय तक स्वतः या संयुक्त करें, इजरा दाखिल करें। आवश्यकता होने पर किसी अन्य वकील महोदय को वकील करें।

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

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

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The services have not been discontinued in arbitrary manner. The services of the petitioner alone were not discontinued and thus there is no discrimination towards him.

- 9- The Annexure II (C/M No. 45-27/85-SPB-I Dated 25/5/85 from D.C.P&T clearly states that the casual workers should be engaged through employment exchange only. It also states very clearly that they are not entitled for regular employment in the Department and their services can be terminated at any time.
 - 10- In reply to contents of Para 6(x) it is submitted that notification Dt. 25/5/85 from D.C.P&T which has been filed as Annexure II to the petition in the said notification, it has been specifically stated that the petitioner shall not be entitled for regular appointment in the Department and his services can be terminated at any time.
 - 11- No Comments.
 - 12- The contents of Para 6(12) of the petition are denied. It is further submitted that in pursuance of instructions contained in Memo No. G.M./GA-2/Vol IV /Dt. 2/6/87 no waterman has been engaged from the staff who were discontinued with the applicant this shows that is no arbitrariness against him.
 - 13- The Petitioner has been paid the arrears Vide Cheque No. M-122701 Dated 29/7/88 from Executive Engineer (Elect) Postal Electrical Dn. amounting to Rs. 2556/-
 - 14, 15- As none the waterman/Khallsi has been reengaged on work after being discontinued it shows that there no arbitrariness against him. It is true that Shri Jageswar Dayal who worked as Assistant Fireman was reengaged. But the nature of duty performed by the petitioner and Assistant Fireman are entirely different and can not be compared.
- The appeal of the petitioner is therefore not liable to be admitted and may be rejected.

Chimplay
 Assistant Engineer (Elect) 4/10/88
 Postal Electrical Sub Dn.
 Lucknow.

Copy to:-

- 1- The Superintending Engineer (E) Postal Electrical Circle New Delhi.
- 2- The Executive Engineer (Elect) Postal Electrical Dn. Lucknow.
- 3- Shri R.K. Saxena Jr. Engineer (E) .PMG. Enquiry Lucknow.

Ca
 Assistant Engineer (Elect)
 Postal Electrical Sub Dn.
 Lucknow.

(13)

filed today
R
9/3/90

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH : ALLAHABAD.

.....

CIVIL MISC, APPLICATION NO. OF 1989

ON BEHALF OF RESPONDENTS

IN

REGISTRATION NO. 796 of 1988

received early
Sunday
R
8/3/90

Sri Salimul Haq

.petitioner

Versus

Union of India & others.

.respondents.

To

So(5)

Keep on record
if permissible.

delivered 9.3.90
DR(5)

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

✓

2.

claimed by the applicant is rejected by this 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.

Mazh
Dt/-July 8th, 1989. R90

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

1990
AFFIDAVIT
13
HIGH COURT
ALLAHABAD

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH : ALLAHABAD.

.....

COUNTER AFFIDAVIT

ON BEHALF OF RESPONDENTS

IN

REGISTRATION NO. 796 of 1988

Sri Salmanul Haq

.petitioner

Versus

Union of India & others.

.respondents.

Affidavit of V. K. Gupta

aged about 43 years, s/o Shri 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.

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 not correct, as stated. In fact the order dated 18th September, 1967 terminating the services of the petitioner from the post of Khallasi, was communicated by the Junior Engineer Electrical under ~~his~~ his signature on verbal orders of the Executive Engineer (Elect) Postal Electrical Dn. Lucknow. In fact, the said order was given by the Executive Engineer during the inspection to the Junior Engineer for necessary compliance.

5- That in reply to the contents of paragraph 4 of the petition, it is submitted that the petitioner



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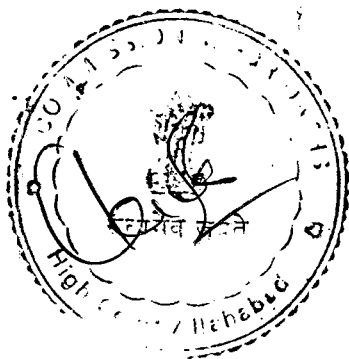
was employed as a daily rated Khallasi without any claim to regular appointment and as such the present petition does not fall within the purview of the Central Administrative Tribunal and therefore, the declaration, which has been made in para under reply is absolutely wrong and this Hon'ble Tribunal 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 in reply to contents of paragraph 6(vi) of the petition, it is submitted that the petitioner was deployed as a daily rated labourer and his services were terminated from 21st September 1987 ~~xxxxxx~~ under the direction of the Executive Engineer, Electrical, who came on inspection and



Amplaz

8/26

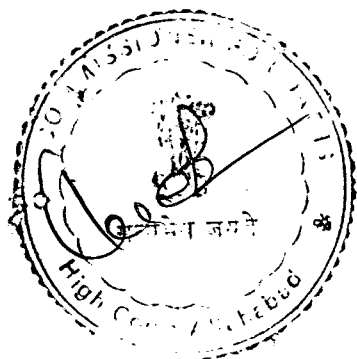
4.

given verbal instructions to the Junior Engineer for necessary compliance.

10- That the contents of paragraph 6(vii) of the petition are not correct and as such are denied. In fact the facts have been wrongly stated in the petition. The Executive Engineer, who is higher authority than the appointing authority has given verbal direction during the course of inspection to Junior Engineer to terminate service of the petitioner and as such direction of the Executive Engineer to Junior Engineer is mere a communication and not an order. The higher authority i.e. the Executive Engineer has taken a decision to terminate services of the petitioner and as such the decision was communicated by the Junior Engineer.

11- That the contents of paragraph 6(viii) of the petition are not correct and as such are denied. It is absolutely wrong to allege that juniors of the petitioner have been retained and petitioner's services have been dispensed with.

12- That the contents of paragraphs 6(ix)



Ample

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and 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 instructions 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 1985-87 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



Ann-I.

herewith and marked as Annexure-I to this affidavit.

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

Impia

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14.. That the contents of paragraph 6(xii) of the petition need no comments.

15- That the contents of paragraph 6(xiii) of the petition are not correct and as such are denied. It is further submitted that the petitioner has already been paid arrears on 29th July 1988 amounting to Rs.2,556/-.

16- That the contents of paragraph 6(xiv) of the petition are not correct and as such are denied. In fact the petitioner has given wrong picture before this Hon'ble Tribunal. As regards Shri Jageshwar Dayal, who is working in different cadre and the petitioner cannot have any grievance against the continuance of Sri Jageshwar Dayal as both are situated in different footings.

17- That the contents of paragraph 6(xv) of the petition need no comment.

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

19- That in reply to the contents of paragraph



Chaudhary

7.

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.

20- That the contents of paragraphs 10, 11 and 12 of the petition need no comment.

That the contents of paras 1 and 2 of this affidavit are true to my personal knowledge; those of paras 3 to 18 and 20 are based on perusal of records and those of para 19 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.


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.


IDENTIFIER

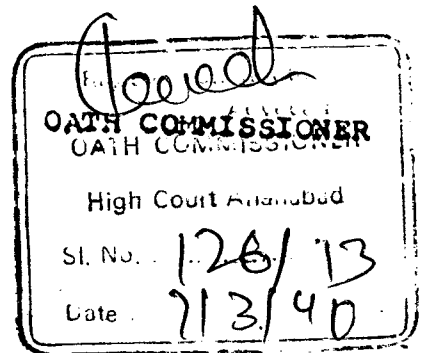
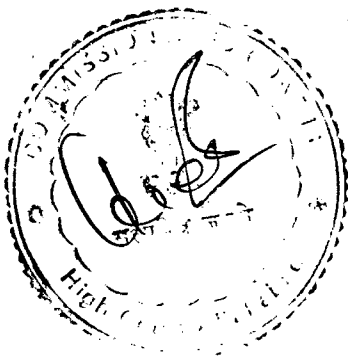


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8/46

Solemnly affirmed before me on this ^{much} day
of ~~July 1980~~ at 11 ~~am~~/pm by the deponent, who is
identified by the aforesaid clerk.

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



Copy of letter No. 45/67/84/SPB-Idt. = 12.12.85 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. of
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

Asstt. Director Genl. (SPN)

Encl:- as above.

No. 49014/19/84-Estt(C)
Government of India Bharat Sarkar
Ministry of Home Affairs/5rih 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

No. 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

High Court Commissioned

Sl. No. 128/13

Date 2/3/90



1990
AFFIDAVIT
84/164/04
HIGH COURT
ALLAHABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: ADJUDICATING
ALLAHABAD.

Rejoinder Affidavit

In
Registration No. 796 of 1988

Sri Salmanul Haq. .. Petitioner.

Vs.

Union of India and
others.. .. Respondents.

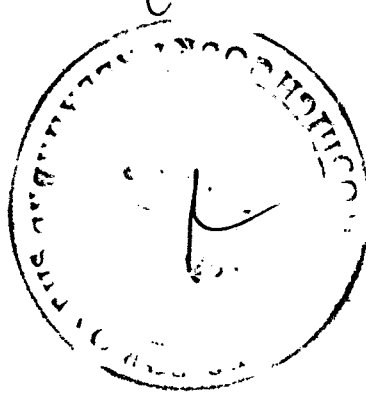
Affidavit of Salemanul Haq,
aged about 24 years son of
Sri (Late) Abrarul Haq. resi-
dent of Masjid Chauraha (Opp..
Liberty Cinema), Ghasiari Mandi
Lucknow.

(Deponent).

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

1. That, the deponent is the petitioner
in the aforesaid ~~xxx~~ petition and as such
he is acquainted with full facts of the case
deposed to below:

Recd. com
@
Churaha C. Ch.
AZ
15/5/90



SO(J)
Keep on record

AZ
15/5/90
DR(J)

SOJm

:2:

2. That, I have gone through the counter affidavit of Shri V.K.Gupta, and have fully understood the contents thereof.

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 it is cognizable by this Hon'ble Tribunal.

5. That, in reply to the contents of para 9 of the counter affidavit, the contents of para 6(vi) 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 only. A perusal



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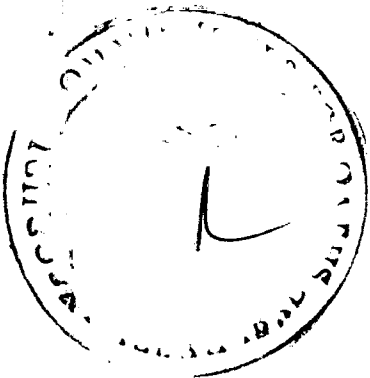
3:

of the verification clause would show that the 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 paragraph no.6(vii) of the petition are reaffirmed as correct.

7. That, in reply to contents of paragraph no.11 of the counter affidavit, the contents of paragraph no.6(viii) of the petition are reaffirmed as correct. It has been mentioned earlier that the allegation that the petitioner's services have been terminated on verbal direction of the Executive Engineer are false. The paragraph no.11 has also been verified on the basis of perusal of record. The petitioner's services have been terminated by order of the Junior Engineer. It has been falsely mentioned that the juniors havenot been retained. The followings are the names

Shank



8/12/89

:4:

of the juniors who have been retained while the petitioner's services have been terminated:

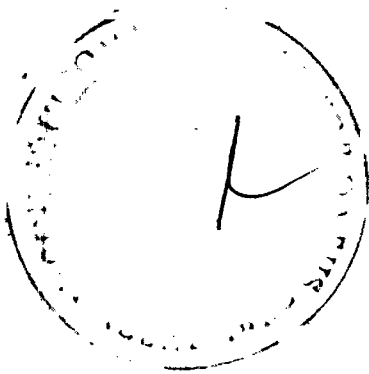
1. Shri Ram Narain (Khalasi)
2. Shri Jagi Shankar Dayal.

8. That, in reply to the contents of para 12 of the counter affidavit, the contents of paragraph no. 6(ix) and 6(x) of the petition are reaffirmed as correct. The petitioner has been advised that the aforesaid circular is not applicable 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. 13.12.89 is being filed as Annexure-RA-I to this affidavit.

Annexure-RA-1

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.



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8/16

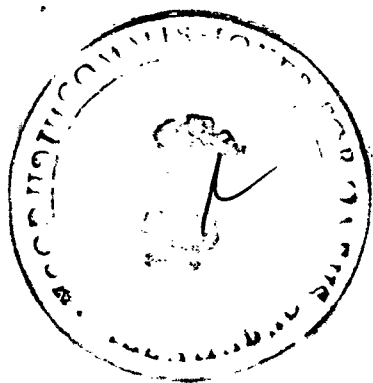
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:5:

10. That, the contents of paragraph no. 15 of the counter affidavit are not admitted and those of paragraph no. 6(xiii) 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.

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

12. That, the contents of paragraph no. 19 of the counter affidavit are denied and the petitioner has been advised that he is entitled for the reliefs claimed by him in the petition, and his petition is liable to be allowed with cost.



SHANKAR

:6:

That, the contents of paragraph nos.

✓ 167, 96-12 ✓ 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. ✓

✓ ————— ✓ 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 this
affidavit is false and incorrect.

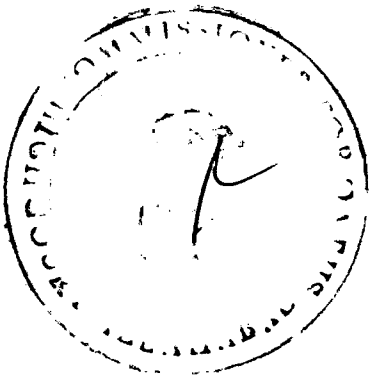
SO HELP ME GOD.

✓ *Shree* ✓
(Deponent).

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 produced by him in
this case.

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

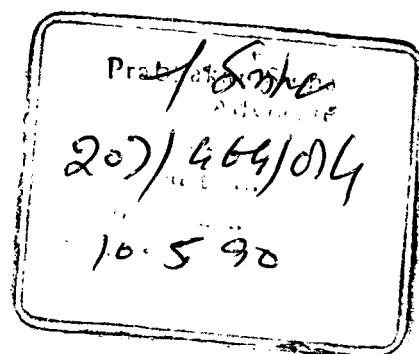


Shree

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: ADDL
BENCH - ALLAHABAD.

Annexure-RA-I

In
Rejoinder Affidavit - in
Registration No.796 of 1988

Sri Salmanul Haq. Petitioner.

Vs.

Union of India and
others.. .. Respondent.

.....

Copy of letter No.45-95/87-SPN dated 12
13.12.89 from Shri R.L.Gupta, Asstt. B.C.
(SPN) Department of Post, New Delhi, addressed
to All Heads of Postal Circles and revised under
C.O. endt. no. Rectt/R-39/VIM 5 dated 16.1.90.

....

Subject: Development 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
on flimsy ground so hitherto force. In this
connection, your kind attention is invited to
the judgment of the Supreme court wherein

Shore



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the Govt. of India was directed not to ~~discontinue~~ discontinue the engagement of casual labourers having one year service as on 5.2.86. Accordingly, instructions were issued vide even number dated 10th March, 1989.

2. As the category of casual labourers 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 w 226 003 the 29.1.90

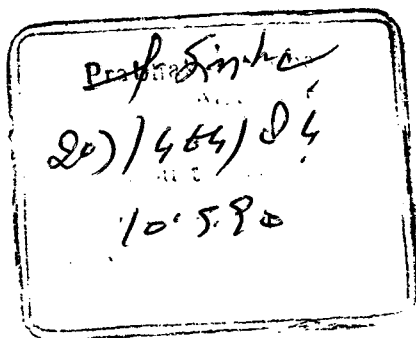
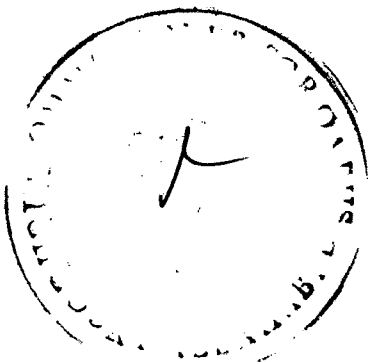
Copy forwarded for information to:

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

Sr. Supdt. of Post Offices.
Lucknow Division-LW-226003

dt. 30.1.90.

...



Shore